

# Japanese American Redress: Background Info and References (5 of 6)

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### SYMPOSIUM THE LONG SHADOW OF KOREMATSU

JUSTICE HELD HOSTAGE: U.S. DISREGARD FOR INTERNATIONAL  
LAW IN THE WORLD WAR II INTERNMENT OF JAPANESE  
PERUVIANS—A CASE STUDY

*Natsu Taylor Saito*



# JUSTICE HELD HOSTAGE: U.S. DISREGARD FOR INTERNATIONAL LAW IN THE WORLD WAR II INTERNMENT OF JAPANESE PERUVIANS—A CASE STUDY

NATSU TAYLOR SAITO\*

## INTRODUCTION: *MOCHIZUKI v. UNITED STATES*

*The federal government will pay \$5,000 settlements and issue an apology to Japanese who were taken from their homes in Latin America and held in U.S. internment camps during World War II, a Justice Department official said Thursday.*

*More than 2,200 Latin Americans, most of them of Japanese ancestry and a majority from Peru, forcibly were brought to the United States during the war.*

*After Pearl Harbor was bombed, the U.S. government, hoping to use Japanese Latin Americans as exchange prisoners for U.S. POWs, collaborated with the Peruvian government and other Central and South American countries to round them up and ship them to the United States . . . . During the war, an estimated 550 Latin American Japanese were sent to Japan in exchange for U.S. POWs. When the war was over, 900 more were deported to Japan, even though they didn't want to go.*

*Neither the administration of President Franklin D. Roosevelt nor later administrations gave an official explanation for the removals and internments.*

*The suit, filed in a Los Angeles federal court in 1996, sought equal treatment with Japanese American internees. The 1988*

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*federal reparations law covered only Japanese who were either U.S. citizens or legal U.S. residents at the time of their detention.*

—*San Francisco Examiner*, June 12, 1998<sup>1</sup>

With a weakly worded statement of regret<sup>2</sup> and some redistribution of funds already allocated to interned Japanese Americans,<sup>3</sup> these egregious violations of human rights and international law committed by the United States during World War II may pass into history without redress of the injuries, recognition of the costs or acknowledgment of the illegality of kidnapping civilians from a nonbelligerent third country and holding them as hostages for exchange. The settlement<sup>4</sup> in *Mochizuki v. United States*,<sup>5</sup> a class action brought on behalf of interned

<sup>1</sup> \$5,000, *Apology to WWII Captives Ethnic Japanese from Latin America Were Locked Up in U.S. Camps*, S.F. EXAMINER, June 12, 1998, at A5.

<sup>2</sup> Clinton's brief letter of apology acknowledges U.S. authorities "unjustly interned, evacuated, relocated or otherwise deprived you of liberty." The letter states:

We recognize the wrongs of the past and offer our profound regrets to those who endured such grave injustice. We understand that our nation's actions were rooted in racial prejudice and wartime hysteria, and we must learn from the past and dedicate ourselves . . . to renewing and strengthening equality, justice and freedom.

Jean-Loup Sense, *US Settles with Wartime LatAm Ethnic Japanese Deported to US Camps*, AGENCE FR.-PRESSE, June 13, 1998, available in 1998 WL 2301858.

<sup>3</sup> I use the term "Japanese American" to refer to all persons of Japanese descent who had made their homes in the United States. This includes the Issei (first generation immigrants) who were still Japanese citizens as well as the Nisei (second generation) who were U.S. citizens by birth in the United States. Although the Issei were for the most part permanent residents who had every intention of living here the rest of their lives and raising their children as Americans, they were prevented from becoming naturalized citizens by the racial restrictions dating back to the Naturalization Act of 1790, 1 Stat. 103 (limiting naturalized citizenship to "free white persons"). The racial restrictions were not removed until 1952 by the Immigration and Nationality Act, chapter 477, 66 Stat. 163 (1952). See generally IAN F. HANEY LOPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* (1996).

<sup>4</sup> The case was transferred from the Central District of California to the Federal Claims Court in Washington, D.C. The government and the plaintiffs have entered into a Settlement Agreement, which was approved on January 25, 1999. See Settlement Agreement, *Mochizuki v. United States*, No. 97-924C, 1999 WL 72777 (Fed. Cl. Jan. 25, 1999); *Notice of Proposed Settlement in Class Action Lawsuit Involving Latin American Japanese* <<http://www.usoj.gov/crt/ora/news.html>> (visited Mar. 8, 1999); see also K. Connie Kang, *The Battle Rages on Rights: Activist Worked Hard to Get Reparations for Japanese Latin American Internees, But Now Faults Notification Effort and Government's Different Treatment of U.S. Residents*, L.A. TIMES, Aug. 9, 1998, at B2; Dara Akiko Tom, *Deadline for WWII Redress Money*, AP, Aug. 10, 1998, available in 1998 WL 6706271 (noting plaintiff Art Shibayama's intent to "reject the payment out of principle"); Dara Akiko Tom, *WWII Internees React to Settlement*, AP, June 13, 1998, available in 1998 WL 6680095; Editorial, *A Mass Kidnapping*, WASH. POST, June 16, 1998, at A20.

Now that the Settlement Agreement has been approved, some of the plaintiffs have opted out and brought separate lawsuits. See Paul Harrington, *Japanese Latin Americans Seek Redress for Internment in U.S.*, WALL ST. J., Sept. 22, 1998, at B9; *Peruvian of Japanese Origin Demands Compensation from US*, AGENCE FR.-PRESSE, Mar. 3, 1999, available in 1999 WL 2556271.

<sup>5</sup> No. 97-924C, 41 Fed. Cl. 54 (1998).



Japanese Latin Americans,<sup>6</sup> is most notable for what it does not offer. The plaintiffs lost homes and possessions; some were forced to clear jungle in the Canal Zone; and men, women and children were transported under armed guard to prison camps in the Texas desert where they were incarcerated indefinitely without charge or hearing. Families were torn apart and scattered across the globe.<sup>7</sup> Held as hostages, some Japanese Latin Americans were exchanged for U.S. citizens, and others were imprisoned past the end of the war, when the U.S. Immigration and Naturalization Service ("INS") declared them to be "illegal aliens" and deported them, against their will, to Japan.<sup>8</sup> There has been no calculation of what would constitute actual redress for the damages incurred.

Whether the settlement provides even symbolic redress is questionable. The \$20,000 offered to each Japanese American<sup>9</sup> internee under the Civil Liberties Act of 1988 ("CLA")<sup>10</sup> does not compensate for the property lost, rights denied or injuries suffered as a result of the internment.<sup>11</sup> The payment, instead, symbolizes this country's recognition of the injustices inflicted upon Japanese Americans during World War II. The CLA restricts compensation to those who were U.S. citizens or permanent residents at the time of the internment, thus excluding interned Japanese Latin Americans. The *Mochizuki* settlement neither expands the terms of the CLA to incorporate the Japa-

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<sup>6</sup> I use the term "Japanese Latin Americans" to refer to all persons of Japanese ancestry who are or were living in Mexico or Central or South America. Like the Japanese Americans, many of the first generation were still Japanese citizens, but a considerable number had become naturalized citizens, and a significant number were citizens of their Latin American country by birth.

<sup>7</sup> See generally JOHN EMMERSON, *THE JAPANESE THREAD: A LIFE IN THE U.S. FOREIGN SERVICE* 125-49 (1978); C. HARVEY GARDINER, *PAWNS IN A TRIANGLE OF HATE: THE PERUVIAN JAPANESE AND THE UNITED STATES* (1981); HIGASHIDE SEIICHI, *ADIOS TO TEARS: MEMOIRS OF A JAPANESE PERUVIAN INTERNEE IN U.S. CONCENTRATION CAMPS* (1994); Ken Mochizuki, *Crystal City: Forgotten World War II Camp*, NORTHWEST NIKKEI, Apr. 29, 1997, at 1, available in 1997 WL 11711778; Corey Takahashi, *The Other Japanese American Internment*, ASIAN MAG.: INSIDE ASIAN AM., Sept. 30, 1997, at 40, available in 1997 WL 11551858; Julie Tamaki, *An Enduring Indignity: Japanese Latin Americans Interned During War Still Seek Redress*, L.A. TIMES, Feb. 24, 1997, at B1.

<sup>8</sup> See *infra* notes 130-41 and accompanying text.

<sup>9</sup> Japanese American, see *supra* note 3, not to be confused with Japanese Latin American, see *supra* note 6.

<sup>10</sup> Civil Liberties Act of 1988, Pub. L. No. 100-383, 102 Stat. 903 (codified at 50 U.S.C. § 1989 (1988)).

<sup>11</sup> This can be contrasted, for example, with indemnification from the Federal Republic of Germany to Nazi victims which, according to Weglyn, included calculations for loss of life, damage to health, incarceration in concentration camps and ghettos, damage to property, damage to profession, repatriation and interruption of education. See MICHl WEGLYN, *YEARS OF INFAMY: THE UNTOLD STORY OF AMERICA'S CONCENTRATION CAMPS* 276-77 (1996). There has been no calculation of what would constitute actual redress for the damages incurred.

nese Latin Americans,<sup>12</sup> nor provides for compensation comparable to that received by Japanese Americans. Instead, under the settlement, payments of \$5000 will be made from monies remaining *after* all of the claims of Japanese Americans have been paid. Thus, even this reduced amount is not guaranteed to every internee.<sup>13</sup> Under such terms, it is hard to say whether the settlement constitutes acknowledgment and apology or symbolizes disrespect for the harm suffered by the Japanese Latin American claimants.

Most importantly, the settlement does not acknowledge that the United States violated any domestic or international law by interning Japanese Latin Americans.<sup>14</sup> While the precedent set by *Korematsu v. United States*<sup>15</sup> has never been overturned,<sup>16</sup> it is widely accepted that the incarceration of Japanese Americans from the West Coast violated the constitutional rights of U.S. citizens and permanent residents. The terms of the *Mochizuki* settlement imply that the harm inflicted on Japanese Latin Americans, because they were nonresident aliens, was less significant than that inflicted upon Japanese Americans. Unacknowledged are the gross violations of international law committed in their kidnapping and deportation, imprisonment without hearing or

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<sup>12</sup>The plaintiffs have asserted that this should be done by declaring them "permanent residents under color of law." Plaintiffs' Memorandum in Opposition to Defendant's Motion to Dismiss at 9-12, *Mochizuki v. United States*, 41 Fed. Cl. 54 (1998) (No. 97-924C) (on file with author); see also *infra* notes 245-49 and accompanying text.

<sup>13</sup>The Campaign for Justice, which has organized the redress campaign for Japanese Latin Americans, estimates that there may be as many as 1800 claimants but funding available for far fewer. President Clinton has stated that "[i]f the fund proves insufficient, I will work with the Congress to enact legislation appropriating the necessary resources to ensure that all eligible claimants can obtain the compensation provided by this settlement," but this is not part of the settlement itself. See Jerry Seper, *Government to Settle with Interned Japanese*, WASH. TIMES, June 13, 1998, at A3. An editorial in the Sacramento Bee referred to the settlement as "bargain basement redress." Editorial, *Bargain Basement Redress; Cheers & Jeers*, SACRAMENTO BEE, June 22, 1998, at B4.

<sup>14</sup>According to the Settlement Agreement, the United States maintains that the claimants are not eligible for redress under the CLA and their Fifth Amendment equal protection claims are unfounded. The parties agree that the Settlement Agreement "shall not operate as an admission on the part of any party for any purpose" and that nothing introduced in connection with the Agreement shall be construed as "evidence of liability or as an admission or concession." Settlement Agreement, ¶ 21, *Mochizuki v. United States*, No. 97-924C, 1999 WL 72777 (Fed. Cl. Jan. 25, 1999). Further, acceptance of payment under the Agreement is agreed to be "in full satisfaction of any and all claims against the United States relating to the internment of the class member." *Id.* ¶ 23.

<sup>15</sup>*Korematsu v. United States*, 323 U.S. 214 (1944).

<sup>16</sup>Fred Korematsu's conviction was vacated by the United States District Court for the Northern District of California, but this did not overturn the Supreme Court precedent. See *Korematsu v. United States*, 584 F. Supp. 1406 (N.D. Cal. 1984); see also *infra* note 227 and accompanying text.

charge, use as hostages for exchange and subsequent forced "repatriation."<sup>17</sup> If the *Mochizuki* settlement is the only U.S. acknowledgment of these actions, its central message may be that the U.S. government can disregard international law and violate human rights with impunity.

This Article examines the abduction and incarceration of the Japanese Peruvians by the U.S. government from the perspective of international law—the provisions of international law that were violated during the war, and those that apply to the government's continuing refusal to compensate the victims. This case illustrates the importance of insisting that our government's foreign policy and wartime conduct comply with international law and the costs of failing to incorporate international law into U.S. litigation strategies and legal structures. The story of the U.S. collaboration with the Peruvian government to kidnap and hold hostage their citizens and residents of Japanese descent comprises Part I. This story is presented in some detail, and relies heavily on contemporaneous accounts from within the State Department, because it is important to understand how international law is, in fact, implemented—or ignored—in specific situations. Part II reviews the provisions of international law violated by these actions and concludes that they were, indeed, war crimes. Part III considers the redress currently available in U.S. courts for these violations of human rights. Given that neither Congress nor the Supreme Court has declared the Japanese American internment illegal or unconstitutional, the Japanese Latin Americans have few legal remedies available to them unless international law is applied. This is why the government could insist on such a meager settlement in the *Mochizuki* case. Part IV reviews the limited options available for bringing these international law claims in domestic and/or international tribunals. Part V considers the harm done by allowing the U.S. government to ignore international law in this situation, and suggests ways to better incorporate international law into our legal system and governmental institutions. The final part concludes that the internment of the Japanese Latin Americans and the inadequacies of the settlement in *Mochizuki* illustrate the importance of insisting that our government and our courts comply with international law.

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<sup>17</sup> "Repatriation" is not a particularly appropriate term here, as some of the people sent to Japan were not Japanese citizens and others had left long ago with no intent of returning. In either case most did not want to go to Japan. See *infra* notes 142–45 and accompanying text.

## I. CIVILIANS HELD HOSTAGE: 1941-47

*I cannot begin . . . even to call the role of our maimed, mutilated, and missing civil liberties, but the United States, more than two years after the war, is holding in internment some 293 naturalized Peruvians of Japanese descent, who were taken by force by our State and Justice Departments from their homes in Peru.*

—Secretary of the Interior Harold Ickes, December 1947<sup>18</sup>

A. *The Japanese in Peru*

Shortly after the restoration of the Meiji emperor in 1868, Japan began a rapid industrialization.<sup>19</sup> One result was that the population "doubled to 60 million within a little over a half century . . . and rural Japan, already saturated with people . . . , became a seemingly inexhaustible reservoir for cheap urban labor."<sup>20</sup> With farms too small to divide among children, there was considerable pressure on second and third sons to migrate to the cities or overseas.<sup>21</sup> This, combined with "unsettling economic prospects in the wake of the Sino-Japanese War [and] the desire of certain shipping companies and emigration agents to make a profit,"<sup>22</sup> resulted in significant Japanese emigration to the Americas.

In 1899 the *Sakura Maru* brought the first 790 Japanese immigrants to Peru, landing in the port of Callao, just outside Lima.<sup>23</sup> Peru welcomed Japanese labor, especially to its expanding cotton and sugar plantations.<sup>24</sup> Rural contract laborers eventually leased land for them-

<sup>18</sup> WEGLYN, *supra* note 11, at 65 (quoting *Town Meeting of the Air* (broadcast, Dec. 2, 1947)). Many of these Japanese Peruvians were naturalized or native-born Peruvian citizens, but of course, many were also Japanese citizens. Harold Ickes was the father of Raymond Ickes, who had been sent to Lima by the Justice Department to participate in the creation of U.S. lists of proposed Japanese Peruvian internees, and he was also the only senior official in the Roosevelt administration to speak out against the post-war deportation of Japanese Latin Americans.

<sup>19</sup> See generally JOHN WHITNEY HALL, JAPAN: FROM PREHISTORY TO MODERN TIMES 243-93 (1982); JON HALLIDAY, A POLITICAL HISTORY OF JAPANESE CAPITALISM 18-19 (1975); EDWIN O. REISCHAUER, JAPAN: THE STORY OF A NATION 113-78 (1970).

<sup>20</sup> REISCHAUER, *supra* note 19, at 153.

<sup>21</sup> According to Reischauer, "[s]ince there was little unused land . . . and the average size of a farm . . . was only 2½ acres, the increased rural population had to drain off to the cities, but the new industries could not grow fast enough to absorb it all." *Id.*

<sup>22</sup> GARDINER, *supra* note 7, at 3.

<sup>23</sup> See *id.* According to Emmerson, they were "all destined for the coastal sugar plantations." EMMERSON, *supra* note 7, at 130.

<sup>24</sup> By 1923, when labor contracts were abolished, emigration companies had brought 17,764 Japanese workers to Peru and in the following years Japanese workers continued to migrate independently. See GARDINER, *supra* note 7, at 4.

selves or moved to the cities, where they became household servants, accumulated some capital and eventually opened barber shops, grocery stores, restaurants and other commercial ventures. According to Harvey Gardiner, by 1938, "organizations of merchants, café owners, barbers, bazaar owners, charcoal dealers, chauffeurs, importers, jewelers, hotel owners, restaura[n]teurs, peddlers, bakery owners, and building contractors . . . boasted 967 members."<sup>25</sup>

The success of the Japanese immigrants generated resentment that, intensified by the depression of the 1930s, led to an "official government program to 'Peruvianize' economic activity aimed principally at eliminating Japanese interests and enterprises."<sup>26</sup> This was followed by the denunciation of Peru's treaty of friendship, commerce and navigation with Japan; the establishment of quotas requiring that eighty percent of any work force be native Peruvian; the suspension of naturalizations and the annulment of late birth registrations of Japanese Peruvians.<sup>27</sup> Fueled by these trends, in May 1940 about 600 Japanese homes and businesses in Lima and Callao were attacked and looted.<sup>28</sup> Despite such tensions most Japanese Peruvians were, by this time, deeply rooted in Peru, and the 1940 census reported 17,598 Japanese immigrants and 8790 Peruvians citizens of Japanese descent,<sup>29</sup> at least forty percent of whom were women and children.<sup>30</sup>

### B. Abduction and Deportation

A Conference of Foreign Ministers of the American Republics convened in Rio de Janeiro in January 1942. At the urging of the United States, its Final Act included detailed recommendations concerning subversive activities and the "control of dangerous aliens."<sup>31</sup>

<sup>25</sup> *Id.* at 6. John Emmerson, Second Secretary of the U.S. Embassy in Lima, reported that by the early 1940s Japanese entrepreneurs controlled large percentages of the barber shops, bakeries, poultry farms, machine shops and glass dealers. They made most of the buses in Lima; were "prominent" in the manufacture of rubber products, hosiery and hats; were known as the best plumbers, carpenters and florists; and produced 12.5% of Peru's cotton. See EMMERSON, *supra* note 7, at 133.

<sup>26</sup> GARDINER, *supra* note 7, at 8.

<sup>27</sup> *See id.*

<sup>28</sup> See EMMERSON, *supra* note 7, at 134; see also GARDINER, *supra* note 7, at 9.

<sup>29</sup> See EMMERSON, *supra* note 7, at 131. There had been, however, a net decrease in the Japanese Peruvian population through the 1930s. See *id.* at 130.

<sup>30</sup> According to Gardiner, women and children composed 40% of the Japanese community. See GARDINER, *supra* note 7, at 10. Emmerson states that "more than half of the Japanese population was female." EMMERSON, *supra* note 7, at 136.

<sup>31</sup> GARDINER, *supra* note 7, at 16-17 (citing *The War: Third Meeting of Ministers of Foreign Affairs of the American Republics*, DEP'T ST. BULL., 1942, at 128-30).

The Conference established an Emergency Committee for Political Defense to "coordinate hemispheric security."<sup>32</sup> One of the Committee's resolutions, entitled *Detention and Expulsion of Dangerous Axis Nationals*, advocated the "[i]nternment of dangerous Axis agents and nationals for the duration of the emergency."<sup>33</sup> While supporting repatriation of such persons, it advocated internment and suggested a program of local detention within each republic, supplemented by expulsion to other American republics for the duration of the war.<sup>34</sup> The United States agreed to pay for transportation and detention and promised to include nationals of the participating countries in any exchanges made with Axis governments.<sup>35</sup> Over a dozen Latin American countries sent internees to the United States and three countries set up their own detention programs.<sup>36</sup>

Meanwhile, the U.S. State Department had been pressuring the American republics to send "potentially dangerous" persons, especially Japanese, to the United States. An October 1941 memorandum from the U.S. Ambassador to Panama to the Secretary of State described Panama's willingness to cooperate with the following plan:

Immediately following action by the United States to intern Japanese in the United States, Panama would arrest Japanese on Panamanian territory and intern them on Taboga Island . . . . All expenses and costs of internment and guarding to be paid by the United States. The United States Government would agree to hold Panama harmless against any claims which might arise as a result of internment.<sup>37</sup>

Similar proposals were enthusiastically received by the Peruvian government which was, by then, eager to deport its residents and even citizens of Japanese ancestry. On December 8, 1941 Peru froze all

<sup>32</sup> *Id.* at 17. Between April 1942 and July 1943 this Committee submitted 21 programs of action to the governments of the Western Hemisphere. *See id.*

<sup>33</sup> *Id.* at 18.

<sup>34</sup> *See id.* (citing the Emergency Committee's *Annual Report* (July 1943) and the Emergency Committee's *Second Annual Report* (1944)); *see also* WEGLYN, *supra* note 11, at 59.

<sup>35</sup> *See* WEGLYN, *supra* note 11, at 59. The shipping was handled by the Special War Problems Division of the State Department, using U.S. Army transports.

<sup>36</sup> *See id.*

<sup>37</sup> *Id.* at 58 (quoting Letter from Edwin Wilson, to Sumner Welles (Oct. 20, 1941) (Dept. of State File 740.00115 Pacific War/11/3, RG 59, National Archives ("NA")) (on file with author)). As early as December 8, 1941, U.S. representatives in Costa Rica wired the State Department that "[o]rders for internment of all Japanese in Costa Rica have been issued." *Id.* at 58 (quoting Telegram #375 from Lane, to State Department (Dec. 8, 1941) (DS File 740.00115 Pacific War/9, RG 59, NA) (on file with author)).

Japanese funds<sup>38</sup> and on December 9 the United States added Japanese to its *Proclaimed List of Certain Blocked Nationals*,<sup>39</sup> an economic blacklist which soon included 566 Japanese Peruvian businesses.<sup>40</sup> The Peruvian government severed diplomatic relations with Japan in January 1942,<sup>41</sup> but did not declare war until 1945 when Allied victory was imminent.<sup>42</sup> John Emmerson was assigned to the U.S. Embassy in Lima from April 1942 until July 1943, where, as the Embassy's only Japanese speaker, he studied the Japanese community and oversaw the detention and transport of Japanese Peruvians to the United States.<sup>43</sup> He summarized the situation:

To the Peruvians, the war was a faraway fire. Not directly involved, although pro-Allics in sentiment, they set about to enjoy the advantages, and these included war on the Axis economic stake. The measures taken against Axis nationals . . . were welcomed for their destruction of unwanted competition . . . .

*Pressured by American authorities*, the Peruvians zealously imposed controls on the movements and activities of Germans and Japanese . . . . All Japanese schools, organizations, and newspapers were closed, and Japanese were frequently arrested for illegal assembly . . . [and] were prohibited from traveling . . . .<sup>44</sup>

In early 1942, the United States proposed repatriating all Axis government *officials* from the Latin American republics through the United States, ignoring Peru's request to take in addition "Axis non-official women and children and men not of military age or known to have engaged in subversive activities."<sup>45</sup> When the Japanese government insisted that ten Japanese trading company representatives be

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<sup>38</sup> See EMMERSON, *supra* note 7, at 138.

<sup>39</sup> See GARDINER, *supra* note 7, at 14-15.

<sup>40</sup> See EMMERSON, *supra* note 7, at 138.

<sup>41</sup> See *id.* at 126.

<sup>42</sup> See GARDINER, *supra* note 7, at 109.

<sup>43</sup> See EMMERSON, *supra* note 7, at 139.

<sup>44</sup> *Id.* at 137-38 (emphasis added). These and other measures are outlined in Emmerson's Memorandum on the Control of Japanese in Peru. See Enclosure no. 1 to Dispatch no. 7288 from Henry R. Norweb, U.S. Ambassador to Peru, to Sumner Welles, U.S. Secretary of State (Mar. 24, 1942) (740.00115 Pacific War/1706, RG 59, NA) (on file with author) [hereinafter Memorandum from Henry R. Norweb, Mar. 24, 1942].

<sup>45</sup> GARDINER, *supra* note 7, at 19 (quoting Memorandum from Henry R. Norweb, Mar. 24, 1942, *supra* note 44, on which Assistant Secretary of State Breckinridge Long penciled "ignore this . . . in replying").

repatriated as well, Peru began a list of nonofficial Axis nationals it wished to expel, a list that quickly grew to several hundred.<sup>46</sup>

Aware of Peruvian President Prado's desire to expel all the Japanese from Peru, the United States, in March 1942, agreed to take some "nonofficial Axis nationals."<sup>47</sup> In July of 1942, Ambassador Norweb wrote, "[i]n any arrangement that might be made for internment of Japanese in the States, Peru would like to be sure that these Japanese would not be returned to Peru later on. The President's goal apparently is the substantial elimination of the Japanese colony in Peru."<sup>48</sup> The State Department was willing to help: "The suggestion that Japanese be removed from strategic areas should be followed . . . . The suggestion that Japanese be expelled whether they are naturalized Peruvians or not might be met by a denaturalization law."<sup>49</sup>

The first ship of civilian deportees left Callao in April 1942, carrying Germans, Japanese and Italians. Most of the Japanese had "volunteered" by notifying the Spanish embassy in Lima that they were willing to repatriate to Japan.<sup>50</sup> Even so, the process was a haphazard one. Peruvian authorities gave the U.S. embassy a "final and definitive" list, yet thirty-two men failed to appear and twelve who were not listed showed up.<sup>51</sup> Almost none of these men had been blacklisted or identified as "dangerous." According to one commentator,

<sup>46</sup> *Id.* at 19.

<sup>47</sup> *Id.* at 23 (quoting Memorandum from Henry R. Norweb, Mar. 24, 1942, *supra* note 41).

<sup>48</sup> WEGLYN, *supra* note 11, at 60 (quoting Letter from Henry R. Norweb, U.S. Ambassador to Peru, to Sumner Welles, U.S. Secretary of State (July 20, 1942) (DS File 740.00115 Pacific War/1002 2/6, RG 59, NA) (on file with author)).

<sup>49</sup> *Id.* at 61 (quoting Memorandum from Philip W. Bonsal, to Selden Chapin (Sept. 26, 1942) (SD File 740.00115 Pacific War/1002 5/6, RG 59, NA) (on file with author)).

A December 1942 Intelligence Report from the Naval Attaché in Lima reflects this disregard for the law: "One of the most encouraging phases of this limited exodus of undesirable Axis nationals is that no attention was paid to the fact that one of the Germans was a naturalized Peruvian and two were married to Peruvian women." DEPT. OF THE NAVY, *Intelligence Report*, Dec. 20, 1942 (on file with author).

Denaturalization and even the stripping of citizenship of U.S.-born Americans was considered as well. In a memorandum to Secretary of State Cordell Hull dated December 17, 1943, Assistant Secretary Breckinridge Long stated, "the Attorney General is reported to have said recently to one of the [Senate] Committees that he had a formula under one of our statutes by which a native-born Japanese or one naturalized could be divested of his American citizenship—thus making him eligible for deportation." WEGLYN, *supra* note 11, at 190.

<sup>50</sup> GARDINER, *supra* note 7, at 25; see also EMERSON, *supra* note 7, at 139. The Spanish embassy was used because Spain represented Japanese interests in Peru. It seems inappropriate to term this "voluntary" in light of the unremitting increase in governmental repression of the Japanese in Peru. It also should be noted that these men were volunteering for immediate repatriation, not indefinite incarceration in prison camps in the Texas desert. It is similarly inappropriate to term "voluntary" the departure of women and children who left to join husbands and fathers who had been abducted.

<sup>51</sup> GARDINER, *supra* note 7, at 27.



In addition to the sloppy, incomplete lists, spur-of-the-moment additions and subtractions, quixotic and erratic inspections, and the lack of coordination between the Peruvian and American authorities, this first deportation operation exhibited no recognizable criteria for deportation. Almost all the men lacked social, economic, and community significance.<sup>52</sup>

U.S. embassy official Emmerson states that "[o]n subsequent sailings, no volunteers were accepted. The object of the program was to expel those enemy aliens whose continued presence in the country presented a danger to the hemisphere's security."<sup>53</sup> While that may have been the objective, that was not the criterion used. Emmerson admits:

In selecting the deportees, since no proof of guilt existed, it seemed logical to mark for detention those individuals who by their influence or position in the community, their known or suspected connections in Japan, or by their manifest loyalty to Japan could be considered *potential* subversives. . . . Since no one in the Peruvian government or in the embassy, except myself, spoke or read Japanese, [researching the activities of the Japanese Peruvians] fell largely to me.<sup>54</sup>

Emmerson, just transferred to Peru, thus became the only representative of the U.S. government with any specific information about the Japanese Peruvians who were to be interned. Struggling to read letters brought to him by the Peruvian police, he "failed to find a single missive which divulged bomb plots, secret trysts, contemplated assassinations, codes, or even plans to signal a Japanese ship from a lonely beach. Nothing emerged to confirm the rumors constantly whispered to our legal, army, and naval attaches by their conscientious paid informants."<sup>55</sup> Traveling throughout the country and gathering information about the various Japanese communities likewise revealed "nothing reliable or convincing about subversion."<sup>56</sup> It is hard to escape Harvey Gardiner's conclusion: "The Americans, ignoring both law and legal formality, simply wanted to weaken the Japanese community by seizing and expelling its leaders."<sup>57</sup>

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<sup>52</sup> *Id.* at 28.

<sup>53</sup> EMMERSON, *supra* note 7, at 139.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 140.

<sup>56</sup> *Id.* at 143.

<sup>57</sup> GARDINER, *supra* note 7, at 41.

The lack of evidence regarding subversive activity did not slow down the expulsion and internment of Japanese Peruvians. The State Department knew that those on U.S. lists had not been identified as dangerous and that most of the Japanese arrested by Peruvian authorities had no connection to either the war effort or the lists prepared by the United States. As Emerson notes:

Lacking incriminating evidence, we established the criteria of leadership and influence in the community to determine those Japanese to be expelled. We prepared lists, which we presented to the Peruvian authorities. These authorities, committed at least personally if not officially, to the expulsion of *all* Japanese, treated our proposed lists rather lightly. As the second and third ships departed, it became clear that the passengers who actually embarked were not the ones so carefully identified by us.<sup>58</sup>

The Peruvian police arrested Japanese men without warning, often in pre-dawn raids on their homes. In many cases the men were given no time to gather personal items or notify their families. They were generally held in local jails, then turned over to U.S. authorities. No charges were filed; no hearings held. To avoid arrest, some men went into hiding; others found that well-placed bribes could buy them time.<sup>59</sup> Most of the men were Japanese nationals, but citizenship made little, if any, difference. Naturalized and native-born Peruvian citizens of Japanese descent were arrested and deported as well. Many who were Japanese citizens had lived in Peru for decades, some for over forty years,<sup>60</sup> and a number had wives and children who were Peruvian citizens. For "humanitarian reasons" and, one might note, to maximize the number of internees, U.S. officials included wives and children as "voluntary deportees."<sup>61</sup> For many women, joining their husbands in the United States was preferable to trying to raise children alone in a hostile environment, with the wage earners gone, businesses closed and assets frozen. Even in this sense, some departures could not be termed voluntary. A "strictly confidential" memorandum from the First Secretary of the Embassy in Lima to the Secretary of State notes that Chieko Nishino was deported upon the order of the Peruvian Minister of Government despite her insistence that she did not wish to join her estranged husband (indeed, despite her threats to commit suicide

<sup>58</sup> EMERSON, *supra* note 7, at 143.

<sup>59</sup> See *id.* at 143-44; GARDINER, *supra* note 7, at 65-67; WEGLYN, *supra* note 11, at 61.

<sup>60</sup> See GARDINER, *supra* note 7, at 43.

<sup>61</sup> *Id.*

should she be deported) because the embassy feared that refusal to take her "might jeopardize future deportations of Axis nationals."<sup>62</sup>

In February 1943 168 Japanese and 5 Germans were driven 600 miles north in army trucks without provisions for food to the port of Talara.<sup>63</sup> From Talara the men were sent to the Panama Canal Zone, where they lived under armed guard for several weeks, forced to clear jungle and construct living quarters.<sup>64</sup> They were then put on a U.S. army transport, where they were again required to work without pay.<sup>65</sup> When the ship docked at San Pedro, California, INS officials asked each man if he had a passport. None did, as all passports—Japanese and Peruvian—had been taken by U.S. authorities as soon as the ship left Peruvian waters.<sup>66</sup> Ironically, the Japanese Peruvians who had just been abducted at the behest of the State Department were informed by INS officials that their entry into the United States was "illegal."<sup>67</sup> This Kafkaesque sleight of hand foreshadowed the problems that Japanese Latin American internees would face both at the end of the war and when applying for reparations under the Civil Liberties Act of 1988.

Meanwhile, Peruvian President Prado sought U.S. help in permanently removing all Peruvians of Japanese descent.<sup>68</sup> Countering legal

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<sup>62</sup> Letter from George H. Butler, First Secretary of Embassy, to the Secretary of State (July 10, 1943) (DS File 740.00115 Pacific War/1729, RG 59) (on file with author). U.S. officials forced Mrs. Nishino onto an army transport and sent her to a prison camp in the United States while, at the same time, sending a memorandum to the Spanish Embassy, which represented Japanese interests, "disclaim[ing] all responsibility for any untoward incident which may occur during Mrs. Nishino's stay in the United States . . . or during the voyage." Memorandum from Henry R. Norweb, U.S. Ambassador to Peru, to Pablo de Churruarín y Dotes, Spanish Ambassador to Peru (July 17, 1943) (DS File 740.00115, Pacific War/1729, RG 59) (on file with author).

<sup>63</sup> See GARDINER, *supra* note 7, at 67–69.

<sup>64</sup> Before they got there, however, this group spent over three months clearing jungle in Panama:

[A]s the rains beat down, the men were forced to work without remuneration. Denied communication with their families, unaccustomed to the hard labor, resenting the unsavory food and their inadequate shelter under intolerable weather conditions, the men understandably put forth no special effort. In return guards occasionally kicked, beat, or nicked with their bayonets some passive worker.

*Id.* at 76.

Gardiner reports that a thirty-one year-old merchant became so distraught that one day he began running for freedom, barefoot and in his pajamas. Miraculously he survived after guards in the towers felled him with their machine guns. *See id.* at 77.

<sup>65</sup> *See id.* at 69. Gardiner reports that one man was incarcerated for insubordination when he refused to work and that all of the men were forced to sign papers stating that they had been well treated on board. *See id.*

<sup>66</sup> *See id.* at 69–70. They did not have visas either, as U.S. consular officials had been instructed not to issue any. *See id.* at 29.

<sup>67</sup> *See GARDINER, supra* note 7, at 70.

<sup>68</sup> According to Gardiner, "[h]e and Pedro Beltran [later Peruvian ambassador to the United

concerns about shipping the Japanese Peruvians from a nonbelligerent state to a belligerent one, Prado argued that such action was permissible for purposes of repatriation.<sup>69</sup> This, of course, would only have been true for those Japanese citizens who requested repatriation.<sup>70</sup> U.S. Ambassador Norweb initially recommended that only "dangerous" Japanese leaders be expelled, but he wanted to maintain good relations with the Peruvian government and eventually advocated the removal of all Japanese Peruvians to the United States, regardless of their citizenship. "While approving Norweb's . . . proposals, the [State] department did view the deportation of Nisei [second generation] and naturalized Japanese as a knotty problem and suggested that the latter be 'denaturalized.'"<sup>71</sup>

In August 1942 Secretary of State Hull proposed to President Roosevelt that the State Department "[c]ontinue our efforts to remove *all the Japanese* from these American Republic countries for internment in the United States [and] continue our efforts to remove from South and Central America *all the dangerous Germans and Italians* still there . . . ."<sup>72</sup> In other words, the State Department intended to individually screen Germans and Italians to see if they were dangerous, while simply kidnapping the Japanese wholesale. This created tension between the Departments of State and Justice, as the Justice Department knew that the only plausible justification for deporting and interning Japanese Peruvians was their identification as enemy aliens who posed a significant danger to hemispheric security. In June 1942 Attorney General Francis Biddle took the position that:

[i]f [the Latin American internees] are not to be repatriated . . . , the Department of State should arrange for them to be returned to Central or South America or the same procedure should be adopted with respect to them as now applies to other Axis aliens apprehended in this country on Presidential warrants, and [] each case should be decided on its merits to determine, after proper hearing, whether the individual alien should be released, paroled, or interned for the duration.<sup>73</sup>

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States] agreed that the removal of 30,000 Japanese they claimed were in the country would be the most welcome aid Washington could render Peru." *Id.* at 53.

<sup>69</sup> *See id.* at 53.

<sup>70</sup> *See infra* notes 73-75 and accompanying text.

<sup>71</sup> GARDINER, *supra* note 7, at 55.

<sup>72</sup> WEGLYN, *supra* note 11, at 63 (quoting letter from Cordell Hull, U.S. Secretary of State to Franklin D. Roosevelt, U.S. President (Aug. 27, 1942) (OF 20, FDR Library) (on file with author) (emphasis added)).

<sup>73</sup> GARDINER, *supra* note 7, at 56 (quoting Memorandum from Francis Biddle, U.S. Attorney

The State Department favored repatriation or deportation to Japan,<sup>74</sup> but the Attorney General hesitated, noting that "[a]ny involuntary repatriation appears to raise serious questions of law as well as of policy."<sup>75</sup>

By January 1943 the Justice Department could no longer ignore the fact that the United States was interning people who neither posed a security threat nor, as Peruvian citizens, were even enemy aliens. Although not insisting on individual hearings before alien enemy review boards, Biddle declared that "[s]ome of the cases seem to be mistakes,"<sup>76</sup> and sent Raymond Ickes of the Justice Department's Alien Enemy Control Unit to Lima to review the information available on each detainee to determine if he was actually or potentially "dangerous." Ickes's review slowed the process, but failed to ensure that only "dangerous enemy aliens" were deported.<sup>77</sup> He, too, discovered that there was no evidence that anyone was, in fact, "dangerous." Thus, "[i]n an effort to establish parameters warranting internment, Ickes accepted the following: service as an officer of a Japanese society, residence in Callao and other (unidentified) strategic areas, attendance at Japanese meetings . . . , visits at embassies and legations of other enemy countries."<sup>78</sup> The "screening" done by Emmerson for the State Department and Ickes for the Justice Department had little effect. Of the 119 men interned by the U.S. government in February 1943, only 15 had been on the U.S. list.<sup>79</sup> The rest were selected independently, and apparently quite randomly, by Peruvian authorities.

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General, to Cordell Hull, Secretary of State (June 25, 1942) (DS File 740.00115 EW1939/3610, RG59 NA) (on file with author)).

<sup>74</sup> Apparently the State Department took this position because it was aware that the laws of most of the Latin American republics would not allow them to detain Axis nationals for the duration of the war. See *id.* at 57.

<sup>75</sup> *Id.* (quoting Department of State Memorandum (Nov. 6, 1942) (DS File 311.9415/251) and Memorandum from Francis Biddle, U.S. Attorney General, to Secretary of State (Nov. 9, 1942) (DS File 740.00115 PW/1126, RG59, NA) (on file with author)).

<sup>76</sup> WEGLYN, *supra* note 11, at 63 (quoting Letter from Francis Biddle, U.S. Attorney General, to the Secretary of State (Jan. 11, 1943) (DS 740.00115 Pacific War/1276, RG59, NA) (on file with author)).

<sup>77</sup> People like Arturo Shinei Yakabi were still among those taken on the next ship. Yakabi, twenty-one years old, had been born in Peru. As the oldest child of poor farmworkers, he had been sent at age 15 to work in a bakery in Callao. In February 1943 he was awakened in his room behind the bakery, seized by the Peruvian police and held in a Lima jail for three weeks. Apparently his employer had avoided deportation by paying a bribe and offering Yakabi as a substitute. Yakabi's mother visited repeatedly and the police told the family that if they had money something could be "worked out." They did not have any, so at 3:00 a.m. on February 24, carrying all he owned in a flour sack, Yakabi was put on a truck and loaded onto the *Frederick C. Johnson*. He joined 119 other Japanese Peruvians headed to concentration camps in Missouri, Montana and later, the Texas desert. See GARDINER, *supra* note 7, at 72, 77-78.

<sup>78</sup> *Id.* at 73.

<sup>79</sup> In addition to those men who were deemed "dangerous," the United States wanted the

The last ship transporting Japanese Peruvians landed in New Orleans on October 21, 1944. By that time well over 2000 people<sup>80</sup> had been taken from their homes and their homelands and interned in U.S. prison camps—many of them snatched from their beds or arrested without warning at work or in meetings; others “volunteering” to be repatriated to Japan because conditions had become so harsh in Peru; some “volunteering” in order to reunite their families.

### C. Internment in the United States

The Japanese Latin American internees were held by the INS under Justice Department jurisdiction, rather than by the War Relocation Authority (“WRA”) that had been established to oversee the incarceration of Japanese Americans.<sup>81</sup> The first INS internment center—concentration camp, to be more accurate<sup>82</sup>—was in an abandoned federal Civilian Conservation Corps camp in the southern Texas town of Kenedy.<sup>83</sup> There was no doubt that this was a prison camp—the administrators were instructed to comply with the Geneva Convention of 1929, which specifies minimum requirements for the treatment of prisoners of war.<sup>84</sup> A censor division scrutinized all mail and a surveillance department trained civilian guards to work with INS agents.<sup>85</sup> There were two daily line-ups and up to four checks each night. The entire camp was surrounded by a barbed-wire fence which, if touched, activated an electric alarm.<sup>86</sup> Some Japanese Latin American men were sent to an abandoned army post at Fort Missoula, Montana, where “hundreds of Italian seamen, a few Germans, and an unknown number of Japanese Americans” were already being held.<sup>87</sup> From these camps

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families of the men who had already been interned, as the men were more likely to agree to be repatriated to Japan if their families were with them. *See id.* at 73.

<sup>80</sup> Weglyn says of the Japanese Latin Americans in Justice Department custody: “A total of 1,094 of them, officially designated as ‘voluntary detainees,’ answered the State Department’s ‘invitation’ to place themselves in war-duration voluntary incarceration with the 1,024 men who had been seized and spirited to the mainland by the U.S. military.” WEGLYN, *supra* note 11, at 62; *see also* EMMERSON, *supra* note 7, at 139; GARDINER, *supra* note 7, at 95.

<sup>81</sup> GARDINER, *supra* note 7, at 22.

<sup>82</sup> That these, and the WRA camps, were in fact, concentration camps, has been acknowledged by many who were responsible for them. President Roosevelt said in 1944, that “it is felt by a great many lawyers that under the Constitution [the Nisei] can’t be kept locked up in concentration camps.” WEGLYN, *supra* note 11, at 217. Upon his retirement as Associate Justice of the Supreme Court, Tom Clark said, “[w]e picked [the Japanese Americans] up and put them in concentration camps. That’s the truth of the matter.” *Id.* at 114.

<sup>83</sup> *See* GARDINER, *supra* note 7, at 29–30.

<sup>84</sup> *See id.* at 30.

<sup>85</sup> *See id.*

<sup>86</sup> *See id.* at 32–33.

<sup>87</sup> *Id.* at 83.

some "volunteers" went to Kooskia, Idaho to work on road projects while those men who remained at Kenedy were transferred to a barbed wire stockade, formerly a prison, in Santa Fe, New Mexico.<sup>88</sup>

As more internees, particularly women and children, were brought in, the INS created two additional camps in Texas. One was at Seagoville, a former federal women's prison, where internees were initially housed with prison inmates under the immediate supervision of a Bureau of Prisons warden.<sup>89</sup> The Seagoville prison was soon filled, and the INS expanded a migrant labor facility in Crystal City, Texas to become the third prison camp.<sup>90</sup> Some Japanese Latin Americans were also held by the military at Camp Livingston, Louisiana and Fort Sill, Oklahoma.<sup>91</sup>

Living conditions in these camps were abhorrent. In July 1943 Albert Clattenberg of the State Department, after visiting the camps at Kenedy, Crystal City and Seagoville, noted that the physical facilities, except the permanent buildings at Seagoville, were significantly worse than those at a U.S. prisoner of war camp he had visited in Europe:

The climate of Texas . . . cannot be considered mild in summer and the shadeless detention areas in which there are primarily temporary structures do not measure up against the Texas heat in the same way that the permanent structures in the detention camps in Europe, even with the scarcity of fuel, measure up against the European winter.<sup>92</sup>

Clattenberg worried that the poor conditions in the camps endangered the well-being of Americans that were being held by Axis governments and warned that "our Americans in Europe stand in momentary danger of ruthless retaliation."<sup>93</sup>

In addition to the physical difficulties discussed above, the Japanese Peruvians were subject to social, economic, cultural and psychological hardships as well. Families were literally scattered around the world, and those who managed to reunite in camp faced years in cramped quarters with little privacy. Property, personal belongings and

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<sup>88</sup> See GARDINER, *supra* note 7, at 97-98.

<sup>89</sup> See *id.* at 37-38.

<sup>90</sup> See *id.* at 36, 75, 98-103.

<sup>91</sup> See *id.* at 49.

<sup>92</sup> Albert E. Clattenberg, Brief Review of Impressions Obtained at Immigration Detention Stations at Kennedy, Crystal City and Seagoville, Texas (July 9, 1943) (on file with author).

<sup>93</sup> *Id.* He blamed the conditions on the "apparent failure of the appropriate agencies of this Government to accord the Immigration Service the priority ratings necessary for provision of material articles requisite for the construction and operation of a camp according to a standard affording security against reprisals for our Americans detained abroad." *Id.*

cash were lost. Parents worried about their children being accepted in Japan and tried to retain some semblance of Japanese culture and language in their lives, while the children who had grown up speaking Spanish were now constantly exposed to English. Children born in the camps added to already confused questions of identity. "The Hikozo Izumi family," Gardiner states, "represented graphically the kinds of tangled citizenship to which internment was contributing. Hikozo held Japanese citizenship, his wife Masako was a Peruvian Nisei, one child was Peruvian-born, and now their second child was American."<sup>94</sup>

#### D. *Hostages for Exchange*

Why did the United States go to so much trouble and expense to detain, transport and incarcerate nearly 2000 Japanese Peruvians who were known to be of no danger to hemispheric security?

U.S. officials may have thought that catering to anti-Japanese sentiment was an easy way to obtain Peru's cooperation in the war effort. Although the U.S. government placed a military force near the northern oilfields of Talara, signed a lend-lease agreement promising Peru approximately \$29 million of arms and munitions and negotiated for Peruvian rubber, cinchona bark and other perceived strategic materials,<sup>95</sup> such factors do not adequately explain the U.S. motivation in this massive effort to intern civilians. The U.S. authorities wanted to have Japanese Latin American civilians in their possession and control not because these civilians posed any threat but because the United States wanted hostages to barter for American citizens held in Japanese-occupied territories.

The idea of taking hostages was not a new one. As early as 1936 George S. Patton, then Chief of Military Intelligence in Hawaii, drafted a plan "[t]o arrest and intern certain persons of the Orange race [i.e., Japanese] who [were] considered most inimical to American interests or those whom, due to their position and influence in the Orange community, it [was] desirable to retain as hostages."<sup>96</sup> In August 1941, months before the U.S. Navy was attacked at Pearl Harbor, Congressman John Dingell of Michigan wrote President Roosevelt:

I want to suggest . . . that we remind Nippon that unless assurances are received that Japan will facilitate and permit the voluntary departure of [a group of one hundred Ameri-

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<sup>94</sup> GARDINER, *supra* note 7, at 110.

<sup>95</sup> See *id.* at 20-21.

<sup>96</sup> WEGLYN, *supra* note 11, at 182.



can citizens] within forty-eight hours, the Government of the United States will cause the forceful detention or imprisonment in a concentration camp of ten thousand alien Japanese in Hawaii; the ratio of Japanese hostages held by America being one hundred for every American detained by the Mikado's Government.

It would be well to further remind Japan that there are perhaps one hundred fifty thousand additional alien Japanese in the United States who will be held in a reprisal reserve

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In January 1942 Major Karl Bendetson, architect of the Japanese American internment, said that "the 'hostage idea' has not been sufficiently explored . . . . The question should be . . . whether the individual has any close relatives in the armed forces . . . in [a] hostile [nation]."<sup>98</sup> Weglyn says

[i]f a reprisal reserve urgency had indeed precipitated the sudden decision for internment, the emphasis, as the tide of the war reversed itself, switched to the buildup of a "barter reserve": one sizable enough to allow for the earliest possible repatriation of American detainees, even at the price of a disproportionate number of Japanese nationals in exchange.<sup>99</sup>

All of this could have been avoided had the United States accepted a Japanese proposal in the early days of the war to exchange nonofficials "without limit as to their number and without question of their usefulness for the prosecution of the war."<sup>100</sup> Instead, the United States pursued a policy of creating reserves of hostages for exchange. As a result, according to Gardiner,

by mid-1942 the United States, aware of the entrapment of additional thousands of Americans by Japanese military successes, could only hope to regain those nonofficial Americans by giving up an equal number of nonofficial Japanese. Battlefield casualties did not then constitute the sole body count.

<sup>97</sup> *Id.* at 55 (quoting Letter from John Dingell, U.S. Congressman from Michigan, to Franklin D. Roosevelt (Aug. 18, 1941) (on file with author)). As Weglyn points out, according to the 1940 census, there were approximately 127,000 Japanese Americans in the continental United States, less than 50,000 of whom were aliens. *See id.* at 285 n.1.

<sup>98</sup> *Id.* at 182.

<sup>99</sup> *Id.* at 56.

<sup>100</sup> GARDINER, *supra* note 7, at 47 (citations omitted).

Very carefully one counted and matched the number of persons promised in any exchange with the enemy.<sup>101</sup>

Two such exchanges of civilians took place.<sup>102</sup> In an *Outline of Negotiations for Exchange of American Civilians in Japanese Hands*, Clattenberg states that from December 7, 1941 to April 15, 1942 the United States "assembled from various points on this continent Japanese nationals who were to be repatriated" and from April 15 to July 25, 1942 "carried on the activities necessary to accumulate a ship-load of Japanese nationals from this hemisphere."<sup>103</sup> In June 1942 the *Gripsholm* left New York carrying 1065 Japanese nationals, including 35 Japanese Peruvians.<sup>104</sup> The second exchange was delayed until September 1943 by communication problems, the difficulties of working through both Spanish and Swiss intermediaries, discrepancies between the individuals requested by the Japanese government and those produced by the United States and the refusal of many Japanese Latin Americans to repatriate. This time the *Gripsholm* carried 1340 Japanese, of whom 484 were from Peru.<sup>105</sup>

The United States was anxious to arrange a third exchange of 1500 prisoners, but the Japanese government's interest seems to have waned as it learned of the U.S. treatment of both Japanese American and Latin Americans. In October 1942 the Spanish embassy transmitted a protest from the Japanese government denouncing the "inhuman treatment given the Japanese in Panama."<sup>106</sup> A Memorandum of May 29, 1944 protested the transfer of both Bolivian and Peruvian Japanese:

<sup>101</sup> *Id.* at 50.

<sup>102</sup> Within days of the U.S. declaration of war, the Japanese had accepted a U.S. proposal for an exchange of diplomatic personnel at the east African port of Lourenco Marques (now Maputo). A memorandum of June 15, 1942 outlines the agreement. See State Department Memorandum, Summary of American-Japanese Exchange Agreement (June 15, 1942) (on file with author); see also GARDINER, *supra* note 7, at 46-47.

<sup>103</sup> Albert E. Clattenberg, *Outline of Negotiations for Exchange of American Civilians in Japanese Hands* (Oct. 12, 1943) (on file with author).

<sup>104</sup> GARDINER, *supra* note 7, at 48. Approximately 400 additional Japanese from the east coast of South America were picked up in Rio de Janeiro. See *id.*

<sup>105</sup> Gardiner concludes:

When the United States put the women and children from Costa Rica and Panama, the men from Peru, and the occasional family from any of those countries aboard the *Gripsholm*, those Latin American Japanese, not one of whom had been charged, tried, or convicted of espionage, sabotage, or subversive activity, were pawns in a human traffic Washington hoped to continue.

*Id.* at 50.

<sup>106</sup> Memorandum from the Spanish Embassy, to the U.S. Department of State, (Oct. 1, 1942) reprinted in WEGLYN, *supra* note 11, at 183-84 app. 7A. According to the Spanish Embassy:

The fact of the American Government having whimsically transferred the custody of Japanese residents of a third country, namely Bolivia, to the United States, is as unjust a measure as the one taken by the American Government with the Japanese residents of Peru, a measure that the Japanese Government is still at a loss to understand.<sup>107</sup>

In addition to protesting the abduction of Japanese from Central and South America, the Japanese government paid close attention to the U.S. treatment of Japanese Americans. In late 1942 Dillon Myer, National Director of the War Relocation Authority, notified the directors of the ten U.S. "relocation centers" that the Spanish Consul, on behalf of the Japanese government, was conducting inspection tours of all civilian detention camps. He warned: "Please bear in mind that the Japanese Government has recently evidenced a substantial amount of interest in the West Coast evacuation through diplomatic channels and has lodged some rather vigorous protests concerning various phases of the treatment of Japanese generally in the United States."<sup>108</sup>

In December 1942 dissent and turmoil at the camp holding Japanese Americans in Manzanar, California culminated in troops throwing tear gas grenades and firing into a crowd, killing two internees and injuring dozens.<sup>109</sup> The WRA reported, "The incident, which might well have been represented to Japanese governmental authorities as an

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The Japanese diplomats and residents of Panama who recently arrived in Japan, denounce the inhuman treatment given the Japanese in Panama.

They advise that on December 7th, all Japanese residents in Panama were arrested without allowing them to take anything more with them than what they had on, and were held up to 24 hours in the jail of Panama and by the Police of Colon without any food or water.

On the 8th, they were turned over to the American Authorities and for one week were put in very unsanitary concentration camps, forced to work and given extreme punishment.

Immediately after their arrest, the homes and residences of these detainees were looted.

Upon being transferred, the American Authorities of the Canal Zone, confiscated all the money that they had . . .

Among the Japanese detainees, there was one named Alejandro who fell ill, and neither the American or Panamanian Authorities gave him medical attention until the 2nd of May, when he was placed in a hospital and where he died the same day.

*Id.*

<sup>107</sup> Memorandum from the Spanish Embassy, to the U.S. Department of State (May 29, 1944), reprinted in WEGLYN, *supra* note 11, at 185.

<sup>108</sup> WEGLYN, *supra* note 11, at 120 (quoting Memorandum from Myer to All Project Directors (Dec. 9, 1942) (on file with author)).

<sup>109</sup> See *id.* at 121-25.

attempt at mass murder, could easily have touched off a wave of unrestrained brutality at prisoner of war camps and detention stations throughout the Far East."<sup>110</sup> There was no immediate response, but "[a]fter the docking of the first detainee exchange ship, the Japanese Government sharply protested 'these outrages on the part of the United States Authorities' in which 'unarmed civilian internees who offered no resistance were mercilessly killed and wounded.'"<sup>111</sup>

Shortly after the second *Gripsholm* exchange, the U.S. government sent all the Japanese Americans deemed "disloyal" to the Tule Lake camp. There, 18,000 Japanese Americans were crowded into a camp complete with barbed wire, tanks patrolling its perimeter and a full battalion of guard troops.<sup>112</sup> Outrage over their treatment escalated into a demonstration of over 5000 men, women and children when WRA Director Myer visited in November 1943. Three days later, the Army invaded and martial law was declared within the camp, triggering new rounds of arrests, protests and hunger strikes.<sup>113</sup> The Japanese government protested and Secretary of State Hull immediately warned Secretary of War Stimson of the "vital nature of this problem arising from the desire of this government to keep open negotiations with the Japanese Government, looking toward future exchange operation through which Americans in Japanese hands may be repatriated . . . ."<sup>114</sup> Nonetheless, the U.S. government persisted in its hard line response. Weglyn concludes:

The Tule Lake "riot" had exploded into headlines at the very moment when the lives and safety of over 6,000 American detainees in Japanese prison camps hung precariously in the balance as they awaited exchange ships. In two years of war, fewer than 3,000 persons had been exchanged . . . .

With the follow-up report from the Spanish Embassy concerning the stockade, the 200 men being held therein, and the extraordinary Army seizure of a camp full of civilian detainees, Tokyo called an abrupt halt to prisoner-exchange negotiations. The cutoff proved permanent.<sup>115</sup>

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<sup>110</sup> *Id.* at 125 (quoting WAR RELOCATION AUTHORITY, WRA: A STORY OF HUMAN CONSERVATION 50 (1946)).

<sup>111</sup> *Id.* (quoting Memorandum from Spanish Embassy to State Department (Mar. 13, 1944) (on file with author)).

<sup>112</sup> *See id.* at 156-57.

<sup>113</sup> *See* WEGLYN, *supra* note 11, at 160-66.

<sup>114</sup> *Id.* at 171 (quoting Secretary of State Hull, to Secretary of War Stimson (Jan. 11, 1944) (WRA File 36.239, RG 210, NA) (on file with author)).

<sup>115</sup> *Id.* at 173.

Thus, it seems that the U.S. kidnapping of civilians from third-party countries and the mistreatment in the camps of both Latin American and U.S. citizens or residents of Japanese descent made the Japanese government unwilling to participate in further exchanges. Although ships continued to bring deportees from Peru through the middle of 1944, only about 500 Japanese Peruvians, in total, were exchanged for Japanese-held American citizens. As of July 1945, over 1300 Japanese Latin Americans, mostly Peruvians, remained interned in the United States, along with 815 Germans and 53 Italians who had been brought to the United States from Latin America.<sup>116</sup>

### E. *Forced Deportations*

The internment of Japanese Latin Americans, much like the internment of Japanese Americans, has been portrayed as an aberration based on wartime hysteria, confusion or haste.<sup>117</sup> The implication is that the actions taken, while regrettable, were justifiable because they occurred under extraordinary circumstances. It is, however, precisely during times of war or other perceived crisis—times that our civil liberties are most easily lost—that we must most diligently guard our rights and insist on lawful conduct by the government.<sup>118</sup> That these violations of human rights were not just a product of wartime hysteria, but were deeply rooted in our political and legal structures is illustrated by the treatment of the Japanese Latin Americans after the war ended.

In December 1945 Jonathan Bingham, Chief of the State Department's Alien Enemy Control Section, stated, "[t]here was never any clear understanding as to the eventual disposition of the aliens after the war, primarily because at the time they were deported from Peru no one was thinking about the postwar period."<sup>119</sup> A full year before Japan's surrender, realizing that further civilian exchanges were unlikely, the State Department anticipated "difficulties in disposing of the

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<sup>116</sup> Even though they—unlike the Japanese—had been determined to be "dangerous," over half the Italians and almost a third of the Germans were "interned at large," having been released in a parole-type status after an investigation of their cases. All of the Japanese were kept in camps. See Memorandum on the Removal of Enemy Aliens Brought Here from the Other Americas, from J.E. Doyle, to the Acting Secretary of State (Sept. 24, 1945) (on file with author).

<sup>117</sup> See Sense, *supra* note 2 (quoting apology of President Clinton); see also WILLIAM H. REHNQUIST, ALL THE LAWS BUT ONE: CIVIL LIBERTIES IN WARTIME 205-06, 211 (1998) (noting that judicial review is ill-suited to determine "military necessity" and that on the West Coast there was real fear of attack by Japanese forces).

<sup>118</sup> See Eugene V. Rostow, *The Japanese American Cases—A Disaster*, 54 YALE L.J. 489 (1945).

<sup>119</sup> GARDINER, *supra* note 7, at 129 (quoting Memorandum of Jonathan Bingham, Chief of the State Department's Alien Enemy Control Section (Dec. 13, 1945), published in 9 FRUS 298 (1945)).

enemy nationals brought here from the other American republics for internment."<sup>120</sup> The repatriation of those who wanted to return to Germany or Japan was not an issue, but the internees who wanted to return to Latin America or remain in the United States posed a problem for the government.

U.S. officials faced a dilemma. On the one hand, they wanted the other American republics to agree to "the return of all internees to the enemy state of which they were nationals,"<sup>121</sup> in part because the State Department had a grand vision of banishing all "subversive elements from the hemisphere, and perhaps also because the "more complete the harassment and removal of late enemy nationals and their operations, the more complete the economic void to be filled by Americans, their products and capital."<sup>122</sup> On the other hand, the Justice Department was clear that U.S. law and policy prohibited forced repatriations.

At a meeting held on August 31, 1944, State Department officials recognized that "some individuals sent here for internment were undoubtedly relatively harmless and probably were selected for expulsion through error."<sup>123</sup> Thus, they agreed to divide the internees into three classifications: (A) dangerous, (B) probably dangerous and (C) probably harmless. Persons in categories B and C might be allowed to return to the Latin American countries from which they came, but "[a]ll persons in category A would be sent to their homeland and efforts would be made . . . to prevent them from returning to the Western Hemisphere."<sup>124</sup> The new classification system afforded no relief to Japanese Latin Americans because it was further agreed that "category [A] would include *all Japanese* received from the other American republics" whether considered dangerous or not.<sup>125</sup>

In March 1945 the Inter-American Conference on Problems of War and Peace at Mexico City passed Resolution VII of its Final Act recommending that all American republics adopt measures to prevent any person whose deportation was deemed necessary for reasons of security from further residing in the Western Hemisphere.<sup>126</sup> The United

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<sup>120</sup> Memorandum of Meeting, Post-War Disposition of Interned Alien Enemies Received from the Other American Republics 1 (Aug. 31, 1944) (on file with author) [hereinafter *Memorandum of Meeting*].

<sup>121</sup> See *id.* at 2.

<sup>122</sup> GARDINER, *supra* note 7, at 114-15.

<sup>123</sup> Memorandum of Meeting, *supra* note 120, at 2.

<sup>124</sup> See *id.* at 4.

<sup>125</sup> See *id.* (emphasis added). By January 31, 1946, of the 513 Japanese from Latin America still in U.S. custody, 495 were from Peru. See GARDINER, *supra* note 7, at 134, (tbl. 9).

<sup>126</sup> See Proclamation No. 2662, reprinted in 50 U.S.C., Supp. IV, app. note prec. § 1 (1945) and in 59 Stat. 880 (1945).

States invoked Resolution VII to pressure Latin American governments into repatriating all interned Axis nationals. Nonetheless, Peru insisted that the U.S. return certain German internees to Peru, regardless of their security classification, and refused to take back *any* of the Japanese, *even those who were Peruvian citizens*. After initial resistance, U.S. authorities agreed that Peru would have the final word on German deportations, despite the fact that this "would result in the return to Peru of some of the worst offenders . . . ."<sup>127</sup> Regarding the Japanese, Gardiner explains,

Peru, regretting that it had not rid itself of all its Japanese, insistently refused to readmit most of those who had been shipped to the United States. Secure in the knowledge that the interned Peruvian Japanese had constituted no security risk to either country at any time, the United States had hoped that Peru would relent and readmit the several hundred who desired to return there.<sup>128</sup>

Ultimately, Peru agreed only to the return of those who were born in Peru (the Nisei), naturalized citizens and those who were married to Peruvians.<sup>129</sup>

U.S. authorities insisted that all remaining Japanese Peruvians would be deported to Japan, even though it was unclear that the government had the power to send them involuntarily. The Alien Enemy Act of 1798<sup>130</sup> provided that in the event of war all enemy aliens over fourteen years of age within the United States could be "apprehended, restrained, secured, and removed" according to presidential proclamation. The government had relied on this authority in holding Japanese Latin Americans, although its application to those brought here by the government is questionable.

On July 14, 1945 President Truman issued a proclamation authorizing the Attorney General to order the removal of alien enemies interned within the United States who were deemed "dangerous to the public peace and safety of the United States because they have adhered to . . . enemy governments or to the principles of government thereof

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<sup>127</sup> See Memorandum, Disposition of German Internees from Peru, from Joseph Flack, to Mr. Dreier (Nov. 7, 1945) (on file with author) (with attachments giving the history of the disagreement).

<sup>128</sup> GARDINER, *supra* note 7, at 152.

<sup>129</sup> *Id.* at 153.

<sup>130</sup> Act of July 6, 1798, ch. 66, § 1, 1 Stat. 577 (50 U.S.C. § 21 et seq. (1998)); see also J. Gregory Sidak, *War, Liberty and Enemy Aliens*, 67 N.Y.U. L. REV. 1402, 1416-20 (1992) (discussing the use of the Alien Enemy Act during World War II).

...<sup>131</sup> Because the Justice Department interpreted this to extend only to the removal of aliens who were U.S. residents, the State Department requested and obtained the Presidential Proclamation of September 8, 1945, which specifically authorized the Secretary of State to remove to destinations outside the Western Hemisphere:

All alien enemies now within the continental limits of the United States (1) who were sent here from other American republics for restraint and repatriation pursuant to international commitments of the United States Government and for the security of the United States and its associated powers and (2) who are within the territory of the United States without admission under the immigration laws . . . if their continued residence in the Western Hemisphere is deemed by the Secretary of State prejudicial to the future security or welfare of the Americas as prescribed in Resolution VII of the Inter-American Conference on Problems of War and Peace . . .<sup>132</sup>

Implementing this proclamation created problems, as noted by J.E. Doyle in a State Department memorandum of September 29, 1945. First, he said, the powers granted under the Alien Enemy Act were so sweeping that the Supreme Court might suspend its application upon the unconditional surrender of the enemy.<sup>133</sup> In other words, because Japan had surrendered, the war was over and such measures were no longer needed. Second, some of the internees were not "alien enemies," but were Peruvian citizens or U.S. citizens by virtue of their birth in the camps. Third, the continued residence of Japanese Peruvians in the Western Hemisphere could hardly be considered a threat to the security or welfare of the Americas.<sup>134</sup> Doyle concluded:

[I]t remains far too clear that the initial apprehension of these persons, their removal to the United States, and their internment here has been accomplished in disregard of the very fundamentals of just and orderly procedure. From first to last . . . these aliens have been denied a clear statement of

<sup>131</sup> Proclamation No. 2662, *reprinted in* 50 U.S.C., Supp. IV, app. note prec. § 1 *and in* Stat. 880; *see also* Memorandum from J.E. Doyle, Summary Statement on Removal of Enemy Aliens Brought Here from the Other Americas, to Acting Secretary (Sept. 29, 1945) 2-3, (711.6211 AR/9-2945, NA) (on file with author) [hereinafter J.E. Doyle, Summary Statement].

<sup>132</sup> Proclamation No. 2662, *reprinted in* 50 U.S.C., Supp. IV, app. note prec. § 1 *and in* Stat. 880.

<sup>133</sup> *See* J.E. Doyle, Summary Statement, *supra* note 131, at 3.

<sup>134</sup> *See* GARDINER, *supra* note 7, at 132.



the charges against them or an opportunity to deny or to disprove the charges . . . .

It is now suggested that . . . all but about 50 will be deported to Germany, Italy or Japan. It is not too much to say that this crowning disregard of basic notions of fairness and decency would earn for this program an equal place with the Mitchell Palmer raids and the anti-alien crusade that followed the first World War.<sup>135</sup>

Nonetheless, the deportations proceeded. Between November 1945 and February 1946, the United States sent between 1400 and 1700 Japanese Peruvians to a war-devastated, U.S.-occupied Japan.<sup>136</sup> Many of the deportees had no ties to Japan, some had never even been there and a number of the men had wives and children still living in Peru.<sup>137</sup> Deemed "voluntary" by the State Department, many internees only acquiesced when Peru prohibited their return and the U.S. government insisted that they would not be allowed to stay in the country.<sup>138</sup> In March 1946 Acting Secretary of State Dean Acheson informed Attorney General Tom Clark, formerly the Coordinator of Alien Enemy Control and later a Supreme Court Justice:

[i]n no case is there clear evidence that the individual's continued residence in this hemisphere would be prejudicial to the security and welfare of the Americas. I am therefore requesting you to inform [the approximately 425 remaining Japanese Peruvians] that they are no longer subject to restraint as dangerous alien enemies.<sup>139</sup>

<sup>135</sup> J.E. Doyle, Summary Statement, *supra* note 131, at 5-6.

<sup>136</sup> WEGLYN, *supra* note 11, at 64 & n.28 (stating that during this period 1700 Japanese Peruvians (700 men and their dependents) were sent to Japan, but noting that the State Department reports 1440 people "voluntarily returned to Japan").

<sup>137</sup> *Id.* at 64.

<sup>138</sup> In *Ex parte Kenzo Arakawa*, a habeas corpus proceeding challenging the government's right to hold the plaintiff in custody at Seabrook Farms and to deport him to Japan, the district court held that the plaintiff was lawfully detained pursuant to the Alien Enemy Act and that the government could deport him to Japan without his consent despite the fact that the Axis nations had unconditionally surrendered and the President had proclaimed that hostilities had ceased. 79 F. Supp. 468, 470-71 (E.D. Pa. 1947). *But see* *United States ex rel. Paetau v. Watkins*, 164 F.2d 457 (2d Cir. 1947) (holding that an alien brought to the United States against his will for internment as an alien enemy could not be deported as an "immigrant" until he had been given the opportunity to depart voluntarily); *United States ex rel. Von Heymann v. Watkins*, 159 F.2d 650 (2d Cir. 1947) (holding that a German brought to the United States from Costa Rica and interned pursuant to the Alien Enemy Act could be ordered removed from the country, but could not be held in custody unless it was shown that he "refused or neglected" to depart voluntarily).

<sup>139</sup> GARDINER, *supra* note 7, at 136.

Acheson added, "[Y]ou will presumably wish to take steps looking toward their departure from the United States within a reasonable time."<sup>140</sup> In other words, rather than deport them as "enemy aliens" the State Department turned responsibility for the expulsions over to the Justice Department who, through the INS, would deport the Japanese Peruvians as "illegal aliens."<sup>141</sup>

In the spring of 1946, the 365 Japanese Peruvians still fighting deportation came to the attention of Wayne Collins, a remarkable attorney who represented Fred Korematsu in his challenge to the Japanese American internment as well as hundreds of Japanese Americans in deportation proceedings where the government claimed they had "renounced" their U.S. citizenship.<sup>142</sup> Collins, with the support of the ACLU of Northern California, filed two test cases challenging the Japanese Peruvian deportations, thereby delaying the process. He also arranged for about 200 Japanese Peruvians to be "paroled" (i.e., released from detention) for the purpose of working at Seabrook Farm, a frozen food processing plant in New Jersey which had been using civilian internee as well as German prisoner of war labor.<sup>143</sup>

The plight of the Japanese Peruvians dragged on; their lives put on hold while Wayne Collins furiously pursued legal, political and diplomatic solutions. In the spring of 1949, seven years after the first Japanese Peruvians were seized, the State Department finally decided that "the obvious solution [was] to regularize their status in the United States as permanent immigrants legally admitted."<sup>144</sup> Over the next few years, individual families managed to have their orders of deportation suspended, a process that required petitioning the Board of Immigration Appeals and getting a resolution passed by Congress. In 1954 the

<sup>140</sup> *Id.* at 136 & n.7.

<sup>141</sup> Thus, the arrest warrant of Iwamori Sakasegawa stated that he was to be deported because he did not have a valid visa, did not have an unexpired passport and was ineligible for citizenship at the time he entered the United States. *See id.* at 144-45.

At this time, the restrictions of the Naturalization Act of 1790 which originally limited citizenship to "free white persons" had been modified to allow the naturalization of persons of African descent and persons from certain Asian countries, but the racial restriction still applied to those of Japanese descent. *See* Natsu Taylor Saito, *Alien and Non-Alien Alike: Citizenship, "Foreignness," and Racial Hierarchy in American Law*, 76 OR. L. REV. 261, 271-72 (1997) [hereinafter *Alien and Non-Alien Alike*]. *See generally* HANEY LOPEZ, *supra* note 3; Charles J. McClain, *Tortuous Path, Elusive Goal: The Asian Quest for American Citizenship*, 2 ASIAN L.J. 33 (1995).

<sup>142</sup> *See generally* JOHN CRISTGAU, "ENEMIES": WORLD WAR II ALIEN INTERNMENT (1985); PETER IRONS, *JUSTICE AT WAR: THE STORY OF THE JAPANESE AMERICAN INTERNMENT CASES* (1983).

<sup>143</sup> *See* CRISTGAU, *supra* note 142, at 177-78; GARDINER, *supra* note 7, at 141-51; WEGLEY, *supra* note 11, at 64-65.

<sup>144</sup> GARDINER, *supra* note 7, at 168 (citing Memorandum of B.C. Davis, to State Department (Apr. 15, 1949), (FW 711.94115 AR/4-1349, RG 59, NA) (on file with author)).

Refugee Relief Act of 1953 was amended to provide that "[a]ny alien who establishes that prior to July 1, 1953, he . . . was brought to the United States from other American republics for internment, may, not later than June 30, 1955, apply to the Attorney General of the United States for an adjustment of his immigration status."<sup>145</sup> Thus, some of the interned Japanese Latin Americans were able to remain in the United States after years of uncertainty, during which time they had effectively been rendered stateless.

## II. VIOLATIONS OF INTERNATIONAL LAW

*The forcible detention of Japanese from Peru, arising out of a wartime collaboration among the governments of Peru, the United States, and the American republics, was clearly a violation of human rights and was not justified by any plausible threat to the security of the Western Hemisphere.*

—John Emmerson, *Second Secretary of the U.S. Embassy in Lima, Peru, 1942–43*<sup>146</sup>

The U.S. kidnapping, deportation, internment, holding hostage and forced repatriation of Japanese Peruvians constituted a series of war crimes.<sup>147</sup> These crimes did not result from the actions of a few individuals, but from a callous and widespread disregard for the rights of the people involved and the applicable international law. Those responsible for making and carrying out U.S. policy willingly violated the law for perceived strategic and/or political advantage. Much of what we now call *human rights law*, particularly that which protects individuals against the actions of their own governments, emerged out of World War II,<sup>148</sup> but during the war there was already in place a large body of well-established international *humanitarian law* that covered the treatment of civilians during war.<sup>149</sup> To establish the principles of international law that were in effect at the time of the Japanese Peru-

<sup>145</sup> *Id.* at 171.

<sup>146</sup> EMMERSON, *supra* note 7, at 149.

<sup>147</sup> See generally Manjusha P. Kulkarni, Note, *Application of the Civil Liberties Act to Japanese Peruvians: Seeking Redress for Deportation and Internment Conducted by the United States Government During World War II*, 5 B.U. PUB. INT. L.J. 309 (1996); Kam Nakano, *Japanese Latin Americans, The Forgotten Victims of World War 2: A Litigation Strategy Based on International Law* (1997) (unpublished) (manuscript on file with author).

<sup>148</sup> See, e.g., Louis Henkin, *The Internationalization of Human Rights*, quoted in LOUIS HENKIN, ET AL., *INTERNATIONAL LAW CASES AND MATERIALS* 596, 597 (3d ed. 1993) ("Real, full-blown internationalization of human rights came in the wake of Hitler and World War II.").

<sup>149</sup> See generally Matthew Lippman, *Crimes Against Humanity*, 17 B.C. THIRD WORLD L.J. 171 (1997) (describing the evolution of international humanitarian law); Karen Parker & Jennifer F.

vian internment, we look to both conventions and customary international law.<sup>150</sup> By World War II, there was generally recognized international law applicable to many areas implicated by the U.S. internment of Japanese Latin Americans: mutual self-defense treaties and the extent of permissible involvement of nonbelligerents in hostilities; the treatment of "enemy aliens" and prisoners of war; the treatment of civilians in occupied territories and in nonbelligerent countries; the transfer and deportation of civilian populations; the granting, withholding and revoking of citizenship; governmental responsibility for citizens, including a prohibition on rendering people stateless; and forced repatriation.<sup>151</sup> This Section examines the specific provisions of international law that were violated by the U.S. government's actions and its ongoing refusal to compensate the victims.

### A. Kidnapping and Deportation

The United States violated well-established principles of international law by collaborating with the Peruvian government—and other Latin American governments—to kidnap and deport civilian noncombatants from a nonbelligerent to a belligerent country on the basis of their racial or ethnic identification, without charge, hearing or determination that they posed a serious threat to U.S., Peruvian or "hemispheric" security. Article 49 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 states

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Chew, *Compensation for Japan's World War II War Rape Victims*, 17 HASTINGS INT'L & COMP. REV. 497, 511-21 (1994) (describing customary and conventional law applying to Japan's use of "comfort women" during World War II).

<sup>150</sup> The Statute of International Court of Justice, established in June 1945, states in Article 38 that in making decisions "in accordance with international law," the ICJ shall apply:

- (a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting States;
- (b) international custom, as evidence of a general practice accepted as law;
- (c) the general principles of law recognized by civilized nations; [and]
- (d) [as a subsidiary and non-binding means of determination,] judicial decisions and the teachings of the most highly qualified publicists of the various nations.

Statute of the ICJ, Art. 38, June 26, 1945, 59 Stat. 1031, T.S. No. 993.

In May 1945, in drafting the Executive Agreement Relating to the Prosecution of European Axis War Criminals, the Allied Powers agreed that "International law" shall be taken to include treaties between nations and the principles of the law of nations as they result from the usage established among civilized peoples from laws of humanity, and the dictates of the public conscience." Executive Agreement Relating to the Prosecution of European Axis War Criminals (drafts 3 & 4), ¶ 12 in *THE AMERICAN ROAD TO NUREMBERG: THE DOCUMENTARY RECORD* (Bradley F. Smith ed., 1982).

<sup>151</sup> See generally Jean-Marie Henckaerts, *Deportation and Transfer of Civilians in Time of War*, 26 VAND. J. TRANSNAT'L L. 469 (1993).

"Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying power or to that of any other country, occupied or not, are prohibited, regardless of their motive."<sup>152</sup> Article 146 provides that the parties will "undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches . . . defined in the following Article."<sup>153</sup> That Article defines grave breaches to include "unlawful deportation or transfer or unlawful confinement of a protected person . . . ." <sup>154</sup> While the drafting of this treaty was not completed until a few years after World War II, "[t]hese articles of the Geneva Convention of 1949 merely codify the prohibition of deportations of civilians from occupied territories which in fact already existed in the laws and customs of war."<sup>155</sup> A proposal to prohibit deportations had been included in the Tokyo Draft of Geneva IV adopted at the International Red Cross Conference of 1934,<sup>156</sup> and some of this customary law had been codified in the 1907 Hague Regulations.<sup>157</sup> According to the Commentary to the 1949 Geneva Convention, the 1907 Hague Regulations probably did not explicitly prohibit deportations "because the

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<sup>152</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, art. 49, 6 U.S.T. 3576, T.I.A.S. No. 3365, 75 U.N.T.S. 287 [hereinafter Geneva Convention], reprinted in DOCUMENTS ON THE LAWS OF WAR, 271, 288 (Adam Roberts & Richard Guelff eds., 1982) [hereinafter DOCUMENTS]. The United States signed the treaty in 1949 and ratified it in 1955. While Article 49 deals specifically with the treatment of civilians in territory which has been occupied, one could not expect there to be less protection of civilians in territory which has not been directly occupied, but has a government which collaborates with a belligerent state to the extent of deporting its civilians into the custody of that belligerent state. See *id.* See generally *Civilian Protection in Modern Warfare: A Critical Analysis of the Geneva Civilian Convention of 1949*, 14 VA. J. INT'L L. 123 (1973).

<sup>153</sup> Geneva Convention, art. 146, *supra* note 152, reprinted in DOCUMENTS, *supra* note 152, at 323.

<sup>154</sup> *Id.* Article 4 defines protected persons as "those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals." *Id.* art. 4, DOCUMENTS, *supra* note 152, at 273.

<sup>155</sup> Alfred M. De Zayas, *International Law and Mass Population Transfers*, 16 HARV. INT'L L.J. 207, 210 (1975); see also Theodore Meron, *The Geneva Conventions as Customary Law*, 81 AM. J. INT'L L. 348 (1987) (discussing the significance of considering the Geneva Conventions as embodying customary international law).

<sup>156</sup> See DOCUMENTS, *supra* note 152, at 271 (quoting the Prefatory Note to the 1949 Geneva Convention).

<sup>157</sup> See Convention (IV) Respecting the Laws and Customs of War on Land, Oct. 18, 1907, reprinted in DOCUMENTS, *supra* note 152, at 43; Convention (V) Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, Oct. 10, 1907 [hereinafter The Hague Convention], reprinted in DOCUMENTS, *supra* note 152, at 61.

practice of deporting persons was regarded . . . as having fallen in abeyance."<sup>158</sup>

In 1863, well before the Hague Conventions, the United States had condemned the deportation of civilians in Lieber's Code, "the first instance in western history in which the government of a sovereign nation established formal guidelines for its army's conduct toward enemies."<sup>159</sup> Also known as U.S. Army General Order 100, the Code stated, "[p]rivate citizens are no longer murdered, enslaved, or carried off to distant parts, and the inoffensive individual is as little disturbed in his private relations as the commander of the hostile troops can afford . . . ."<sup>160</sup>

Deportations had also been condemned by international judicial practice. In 1924, in *Moriaux v. Germany*, the Belgo-German Mixed Arbitral Tribunal considered the legality of the deportation of Belgian civilians to Germany during World War I and concluded that deportations were a "most flagrant and atrocious breach of international law."<sup>161</sup> In the *Chevreau* case, discussed below in the context of intervention,<sup>162</sup> the arbitrator took into consideration the claimant's deportation from Persia to Mesopotamia, India and Egypt in awarding his damages against the British government.<sup>163</sup>

Throughout the Second World War, the Allies made it clear that they considered the mass expulsion of civilians to be criminal.<sup>164</sup> The war crimes for which German and Japanese defendants were convicted by the Nuremberg and Tokyo Tribunals included the deportation

<sup>158</sup> Henckaerts, *supra* note 151, at 480 (quoting COMMENTARY TO THE IVTH GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR 4-5, 279 (Jean Pictet ed., 1958)); see also Raymond T. Yingling & Robert W. Ginnane, *The Geneva Convention of 1949*, 46 AM. J. INT'L L. 393, 411-24 (1952) (describing the provisions relating to civilian De Zayas states, "Analogously, it would have seemed unnecessary to the delegates convened The Hague in 1907 to draft special articles to prohibit cannibalism or human sacrifices." De Zayas *supra* note 155, at 211).

<sup>159</sup> RICHARD HARTIGAN, *LIEBER'S CODE AND THE LAW OF WAR I* (1983); see also Henckaerts *supra* note 151, at 483.

<sup>160</sup> HARTIGAN, *supra* note 159, at 45, 49; see also Henckaerts, *supra* note 151, at 483.

<sup>161</sup> *Moriaux v. Germany*, 4 M.A.T. 674, 679 (1924), quoted in 2 GEORG SCHWARZENBERG, *INTERNATIONAL LAW AS APPLIED BY INTERNATIONAL COURTS AND TRIBUNALS: THE LAW OF ARMED CONFLICT* 228-29 (1968).

<sup>162</sup> See France *ex rel* Madame Julien Chevreau, M.S. Dep't of State (file no. 500, ALA/119) (on file with author); see also *infra* note 174 and accompanying text.

<sup>163</sup> See SCHWARZENBERGER, *supra* note 161, at 229 (citations omitted).

<sup>164</sup> De Zayas, *supra* note 155, at 213-14, (citing the Inter-Allied Meeting in St. James' Palace in London (Sept. 24, 1941) which endorsed the *Principles of the Atlantic Charter*; the *Atlantic Declaration on German War Crimes* (adopted Jan. 13, 1942); a *Decree on the Punishment of German War Crimes Committed in Poland*, adopted by the Polish Exile Cabinet (Oct. 17, 1942); and declarations at the Moscow Conference (Oct. 19-30, 1943)).

civilians.<sup>165</sup> Schwarzenberger states, "In the Charter of Nuremberg Tribunal, deportation of civilians from occupied territories to slave labour or for any other purpose is enumerated, under the heading of war crimes in the strict sense, that is, breaches of the laws or customs of war, and that of crimes against humanity."<sup>166</sup>

The Nuremberg and Tokyo Tribunals focused especially on the use of deported civilians as slave labor.<sup>167</sup> "Forced labour in tropical heat without protection from the sun, complete lack of housing and medical supplies and insistence on work directly related to military operations were some of the features of forced labour castigated in the Tokyo Judgment (1948)."<sup>168</sup> This description fits quite closely the actions of the United States in forcing the two shiploads of Japanese Latin Americans to clear jungles and build barracks in the Canal Zone without remuneration.<sup>169</sup>

If the Germans and Japanese were responsible for knowing that the deportation of civilians was a war crime, surely the United States, which prosecuted them for these acts, was similarly charged with the

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<sup>165</sup> Article 6 of the Charter of London, which established the basis for the International Military Tribunal at Nuremberg, gave the Tribunal jurisdiction over three categories of crimes: (1) crimes against peace; (2) war crimes, "namely, violations of the laws or customs of war . . . [which] shall include, but not be limited to . . . ill-treatment or deportation to slave labor or for any other purpose of civilian population . . ."; and (3) crimes against humanity, which included deportation, and other inhumane acts committed against any civilian population . . . or persecution on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated." Agreement and Charter of the International Military Tribunal, art. 6, 82 U.N.T.S. 279 (1945), reprinted in *THE AMERICAN ROAD TO NUREMBERG*, *supra* note 150, at 112, 215. See generally William J. Fenrick, *Attacking the Enemy Civilian as a Punishable Offense*, 7 *DUKE J. COMP. & INT'L L.* 539, 541-49 (1997) (discussing, in the context of the International Criminal Tribunal for the former Yugoslavia, how the concepts of military objective and proportionality limit what can be done to civilians under the laws and customs of war).

<sup>166</sup> See SCHWARZENBERGER, *supra* note 161, at 23. He continues:

In the Charter of the Tokyo Tribunal, the subject is specifically mentioned only under the latter heading . . . [T]here is, however, no doubt about it that breaches of the law of belligerent occupation constitute breaches of the laws and customs of war, and therefore, amount to war crimes in the technical sense. Thus, under both Charters, deportation is a war crime in the technical sense and a crime against humanity.

d.

<sup>167</sup> See *id.* at 225-26, 230-32. Compulsory labor was also forbidden by Article 52 of the Hague Regulations of 1899 and 1907. See *id.* at 224-25.

<sup>168</sup> See *id.* at 225-26.

<sup>169</sup> See *supra* note 64 and accompanying text. Article 2 of the International Labour Organization Convention, No. 29, Concerning Forced or Compulsory Labour defines forced labor as all work or service which is exacted from any person under the menace of a penalty and for which the person has not offered himself voluntarily." June 28, 1930, 39 U.N.T.S. 55, 58; see also Parker & Chew, *supra* note 149, at 524.

knowledge that taking civilians from their homes in a nonbelligerent third country to concentration camps in a belligerent country, and forcibly deporting them to the occupied territory of another belligerent country after the war, likewise violated the same well-established principles of international law.<sup>170</sup>

### B. Indefinite Internment of Civilians

The Hague Peace Conferences of 1899 and 1907 considered the internment of civilians by belligerents and decided that an express prohibition was not required as the practice fell below the minimum standard of civilization.<sup>171</sup>

In 1930 the Greco-German Mixed Arbitral Tribunal held in *Nac v. Germany* that a neutral national unjustifiably detained by an occupying power is entitled to compensation.<sup>172</sup> The same Tribunal held *Palios v. Germany* that

any arrest or internment of a neutral national, not followed by criminal proceedings and condemnation, was contrary to international law. As neutral nationals are not entitled to any privileged treatment, in comparison with the rest of the population of the occupied country, this finding applies also to the population at large of the occupied territory.<sup>173</sup>

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<sup>170</sup> Henckaerts summarizes the state of the law regarding deportations at the time of Japanese Peruvian internment:

When all the pieces of this international humanitarian law puzzle are put together, the picture becomes apparent. Deportations were prohibited under the Hague Regulations as falling below the standards of civilization. As such they have become part of customary international law merely clarified in Geneva IV. Being part of customary international law and prohibited by the Hague Regulations, the Charter of the International Military Tribunal did not run counter to the adage *nullem crimen, nulla poena sine lege* when it classified deportations as an international crime.

Henckaerts, *supra* note 151, at 484.

Deportation of civilians is, of course, still recognized as a war crime. At the urging of the United States, the U.N. Security Council adopted Resolution 674 of October 29, 1990, applying Geneva IV to Iraq and condemning the Iraqi government for deporting Kuwaitis. U.N. SC Res. 674 (1990).

<sup>171</sup> Schwarzenberger notes that, ironically, the Japanese delegate to the 1907 conference proposed declaring such internment illegal, but the Belgian delegate rejected it as redundant because it was generally accepted that belligerents could only intern prisoners of war. See SCHWARZENBERGER, *supra* note 161, at 227 n.45.

<sup>172</sup> See *id.* at 221.

<sup>173</sup> See *id.*



In the *Chevreau* case the Sole Arbitrator, considering the legality of Chevreau's arrest and prolonged detention in a camp for Turkish prisoners of war, articulated three rules:

(1) The arbitrary arrest, detention or deportation of a foreign national may give rise to an international claim. If, however, the measures are taken in good faith and upon reasonable suspicion, in particular in a zone of military operations, they do not involve any international liability.

(2) In the case of an arrest, suspicions have to be verified by a serious inquiry, offering the legal safeguards customary among civilized nations. Moreover, the arrested person must be given an opportunity to defend himself . . . If there is no inquiry, this is unduly delayed or the detention unnecessarily prolonged, an international claim is justified.

(3) A detainee is to be treated in a manner befitting his station, and according to the standards habitually practiced by civilized nations.<sup>174</sup>

According to Schwarzenberger, it was "the German and Japanese practices . . . of wholesale internment of civilians in concentration camps, irrespective of security requirements in individual cases or for entirely different purposes"<sup>175</sup> that led to the much more precise codification of minimum standards concerning internment found in the 1949 Geneva Convention.<sup>176</sup> Article 42 of the Convention states that the "internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary,"<sup>177</sup> and Article 43 provides that any person so interned "shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board . . . [which, if the internment is maintained] shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favorable amendment of the initial decision . . . ."<sup>178</sup>

U.S. legal scholars and courts also recognize that arbitrary or prolonged detention is a violation of international law. According to the notes to Section 702 of the Restatement of the Foreign Relations

<sup>174</sup> *Id.* at 222.

<sup>175</sup> *Id.* at 223.

<sup>176</sup> See Geneva Convention, *supra* note 152, arts. 41-43, 68, 78, 79-135, reprinted in DOCUMENTS, *supra* note 152, at 286-87, 294, 298-319.

<sup>177</sup> *Id.* art. 41, reprinted in DOCUMENTS, *supra* note 152, at 286.

<sup>178</sup> *Id.* art. 43, reprinted in DOCUMENTS, *supra* note 152, at 286-87.

Law of the United States, "[a]rbitrary detention is cited as a violation of international law in all comprehensive international human rights instruments . . . . It is included also in United States legislation and national policy statements citing violations of fundamental human rights . . . ." <sup>179</sup> The United States District Court for the District of Kansas said in *Rodriguez-Fernandez v. Wilkinson*:

Our review of the sources from which customary international law is derived clearly demonstrates that arbitrary detention is prohibited by customary international law. Therefore, even though the indeterminate detention of an excluded alien cannot be said to violate the United States Constitution or our statutory laws, it is judicially remediable as a violation of international law. <sup>180</sup>

The Alien Enemies Act authorized the presidential proclamation allowing the Attorney General to subject enemy aliens to "summa apprehension" during World War II. <sup>181</sup> This Act did not necessarily violate international law for it is recognized that enemy aliens in the territory of a belligerent can be detained, at least for as long as is necessary to determine if they pose a danger to the security of the country. The Act and the related presidential proclamations, however, cannot justify the *indefinite* detention of civilians who were brought into the territory against their will, were given no hearings and were known to pose no danger to U.S. or hemispheric security. <sup>183</sup>

### C. The Holding of Hostages

A hostage is "a person detained for reasons unconnected with his own acts or omissions." <sup>184</sup> As early as 1863, Lieber's Code stated t

<sup>179</sup> RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 1.6 (1987).

<sup>180</sup> 505 F. Supp. 787, 798 (D. Kan. 1980), *aff'd*, 654 F.2d 1382 (10th Cir. 1981).

<sup>181</sup> Proclamation No. 2525, 6 Fed. Reg. 6321 (1941); Proclamation No. 2526, 6 Fed. Reg. (1941); Proclamation No. 2527, 6 Fed. Reg. 6324 (1941); *reprinted in* 36 AM. J. INT'L L. 236 (1942); *see* Sidak, *supra* note 130, at 1405-24 (summarizing the Alien Enemy Act and its application).

<sup>182</sup> *See supra* notes 131-35 and accompanying text.

<sup>183</sup> During World War II, Attorney General Biddle stated that although the Act did not entitle enemy aliens to hearings, he believed "each enemy alien who had been taken into custody should have an opportunity for a hearing on the question whether he should be interned" and that more than 100 hearing boards were set up for this purpose. *See* Sidak, *supra* note 130, at 1416 (quoting 1942 ATT'Y GEN. ANN. REP. 9) (hearings not granted to the interned Japanese Latin American *see also* Michael Brandon, Note, *Legal Control Over Resident Enemy Aliens in Time of War in the United States and in the United Kingdom*, 44 AM. J. INT'L L. 382 (1950)).

<sup>184</sup> SCHWARZENBERGER, *supra* note 161, at 240-41. He bases this on the Nuremberg Tribunal's reference to both prophylactic hostages and reprisal prisoners as hostages, noting that

"[h]ostages are rare in the present age."<sup>185</sup> Although hostages are not specifically referred to in the Hague Regulations of 1899 and 1907,<sup>186</sup> Article 50, by prohibiting the infliction of penalty upon the population of occupied territories for acts for which they cannot be held responsible, effectively bans the taking of hostages.<sup>187</sup> The prosecution of the Nuremberg Tribunals, led by U.S. Supreme Court Justice Jackson, argued that "irrespective of the illegality of the shooting of hostages, under Article 50 of the Hague Regulations, the taking of hostages was illegal."<sup>188</sup>

The 1934 Tokyo Draft of the International Red Cross Convention on the Protection of Civilian Alien Enemies forbade reprisals against civilians and the taking of hostages.<sup>189</sup> The Nuremberg Tribunal referred on several occasions to the taking and killing of hostages, condemning, for example, under the heading of *Murder and Ill-Treatment of Civilian Population*, the German practice of "keeping hostages to prevent and to punish any form of civil disorder."<sup>190</sup>

Article 3 of the 1949 Geneva Convention says that in the case of armed conflict within the territory of a Party, the taking of hostages is prohibited at any time and in any place with respect to persons taking no active part in the hostilities.<sup>191</sup> With respect to persons in occupied territories, Article 34 of the 1949 Geneva Convention simply states, "[t]he taking of hostages is prohibited."<sup>192</sup> While the Geneva Convention had not been drafted at the time the United States was holding Japanese Latin Americans as hostages for exchange, it illustrates what was commonly accepted in international law at the time. Under this law, the Japanese Peruvians were hostages, held not because of any acts or omissions of their own, but because the U.S. government thought

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have in common that they are arrested on grounds not involving any personal responsibility of their own." *Id.* This definition clearly fits the interned Japanese Latin Americans.

<sup>185</sup> HARTIGAN, *supra* note 159, at 56.

<sup>186</sup> Apparently this was because of the bitterness still existing among some parties regarding the taking of hostages in the Franco-German War of 1870-71. See SCHWARZENBERGER, *supra* note 61, at 234.

<sup>187</sup> See *id.* at 237-39.

<sup>188</sup> *Id.* at 240 (citing IMT Proceedings (English ed.), Pt. 5, at 124 (1946)).

<sup>189</sup> See Robert R. Wilson, *Treatment of Civilian Alien Enemies*, 137 AM. J. INT'L L. 30, 34-35 (1943).

<sup>190</sup> SCHWARZENBERGER, *supra* note 161, at 239-40. Although the Charter of the Tribunal listed the killing of hostages as an example of war crimes, the Tribunal did not rule specifically on the taking of hostages.

<sup>191</sup> See Geneva Convention, *supra* note 152, art. 3(1)(b), reprinted in DOCUMENTS, *supra* note 52, at 273. Article 3 of the 1949 Geneva Convention states that in the case of armed conflict within the territory of a party, the taking of hostages is prohibited at any time and in any place with respect to persons taking no active part in the hostilities. See *id.*

<sup>192</sup> See *id.* art. 34, reprinted in DOCUMENTS, *supra* note 152, at 284.

it could use them, either as "bait" for an exchange or as a "reprisal reserve" to gain better treatment for U.S. citizens held by the Japanese government.

#### D. *Refusal to Compensate*

"The right to redress an international wrong is recognized by scholars as a fundamental principle of customary law. Recognition of this right clearly pre-dates World War II, and it has been incorporated into both treaties and international legal opinions."<sup>193</sup> In 1928, the Permanent Court of International Justice stated in the *Chorzow Factory* case that "reparation must, as far as possible, wipe out all consequences of the illegal act and re-establish the situation which would . . . have existed if the act had not been committed."<sup>194</sup> According to the settled practice of arbitration tribunals, a belligerent country is not responsible for accidental injury to a neutral national or damage to neutral property in a theater of war. If, however, the action taken by the belligerent state is contrary to the laws of war, the belligerent country is liable under international law for paying compensation.<sup>195</sup> The Hague Convention of 1907 defines "neutrals" as nationals of a state not taking part in war.<sup>196</sup> Accordingly, all of the Japanese Peruvians holding Peruvian citizenship were neutral nationals. Those holding Japanese citizenship, however, should have been entitled to the same general protections because "[t]he basic rule is that, compared with other inhabitants of occupied territories, neutral nationals resident there are not entitled to any privileged treatment."<sup>197</sup> If those holding Peruvian citizenship are entitled to compensation, the others should be as well.

In *Nacio v. Germany*, the Greco-German Mixed Arbitral Tribunal considered the case of a Greek national who was arrested and held

<sup>193</sup> See Parker & Chew, *supra* note 149, at 524; see also Jimenez de Arechaga, *International Law in the Past Third of a Century*, 159 REC. DES COURS 285-87 (1978), reprinted in HENKEL, *supra* note 148, at 583 ("A State discharges the responsibility incumbent upon it for breach of an international obligation by making reparation for the injury caused."). This principle also recognized by the district court in *Rodriguez-Fernandez v. Wilkinson*, 505 F. Supp. 787 (D. Kan. 1980), *aff'd*, 654 F.2d 1382 (10th Cir. 1981).

The explanation that the violations of international law described above were a product of "wartime hysteria" is belied not only by the treatment of Japanese Peruvians immediately after the war, but also by the U.S. government's consistent refusal to compensate the victims in the intervening 50 years.

<sup>194</sup> *Chorzow Factory (Indemnity)*, 1928 P.C.I.J. (ser. A) No. 17, at 47; see Parker & Chew, *supra* note 149, at 524, n.159.

<sup>195</sup> See SCHWARZENBERGER, *supra* note 161, at 583.

<sup>196</sup> Hague Convention, *supra* note 157, art. 16, reprinted in DOCUMENTS, *supra* note 157.

<sup>197</sup> SCHWARZENBERGER, *supra* note 161, at 584.

German occupation forces in Rumania. Suspected of concealing weapons, he was released after eight days. The Tribunal held that the occupation authorities could arrest persons in the territory, including neutral nationals, suspected of acts which constituted a security threat. It added, however, that "if, in fact, the detention was unjustified, a detainee was entitled to compensation for any actual damage suffered, and that the non-payment of such compensation constituted an illegal act under Section 4 of the Annex to Articles 297 and 298 of the Peace Treaty of Versailles of 1919."<sup>198</sup> In *Palios v. Germany*, the same Tribunal considered a claim by a Greek restaurant owner who was detained for three months in Bucharest. It held that any arrest and detention of a neutral national, if not followed by a judgment involving conviction or the payment of compensation, constitutes an "act contrary to international law."<sup>199</sup>

Applying these principles, the U.S. failure to compensate the Japanese Latin American victims of these war crimes is itself a violation of international law. That these crimes were committed over fifty years ago does not reduce the government's responsibility. Although the United States is not a party to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, which entered into force in 1970, the Convention reflects customary international law on this principle. The Convention notes, for example, that none of the declarations, instruments or conventions that relate to the prosecution of war crimes and crimes against humanity, as defined by the London Charter, have provided for a period of limitation.<sup>200</sup> Furthermore, because it has an ongoing responsibility to compensate the victims, the United States is engaging in an ongoing violation by failing to do so and in that respect, even if a statute of limitations did apply, it would not have begun to toll.

The United States' ongoing refusal to adequately compensate the Japanese Latin Americans also raises questions of racial and national origin discrimination. U.S. officials were clearly cognizant of the racism behind the Peruvian government's efforts to rid the country of its Japanese population. They supported this attitude and collaborated with the Peruvian authorities in this matter, taking only those German and Italian Peruvians who were individually deemed to be dangerous,

<sup>198</sup> *Id.* at 221, 584.

<sup>199</sup> *Id.*

<sup>200</sup> *Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity*, G.A. Res. 2391, U.N. GAOR, 23rd Sess., Supp. No. 18, at 40, U.N. Doc. A/7218 (1968).

while kidnapping and deporting Japanese Peruvians solely on the basis of their Japanese ancestry.<sup>201</sup>

At the time of the internment, there were no international agreements prohibiting racial discrimination. Due in large measure to the horrors of World War II, however, such prohibitions have become well-established in international law. The Universal Declaration of Human Rights, adopted in 1948, states: "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."<sup>202</sup> This is also the language prohibiting discrimination in Article 2 of both the International Covenant on Civil and Political Rights to which the United States is a party, and the International Covenant on Economic, Social and Cultural Rights, which the United States has signed but not ratified.<sup>204</sup> The International Convention on the Elimination of All Forms of Racial Discrimination defines "racial discrimination" to mean:

Any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.<sup>205</sup>

The American Convention on Human Rights obligates the part

<sup>201</sup> See *supra* note 72 and accompanying text.

<sup>202</sup> *Universal Declaration of Human Rights*, G.A. Res. 217, U.N. GAOR, 3d Sess., art. 2 (1948).

<sup>203</sup> *International Covenant on Civil and Political Rights*, Dec. 16, 1966, art. II, ¶ 1, U.N.T.S. at 171 (entered into force Mar. 23, 1976, ratified by the United States on June 8, 1976).

<sup>204</sup> *International Covenant on Economic, Social and Cultural Rights*, Dec. 16, 1966, 993 U.N.T.S. at 249 (entered into force Jan. 3, 1976), G.A. Res. 2200A, U.N. GAOR, 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1966) (entered into force Jan. 3, 1976), art. 2(2). This Covenant has been signed but not ratified by the United States. According to Article 18 of the Vienna Convention on Treaties, U.N. Doc. A/CONF.32/1 (1978) May 23, 1969, entered into force Jan. 17, 1980, a party that has signed but not ratified a treaty "unless it has made its intention clear not to become a party to the treaty, may not act in a manner which defeats the object or purpose of the treaty. The Vienna Convention has not been ratified by the United States, but it is widely recognized that the rule stated in Article 18 "is one of customary international law," and thus binds the United States. BURNS H. WESTON, RICHARD FALK & HILARY CHARLESWORTH, *INTERNATIONAL LAW AND WORLD ORDER* 90 (3d ed. 1984) (quoting J.G. STARKE, *STARKE'S INTERNATIONAL LAW* 404-18 (11th ed. 1994)).

<sup>205</sup> *International Convention on the Elimination of All Forms of Racial Discrimination*, U.N.T.S. 195 (entered into force Jan. 4, 1969), G.A. Res. 2106, U.N. GAOR, 20th Sess., art. 1, ¶ 1.

to undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.<sup>206</sup>

These standards are now almost universally acknowledged. The racial discrimination manifest in the wholesale internment of Japanese Americans and Japanese Latin Americans should encourage the United States to comply with its international obligation to compensate the Japanese Latin American internees for the losses inflicted upon them.<sup>207</sup>

### III. EXAMINING CURRENT DOMESTIC REMEDIES

*A military order, however unconstitutional, is not apt to last longer than the military emergency. . . . But once a judicial opinion rationalizes such an order to show that it conforms to the Constitution, or rather rationalizes the Constitution to show that the Constitution sanctions such an order, the Court for all time has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens. The principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of urgent need.*

—Justice Jackson, dissenting in *Korematsu v. United States*,  
December 1944<sup>208</sup>

A basic principle of our legal system is that there should be a remedy for every wrong. As the U.S. Supreme Court said in *Marbury v. Madison*, "the very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford

<sup>206</sup> The American Convention on Human Rights, Nov. 22, 1969, 9 I.L.M. 673 (entered into force July 18, 1978). The United States has not signed this Convention. By virtue of its membership in the Organization of American States, however, it is bound by the American Declaration on the Rights and Duties of Man.

<sup>207</sup> Referring to the Japanese American internment, Justice Murphy said in his dissent in *Korematsu v. United States*, "[n]o adequate reason is given for the failure to treat these Japanese Americans on an individual basis by holding investigations and hearings to separate the loyal from the disloyal, as was done in the case of persons of German and Italian ancestry." 323 U.S. 244, 241 (1944) (Murphy, J., dissenting).

<sup>208</sup> *Id.* at 246 (Jackson, J., dissenting).

that protection."<sup>209</sup> This Section looks at the remedies available to the Japanese Peruvians under U.S. law and concludes that they are inadequate—perhaps nonexistent—because of the failure of U.S. courts to enforce international law.

The Japanese Latin Americans interned by the United States were innocent victims of U.S. policy gone astray. John Emmerson, who coordinated the removals for the U.S. embassy in Lima, says:

As I look back on the Peruvian experience I am not proud to have been part of the Japanese operation. One steeled oneself against the heartbreak being inflicted on hundreds of innocent Japanese . . . . It is hard to justify our pulling them from their homes of years and herding them, whether born in Japan or in Peru, onto ships bound for a strange land, where they would live in concentration camps under conditions which at best were difficult . . . .<sup>210</sup>

The United States has never explained these actions, although the President's letter to the internees states that they were treated "justly" by government actions "rooted in racial prejudice and wartime hysteria."<sup>211</sup> The claim of hysteria is itself dubious since, even at the time of their abduction, Justice and State Department officials recognized that these individuals were not dangerous to U.S. hemispheric security.<sup>212</sup>

Japanese Latin American internees were subjected to conditions similar to those inflicted upon the Japanese American internees and, in addition, suffered the trauma of being uprooted from their countries and effectively rendered stateless. Why, then, would the U.S. government offer them only a fraction of the compensation given Japanese Americans? The answer lies in (1) the precedent established

<sup>209</sup> *Marbury v. Madison*, 5 U.S. 137, 163 (1803). Citing Blackstone, the Court continues that it is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit, or action at law, whenever that right is invaded." *Id.* (citations omitted).

<sup>210</sup> EMMERSON, *supra* note 7, at 148.

<sup>211</sup> See *supra* note 2 and accompanying text.

<sup>212</sup> The excuse of "wartime hysteria" only illustrates why it is precisely during times of other national crisis that our civil liberties must be most vigilantly protected. Nonetheless, the history of Asian Americans illustrates that the internment of Japanese Americans during World War II was not an aberration attributable to wartime, but the logical extension of a long history of legalized racism. See Natsu Taylor Saito, *Model Minority, Yellow Peril: Functions of "Foreignness" in the Construction of Asian American Legal Identity*, 4 *ASIAN L.J.* 71, 77-89 (1997). Further, if one were to accept "wartime hysteria" as part of the motivation for the internment of Japanese Americans, it is difficult to conceive of any way in which the Japanese Latin Americans who were abducted from their countries and brought to the United States could have been seen as a kind of threat to the United States (at least until they were brought here!).



by the Supreme Court in the Japanese American internment cases, (2) the narrowly tailored terms of the law providing redress to Japanese Americans and (3) the U.S. legal system's disregard for international law.

#### A. *The Internment of Japanese Americans and the Supreme Court*

In the spring of 1942, all Japanese Americans living on the West Coast of the United States were rounded up and taken to concentration camps in desolate parts of the country. Nearly 120,000 people were imprisoned for several years without charge, hearing or conviction—two-thirds of them American citizens by birth; more than half either over fifty or under fifteen years of age.<sup>213</sup> Despite the fact that nearly one-third of Hawaii's population was Japanese American and Hawaii was under martial law, no mass incarcerations materialized there. Instead, individual hearings resulted in about 2000 of the 160,000 Japanese Hawaiians being sent to mainland internment camps.<sup>214</sup> On the mainland, some German and Italian aliens—not U.S. citizens—were subjected to restrictions, but only those deemed dangerous after individual hearings were interned.<sup>215</sup>

The legal basis for the Japanese American internment was Executive Order No. 9066 ("EO 9066"), issued by President Roosevelt on February 19, 1942. EO 9066 authorized the Secretary of War, and commanders he designated, to prescribe "military areas" from which they could exclude "any or all persons."<sup>216</sup> It made no explicit reference to Japanese Americans. In order to enforce military exclusion orders against civilians, the War Department quickly persuaded Congress to

<sup>213</sup> See generally COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS, PERSONAL JUSTICE DENIED (1982); IRONS, *supra* note 142; JAPANESE AMERICANS: FROM RELOCATION TO REDRESS (Roger Daniels et al., eds., 1991); WEGLYN, *supra* note 11; Rostow, *supra* note 8; Eric K. Yamamoto, *Friend, Foe, or Something Else: Social Meanings of Redress and Reparations*, 20 DENV. J. INT'L L. & POL'Y 223 (1992); Eric K. Yamamoto, *Korematsu Revisited—Correcting the Justice of Extraordinary Government Excess and Lax Judicial Review: Time for a Better Accommodation of National Security Concerns and Civil Liberties*, 26 SANTA CLARA L. REV. 1 (1986).

<sup>214</sup> Rostow, *supra* note 118, at 494.

<sup>215</sup> Yale Law School Professor Eugene Rostow saw clearly in 1945 that [t]he dominant factor in the development of this policy was not a military estimate of a military problem, but familiar West Coast attitudes of race prejudice. The program of excluding all persons of Japanese ancestry from the coastal area was conceived and put through by the organized minority whose business it has been for forty-five years to increase and exploit racial tensions of the West Coast. *Id.* at 496; see also *id.* at 492-93. See generally CRISTGAU, *supra* note 142 (detailing the stories of individual German and Japanese internees).

<sup>216</sup> Exec. Order No. 9066, 7 Fed. Reg. 1407 (1942), reprinted in 18 U.S.C. § 97a (Supp. 1943), and in 56 Stat. 173 (1942); see also IRONS, *supra* note 142, at 61-63.

enact Public Law 503, which made it a misdemeanor to "enter, remain in, leave, or commit any act in any military area . . . contrary to the restrictions applicable to such area . . . ." <sup>217</sup> Three days after Roosevelt signed this into law, Lt. Gen. DeWitt issued curfew orders directed to all alien enemies and all U.S. citizens of Japanese descent on the West Coast. DeWitt also issued the first of 108 exclusion orders which forced "all persons of Japanese ancestry, both alien and non-alien" to evacuate their homes on a few days notice and report to "assembly centers" with only such personal belongings as they could carry. <sup>218</sup>

As Nanette Dembitz pointed out in 1945, the internment of Japanese Americans was "the first instance in which the applicability of deprivation or restraint imposed by the Federal Government [upon citizen] depended solely upon the citizen's race or ancestry." <sup>219</sup> Four U.S. citizens—Min Yasui, Gordon Hirabayashi, Fred Korematsu and Mitsuye Endo—brought legal challenges to the internment.

The first case the Supreme Court ruled on was *Hirabayashi v. United States*. <sup>220</sup> When the United States entered World War II, Gordon Hirabayashi was a senior at the University of Washington, a YMCA officer, a Quaker and a pacifist. Instead of obeying the evacuation order, in May 1942 he turned himself in to the FBI and was convicted of failing to report for evacuation and violating curfew. <sup>221</sup> The Supreme Court addressed only the curfew, not the evacuation, unanimously holding that it was a reasonable exercise of Congress's and the Executive's power to wage war, and that its imposition against only those

<sup>217</sup> Exec. Order No. 9066, 7 Fed. Reg. at 1407, reprinted in 18 U.S.C. § 97a, and in 56 Stat. 173; see also IRONS, *supra* note 142, at 66-68; Rostow, *supra* note 118, at 498. Ohio Republican Senator Robert Taft raised the only objection to the bill, saying "I think this is probably the 'sloppiest' criminal law I have ever read or seen anywhere." IRONS, *supra* note 142, at 68.

<sup>218</sup> See IRONS, *supra* note 142, at 68-70. Public Proclamations No. 1, 7 Fed. Reg. 2320 (1942) No. 2, 7 Fed. Reg. 2405 (1942), No. 3, 7 Fed. Reg. 2543 (1942) and other proclamations restricted travel, residence and activities of enemy aliens and Japanese American citizens. Civilian Exclusion Order No. 1, March 24, 1942, 7 Fed. Reg. 2581 (1942) was the first evacuation order. See Rostow *supra* note 118, at 498 n.30. Executive Order No. 9102 established the War Relocation Authority to oversee the internment program. See Exec. Order No. 9102, 7 Fed. Reg. 2165 (1942); see also IRONS, *supra* note 142, at 69-70.

<sup>219</sup> Nanette Dembitz, *Racial Discrimination and the Military Judgment: The Supreme Court Korematsu and Endo Decisions*, 45 COLUM. L. REV. 175, 176 (1945). Slavery was, of course, imposed on African Americans by virtue of their race and protected by the Constitution at federal law. See U.S. CONST. art. I, § 2, art. II, § 9, art. IV, § 2; Paul Finkelman, *A Covenant with Death: Slavery and the Constitution*, AM. VISIONS, May-June 1968, at 21. However, as the Supreme Court made painfully clear in *Dred Scott v. Sandford*, 60 U.S. 393, 454 (1857), African Americans were not citizens under the law until the Fourteenth Amendment was enacted. See U.S. CONST. amend. XIV.

<sup>220</sup> 320 U.S. 81 (1943).

<sup>221</sup> See *id.*

persons of Japanese ancestry did not violate the Fifth Amendment's guarantee of due process.<sup>222</sup> Similarly, the Court sustained the curfew and avoided ruling on the internment in *Yasui v. United States*.<sup>223</sup>

*Korematsu* and *Endo* were not decided until December 1944, after President Roosevelt had been successfully re-elected. Fred Korematsu was a shipyard welder, born and raised in Oakland, turned down when he volunteered for the Navy and fired when his union expelled all persons of Japanese ancestry. He refused to report for evacuation and was arrested by the local police. The Supreme Court upheld his conviction for violating the evacuation order by a vote of six to three, but avoided addressing the detention. The Court addressed the charge of racial discrimination with the following mind-boggling logic:

It is said that we are dealing here with the case of imprisonment of a citizen in a concentration camp solely because of his ancestry, without evidence or inquiry concerning his loyalty . . . . To cast this case into outlines of racial prejudice . . . merely confuses the issue. Korematsu was not excluded from the Military Area because of hostility to him or his race. He *was* excluded because we are at war with the Japanese Empire

224

According to Yale Law School Professor Eugene Rostow, one of the earliest critics of these decisions, Justice Black's majority found that "the exclusion orders merely applic[d] the two findings [of *Hirabayashi*]"—that the Japanese are a dangerous lot, and that there was no time to screen them individually . . . . There [was] no attempt

<sup>222</sup> *Id.* Regarding the unanimity of the opinion, Irons reports that Justice Murphy's concurrence was originally written as a dissent, but Justice Frankfurter convinced him that any dissent was "playing into the hands of the enemy." JUSTICE DELAYED 49 (Peter Irons, ed.) (1989) [hereinafter JUSTICE DELAYED].

<sup>223</sup> 320 U.S. 115 (1943). A graduate of the University of Oregon Law School and an Army Reserve officer, Min Yasui immediately reported for military service when war broke out, but was rejected because of his Japanese ancestry. In March 1942 he became the first to test the military orders by turning himself in to the Portland police. See IRONS, *supra* note 142, at 81-86. The district court held that the orders were unconstitutional as applied to American citizens, but that Yasui had renounced his American citizenship by working for the Japanese consulate. The Supreme Court reversed on both issues. It sustained the curfew conviction by referring to *Hirabayashi* and held that there was no evidence that Yasui had renounced his citizenship. See *Yasui*, 320 U.S. at 117.

<sup>224</sup> *Korematsu*, 323 U.S. at 223. *Ex parte Endo* was a habeas corpus proceeding brought after Mitsuye Endo had been determined to be "loyal" by the War Relocation Authority, but was still being held pending arrangements to place her in an area of the country where her presence would not cause "disorder." See 323 U.S. 283 (1944). The Court held her continued detention invalid "although temporary detention for the purpose of investigating loyalty was assumed to be

in the *Korematsu* case to show a reasonable connection between the factual situation and the program adopted to deal with it."<sup>225</sup>

Rostow concluded, "[T]he Court, after timid and evasive delays has now upheld the main features of the program. That step converted a piece of war-time folly into political doctrine, and a permanent part of the law."<sup>226</sup> Forty years later, Min Yasui, Gordon Hirabayashi and Fred Korematsu petitioned for writs of *coram nobis*, asking that their convictions be overturned on the basis of newly discovered evidence—evidence that government officials had deliberately altered, destroyed and suppressed evidence concerning the loyalty of Japanese Americans; specifically, knowledge that the allegations of disloyalty and espionage in General DeWitt's Final Report were false. Min Yasui died while the appeals were pending, but Korematsu's and Hirabayashi's convictions were vacated.<sup>227</sup> Unfortunately, however, this does not overturn the precedent of the Supreme Court's 1943 and 1944 decisions

### B. *Redress for Japanese Americans: The Civil Liberties Act of 1988*

Japanese Americans' first step toward redress was the Evacuation Claims Act passed in July 1948.<sup>228</sup> In Michi Weglyn's words, "though eminently successful in reaping media praise . . . the post-war restitution program turned out to be uncharitable in the extreme."<sup>229</sup> Only "tangible" losses that could be proven were compensated, i.e., damage to real or personal property. No interest was paid and claims litigation stretched out over seventeen years.<sup>230</sup> In 1951 Congress authorized

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valid as an incident to the program of 'orderly' evacuation approved in the *Korematsu* case. Rostow, *supra* note 118, at 512.

<sup>225</sup> Rostow, *supra* note 118, at 508–09.

<sup>226</sup> *Id.* at 491. He cut through to the heart of the matter:

The Japanese exclusion program thus rests on five propositions of the utmost potential menace: (1) protective custody, extending over three or four years, is a permitted form of imprisonment in the United States; (2) political opinions, not criminal acts, may contain enough clear and present danger to justify such imprisonment; (3) men, women and children of a given ethnic group, both Americans and resident aliens, can be presumed to possess the kind of dangerous ideas which require their imprisonment; (4) in time of war or emergency the military, perhaps without even the concurrence of the legislature, can decide what political opinions require imprisonment, and which ethnic groups are infected with them; and (5) the decision of the military can be carried out without indictment, trial, examination, jury, the confrontation of witnesses, counsel for the defense, the privilege against self-incrimination, or any of the other safeguards of the Bill of Rights.

*Id.* at 532.

<sup>227</sup> See *Korematsu v. United States*, 584 F. Supp. 1406 (N.D. Cal. 1984); *Hirabayashi v. United States*, 828 F.2d 591 (9th Cir. 1987); IRONS, *supra* note 142, at 125, 128–30.

<sup>228</sup> See WEGLYN, *supra* note 11, at 274.

<sup>229</sup> *Id.*

<sup>230</sup> See *id.* According to Edison Uno, "[t]here was a total disregard of prevailing market value

"compromise" settlements of \$2500 per family to speed up the process, and "at a time when families were reeling from destitution, going without medical attention, and the Issei [first generation] fast dying off," most chose to settle, regardless of the amount of their original claim.<sup>231</sup> Of the \$400 million in material loss estimated by the Federal Reserve Bank of San Francisco, less than ten cents on the 1942 dollar was paid under the Claims Act.<sup>232</sup>

By the 1970s a movement for redress had begun to take root in the Japanese American community, and in 1980 activist groups formed the National Coalition for Redress/Reparation which organized support for redress through letter-writing campaigns and public education events. At the urging of Senator Daniel Inouye, Congress established the Commission on Wartime Relocation and Internment of Civilians. After hearings across the nation, the Commission issued its report, *Personal Justice Denied*, acknowledging the "grave injustices" suffered by the interned Japanese Americans.<sup>233</sup> In August 1988 Congress enacted the Civil Liberties Act, which provided \$20,000 for each surviving internee, an apology signed by President Reagan and a public education fund.<sup>234</sup> The CLA, while providing symbolic redress, did not acknowledge that the Japanese American internment was either illegal or unconstitutional.<sup>235</sup>

With the Supreme Court decisions upholding internment and the courts' rejection of claims for reparations, Japanese Americans obtained redress through political action. The Japanese Latin Americans,

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or the irreplaceable nature of items lost . . . . Petitioners were totally at [the government arbiters'] mercy since the Justice Department attitude was 'take it or leave it.'" *Id.* at 275.

<sup>231</sup> *Id.* at 275.

<sup>232</sup> *Id.* at 276.

<sup>233</sup> In March 1983, after the Commission's preliminary report had been released and the *coram nobis* petitions had been filed, William Hohri and the National Council for Japanese American Redress filed a class action redress suit on behalf of all surviving Japanese American internees. The injuries for which they requested \$24 million included "summary removal from their homes, imprisonment in racially segregated prison camps, and mass deprivations of their constitutional rights." JUSTICE DELAYED, *supra* note 222, at 27, 46. The case was eventually dismissed. See *Hohri v. United States*, 482 U.S. 64 (1987).

<sup>234</sup> The work of the Original Legal Scholarship Collaborative, of which this Article is a part, was supported by this fund, the Civil Liberties Public Education Fund.

It should be noted that the CLA did not provide payments for Hawaiian residents who were forcibly excluded from their homes, Nisei soldiers who were not allowed to visit their families in the camps or, of course the Japanese Latin Americans. See WEGLYN, *supra* note 11, at 282. In *Ishida v. United States*, 59 F.3d 1224 (Fed. Cir. 1995) and *Consolo v. United States*, 65 F.3d 186 (Fed. Cir. 1995), the United States Court of Appeals for the Federal Circuit made children of "voluntary evacuees," those who had moved inland before the forced internment, eligible.

<sup>235</sup> Although it stated that one of its purposes was to "discourage the occurrence of similar injustices and violations of civil liberties in the future," it did little to ensure that. Civil Liberties Act of 1988, 50 U.S.C. § 1989 (1988).

however, being few in number and scattered across the globe, had little political clout. Seiichi Higashide, a Japanese Latin American internee testified before the congressional Commission on Wartime Relocation and Internment of Civilians and encouraged other Japanese Latin American internees to testify.<sup>236</sup> Although the Japanese Latin American internment was reported in Appendix D of the Commission's report,<sup>237</sup> redress under the Civil Liberties Act was nonetheless limited to internees of Japanese descent who were citizens or permanent residents at the time of the internment.<sup>238</sup> This set the stage for the *Mochizuki* litigation.

### C. *Mochizuki v. United States: The Limits of Domestic Options*

It seems that the U.S. government would be estopped from denying Japanese Latin American internees constructive resident status for purposes of the Civil Liberties Act.<sup>239</sup> The Office of Redress Administration, however, declared most of the Japanese Latin Americans who applied under the CLA ineligible because they were not legal residents at the time of the internment.<sup>240</sup> In 1996, five of these rejected applicants brought the *Mochizuki* case as a class action requesting that all interned Japanese Latin Americans be covered by the Act.<sup>241</sup> This eminently reasonable and minimal demand proved difficult to enforce under domestic law.

As discussed above, the precedents established by *Hirabayashi*, *Yasui* and *Korematsu* still stand, and there have been no federal cases holding such detention illegal.<sup>242</sup> At the time the CLA was passed, one

<sup>236</sup> Press Release of Japanese Peruvian Oral History Project, June 1, 1998; see also Higashide *supra* note 7.

<sup>237</sup> COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS, *supra* note 213 App. D.

<sup>238</sup> 50 U.S.C. § 1989(b-7)(2)(A) defines an "eligible individual" as one who was "a United States citizen or a permanent resident alien" during the period of internment.

<sup>239</sup> See Kulkarni, *supra* note 147, at 335-37.

<sup>240</sup> See Redress Provisions for Person of Japanese Ancestry, 28 C.F.R. § 74, 54 Fed. Reg. 34157, 34160 (1989) ("persons of Japanese ancestry who were sent to the United States from other American countries for restraint and repatriation pursuant to international commitments of the United States Government for the security of the United States and its associated powers . . . were determined by the Department of Justice to be illegal aliens"). Some internees who remained in the United States were able to obtain retroactive permanent resident status and they were deemed eligible for redress. See *id.*

<sup>241</sup> *Mochizuki v. United States*, No. 96-5986 (C.D. Cal. Aug. 27, 1996).

<sup>242</sup> In fact, in *Jean v. Nelson*, 727 F.2d 937, 974-75 (1984), a case challenging the detention of Haitian asylum seekers, the Eleventh Circuit interpreted *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953) to mean that "even an indefinitely incarcerated alien 'could not challenge his continued detention without a hearing.'" *Garcia-Mir v. Meese*, 788 F.2d 1446, 1451 (11th Cir. 1984).

redress case, *Hohri v. United States*, was pending.<sup>243</sup> While Congress may have been influenced by the possibility of a judgment requiring billions of dollars in reparations, no law required Congress to enact the CLA or to include the Japanese Latin Americans in its terms.<sup>244</sup> Thus, the *Mochizuki* plaintiffs were limited to two rather narrow arguments for relief under the CLA: first, that they should be deemed constructive residents because they were forcibly brought here by the U.S. government; and second, that providing reparations to Japanese Americans but not Japanese Latin Americans violates the guarantee of equal protection under the Fifth Amendment.<sup>245</sup>

The constructive resident argument is a strong one from the perspective of morality and equity. Allowing the same government which forcibly removed and imprisoned these people to avoid responsibility on the ground that they were here "illegally" is grotesquely absurd.<sup>246</sup> There is precedent for deeming people "permanent residents under color of law" ("PRUCOL") even when they do not have resident status under the Immigration and Nationality Act.<sup>247</sup> Given

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<sup>243</sup> See *supra* note 233 and accompanying text.

<sup>244</sup> That the reparations paid to Japanese Americans were not required by law, but provided at Congress's discretion is illustrated by the Ninth Circuit's holding in *Cato v. United States*, a case seeking more than \$100 million in reparations for African Americans for damages that resulted from slavery and subsequent racial discrimination. The Ninth Circuit emphasized that the reparations paid Japanese Americans did not provide any precedent for the African American plaintiffs because "[t]hose reparations were not awarded as damages in court but rather were enacted into law in the Civil Liberties Act of 1988 . . . . The legislature, rather than the judiciary, is the appropriate forum for this relief." 70 F.3d 1103, 1110-11 (9th Cir. 1995).

<sup>245</sup> See Kulkarni, *supra* note 147, at 327-38.

<sup>246</sup> This is a classic "Catch-22." Support for the position that aliens forcibly brought to the United States against their will should not be deemed to be here "illegally" under the immigration laws is found in a series of postwar cases that, while acknowledging the right of the government to remove the aliens, found they had not "entered" as illegal immigrants because they had not "departed" from a foreign port as required by the Immigration and Nationality Act in its definition of "immigrant." In *Bradley v. Watkins*, the court stated, "[t]he immigration acts, we submit, deal with aliens who are voluntarily seeking to enter the United States." 163 F.2d 328, 330 (2d Cir. 1947); see also *United States ex rel Pateau v. Watkins*, 164 F.2d 457 (2d Cir. 1947) (alien seized and brought to the United States for internment as an enemy alien cannot be deported as an "immigrant" until he has been afforded an opportunity to depart voluntarily). Nonetheless, these cases also do not impose any requirement that the aliens be deemed to have "immigrant" status.

<sup>247</sup> This status has been extended to refugees, asylees, conditional entrants, aliens paroled into the United States, aliens granted suspension of deportation, Cuban and Haitian entrants and applicants for registry to allow them to qualify for federal benefits. See Sharon Carton, *The PRUCOL Proviso in Public Benefits Law: Alien Eligibility for Public Benefits*, 14 NOVA L. REV. 1033, 1051 (1990).

In *Holley v. Lavine*, the Second Circuit required New York state to provide aid to a woman who, though not a permanent resident, was living permanently in the United States with the knowledge and permission of the INS. 553 F.2d 845, 851 (2d Cir. 1977); see also *Berger v. Heckler*, 771 F.2d 1536 (2d Cir. 1985). But see *Esperanza v. Valdez*, 612 F. Supp. 241, 244-45 (D. Col. 1985) (requiring specific grant of status).

that the government was not only aware that the Japanese Latin Americans were in the country, but had forced them to come, it would seem that they should be granted a similar status.<sup>248</sup> As the United States Court of Appeals for the Second Circuit said in *United States v. Toscanino*, courts should "be guided by the underlying principle that the government should be denied the right to exploit its own illegal conduct."<sup>249</sup> There is no precedent, however, *requiring* the government to treat the Japanese Latin Americans as residents; that remains at the government's discretion.

The Fifth Amendment equal protection argument is even harder to make. Ironically, the standard for governmentally-imposed race-based classifications was first articulated in *Korematsu*, where the Supreme Court held that such classifications must be subjected to "the most rigid scrutiny."<sup>250</sup> There, of course, the Court decided that the internment of all persons of Japanese descent was *not* race-based.<sup>251</sup> In the *Mochizuki* case, the Japanese Latin Americans cannot say that a *racial* distinction is being made between them and the Japanese Americans who are receiving reparations; they must argue that the distinction constitutes *national origin* discrimination.<sup>252</sup> This is difficult for several reasons. Most obviously, both groups are of Japanese national origin—the very reason they were interned.<sup>253</sup> Likewise, challenging the Act as unlawful discrimination based on citizenship is futile because internees covered by the CLA include both U.S. and Japanese citizens, and those

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<sup>248</sup> The possibility of extending PRUCOL status to the Japanese Peruvians is discussed by Kulkarni, *supra* note 147, at 332–35.

<sup>249</sup> *United States v. Toscanino*, 500 F.2d 267, 275 (1974) (refusing to exercise federal criminal jurisdiction over an Italian defendant who had been kidnapped in Uruguay, tortured in Brazil, drugged and brought to the United States for trial) (citing *Wong Sun v. United States*, 371 U.S. 471, 488 (1963)).

<sup>250</sup> *Korematsu*, 323 U.S. at 216.

<sup>251</sup> *Id.* at 223; see also *supra* note 224 and accompanying text. As Bannai and Minami point out, the Supreme Court denied the connection between race and exclusion, and then justified exclusion on the basis of a race-based affinity Japanese Americans were presumed to have. See Lorraine K. Bannai & Dale Minami, *Internment During World War II and Litigations*, in *ASIAN AMERICANS AND THE SUPREME COURT* 755, 774 (Hyung-Chan Kim ed., 1992).

<sup>252</sup> See Saito, *Alien and Non-Alien Alike*, *supra* note 141, at 326–30 (discussing the shortcomings of national origin discrimination law as a remedy for discrimination against those perceived as "foreign").

<sup>253</sup> In *Jacobs v. Barr*, 959 F.2d 313 (D.C. Cir. 1991), a German American internee brought a class action alleging that the Civil Liberties Act's restriction of redress to persons of Japanese and Aleutian ancestry was national origin discrimination in violation of the Fifth Amendment. The court held that he had standing to bring suit, but found that, even if subjected to strict scrutiny, the statute was constitutional because Congress had "concluded that Japanese Americans were detained en masse because of racial prejudice and demagoguery, while German Americans were detained in small numbers, and only after individual hearings about their loyalty." 959 F.2d at 314.



denied coverage include citizens of Japan, the United States, Peru and other Latin American countries.

The Civil Liberties Act distinguishes between those who, at the time of internment, had been granted permanent resident status by the government, and those who, despite being in INS custody, did not have resident status. This distinction, while unjust, is probably lawful. Ever since the Supreme Court upheld the Chinese Exclusion Act of 1882<sup>254</sup> in *Chae Chan Ping v. United States*,<sup>255</sup> the courts have ruled consistently that the government has plenary power over immigration, i.e., the right to exclude almost any individual or group from the country.<sup>256</sup> With respect to restrictions on the entrance of non-citizens into the country and the subsequent determination of when they are "legally present," the courts have almost completely abdicated judicial review of legislation or administrative action.<sup>257</sup>

Congress provided compensation to Japanese Americans as a matter of discretion. Accordingly, there need only be a rational basis for the distinctions made in the legislation. In addition, considerable precedent authorizes distinguishing between people on the basis of citizenship or immigration status when the benefit at issue constitutes a privilege as opposed to a right.<sup>258</sup> As a result, it is extremely difficult to make a compelling legal argument that the failure to include Japanese Latin Americans under the Civil Liberties Act constitutes national origin discrimination in violation of the Fifth Amendment's guarantee of due process.<sup>259</sup> Domestic law, as currently enforced, thus provides no effective avenues for redress.

<sup>254</sup> Act of Aug. 3, 1882, ch. 376, 22 Stat. 214 (banning all further Chinese immigration to the United States).

<sup>255</sup> 130 U.S. 581 (1889).

<sup>256</sup> See Stephen H. Legomsky, *Ten More Years of Plenary Power: Immigration, Congress, and the Courts*, 22 HASTINGS CONST. L.Q. 925 (1995); Hiroshi Motomura, *Immigration Law After a Century of Plenary Power: Phantom Constitutional Norms and Statutory Interpretation*, 100 YALE L.J. 345 (1990).

This plenary power was used to justify holding Ignatz Mezei indefinitely on Ellis Island when he, as a returning permanent resident, was excluded as a security risk. See *Shaughnessy v. Mezei*, 345 U.S. 206, 215 (1953) (continued detention did not violate any statutory or constitutional right). This power, said to be inherent in sovereignty, was also the basis on which the courts allowed for the indefinite offshore detention of Haitians and Cubans trying to gain political asylum in the United States. See *Fernandez-Roque v. Smith*, 734 F.2d 576, 582 (11th Cir. 1984) (upholding detention of Cubans; "[l]ike the court in *Jean*, we find [*Mezei*] to be controlling"); *Jean v. Nelson*, 727 F.2d at 969 (upholding the detention of Haitian asylum seekers).

<sup>257</sup> See generally Legomsky, *supra* note 256; Motomura, *supra* note 256.

<sup>258</sup> See, e.g., *Mathews v. Diaz*, 426 U.S. 67, 80 (1967) ("The fact that Congress has provided some welfare benefits for citizens does not require it to provide like benefits for all aliens."). Such distinctions are also found in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2260 (codified as amended in 8 U.S.C. § 1612 (1998)).

<sup>259</sup> For a discussion of the difficulties of applying theories of national origin discrimination

#### IV. ENFORCEMENT OF INTERNATIONAL CLAIMS

International law has emerged from the agreements and practices of nation states, and claims under international law can be heard in the domestic courts of these states, or by transnational tribunals. This Section considers the options, and attendant difficulties, of pursuing international claims in U.S. courts as well as in regional and global institutions.

##### A. *International Claims in U.S. Courts*

Generally, international courts or commissions require claimants to exhaust domestic remedies.<sup>260</sup> This requires bringing the claim in the appropriate court of the nation with jurisdiction over the violation, and pursuing it until (a) there is a final judgment and all appeals have been exhausted, or (b) it is apparent that further pursuit of the claim is futile.<sup>261</sup> Therefore, claims against the U.S. government should first be litigated in U.S. federal courts.

Article VI of the Constitution provides that the Constitution, the laws made pursuant to it and "all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land."<sup>262</sup> As early as 1804, the Supreme Court held that "an act of congress ought never to be construed to violate the law of nations, if any other possible construction remains."<sup>263</sup> In 1900, the Supreme Court stated in *The Paquete Habana*:

International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction, as often as questions of right depending upon it are duly presented for their determination. For this purpose,

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to claims related to perceived "foreignness," see Saito, *Alien and Non-Alien Alike*, *supra* note 141, at 326-30.

<sup>260</sup> The American Convention on Human Rights, Article 46(1)(a) states that a requirement of admission of a petition or communication is that "the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law." The American Convention on Human Rights, *supra* note 206; see also European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 312 U.N.T.S. 221, E.T.S. 5, as amended by Protocol No. 3, E.T.S. 45, Protocol No. 5, E.T.S. 55 and Protocol No. 8, E.T.S. 118 ("The Commission may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognized rules of international law . . .").

<sup>261</sup> See FRANK C. NEWMAN & DAVID WEISSBRODT, *INTERNATIONAL HUMAN RIGHTS: LAW, POLICY, AND PROCESS* 48 (1990).

<sup>262</sup> U.S. CONST., art. VI, cl. 2.

<sup>263</sup> *Weinberger v. Rossi*, 456 U.S. 25, 32 (1982) (quoting *Murray v. The Schooner Charming Betsy*, 6 U.S. 64, 118 (1804)).

where there is no treaty, and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations; and, as evidence of these, to the works of jurists and commentators, who by years of labor, research and experience, have made themselves peculiarly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is.<sup>264</sup>

The Restatement (Third) of the Foreign Relations Law of the United States says that "[i]nternational law is law like other law, promoting order, guiding, restraining, regulating behavior . . . . It is part of the law of the United States, respected by Presidents and Congresses, and by the States, and given effect by the courts."<sup>265</sup>

Nonetheless, our legal system allows international law to be superseded by domestic law.<sup>266</sup> Some nations consider domestic law and international law to be part of a unified system which acknowledges international law as the highest law of the land. In such jurisdictions, if domestic laws or judicial decision run counter to international law, they will be "trumped" by the latter. Article 25 of the Constitution of the Federal Republic of Germany, for example, states that "[t]he general rules of public international law are an integral part of federal law. They shall take precedence over the laws and shall directly create rights and duties for the inhabitants of the federal territory."<sup>267</sup>

In contrast, the U.S. judicial system regards domestic law and international law as independent. The courts attempt to enforce both, where possible, and seek to interpret domestic law in a manner compatible with international law. Where an irreconcilable conflict exists, and Congress has evinced an intent to supersede international law, the courts have adopted a "last in time" rule, enforcing later-enacted do-

<sup>264</sup> 175 U.S. at 700 (citing *Hilton v. Guyot*, 159 U.S. 113, 163, 164, 214, 215). *But see* *Stanford v. Kentucky*, 492 U.S. 361 (1989) (rejecting international norms and upholding the constitutionality of capital punishment for juveniles).

<sup>265</sup> RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES, *supra* note 179, Introduction; *see also* *Filartiga v. Peña-Irala*, 630 F.2d 871, 876 (1980) ("Upon ratification of the Constitution, the thirteen former colonies were fused into a single nation, one which, in its relations with foreign states, is bound both to observe and construe the accepted norms of international law, formerly known as the law of nations.").

<sup>266</sup> *See* ANTHONY D'AMATO, INTERNATIONAL LAW COURSEBOOK 261-64 (1994) (discussing theories of "monism" and "dualism" in the application of international law in U.S. courts).

<sup>267</sup> *Id.* at 263.

mestic legislation even if it violates international law.<sup>268</sup> Unilateral abrogation of international agreements or customary international law is not, of course, recognized as legitimate under international law. The result is that our domestic rule allows the government to consciously violate international law without necessarily violating domestic law.

In *Garcia-Mir v. Meese*, the United States Court of Appeals for the Eleventh Circuit held that detained Cuban refugees from the Mariel boatlift who had not been "admitted" under immigration law but specially "paroled" into the country, did not have a right to parole revocation hearings.<sup>269</sup> The court stated, "The public law of nations was long ago incorporated into the common law of the United States. To the extent possible, courts must construe American law so as to avoid violating principles of public international law."<sup>270</sup> Acknowledging that the United States' indefinite detention of aliens in this case was a violation of international law, the court nonetheless allowed it to continue.

If international law is to have any meaning, there must be places where claims under such law will be adjudicated. As recognized in *The Paquete Habana*, international law is supposed to be enforced by domestic courts. U.S. courts comprise one of the most efficient and effective systems in the world. In addition, it is generally necessary to raise international law claims in U.S. courts because domestic remedies must be exhausted before going to an international forum. Federal courts, however, are often reluctant to enforce international law claims and sometimes threaten lawyers with sanctions for frivolous litigation, making litigators hesitant to raise such claims.<sup>271</sup>

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<sup>268</sup> This means that if a domestic law is enacted which conflicts with pre-existing international law—a treaty the United States has ratified, perhaps—the courts presume that Congress intended that result, and will uphold the domestic law as long as it is within the limits of the Constitution. As the district court explained in *United States v. Palestine Liberation Organization*:

Under our constitutional system, statutes and treaties are both the supreme law of the land, and the Constitution sets forth no order of precedence . . . . Wherever possible, both are to be given effect . . . . Only where a treaty is irreconcilable with a later enacted statute and Congress has clearly evinced an intent to supersede a treaty by enacting a statute does the later enacted statute take precedence.

695 F. Supp. 1456, 1464 (S.D.N.Y. 1988) (holding that the United Nations Headquarters Agreement was not superseded by the Anti-Terrorism Act).

<sup>269</sup> 788 F.2d 1446, 1453 (11th Cir. 1986). The court noted, however, that "public international law is controlling only 'where there is no treaty and no controlling executive or legislative act or judicial decision.'" *Id.* (quoting *The Paquete Habana*, 175 U.S. at 700).

<sup>270</sup> *Id.* (citing RESTATEMENT OF FOREIGN RELATIONS LAW OF UNITED STATES, *supra* note 179, § 131 cmt. d, draft no. 6 (1985)).

<sup>271</sup> Attorney sanctions under Federal Rule of Civil Procedure 11 were imposed on plaintiffs' counsel for raising allegedly frivolous claims in *Saltany v. Reagan*, 886 F.2d 438 (D.C. Cir. 1989),

A significant step toward the recognition of customary and conventional international law can be seen in cases recently litigated under the 1789 Alien Tort Claims Act,<sup>272</sup> which confers federal jurisdiction over civil actions by aliens for torts committed "in violation of the law of nations."<sup>273</sup> In *Filartiga v. Pena-Irala*,<sup>274</sup> the United States Court of Appeals for the Second Circuit recognized customary international law as part of federal common law and reviewed a broad range of international law sources in determining that torture by governmental officials is now prohibited by the law of nations.<sup>275</sup> Since then, a number of human rights violations have been successfully prosecuted under the Alien Tort Claims Act.<sup>276</sup> U.S. courts are criticized, however, for enforcing these international standards against other governments, but not against the United States. According to Mark Gibney,

[In] suits by foreign plaintiffs against foreign state actors [] U.S. domestic courts have provided a vital forum for individuals seeking some measure of justice against those responsible for committing heinous crimes. Yet these same courts have

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a suit brought by and on behalf of wounded and deceased victims of the 1986 U.S. bombing of residential areas on Benghazi and Tripoli, Libya. See Anthony D'Amato, *The Imposition of Attorney Sanctions for Claims Arising from the U.S. Air Raid on Libya*, 84 AM. J. INT'L L. 705, 706 (1990) ("The imposition of sanctions casts a serious chilling effect upon all attorneys who engage in international human rights litigation."). Sanctions were also sought by the government in *Haitian Centers Council, Inc. v. McNary*, 789 F. Supp. 541 (E.D.N.Y. 1992), a case challenging the policy of detaining Haitian refugees and refusing to allow them access to legal council even after they had been found to have a credible fear of persecution. See Harold Hongju Koh, *The Human Face of the Haitian Interdiction Program*, 33 VA. J. INT'L L. 483, 485 (1993) ("[T]he government . . . demanded that we post a \$10,000,000 bond . . . Rule 11 sanctions run against both the clients and the lawyers personally, which gave us considerable concern."); see also *Rule 11 Report: Bush Administration Accused of Seeking Sanctions for Political Purposes*, 6 INSIDE LITIG. 15 (1992).

<sup>272</sup> 28 U.S.C. § 1350 (1994).

<sup>273</sup> *Id.*

<sup>274</sup> 630 F.2d 876 (2d Cir. 1980).

<sup>275</sup> See *id.*; see also Jeffrey Blum & Ralph Steinhardt, *Federal Jurisdiction over International Human Rights Claims: The Alien Tort Claims Act After Filartiga v. Peña-Irala*, 22 HARV. INT'L L.J. 53 (1981).

<sup>276</sup> The Alien Tort Claims Act has been used in a number of cases. See, e.g., *Abebe-Jira v. Negewo*, 72 F.3d 844 (11th Cir. 1996) (claims against Ethiopian police official for cruel, inhuman and degrading treatment); *Kadic v. Karadzic*, 70 F.3d 232 (2d Cir. 1995) (suit against self-proclaimed president of Bosnian-Serb entity for murder, rape and other war crimes); *Estate of Ferdinand Marcos Human Rights Litigation v. Marcos*, 978 F.2d 493 (9th Cir. 1992) (suit against former head of Filipino police and military for kidnapping, torture and death); *Xuncax v. Gramajo*, 886 F. Supp. 162 (D. Mass. 1995) (suit against Guatemalan general for torture and murder); *Paul v. Avril*, 812 F. Supp. 207 (S.D. Fla. 1993) (suit against former head of Haitian military); *Forti v. Suarez-Mason*, 672 F. Supp. 1531 (N.D. Cal. 1987), modified 694 F. Supp. 707 (N.D. Cal. 1988) (claims against former Argentine general for torture, murder and prolonged arbitrary detention).

given a much different reception to foreign plaintiffs who allege that the U.S. government itself is responsible for the commission of human rights abuses. In one suit after another, foreigners who have been harmed by the pursuit of U.S. foreign policy have had their claims dismissed by a panoply of revolving defenses.<sup>277</sup>

As a result, it is still an uphill battle to introduce international law into domestic litigation.<sup>278</sup> Paul Hoffman refers to the judicial skepticism encountered when trying to introduce customary international law as the "blank stare phenomenon," calling it the "threshold problem" of using international law in domestic litigation. As Naomi Roht-Arriaza states:

Although the application of international human rights law in U.S. courts remains far from commonplace, the exclusion of individual rights . . . is definitively a relic of the past. . . . The challenge now is to educate both domestic advocates and judges as to the usefulness and applicability of [international law] so that judges routinely consider international law-based arguments with the same ease they consider constitutional or statutory ones.<sup>279</sup>

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<sup>277</sup> Mark Gibnev, *Human Rights Litigation in U.S. Courts: A Hypocritical Approach*, 3 BUFF. J. INT'L L. 261 (1996-97) (citing *Saltany v. Reagan*, 886 F.2d 438 (D.C. Cir. 1989)) (suit for damages from U.S. and British bombing of Libyan cities); *McFarland v. Cheney*, 1991 WL 43262 (D.D.C. 1991), *aff'd* 971 F.2d 766 (D.C. Cir. 1992) (suit on behalf of civilians injured, killed or suffering property damage as a result of the U.S. invasion of Panama); *Nejad v. United States*, 724 F. Supp. 753 (C.D. Cal. 1989) (seeking damages for the downing of a commercial Iranian airliner by U.S. missiles, killing all passengers and crew); *Sanchez-Espinoza v. Reagan*, 586 F. Supp. 596 (D.D.C. 1983), *aff'd* 770 F.2d 202 (D.C. Cir. 1985) (suing the United States for its support of terrorist activities by the Contras in Nicaragua).

<sup>278</sup> Paul L. Hoffman, *The "Blank Stare Phenomenon": Proving Customary International Law in U.S. Courts*, 25 GA. J. INT'L & COMP. L. 181, 182 (1995-96). On the difficulties in and importance of introducing international human rights law into domestic litigation, see generally Berta Esperanza Hernandez-Trujol, *Building Bridges: Bringing International Human Rights Home*, 9 LA RAZA L.J. 69 (1996); Harold Hongju Koh, *Transnational Public Law Litigation*, 100 YALE L.J. 2347 (1991); Henry J. Richardson III, *Gulf Crisis and African-American Interests Under International Law*, 87 AM. J. INT'L L. 42 (1993); Natsu Taylor Saito, *Crossing the Border: The Interdependence of Foreign Policy and Racial Justice in the United States*, 1 YALE J. DEV. & HUM. RTS. 4 (1998) [hereinafter *Crossing the Border*].

<sup>279</sup> Naomi Roht-Arriaza, *International Human Rights Law in United States Courts: Professor Riesenfeld's Contributions*, 20 HASTINGS INT'L & COMP. L. REV. 601 (1997); see also Nadine Strossen, *Recent U.S. and International Judicial Protection of Individual Rights: A Comparative Legal Process Analysis and Proposed Synthesis*, 41 HASTINGS L.J. 805 (1990) (emphasizing the need to incorporate international human rights norms into domestic law).

## B. Through Regional and Global Organizations—O.A.S. and U.N.

Persons who have suffered violations of international law and who have exhausted available domestic remedies can bring their claims to regional or global organizations. The Japanese Latin Americans' claims would be most appropriately brought to the Organization of American States' ("OAS") Inter-American Commission on Human Rights or to the United Nations' Commission on Human Rights.

As a member of the OAS, the United States is bound by the OAS Charter.<sup>280</sup> The same 1948 diplomatic conference that adopted the Charter also proclaimed the American Declaration of the Rights and Duties of Man, which catalogues civil, political, economic, social and cultural rights and duties.<sup>281</sup> Although the Declaration was a non-binding resolution,<sup>282</sup> it has come to be regarded as the authoritative interpretation of the "fundamental rights" referred to in the Charter.<sup>283</sup> The OAS's Inter-American Commission on Human Rights performs country studies and on-site investigations, and receives and acts on individual petitions and inter-state communications. There is an American Convention on Human Rights and an Inter-American Court which hears cases brought under the Convention,<sup>284</sup> but the United States has not ratified the Convention.<sup>285</sup> Nonetheless, as an OAS member, the United States is bound by the Declaration, and the Inter-American Commission has jurisdiction to hear claims based on the Declaration.<sup>286</sup>

<sup>280</sup> Organization of American States Charter, Apr. 30, 1948, 2 U.S.T. 2394, T.I.A.S. No. 2361; amended effective 1970, 21 U.S.T. 607, T.I.A.S. No. 6847.

<sup>281</sup> *American Declaration of the Rights and Duties of Man*, O.A.S. Res. XXX, O.A.S. Off. Rec. OEA/Ser. L/V/II.4 Rev. (1965). Among other relevant provisions, Article I provides that "[e]very human being has the right to life, liberty and the security of his person;" Article V says that "[e]very person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life;" Article VIII says that "[e]very person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory, and not to leave it except by his own will;" and Article XXV provides that "[n]o person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law." *Id.*

<sup>282</sup> See Thomas Buergenthal, *The Revised OAS Charter and the Protection of Human Rights*, 69 AM. J. INT'L L. 828, 829 (1975).

<sup>283</sup> See THOMAS BUERGENTHAL, *INTERNATIONAL HUMAN RIGHTS*, 180 (2d ed. 1995).

<sup>284</sup> American Convention on Human Rights, *supra* note 206. The Inter-American Court of Human Rights is established by Chapter VII of the Convention. See *id.*

<sup>285</sup> BUERGENTHAL, *supra* note 283, at 194-95.

<sup>286</sup> See Richard J. Wilson, *Researching the Jurisprudence of the Inter-American Commission on Human Rights: A Litigator's Perspective*, 10 AM. U. J. INT'L L. & POL'Y 1 (1994); see also Kam Nakano, *supra* note 147, at 20-25 (arguing that U.S. refusal to hear the claims of Japanese Latin Americans is an ongoing violation of the American Declaration of Rights and Duties of Man).

Because the United States' internment of Japanese Peruvians predated the OAS Charter its actions cannot be said to have violated the Charter or the Declaration. The U.S. government's ongoing refusal to compensate the victims, however, may well violate the Declaration.<sup>287</sup> Thus, when domestic remedies for these claims have been exhausted, the Japanese Latin American internment cases could be brought before the Inter-American Commission with a request that the Commission find the United States responsible for full redress.

Options also exist within the United Nations structure. As a U.N. member, the United States is a party to the Statute of the International Court of Justice ("ICJ").<sup>288</sup> The ICJ hears cases arising under international law, but only has contentious jurisdiction over states which have accepted that jurisdiction.<sup>289</sup> Dissatisfied with the ICJ's handling of a case brought by Nicaragua against the United States for mining its territorial waters, attacking ports and other facilities and financing and training the "Contra" forces to overthrow the Nicaraguan government, the United States withdrew its consent to compulsory ICJ jurisdiction in 1986.<sup>290</sup> To the extent that it is a party to treaties that so provide, the

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The Commission has heard claims brought by individuals against the United States. In 1998 it ruled that the United States had violated William Andrews' rights under the Declaration to life, to equality before the law without regard to race, to an impartial hearing and to be free from cruel, infamous or unusual punishment. See Organization of American States, Inter-American Commission on Human Rights, Report No. 57/96, Case 11.139, United States, OEA/ser/L/V/II.98, doc. 7, rev. (Feb. 19, 1998) (on file with author). Andrews had been executed by the state of Utah despite significant evidence of racism in the proceedings, including an incident in which a juror handed the bailiff at trial a napkin on which "hang the niggers" was written. *Id.* at 39-40; see *Andrews v. Shulsen*, 485 U.S. 919, 920 (1988) (Marshall, J. dissenting from denial of certiorari); Capital Punishment on the 25<sup>th</sup> Anniversary of *Furman v. Georgia*, A Report by the Southern Center for Human Rights 5 (1997) (reproducing the note). While such judgments are difficult to enforce against the United States, they have significant impact on how other nations perceive the United States and bring some pressure on the United States to comply with international law.

<sup>287</sup> The U.S.'s actions in interning the Japanese Latin Americans would now be prohibited by Articles I (life, liberty and security), II (equality before the law without distinction as to race), V (protection of the law against abusive attacks upon his private and family life), VI (protection of the family), VIII (right to fix residence within the territory of the state of which he is a national, to move freely within the territory, and *not* to leave it except by his own will), IX (inviolability of his home), XIV (right to remuneration for work), XVII (basic civil rights), XVIII (courts to protect from acts of authority that violate fundamental constitutional rights), XIX (right to nationality), XXIII (right to own private property), XXV (no deprivation of liberty except through pre-existing legal procedures), and XXVI (right to an impartial and public hearing).

<sup>288</sup> Statute of the International Court of Justice, *supra* note 150. All members of the United Nations are parties to the Statute by virtue of Article 93 of the U.N. Charter.

<sup>289</sup> See *id.* art. 34(1).

<sup>290</sup> See *Military and Paramilitary Activities (Nicar. v. U.S.)*, 1986 I.C.J. 14 (June 27); *Military and Paramilitary Activities (Nicar. v. U.S.)*, 1984 I.C.J. 392 (Nov. 26); THOMAS BURGENTHAL & HAROLD G. MAIER, *PUBLIC INTERNATIONAL LAW* 81 (2d ed. 1990); *United States: Department of*



U.S. is still subject to ICJ jurisdiction.<sup>291</sup> Nonetheless, the United States continues to disregard unfavorable rulings. For example, in April 1998, ignoring a stay of execution requested by the ICJ, the United States allowed the execution of Angel Breard, a Paraguayan national who had been convicted of murder without having access to Paraguayan consular officials—a violation of the Vienna Convention on Consular Relations.<sup>292</sup>

Because no treaties confer jurisdiction in the Japanese Peruvian case and the ICJ can only hear cases brought by states parties, the ICJ is not an option for the Japanese Latin Americans.<sup>293</sup> Such situations, however, can be brought to the world's attention by presenting them to the United Nation's Commission on Human Rights<sup>294</sup> and its Sub-Commission on Prevention of Discrimination and Protection of Minorities.<sup>295</sup> In March 1998, Karen Parker of International Educational Development submitted a report concerning the Japanese Latin American internment to the 54th session of the Commission on Human Rights. It said, in part:

At the time this program was in operation, international humanitarian law clearly forbade war-time abduction, incarceration, and deportation of civilians from friendly countries. Exchange of civilians from a friendly country to an enemy third party was viewed as especially serious and in this case, met the criteria of hostage-taking. International law also forbade slavery and forced labour (the conditions of the Latin Americans held in the Panama camps clearly met the then-existing prohibitions against slavery and forced labour)

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*State Letter and Statement concerning Termination of Acceptance of I.C.J. Compulsory Jurisdiction*, 24 INT'L LEG. MAT. 1742 (1985).

<sup>291</sup> See Statute of International Court of Justice, *supra* note 150, art. 36(1).

<sup>292</sup> See Philippe Sands, *Perspective on International Law: An Execution Heard Round the World*, L.A. TIMES, Apr. 16, 1998, at B9; Editorial, *Execution in Virginia Killing Should Have Been Stayed*, SYRACUSE HERALD AMERICAN, Apr. 19, 1998, at D2.

<sup>293</sup> Statute of International Court of Justice, *supra* note 150, art. 34(1).

<sup>294</sup> This body was created by the United Nations' Economic and Social Council in compliance with the UN Charter, Article 68. See generally Philip Alston, *The Commission on Human Rights, in THE UNITED NATIONS AND HUMAN RIGHTS: A CRITICAL APPRAISAL* 126 (Philip Alston, ed., 1992).

<sup>295</sup> The Commission and Sub-Commission have created working groups and have appointed special rapporteurs to investigate allegations of systematic human rights violations and special procedures for hearing complaints regarding "gross violations" of human rights. ECOSOC Res. 728F (XXVIII), U.N. ESCOR, 28th Sess., Supp. No. 1, at 19, U.N. Doc. E/3290 (1959) (allowing Commission to compile communications about human rights violations); ECOSOC Res. 1235 (XLI), U.N. ESCOR, 42nd Sess., Supp. No. 1, at 17, U.N. Doc. E/4393 (1967) (allowing examination of allegations of gross violations of human rights); and ECOSOC Res. 1503 (XLVIII), U.N. ESCOR, Supp. No. 1A, at 8, U.N. Doc. E/4832/Add.1 (1970) (allowing the appointment of

whether in peacetime or in war. The Charter of the International Military Tribunal (Nuremberg charter), the Charter of the Military Tribunal for the Far East (Tokyo charter) and the earlier Control Council Law 10 set out these acts as war crimes and crimes against humanity at the time of World War II.<sup>296</sup>

While the Commission lacks enforcement powers, it can bring considerable pressure to bear on states and can aid in raising public awareness of violations of international law. Whether it will be successful in this case remains to be seen.

To summarize, avenues are available for pursuing international claims such as those of the interned Japanese Peruvians, but each is accompanied by significant problems. Generally speaking, the U.S. judicial system is relatively effective and well-organized, but it is reluctant to enforce international law.<sup>297</sup> International courts and commissions, specifically created to hear international claims, are difficult to access, slow to respond and lack enforcement power. Although such international bodies can be invaluable in bringing international attention to violations of law, domestic courts remain the best hope for effective remedies.<sup>298</sup>

#### V. TOWARD COMPLIANCE WITH INTERNATIONAL LAW

*Even as one reflects on certain events of the 1940s and 1950s and concludes that they were unnecessary militarily, inept politically, and inhumane socially, it is no consolation that they are part of the dead past in which the Alien Act of 1798, President Roosevelt's Executive Order 9066, General DeWitt's orders on our West Coast, and Ambassador Norweb's program in Peru fostered gross abuse of elementary human rights. The uncertain future that precipitates other tense and fear-laden moments may unfortunately find American law, an American president, the American military, and American diplomats equally able and willing to violate the human rights of innocent men, women and children.*

—Harvey Gardiner, *Pawns in a Triangle of Hate*<sup>299</sup>

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working groups to study situations). The use of these procedures in connection with the case of Korean women subjected to sexual slavery by the Japanese during World War II is described in Parker & Chew, *supra* note 149.

<sup>296</sup> Submission of International Educational Development, Mar. 1998 (on file with author).

<sup>297</sup> See Strossen, *supra* note 279.

<sup>298</sup> See Jordan Paust, *Threats to Accountability After Nuremberg: Crimes Against Humanity, Leader Responsibility and National Fora*, 12 N.Y.L. SCH. J. HUM. RTS. 547 (1995) (describing the need for national courts to enforce international norms).

<sup>299</sup> GARDINER, *supra* note 7, at 176. This is the conclusion reached by Gardiner, the only historian to thoroughly document the Japanese Peruvian internment.

While the Japanese Latin American internment may not involve large numbers of people, it is a case of significant import. A well-defined episode with relatively undisputed facts, it provides a clear example of how international law is incorporated into—or ignored by—our legal and governmental structures. It shows how considerations of human rights and international law can be lost in the foreign policy decisions of U.S. authorities and how the legal system fails to rectify such actions. It also illustrates the harm that can be done when international law is not taken seriously—harm to innocent individuals, to the national interest of the United States and to the rule of law globally. This Section considers the costs of ignoring international law in the Japanese Peruvian case, and makes two recommendations for addressing these problems: first, that remedies for such violations be made available by enforcing international law in domestic courts; and second, that the branches of government responsible for foreign policy make structural changes to institutionalize awareness of, and ensure compliance with, international law and human rights norms.

#### *A. Repercussions of Ignoring International Law*

The Japanese Peruvian internment resulted not so much from the malevolent designs of particular individuals, but from a convergence of perceived interests on the part of the Peruvian and U.S. governments. Within the executive branch of the U.S. government there were varying perceptions, motivations and expectations that this particular program would further U.S. interests.<sup>300</sup> U.S. authorities in the Departments of War, State and Justice were interested in promoting “hemispheric security” and in accommodating Peruvian anti-Japanese hostility in order to obtain the cooperation of the Peruvian government. The primary motivation for interning the Japanese Latin Americans, however, was to accumulate hostages to exchange for Americans held in Japanese-occupied territories.

The U.S. holding of hostages turned out to be not only unnecessary, but counterproductive in a number of ways. First, the U.S. reportedly rejected a proposal from the Japanese government to exchange all civilians without regard to numbers, and began negotiating one-for-one exchanges that stalled when the Japanese government insisted on the repatriation of designated individuals. Not only did the U.S. and Peruvian lists of proposed deportees not agree, but often neither list included the individuals requested by the Japanese government.<sup>301</sup> The

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<sup>300</sup> See *supra* notes 95–99 and accompanying text.

<sup>301</sup> See *supra* notes 76–79 and accompanying text.

program of forced deportation and incarceration thus not only failed to release American internees but may, in fact, have helped bring the larger exchange program to a halt. As noted above, the Japanese government withdrew from the negotiations for a third exchange after lodging protests about the kidnapping of Japanese Latin Americans and the treatment of Japanese Americans, particularly those interned at Tule Lake.<sup>302</sup> While the reasons for the Japanese withdrawal are not clearly documented, it is reasonable to infer that the Japanese government would resist participating in exchanges which gave the United States further incentive to kidnap Japanese nationals from third countries. Thus, it appears that by engaging in these blatant violations of international law, the United States subverted the very ends it hoped to achieve.

Second, the holding of Japanese Latin American and Japanese American hostages in internment camps did not protect Americans held by the Japanese military. There are various references to a "reprisal reserve" designed to ensure humane treatment of American internees,<sup>303</sup> but in fact the poor physical conditions of the U.S. camps made State Department officials fear reprisals against the Americans held overseas.<sup>304</sup>

Third, if increased hemispheric security was an expected benefit of the internment program that, too, failed to materialize. As John Emmerson's memoirs<sup>305</sup> and the files combed by Harvey Gardiner<sup>306</sup> so clearly illustrate, embassy officials found no evidence of sabotage or subversive activity by the Japanese in Peru. Until Raymond Ickes was sent to Lima to participate in the selection process, those chosen by U.S. authorities were not even identified as "dangerous."<sup>307</sup> After Ickes insisted on this criterion, there was still no evidence of subversive activity by any Japanese Peruvians, so men were labeled "dangerous" simply by virtue of having been community leaders.<sup>308</sup> Moreover, even after screening procedures were implemented, only a small fraction of those actually deported were on the U.S. lists. U.S. officials were under no illusion, even as the process was taking place, that the deportations did anything to promote hemispheric security.

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<sup>302</sup> See *supra* notes 112-16 and accompanying text.

<sup>303</sup> See *supra* notes 97-99 and accompanying text.

<sup>304</sup> See *supra* notes 92-93, 106-11 and accompanying text.

<sup>305</sup> See generally EMMERSON, *supra* note 7.

<sup>306</sup> See generally GARDINER, *supra* note 7.

<sup>307</sup> See *supra* notes 52-58 and accompanying text.

<sup>308</sup> See *supra* notes 76-78 and accompanying text.

There is thus no evidence that any of the anticipated benefits were achieved by the actions of the U.S. government. There were, however, numerous costs. Most obvious, of course, are the losses suffered by the Japanese Peruvians and other interned Japanese Latin Americans. As described in Section II, they lost homes, businesses, property and generations of personal belongings and connections. Most could not return to their homes in Peru and had to construct new lives in a war-devastated Japan where they had few ties and were often regarded as outsiders.<sup>309</sup> Those who were able to remain in the United States lived for years in uncertainty and fear.<sup>310</sup>

Significant costs were also incurred by the United States government. Some of these were fiscal. The United States assumed the entire cost of transporting over 2,000 people from Latin America, and then guarding, feeding, and housing them for years. Transport ships, military personnel and other precious resources were devoted to this entirely unproductive end.<sup>311</sup> The contemporaneous costs to the United States were not, however, limited to material costs. The international credibility of the country was harmed when, for example, the U.S. actions with respect to Japanese Americans were raised as a defense by German and Japanese being prosecuted at the Nuremberg and Tokyo tribunals.<sup>312</sup>

The United States has accrued ongoing costs as well. By refusing to compensate the victims,<sup>313</sup> the government has incurred the liability under international law to do so. The settlement in the *Mochizuki* case only requires the government to pay five million dollars or less in redress.<sup>314</sup> The plaintiffs sought compensation equivalent to that afforded interned Japanese Americans under the terms of the Civil Liberties Act, which would cost approximately twenty-four million dollars. In addition, the government owes the internees compensation for the property they lost, for the lives disrupted, for the illnesses and deaths attributable to the internment.<sup>315</sup> It owes them this plus fifty years worth of interest. Taking only inflation into account, the \$5000

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<sup>309</sup> See generally WEGLYN, *supra* note 11.

<sup>310</sup> See generally GARDINER, *supra* note 7; HIGASHIDE, *supra* note 7.

<sup>311</sup> See *supra* note 35 and accompanying text.

<sup>312</sup> See *supra* notes 164-70 and accompanying text.

<sup>313</sup> See *supra* notes 193-99 and accompanying text.

<sup>314</sup> The Japanese Peruvian Oral History Project estimates that there may be 1200 JLA internees still living, but the current proposed settlement would only pay them \$5000 apiece until the already-allocated funds under the CLA run out. While this amount is not certain, it will definitely be inadequate. Therefore, I have projected that 1000 internees might receive redress under the settlement.

<sup>315</sup> One internee, Henry Shima, has filed suit for \$10 million in personal damages. See

now being offered each internee is the equivalent of about \$550 in 1945. At an interest rate of 6%, it represents about \$242 in 1945.<sup>316</sup> While one cannot begin to calculate the actual damages incurred by the Japanese Latin Americans, it is clear that the amount required to fully compensate them under international law is enormous.

The possibility of having to compensate the victims is probably the least significant of the ongoing costs incurred by the United States in this case. The plight of the Japanese Latin Americans has slowly been coming to the attention of the American public and the international community. Testimony about the Japanese Peruvian internment was presented to the Commission on Wartime Relocation and Internment of Civilians and resulted in acknowledgment of the program in the Commission's final report.<sup>317</sup> Testimony about the war crimes committed by the United States, and the need for redress, has been presented to the United Nations' Commission on Human Rights.<sup>318</sup> International attention has been paid to the *Mochizuki* case and will be paid to the cases which are being filed by plaintiffs who opted out of the settlement.<sup>319</sup> In short, the matter is now before the court of international opinion.

Compensation for the victims of World War II war crimes became a topic of widespread interest in 1998. In August Swiss banks and Holocaust victims agreed to a \$1.25 billion settlement of a suit filed in U.S. district court charging the Swiss banks with laundering gold looted by the Nazis<sup>320</sup> and, under threat of suit, Volkswagen agreed in July to compensate those who had been forced to perform slave labor in its

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*Japanese Latin American Files Lawsuit for Full Redress*, JAPAN POL'Y & POL., Aug. 31, 1998, available in 1998 WL 8032249.

<sup>316</sup> This is the approximate interest rate of 10-year treasury bills for the period of 1945 to 1998. At 6% interest, \$242 in 1945 would be \$5,008 in 1998. AAA corporate bonds, all maturities, averaged 6.7% interest between 1945 and 1996. At this rate, \$172 in 1945 would yield \$5,001 in 1998. Using the very conservative measure of 3-month treasury bills, the average interest since 1945 is 4.8%, at which rate \$437 in 1945 would yield \$5,003 today. These figures are from the Economic Report of the President (1997), Council of Economic Advisors, Table D-71, *Bond Yields and Interest Rates, 1929-1996* at 382 available at <<http://www.gpo.ucop.edu/catalog/-erp97.html>> (visited Mar. 26, 1999). I am grateful to Peter Philips, Professor of Economics, University of Utah, for obtaining this information and making these calculations.

<sup>317</sup> See COMMISSION ON WARTIME RELOCATION, *supra* note 213, App. D (testimony of Seiichi Higashide); see also JUSTICE DELAYED, *supra* note 222, at 8.

<sup>318</sup> See *supra* note 296 and accompanying text.

<sup>319</sup> See *supra* notes 7, 13 and accompanying text.

<sup>320</sup> See Michael Hirsch, *After 50 Years, A Deal Swiss Banks Agree to Make Payments to Holocaust Victims*, NEWSWEEK, Aug. 24, 1998, at 41; *Switzerland Hopes Holocaust Settlement Clears Air*, DALLAS MORNING NEWS, Aug. 14, 1998, at 11A. The Swiss banks are criticized for following an "ethic of the least effort" and neglecting to distinguish looted gold from other gold. *Victim Gold*, STAR-TRIBUNE (Minneapolis-St. Paul), May 26, 1998, at 03A.

factories during World War II.<sup>321</sup> Based on a 200-page report issued by a U.S. commission headed by Under Secretary of State Stuart Eizenstat, an eighteen billion dollar lawsuit has been filed against two German banks.<sup>322</sup> In April a Japanese court ordered the Japanese government to pay reparations to three Korean women who had been used as sex slaves, and a group representing "comfort women" got a bill introduced in the U.S. Congress calling for an apology and reparations from Japan.<sup>323</sup> This issue has also been presented to the United Nations Commission on Human Rights<sup>324</sup> and some propose that the newly formed International Criminal Court should deal with the question of compensation for the "comfort women."<sup>325</sup>

The U.S. government has been a major player in recent reparations movements, particularly those concerning compensation for gold and artwork taken by the Nazis.<sup>326</sup> The United States' position, however, appears hypocritical in the face of its refusal to compensate for the Japanese Latin American internment.<sup>327</sup> It diminishes U.S. credibility and devalues international law in ways we may not fully recognize for

<sup>321</sup> See Paul Geitner, *WW Decision May Affect German Firms*, AP, July 8, 1998, available in 1998 WL 6692725; Michael Pinto-Duschinsky, *50 Years On, the Wages of Slave Labour*, TIMES (London), Aug. 10, 1998, at 18.

In addition, a lawsuit filed in March accuses a German subsidiary of the Ford Motor Company with knowingly profiting from forced labor during World War II, and the United States is spearheading a drive to identify and ensure compensation for billions of dollars worth of art stolen by the Nazis. See Blaine Harden, *Suit Alleges Ford Unit Used Forced Labor In WWII*, WASH. POST, Mar. 5, 1998, at A04; Barry Schweid, *39 Nations Seek Art Looted by Nazis*, AP, July 1, 1998, available in 1998 WL 6689782.

<sup>322</sup> See Alex Brummer, *Nazi Victims Sue Banks \$18bn Claim in New York Courts*, THE GUARDIAN (London), June 4, 1998, at O25.

<sup>323</sup> See *Japan Ordered to Compensate 3 Sex Slaves Law*, L.A. TIMES, Apr. 28, 1998, at A8, available in 1998 WL 2422368; *Asian Comfort Women Seek US Support for Reparations Demands*, AGENCE FR.-PRESSE, June 4, 1998, available in 1998 WL 2295714; see also Estella Duran, *In U.S., Korean Woman Details Rapes by Japanese in World War II*, B. GLOBE, June 5, 1998, at A19; Yuri Kagevama, *Japan Must Pay Ex-WWII Sex Slaves*, AP, Apr. 17, 1998, available in 1998 WL 6656713. Japan has also come under pressure to provide compensation for its slaughter of civilians in Nanking during World War II. See IRIS CHANG, *RAPE OF NANKING* (1998).

<sup>324</sup> See UN: *Commission on Human Rights Hears Statements on Role of National Human Rights Institutions*, M2 PRESSWIRE, Apr. 9, 1998, available in 1998 WL 11306214.

<sup>325</sup> Farhan Haq, *Rights: International Justice Needed for 'Comfort Women'*, INTER PRESS SERVICE, Mar. 25, 1998, available in 1998 WL 5986352.

<sup>326</sup> According to Stuart Eizenstat, "[t]his can be a healing process, which can strengthen each of our countries and bring this century to a close on a high note of justice." Schweid, *supra* note 321.

<sup>327</sup> As an editorial in the St. Petersburg Times said about the Japanese Latin American internment, "[t]his outrageous episode weakens our moral authority to wag an accusatory finger at Switzerland for not accounting for Nazi gold, or at Japan for its failure to compensate the South Korean 'comfort women' it conscripted into sexual slavery." Editorial, ST. PETERSBURG TIMES, June 23, 1998, at 10A.

years to come. The effectiveness of international law rests on the recognition it receives from the governments of the world. When a nation as powerful as the United States refuses to abide by its norms, the stage is set for other governments and non-governmental groups—including the “terrorist” organizations frequently denounced by the United States—to ignore international law when it suits them.<sup>328</sup>

Ironically, one of the stated purposes of the Civil Liberties Act is to “make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations.”<sup>329</sup> The terms of the *Mochizuki* settlement, however, suggest that the mistreatment of these plaintiffs was less significant than that of U.S. citizens and residents. Viewed only in quantitative terms, this could be dismissed as a small incident in recent history. But it is difficult to see how the U.S. government’s resolution of the problem could be perceived by anyone, inside or outside of the United States, as reflecting anything but disdain for international law and human rights. As such, it sends a stark message, one that directly contradicts the purpose of the Civil Liberties Act and undermines the credibility of the United States in protesting violations of international law and human rights by other nations.

### B. *Proposals for Restructuring*

We are beginning to recognize that the internment of Japanese Americans was not an aberration or a product of wartime hysteria, but quite consistent with the historical treatment of Asian Americans and other racial minorities under the law.<sup>330</sup> Similarly, we need to consider that the internment of Japanese Latin Americans was not an aberra-

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<sup>328</sup> Harold Koh states: “A state’s violation of international law creates inevitable frictions and contradictions that hinder its ongoing participation within the transnational legal process. When the United States denies the jurisdiction of the International Court of Justice in a suit in which it is a defendant, that decision impairs its ability to invoke the court’s jurisdiction as a plaintiff.” Harold Hongju Koh, *Transnational Legal Process*, 75 NEB. L. REV. 181, 203–04 (1996); see also Harold Hongju Koh, *Review Essay: Why Do Nations Obey International Law?*, 106 YALE L.J. 2599 (1997) (describing the process of interaction, interpretation, and internalization of international norms into domestic legal systems).

<sup>329</sup> 50 U.S.C. § 1989 (1988).

<sup>330</sup> This history goes from the 1790 Naturalization Act which limited naturalized citizenship to “free white persons” to the 1882 Chinese Exclusion Act to the Alien Land Laws of the 1920s. See HANEX LOPEZ, *supra* note 3, 37–109 (1996) (describing the history of racial restrictions in naturalization law); Saito, *Alien and Non-Alien Alike*, *supra* note 141, at 291–95 (reviewing legal restrictions on Asian Americans). See generally Keith Aoki, *No Right to Own?: The Early Twentieth-Century “Alien Land Laws” as a Prelude to Internment*, in this issue, at 37. For an analysis of the interrelationship of racial restrictions and wartime security concerns, see Gil Gott, *A Tale of New Precedents: Japanese American Internment as Foreign Affairs Law*, in this issue, at 179.



tion, a mistake made in the turmoil of war, but instead quite consistent with the United States' treatment of minorities in the United States as well as our neighbors in Latin America. In 1823, in what came to be known as the Monroe Doctrine, the United States announced its intentions to be the primary power in the western hemisphere.<sup>331</sup> Woodrow Wilson's Secretary of State said bluntly, "[i]n its advocacy of the Monroe Doctrine, the United States considers its own interests. The integrity of the other American nations is an incident, not an end."<sup>332</sup>

United States has exhibited its disregard for Latin American nations' sovereignty on numerous occasions. Having failed in its attempts to buy Cuba in 1854,<sup>333</sup> the United States essentially took control of it in 1898, forcing the Cubans to incorporate an amendment into their Constitution which gave the United States military bases in Cuba and an unrestricted right to intervene in Cuban affairs.<sup>334</sup> The United States annexed Puerto Rico in 1898,<sup>335</sup> seized the Panama Canal in 1903,<sup>336</sup> and occupied Haiti and the Dominican Republic in 1915.<sup>337</sup> It subsequently installed governments, often run by dictators like Machado in Cuba and Trujillo in the Dominican Republic, to do the United States' bidding.<sup>338</sup> More recent violations of international law in Latin America include U.S. support of a 1954 military coup in Guatemala,<sup>339</sup> the CIA-backed overthrow of Salvador Allende in Chile in 1973;<sup>340</sup> and the mining of the waters and support of the Contras in Nicaragua.<sup>341</sup>

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<sup>331</sup>ERIC WILLIAMS, *FROM COLUMBUS TO CASTRO: THE HISTORY OF THE CARIBBEAN, 1492-1969*, at 411 (1984). This was characterized in 1895 as a violation of international law by the British Foreign Secretary: "[N]o statesman, however eminent, and no nation, however powerful, are competent to insert into the code of international law a novel principle which was never recognized [sic] before, and which has not since been accepted by the Government of any other country." *Id.* at 416-17 (quoting a statement of Lord Salisbury, to U.S. Secretary of State Olney in 1895).

<sup>332</sup>See generally Saito, *Alien and Non-Alien Alike*, *supra* note 141, at 268-315.

<sup>333</sup>See WILLIAMS, *supra* note 331, at 413-14.

<sup>334</sup>See *id.* at 420-21.

<sup>335</sup>See *id.* at 420.

<sup>336</sup>Eric Williams, former Prime Minister of Trinidad and Tobago, characterized the U.S. attitude in the seizure of the Panama Canal: "As stated frankly by [President Theodore] Roosevelt himself in 1908 with reference to Venezuela, America had to 'show these Dagoes that they will have to behave decently.' So Roosevelt just 'took' the Panama Canal while Congress and the South Americans debated the issue." *Id.* at 422; see also *Construction of a Ship Canal to Connect the Waters of the Atlantic and Pacific Oceans*, Nov. 18, 1903, U.S.-Pan., 33 Stat. 2234, T.S. No. 431.

<sup>337</sup>See WILLIAMS, *supra* note 331, at 424-25.

<sup>338</sup>As President Franklin Roosevelt said of Trujillo, "He may be an S.O.B., but he is our S.O.B." *Id.* at 465.

<sup>339</sup>See NOAM CHOMSKY, *YEAR 501: THE CONQUEST CONTINUES 172-74* (1993).

<sup>340</sup>See *id.* at 189-90.

<sup>341</sup>See *supra* note 290 and accompanying text.

In December 1989 approximately 24,000 U.S. troops invaded Panama, inflicting significant civilian casualties and destroying entire neighborhoods.<sup>342</sup> This disregard for international law has, in turn, created tension with other nations.<sup>343</sup>

International law has been violated in these cases both in times of war and in times of peace. This means we must be cautious about accepting justifications based on "military necessity" and "national security." As Eugene Rostow notes, "[i]t is essential to every democratic value in society that official action taken in the name of the war power be held to standards of responsibility."<sup>344</sup> Especially in times of war, we need to protect our civil liberties as well as human rights under international law. As Nanette Dembitz said about the *Korematsu* and *Endo* cases, "periods of war and peace are not disconnected eras; the peacetime social scene emerges from the war-time, and that which might emerge as a result of . . . such unrestrained military force is a subject for apprehension."<sup>345</sup> As we move into an era of military actions marked

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<sup>342</sup> General Manuel Noriega, head of the Panamanian state and reportedly on the CIA payroll, was arrested by U.S. forces, brought to the United States and put on trial for criminal conspiracy to violate U.S. law. See *United States v. Noriega*, 683 F. Supp. 1373 (S.D. Fla. 1988); see also Mark Andrew Sherman, *An Inquiry Regarding the International and Domestic Legal Problems Presented in United States v. Noriega*, 20 U. MIAMI INTER-AM. L. REV. 393, 395 (1989) ("Noriega represents the ultimate intersection of United States domestic law and foreign policy, and its precedential value should not be understated."); John Embry Parkerson, Jr., *United States Compliance with Humanitarian Law Respecting Civilians During Operation Just Cause*, 133 MIL. L. REV. 31 (1991) (noting ambiguity in the justification for the invasion of Panama and arguing that the U.S. should have complied fully with the humanitarian law applicable to armed conflict); see also Louis Henkin, *The Invasion of Panama Under International Law: A Gross Violation*, 29 COLUM. J. TRANSNAT'L L. 293, 312-13 (1991) ("With regret, I conclude that the invasion of Panama by the United States was a clear violation of international law as embodied in the principal norm of the U.N. Charter on which the world, under the leadership of the United States, built the new international order after World War II. The United States did not even have a color of justification for this invasion."). For a justification of the invasion, see Anthony D'Amato, *The Invasion of Panama Was a Lawful Response to Tyranny*, 84 AM. J. INT'L L. 516 (1990).

<sup>343</sup> Koh, *Transnational Legal Process*, *supra* note 328, at 195-96. Koh states:

[T]he Supreme Court held that a Mexican accused's forced abduction by U.S. agents . . . did not divest U.S. courts of criminal jurisdiction to try that defendant. Alvarez-Machain sparked intense media criticism and protests from political leaders in Mexico, Canada, Europe, and the Caribbean . . . . The Permanent Council of the Organization of American States requested a legal opinion regarding the international legality of the Supreme Court's decision from the Inter-American Juridical Committee, which concluded that "the decision is contrary to the rules of international law."

*Id.*

<sup>344</sup> Rostow, *supra* note 118, at 515.

<sup>345</sup> Dembitz, *supra* note 219, at 238.

by undeclared wars,<sup>346</sup> and of declarations of open-ended "wars" on targets such as drugs, crime or terrorism, we must not lose sight of these principles.<sup>347</sup>

Accordingly, if the United States is to wage such "wars," we must insist that it comply with both domestic and international law.<sup>348</sup> Should the U.S. violate international law, we must take victims' claims seriously, and provide them with a forum for redress. If we fail to do so, we will be undermining the rule of law throughout the world.<sup>349</sup>

As a powerful industrialized nation heavily vested in global markets, the United States strongly desires other nations to comply with international law. Government officials have consistently made this point with respect to Iraq's invasion of Kuwait, its biological and chemical weapons, and its treatment of the Kurds;<sup>350</sup> China's use of prison labor and treatment of political dissent;<sup>351</sup> Pakistan's use of child la-

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<sup>346</sup>The military conflict in the Gulf War or the recent bombings of Afghanistan and Sudan provide examples. See James Risen & David Johnston, *Experts Find No Arms Chemicals at Bombed Sudan Plant*, N.Y. TIMES, Feb. 9, 1999, at A12.

<sup>347</sup>See generally Mark Andrew Sherman, *United States International Drug Control Policy, Extrajudicial, and the Rule of Law in Columbia*, 15 NOVA L. REV. 661 (1991); Peter S. McCarthy, Comment, *United States v. Verdugo-Urquidez: Extending the Ker-Frisbie Doctrine to Meet the Modern Challenges Posed by the International Drug Trade*, 27 NEW ENG. L. REV. 1067 (1993).

<sup>348</sup>Regarding the importance of international human rights law to protecting the rights of minorities within the United States, see generally Berta Esperanza Hernandez-Trujol, *Natives, Newcomers and Nativism: A Human Rights Model for the Twenty-First Century*, 23 FORDHAM URBAN L.J. 1075 (1996) (discussing the human rights law applicable to alienage discrimination in the United States); Natsu Taylor Saito, *Crossing the Border*, *supra* note 278 (discussing the impact of U.S. human rights violations overseas on racial and ethnic minorities in the United States).

<sup>349</sup>See generally Thomas David Jones, *The Haitian Refugee Crisis: A Quest for Human Rights*, 15 MICH. J. INT'L L. 77, 82 (1993) (characterizing the U.S. policy toward Haitian refugees as evidence of a "malleable doctrine of universal human rights, subject to the political whims and expediency of the political party in power . . ."); Michael Higgins, *Looking the Part: With Criminal Profiles Being Used More Widely to Spot Possible Terrorists and Drug Couriers, Claims of Bias are Also on the Rise*, 83-NOV. A.B.A. J. 48 (1997) (discussing the increase in discrimination against Arab Americans resulting from publicity about "terrorism").

<sup>350</sup>See Scott L. Silliman, Foreword, *Contemporary Issues in Controlling Weapons of Mass Destruction*, 8 DUKE J. COMP. & INT'L L. 1 (noting the international community's frustration at Iraq's unwillingness to allow weapons inspections); Proceedings of the American Society of International Law, Special Capitol Hill Session: *The Gulf War: Collective Security, War Powers and Laws of War*, Remarks of Jordan Paust, 85 AM. SOC'Y INT'L L. PROC. 1, 13-16 (1991) (criticizing Iraq's invasion of Kuwait as violating the prohibitions against deportation of civilians in the Geneva Convention of 1949); see also Gavin A. Symes, Note, *Force Without Law: Seeking a Legal Justification for the September 1996 U.S. Military Intervention in Iraq*, 19 MICH. J. INT'L L. 581 (1998) (discussing possible violations of international law in the U.S. intervention to protect the Kurds in Iraq).

<sup>351</sup>See U.S. DEPARTMENT OF STATE, *China Country Report on Human Rights Practices for 1997*, released by the Bureau of Democracy, Human Rights, and Labor (Jan. 30, 1998); AMNESTY INTERNATIONAL, *China: Detention and Harassment of Dissidents and Others Between January and June 1998*, AI Index: ASA 17/16/98.

bor;<sup>352</sup> Taiwan's and China's respect for intellectual property rights<sup>353</sup> and the safety of U.S. embassies and diplomatic personnel.<sup>354</sup> The U.S. cannot assume to promote these interests while adhering to a policy of selective compliance with international law. To really participate in the development and promotion of the global rule of law we must take international law more seriously ourselves.<sup>355</sup> This requires scrupulous compliance in large and small matters alike as those governmental policies that allow for minor violations will invite major ones. Violations of international law, like landmines, may appear small and deeply buried, yet it is difficult to know when they will explode and how much damage they will do.<sup>356</sup> This problem must be tackled in at least two ways: first, by creating viable remedies within our domestic courts for violations of international law, and second, by insisting that the branches of the government charged with making and implementing U.S. foreign policy—Congress and the Executive—take international law seriously and create institutional mechanisms to that end.

According to Anthony D'Amato, "any international lawyer will estimate that over 99% of the cases that turn on rules of international law are filed in domestic courts."<sup>357</sup> As the recent move to organize an International Criminal Court demonstrates,<sup>358</sup> transnational courts are

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<sup>352</sup> See generally Sarah H. Cleveland, *Global Labor Rights and the Alien Tort Claims Act*, 76 TEX. L. REV. 1533 (1998) (reviewing HUMAN RIGHTS, LABOR RIGHTS, AND INTERNATIONAL TRADE (Stephen F. Diamond and Lance A. Campa, eds., 1998)); Janelle M. Diller & David A. Levy, *Child Labor, Trade and Investment: Toward the Harmonization of International Law*, 91 AM. J. INT'L L. 663 (1997); Timothy P. McElduff, Jr. & Jon Veiga, *The Child Labor Deterrence Act of 1995: A Choice Between Hegemony and Hypocrisy*, 11 ST. JOHN'S J. LEGAL COMMENT 581 (1996) (describing U.S. efforts to combat child labor practices of other countries); Donica Croot, *Taking Aim at Soccer Balls Made in Pakistan*, L.A. TIMES, June 30, 1996, at D1; Mark Schapiro & Trudie Stegler, *Children of a Lesser God: Child Labor in Pakistan*, HARPER'S BAZAAR, Apr. 1996, at 204.

<sup>353</sup> See Rosalind M. Parker, *Protecting American Television Programming in Russia, China, Taiwan, and Japan*, 17 HASTINGS COMM. & ENT. L.J. 445, 454-64 (1995) (describing copyright protection in China and Taiwan).

<sup>354</sup> See, e.g., *The Diplomatic and Consular Staff Case (U.S. v. Iran)*, 1980 I.C.J. 3 (1980) (holding that the Iranian government violated international law by allowing the takeover of the U.S. embassy and holding the U.S. diplomatic staff hostage).

<sup>355</sup> See, e.g., Harold Hongju Koh, *Democracy and Human Rights in the United States Foreign Policy?: Lessons from the Haitian Crisis*, 48 SMU L. REV. 189 (1994) [hereinafter *Democracy and Human Rights*] (evaluating the Clinton Administration's human rights record); Harold Hongju Koh, *The "Haiti Paradigm" in United States Human Rights Policy*, 103 YALE L.J. 2391 (1994) (using the Haitian refugee cases to illustrate problems with U.S. implementation of human rights policies).

<sup>356</sup> See, e.g., Seymour M. Hersh, *My Lai and Its Omens*, N.Y. TIMES, Mar. 16, 1998, at A27 (discussing, 30 years after the fact, how the U.S. military's failure to train its personnel in international law contributed to widespread massacres in Vietnam).

<sup>357</sup> ANTHONY D'AMATO, *supra* note 266, at 261.

<sup>358</sup> See generally Christopher Keith Hall, *The Sixth Session of the UN Preparatory Committee on*

developing. This is a lengthy process, however, and justice will not be served by waiting for them to become effective. Furthermore, the hesitations that many in the United States have about submitting to the jurisdiction of international tribunals could be avoided if U.S. courts would enforce international law, for those tribunals always require domestic remedies to be exhausted first. By taking international law seriously, federal courts could begin to provide effective remedies for violations of international law. This would serve as a deterrent for future violations of international law and would greatly increase the credibility of the United States in the international legal community.<sup>359</sup>

Providing remedies after the fact, however, is not enough. Having litigated many human rights cases, Paul Hoffman laments, "I have learned [that] customary law . . . really does not restrain executive action."<sup>360</sup> Improving compliance prospectively is greatly preferable to meting out punishment retroactively. There are many ways in which this could be done. Despite having been an active participant in their drafting, the United States has not ratified many human rights treaties.<sup>361</sup> Ratification of the major international treaties currently accepted by most other nations would be a meaningful step.<sup>362</sup> Payment of the over one billion dollars owed to the United Nations would also

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*the Establishment of an International Criminal Court*, 92 AM. J. INT'L L. 548 (1998); Thomas Meron, *War Crimes Law Comes of Age*, 92 AM. J. INT'L L. 462 (1998).

<sup>359</sup> See generally Patrick M. McFadden, *Provincialism in United States Courts*, 81 CORNELL L. REV. 4, 65 (1995) ("The provincialism of U.S. courts does harm, sometimes serious harm, to litigants, to the courts themselves, to the United States, to international law, and to the rule of law."); Ralph G. Steinhardt, *Fulfilling the Promise of Filartiga: Litigating Human Rights Claims Against the Estate of Ferdinand Marcos*, 20 YALE J. INT'L L. 65 (1995) (discussing new possibilities and ongoing difficulties of raising human rights claims in U.S. courts).

<sup>360</sup> Hoffman, *supra* note 278, at 184.

<sup>361</sup> These include the *International Covenant on Economic, Social and Cultural Rights*, *supra* note 204, at 49; the *American Convention on Human Rights*, *supra* note 206; the *Convention on the Elimination of All Forms of Discrimination Against Women*, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46; the *Convention on the Rights of the Child*, G.A. Res. 44/25, U.N. GAOR Annex, Supp. No. 49, at 167, U.N. Doc. A/44/49 (1989). The United States has neither signed nor ratified the *Convention Relating to the Status of Refugees*, 189 U.N.T.S. 150; the *Optional Protocol to the International Covenant on Civil and Political Rights*, G.A. Res. 2200A, U.N. GAOR, 21st Sess., Supp. No. 16, at 59, U.N. Doc. A/6316 (1966); the *Second Optional Protocol to the International Covenant on Civil and Political Rights*, aiming at the abolition of the death penalty, G.A. Res. 44/128, Annex, U.N. GAOR, 44th Sess., Supp. No. 49, at 207, U.N. Doc. A/44/49 (1989); the *Inter-American Convention to Prevent and Punish Torture*, 25 I.L.M. 519, Dec. 9, 1985; or the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women*, 27 U.S.T. 3301; see also Louis Henkin, *U.S. Ratification of the Human Rights Conventions: The Ghost of Senator Bricker*, 89 AM. J. INT'L L. 341 (1995).

<sup>362</sup> See generally Detlev F. Vagts, *Taking Treaties Less Seriously*, 92 AM. J. INT'L L. 458 (1998) (noting the "alarming exacerbation" of the "tendency of the United States not to give its treaty obligations the weight they deserve[ ]").

signal an increased respect for international institutions.<sup>363</sup> The United States could begin to comply with the judgments of international bodies such as the International Court of Justice and the Inter-American Commission on Human Rights. Congress could enact legislation that provides real compensation for Japanese Latin Americans and other victims of human rights abuses. Collectively, these acts would convey the message that the United States is taking international law seriously.

In and of themselves, these measures will not be enough to ensure that U.S. authorities actually comply with international law. That will require structural changes, including extensive education about evolving aspects of international law and the assignment of specific responsibility for compliance within the Departments of Defense, State and Justice. Internal systems need to be created which will identify international law issues when they arise, initiating a process that includes investigation of the relevant law, an assessment of the effects of compliance or noncompliance, and conscious decisionmaking based on that information.<sup>364</sup> At this point, there may not be a consensus on the extent to which the United States should participate in a world order defined by international agreements rather than the exertion of national power. Nonetheless, the presumption should be that the United States intends to comply with international law. To the extent that it does not do so, consensus surely exists that the United States government should not violate international law, either by accident or deliberately, without careful consideration of the costs involved, including the harm done to individuals and other countries, the immediate self-interest of the United States and damage to the United States' reputation and to the development of international law.

### CONCLUSION

*Our position in the post-war world is so vital to the future that our smallest actions have far-reaching effects . . . We cannot*

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<sup>363</sup> See Emilio J. Cardenas, *Financing the United Nations' Activities: A Matter of Commitment*, 1995 U. ILL. L. REV. 147, 151-52; John Norton Moore, *Toward a New Paradigm: Enhanced Effectiveness in United Nations Peacekeeping, Collective Security, and War Avoidance*, 37 VA. J. INT'L L. 811, 878-80 (1997); *The United States as Deadbeat: Debt to U.N. Should Be Paid In Full; The Nation's Honor is at Stake*, L.A. TIMES, June 17, 1997, at B6.

<sup>364</sup> Harold Koh's evaluation of the Clinton Administration's human rights record provides a good model for this process by reviewing (1) the Administration's rhetoric; (2) appointments made to key policy-making positions; (3) interventions to prevent ongoing human rights abuses; (4) accountability in seeking remedies for past abuses; and (5) preventive measures taken, "for example, adopting international standards and treaties, promoting institutional change, and

*escape the fact that our civil rights record has been an issue in world politics. The world's press and radio are full of it . . . . Those with competing philosophies . . . have tried to prove our democracy an empty fraud, and our nation a consistent oppressor of underprivileged people. This may seem ludicrous to Americans, but it is sufficiently important to worry our friends. The United States is not so strong, the final triumph of the democratic ideal is not so inevitable that we can ignore what the world thinks of us or our record.*

—Report of Pres. Truman's Committee on Civil Rights, 1948<sup>365</sup>

This Article has used the Japanese Peruvian internment as a case study of the consideration given to international law in the making of U.S. foreign policy, and the costs and consequences of ignoring, or refusing to enforce, international law. The harm caused to the thousands of interned Japanese Latin Americans, their families and their communities was the result of the United States' willingness to disregard well-established international law prohibiting the kidnapping and forced deportation of civilians, the holding of hostages, their indefinite internment without charge or hearing and their forced repatriation and/or deportation at the end of the war. The internment of Japanese Latin Americans was allowed to happen, over some objections from the Justice Department, but with very little resistance from U.S. authorities, unreported to the general public, and without triggering any subsequent intra-governmental review revealing the flawed nature of the program as a whole. This illustrates how important it is to create an oversight system designed to assure congruence between American foreign policy and international law.

Had the executive branch, through the President and the Cabinet officials, made international law a priority and then communicated this policy to each department and the agencies thereunder; had Congress enacted legislation to enforce international law; or had federal courts, particularly the Supreme Court, incorporated international law into their decisions, this situation could have been avoided altogether. What President Truman's Committee on Civil Rights said just after World War II is still true. We cannot afford to let incidents such as the Japanese Latin American internment go unremedied, for they commu-

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taking measures of deterrence." Harold Hongju Koh, *Democracy and Human Rights*, *supra* note 355, at 192-93.

<sup>365</sup> HOWARD ZINN, *A PEOPLE'S HISTORY OF THE UNITED STATES, 1492-PRESENT*, at 440 (1995) (quoting Report of Committee on Civil Rights).

nicate a disdain for international law that will have far-reaching effects on the protection of human rights and the furtherance of a world order that complies with international law.



**U.S. Department of Justice**  
*Civil Rights Division*  
**Office of Redress Administration**



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# **THE CIVIL LIBERTIES ACT OF 1988**

***HOW THE PROPOSED REGULATIONS  
WILL AFFECT YOU***

**Q. Why are proposed regulations necessary?**

**A.** Laws are always developed in the Congress, and then assigned to an Executive Branch agency to implement. That agency must publish: 1) a specific interpretation of the law's original language, and 2) details about how the program will operate. This information is contained in regulations.

The regulatory process is in two steps. First, the assigned agency develops a preliminary version that is published in the *Federal Register*. The *Federal Register* is a daily publication of the U.S. Government that contains a variety of official notices, and is available at many public and university libraries. Then, members of the public have a chance to voice their opinion on that first version, called a "Notice of Proposed Rulemaking." After every comment is read and

thought about to see if any changes are needed, a final version is developed, and again published in the *Federal Register*. At that point, the regulation takes effect.

The Civil Liberties Act became law on August 10, 1988, and was assigned to the Department of Justice for implementation. The Office of Redress Administration (ORA) was created, as a new organization within the Department, specifically to carry out the redress provisions of the Act. This pamphlet summarizes the proposed regulation developed by ORA and reviewed within the Department. It includes broad categories of those who will be eligible, a description of the way eligibility will be verified, how you will receive notice, and what you will have to do in response.

This pamphlet is only a very brief summary of some of the highlights in the proposal; it is not comprehensive, and should not be considered a substitute for reading the entire proposed regulation. If you want to know more, you should read the "Notice of Proposed Rulemaking" in the *Federal Register*.

## **Q. How will my eligibility be verified?**

**A.** ORA has been collecting information on potential eligibles since last fall, using both official and unofficial sources. Official sources include the National Archives, the Social Security Administration, and state vital statistics agencies, among many more. The primary unofficial source has been potential recipients themselves, their friends, or families, who have contacted ORA directly to provide information. All of the information received, from whatever source, has been computerized.

During the verification process, ORA will compare identifying information received from various sources to see if it is the same. If the information from all sources is identical, for a specific individual, then verification for him or her will be easy. For example, if the name, birth date, and sex on a camp roster is exactly the same as that called in, and the address called in is exactly the same as the one the Social Security Administration has, then the preliminary phase of verification for that person will be complete. But ORA knows that not all

cases will be this easy. Sometimes, extra research and, perhaps, additional documentation from the potential recipient will be necessary.

The final stage of verification, which is essential before a check can be mailed, will be based on your response to the notification.

**Q. What happens to the money if someone who is eligible dies before receiving payment?**

**A.** If the eligible individual has certain heirs, as specified in the law, the money will go to them. If not, it will be retained in the Civil Liberties Public Education Fund. This fund will be used to educate the American public about the events surrounding the evacuation, relocation, and internment to prevent a recurrence in the future.

The payment must go to relatives in the order specified in the law. First, it will go to a surviving husband or wife, if that spouse was married to the eligible individual for at least one year immediately before the death. If there is no spouse living at the time of payment, then the

money will be divided equally among all children, including adopted children and stepchildren living in a parent-child relationship, as well as natural children. Where children are survivors, ORA will wait until *all* of them have been located, before issuing payment. Finally, if there are no children, then the money will go to a parent, or if two parents are surviving, half to each.

**Q. Who is eligible?**

**A.** Most of those eligible for redress payments fit into one of several general categories. ORA may decide that others are eligible, too, even though their circumstances are so unusual that they do not fit into those categories. In any event, all eligibles must be of Japanese ancestry, must have been U.S. citizens or permanent resident aliens during the internment period, from December 7, 1941 to June 30, 1946, and must have been living on August 10, 1988. The general categories of eligibles include those who:

- ❖ Were interned in Relocation Centers.
- ❖ Were held in Assembly Centers, whether or not they later went to Relocation Centers.

- ❖ Were interned by the Army in Hawaii.
- ❖ Were interned by the Department of Justice in any of the INS Camps.
- ❖ Filed Change of Residence Report Cards.
- ❖ Moved from prohibited zones on or after March 29, 1942.
- ❖ Were ordered to leave Bainbridge Island or Terminal Island.
- ❖ Were in the U.S. Military during the internment period, and never spent time in camps, but lost property as a result of government action because their homes were in prohibited zones.
- ❖ Were in the U.S. Military and who were prohibited by government regulations from visiting their interned families or were subject to undue restrictions prior to visits.
- ❖ Were born in assembly centers or relocation centers, including those born to parents from Latin America who were interned in the United States.
- ❖ Were forcibly brought to the United States from Latin America for intern-

ment, and later acquired a change in immigration status to permanent resident, retroactive to the internment period.

- ❖ Spent the internment period in institutions, such as sanitariums, mental hospitals, or orphanages under the administrative authority of WRA.

### **Q. What if I don't fit any of these categories?**

**A.** ORA knows that some eligible people do not fit any of these categories, and that historic records may be missing even for some of those who do fit the categories. The proposed regulation permits "case-by-case" determinations under either set of circumstances. You may have information or documentation that will help ORA make a decision, and may be asked to supply it.

However, some people affected during the internment period will not be eligible, and therefore, need not supply any additional information. These are people who are excluded because of the statutory language. As with the eligibles, there are general categories of ineligible.

But again ORA may make "case-by-case" decisions, and find others who do not fit these categories to also be ineligible. Generally, people will not be eligible who:

- ❖ Are not of Japanese ancestry, including spouses, who were evacuated, relocated or interned.

- ❖ Were not U. S. citizens or permanent resident aliens, and did not have their status adjusted retroactively to the internment period, including those brought from Latin America.

- ❖ Relocated to an enemy country between December 7, 1941 and September 2, 1945. This includes children who relocated with their parents.

- ❖ Moved for their own personal reasons, and not in response to government action, from the West Coast prior to March 29, 1942, and did not file Change of Residence Report Cards.

- ❖ Were born after their parents were no longer interned.

- ❖ Were born after their parents had moved from a prohibited zone.

- ❖ Remained in the U.S. Military, but lost no property as a result of government action, or were allowed to visit their interned families without undue restrictions.

- ❖ Were outside the boundaries of the United States, and did not, or were unable to, return during the internment period, even if their families were evacuated, interned, or relocated.

**Q. How will ORA notify me if I am eligible?**

**A.** After ORA decides, based on available information, that you are probably eligible for redress, you will receive a written notification in the mail.

**Q. Then what will I have to do?**

**A.** Along with the notification, you will receive a form to fill out and sign, and some instructions about what to do next. That form will ask for identifying information, such as your name, address, phone number, birth date, and Social Security Number. You will have to send the form back to ORA, with

proof that the information is accurate. This proof is to establish that the payment will be sent to the right person, not to determine eligibility.

If you are, yourself, eligible for payment, you will have to send documentation proving your name and address. If you are the spouse, child, or parent of an eligible who died after August 10, 1988, you will also have to provide some documentation of the death of that relative, and proof of your relationship. All of the proof that ORA needs must be original (not photo copies), and should be readily available. The instructions you get in the mail will give you a list of things to choose from that are acceptable to ORA.

Your payment will not be issued until you send back these items, so that ORA can verify your identity. After you have been certified for payment, ORA will notify you in writing of that fact.

**Q. Do I have any recourse if ORA finds that I am ineligible?**

**A.** Yes, as described in the proposed regulation, you may appeal that decision to the Assistant Attorney General for Civil Rights. You will receive detailed, written information on those procedures at the same time you are notified that ORA has found you to be ineligible.

**Q. How will I get my payment?**

**A.** No payments can be issued until Congress appropriates money for that purpose. When funds are available, payments will be sent by mail to you in the form of a United States Treasury check. All payments will be made in a lump-sum, and will be issued in order of the age of the eligible individual, beginning with the oldest. Survivors will receive payment in the order of the age of their eligible relative, not their own age.

If you have not already provided information to the Office of Redress Administration, you may still do so by writing:

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# The Civil Liberties Act of 1988

## Questions and Answers

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## **MESSAGE FROM THE ADMINISTRATOR OF REDRESS**

In 1980, the Congress established the Commission on Wartime Relocation and Internment of Civilians to study the events and circumstances which resulted in the evacuation, relocation, and internment of citizens and permanent resident aliens of Japanese ancestry during World War II. The Commission concluded that these events were influenced by racial prejudice, war hysteria, and a failure of political leadership, and recommended remedial action. The Civil Liberties Act of 1988 (Public Law 100-383) is the result of those findings and recommendations.

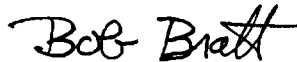
On August 10, 1988, President Reagan signed the Civil Liberties Act into law. The purposes of the Act are to acknowledge and apologize for the fundamental injustice of the evacuation, relocation, and internment, to make restitution, and to fund a public education program to prevent the recurrence of any similar event in the future.

Under the Act, the responsibility for making restitution is given to the Attorney General. In turn, the Attorney General has established the Office of Redress Administration (ORA), which I direct. ORA is charged with making restitution by identifying, locating, and making payment in the amount of \$20,000 to each eligible individual. ORA will also develop regulations governing eligibility for payment. Those regulations will be published for public comment in the *Federal Register*.

On the following pages are answers to frequently asked questions regarding the Act. Information can also be obtained by calling our toll free number: **1-800-228-8375** (Voice and TDD), 835-2094 in Washington, D.C.; or by writing:

U.S. Department of Justice  
Civil Rights Division  
Office of Redress Administration  
P.O. Box 66260  
Washington, D.C. 20035-6260

I hope you find these "Questions and Answers" helpful. My staff and I intend to keep the public fully informed as the program evolves.

A handwritten signature in black ink that reads "Bob Bratt". The signature is fluid and cursive, with the first name "Bob" and last name "Bratt" clearly distinguishable.

Robert K. Bratt  
Administrator of Redress

**Q.** Who is eligible to receive individual monetary payment from the U.S. Government?

**A.** In general, eligible individuals are those of Japanese ancestry who were evacuated or relocated from their homes on the West Coast or Hawaii and interned during World War II, *and* who were living on the date this Act became law (August 10, 1988). The Act specifically describes an eligible individual as a person of Japanese ancestry "...who, during the evacuation, relocation, and internment period --

(A) was a United States citizen or a permanent resident alien; and

(B)(i) was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of --

(I) Executive Order Numbered 9066, dated February 19, 1942;

(II) the Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones", approved March 21, 1942 (56 Stat. 173); or

(III) any other Executive Order, Presidential proclamation, law of the United States, directive of the Armed

Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry; or

(ii) was enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited military zone..."

**Q.** Are voluntary evacuees eligible?

**A.** Yes, the definition of "eligible individual" includes those citizens of Japanese ancestry and permanent resident aliens who left the West Coast voluntarily as the result of military orders prior to the mandatory removal and internment of the Japanese American population. For example, voluntary evacuees include those Japanese Americans who were ordered to leave Bainbridge and Terminal Islands and those who left the West Coast during the voluntary phase of the evacuation program from March 2 to 27, 1942, and filed "Change of Residence" cards with the Wartime Civil Control Administration. In general, this voluntary evacuation occurred in the early months of 1942.

**Q.** Are those who left the country eligible to receive payment?

**A.** Excluded from payment are those individuals who during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country.

**Q.** What is the amount of the payment?

**A.** \$20,000 to each eligible individual.

**Q.** How many individuals are eligible?

**A.** In 1983, it was estimated by the Commission on Wartime Relocation and Internment of Civilians that approximately 120,000 American citizens and permanent resident aliens of Japanese ancestry were affected by the exclusion. Of these, an estimated 60,000 individuals survive and are eligible for payment.

**Q.** When and how will payments be made?

**A.** First, money must be appropriated from Congress to be placed in the Civil Liberties Public Education Fund from which payments may be made. The Act specifies that a total of \$1,250,000,000 is to be appropriated over a period of not more than ten years. No more than \$500,000,000 may be appropriated in any one year. Therefore, not all payments can be made at one time.

The Act requires ORA to endeavor to make payments to eligible individuals in order of date of birth, with the oldest individuals receiving payment first, until all eligible individuals have been paid in full. We anticipate that payments will begin shortly after funds are appropriated, possibly as early as October, 1989.

**Q.** If an eligible person dies before receiving payment, can an heir claim the payment?

**A.** To be eligible, an individual must have been living on the date of enactment (August 10, 1988). However, if an eligible individual dies before payment can be made, payment will be made in the following order:

- ⇒ To a surviving spouse who is living at the time of payment provided that spouse was married to the individual for at least one year immediately before the death of the eligible individual.
- ⇒ If there is no eligible surviving spouse, in equal shares to all children of the eligible individual who are living at the time of payment. The definition of children includes recognized natural children, step-children who lived with the eligible individual in a regular parent-child relationship, and adopted children.
- ⇒ If there is no eligible surviving spouse or children, in equal shares to the parents of the eligible individual. The definition of parents includes mothers and fathers through adoption.
- ⇒ If there are no eligible survivors as described above, the payment goes into the Civil Liberties Public Education Fund. This fund will be used to educate the American public about the events surrounding the evacuation, relocation, and internment to prevent a recurrence in the future.



**Q.** What process is ORA using to locate eligible individuals?

**A.** Work has begun to assemble rosters of eligible individuals. All applicable records in the possession of the United States Government will be searched. In addition, any individual may voluntarily notify ORA that he/she is an eligible individual and may provide documentation thereof. Implementing regulations will be published in the *Federal Register* at a later date.

**Q.** What documentation is required?

**A.** ORA is now developing regulations governing the identification of eligible individuals and determination of eligibility. This information will be made available at a later date. However, if you have documentation of your evacuation, relocation, or internment, you may submit it at any time. Please see the next question.

Many individuals have written to the National Archives requesting verification of internment. All records held by the National Archives are being made available to ORA. Therefore, it is not necessary to contact the Archives. However, if you have

already received such a verification, you may wish to submit it to this office.

**Q.** Where can I submit information or documentation regarding my eligibility?

**A.** Administrator  
U.S. Department of Justice  
Civil Rights Division  
Office of Redress Administration  
P.O. Box 66260  
Washington, D.C. 20035-6260  
1-800-228-8375 (Voice and TDD)  
835-2094 in Washington, D.C.  
8:30 a.m. to 8:30 p.m. EDT

**Q.** I have information on someone else who may be eligible. May I submit that information?

**A.** Yes. The information may be sent to the address given above or be given by calling our toll free number. This information may be especially valuable since many eligible individuals are now elderly and may not be able to contact the Office of Redress personally.

**Q.** Must information be submitted in English?

**A.** No. Information may be given by telephone or in writing in English or Japanese.

**Q.** I have friends or relatives who would have been eligible but died before the act was signed. Is this information important?

**A.** Yes. This information is very important since it will allow the Office of Redress to concentrate its search on those individuals believed to be still living and to complete the location and identification process more quickly.

**Q.** Couldn't this result in a living person being crossed off the lists of eligibles by mistake?

**A.** No. If a person is reported to have died, the information will be verified through official sources.

**Q.** What information should be submitted?

**A.** You may voluntarily submit any information or documentation you wish or feel may be helpful. Suggested items are:

Name, including maiden or other names used

Date of birth

Address

Home and business telephone numbers

Social Security Number\*

Locations of detention or internment

The names of parents or guardians of individuals who were children at the time of internment

If you wish to contact us about another person, similar information should be submitted. If a person has died, please give the date and place of death. Please do not hesitate to submit incomplete information; any we can obtain may prove valuable.

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\* Social Security Number is an excellent means of identification and therefore very useful. However, failure to provide it will not jeopardize your payment. The redress payment is not subject to Federal income tax or considered when determining eligibility for most other Federal public assistance programs. See page 11.

**Q.** How will I know if I am eligible?

**A.** After funds are appropriated by Congress to begin payments, eligible individuals will be notified in writing.

**Q.** If it is determined by the Office of Redress Administration that I am ineligible, what recourse do I have?

**A.** There will be an appeal procedure which you may follow if you disagree with ORA's determination. Details of this procedure will be published in the *Federal Register*.

**Q.** If I accept this payment, what implications does that have in terms of future damages I might seek as a result of my evacuation, relocation, or internment?

**A.** The Act states that acceptance of payment shall be in full satisfaction of all claims against the United States arising out of the evacuation, relocation, or internment.

**Q.** If I refuse to accept payment, what happens to that money?

**A.** The Act states that if an eligible individual refuses, in a written document filed with the Attorney General, to accept any payment, the amount of such payment shall remain in the United States Civil Liberties Public Education Fund and no payment may be made to such individual at any time after such refusal.

**Q.** Are payments taxable?

**A.** Payments are not subject to Federal income tax since they are treated for purposes of the internal revenue laws as damages for human suffering. State income tax laws vary from state to state.

**Q.** How are payments treated under other laws?

**A.** The Act states that payments "...shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of Title 31, United States Code, or in the amount of such benefits."

This section of Title 31, United States Code covers many Social Security Act benefits including the supplemental security income program; old age, survivors, and disability insurance benefits; aid to

families with dependent children; and medical assistance. Specific questions should be addressed to your local Social Security Administration office.

This section also covers certain benefits under other Federal benefit and public assistance programs. Examples of these programs include certain veterans' benefits, housing programs for lower income families or elderly or handicapped persons sponsored by the Department of Housing and Urban Development or the Department of Agriculture, and the Low-Income Home Energy Assistance Act of 1981. If you are receiving benefits under such a program, you may address specific question to the Federal agency from which you are receiving those benefits.

**Q.** How can I keep informed about this program?

**A.** If you have contacted the Office of Redress Administration, you will be placed on our mailing list to receive additional information as it becomes available.

**U.S. Department of Justice**

**Civil Rights Division**

*Office of Redress Administration*

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In 1980, the Congress established the Commission on Wartime Relocation and Internment of Civilians to study the events and circumstances which resulted in the evacuation, relocation, and internment of citizens and permanent resident aliens of Japanese ancestry during World War II. The Commission concluded that these events were influenced by racial prejudice, war hysteria, and a failure of political leadership, and recommended remedial action. The Civil Liberties Act of 1988 (Public Law 100-383) is the result of those findings and recommendations.


On August 10, 1988, President Reagan signed the Civil Liberties Act into law. The purposes of the Act are to acknowledge and apologize for the fundamental injustice of the evacuation, relocation, and internment, to make restitution, and to fund a public education program to prevent the recurrence of any similar event in the future.

Under the Act, the responsibility for making restitution is given to the Attorney General. In turn, the Attorney General has established the Office of Redress Administration (ORA), which I direct. ORA is charged with making restitution by identifying, locating, and making payment in the amount of \$20,000 to each eligible individual. ORA will also develop regulations governing eligibility for payment. Those regulations will be published for public comment in the *Federal Register*.

On the following pages are answers to frequently asked questions regarding the Act. Information can also be obtained by calling our toll free number: 1-800-228-8375 (Voice and TDD), 835-2094 in Washington, D.C.; or by writing:

U.S. Department of Justice  
Civil Rights Division  
Office of Redress Administration  
P.O. Box 66260  
Washington, D.C. 20035-6260

I hope you find these "Questions and Answers" helpful. My staff and I intend to keep the public fully informed as the program evolves.

A handwritten signature in black ink that reads "Bob Bratt". The signature is fluid and cursive, with the first name "Bob" and last name "Bratt" clearly distinguishable.

Robert K. Bratt  
Administrator of Redress

**Q.** Who is eligible to receive individual monetary payment from the U.S. Government?

**A.** In general, eligible individuals are those of Japanese ancestry who were evacuated or relocated from their homes on the West Coast or Hawaii and interned during World War II, *and* who were living on the date this Act became law (August 10, 1988). The Act specifically describes an eligible individual as a person of Japanese ancestry "...who, during the evacuation, relocation, and internment period –

(A) was a United States citizen or a permanent resident alien; and

(B)(i) was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of –

(I) Executive Order Numbered 9066, dated February 19, 1942;

(II) the Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones", approved March 21, 1942 (56 Stat. 173); or

(III) any other Executive Order, Presidential proclamation, law of the United States, directive of the Armed

Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry; or

(ii) was enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited military zone..."

**Q.** Are voluntary evacuees eligible?

**A.** Yes, the definition of "eligible individual" includes those citizens of Japanese ancestry and permanent resident aliens who left the West Coast voluntarily as the result of military orders prior to the mandatory removal and internment of the Japanese American population. For example, voluntary evacuees include those Japanese Americans who were ordered to leave Bainbridge and Terminal Islands and those who left the West Coast during the voluntary phase of the evacuation program from March 2 to 27, 1942, and filed "Change of Residence" cards with the Wartime Civil Control Administration. In general, this voluntary evacuation occurred in the early months of 1942.

**Q.** Are those who left the country eligible to receive payment?

**A.** Excluded from payment are those individuals who during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country.

**Q.** What is the amount of the payment?

**A.** \$20,000 to each eligible individual.

**Q.** How many individuals are eligible?

**A.** In 1983, it was estimated by the Commission on Wartime Relocation and Internment of Civilians that approximately 120,000 American citizens and permanent resident aliens of Japanese ancestry were affected by the exclusion. Of these, an estimated 60,000 individuals survive and are eligible for payment.

**Q.** When and how will payments be made?

**A.** First, money must be appropriated from Congress to be placed in the Civil Liberties Public Education Fund from which payments may be made. The Act specifies that a total of \$1,250,000,000 is to be appropriated over a period of not more than ten years. No more than \$500,000,000 may be appropriated in any one year. Therefore, not all payments can be made at one time.

The Act requires ORA to endeavor to make payments to eligible individuals in order of date of birth, with the oldest individuals receiving payment first, until all eligible individuals have been paid in full. We anticipate that payments will begin shortly after funds are appropriated, possibly as early as October, 1989.

**Q.** If an eligible person dies before receiving payment, can an heir claim the payment?

**A.** To be eligible, an individual must have been living on the date of enactment (August 10, 1988). However, if an eligible individual dies before payment can be made, payment will be made in the following order:

- ⇒ To a surviving spouse who is living at the time of payment provided that spouse was married to the individual for at least one year immediately before the death of the eligible individual.
- ⇒ If there is no eligible surviving spouse, in equal shares to all children of the eligible individual who are living at the time of payment. The definition of children includes recognized natural children, step-children who lived with the eligible individual in a regular parent-child relationship, and adopted children.
- ⇒ If there is no eligible surviving spouse or children, in equal shares to the parents of the eligible individual. The definition of parents includes mothers and fathers through adoption.
- ⇒ If there are no eligible survivors as described above, the payment goes into the Civil Liberties Public Education Fund. This fund will be used to educate the American public about the events surrounding the evacuation, relocation, and internment to prevent a recurrence in the future.



**Q.** What process is ORA using to locate eligible individuals?

**A.** Work has begun to assemble rosters of eligible individuals. All applicable records in the possession of the United States Government will be searched. In addition, any individual may voluntarily notify ORA that he/she is an eligible individual and may provide documentation thereof. Implementing regulations will be published in the *Federal Register* at a later date.

**Q.** What documentation is required?

**A.** ORA is now developing regulations governing the identification of eligible individuals and determination of eligibility. This information will be made available at a later date. However, if you have documentation of your evacuation, relocation, or internment, you may submit it at any time. Please see the next question.

Many individuals have written to the National Archives requesting verification of internment. All records held by the National Archives are being made available to ORA. Therefore, it is not necessary to contact the Archives. However, if you have

already received such a verification, you may wish to submit it to this office.

**Q.** **Where can I submit information or documentation regarding my eligibility?**

**A.** Administrator  
U.S. Department of Justice  
Civil Rights Division  
Office of Redress Administration  
P.O. Box 66260  
Washington, D.C. 20035-6260  
1-800-228-8375 (Voice and TDD)  
835-2094 in Washington, D.C.  
8:30 a.m. to 8:30 p.m. EDT

**Q.** **I have information on someone else who may be eligible. May I submit that information?**

**A.** Yes. The information may be sent to the address given above or be given by calling our toll free number. This information may be especially valuable since many eligible individuals are now elderly and may not be able to contact the Office of Redress personally.

**Q.** Must information be submitted in English?

**A.** No. Information may be given by telephone or in writing in English or Japanese.

**Q.** I have friends or relatives who would have been eligible but died before the act was signed. Is this information important?

**A.** Yes. This information is very important since it will allow the Office of Redress to concentrate its search on those individuals believed to be still living and to complete the location and identification process more quickly.

**Q.** Couldn't this result in a living person being crossed off the lists of eligibles by mistake?

**A.** No. If a person is reported to have died, the information will be verified through official sources.

**Q.** What information should be submitted?

**A.** You may voluntarily submit any information or documentation you wish or feel may be helpful. Suggested items are:

Name, including maiden or other names used

Date of birth

Address

Home and business telephone numbers

Social Security Number\*

Locations of detention or internment

The names of parents or guardians of individuals who were children at the time of internment

If you wish to contact us about another person, similar information should be submitted. If a person has died, please give the date and place of death. Please do not hesitate to submit incomplete information; any we can obtain may prove valuable.

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\* Social Security Number is an excellent means of identification and therefore very useful. However, failure to provide it will not jeopardize your payment. The redress payment is not subject to Federal income tax or considered when determining eligibility for most other Federal public assistance programs. See page 11.

**Q.** How will I know if I am eligible?

**A.** After funds are appropriated by Congress to begin payments, eligible individuals will be notified in writing.

**Q.** If it is determined by the Office of Redress Administration that I am ineligible, what recourse do I have?

**A.** There will be an appeal procedure which you may follow if you disagree with ORA's determination. Details of this procedure will be published in the *Federal Register*.

**Q.** If I accept this payment, what implications does that have in terms of future damages I might seek as a result of my evacuation, relocation, or internment?

**A.** The Act states that acceptance of payment shall be in full satisfaction of all claims against the United States arising out of the evacuation, relocation, or internment.

**Q.** If I refuse to accept payment, what happens to that money?

**A.** The Act states that if an eligible individual refuses, in a written document filed with the Attorney General, to accept any payment, the amount of such payment shall remain in the United States Civil Liberties Public Education Fund and no payment may be made to such individual at any time after such refusal.

**Q.** Are payments taxable?

**A.** Payments are not subject to Federal income tax since they are treated for purposes of the internal revenue laws as damages for human suffering. State income tax laws vary from state to state.

**Q.** How are payments treated under other laws?

**A.** The Act states that payments "...shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of Title 31, United States Code, or in the amount of such benefits."

This section of Title 31, United States Code covers many Social Security Act benefits including the supplemental security income program; old age, survivors, and disability insurance benefits; aid to

families with dependent children; and medical assistance. Specific questions should be addressed to your local Social Security Administration office.

This section also covers certain benefits under other Federal benefit and public assistance programs. Examples of these programs include certain veterans' benefits, housing programs for lower income families or elderly or handicapped persons sponsored by the Department of Housing and Urban Development or the Department of Agriculture, and the Low-Income Home Energy Assistance Act of 1981. If you are receiving benefits under such a program, you may address specific question to the Federal agency from which you are receiving those benefits.

**Q.**     **How can I keep informed about this program?**

**A.**     If you have contacted the Office of Redress Administration, you will be placed on our mailing list to receive additional information as it becomes available.

**U.S. Department of Justice**  
**Civil Rights Division**  
*Office of Redress Administration*  
Post Office Box 66260  
Washington, D.C. 20035-6260

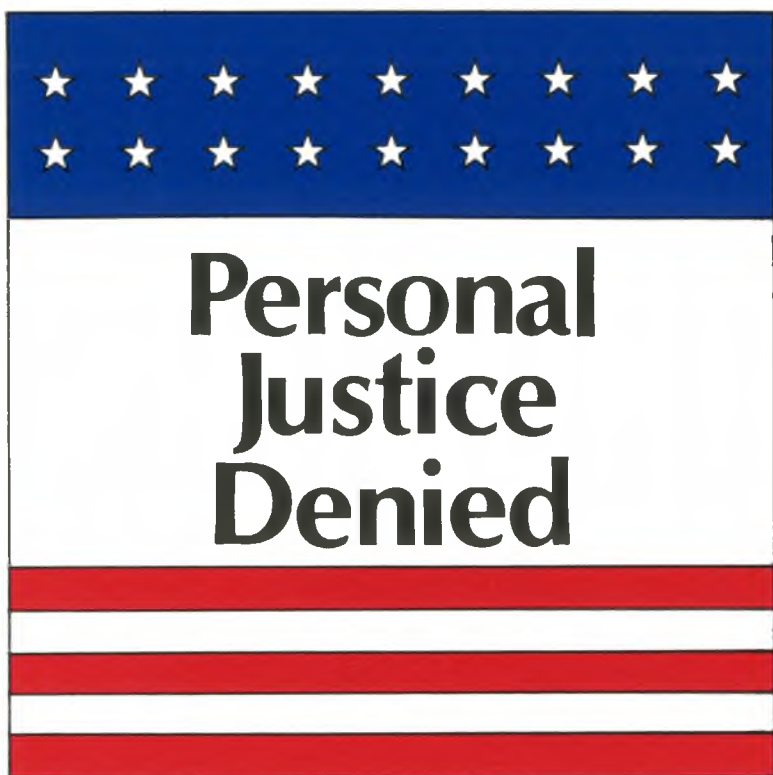
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**SUMMARY AND RECOMMENDATIONS  
OF THE  
COMMISSION ON WARTIME RELOCATION  
AND INTERNMENT OF CIVILIANS**

THE COMMISSION ON WARTIME RELOCATION  
AND INTERNMENT OF CIVILIANS

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Daniel E. Lungren, *Vice-Chair*

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William M. Marutani

Hugh B. Mitchell

Angus Macbeth, *Special Counsel*

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# **Personal Justice Denied**

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**REPORT OF THE  
COMMISSION ON WARTIME RELOCATION  
AND INTERNMENT OF CIVILIANS**

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**Edited and printed by  
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San Francisco, California  
1983**



# Summary

## PART 1: NISEI AND ISSEI

On February 19, 1942, ten weeks after the Pearl Harbor attack, President Franklin D. Roosevelt signed Executive Order 9066, which gave to the Secretary of War and the military commanders the power to exclude any and all persons, citizens and aliens, from designated areas in order to provide security against sabotage, espionage and fifth column activity. Shortly thereafter, all American citizens of Japanese descent were prohibited from living, working or traveling on the West Coast of the United States. The same prohibition applied to the generation of Japanese immigrants who, pursuant to federal law and despite long residence in the United States, were not permitted to become American citizens. American citizens and their alien parents were removed by the Army, first to "assembly centers" — temporary quarters at racetracks and fairgrounds — and then to "relocation centers" — bleak barrack camps in desolate areas of the West. The camps were surrounded by barbed wire and guarded by military police. Departure was permitted only after a loyalty review in consultation with the military, by the War Relocation Authority, the civilian agency that ran the camps. Many of those removed from the West Coast were eventually allowed to leave the camps to join the Army, go to college outside the West Coast or to whatever private employment was available. For a larger number, however, the war years were spent behind barbed wire; and for those who were released, the prohibition against returning to their homes and occupations on the West Coast was not lifted until December 1944.

**This policy of exclusion, removal, and detention was executed against 120,000 people without individual review, and exclusion**

**was continued virtually without regard for their demonstrated loyalty to the United States.** Congress was fully aware of and supported the policy of removal and detention; it sanctioned the exclusion by enacting a statute which made criminal the violation of orders issued pursuant to Executive Order 9066. The United States Supreme Court held the exclusion constitutionally permissible in the context of war, but struck down the incarceration of admittedly loyal American citizens on the ground that it was not based on statutory authority.

**All this was done despite the fact that not a single documented act of espionage, sabotage or fifth column activity was committed by an American citizen of Japanese ancestry or by a resident Japanese alien on the West Coast.**

**No mass exclusion or detention, in any part of the country, was ordered against American citizens of German or Italian descent. Official actions against enemy aliens of other nationalities were much more individualized and selective than those imposed on the ethnic Japanese.**

The exclusion, removal and detention inflicted tremendous human cost. There was the obvious cost of homes and businesses sold or abandoned under circumstances of great distress, as well as injury to careers and professional advancement. But most important, there was the loss of liberty and the personal stigma of suspected disloyalty for thousands of people who knew themselves to be devoted to their country's cause and to its ideals but whose repeated protestations of loyalty were discounted — only to be demonstrated beyond any doubt by the record of Nisei soldiers, who returned from the battlefields of Europe as the most decorated and distinguished combat units of World War II and by the thousands of other Nisei who served against the enemy in the Pacific, mostly in military intelligence. The wounds of the exclusion and detention have healed in some respects, but the scars of that experience remain, painfully real in the minds of those who lived through the suffering and deprivation of the camps.

**The personal injustice of excluding, removing and detaining loyal American citizens is manifest. Such events are extraordinary and unique in American history. For every citizen and for American public life, they pose haunting questions about our country and its past.**

## The Decision to Exclude

*The Context of the Decision.* First, the exclusion and removal were attacks on the ethnic Japanese which followed a long and ugly history of West Coast anti-Japanese agitation and legislation. Antipathy and hostility toward the ethnic Japanese was a major factor of the public life of the West Coast states for more than forty years before Pearl Harbor. Under pressure from California, immigration from Japan had been severely restricted in 1908 and entirely prohibited in 1924. Japanese immigrants were barred from American citizenship, although their children born here were citizens by birth. California and the other western states prohibited Japanese immigrants from owning land. In part the hostility was economic, emerging in various white American groups who began to feel competition, particularly in agriculture, the principal occupation of the immigrants. The anti-Japanese agitation also fed on racial stereotypes and fears: the "yellow peril" of an unknown Asian culture achieving substantial influence on the Pacific Coast.



The ethnic Japanese, small in number and with no political voice — the citizen generation was just reaching voting age in 1940 — had become a convenient target for political demagogues. Political bullying was supported by organized interest groups who adopted anti-Japanese agitation as a consistent part of their program: the Native Sons and Daughters of the Golden West, the Joint Immigration Committee, the American Legion, the California State Federation of Labor and the California State Grange.

Second, Japanese armies in the Pacific won a rapid, startling string of victories against the United States and its allies in the first months of World War II. In January and February 1942, the military position of the United States in the Pacific was perilous. There was fear of Japanese attacks on the West Coast.

Next, contrary to the facts, there was a widespread belief, supported by a statement by Frank Knox, Secretary of the Navy, that the Pearl Harbor attack had been aided by sabotage and fifth column activity by ethnic Japanese in Hawaii. The government knew that this was not true, but took no effective measures to disabuse public belief that disloyalty had contributed to massive American losses on December 7, 1941. **Thus the country was unfairly led to believe that both American citizens of Japanese descent and resident Japanese aliens threatened American security.**

Fourth, as anti-Japanese organizations began to speak out and rumors from Hawaii spread, West Coast politicians quickly took up the familiar anti-Japanese cry. The Congressional delegations in Washington organized themselves and pressed the War and Justice Departments and the President for stern measures to control the ethnic Japanese — moving quickly from control of aliens to evacuation and removal of citizens. In California, Governor Olson, Attorney General Warren and Mayor Bowron of Los Angeles, and many local authorities joined the clamor. These opinions were not informed by any knowledge of actual military risks, rather they were stroked by virulent agitation which encountered little opposition. Only a few churchmen and academicians were prepared to defend the Japanese. There was little or no political risk in claiming that it was “better to be safe than sorry” and, as many did, that the best way for ethnic Japanese to prove their loyalty was to volunteer to enter detention. The press amplified





the unreflective emotional excitement of the hour. Through late January and early February 1942, the rising clamor from the West Coast was heard within the federal government as its demands became more draconian.

*Making and Justifying the Decision.* The exclusion of the ethnic Japanese from the West Coast was recommended to the Secretary of War, Henry L. Stimson, by Lieutenant General John L. DeWitt, Commanding General of the Western Defense Command with responsibility for West Coast security. President Roosevelt relied on Secretary Stimson's recommendations in issuing Executive Order 9066.

The justification given for the measure was military necessity. The claim of military necessity is most clearly set out in three places: General DeWitt's February 14, 1942, recommendation to Secretary Stimson for exclusion; General DeWitt's *Final Report: Japanese Evacuation from the West Coast, 1942*; and the government's brief in the Supreme Court defending the Executive Order in *Hirabayashi v. United States*. General DeWitt's February 1942

recommendation presented the following rationale for the exclusion:

The Japanese race is an enemy race and while many second and third generation Japanese born on United States soil, possessed of United States citizenship, have become "Americanized," the racial strains are undiluted. To concede otherwise is to expect that children born of white parents on Japanese soil sever all racial affinity and become loyal Japanese subjects, ready to fight and, if necessary, to die for Japan in a war against the nation of their parents. That Japan is allied with Germany and Italy in this struggle is no ground for assuming that any Japanese, barred from assimilation by convention as he is, though born and raised in the United States, will not turn against this nation when the final test of loyalty comes. It, therefore, follows that along the vital Pacific Coast over 112,000 potential enemies, of Japanese extraction, are at large today. There are indications that these were organized and ready for concerted action at a favorable opportunity. The very fact that no sabotage has taken place to date is a disturbing and confirming indication that such action will be taken.

There are two unfounded justifications for exclusion expressed here: first, that ethnicity ultimately determines loyalty; second, that "indications" suggest that ethnic Japanese "are organized and ready for concerted action" — the best argument for this being the fact that it hadn't happened.

The first evaluation is not a military one but one for sociologists or historians. It runs counter to a basic premise on which the American nation of immigrants is built — that loyalty to the United States is a matter of individual choice and not determined by ties to an ancestral country. The second judgment was, by the General's own admission, unsupported by any evidence. General DeWitt's recommendation clearly does not provide a credible rationale, based on military expertise, for the necessity of exclusion.

In his 1943 *Final Report*, General DeWitt cited a number of factors in support of the exclusion decision: signaling from shore to enemy submarines; arms and contraband found by the FBI during raids on ethnic Japanese homes and businesses; dangers to the ethnic Japanese from vigilantes; concentration of ethnic Japanese around or near militarily sensitive areas; the number of Japanese ethnic organizations on the coast which might shelter

pro-Japanese attitudes or activities such as Emperor worshipping Shinto; and the presence of the Kibei, who had spent some time in Japan.

The first two items point to demonstrable military danger. But the reports of shore-to-ship signaling were investigated by the Federal Communications Commission, the agency with relevant expertise, and no identifiable cases of such signaling were substantiated. The FBI did confiscate arms and contraband from some ethnic Japanese, but most were items normally in the possession of any law-abiding civilian, and the FBI concluded that these searches had uncovered no dangerous persons that "we could not otherwise know about." Thus neither of these "facts" militarily justified exclusion.

There had been some acts of violence against ethnic Japanese on the West Coast and feeling against them ran high, but "protective custody" is not an acceptable rationale for exclusion. Protection against vigilantes is a civilian matter that would involve the military only in extreme cases. But there is no evidence that such extremity had been reached on the West Coast in early 1942. Moreover, "protective custody" could never justify exclusion and detention for months and years.

General DeWitt's remaining points are repeated in the Hirabayashi brief, which also emphasizes dual nationality, Japanese language schools and the high percentage of aliens (who, by law, had been barred from acquiring American citizenship) in the ethnic population. These facts represent broad social judgments of little or no military significance in themselves. None supports the claim of disloyalty to the United States and all were entirely legal. If the same standards were applied to other ethnic groups, as Morton Grodzins, an early analyst of the exclusion decision, applied it to ethnic Italians on the West Coast, an equally compelling and meaningless case for "disloyalty" could be made. In short, these social and cultural patterns were not evidence of any threat to West Coast military security.

**In sum, the record does not permit the conclusion that military necessity warranted the exclusion of ethnic Japanese from the West Coast.**

*The Conditions Which Permitted the Decision.* Having concluded that no military necessity supported the exclusion, the

Commission has attempted to determine how the decision came to be made.

First, General DeWitt apparently believed what he told Secretary Stimson: ethnicity determined loyalty — that it was impossible to distinguish the loyal from the disloyal. On this basis he believed them to be potential enemies among whom loyalty could not be determined.

Second, the FBI and members of Naval Intelligence who had relevant intelligence responsibility were ignored when they stated that nothing more than careful watching of suspicious individuals or individual reviews of loyalty were called for by existing circumstances.

Third, General DeWitt relied heavily on civilian politicians rather than informed military judgments in reaching his conclusions. The civilian politicians largely repeated the prejudiced, unfounded themes of anti-Japanese factions and interest groups on the West Coast.

Fourth, no effective measures were taken by President Roosevelt to calm the West Coast public and refute the rumors of sabotage and fifth column activity at Pearl Harbor.

Fifth, General DeWitt was temperamentally disposed to exaggerate the measures necessary to maintain security and placed security far ahead of any concern for the liberty of citizens.

Sixth, Secretary Stimson and John J. McCloy, Assistant Secretary of War, both of whose views on race differed from those of General DeWitt, failed to insist on a clear military justification for the measures General DeWitt wished to undertake.

Seventh, Attorney General Francis Biddle, while contending that exclusion was unnecessary, did not argue to the President that failure to make out a case of military necessity on the facts would render the exclusion constitutionally impermissible or that the Constitution prohibited exclusion on the basis of ethnicity given the facts on the West Coast.

Eighth, those representing the interests of civil rights and civil liberties in Congress, the press and other public forums were silent or indeed supported exclusion. Thus there was no effective opposition to the measures vociferously sought by numerous West Coast interest groups, politicians and journalists.

Finally, President Roosevelt, without raising the question to the level of Cabinet discussion or requiring any careful or thorough review of the situation, and despite the Attorney General's arguments and other information before him, agreed with Secretary Stimson that the exclusion should be carried out.



### The Decision to Detain

With the signing of Executive Order 9066, the course of the President and War Department was set: American citizens and alien residents of Japanese ancestry would be compelled to leave the West Coast on the basis of wartime military necessity. For the War Department and the Western Defense Command, the problem became primarily one of method and operation, not basic policy. General DeWitt first tried “voluntary” resettlement: the ethnic Japanese were to move outside restricted military zones of the

West Coast but otherwise were free to go wherever they chose. From a military standpoint this policy was bizarre, and it was utterly impractical. If the ethnic Japanese had been excluded because they were potential saboteurs and spies, any such danger was not extinguished by leaving them at large in the interior where there were, of course, innumerable dams, power lines, bridges and war industries to be disrupted or spied upon. Conceivably sabotage in the interior could be synchronized with a Japanese raid or invasion for a powerful fifth column effect. This raises serious doubts as to how grave the War Department believed the supposed threat to be.

The War Relocation Authority (WRA), the civilian agency created by the President to supervise the relocation and initially directed by Milton Eisenhower, proceeded on the premise that the vast majority of evacuees were law-abiding and loyal, and that, once off the West Coast, they should be returned quickly to conditions approximating normal life. Governors and officials of the mountain states objected to California using the interior states as a "dumping ground" for a California "problem." They argued that people in their states were so bitter over the voluntary evacuation that unguarded evacuees would face physical danger. Again and again, detention camps for evacuees were urged. The consensus was that a plan for reception centers was acceptable so long as the evacuees remained under guard within the centers.

The War Relocation Authority dropped resettlement and adopted confinement. Notwithstanding WRA's belief that evacuees should be returned to normal productive life, it had, in effect, become their jailer. The politicians of the interior states had achieved the program of detention.

The evacuees were to be held in camps behind barbed wire and released only with government approval. For this course of action no military justification was proffered. The WRA contended that these steps were necessary for the benefit of evacuees and that controls on their departure were designed to assure they would not be mistreated by other Americans on leaving the camps.

**It follows from the conclusion that there was no justification in military necessity for the exclusion, that there was no basis for the detention.**



### **The Effect of the Exclusion and Detention**

The history of the relocation camps and the assembly centers that preceded them is one of suffering and deprivation visited on people against whom no charges were, or could have been, brought.

Families could take to the assembly centers and the camps only what they could carry. Camp living conditions were spartan. People were housed in tar-papered barracks rooms of no more than 20 by 24 feet. Each room housed a family, regardless of family size. Construction was often shoddy. Privacy was practically impossible and furnishings were minimal. Eating and bathing were in mass facilities. Under continuing pressure from those who blindly held to the belief that evacuees harbored disloyal intentions, the wages paid for work at the camps were kept to the minimal level of \$12 a month for unskilled labor, rising to \$19 a month for professional employees. Mass living prevented normal family communication and activities. Heads of families, no longer providing food and shelter, found their authority to lead and to discipline diminished.

**The camp experience carried a stigma that no other Americans suffered. The evacuees themselves expressed the indignity of their conditions with particular power:**

On May 16, 1942, my mother, two sisters, niece, nephew, and I left ... by train. Father joined us later. Brother left earlier by bus. We took whatever we could carry. So much we left behind, but the most valuable thing I lost was my freedom.

• • •

Henry went to the Control Station to register the family. He came home with twenty tags, all numbered 10710, tags to be attached to each piece of baggage, and one to hang from our coat lapels. From then on, we were known as Family #10710.

The government's efforts to "Americanize" the children in the camps were bitterly ironic:

An oft-repeated ritual in relocation camp schools... was the salute to the flag followed by the singing of "My country, 'tis of thee, sweet land of liberty" — a ceremony Caucasian teachers







found embarrassingly awkward if not cruelly poignant in the austere prison setting.



In some ways, I suppose, my life was not too different from a lot of kids in America between the years 1942 and 1945. I spent a good part of my time playing with my brothers and friends, learned to shoot marbles, watched sandlot baseball and envied the older kids who wore Boy Scout uniforms. We shared with the rest of America the same movies, screen heroes and listened to the same heart-rending songs of the forties. We imported much of America into camps because, after all, we were Americans. Through imitation of my brothers, who attended grade school within the camp, I learned to salute the flag by the time I was five years old. I was learning as best one could learn in Manzanar, what it meant to live in America. But, I was also learning the sometimes bitter price one has to pay for it.

After the war, through the Japanese American Evacuation Claims Act, the government attempted to compensate for the losses of real and personal property; inevitably that effort did not secure full or fair compensation. There were many kinds of injury the Evacuation Claims Act made no attempt to compensate: the stigma placed on people who fell under the exclusion and relocation orders; the deprivation of liberty suffered during detention; the psychological impact of exclusion and relocation; the breakdown of family structure; the loss of earnings or profits; physical injury or illness during detention.

### **The Decision to End Detention**

By October 1942, the government held over 100,000 evacuees in relocation camps. **After the tide of war turned with the American victory at Midway in June, 1942, the possibility of serious Japanese attack was no longer credible; detention and exclusion became increasingly difficult to defend.**

Determining the basis on which detention would be ended required the government to focus on the justification for controlling the ethnic Japanese. If the government maintained the position that distinguishing the loyal from the disloyal was possible and that exclusion and detention were required only by the necessity of acting quickly under the threat of Japanese attack in early 1942, then a program to release those considered loyal

should have been instituted in the spring of 1942 when people were confined in the assembly centers.

At the end of 1942, over General DeWitt's opposition, Secretary Stimson, Assistant Secretary McCloy and General George C. Marshall, Chief of Staff, decided to establish a volunteer combat team of Nisei soldiers.<sup>1</sup> The volunteers were to come from those who had passed a loyalty review. To avoid the obvious unfairness of allowing only those joining the military to establish their loyalty and leave the camps, the War Department joined WRA in expanding the loyalty review program to all adult evacuees.

This program was significant, but remained a compromise. It provided an opportunity to demonstrate loyalty to the United States on the battlefields; despite the human sacrifice involved, this was of immense practical importance in obtaining postwar acceptance for the ethnic Japanese. It opened the gates of the camps for some and began some reestablishment of normal life. But with no apparent rationale or justification, it did not end exclusion of the loyal from the West Coast. The review program



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<sup>1</sup>For a further review of the military contributions of the 442nd Regimental Combat Team, 100th Battalion and MIS, see the CWRIC Report, Chapter 10, "Military Service," pages 253-260.

did not extend the presumption of loyalty to American citizens of Japanese descent, who were subjected to an investigation and review not applied to other ethnic groups.

Equally important, although the loyalty review program was the first major government decision in which the interests of evacuees prevailed, the program was conducted so insensitively, with such lack of understanding of the evacuees' circumstances, that it became one of the most divisive and wrenching episodes of the camp detention.

After almost a year of what the evacuees considered utterly unjust treatment at the hands of the government, the loyalty review program began with filling out a questionnaire which posed two questions requiring declarations of complete loyalty to the United States. Thus, the questionnaire demanded a personal expression of position from each evacuee — a choice between faith in one's future in America and an outrage at present injustice. Understandably most evacuees probably had deeply ambiguous



feelings about a government whose rhetorical values of liberty and equality they wished to believe, but who found their present treatment in painful contradiction to those values. The loyalty questionnaire left little room to express that ambiguity. Indeed, it provided an effective point of protest and organization against the government, from which more and more evacuees felt alienated. The questionnaire finally addressed the central question of loyalty that underlay the exclusion policy, a question which had been the predominant political and personal issue for the ethnic Japanese over the past year; answering it required confronting the conflicting emotions aroused by the relation to the government.

Well, I am one of those that said "no, no" on it, one of the "no, no" boys, and it is not that I was proud about it, it was just that our legal rights were violated and I wanted to fight back. However, I didn't want to take this sitting down. I was really angry. It just got me so damn mad. Whatever I do, there was no help from outside, and it seems to me that we are a race that doesn't count. So therefore, this was one of the reasons for the "no, no" answer.

The loyalty review program was a point of decision and division for those in the camps. The avowedly loyal were eligible for release; those who were unwilling to profess loyalty or whom the government distrusted were segregated from the main body of evacuees into the Tule Lake camp, which rapidly became a center of disaffection and protest against the government and its policies — the unhappy refuge of evacuees consumed by anger and despair.

### **The Decision to End Exclusion**

The loyalty review should logically have led to the conclusion that no justification existed for excluding loyal American citizens from the West Coast. Secretary Stimson, Assistant Secretary McCloy and General Marshall reached this position in the spring of 1943. Nevertheless, the exclusion was not ended until December 1944. No plausible reason connected to any wartime security has been offered for this eighteen to twenty month delay in allowing the ethnic Japanese to return to their homes, jobs and businesses on the West Coast.

Between May 1943 and May 1944, War Department officials did not make public their opinion that exclusion of loyal ethnic Japanese from the West Coast no longer had any military justification. If the President was unaware of this view, the plausible explanation is that Secretary Stimson and Assistant Secretary McCloy were unwilling, or believed themselves unable, to face down political opposition on the West Coast. General DeWitt repeatedly expressed his opposition until he left the Western Defense Command in the fall of 1943, as did West Coast anti-Japanese factions and politicians.

In May 1944 Secretary Stimson put before President Roosevelt and the Cabinet his position that the exclusion no longer had a military justification. But the President was unwilling to act to end the exclusion until the first Cabinet meeting following the Presidential election of November 1944. The inescapable conclusion from this factual pattern is that the delay was motivated by political considerations.

By the participants own accounts, there is no rational explanation for maintaining the exclusion of loyal ethnic Japanese from the West Coast for eighteen months after May 1943 — except political pressure and fear. Certainly there was no justification arising out of military necessity.



## The Comparisons

**HAWAII:** When Japan attacked Pearl Harbor, nearly 158,000 persons of Japanese ancestry lived in Hawaii — more than 35 percent of the population. **Surely, if there were dangers of espionage, sabotage and fifth column activity by American citizens and resident aliens of Japanese ancestry, danger would be greatest in Hawaii, and one would anticipate that the most swift and severe measures would be taken there. But nothing of the sort happened.** Less than 2,000 ethnic Japanese in Hawaii were taken into custody during the war — barely one percent of the population of Japanese descent. Many factors contributed to this reaction.

Hawaii was more ethnically mixed and racially tolerant than the West Coast. Race relations in Hawaii before the war were not infected with the same virulent antagonism of 75 years agitation. While anti-Asian feeling existed in the territory, it did not represent the longtime views of well-organized groups as it did on the West Coast and, without statehood, xenophobia had no effective voice in the Congress.

The larger population of ethnic Japanese in Hawaii was also a factor. It is one thing to vent frustration and historical prejudice on a scant two percent of the population; it is very different to disrupt a local economy and tear a social fabric by locking up more than one-third of a territory's people. And in Hawaii the half-measure of exclusion from military areas would have been meaningless.

In large social terms, the Army had much greater control of day-to-day events in Hawaii. Martial law was declared in December 1941, suspending the writ of habeas corpus, so that through the critical first months of the war, the military's recognized power to deal with any emergency was far greater than on the West Coast.

This policy was clearly much more congruent with basic American laws and values. It was also a much sounder policy in practice. The remarkably high rate of enlistment in the Army in Hawaii is in sharp contrast to the doubt and alienation that marred the recruitment of Army volunteers in the relocation camps. The wartime experience in Hawaii left behind neither the extensive economic losses and injury suffered on the mainland

nor the psychological burden of the direct experience of unjust exclusion and detention.

The promulgation of Executive Order 9066 was not justified by military necessity, and the decisions which followed from it — detention, ending detention and ending exclusion — were not driven by analysis of military conditions. The broad historical causes which shaped these decisions were race prejudice, war hysteria and a failure of political leadership. Widespread ignorance of Japanese Americans contributed to a policy conceived in haste and executed in an atmosphere of fear and anger at Japan. A grave injustice was done to American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them, were excluded, removed and detained by the United States during World War II.

Many of those involved in the exclusion, removal and detention passed judgment on those events in memoirs and other statements after the war. **Henry Stimson** recognized that *"to loyal citizens this forced evacuation was a personal injustice."* In his autobiography, **Francis Biddle** reiterated his beliefs at the time. *"The program was ill-advised, unnecessary and unnecessarily cruel."* **Justice William O. Douglas**, who joined the majority opinion in *Korematsu* which held the evacuation constitutionally permissible, found that the evacuation case *"was ever on my conscience."* **Milton Eisenhower** described the evacuation to the relocation camps as *"an inhuman mistake."* **Chief Justice Earl Warren**, who had urged evacuation as Attorney General of California, stated, *"I have since deeply regretted the removal order and my own testimony advocating it, because it was not in keeping with our American concept of freedom and the rights of citizens."* **Justice Tom C. Clark**, who had been liaison between the Justice Department and the Western Defense Command, concluded, *"Looking back on it today [the evacuation] was, of course, a mistake."*



## **PART II: THE ALEUTS**

During the struggle for naval supremacy in the Pacific during WW II, the Aleutian Islands were strategically valuable to both the United States and Japan. Beginning in March 1942, U.S. military intelligence repeatedly warned Alaska defense commanders that Japanese aggression into the Aleutian Islands was imminent. In June 1942, the Japanese attacked and held the two westernmost Aleutians, Kiska and Attu. American military commanders ordered the evacuation of the Aleuts from many of the islands to places of relative safety.

Eight hundred seventy-six Aleuts had been evacuated from Aleut villages west of Unimak Island, including the Pribilofs. Except in Unalaska the entire population of each village was evacuated, including at least 30 non-Aleuts. All of the Aleuts were relocated to southeastern Alaska except 50 persons who were either evacuated to the Seattle area or hospitalized in the Indian Hospital at Tacoma, Washington.

The evacuation of the Aleuts had a rational basis as a precaution to ensure their safety. The Aleuts were evacuated from an active theatre of war; 42 were taken prisoner on Attu by the Japanese. It was clearly the military's belief that evacuation of non-military personnel was advisable.

### **The Aleuts' Camps**

Aleuts were subjected to deplorable conditions following the evacuation. Typical housing was an abandoned gold mine or fish cannery buildings which were inadequate in both accommodation and sanitation. Lack of medical care contributed to extensive disease and death.

The Funter Bay cannery in southeastern Alaska where 300 Aleuts were placed was one of the worst camps. The majority of evacuees were forced to live in two dormitory-style buildings in groups of six to thirteen people in areas of nine to ten feet square. Until fall, many Aleuts were forced to sleep in relays because of lack of space.

In the fall of 1942, the only fulltime medical care was provided by two nurses who served both the cannery camp and a camp at

a mine across Funtar Bay. Doctors were only temporarily assigned to the camp. Medical supplies were scarce.

Epidemics raged throughout the Aleuts' stay in southeastern Alaska; they suffered from influenza, measles, and pneumonia along with tuberculosis. Twenty-five died at Funtar Bay in 1943 alone. It is estimated that probably 10% of the evacuated Aleuts died during their two or three year stay.

**The standard of care which the government owes to those within its care was clearly violated by this treatment, which brought great suffering and loss of life to the Aleuts.**

### **Return to the Islands**

The Pribilofians were able to get back to the Pribilofs by the late spring of 1944, nine months after the Japanese had been driven out of the Aleutian chain. The return to the Aleutians did not take place for another year. The delay may be attributed to transport shortage and problems of supplying the islands in order to resume a normal life. But the government's record, especially in the Aleutians, reflects an indifference and lack of urgency. Some Aleuts were not permitted to return to their homes; to this day, Attuans continue to be excluded from their ancestral lands.

When they first returned, many Aleuts were forced to camp because their former homes (those that had still stood) had not yet been repaired and were now uninhabitable. The Aleuts rebuilt their homes themselves. They were "paid" with free groceries.

**The Aleuts suffered material losses from the government's occupation of the islands for which they were never fully compensated, in cash or in kind.** Devout followers of the Russian Orthodox faith, Aleuts treasured the religious icons and other family heirlooms that were their most significant spiritual as well as material losses. They cannot be replaced.

**In sum, despite the fact that the Aleutians were a theatre of war from which evacuation was a sound policy, there was no justification for the manner in which the Aleuts were treated in the camps, nor for failing to compensate them fully for their material losses.**

## Economic Losses

The excluded people suffered enormous damages and losses, both material and intangible. To the disastrous loss of farms businesses and homes must be added the disruption for many years of careers and professional lives, as well as the long-term loss of income, earnings and opportunity. It is estimated that, as a result of the exclusion and detention, in 1945 dollars the ethnic Japanese lost between \$108 and \$164 million in income and between \$11 and \$206 million in property for which no compensation was made after the war under the terms of the Japanese American Evacuation Claims Act. Adjusting these figures to account for inflation alone, the total losses of income and property fall between \$810 million and \$2 billion in 1983 dollars.<sup>1</sup>

## Recommendations

### Japanese Americans

[The remedies, which the Commission on Wartime Relocation and Internment of Civilians issued on June 16, 1983, are based upon their fact-finding report and economic impact study]

Each measure acknowledges to some degree the wrongs inflicted during the war upon the ethnic Japanese. None can fully compensate or, indeed, make the group whole again.

The Commission makes the following recommendations for remedies as an act of national apology.

1. That Congress pass a joint resolution, to be signed by the President, which recognizes that a grave injustice was done and offers the apologies of the nation for the acts of exclusion, removal and detention.

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<sup>1</sup> An analysis of economic losses was performed for the Commission by ICF Incorporated. According to their study titled, "Economic Losses of Ethnic Japanese as a Result of Exclusion and Detention, 1942-46, total uncompensated economic losses of the ethnic Japanese adjusted for the corporate bond rate range from \$1.2 billion to \$3.1 billion, and at a 3% interest rate and inflation, from \$2.5 billion to \$6.2 billion.

2. That the President pardon those who were convicted of violating the statutes imposing a curfew on American citizens. The Commission further recommends that the Department of Justice review other wartime convictions of the ethnic Japanese and recommend to the President that he pardon those whose offenses were grounded in a refusal to accept treatment that discriminated among citizens on the basis of race or ethnicity.

3. That the Congress direct the Executive agencies to which Japanese Americans may apply for the restitution of positions, status or entitlements lost in whole or in part because of acts or events between December 1941 and 1945.

4. That the Congress demonstrate official recognition of the injustice done to American citizens of Japanese ancestry and Japanese resident aliens during the Second World War, and that it recognize the nation's need to make redress for these events, by appropriating monies to establish a special foundation.

The Commission believes a fund for educational and humanitarian purposes related to the wartime events is appropriate and addresses an injustice suffered by an entire ethnic group.

5. The Commissioners, with the exception of Congressman Lungren, recommended that Congress establish a fund which will provide personal redress to those who were excluded, as well as serve the purposes set out in Recommendation #4.

Appropriations of \$1.5 billion should be made to the fund over a reasonable period to be determined by Congress. This fund should be used, first, to provide a one-time per capita compensatory payment of \$20,000 to each of the approximately 60,000 surviving persons excluded from their places of residence pursuant to Executive Order 9066.<sup>1</sup> The burden should be on the government to locate survivors, without requiring any application for payment, and payments should be made to the oldest survivors first. After per

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<sup>1</sup> Commissioner William M. Marutani formally renounces any monetary recompense either direct or indirect.

capita payments, the remainder of the fund should be used for the public educational purposes as discussed in Recommendation #4.

The fund should be administered by a Board, the majority of whose members are Americans of Japanese descent appointed by the President and confirmed by the Senate.

### **Aleuts**

The Commissioners agree that a claims procedure would not be an effective method of compensation. Therefore, the sums included the Commission's recommendations were chosen to recognize fundamental justice.

1. The Commissioners, with Congressman Lungren dissenting, recommend that Congress establish a fund for the beneficial use of the Aleuts in the amount of \$5 million. The principal and interest of the fund should be spent for community and individual purposes that would be compensatory for the losses and injuries Aleuts suffered as a result of the evacuation.

2. The Commissioners, with Congressman Lungren dissenting, recommend that Congress appropriate funds and direct a payment of \$5,000 per capita to each of the few hundred surviving Aleuts who were evacuated from the Aleutian or Pribilof Islands by the federal government during World War II.

3. That Congress appropriate funds and direct the relevant government agency to rebuild and restore the churches damaged or destroyed in the Aleutian Islands in the course of World War II.

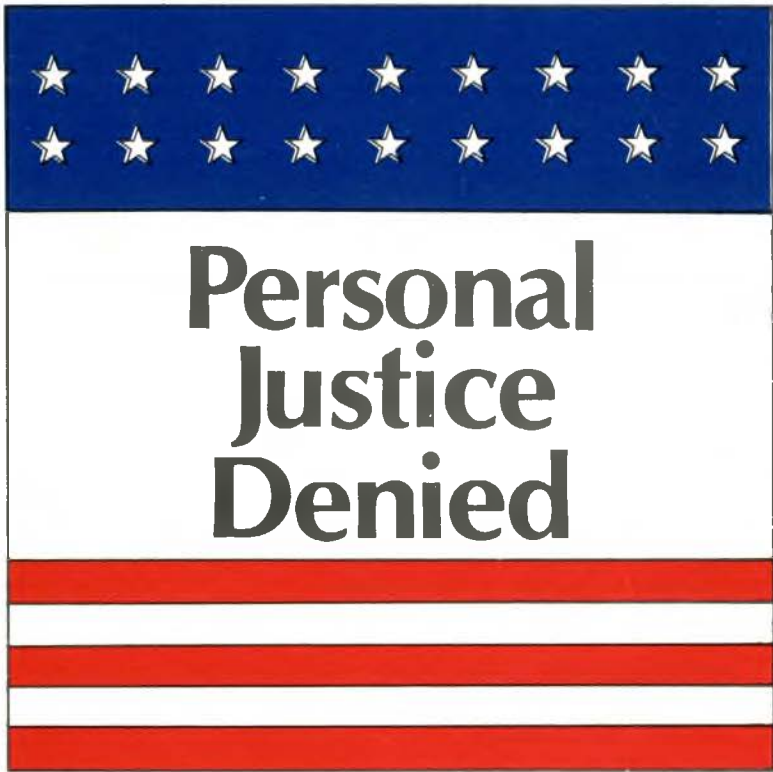
4. That Congress appropriate adequate funds through the public works budget for the Army Corps of Engineers to clear away the debris that remains from World War II in and around populated areas of the Aleutian Islands.

5. That Congress declare Attu to be native land and that Attu be conveyed to the Aleuts through their native corporation upon condition that the native corporation is able to negotiate an agreement with the Coast Guard which will allow that service to continue essential functions on the island.

The Commission believes that, for reasons of redressing the personal justice done to thousands of Americans and resident alien Japanese, and to the Aleuts—and for compelling reasons of preserving a truthful sense of our own history and the lessons we can learn from it—these recommendations should be enacted by the Congress. In the late 1930's W.H. Auden wrote lines that express our present need to acknowledge and to make amends:

*We are left alone with our day, and the time is short  
and History to the defeated  
May say Alas but cannot help or pardon.*

It is our belief that, though history cannot be unmade, it is well within our power to offer help, and to acknowledge error.



**SUMMARY AND RECOMMENDATIONS  
OF THE  
COMMISSION ON WARTIME RELOCATION  
AND INTERNMENT OF CIVILIANS**

THE COMMISSION ON WARTIME RELOCATION  
AND INTERNMENT OF CIVILIANS

Joan Z. Bernstein, *Chair*

Daniel E. Lungren, *Vice-Chair*

Edward W. Brooke

Robert F. Drinan

Arthur S. Flemming

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William M. Marutani

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Angus Macbeth, *Special Counsel*



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# **Personal Justice Denied**

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**REPORT OF THE  
COMMISSION ON WARTIME RELOCATION  
AND INTERNMENT OF CIVILIANS**

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# Summary

## PART 1: NISEI AND ISSEI

On February 19, 1942, ten weeks after the Pearl Harbor attack, President Franklin D. Roosevelt signed Executive Order 9066, which gave to the Secretary of War and the military commanders the power to exclude any and all persons, citizens and aliens, from designated areas in order to provide security against sabotage, espionage and fifth column activity. Shortly thereafter, all American citizens of Japanese descent were prohibited from living, working or traveling on the West Coast of the United States. The same prohibition applied to the generation of Japanese immigrants who, pursuant to federal law and despite long residence in the United States, were not permitted to become American citizens. American citizens and their alien parents were removed by the Army, first to "assembly centers" — temporary quarters at racetracks and fairgrounds — and then to "relocation centers" — bleak barrack camps in desolate areas of the West. The camps were surrounded by barbed wire and guarded by military police. Departure was permitted only after a loyalty review in consultation with the military, by the War Relocation Authority, the civilian agency that ran the camps. Many of those removed from the West Coast were eventually allowed to leave the camps to join the Army, go to college outside the West Coast or to whatever private employment was available. For a larger number, however, the war years were spent behind barbed wire; and for those who were released, the prohibition against returning to their homes and occupations on the West Coast was not lifted until December 1944.

**This policy of exclusion, removal, and detention was executed against 120,000 people without individual review, and exclusion**

**was continued virtually without regard for their demonstrated loyalty to the United States.** Congress was fully aware of and supported the policy of removal and detention; it sanctioned the exclusion by enacting a statute which made criminal the violation of orders issued pursuant to Executive Order 9066. The United States Supreme Court held the exclusion constitutionally permissible in the context of war, but struck down the incarceration of admittedly loyal American citizens on the ground that it was not based on statutory authority.

**All this was done despite the fact that not a single documented act of espionage, sabotage or fifth column activity was committed by an American citizen of Japanese ancestry or by a resident Japanese alien on the West Coast.**

**No mass exclusion or detention, in any part of the country, was ordered against American citizens of German or Italian descent. Official actions against enemy aliens of other nationalities were much more individualized and selective than those imposed on the ethnic Japanese.**

The exclusion, removal and detention inflicted tremendous human cost. There was the obvious cost of homes and businesses sold or abandoned under circumstances of great distress, as well as injury to careers and professional advancement. But most important, there was the loss of liberty and the personal stigma of suspected disloyalty for thousands of people who knew themselves to be devoted to their country's cause and to its ideals but whose repeated protestations of loyalty were discounted — only to be demonstrated beyond any doubt by the record of Nisei soldiers, who returned from the battlefields of Europe as the most decorated and distinguished combat units of World War II and by the thousands of other Nisei who served against the enemy in the Pacific, mostly in military intelligence. The wounds of the exclusion and detention have healed in some respects, but the scars of that experience remain, painfully real in the minds of those who lived through the suffering and deprivation of the camps.

**The personal injustice of excluding, removing and detaining loyal American citizens is manifest. Such events are extraordinary and unique in American history. For every citizen and for American public life, they pose haunting questions about our country and its past.**

## The Decision to Exclude

*The Context of the Decision.* First, the exclusion and removal were attacks on the ethnic Japanese which followed a long and ugly history of West Coast anti-Japanese agitation and legislation. Antipathy and hostility toward the ethnic Japanese was a major factor of the public life of the West Coast states for more than forty years before Pearl Harbor. Under pressure from California, immigration from Japan had been severely restricted in 1908 and entirely prohibited in 1924. Japanese immigrants were barred from American citizenship, although their children born here were citizens by birth. California and the other western states prohibited Japanese immigrants from owning land. In part the hostility was economic, emerging in various white American groups who began to feel competition, particularly in agriculture, the principal occupation of the immigrants. The anti-Japanese agitation also fed on racial stereotypes and fears: the "yellow peril" of an unknown Asian culture achieving substantial influence on the Pacific Coast.



The ethnic Japanese, small in number and with no political voice — the citizen generation was just reaching voting age in 1940 — had become a convenient target for political demagogues. Political bullying was supported by organized interest groups who adopted anti-Japanese agitation as a consistent part of their program: the Native Sons and Daughters of the Golden West, the Joint Immigration Committee, the American Legion, the California State Federation of Labor and the California State Grange.

Second, Japanese armies in the Pacific won a rapid, startling string of victories against the United States and its allies in the first months of World War II. In January and February 1942, the military position of the United States in the Pacific was perilous. There was fear of Japanese attacks on the West Coast.

Next, contrary to the facts, there was a widespread belief, supported by a statement by Frank Knox, Secretary of the Navy, that the Pearl Harbor attack had been aided by sabotage and fifth column activity by ethnic Japanese in Hawaii. The government knew that this was not true, but took no effective measures to disabuse public belief that disloyalty had contributed to massive American losses on December 7, 1941. **Thus the country was unfairly led to believe that both American citizens of Japanese descent and resident Japanese aliens threatened American security.**

Fourth, as anti-Japanese organizations began to speak out and rumors from Hawaii spread, West Coast politicians quickly took up the familiar anti-Japanese cry. The Congressional delegations in Washington organized themselves and pressed the War and Justice Departments and the President for stern measures to control the ethnic Japanese — moving quickly from control of aliens to evacuation and removal of citizens. In California, Governor Olson, Attorney General Warren and Mayor Bowron of Los Angeles, and many local authorities joined the clamor. These opinions were not informed by any knowledge of actual military risks, rather they were stroked by virulent agitation which encountered little opposition. Only a few churchmen and academicians were prepared to defend the Japanese. There was little or no political risk in claiming that it was “better to be safe than sorry” and, as many did, that the best way for ethnic Japanese to prove their loyalty was to volunteer to enter detention. The press amplified



the unreflective emotional excitement of the hour. Through late January and early February 1942, the rising clamor from the West Coast was heard within the federal government as its demands became more draconian.

*Making and Justifying the Decision.* The exclusion of the ethnic Japanese from the West Coast was recommended to the Secretary of War, Henry L. Stimson, by Lieutenant General John L. DeWitt, Commanding General of the Western Defense Command with responsibility for West Coast security. President Roosevelt relied on Secretary Stimson's recommendations in issuing Executive Order 9066.

The justification given for the measure was military necessity. The claim of military necessity is most clearly set out in three places: General DeWitt's February 14, 1942, recommendation to Secretary Stimson for exclusion; General DeWitt's *Final Report: Japanese Evacuation from the West Coast, 1942*; and the government's brief in the Supreme Court defending the Executive Order in *Hirabayashi v. United States*. General DeWitt's February 1942

recommendation presented the following rationale for the exclusion:

The Japanese race is an enemy race and while many second and third generation Japanese born on United States soil, possessed of United States citizenship, have become "Americanized," the racial strains are undiluted. To concede otherwise is to expect that children born of white parents on Japanese soil sever all racial affinity and become loyal Japanese subjects, ready to fight and, if necessary, to die for Japan in a war against the nation of their parents. That Japan is allied with Germany and Italy in this struggle is no ground for assuming that any Japanese, barred from assimilation by convention as he is, though born and raised in the United States, will not turn against this nation when the final test of loyalty comes. It, therefore, follows that along the vital Pacific Coast over 112,000 potential enemies, of Japanese extraction, are at large today. There are indications that these were organized and ready for concerted action at a favorable opportunity. The very fact that no sabotage has taken place to date is a disturbing and confirming indication that such action will be taken.

There are two unfounded justifications for exclusion expressed here: first, that ethnicity ultimately determines loyalty; second, that "indications" suggest that ethnic Japanese "are organized and ready for concerted action" — the best argument for this being the fact that it hadn't happened.

The first evaluation is not a military one but one for sociologists or historians. It runs counter to a basic premise on which the American nation of immigrants is built — that loyalty to the United States is a matter of individual choice and not determined by ties to an ancestral country. The second judgment was, by the General's own admission, unsupported by any evidence. General DeWitt's recommendation clearly does not provide a credible rationale, based on military expertise, for the necessity of exclusion.

In his 1943 *Final Report*, General DeWitt cited a number of factors in support of the exclusion decision: signaling from shore to enemy submarines; arms and contraband found by the FBI during raids on ethnic Japanese homes and businesses; dangers to the ethnic Japanese from vigilantes; concentration of ethnic Japanese around or near militarily sensitive areas; the number of Japanese ethnic organizations on the coast which might shelter



pro-Japanese attitudes or activities such as Emperor worshipping Shinto; and the presence of the Kibei, who had spent some time in Japan.

The first two items point to demonstrable military danger. But the reports of shore-to-ship signaling were investigated by the Federal Communications Commission, the agency with relevant expertise, and no identifiable cases of such signaling were substantiated. The FBI did confiscate arms and contraband from some ethnic Japanese, but most were items normally in the possession of any law-abiding civilian, and the FBI concluded that these searches had uncovered no dangerous persons that "we could not otherwise know about." Thus neither of these "facts" militarily justified exclusion.

There had been some acts of violence against ethnic Japanese on the West Coast and feeling against them ran high, but "protective custody" is not an acceptable rationale for exclusion. Protection against vigilantes is a civilian matter that would involve the military only in extreme cases. But there is no evidence that such extremity had been reached on the West Coast in early 1942. Moreover, "protective custody" could never justify exclusion and detention for months and years.

General DeWitt's remaining points are repeated in the Hirabayashi brief, which also emphasizes dual nationality, Japanese language schools and the high percentage of aliens (who, by law, had been barred from acquiring American citizenship) in the ethnic population. These facts represent broad social judgments of little or no military significance in themselves. None supports the claim of disloyalty to the United States and all were entirely legal. If the same standards were applied to other ethnic groups, as Morton Grodzins, an early analyst of the exclusion decision, applied it to ethnic Italians on the West Coast, an equally compelling and meaningless case for "disloyalty" could be made. In short, these social and cultural patterns were not evidence of any threat to West Coast military security.

**In sum, the record does not permit the conclusion that military necessity warranted the exclusion of ethnic Japanese from the West Coast.**

*The Conditions Which Permitted the Decision.* Having concluded that no military necessity supported the exclusion, the

Commission has attempted to determine how the decision came to be made.

First, General DeWitt apparently believed what he told Secretary Stimson: ethnicity determined loyalty — that it was impossible to distinguish the loyal from the disloyal. On this basis he believed them to be potential enemies among whom loyalty could not be determined.

Second, the FBI and members of Naval Intelligence who had relevant intelligence responsibility were ignored when they stated that nothing more than careful watching of suspicious individuals or individual reviews of loyalty were called for by existing circumstances.

Third, General DeWitt relied heavily on civilian politicians rather than informed military judgments in reaching his conclusions. The civilian politicians largely repeated the prejudiced, unfounded themes of anti-Japanese factions and interest groups on the West Coast.

Fourth, no effective measures were taken by President Roosevelt to calm the West Coast public and refute the rumors of sabotage and fifth column activity at Pearl Harbor.

Fifth, General DeWitt was temperamentally disposed to exaggerate the measures necessary to maintain security and placed security far ahead of any concern for the liberty of citizens.

Sixth, Secretary Stimson and John J. McCloy, Assistant Secretary of War, both of whose views on race differed from those of General DeWitt, failed to insist on a clear military justification for the measures General DeWitt wished to undertake.

Seventh, Attorney General Francis Biddle, while contending that exclusion was unnecessary, did not argue to the President that failure to make out a case of military necessity on the facts would render the exclusion constitutionally impermissible or that the Constitution prohibited exclusion on the basis of ethnicity given the facts on the West Coast.

Eighth, those representing the interests of civil rights and civil liberties in Congress, the press and other public forums were silent or indeed supported exclusion. Thus there was no effective opposition to the measures vociferously sought by numerous West Coast interest groups, politicians and journalists.

Finally, President Roosevelt, without raising the question to the level of Cabinet discussion or requiring any careful or thorough review of the situation, and despite the Attorney General's arguments and other information before him, agreed with Secretary Stimson that the exclusion should be carried out.



### The Decision to Detain

With the signing of Executive Order 9066, the course of the President and War Department was set: American citizens and alien residents of Japanese ancestry would be compelled to leave the West Coast on the basis of wartime military necessity. For the War Department and the Western Defense Command, the problem became primarily one of method and operation, not basic policy. General DeWitt first tried "voluntary" resettlement: the ethnic Japanese were to move outside restricted military zones of the

West Coast but otherwise were free to go wherever they chose. From a military standpoint this policy was bizarre, and it was utterly impractical. If the ethnic Japanese had been excluded because they were potential saboteurs and spies, any such danger was not extinguished by leaving them at large in the interior where there were, of course, innumerable dams, power lines, bridges and war industries to be disrupted or spied upon. Conceivably sabotage in the interior could be synchronized with a Japanese raid or invasion for a powerful fifth column effect. This raises serious doubts as to how grave the War Department believed the supposed threat to be.

The War Relocation Authority (WRA), the civilian agency created by the President to supervise the relocation and initially directed by Milton Eisenhower, proceeded on the premise that the vast majority of evacuees were law-abiding and loyal, and that, once off the West Coast, they should be returned quickly to conditions approximating normal life. Governors and officials of the mountain states objected to California using the interior states as a "dumping ground" for a California "problem." They argued that people in their states were so bitter over the voluntary evacuation that unguarded evacuees would face physical danger. Again and again, detention camps for evacuees were urged. The consensus was that a plan for reception centers was acceptable so long as the evacuees remained under guard within the centers.

The War Relocation Authority dropped resettlement and adopted confinement. Notwithstanding WRA's belief that evacuees should be returned to normal productive life, it had, in effect, become their jailer. The politicians of the interior states had achieved the program of detention.

The evacuees were to be held in camps behind barbed wire and released only with government approval. For this course of action no military justification was proffered. The WRA contended that these steps were necessary for the benefit of evacuees and that controls on their departure were designed to assure they would not be mistreated by other Americans on leaving the camps.

**It follows from the conclusion that there was no justification in military necessity for the exclusion, that there was no basis for the detention.**



### **The Effect of the Exclusion and Detention**

The history of the relocation camps and the assembly centers that preceded them is one of suffering and deprivation visited on people against whom no charges were, or could have been, brought.

Families could take to the assembly centers and the camps only what they could carry. Camp living conditions were spartan. People were housed in tar-papered barracks rooms of no more than 20 by 24 feet. Each room housed a family, regardless of family size. Construction was often shoddy. Privacy was practically impossible and furnishings were minimal. Eating and bathing were in mass facilities. Under continuing pressure from those who blindly held to the belief that evacuees harbored disloyal intentions, the wages paid for work at the camps were kept to the minimal level of \$12 a month for unskilled labor, rising to \$19 a month for professional employees. Mass living prevented normal family communication and activities. Heads of families, no longer providing food and shelter, found their authority to lead and to discipline diminished.

**The camp experience carried a stigma that no other Americans suffered. The evacuees themselves expressed the indignity of their conditions with particular power:**

On May 16, 1942, my mother, two sisters, niece, nephew, and I left ... by train. Father joined us later. Brother left earlier by bus. We took whatever we could carry. So much we left behind, but the most valuable thing I lost was my freedom.

• • •

Henry went to the Control Station to register the family. He came home with twenty tags, all numbered 10710, tags to be attached to each piece of baggage, and one to hang from our coat lapels. From then on, we were known as Family #10710.

The government's efforts to "Americanize" the children in the camps were bitterly ironic:

An oft-repeated ritual in relocation camp schools... was the salute to the flag followed by the singing of "My country, 'tis of thee, sweet land of liberty" — a ceremony Caucasian teachers





found embarrassingly awkward if not cruelly poignant in the austere prison setting.



In some ways, I suppose, my life was not too different from a lot of kids in America between the years 1942 and 1945. I spent a good part of my time playing with my brothers and friends, learned to shoot marbles, watched sandlot baseball and envied the older kids who wore Boy Scout uniforms. We shared with the rest of America the same movies, screen heroes and listened to the same heart-rending songs of the forties. We imported much of America into camps because, after all, we were Americans. Through imitation of my brothers, who attended grade school within the camp, I learned to salute the flag by the time I was five years old. I was learning as best one could learn in Manzanar, what it meant to live in America. But, I was also learning the sometimes bitter price one has to pay for it.

After the war, through the Japanese American Evacuation Claims Act, the government attempted to compensate for the losses of real and personal property; inevitably that effort did not secure full or fair compensation. There were many kinds of injury the Evacuation Claims Act made no attempt to compensate: the stigma placed on people who fell under the exclusion and relocation orders; the deprivation of liberty suffered during detention; the psychological impact of exclusion and relocation; the breakdown of family structure; the loss of earnings or profits; physical injury or illness during detention.

## The Decision to End Detention

By October 1942, the government held over 100,000 evacuees in relocation camps. **After the tide of war turned with the American victory at Midway in June, 1942, the possibility of serious Japanese attack was no longer credible; detention and exclusion became increasingly difficult to defend.**

Determining the basis on which detention would be ended required the government to focus on the justification for controlling the ethnic Japanese. If the government maintained the position that distinguishing the loyal from the disloyal was possible and that exclusion and detention were required only by the necessity of acting quickly under the threat of Japanese attack in early 1942, then a program to release those considered loyal



should have been instituted in the spring of 1942 when people were confined in the assembly centers.

At the end of 1942, over General DeWitt's opposition, Secretary Stimson, Assistant Secretary McCloy and General George C. Marshall, Chief of Staff, decided to establish a volunteer combat team of Nisei soldiers.<sup>1</sup> The volunteers were to come from those who had passed a loyalty review. To avoid the obvious unfairness of allowing only those joining the military to establish their loyalty and leave the camps, the War Department joined WRA in expanding the loyalty review program to all adult evacuees.

This program was significant, but remained a compromise. It provided an opportunity to demonstrate loyalty to the United States on the battlefields; despite the human sacrifice involved, this was of immense practical importance in obtaining postwar acceptance for the ethnic Japanese. It opened the gates of the camps for some and began some reestablishment of normal life. But with no apparent rationale or justification, it did not end exclusion of the loyal from the West Coast. The review program



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<sup>1</sup>For a further review of the military contributions of the 442nd Regimental Combat Team, 100th Battalion and MIS, see the CWRIC Report, Chapter 10, "Military Service," pages 253-260.

did not extend the presumption of loyalty to American citizens of Japanese descent, who were subjected to an investigation and review not applied to other ethnic groups.

Equally important, although the loyalty review program was the first major government decision in which the interests of evacuees prevailed, the program was conducted so insensitively, with such lack of understanding of the evacuees' circumstances, that it became one of the most divisive and wrenching episodes of the camp detention.

After almost a year of what the evacuees considered utterly unjust treatment at the hands of the government, the loyalty review program began with filling out a questionnaire which posed two questions requiring declarations of complete loyalty to the United States. Thus, the questionnaire demanded a personal expression of position from each evacuee — a choice between faith in one's future in America and an outrage at present injustice. Understandably most evacuees probably had deeply ambiguous



feelings about a government whose rhetorical values of liberty and equality they wished to believe, but who found their present treatment in painful contradiction to those values. The loyalty questionnaire left little room to express that ambiguity. Indeed, it provided an effective point of protest and organization against the government, from which more and more evacuees felt alienated. The questionnaire finally addressed the central question of loyalty that underlay the exclusion policy, a question which had been the predominant political and personal issue for the ethnic Japanese over the past year; answering it required confronting the conflicting emotions aroused by the relation to the government.

Well, I am one of those that said "no, no" on it, one of the "no, no" boys, and it is not that I was proud about it, it was just that our legal rights were violated and I wanted to fight back. However, I didn't want to take this sitting down. I was really angry. It just got me so damn mad. Whatever I do, there was no help from outside, and it seems to me that we are a race that doesn't count. So therefore, this was one of the reasons for the "no, no" answer.

The loyalty review program was a point of decision and division for those in the camps. The avowedly loyal were eligible for release; those who were unwilling to profess loyalty or whom the government distrusted were segregated from the main body of evacuees into the Tule Lake camp, which rapidly became a center of disaffection and protest against the government and its policies — the unhappy refuge of evacuees consumed by anger and despair.

### **The Decision to End Exclusion**

The loyalty review should logically have led to the conclusion that no justification existed for excluding loyal American citizens from the West Coast. Secretary Stimson, Assistant Secretary McCloy and General Marshall reached this position in the spring of 1943. Nevertheless, the exclusion was not ended until December 1944. No plausible reason connected to any wartime security has been offered for this eighteen to twenty month delay in allowing the ethnic Japanese to return to their homes, jobs and businesses on the West Coast.

Between May 1943 and May 1944, War Department officials did not make public their opinion that exclusion of loyal ethnic Japanese from the West Coast no longer had any military justification. If the President was unaware of this view, the plausible explanation is that Secretary Stimson and Assistant Secretary McCloy were unwilling, or believed themselves unable, to face down political opposition on the West Coast. General DeWitt repeatedly expressed his opposition until he left the Western Defense Command in the fall of 1943, as did West Coast anti-Japanese factions and politicians.

In May 1944 Secretary Stimson put before President Roosevelt and the Cabinet his position that the exclusion no longer had a military justification. But the President was unwilling to act to end the exclusion until the first Cabinet meeting following the Presidential election of November 1944. The inescapable conclusion from this factual pattern is that the delay was motivated by political considerations.

By the participants own accounts, there is no rational explanation for maintaining the exclusion of loyal ethnic Japanese from the West Coast for eighteen months after May 1943 — except political pressure and fear. Certainly there was no justification arising out of military necessity.



## The Comparisons

**HAWAII:** When Japan attacked Pearl Harbor, nearly 158,000 persons of Japanese ancestry lived in Hawaii — more than 35 percent of the population. **Surely, if there were dangers of espionage, sabotage and fifth column activity by American citizens and resident aliens of Japanese ancestry, danger would be greatest in Hawaii, and one would anticipate that the most swift and severe measures would be taken there. But nothing of the sort happened.** Less than 2,000 ethnic Japanese in Hawaii were taken into custody during the war — barely one percent of the population of Japanese descent. Many factors contributed to this reaction.

Hawaii was more ethnically mixed and racially tolerant than the West Coast. Race relations in Hawaii before the war were not infected with the same virulent antagonism of 75 years agitation. While anti-Asian feeling existed in the territory, it did not represent the longtime views of well-organized groups as it did on the West Coast and, without statehood, xenophobia had no effective voice in the Congress.

The larger population of ethnic Japanese in Hawaii was also a factor. It is one thing to vent frustration and historical prejudice on a scant two percent of the population; it is very different to disrupt a local economy and tear a social fabric by locking up more than one-third of a territory's people. And in Hawaii the half-measure of exclusion from military areas would have been meaningless.

In large social terms, the Army had much greater control of day-to-day events in Hawaii. Martial law was declared in December 1941, suspending the writ of habeas corpus, so that through the critical first months of the war, the military's recognized power to deal with any emergency was far greater than on the West Coast.

This policy was clearly much more congruent with basic American laws and values. It was also a much sounder policy in practice. The remarkably high rate of enlistment in the Army in Hawaii is in sharp contrast to the doubt and alienation that marred the recruitment of Army volunteers in the relocation camps. The wartime experience in Hawaii left behind neither the extensive economic losses and injury suffered on the mainland

nor the psychological burden of the direct experience of unjust exclusion and detention.

The promulgation of Executive Order 9066 was not justified by military necessity, and the decisions which followed from it — detention, ending detention and ending exclusion — were not driven by analysis of military conditions. The broad historical causes which shaped these decisions were race prejudice, war hysteria and a failure of political leadership. Widespread ignorance of Japanese Americans contributed to a policy conceived in haste and executed in an atmosphere of fear and anger at Japan. A grave injustice was done to American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them, were excluded, removed and detained by the United States during World War II.

Many of those involved in the exclusion, removal and detention passed judgment on those events in memoirs and other statements after the war. **Henry Stimson** recognized that *"to loyal citizens this forced evacuation was a personal injustice."* In his autobiography, **Francis Biddle** reiterated his beliefs at the time: *"The program was ill-advised, unnecessary and unnecessarily cruel."* **Justice William O. Douglas**, who joined the majority opinion in *Korematsu* which held the evacuation constitutionally permissible, found that the evacuation case *"was ever on my conscience."* **Milton Eisenhower** described the evacuation to the relocation camps as *"an inhuman mistake."* **Chief Justice Earl Warren**, who had urged evacuation as Attorney General of California, stated, *"I have since deeply regretted the removal order and my own testimony advocating it, because it was not in keeping with our American concept of freedom and the rights of citizens."* **Justice Tom C. Clark**, who had been liaison between the Justice Department and the Western Defense Command, concluded, *"Looking back on it today [the evacuation] was, of course, a mistake."*

## **PART II: THE ALEUTS**

During the struggle for naval supremacy in the Pacific during WW II, the Aleutian Islands were strategically valuable to both the United States and Japan. Beginning in March 1942, U.S. military intelligence repeatedly warned Alaska defense commanders that Japanese aggression into the Aleutian Islands was imminent. In June 1942, the Japanese attacked and held the two westernmost Aleutians, Kiska and Attu. American military commanders ordered the evacuation of the Aleuts from many of the islands to places of relative safety.

Eight hundred seventy-six Aleuts had been evacuated from Aleut villages west of Unimak Island, including the Pribilofs. Except in Unalaska the entire population of each village was evacuated, including at least 30 non-Aleuts. All of the Aleuts were relocated to southeastern Alaska except 50 persons who were either evacuated to the Seattle area or hospitalized in the Indian Hospital at Tacoma, Washington.

The evacuation of the Aleuts had a rational basis as a precaution to ensure their safety. The Aleuts were evacuated from an active theatre of war; 42 were taken prisoner on Attu by the Japanese. It was clearly the military's belief that evacuation of non-military personnel was advisable.

### **The Aleuts' Camps**

Aleuts were subjected to deplorable conditions following the evacuation. Typical housing was an abandoned gold mine or fish cannery buildings which were inadequate in both accommodation and sanitation. Lack of medical care contributed to extensive disease and death.

The Funtier Bay cannery in southeastern Alaska where 300 Aleuts were placed was one of the worst camps. The majority of evacuees were forced to live in two dormitory-style buildings in groups of six to thirteen people in areas of nine to ten feet square. Until fall, many Aleuts were forced to sleep in relays because of lack of space.

In the fall of 1942, the only fulltime medical care was provided by two nurses who served both the cannery camp and a camp at

a mine across Funter Bay. Doctors were only temporarily assigned to the camp. Medical supplies were scarce.

Epidemics raged throughout the Aleuts' stay in southeastern Alaska; they suffered from influenza, measles, and pneumonia along with tuberculosis. Twenty-five died at Funter Bay in 1943 alone. It is estimated that probably 10% of the evacuated Aleuts died during their two or three year stay.

**The standard of care which the government owes to those within its care was clearly violated by this treatment, which brought great suffering and loss of life to the Aleuts.**

### **Return to the Islands**

The Pribilovians were able to get back to the Pribilofs by the late spring of 1944, nine months after the Japanese had been driven out of the Aleutian chain. The return to the Aleutians did not take place for another year. The delay may be attributed to transport shortage and problems of supplying the islands in order to resume a normal life. But the government's record, especially in the Aleutians, reflects an indifference and lack of urgency. Some Aleuts were not permitted to return to their homes; to this day, Attuans continue to be excluded from their ancestral lands.

When they first returned, many Aleuts were forced to camp because their former homes (those that had still stood) had not yet been repaired and were now uninhabitable. The Aleuts rebuilt their homes themselves. They were "paid" with free groceries.

**The Aleuts suffered material losses from the government's occupation of the islands for which they were never fully recompensated, in cash or in kind.** Devout followers of the Russian Orthodox faith, Aleuts treasured the religious icons and other family heirlooms that were their most significant spiritual as well as material losses. They cannot be replaced.

**In sum, despite the fact that the Aleutians were a theatre of war from which evacuation was a sound policy, there was no justification for the manner in which the Aleuts were treated in the camps, nor for failing to compensate them fully for their material losses.**



## Economic Losses

The excluded people suffered enormous damages and losses, both material and intangible. To the disastrous loss of farms businesses and homes must be added the disruption for many years of careers and professional lives, as well as the long-term loss of income, earnings and opportunity. It is estimated that, as a result of the exclusion and detention, in 1945 dollars the ethnic Japanese lost between \$108 and \$164 million in income and between \$11 and \$206 million in property for which no compensation was made after the war under the terms of the Japanese American Evacuation Claims Act. Adjusting these figures to account for inflation alone, the total losses of income and property fall between \$810 million and \$2 billion in 1983 dollars.<sup>1</sup>

## Recommendations

### Japanese Americans

[The remedies, which the Commission on Wartime Relocation and Internment of Civilians issued on June 16, 1983, are based upon their fact-finding report and economic impact study.]

Each measure acknowledges to some degree the wrongs inflicted during the war upon the ethnic Japanese. None can fully compensate or, indeed, make the group whole again.

The Commission makes the following recommendations for remedies as an act of national apology.

1. That Congress pass a joint resolution, to be signed by the President, which recognizes that a grave injustice was done and offers the apologies of the nation for the acts of exclusion, removal and detention.

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<sup>1</sup> An analysis of economic losses was performed for the Commission by ICF Incorporated. According to their study titled, "Economic Losses of Ethnic Japanese as a Result of Exclusion and Detention, 1942-46, total uncompensated economic losses of the ethnic Japanese adjusted for the corporate bond rate range from \$1.2 billion to \$3.1 billion, and at a 3% interest rate and inflation, from \$2.5 billion to \$6.2 billion.

2. That the President pardon those who were convicted of violating the statutes imposing a curfew on American citizens. The Commission further recommends that the Department of Justice review other wartime convictions of the ethnic Japanese and recommend to the President that he pardon those whose offenses were grounded in a refusal to accept treatment that discriminated among citizens on the basis of race or ethnicity.

3. That the Congress direct the Executive agencies to which Japanese Americans may apply for the restitution of positions, status or entitlements lost in whole or in part because of acts or events between December 1941 and 1945.

4. That the Congress demonstrate official recognition of the injustice done to American citizens of Japanese ancestry and Japanese resident aliens during the Second World War, and that it recognize the nation's need to make redress for these events, by appropriating monies to establish a special foundation.

The Commission believes a fund for educational and humanitarian purposes related to the wartime events is appropriate and addresses an injustice suffered by an entire ethnic group.

5. That Congress establish a fund which will provide personal redress to those who were excluded.

Appropriations of \$1.5 billion should be made to the fund over a reasonable period to be determined by Congress. This fund should be used, first, to provide a one-time per capita compensatory payment of \$20,000 to each of the approximately 60,000 surviving persons excluded from their places of residence pursuant to Executive Order 9066. The burden should be on the government to locate survivors, without requiring any application for payment, and payments should be made to the oldest survivors first. After per capita payments, the remainder of the fund should be used for the public educational purposes as discussed in Recommendation #4.

The fund should be administered by a Board, the majority of whose members are Americans of Japanese descent appointed by the President and confirmed by the Senate.

### **Aleuts**

The Commissioners agree that a claims procedure would not be an effective method of compensation. Therefore, the sums in-

cluded in the Commission's recommendations were chosen to recognize fundamental justice.

1. That Congress establish a fund for beneficial use of the Aleuts in the amount of \$5 million. The principal and interest of the fund should be spent for community and individual purposes that would be compensatory for the losses and injuries Aleuts suffered as a result of the evacuation.
2. That Congress appropriate funds and direct a payment of \$5,000 per capita to each of the few hundred surviving Aleuts who were evacuated from the Aleutian or Pribilof Islands by the federal government during World War II.
3. That Congress appropriate funds and direct the relevant government agency to rebuild and restore the churches damaged or destroyed in the Aleutian Islands in the course of World War II.
4. That Congress appropriate adequate funds through the public works budget for the Army Corps of Engineers to clear away the debris that remains from World War II in and around populated areas of the Aleutian Islands.
5. That Congress declare Attu to be native land and that Attu be conveyed to the Aleuts through their native corporation upon condition that the native corporation is able to negotiate an agreement with the Coast Guard which will allow that service to continue essential functions on the island.

The Commission believes that, for reasons of redressing the personal injustice done to thousands of Americans and resident alien Japanese, and to the Aleuts — and for compelling reasons of preserving a truthful sense of our own history and the lessons we can learn from it — these recommendations should be enacted by the Congress. In the late 1930's W. H. Auden wrote lines that express our present need to acknowledge and to make amends:

*We are left alone with our day, and the time is short  
and History to the defeated  
May say Alas but cannot help or pardon.*

It is our belief that, though history cannot be unmade, it is well within our power to offer help, and to acknowledge error.

## ADDENDUM

### Personal Justice Denied

Edited and Printed by the Japanese American Citizens League

The following, omitted from the JACL copy of Personal Justice Denied, is taken directly from the Recommendations issued by the Commission on Wartime Relocation and Internment of Civilians.

#### Recommendations: Japanese Americans

Recommendation #5, (p. 28): "The Commissioners, with the exception of Congressman Lungren, recommended that Congress establish a fund which will provide personal redress to those who were excluded, as well as serve the purposes set out in Recommendation 4."

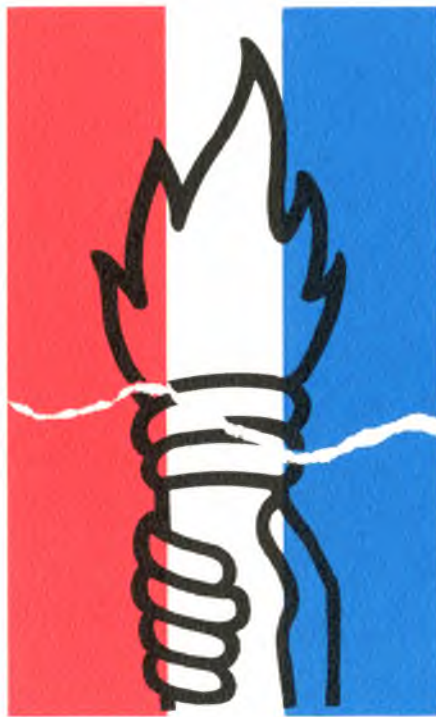
Footnote to Recommendation #5, (p. 28): "Commissioner William M. Marutani formally renounces any monetary recompense either direct or indirect."

#### Recommendations: Aleuts

Recommendation #1, (p. 29): "The Commissioners, with Congressman Lungren dissenting, recommend that Congress establish a fund for the beneficial use of the Aleuts in the amount of \$5 million."

Recommendation #2, (p. 29): "The Commissioners, with Congressman Lungren dissenting, recommend that Congress appropriate funds and direct a payment of \$5,000 per capita to each of the few hundred surviving Aleuts who were evacuated from the Aleutian or Pribilof Islands by the federal government during World War II."

# THE JAPANESE AMERICAN INCARCERATION: A CASE FOR REDRESS



June 1978

*(First Edition)*

The National Committee for Redress  
Japanese American Citizens League

# **The Japanese American Incarceration: A Case for Redress**

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# INTRODUCTION

"No person shall be deprived of life, liberty, or property without due process of law. The accused shall enjoy the right to a speedy and public trial by an impartial jury and to be informed of the nature and cause of the accusation." These protections are guaranteed in the 5th and 6th Amendments to the Constitution of the United States of America.

However, during 1942–46, some 77,000 American citizens of Japanese ancestry and 43,000 Japanese nationals, most of whom were permanent U.S. residents, were summarily deprived of liberty and property without criminal charges, and without trial of any kind. Several persons were also violently deprived of life. All persons of Japanese ancestry on the West Coast were expelled from their homes and confined in inland detention camps. The sole basis for these actions was ancestry—citizenship, age, loyalty, or innocence of wrongdoing did not matter. Japanese Americans were the only ones singled out for mass incarceration. German and Italian nationals, and American citizens of German and Italian ancestries were not imprisoned en masse.

This episode was one of the worst blows to constitutional liberties that the American people have ever sustained. Many Americans find it difficult to understand how such a massive injustice could have occurred in a democratic nation. This booklet will attempt to explain how and why it happened, and what can be done to ameliorate the effects of that mistake. Professor Eugene V. Rostow once wrote: "Until the wrong is acknowledged and made right we shall have failed to meet the responsibility of a democratic society—the obligation of equal justice."



## ROOT CAUSES

The seeds of prejudice which resulted in the incarceration of Japanese Americans during World War II were sown nearly a century earlier when the first immigrants from Asia arrived during the California Gold Rush. California was then a lawless frontier territory. White immigrants from the Eastern United States had just succeeded in wresting control of the territory from Mexico, and had briefly proclaimed an independent Republic of California.

Mexico was forced to cede California to the United States in 1848, and almost simultaneously gold was discovered in the Sierra Nevada foothills. Immigrants from the Eastern states, and from all over the world, rushed to California during 1848–49. There was intense, often violent competition for control of the gold mines, and ultimately for control of the Territory of California.

About 25% of the miners in California during the Gold Rush came from China. The English-speaking newcomers who had previously established dominance over the Native, Spanish, and Mexican Californians were in no mood to tolerate further competition. Using acts of terrorism—mass murder and arson—the white newcomers drove the Chinese out of the mining areas.

When California became a state in 1850, lawless violence against the Chinese was transformed into legal discrimination. Official government prejudice against Asian Americans thus became established. Article 19 of the California State Constitution authorized cities to totally expel or restrict Chinese persons to segregated areas, and prohibited the employment of Chinese persons by public agencies and corporations. Other federal, state or local laws or court decisions at various times prohibited the Chinese from: becoming citizens or voting, testifying in court against a white person, engaging in licensed businesses and professions, attending school with whites, and marrying whites. Chinese persons alone were required to pay special taxes, and a major source of revenue for many cities, counties and the State of California came from these assessments against the Chinese.

Despite such barriers, there were more opportunities in California than in poverty-stricken China, and more Chinese immigrants arrived. But with the much larger influx of white immigrants from Eastern states and Europe, the proportion of Chinese persons in California dropped to 10% of the population.

Big business recruited Chinese workers for menial labor, but white labor unions agitated for the removal of all Chinese persons from California. The rallying cry for white labor leaders became: "The Chinese must go!" White elected officials soon joined the exclusion movement and pressured the federal government to stop immigration from China. In response to the California lobby, Congress passed a series of Chinese Exclusion Acts beginning in 1882. The California pressure groups won their first campaign to exclude an Asian minority.

## **JAPANESE ARRIVE**

As the Chinese population rapidly declined due to the lack of women and the men returning to China, an acute labor shortage developed in the Western states and the Territory of Hawaii in the 1880s. The agricultural industry wanted another group of laborers who would do the menial work at low wages, and looked to Japan as a new source. At that time, however, Japan prohibited laborers from leaving the country. The United States pressured Japan to relax the ban on labor emigration, and Japan consequently allowed laborers to leave in 1884.

The American agricultural industry recruited Japanese laborers to work in the sugar cane fields of Hawaii, and the fruits and vegetable farms of California. From the handful who were here prior to the Chinese Exclusion Act, the Japanese population increased to about 61,000 in Hawaii and 24,000 on the mainland by 1900. The Japanese replaced the Chinese as the largest non-white ethnic group in the West Coast and Hawaii.

As long as the Japanese remained docile, their hard labor was welcomed, but as soon as they showed signs of initiative they were perceived as threats to white dominance. Japanese farm laborers, together with Mexican farm laborers, conducted the first successful agricultural strike in California in 1903. Japanese farm laborers were well organized and engaged in collective bargaining for higher wages: many saved enough money to lease or buy land.

The Japanese farmers reclaimed much of the unwanted land and developed it into rich agricultural areas. In California, Japanese farmers produced 50–90% of some fruits and vegetables despite operating only 4% of the farmlands. Envy led to hate, and the prevailing anti-Asian animosities became focused on the Japanese.

The anti-Japanese campaign began with acts of violence and lawlessness: mob assaults, arson, and forcible expulsion from farming areas became commonplace. Soon these prejudices became institutionized into law. As with the earlier Chinese pioneers, the Japanese were also denied citizenship, prohibited from certain occupations, forced to send their children to segregated schools, and could not marry whites. In addition, some laws were specifically directed against the Japanese, including the denial of the right to own, lease, or give gifts of agricultural land.

Like the Chinese exclusion movement before, California lobbied the federal government to stop all immigration from Japan. As a result of these pressures, Japanese laborers were excluded by executive action in 1907, and all Japanese immigration for permanent residence was prohibited by the Asian Exclusion Act of 1924. Japan considered the Exclusion Act a national insult, particularly since the United States had insisted upon Japanese immigration in the first place. President Theodore Roosevelt once remarked: "The infernal fools in California insult the Japanese recklessly and in the event of war it will be the nation as a whole which will pay the consequences."

To the dismay of the exclusionists, the Japanese population did not quickly decrease as the Chinese population did earlier. There were sufficient numbers of Japanese women pioneers who gave

birth to an American-born generation, and families decided to make the United States their permanent home. As the exclusionists intensified their efforts to get rid of the Japanese, their campaign was enhanced by the development of a powerful new weapon—the mass media.

Newspapers, radio, and motion pictures stereotyped Japanese Americans as untrustworthy and unassimilable. The media did not recognize the fact that a large number of persons of Japanese ancestry living in the United States were American citizens. As Japan became a military power, the media falsely depicted Japanese Americans as agents for Japan. Newspapers inflamed the “Yellow Peril” myths on the West Coast; radio, movies and comic strips spread the disease of prejudice throughout the United States.

Trapped in segregated neighborhoods and with no access to the media, Japanese Americans were unable to counteract the false stereotypes. Even though those born in the United States were culturally American, spoke English fluently, and were well educated, they faced almost insurmountable discrimination in employment, housing, public accommodations and social interaction.

## OUTBREAK OF WAR

It is difficult to pinpoint exactly when World War II began. Germany and Japan became military powers in the 1930s and began their conquests by annexing neighboring nations by sheer intimidation. Actually military conflicts broke out in Asia when Japan invaded China in 1937, and in Europe when Germany invaded Poland in 1939.

As Germany overran the European continent and drove into Africa and the Soviet Union, and Japan likewise in Asia and Southeast Asia, the United States was placed under tremendous pressure to enter the war. In July 1941, the United States together with Britain and the Dutch East Indies (Indonesia) imposed a total em-

bargo on exports to Japan, thus effectively cutting off Japan's oil supply.

The United States had broken Japan's top secret code and was aware of the oil crisis in Japan and the probability of armed conflict. Consequently, the U.S. government undertook certain precautionary measures. In October 1941, the State Department dispatched a special investigator, Curtis B. Munson, to check on the disposition of the Japanese American communities on the West Coast and Hawaii.

In November 1941, Munson submitted a confidential report to the President and the Secretary of State which certified that Japanese Americans possessed an extraordinary degree of loyalty to the United States, and immigrant Japanese were of no danger. Munson's findings were corroborated by years of secret surveillance conducted by the Federal Bureau of Investigation (FBI) and Navy Intelligence. Both the FBI and Navy Intelligence reported there were a few potential extremists identified but almost 100% of the Japanese American population was perfectly trustworthy. High U.S. government and military officials were aware of these intelligence reports, but they kept them secret from the public.

Japan's military forces attacked the U.S. military bases near Honolulu, Territory of Hawaii, and near Manila, Territory of the Philippines, on December 7, 1941 (U.S. Time), and the United States declared war on the following day.

Many people who are unfamiliar with the historical background have assumed that the attack on Hawaii was the cause of, or justification for, the mass incarceration of Japanese Americans on the West Coast. But that assumption is contradicted by one glaring fact: the Japanese Americans in Hawaii were not similarly incarcerated en masse. Such a massive injustice could not have occurred without the prior history of prejudice and legal discrimination. Actually it was the culmination of the movement to eliminate Asians from the West Coast which began nearly 100 years earlier.

The FBI was well prepared for the war and arrested over 2,000 persons of Japanese ancestry throughout the United States and

Territories of Alaska and Hawaii within a few days after the declaration of war. Nearly all of these arrestees were Japanese nationals, but some American citizens were included.

No charge of espionage, sabotage, or any other crime was ever filed against these arrestees. They were apprehended only because they were thought to be "suspicious" persons in the opinion of the FBI. Evidently, anyone who was a community leader was "suspicious" to the FBI because almost all of the arrestees were organization officers, Buddhist or Shinto priests, newspaper editors, language or judo school instructors, or labor organizers. The established leadership of the Japanese American community was wiped out. Inexperienced teen-agers and young adults were suddenly thrust into the position of making crucial decisions affecting the entire Japanese American community.

Men were taken away without notice, and their families were left without a means of livelihood. Most families had no idea of why their men were arrested, where they were taken, or for how long. Some arrestees were released after a few weeks, but most were secretly transported to one of 26 internment or isolation camps scattered in 16 states plus the Territories of Alaska and Hawaii.

Some families did not learn for years what happened to their loved ones. Most internees were eventually re-united with their families, but only within another barbed wire compound—the mass detention camps where their families had been sent in the meantime. Some, however, were confined in these special prison camps for the duration of the war, together with the Central and South American Japanese who were brought in for internment at the insistence of the United States.

Perhaps due to the swift action of the FBI, there was very little public panic, hysteria, or irrationality for the first month of the war. In fact, public opinion was remarkably enlightened: some newspapers even published editorials and letters sympathetic to Japanese Americans, and some elected officials urged the general public not to blame or harm Japanese Americans.

The white economic interests in California, however, were not satisfied with the arrests of individuals, and the fact that domestic security was under firm control. They wanted the entire Japanese American population eliminated from California. The same pressure groups and newspapers that agitated so long for Japanese exclusion organized an intense rumor and hate campaign. Totally false stories were published about spies and saboteurs among the Japanese Americans. The war became the perfect pretext for the anti-Japanese groups to accomplish the goal they had been seeking for almost 50 years.

The truth was that no person of Japanese ancestry living in the United States or Territories of Alaska and Hawaii was ever charged with, or convicted of espionage or sabotage. On the other hand, numerous persons of non-Japanese ancestry were charged and convicted as agents for Japan.

Because of the long background of prejudice and stereotypes, the public found it easy to believe the false stories. High federal officials knew the facts, but they kept silent. By mid-January 1942, public opinion began to turn against the Japanese Americans. Elected officials, city councils, and civic organizations in California, Oregon and Washington demanded the ouster and incarceration of all Japanese Americans.

Earl Warren, then attorney general of California, made the incredible statement that the very absence of fifth column activities by Japanese Americans was confirmation that such actions were planned for the future. Warren also claimed American citizens of Japanese ancestry were more dangerous than nationals of Japan.

There were a few isolated acts of violence committed against Japanese Americans, but there was no reason to believe the entire Japanese American population was in danger. If there were any threats, it was the job of local police and sheriff departments to provide protection. Also many Japanese Americans were perfectly willing to take whatever risk necessary to protect their home and property.

## EXPULSION AND DETENTION

Like the immigration exclusion campaigns before, the California lobby pressured the federal government to remove and/or lock up all Japanese Americans. Oregon and Washington supported California's demands, but the rest of the nation was generally unconcerned about the tiny Japanese American minority. There were many important and real war problems needing attention, but the West Coast pressure groups seemed preoccupied with the elimination of Japanese Americans.

President Franklin Roosevelt eventually yielded to the pressures from California and signed Executive Order 9066 on February 19, 1942. Roosevelt signed the order despite objections from Attorney General Francis Biddle, who felt it was unconstitutional, and FBI Director J. Edgar Hoover, who felt it was unnecessary.

Executive Order 9066 broadly authorized any military commander to exclude any person from any area. The presidential order did not mention any specific group, nor did it provide for detention. However, there was an understanding among high officials that the authorization was to be used for the purpose of removing and incarcerating the Japanese Americans. Also due to the lobbying from California, Congress backed the Executive Order by passing Public Law 77-503, which authorized a civil prison term and fine for a civilian convicted of violating a military order.

General John L. DeWitt, military commander of the Western Defense Command, thereupon issued a series of over 100 military orders applying exclusively to civilians of Japanese ancestry living in the West Coast states. The sole basis for DeWitt's orders was ancestry; he was often quoted as stating: "A Jap's a Jap. It makes no difference whether the Jap is a citizen or not." He further masked the issue of citizen rights by using the term "non-alien" to refer to United States citizens in all of his written orders.

It should be noted that martial law was not declared on the West Coast; the writ of habeas corpus was not suspended; the civil courts were in full operation, and anyone charged with espionage or sabotage could have been brought to trial. It also should be



remembered that of the 1,100,000 nationals of enemy nations living in the United States in 1942, less than 4% were Japanese nationals.

DeWitt first announced that all persons of Japanese ancestry must leave the Western half of the West Coast states and the Southern half of Arizona, and urged the affected people to move inland "voluntarily." Approximately 10,000 tried to comply, mostly moving in with relatives in the Eastern half of the West Coast states and interior states. Many, however, were forced to turn back by hostile crowds and armed posses.

American citizens of Japanese ancestry were placed under curfew, included with nationals of Japan, Germany and Italy. American citizens of German and Italian ancestries were not restricted in any way.

DeWitt then announced that all persons of Japanese ancestry would be expelled from the Eastern half of the West Coast states as well and prohibited from any further "voluntary" migration. He ordered them to maintain their residences until ordered to report for detention. Beginning in March 1952, DeWitt ordered all persons of Japanese ancestry in California, plus parts of Arizona, Oregon and Washington to turn themselves in at a temporary detention camp near their homes.

The rationale for these actions on the West Coast was "military necessity," but such a claim was inconsistent with the fact that Japanese Americans in Hawaii were not similarly subjected to wholesale and indiscriminate incarceration. Hawaii was 3,000 miles closer to the enemy, and in far greater danger of invasion and sabotage. The military commander in Hawaii decided that "military necessity" there required the vast majority of Japanese Americans to remain free to help maintain the islands' economy.

Like the initial FBI roundups on the mainland, some Japanese nationals in Hawaii were imprisoned on an individual basis and held in prison camps on the islands or transferred to the mass detention or smaller internment camps on the mainland. Only 1% of the Hawaii Japanese population was incarcerated.

DeWitt's detention orders were ostensibly for the purpose of protecting the West Coast against sabotage and espionage, but babies, orphans, adopted children, the infirm and bedridden elderly were also imprisoned. Children of multiple ancestry were included if they had any Japanese ancestry at all. Colonel Karl Bendetsen, who directly administered the program, stated: "I am determined that if they have one drop of Japanese blood in them, they must go to camp."

Non-Japanese spouses, adoptive parents, and orphanage directors were forced to surrender their children for incarceration or enter the camp themselves. The only exceptions were for those confined in prisons or asylums, and the few adults with 1/32 or less Japanese ancestry who could prove they had no contact whatsoever with other persons of Japanese ancestry.

There were 15 temporary detention camps scattered throughout Arizona, California, Oregon and Washington. They were mostly county fairgrounds, race tracks, and livestock exhibition halls hastily converted into detention camps with barbed wire fences, search lights and guard towers. Each camp held about 5,000 detainees, except for the Santa Anita Race Track near Los Angeles which held over 18,000 and Mayer, Arizona which held only 247. Living quarters consisted of horse stalls, some with manure still inside.

Japanese Americans had to leave their homes with only a few days notice and could take only what they could carry with them. Property had to be hurriedly sold, abandoned, given away, left in insecure storage or unpredictable trusts. Crops were left unharvested. Many lost titles to homes, businesses and farmlands because taxes and mortgage payments became impossible to pay. Bank accounts had already been frozen or confiscated as "enemy assets," and there was little source of income within the camps.

The incarceration of Japanese Americans was accomplished district by district over a five month period. DeWitt methodically issued detention orders almost daily, each applying to a new locale. As the orders progressed through the Eastern half of California, Japanese Americans in the Eastern halves of Oregon and

Washington fully expected their turn would be next. They stripped their possessions down to the bare essentials that they could carry, just as the others had been required to do. They lived day to day unsettled under the constant threat of imminent proscription, but the actual detention orders never came.

Government actions also encouraged private harassment: for example, in one town outside the official expulsion area, the entire Japanese American community was boycotted and forced to leave town.

In June 1942 the U.S. Navy won a decisive victory at the Battle of Midway and the tide of war shifted in favor of the United States. Japan was no longer militarily capable of attacking the West Coast, or even Hawaii. The U.S. government and military were aware of this fact, but they relentlessly went ahead with plans to build permanent mass detention facilities in the interior desert and swamp regions.

At great cost and despite the critical shortage of materials, the government built 10 mass detention camps in the isolated areas of Arizona, Arkansas, California, Colorado, Idaho, Utah and Wyoming. The vast majority of Japanese Americans were moved from the temporary detention camps near their hometowns to the permanent camps several hundred miles away after the threat of invasion had vanished. Each of the permanent camps held some 12,000 Japanese Americans, and a total of about 120,000 Japanese Americans were ultimately detained.

The inland camps were located in desolate areas and were surrounded by a high barbed wire fence, sometimes two such fences, sometimes electrified. Guard towers were placed at strategic intervals, and any Japanese American leaving without permission was shot. Dozens of detainees and internees were shot and wounded, and eight were killed by guards (1 at Central Utah, 1 at Gila River, 2 at Manzanar, 1 at Tule Lake, 2 at Lordsburg, 1 at Fort Sill). Living quarters were crowded and there was no privacy. Large extended families or groups of unrelated individuals were squeezed into tiny unpartitioned 16 x 20 feet units.

Japanese Americans were known for their pride in rarely having been on welfare or locked up in prisons, but the camps relegated them into wards of the government guarded by armed soldiers. Fathers were no longer the family breadwinners; parents lost control of their children, and families rarely ate meals together. Many were terrified because of the unpredictable future and the hopelessness of the situation. Many did not expect to come out alive.

Overwhelming despair caused some detainees to commit suicide. Many more died prematurely due to inadequate medical facilities and the harsh environment.

All incoming and outgoing communications were censored, including personal letters and newspapers. All internal communications were strictly controlled by the camp administration. The Japanese language was banned at public meetings, and the Buddhist and Shinto religions were suppressed.

While the Japanese Americans were incarcerated, and unknown to them at the time, some members of Congress and the State Department proposed legislation or executive action to strip all native-born Americans of Japanese ancestry of their citizenship and deport them to Japan after the war. Other elected officials demanded that the imprisoned Japanese Americans be used as reprisal targets for the mistreatment of American prisoners of war. One member of Congress even proposed a mandatory sterilization program. Fortunately, none of these extreme measures was taken.

However, another form of indignity was imposed on the detainees in February 1943. After being imprisoned for nearly a year, all detainees 17 years of age and older were required to answer a questionnaire indicating their loyalty to the United States and their willingness to serve in the U.S. armed forces. It was an audacious act for the government to require such an oath from people already locked up.

Due to the insensitive wording, Japanese nationals were asked, in effect, to renounce the only citizenship they could have (since they were prohibited from becoming U.S. citizens) and render themselves stateless. American citizens were asked to falsely in-

criminate themselves by "foreswearing" an allegiance to Japan—an allegiance they never had. Women and elderly persons were asked to serve on "combat duty whenever ordered."

Despite all the confusion, fear, anger, bitterness and incongruity, the majority of detainees affirmatively signed the oath. This did not mean, however, that the minority who refused to cooperate were any less loyal or patriotic. Some highly principled individuals felt their fundamental constitutional rights should be restored before signing. Under the circumstances of a prison camp environment, the loyalty questionnaire did not measure a person's true loyalty.

The detainees tried to make the dreary camps halfway tolerable by foraging scrap materials to make furniture and room partitions. They used indigenous plants to make gardens, and surplus materials or adobe to build schools and recreation facilities. Detainees also operated their own camp farms, and many camps became self-supporting in food.

Detainees volunteered to relieve the critical farm labor shortage in the Mountain Plains area and were granted seasonal work leaves. Others were given leaves to fill labor shortage in Midwest and East Coast factories, and college students were granted educational leaves. But these leaves were a form of parole: they were not free to go or do anything they wanted, and had to periodically report to government officials. During 1943 and 1944, about 33% of the detainees, mostly young single men and women, were conditionally released on various forms of leaves or for military duty. The other 67% remained in the camps for the duration of the war.

When the United States entered the war in 1941, there were about 5,000 Japanese Americans in the armed forces, but many were summarily discharged as unsuitable for service. Japanese Americans were classified by the Selective Service System as "enemy" nationals (4C) ineligible for service. Thousands of Japanese Americans volunteered for duty but were refused enlistment.

The armed forces, however, soon discovered the need for Japanese language specialists, and started to recruit Japanese Americans for the Military Intelligence Service and Office of Strategic

Services in June 1942. The Selective Service System was bypassed, and the fact that Japanese Americans were serving with the U.S. armed forces in the Pacific Theater was not made public knowledge. Japanese American soldiers in Asia and the Pacific Islands worked primarily as translators, but engaged in combat whenever the need arose. By obtaining crucial military intelligence, the Japanese American soldiers are generally credited with having shortened the Pacific war by two years.

In January 1943, the U.S. War Department announced that Japanese American volunteers would be accepted for combat duty in Europe. Most of the volunteers came from Hawaii, but there were also thousands who volunteered from within the mass detention camps on the mainland. The volunteers were assigned to a segregated Japanese American unit—the 442nd Regimental Combat Team. The 442nd eventually became the most decorated American unit to fight in World War II for its size and length of service.

In January 1944, the Selective Service System started to draft Japanese American men, even though they were still incarcerated in the camps. Some 33,000 Japanese Americans served in the U.S. armed forces during World War II, 6,000 of them in the Pacific Theater. Some Japanese American soldiers in the combat zones were much more concerned about the treatment of their families still incarcerated behind barbed wire fences in the United States than they were about the enemy firepower they faced.

## THE SUPREME COURT

While the majority of Japanese Americans complied with the military orders as a means of demonstrating their loyalty to the United States, there were many equally patriotic individuals who decided to challenge the discriminatory orders on constitutional grounds. As a means of testing the orders in the courts, over 100 Japanese

Americans deliberately violated one or more of the orders and invited arrest. But the government was apprehensive about a judicial review and declined to prosecute most of these violators.

Instead, the government carefully selected for prosecution three individuals who did not appear to have the backing of any Japanese American organization. Minoru Yasui was charged with violating the curfew, Gordon Hirabayashi with violating the curfew and refusing to report for detention, and Fred Korematsu for failing to report for detention. All three men were convicted in the federal courts for variously disobeying military orders and sentenced to prison terms under Public Law 77-503. The legal issues were slightly different in each case; the three appealed to the U.S. Court of Appeals and their cases were ultimately heard by the Supreme Court.

On the other hand, Mitsuye Endo cooperated with the military orders, but when she found herself detained against her will without charges, she sought a writ of habeas corpus in July 1942. Habeas corpus cases are supposed to be adjudged promptly, but the federal district court took a full year before announcing the decision denying Endo's plea for release. Endo appealed, but again, the Court of Appeals took another year before forwarding her case to the Supreme Court.

All four Japanese American appellants argued that the military orders were unconstitutional when applied to citizen civilians, and the government conceded that the appellants were loyal citizens who had not committed any crimes other than to challenge the military orders.

Regretfully, judges, and even justices of the Supreme Court, were not immune from the prejudices of the times, and the judicial system failed in its constitutional responsibility to protect citizens against abuses by the executive and legislative branches.

In *Hirabayashi and Yasui v. U.S.* (320 US 81, 115), the Supreme Court ruled that a curfew may be imposed against one group of American citizens based solely on ancestry. In *Korematsu v. U.S.* (323 US 215), the Supreme Court further decided that one group of

citizens may be singled out and expelled from their homes and imprisoned for several years without trial, again based solely on ancestry. The Court refused to question military judgment, or the validity of military orders applied to civilians without a declaration of martial law.

The Supreme Court justified these decisions by reiterating the false stereotypes about Japanese Americans which had permeated white American thinking. The justices argued, without any foundation in fact, that Japanese Americans were inherently more dangerous to national security than other people merely because of their ancestry. The Court ignored the constitutional guarantees of due process and equal protection of law, and violated the basic principle of American justice that guilt and punishment must be individual, i.e., the inalienable rights to life, liberty and property cannot be deprived except upon conviction of an individual's own wrongdoing—not the wrongdoing of others, nor of a group. Justice Robert Jackson stated in dissent: "The Court for all time has validated the principle of racial discrimination in criminal procedure."

In the case of *Ex Parte Endo* (323 US 283), the Court granted Endo an unconditional release from confinement. In a very important sense, however, she lost her point. The court specifically stated that the original expulsion from the West Coast and the detention for three years without charges or trial were legitimate exercises of presidential and military power during an emergency. The Court merely ruled that Endo and other admittedly loyal American citizens could not be imprisoned indefinitely.

Refusing to consider the salient constitutional issues begging for resolution, the Court decided the *Endo* case on narrow technical grounds—that Executive Order 9066 did not authorize the indefinite detention of citizens who the government conceded were loyal, nor did it authorize the imposition of parole conditions on citizens once removed from the West Coast.

The *Endo* decision was announced on December 18, 1944. The Western Defense Command (then under General Henry C. Pratt) had rescinded the exclusion and detention orders a day earlier on December 17th. Japanese Americans were free to return to their homes on the West Coast effective January 1945.



## RETURNING HOME

The return of Japanese Americans to their homes in California, Oregon and Washington was marked by vigilante violence and the agitation of pressure groups to keep out the Japanese Americans permanently. Homes, farms and businesses left behind were occupied by whites unwilling to return property to rightful owners. Homes were burned and dynamited, and Japanese Americans were targets of terrorist shootings. More acts of violence and terrorism were committed against Japanese Americans at the end of the war than at the beginning.

Despite the well-publicized accomplishments of the 442nd Regimental Combat Team, the names of Japanese American soldiers were removed from community honor rolls, and the remains of Japanese American soldiers killed in action overseas were refused burial in some hometown cemeteries. Many restaurants, hotels, barbershops, gasoline stations, grocery stores, and other public accommodations refused to serve Japanese Americans. United States Army Captain Daniel K. Inouye (now a U.S. Senator), in full uniform with all his medals on, walked into a San Francisco barbershop, but he was told: "We don't serve Japs here."

When news of the hostility reached those still remaining in the camps, they became reluctant about returning home. The Pacific war ended in August 1945, but the last mass detention camp did not close until October 1946 and the last special internment camp did not close until 1952.

Reconstructing their lives was not easy, and for some it was too late. Elderly pioneers had lost everything they worked for all their lives, and were too old to start anew. Having been expelled from their homes and jobs at the height of their productive years, they were unable to save much for retirement. About 20% of the surviving pioneers were below poverty level by the 1970 Census. Many American-born had their education disrupted and could no longer afford to go to college because family support became their responsibility.

Property losses alone were conservatively estimated by the Federal Reserve Bank in San Francisco to be in excess of 400 million dollars based on 1941 figures. Congress appropriated partial restitution for property losses, but only 8½% of property losses were ever compensated. Nothing was done to compensate for the tremendous increase in land values during the war years, lost income, unnecessary deaths, mental sufferings and loss of freedom.

Not only were direct losses sustained, but long lasting psychological damages resulted. Families disintegrated under the prison-like conditions, and individuals became disoriented and embittered. People lost their sense of self-esteem and could not regain enough self-confidence to compete as well as they could have in American society. Adults could never forget the experience, and children faced the life-long stigma of their birth certificates or school records indicating they spent their childhood in captivity. Most importantly, Japanese Americans suffered the indignity of being falsely imprisoned by their own government.

# REDRESS

By custom and tradition, any American who has been injured by false accusation, arrest or imprisonment is expected to bring the responsible parties into court and obtain a judgment clearing his or her name and collecting damages as redress. Freedom is considered so precious by Americans that even a few days in false imprisonment have been compensated with large monetary sums.

German Jews experienced the horrors of the Nazi death camps. Japanese Americans experienced the agonies of being incarcerated for an indeterminate period. Both were imprisoned in barbed wire compounds with armed guards. Both were prisoners of their own country. Both were there without criminal charges, and were completely innocent of any wrongdoing. Both were there for only one reason—ancestry. German Jews were systematically murdered en masse—that did not happen to Japanese Americans, but the point is that both Germany and the United States persecuted their own citizens based on ancestry.

West Germany has made a 25 billion dollar restitution payment to Jews and Jewish institutions, and another 10 to 15 billion dollars will be paid. The fact that the victorious Allied Powers initially imposed on Germany the concept of reparations to the victims of the Third Reich does not diminish the righteousness or the justice of the act. The Federal Republic of Germany has stated that it is giving precedence to the payment of compensatory damages to "those who suffered in mind and body, or had been deprived unjustly of their freedom." In subsequent legislation Germany went far beyond the responsibilities assumed in the earlier agreements.

More recently, the United States government designated an American Jewish organization to negotiate with East Germany on restitutions. The United States has informed the German Democratic Republic that a refusal to acknowledge the necessity for a meaningful restitution would delay the establishment of normal diplomatic relations.

The mass expulsion and incarceration of American citizens without trial did happen here in the United States. As a professed leader in civil and human rights throughout the world, the United States must take meaningful action to correct its own mistakes.

President Gerald R. Ford rescinded the Executive Order 9066 on February 19, 1976—exactly 34 years after its promulgation—and stated: “An honest reckoning must include a recognition of our national mistakes as well as our national achievements. Learning from our mistakes is not pleasant, but as a great philosopher once admonished, we must do so if we want to avoid repeating them.”

Redress for the injustices of 1942–1946 is not just an isolated Japanese American issue; it is an issue of concern for all Americans. Restitution does not put a price tag on freedom or justice. The issue is not to recover what cannot be recovered. The issue is to acknowledge the mistake by providing proper redress for the victims of the injustice, and thereby make such injustices less likely to recur.



# Mass Detention Camps for Japanese Americans, 1942-46

	NAME	LOCATION	DETAINEES
1.	Central Utah (Topaz) Utah	Millard County Northwest of Delta	8,130
2.	Colorado River (Poston) Arizona	Colorado River Indian Reservation South of Parker	17,814
3.	Gila River (Rivers) Arizona	Gila River Indian Reservation West of Sacaton	13,348
4.	Granada (Amache) Colorado	Prowers County Between Koen and Granada	7,318
5.	Heart Mountain Wyoming	Park County Between Cody and Ralston	10,767
6.	Jerome (Denson) Arkansas	Chicot and Drew Counties Between Hudspeth and Jerome	8,497
7.	Manzanar California	Inyo County Between Independence and Lone Pine	10,046
8.	Minidoka (Hunt) Idaho	Jerome County North of Eden	9,397
9.	Rohwer Arkansas	Desha County Between Kelso and Rohwer	8,475
10.	Tule Lake (Newell) California	Modoc County Between Stronghold and Newell	18,789

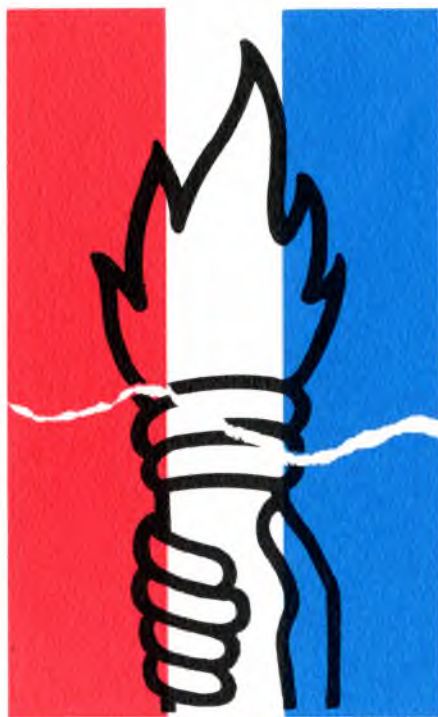
Additional 26 smaller internment or isolation camps were located in: Alaska, Arizona, California, Hawaii, Idaho, Louisiana, Maryland, Massachusetts, Montana, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Tennessee, Texas, Utah and Wisconsin.

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# **THE JAPANESE AMERICAN INCARCERATION: A CASE FOR REDRESS**



**June 1978**

**The National Committee for Redress  
Japanese American Citizens League**



# **The Japanese American Incarceration: A Case for Redress**

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# INTRODUCTION

"No person shall be deprived of life, liberty, or property without due process of law. The accused shall enjoy the right to a speedy and public trial by an impartial jury and to be informed of the nature and cause of the accusation." These protections are guaranteed in the 5th and 6th Amendments to the Constitution of the United States of America.

However, during 1942–46, some 77,000 American citizens of Japanese ancestry and 43,000 Japanese nationals, most of whom were permanent U.S. residents, were summarily deprived of liberty and property without criminal charges, and without trial of any kind. Several persons were also violently deprived of life. All persons of Japanese ancestry on the West Coast were expelled from their homes and confined in inland detention camps. The sole basis for these actions was ancestry—citizenship, age, loyalty, or innocence of wrongdoing did not matter. Japanese Americans were the only ones singled out for mass incarceration. German and Italian nationals, and American citizens of German and Italian ancestries were not imprisoned en masse.

This episode was one of the worst blows to constitutional liberties that the American people have ever sustained. Many Americans find it difficult to understand how such a massive injustice could have occurred in a democratic nation. This booklet will attempt to explain how and why it happened, and what can be done to ameliorate the effects of that mistake. Professor Eugene V. Rostow once wrote: "Until the wrong is acknowledged and made right we shall have failed to meet the responsibility of a democratic society—the obligation of equal justice."

# ROOT CAUSES

The seeds of prejudice which resulted in the incarceration of Japanese Americans during World War II were sown nearly a century earlier when the first immigrants from Asia arrived during the California Gold Rush. California was then a lawless frontier territory. White immigrants from the Eastern United States had just succeeded in wresting control of the territory from Mexico, and had briefly proclaimed an independent Republic of California.

Mexico was forced to cede California to the United States in 1848, and almost simultaneously gold was discovered in the Sierra Nevada foothills. Immigrants from the Eastern states, and from all over the world, rushed to California during 1848–49. There was intense, often violent competition for control of the gold mines, and ultimately for control of the Territory of California.

About 25% of the miners in California during the Gold Rush came from China. The English-speaking newcomers who had previously established dominance over the Native, Spanish, and Mexican Californians were in no mood to tolerate further competition. Using acts of terrorism—mass murder and arson—the white newcomers drove the Chinese out of the mining areas.

When California became a state in 1850, lawless violence against the Chinese was transformed into legal discrimination. Official government prejudice against Asian Americans thus became established. Article 19 of the California State Constitution authorized cities to totally expel or restrict Chinese persons to segregated areas, and prohibited the employment of Chinese persons by public agencies and corporations. Other federal, state or local laws or court decisions at various times prohibited the Chinese from: becoming citizens or voting, testifying in court against a white person, engaging in licensed businesses and professions, attending school with whites, and marrying whites. Chinese persons alone were required to pay special taxes, and a major source of revenue for many cities, counties and the State of California came from these assessments against the Chinese.

Despite such barriers, there were more opportunities in California than in poverty-stricken China, and more Chinese immigrants arrived. But with the much larger influx of white immigrants from Eastern states and Europe, the proportion of Chinese persons in California dropped to 10% of the population.

Big business recruited Chinese workers for menial labor, but white labor unions agitated for the removal of all Chinese persons from California. The rallying cry for white labor leaders became: "The Chinese must go!" White elected officials soon joined the exclusion movement and pressured the federal government to stop immigration from China. In response to the California lobby, Congress passed a series of Chinese Exclusion Acts beginning in 1882. The California pressure groups won their first campaign to exclude an Asian minority.

## **JAPANESE ARRIVE**

As the Chinese population rapidly declined due to the lack of women and the men returning to China, an acute labor shortage developed in the Western states and the Territory of Hawaii in the 1880s. The agricultural industry wanted another group of laborers who would do the menial work at low wages, and looked to Japan as a new source. At that time, however, Japan prohibited laborers from leaving the country. The United States pressured Japan to relax the ban on labor emigration, and Japan consequently allowed laborers to leave in 1884.

The American agricultural industry recruited Japanese laborers to work in the sugar cane fields of Hawaii, and the fruits and vegetable farms of California. From the handful who were here prior to the Chinese Exclusion Act, the Japanese population increased to about 61,000 in Hawaii and 24,000 on the mainland by 1900. The Japanese replaced the Chinese as the largest non-white ethnic group in the West Coast and Hawaii.

As long as the Japanese remained docile, their hard labor was welcomed, but as soon as they showed signs of initiative they were perceived as threats to white dominance. Japanese farm laborers, together with Mexican farm laborers, conducted the first successful agricultural strike in California in 1903. Japanese farm laborers were well organized and engaged in collective bargaining for higher wages: many saved enough money to lease or buy land.

The Japanese farmers reclaimed much of the unwanted land and developed it into rich agricultural areas. In California, Japanese farmers produced 50–90% of some fruits and vegetables despite operating only 4% of the farmlands. Envy led to hate, and the prevailing anti-Asian animosities became focused on the Japanese.

The anti-Japanese campaign began with acts of violence and lawlessness: mob assaults, arson, and forcible expulsion from farming areas became commonplace. Soon these prejudices became institutionized into law. As with the earlier Chinese pioneers, the Japanese were also denied citizenship, prohibited from certain occupations, forced to send their children to segregated schools, and could not marry whites. In addition, some laws were specifically directed against the Japanese, including the denial of the right to own, lease, or give gifts of agricultural land.

Like the Chinese exclusion movement before, California lobbied the federal government to stop all immigration from Japan. As a result of these pressures, Japanese laborers were excluded by executive action in 1907, and all Japanese immigration for permanent residence was prohibited by the Asian Exclusion Act of 1924. Japan considered the Exclusion Act a national insult, particularly since the United States had insisted upon Japanese immigration in the first place. President Theodore Roosevelt once remarked: "The infernal fools in California insult the Japanese recklessly and in the event of war it will be the nation as a whole which will pay the consequences."

To the dismay of the exclusionists, the Japanese population did not quickly decrease as the Chinese population did earlier. There were sufficient numbers of Japanese women pioneers who gave

birth to an American-born generation, and families decided to make the United States their permanent home. As the exclusionists intensified their efforts to get rid of the Japanese, their campaign was enhanced by the development of a powerful new weapon—the mass media.

Newspapers, radio, and motion pictures stereotyped Japanese Americans as untrustworthy and unassimilable. The media did not recognize the fact that a large number of persons of Japanese ancestry living in the United States were American citizens. As Japan became a military power, the media falsely depicted Japanese Americans as agents for Japan. Newspapers inflamed the “Yellow Peril” myths on the West Coast; radio, movies and comic strips spread the disease of prejudice throughout the United States.

Trapped in segregated neighborhoods and with no access to the media, Japanese Americans were unable to counteract the false stereotypes. Even though those born in the United States were culturally American, spoke English fluently, and were well educated, they faced almost insurmountable discrimination in employment, housing, public accommodations and social interaction.

## **OUTBREAK OF WAR**

It is difficult to pinpoint exactly when World War II began. Germany and Japan became military powers in the 1930s and began their conquests by annexing neighboring nations by sheer intimidation. Actually military conflicts broke out in Asia when Japan invaded China in 1937, and in Europe when Germany invaded Poland in 1939.

As Germany overran the European continent and drove into Africa and the Soviet Union, and Japan likewise in Asia and Southeast Asia, the United States was placed under tremendous pressure to enter the war. In July 1941, the United States together with Britain and the Dutch East Indies (Indonesia) imposed a total em-

bargo on exports to Japan, thus effectively cutting off Japan's oil supply.

The United States had broken Japan's top secret code and was aware of the oil crisis in Japan and the probability of armed conflict. Consequently, the U.S. government undertook certain precautionary measures. In October 1941, the State Department dispatched a special investigator, Curtis B. Munson, to check on the disposition of the Japanese American communities on the West Coast and Hawaii.

In November 1941, Munson submitted a confidential report to the President and the Secretary of State which certified that Japanese Americans possessed an extraordinary degree of loyalty to the United States, and immigrant Japanese were of no danger. Munson's findings were corroborated by years of secret surveillance conducted by the Federal Bureau of Investigation (FBI) and Navy Intelligence. Both the FBI and Navy Intelligence reported there were a few potential extremists identified but almost 100% of the Japanese American population was perfectly trustworthy. High U.S. government and military officials were aware of these intelligence reports, but they kept them secret from the public.

Japan's military forces attacked the U.S. military bases near Honolulu, Territory of Hawaii, and near Manila, Territory of the Philippines, on December 7, 1941 (U.S. Time), and the United States declared war on the following day.

Many people who are unfamiliar with the historical background have assumed that the attack on Hawaii was the cause of, or justification for, the mass incarceration of Japanese Americans on the West Coast. But that assumption is contradicted by one glaring fact: the Japanese Americans in Hawaii were not similarly incarcerated en masse. Such a massive injustice could not have occurred without the prior history of prejudice and legal discrimination. Actually it was the culmination of the movement to eliminate Asians from the West Coast which began nearly 100 years earlier.

The FBI was well prepared for the war and arrested over 2,000 persons of Japanese ancestry throughout the United States and



Territories of Alaska and Hawaii within a few days after the declaration of war. Nearly all of these arrestees were Japanese nationals, but some American citizens were included.

No charge of espionage, sabotage, or any other crime was ever filed against these arrestees. They were apprehended only because they were thought to be "suspicious" persons in the opinion of the FBI. Evidently, anyone who was a community leader was "suspicious" to the FBI because almost all of the arrestees were organization officers, Buddhist or Shinto priests, newspaper editors, language or judo school instructors, or labor organizers. The established leadership of the Japanese American community was wiped out. Inexperienced teen-agers and young adults were suddenly thrust into the position of making crucial decisions affecting the entire Japanese American community.

Men were taken away without notice, and their families were left without a means of livelihood. Most families had no idea of why their men were arrested, where they were taken, or for how long. Some arrestees were released after a few weeks, but most were secretly transported to one of 26 internment or isolation camps scattered in 16 states plus the Territories of Alaska and Hawaii.

Some families did not learn for years what happened to their loved ones. Most internees were eventually re-united with their families, but only within another barbed wire compound—the mass detention camps where their families had been sent in the meantime. Some, however, were confined in these special prison camps for the duration of the war, together with the Central and South American Japanese who were brought in for internment at the insistence of the United States.

Perhaps due to the swift action of the FBI, there was very little public panic, hysteria, or irrationality for the first month of the war. In fact, public opinion was remarkably enlightened: some newspapers even published editorials and letters sympathetic to Japanese Americans, and some elected officials urged the general public not to blame or harm Japanese Americans.

The white economic interests in California, however, were not satisfied with the arrests of individuals, and the fact that domestic security was under firm control. They wanted the entire Japanese American population eliminated from California. The same pressure groups and newspapers that agitated so long for Japanese exclusion organized an intense rumor and hate campaign. Totally false stories were published about spies and saboteurs among the Japanese Americans. The war became the perfect pretext for the anti-Japanese groups to accomplish the goal they had been seeking for almost 50 years.

The truth was that no person of Japanese ancestry living in the United States or Territories of Alaska and Hawaii was ever charged with, or convicted of espionage or sabotage. On the other hand, numerous persons of non-Japanese ancestry were charged and convicted as agents for Japan.

Because of the long background of prejudice and stereotypes, the public found it easy to believe the false stories. High federal officials knew the facts, but they kept silent. By mid-January 1942, public opinion began to turn against the Japanese Americans. Elected officials, city councils, and civic organizations in California, Oregon and Washington demanded the ouster and incarceration of all Japanese Americans.

Earl Warren, then attorney general of California, made the incredible statement that the very absence of fifth column activities by Japanese Americans was confirmation that such actions were planned for the future. Warren also claimed American citizens of Japanese ancestry were more dangerous than nationals of Japan.

There were a few isolated acts of violence committed against Japanese Americans, but there was no reason to believe the entire Japanese American population was in danger. If there were any threats, it was the job of local police and sheriff departments to provide protection. Also many Japanese Americans were perfectly willing to take whatever risk necessary to protect their home and property.

# EXPULSION AND DETENTION

Like the immigration exclusion campaigns before, the California lobby pressured the federal government to remove and/or lock up all Japanese Americans. Oregon and Washington supported California's demands, but the rest of the nation was generally unconcerned about the tiny Japanese American minority. There were many important and real war problems needing attention, but the West Coast pressure groups seemed preoccupied with the elimination of Japanese Americans.

President Franklin Roosevelt eventually yielded to the pressures from California and signed Executive Order 9066 on February 19, 1942. Roosevelt signed the order despite objections from Attorney General Francis Biddle, who felt it was unconstitutional, and FBI Director J. Edgar Hoover, who felt it was unnecessary.

Executive Order 9066 broadly authorized any military commander to exclude any person from any area. The presidential order did not mention any specific group, nor did it provide for detention. However, there was an understanding among high officials that the authorization was to be used for the purpose of removing and incarcerating the Japanese Americans. Also due to the lobbying from California, Congress backed the Executive Order by passing Public Law 77-503, which authorized a civil prison term and fine for a civilian convicted of violating a military order.

General John L. DeWitt, military commander of the Western Defense Command, thereupon issued a series of over 100 military orders applying exclusively to civilians of Japanese ancestry living in the West Coast states. The sole basis for DeWitt's orders was ancestry; he was often quoted as stating: "A Jap's a Jap. It makes no difference whether the Jap is a citizen or not." He further masked the issue of citizen rights by using the term "non-alien" to refer to United States citizens in all of his written orders.

It should be noted that martial law was not declared on the West Coast; the writ of habeas corpus was not suspended; the civil courts were in full operation, and anyone charged with espionage or sabotage could have been brought to trial. It also should be

remembered that of the 1,100,000 nationals of enemy nations living in the United States in 1942, less than 4% were Japanese nationals.

DeWitt first announced that all persons of Japanese ancestry must leave the Western half of the West Coast states and the Southern half of Arizona, and urged the affected people to move inland "voluntarily." Approximately 10,000 tried to comply, mostly moving in with relatives in the Eastern half of the West Coast states and interior states. Many, however, were forced to turn back by hostile crowds and armed posses.

American citizens of Japanese ancestry were placed under curfew, included with nationals of Japan, Germany and Italy. American citizens of German and Italian ancestries were not restricted in any way.

DeWitt then announced that all persons of Japanese ancestry would be expelled from the Eastern half of the West Coast states as well and prohibited from any further "voluntary" migration. He ordered them to maintain their residences until ordered to report for detention. Beginning in March 1942, DeWitt ordered all persons of Japanese ancestry in California, plus parts of Arizona, Oregon and Washington to turn themselves in at a temporary detention camp near their homes.

The rationale for these actions on the West Coast was "military necessity," but such a claim was inconsistent with the fact that Japanese Americans in Hawaii were not similarly subjected to wholesale and indiscriminate incarceration. Hawaii was 3,000 miles closer to the enemy, and in far greater danger of invasion and sabotage. The military commander in Hawaii decided that "military necessity" there required the vast majority of Japanese Americans to remain free to help maintain the islands' economy.

Like the initial FBI roundups on the mainland, some Japanese nationals in Hawaii were imprisoned on an individual basis and held in prison camps on the islands or transferred to the mass detention or smaller internment camps on the mainland. Only 1% of the Hawaii Japanese population was incarcerated.

DeWitt's detention orders were ostensibly for the purpose of protecting the West Coast against sabotage and espionage, but babies, orphans, adopted children, the infirm and bedridden elderly were also imprisoned. Children of multiple ancestry were included if they had any Japanese ancestry at all. Colonel Karl Bendetsen, who directly administered the program, stated: "I am determined that if they have one drop of Japanese blood in them, they must go to camp."

Non-Japanese spouses, adoptive parents, and orphanage directors were forced to surrender their children for incarceration or enter the camp themselves. The only exceptions were for those confined in prisons or asylums, and the few adults with 1/32 or less Japanese ancestry who could prove they had no contact whatsoever with other persons of Japanese ancestry.

There were 15 temporary detention camps scattered throughout Arizona, California, Oregon and Washington. They were mostly county fairgrounds, race tracks, and livestock exhibition halls hastily converted into detention camps with barbed wire fences, search lights and guard towers. Each camp held about 5,000 detainees, except for the Santa Anita Race Track near Los Angeles which held over 18,000 and Mayer, Arizona which held only 247. Living quarters consisted of horse stalls, some with manure still inside.

Japanese Americans had to leave their homes with only a few days notice and could take only what they could carry with them. Property had to be hurriedly sold, abandoned, given away, left in insecure storage or unpredictable trusts. Crops were left unharvested. Many lost titles to homes, businesses and farmlands because taxes and mortgage payments became impossible to pay. Bank accounts had already been frozen or confiscated as "enemy assets," and there was little source of income within the camps.

The incarceration of Japanese Americans was accomplished district by district over a five month period. DeWitt methodically issued detention orders almost daily, each applying to a new locale. As the orders progressed through the Eastern half of California, Japanese Americans in the Eastern halves of Oregon and

Washington fully expected their turn would be next. They stripped their possessions down to the bare essentials that they could carry, just as the others had been required to do. They lived day to day unsettled under the constant threat of imminent proscription, but the actual detention orders never came.

Government actions also encouraged private harassment: for example, in one town outside the official expulsion area, the entire Japanese American community was boycotted and forced to leave town.

In June 1942 the U.S. Navy won a decisive victory at the Battle of Midway and the tide of war shifted in favor of the United States. Japan was no longer militarily capable of attacking the West Coast, or even Hawaii. The U.S. government and military were aware of this fact, but they relentlessly went ahead with plans to build permanent mass detention facilities in the interior desert and swamp regions.

At great cost and despite the critical shortage of materials, the government built 10 mass detention camps in the isolated areas of Arizona, Arkansas, California, Colorado, Idaho, Utah and Wyoming. The vast majority of Japanese Americans were moved from the temporary detention camps near their hometowns to the permanent camps several hundred miles away after the threat of invasion had vanished. Each of the permanent camps held some 12,000 Japanese Americans, and a total of about 120,000 Japanese Americans were ultimately detained.

The inland camps were located in desolate areas and were surrounded by a high barbed wire fence, sometimes two such fences, sometimes electrified. Guard towers were placed at strategic intervals, and any Japanese American leaving without permission was shot. Dozens of detainees and internees were shot and wounded, and eight were killed by guards (1 at Central Utah, 1 at Gila River, 2 at Manzanar, 1 at Tule Lake, 2 at Lordsburg, 1 at Fort Sill). Living quarters were crowded and there was no privacy. Large extended families or groups of unrelated individuals were squeezed into tiny unpartitioned 16 x 20 feet units.

Japanese Americans were known for their pride in rarely having been on welfare or locked up in prisons, but the camps relegated them into wards of the government guarded by armed soldiers. Fathers were no longer the family breadwinners; parents lost control of their children, and families rarely ate meals together. Many were terrified because of the unpredictable future and the hopelessness of the situation. Many did not expect to come out alive.

Overwhelming despair caused some detainees to commit suicide. Many more died prematurely due to inadequate medical facilities and the harsh environment.

All incoming and outgoing communications were censored, including personal letters and newspapers. All internal communications were strictly controlled by the camp administration. The Japanese language was banned at public meetings, and the Buddhist and Shinto religions were suppressed.

While the Japanese Americans were incarcerated, and unknown to them at the time, some members of Congress and the State Department proposed legislation or executive action to strip all native-born Americans of Japanese ancestry of their citizenship and deport them to Japan after the war. Other elected officials demanded that the imprisoned Japanese Americans be used as reprisal targets for the mistreatment of American prisoners of war. One member of Congress even proposed a mandatory sterilization program. Fortunately, none of these extreme measures was taken.

However, another form of indignity was imposed on the detainees in February 1943. After being imprisoned for nearly a year, all detainees 17 years of age and older were required to answer a questionnaire indicating their loyalty to the United States and their willingness to serve in the U.S. armed forces. It was an audacious act for the government to require such an oath from people already locked up.

Due to the insensitive wording, Japanese nationals were asked, in effect, to renounce the only citizenship they could have (since they were prohibited from becoming U.S. citizens) and render themselves stateless. American citizens were asked to falsely in-

criminate themselves by “foreswearing” an allegiance to Japan—an allegiance they never had. Women and elderly persons were asked to serve on “combat duty whenever ordered.”

Despite all the confusion, fear, anger, bitterness and incongruity, the majority of detainees affirmatively signed the oath. This did not mean, however, that the minority who refused to cooperate were any less loyal or patriotic. Some highly principled individuals felt their fundamental constitutional rights should be restored before signing. Under the circumstances of a prison camp environment, the loyalty questionnaire did not measure a person’s true loyalty.

The detainees tried to make the dreary camps halfway tolerable by foraging scrap materials to make furniture and room partitions. They used indigenous plants to make gardens, and surplus materials or adobe to build schools and recreation facilities. Detainees also operated their own camp farms, and many camps became self-supporting in food.

Detainees volunteered to relieve the critical farm labor shortage in the Mountain Plains area and were granted seasonal work leaves. Others were given leaves to fill labor shortage in Midwest and East Coast factories, and college students were granted educational leaves. But these leaves were a form of parole: they were not free to go or do anything they wanted, and had to periodically report to government officials. During 1943 and 1944, about 33% of the detainees, mostly young single men and women, were conditionally released on various forms of leaves or for military duty. The other 67% remained in the camps for the duration of the war.

When the United States entered the war in 1941, there were about 5,000 Japanese Americans in the armed forces, but many were summarily discharged as unsuitable for service. Japanese Americans were classified by the Selective Service System as “enemy” nationals (4C) ineligible for service. Thousands of Japanese Americans volunteered for duty but were refused enlistment.

The armed forces, however, soon discovered the need for Japanese language specialists, and started to recruit Japanese Americans for the Military Intelligence Service and Office of Strategic



Services in June 1942. The Selective Service System was bypassed, and the fact that Japanese Americans were serving with the U.S. armed forces in the Pacific Theater was not made public knowledge. Japanese American soldiers in Asia and the Pacific Islands worked primarily as translators, but engaged in combat whenever the need arose. By obtaining crucial military intelligence, the Japanese American soldiers are generally credited with having shortened the Pacific war by two years.

In January 1943, the U.S. War Department announced that Japanese American volunteers would be accepted for combat duty in Europe. Most of the volunteers came from Hawaii, but there were also thousands who volunteered from within the mass detention camps on the mainland. The volunteers were assigned to a segregated Japanese American unit—the 442nd Regimental Combat Team. The 442nd eventually became the most decorated American unit to fight in World War II for its size and length of service.

In January 1944, the Selective Service System started to draft Japanese American men, even though they were still incarcerated in the camps. Some 33,000 Japanese Americans served in the U.S. armed forces during World War II, 6,000 of them in the Pacific Theater. Some Japanese American soldiers in the combat zones were much more concerned about the treatment of their families still incarcerated behind barbed wire fences in the United States than they were about the enemy firepower they faced.

## **THE SUPREME COURT**

While the majority of Japanese Americans complied with the military orders as a means of demonstrating their loyalty to the United States, there were many equally patriotic individuals who decided to challenge the discriminatory orders on constitutional grounds. As a means of testing the orders in the courts, over 100 Japanese

Americans deliberately violated one or more of the orders and invited arrest. But the government was apprehensive about a judicial review and declined to prosecute most of these violators.

Instead, the government carefully selected for prosecution three individuals who did not appear to have the backing of any Japanese American organization. Minoru Yasui was charged with violating the curfew, Gordon Hirabayashi with violating the curfew and refusing to report for detention, and Fred Korematsu for failing to report for detention. All three men were convicted in the federal courts for variously disobeying military orders and sentenced to prison terms under Public Law 77-503. The legal issues were slightly different in each case; the three appealed to the U.S. Court of Appeals and their cases were ultimately heard by the Supreme Court.

On the other hand, Mitsuye Endo cooperated with the military orders, but when she found herself detained against her will without charges, she sought a writ of habeas corpus in July 1942. Habeas corpus cases are supposed to be adjudged promptly, but the federal district court took a full year before announcing the decision denying Endo's plea for release. Endo appealed, but again, the Court of Appeals took another year before forwarding her case to the Supreme Court.

All four Japanese American appellants argued that the military orders were unconstitutional when applied to citizen civilians, and the government conceded that the appellants were loyal citizens who had not committed any crimes other than to challenge the military orders.

Regretfully, judges, and even justices of the Supreme Court, were not immune from the prejudices of the times, and the judicial system failed in its constitutional responsibility to protect citizens against abuses by the executive and legislative branches.

In *Hirabayashi and Yasui v. U.S.* (320 US 81, 115), the Supreme Court ruled that a curfew may be imposed against one group of American citizens based solely on ancestry. In *Korematsu v. U.S.* (323 US 215), the Supreme Court further decided that one group of

citizens may be singled out and expelled from their homes and imprisoned for several years without trial, again based solely on ancestry. The Court refused to question military judgment, or the validity of military orders applied to civilians without a declaration of martial law.

The Supreme Court justified these decisions by reiterating the false stereotypes about Japanese Americans which had permeated white American thinking. The justices argued, without any foundation in fact, that Japanese Americans were inherently more dangerous to national security than other people merely because of their ancestry. The Court ignored the constitutional guarantees of due process and equal protection of law, and violated the basic principle of American justice that guilt and punishment must be individual, i.e., the inalienable rights to life, liberty and property cannot be deprived except upon conviction of an individual's own wrongdoing—not the wrongdoing of others, nor of a group. Justice Robert Jackson stated in dissent: "The Court for all time has validated the principle of racial discrimination in criminal procedure."

In the case of *Ex Parte Endo* (323 US 283), the Court granted Endo an unconditional release from confinement. In a very important sense, however, she lost her point. The court specifically stated that the original expulsion from the West Coast and the detention for three years without charges or trial were legitimate exercises of presidential and military power during an emergency. The Court merely ruled that Endo and other admittedly loyal American citizens could not be imprisoned indefinitely.

Refusing to consider the salient constitutional issues begging for resolution, the Court decided the *Endo* case on narrow technical grounds—that Executive Order 9066 did not authorize the indefinite detention of citizens who the government conceded were loyal, nor did it authorize the imposition of parole conditions on citizens once removed from the West Coast.

The *Endo* decision was announced on December 18, 1944. The Western Defense Command (then under General Henry C. Pratt) had rescinded the exclusion and detention orders a day earlier on December 17th. Japanese Americans were free to return to their homes on the West Coast effective January 1945.

# RETURNING HOME

The return of Japanese Americans to their homes in California, Oregon and Washington was marked by vigilante violence and the agitation of pressure groups to keep out the Japanese Americans permanently. Homes, farms and businesses left behind were occupied by whites unwilling to return property to rightful owners. Homes were burned and dynamited, and Japanese Americans were targets of terrorist shootings. More acts of violence and terrorism were committed against Japanese Americans at the end of the war than at the beginning.

Despite the well-publicized accomplishments of the 442nd Regimental Combat Team, the names of Japanese American soldiers were removed from community honor rolls, and the remains of Japanese American soldiers killed in action overseas were refused burial in some hometown cemeteries. Many restaurants, hotels, barbershops, gasoline stations, grocery stores, and other public accommodations refused to serve Japanese Americans. United States Army Captain Daniel K. Inouye (now a U.S. Senator), in full uniform with all his medals on, walked into a San Francisco barbershop, but he was told: "We don't serve Japs here."

When news of the hostility reached those still remaining in the camps, they became reluctant about returning home. The Pacific war ended in August 1945, but the last mass detention camp did not close until October 1946 and the last special internment camp did not close until 1952.

Reconstructing their lives was not easy, and for some it was too late. Elderly pioneers had lost everything they worked for all their lives, and were too old to start anew. Having been expelled from their homes and jobs at the height of their productive years, they were unable to save much for retirement. About 20% of the surviving pioneers were below poverty level by the 1970 Census. Many American-born had their education disrupted and could no longer afford to go to college because family support became their responsibility.

Property losses alone were conservatively estimated by the Federal Reserve Bank in San Francisco to be in excess of 400 million dollars based on 1941 figures. Congress appropriated partial restitution for property losses, but only 8½% of property losses were ever compensated. Nothing was done to compensate for the tremendous increase in land values during the war years, lost income, unnecessary deaths, mental sufferings and loss of freedom.

Not only were direct losses sustained, but long lasting psychological damages resulted. Families disintegrated under the prison-like conditions, and individuals became disoriented and embittered. People lost their sense of self-esteem and could not regain enough self-confidence to compete as well as they could have in American society. Adults could never forget the experience, and children faced the life-long stigma of their birth certificates or school records indicating they spent their childhood in captivity. Most importantly, Japanese Americans suffered the indignity of being falsely imprisoned by their own government.

# REDRESS

By custom and tradition, any American who has been injured by false accusation, arrest or imprisonment is expected to bring the responsible parties into court and obtain a judgment clearing his or her name and collecting damages as redress. Freedom is considered so precious by Americans that even a few days in false imprisonment have been compensated with large monetary sums.

German Jews experienced the horrors of the Nazi death camps. Japanese Americans experienced the agonies of being incarcerated for an indeterminate period. Both were imprisoned in barbed wire compounds with armed guards. Both were prisoners of their own country. Both were there without criminal charges, and were completely innocent of any wrongdoing. Both were there for only one reason—ancestry. German Jews were systematically murdered en masse—that did not happen to Japanese Americans, but the point is that both Germany and the United States persecuted their own citizens based on ancestry.

West Germany has made a 25 billion dollar restitution payment to Jews and Jewish institutions, and another 10 to 15 billion dollars will be paid. The fact that the victorious Allied Powers initially imposed on Germany the concept of reparations to the victims of the Third Reich does not diminish the righteousness or the justice of the act. The Federal Republic of Germany has stated that it is giving precedence to the payment of compensatory damages to “those who suffered in mind and body, or had been deprived unjustly of their freedom.” In subsequent legislation Germany went far beyond the responsibilities assumed in the earlier agreements.

More recently, the United States government designated an American Jewish organization to negotiate with East Germany on restitutions. The United States has informed the German Democratic Republic that a refusal to acknowledge the necessity for a meaningful restitution would delay the establishment of normal diplomatic relations.

The mass expulsion and incarceration of American citizens without trial did happen here in the United States. As a professed leader in civil and human rights throughout the world, the United States must take meaningful action to correct its own mistakes.

President Gerald R. Ford rescinded the Executive Order 9066 on February 19, 1976—exactly 34 years after its promulgation—and stated: “An honest reckoning must include a recognition of our national mistakes as well as our national achievements. Learning from our mistakes is not pleasant, but as a great philosopher once admonished, we must do so if we want to avoid repeating them.”

Redress for the injustices of 1942–1946 is not just an isolated Japanese American issue; it is an issue of concern for all Americans. Restitution does not put a price tag on freedom or justice. The issue is not to recover what cannot be recovered. The issue is to acknowledge the mistake by providing proper redress for the victims of the injustice, and thereby make such injustices less likely to recur.



# Mass Detention Camps for Japanese Americans, 1942-46

	NAME	LOCATION	DETAINEES
1.	Central Utah (Topaz) Utah	Millard County Northwest of Delta	8,130
2.	Colorado River (Poston) Arizona	Colorado River Indian Reservation South of Parker	17,814
3.	Gila River (Rivers) Arizona	Gila River Indian Reservation West of Sacaton	13,348
4.	Granada (Amache) Colorado	Prowers County Between Koen and Granada	7,318
5.	Heart Mountain Wyoming	Park County Between Cody and Ralston	10,767
6.	Jerome (Denson) Arkansas	Chicot and Drew Counties Between Hudspeth and Jerome	8,497
7.	Manzanar California	Inyo County Between Independence and Lone Pine	10,046
8.	Minidoka (Hunt) Idaho	Jerome County North of Eden	9,397
9.	Rohwer Arkansas	Desha County Between Kelso and Rohwer	8,475
10.	Tule Lake (Newell) California	Modoc County Between Stronghold and Newell	18,789

Additional 26 smaller internment or isolation camps were located in: Alaska, Arizona, California, Hawaii, Idaho, Louisiana, Maryland, Massachusetts, Montana, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Tennessee, Texas, Utah and Wisconsin.



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# GO FOR BROKE

**CONDENSED  
FROM  
"JOURNEY  
TO  
WASHINGTON"**

**BY  
SENATOR  
DANIEL K. INOUE**



# GO FOR BROKE



Father and son—December, 1945  
Return from war

Condensed from "Journey to Washington"  
By Senator Daniel K. Inouye

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**T**HE FAMILY was up by 6:30 that morning, as we usually were on Sundays, to have a leisurely breakfast before setting out for nine-o'clock services at church. Around eight o'clock, as I was dressing, I automatically clicked on the little radio by my bed. I remember that I was buttoning my shirt and looking out the window. It was going to be a beautiful day. Already the sun had burned off the morning haze over Honolulu and, although there were clouds over the mountains, the sky was blue.

The warming radio suddenly emitted a frenzied cry: "This is no test! Pearl Harbor is being bombed by the Japanese! I repeat: This is not a test!"

"Papa," I cried, and then froze into stunned immobility. Almost at once my father was in the doorway with agony showing on his face, listening, caught by that special horror instantly sensed by all Americans of Japanese descent.

"...not a test. We can see the Japanese planes..."

"Come outside, Dan," my father said. I was 17 and considered mature enough to share his apprehension. My younger brothers John and Bob and my sister May started to follow us out, but he ordered them back. "Stay with your mother!"

We stood in the warm sunshine by the side of the house and stared out toward Pearl Harbor, where the U.S. Pacific Fleet was anchored. Black puffs of anti-aircraft smoke dotted the sky, trailing away in the breeze, and the dirty-gray smudge of a great fire obscured the mountains. Then we saw the planes—dive bombers—zooming up out of the smoke, with that unmistakable red ball on the wings, the rising sun of the Japanese Empire.

As we went back into the house, the telephone rang. It was the secretary of the Red Cross station where recently I had

been teaching first aid. "How soon can you be here, Dan?" he asked.

"I'm on my way," I told him. I grabbed a sweater and started for the door.

"Where are you going?" my mother cried, terrified.

"Let him go," my father said firmly. "He must go."

I took a couple of pieces of bread from the table, hugged my mother and ran for the street. "I'll be back as soon as I can," I called. But it would be five days before I returned—a lifetime—and I would never be the same. The 17-year-old high-school boy who set out on his bicycle that morning of December 7, 1941, was lost forever amid the debris, and the dead and the dying, of war's first day.

The aid station was more than a mile away, and the planes were gone before I reached it. I pumped furiously through the teeming Japanese ghettos of McCully and Moiliili, where crowds had spilled into the streets, wide-eyed with terror. Almost dispassionately, I wondered what would become of them, these poverty-ridden Asians now rendered so vulnerable by this monstrous betrayal.

An old Japanese man grabbed the handlebars of my bike as I tried to maneuver around a group. "Who did it?" he yelled at me. "Was it the Germans? It must have been the Germans!"

I shook my head, unable to speak, and tore free of him. My eyes filled with tears of pity for him and for all these frightened people. They had worked so hard. They had wanted so desperately to be accepted, to be good Americans. Now, in a few cataclysmic minutes, it was all undone, and there could only be deep trouble ahead.

Pedaling along, I realized at last that I faced that trouble, too. My eyes were shaped just like those of the old man in the street. My people were only a generation removed from the land that had

spawned the bombers and sent them to drop death on Hawaii. And suddenly, choking with emotion, I looked up into the sky and screamed the hated words, "You dirty Japs!"

### Hawaiian Harvest

If it had not been for a fire one night in the home of my great-grandfather, I might have been a Japanese soldier myself, fighting on the other side. But that fire changed everything. Before it could be extinguished, it had destroyed three homes—my great-grandfather Wasaburo Inouye's and two others.

Wasaburo lived in Yokoyama, a village nestled in the mountains of southern Japan. It was an unwritten law there that a man who lived in the house where a fire began must pay for the damage to any other building. The village elders fixed the amount that my grandfather owed at \$400.

There was no way to earn such a sum in Yokoyama. Wasaburo's long hours in the rice paddies and among the tea plants on the mountainside, and the labor of his son Asakichi, barely sustained the family. So he decreed that Asakichi must go to Hawaii and work until he could pay the debt and thus preserve the family honor. Only a month before, the recruiters for the Hawaiian sugar plantations had been looking for laborers. They offered free transportation and \$10 a month, an unheard-of waste. No one from Yokoyama had been interested, but now Wasaburo ordered Asakichi to sign up with them.

Asakichi had no choice in the matter. To a Japanese the word of the father was as immutable as the unwritten laws of the village elders. But he made one stipulation. The Hawaiian contracts ran five years. That was a long time for a man to be alone. Therefore, he asked to take along his wife, Moyo, and his only son, Hyotaro. His two daughters he would leave behind.

They set out in September 1899. In a parcel on his back Asakichi carried everything they owned: his father's suit, which had belonged to his father's father; the kimono in which Moyo had been married; and the small family shrine to the Shinto gods. Moyo carried four-year-old Hyotaro, the boy who would become my father.

It was Asakichi's plan to work hard, to save his money and, at the end of the five-year contract, to sail back home. But that soon became an impossible dream.

He was assigned to Camp Number Two of the McBryde plantation, not far from the town of Wahiawa on the island of Kauai. Each morning by 6:30 he was in the fields, and he worked at least 12 hours a day, until the sun vanished behind the western mountains. On the last day of each month he was paid whatever was left of his \$10 after his debts at the company store had been deducted. That night he and Moyo set aside what they needed for themselves. A dollar or two was all that was ever left over to send to Japan.

To earn more money, Asakichi built a bathhouse, and it was a success. The men and women came, as they had come to the community bathhouses in Japan, grateful for the chance to wash after a long day chopping cane. It was a small touch of home, and they paid their pennies gladly.

Then Moyo decided to bake *tofu* cakes to sell. In Japan, *tofu*, a cake made from soya-bean curd, was a basic food; and the people hungered for *tofu*, like the baths, as a reminder of home. The coins in the Inouyes' money jar began to mount. But Asakichi and Moyo had to rise at 2 a.m. to build the fires and bake the cakes, for they peddled them through the camp before the people went to work.

The years passed. Their son Hyotaro was sent to school, a Japanese school, of course, conducted by priests at the Buddhist temple in Wahiawa village. He was not quite ten when he finished. He had



Daniel K. Inouye  
June 11, 1926 (1 yr. 2 mo.)

learned to write in Japanese and do small sums, which was all the schooling his father or grandfather had ever had. But some workers in the camp now were sending their sons to the grammar school in Eleele, where they were taught English. Since not a quarter of the debt had been paid when Asakichi had to sign up for another five years in the canefields, he decided to send Hyotaro to the school, too. Education, he saw, opened the way to a better life. A Japanese who learned to speak English could become a clerk or even open a shop.

Now there was no looking back; he told Moyo they would save out some money from the debt payments to send for the

girls. Hyotaro's Americanization picked up speed. He finished grade school at 18, and eventually went on to Mills High School on the island of Oahu. This was run by Protestant missionaries, and presently he joined the River Street Methodist Church, where he met a small, bright-eyed girl named Kame Imanaga. She was a *nisei*, an orphan, living in the home of a Methodist minister. Hyotaro fell in love with her, and they were married in September 1923. They went to live on Queen Emma Street in Honolulu's Japanese ghetto. A year later, in the early evening of September 7, 1924, I was born.

### "I Am an American!"

In days to come, sociologists and planners would point to Queen Emma Street with horror and describe it as a poverty pocket and a pesthole. Eventually it became the site of Honolulu's first slum-clearance project. The ramshackle lines of two-family houses were knocked down by bulldozers, the remains carted away; and the area today is a lovely park. But I was too young to realize how underprivileged I was, and foolishly I enjoyed every moment of my childhood. There was always enough to eat in our house—although sometimes barely—but even more important, there was a conviction that opportunity awaited those who had the heart and strength to pursue it.

Our family life was a blend of East and West. When we ate beef, we used knives and forks. When we ate *sukiyaki*, we used chopsticks. Although I went to a Japanese school every afternoon, it was never permitted to interfere with my American education. The language spoken at home, now on Coyne Street, was English.

I remember a great celebration. After nearly 30 years of persistent effort, Asakichi had paid the family debt. There were songs and much *sake* and, though I



was not yet five years old, I sat on my grandfather's lap and took a sip of the potent liquor. Had he chosen to do so, he could now have returned to Yokoyama village. But there was never a doubt about what he would do. His son and daughters were Americans—he would stay the rest of his days in Hawaii.

Most of the Japanese in Hawaii felt the same. But the break was difficult, even for us who had never seen the old country. The Buddhist priest who taught us ethics and history in the Japanese school actually believed we were still Japanese, and often in class he told us that our loyalty belonged to the Emperor. When I was 15, I openly challenged him, declaring in class, "I am an American."

"You are a Japanese," he retorted, angered by my insubordination.

"I am an American," I insisted.

So enraged was he that he dragged me from the classroom and threw me with full force into the schoolyard, screaming after me, "You are a faithless dog!" I never returned.

But I still revered the land of my ancestors and, although I sensed that the breach between Japan and the United States was widening, serious trouble between them was too terrifying even to think about.

### A Sense of Guilt

It was past 8:30 that fateful morning of December 7, 1941, when I reported at the Honolulu aid station. Confusion was in command, and shouting people everywhere pushed by each other as they rushed for litters and medical supplies. Somewhere a radio voice droned on, now and then peaking with shrill excitement. In one such outburst I learned that the USS *Arizona* had exploded in Pearl Harbor, with great loss of life, and that other ships had been badly damaged.

A little before 9 a.m., a second wave of Japanese bombers swooped around from the west, and the anti-aircraft guns began thundering again. Mostly the planes hammered at military installations: Pearl Harbor and Hickam and Wheeler fields; it was our own ack-ack that did the deadly damage in the civilian sectors. Shells apparently fired without time fuses, would find no target in the sky and drop to explode on impact with the ground, often inflicting terrible wounds and destruction.

We worked all night and into the next day. There was so much to be done—broken bodies to be mended, shelter to be found for bombed-out families, food for the hungry. We continued the following night and through the day after that, sleeping in snatches whenever we could.

After the immediate crisis was over, I was given a regular shift—6 p.m. to 6 a.m. It was a wildly incongruous life. In the morning I was still a senior at McKinley High, studying English, history, math. In the afternoon I fell exhausted into my bed and slept like a dead man until 5:30, when my mother shook me awake, put a sandwich in my hand and sent me hurrying off to the aid station. I was in charge of a litter squad, training new volunteers and directing the high-school first-aid program.

Like all *nisei*, I was driven by an insidious sense of guilt from the instant the first Japanese plane appeared over Pearl Harbor. Of course we had nothing to feel guilty about, but we all carried this special burden. We felt it in the streets, where white men would sneer as we passed. We felt it in school when we heard our friends and neighbors called Jap-lovers. We felt it in the widely held suspicion that the *nisei* were a sort of built-in fifth column in Hawaii.

Not long after the war began, the military government ordered us to report all radios with shortwave bands. My father had

just bought such a set. It was a beauty, picking up Tokyo and the Philippines perfectly. We were all enormously proud of it, for we had few possessions and had saved a long time to get it. But we promptly complied with the order, and about a week later three men came to our door. They were from Naval intelligence.

"Where is your radio?" one demanded.

"It is here," Father said. "Please come in."

"No, no. Bring it outside."

We did as he said and, without another word, he dug a screwdriver in behind the backing and ripped it off. I looked at my father. His eyes had narrowed, but he said nothing. The man with the screwdriver snapped the wiring inside the set, then reached in and removed the tubes one after another, smashing them on the ground. It was needless destruction; he could have deadened the shortwave band by disconnecting a single wire.

My father's face turned black, and I knew he would not suffer this indignity in silence.

"Here," he said, "let me help you." He reached down to the pile of wood we used for our stove and hefted his ax. Instantly all three of the Naval officials reached for the bulges under their jackets.

Father smiled sadly. "Put your guns away, gentlemen," he said. "I only want to help." Then with three great swinging blows of the ax, he smashed the new radio into splinters of wood and glass. "There," he said, breathing hard from his effort and anger, "that should do it. Now you'll never have to worry about it."

He put down the ax and walked back up the steps into the house, leaving us looking at each other in silence.

### A Chance to Fight

The younger Japanese in the Islands suffered under a special onus. All our lives we had thought of ourselves as Americans.

Now, in this time of national peril, we were seemingly lumped with the enemy by official policy. *Nisei* in National Guard units were summarily discharged, those in the ROTC and Territorial Guard were stripped of their weapons, and those already in the Army were transferred to labor battalions. Despite this, we fought for a place in the war, no matter how menial, and meanwhile struggled to persuade the government to reverse its anti-*nisei* rulings.

My own schoolwork now seemed inconsequential, and the months passed very slowly. But finally I graduated from McKinley, and in September 1942, just turned 18, I enrolled at the University of Hawaii. I was taking a premedical course, planning to become a doctor.

Then one day in January—little more than a year after the attack on Pearl Harbor—the colonel in charge of the university's ROTC unit called us all together. The War Department had just decided to accept 1500 *nisei* volunteers to join in forming a full-fledged combat team. Our draft board, the colonel announced, was ready to take the enlistments.

As soon as his words were out, the room exploded with excited shouts. We burst out of there and ran—literally *ran*—the three miles to the draft board, stringing back over the streets and sidewalks, jostling for position, like a bunch of marathoners gone berserk. The scene was repeated all over the Islands. Nearly 1000 *nisei* volunteered the first day alone.

We were given three weeks to wind up our affairs, and there were sentimental farewell parties from Koko Head to Kahuku Point. I suppose mine was fairly typical: a parade of aunts and uncles and cousins, the last whispered words, "Be a good boy; be careful; make us proud!" And the crumpled \$5 or \$10 bill pressed into my hand.

But when the day came for our departure I was in for a shock. Our names were read in alphabetical order. As each man was called, he took time for a last kiss, a last handshake, then ran for a waiting truck. "Fukuchi, Gora, Hamano." The names tumbled out. "Higa, Ikegami, Ito, Kaneko, Nagata"

They had passed me over! I couldn't believe it. What had happened? As the names continued to be read, it became clear that for some reason I had been turned down by the Army.

I was crushed. There had to be some mistake, I kept telling myself. But there wasn't. The last truck filled up and pulled away, and I was left standing there. God bless them, my parents said nothing. They understood how I felt. But as we walked slowly away, a fellow I knew on that last truck called out, "Tough luck, Dan!

Sorry!" Involuntarily, my eyes filled with tears.

During the following days, I haunted the draft board, and finally I got the answers I sought. I had been turned down because my work at the medical-aid station was considered essential, and because I was enrolled in a premed course.

"Give me about an hour," I told them. "Then call the aid station and the university. They'll tell you that I've just given my notice to quit by the end of the week."

And I did—two days later I was ordered to report for induction.

There was a new flurry of packing and good-bys, all hasty now, and a heartfelt hug for my mother. Then my father and I caught the bus to the induction center. He was very somber. I tried to think of something to say, some way to tell him that he was important to me, and dear, but nothing came out.

March 30, 1943  
2nd day in service



June, 1943  
Corporal, E Company 2nd Battalion

After a long period of silence between us, he said unexpectedly, "You know what *on* means?"

"Yes," I replied. *On* is at the very heart of Japanese culture. *On* requires that, when one man is aided by another, he incurs a debt that is never canceled, one that must be repaid at every opportunity.

"The Inouyes have great *on* for America," my father said. "It has been good to us. And now it is you who must try to return the goodness. You are my first son, and you are very precious to your mother and to me, but you must do what must be done. If it is necessary, you must be ready to...to..."

Unable to give voice to the dread word, he trailed off. "I know, Papa. I understand," I said.

"Do not bring dishonor on our name," he whispered urgently.

And then I was clambering up into the back of a GI truck, struggling to hold my balance as it rumbled off, and waving to the diminishing figure of my father.

"Good-by!" I called long after he was out of earshot, a forlorn but resolute figure, standing there alone as if he never meant to leave. "Good-by!"

### The Face of War

We made up the 442nd Regimental Combat Team, and we began our training at Camp Shelby, near Hattiesburg, Miss. I was assigned to E Company, 2nd Battalion. Our C.O. was a *haole* (white) who had gone to Roosevelt High in Honolulu, Capt. Ralph B. Ensminger, and from the start there wasn't a man of us who wouldn't have followed him right into General Rommel's command post. There were some Caucasian officers in the early days of the 442nd who sounded off about having to lead "a bunch of Japs" into battle. That would change—we had to *show* them—but Captain Ensminger was on our side from the first.

I don't know how it started, but pretty soon our pidgin-English expression "Go for broke!" became the Combat Team motto. It meant giving everything we had; jabbing every bayonet dummy as though it were the enemy himself; scrambling over an obstacle course as though our lives depended on it; marching quick time until we were ready to drop, and then breaking into a trot. The words have become part of the language now, but in those spring and summer days of 1943, they were peculiarly our own.

We shipped out in May 1944—when I was promoted to buck sergeant—and 29 days later landed at Naples. The harbor was a ruin of sunken ships, and ashore the gutted city seemed to quiver in expectation of another air raid. The roads, which had just been cleared, swarmed with lines of trucks and marching troops, and scurrying alongside, begging food and cigarettes, were the pathetic refugees of the war—men and women with haunted eyes, children in tatters of clothing.

We marched through the ruined streets to a bivouac area at the edge of town. When we had eaten, most of the men were given passes and vanished in the direction of Naples. But I was ordered to help set up the kitchen and supply tent. After working for a while I noticed a group of 12 Italians, men and women, lurking among the trees nearby watching the men in my detail with dark, fearful eyes. At last, looking back over his shoulder for encouragement, one of them edged into the open and called to me: "*Signore*,"

I walked toward him, "We work, eh?" He gestured at the people waiting in the woods. "We clean—kitchen, clothes, whatever you want."

"*Quante lire?*" I asked.

"No, no *lire*," the Italian said. "Is nothing to buy. You give us garbage." He pointed to the rows of galvanized cans outside the mess tent. "We work for garbage."

I thought perhaps they were farmers and would use the garbage for fertilizer. "Sure," I said. "Help yourself."

He bellowed something at the group in Italian, and they ran to the cans and began cramming the slop they pulled out into their mouths—potato peels, congealing stew, coffee grounds. The men in my detail stopped working and watched with a dreadful fascination. I remembered guys grinding cigarette butts into their mess kits before scraping them clean, and other men spitting into the cans, and I had to take a deep breath to keep from being sick.

"Stop!" I yelled. "You can't do that. You can't eat..."

"You promised," their hollow-eyed spokesman said. "We work."

"No, no!" I clutched his arm and pushed him away from the garbage rack. "I'll get you food. Clean food. Come back tonight—there'll be food for you."

Reluctantly they backed off. As soon as they had disappeared among the trees I ran to the C.O. with the story. He was equally shocked. The order went out: no man would take anything he didn't mean to eat; and every portion that was not taken—a scoop of potatoes, an apple, a piece of bread—would be set aside in clean containers. At dinner that night, the Italians returned, and we gave them good food.

So I began to find out what war was like.

### Fortunes of Combat

Few men fought in all of the 442nd's campaigns and battles. Our casualty rate was so high that eventually it took 12,000 men to fill the original 4500 places in the regiment. But even fewer men missed a battle as long as they could stand up and hold a rifle, and the outfit had the lowest AWOL rate in the European theater of operations.

Captain Ensminger had warned us long ago that our first battle would be bloody.

It came on June 26 and, ironically, he himself was the first man killed. But soon every man who lived bore his personal grief, as buddies fell to German bullets. In my platoon I was the only squad leader unhit, and before the day was out I was made platoon guide. G Company, on our left flank, lost every officer but the company commander.

The 442nd began its fighting north of Rome, pushing the Germans back along the Arno River. Later in the summer we were pulled out and sent to France. We spent several months fighting in the Rhone Valley, and then we returned to Italy, this time in the vicinity of Leghorn. I fought through all but two of the outfit's battles, but the war remains fixed in my mind not as an orderly progression of setbacks and victories, but as a kaleidoscopic jumble of hours and minutes and seconds, some of which make me proud and some of which I have been more than 20 years trying to forget.

One of the worst times came one morning when I was leading a forward patrol along a gentle slope toward an ancient and apparently empty farmhouse. We were barely 30 yards away when a machine gun spat fire from a darkened window and my lead scout was all but cut in half. The rest of us hit the ground, and I hollered for the bazooka. With a *whoosh* our rocket tore into the weathered building; it sagged crazily, and the machine gun was still.

Coming forward, we found two Germans dead, torn to shapeless hulks by the bazooka. A third, an ammo bearer, had been thrown across the room and lay sprawled against a wall, one leg shredded and twisted around. "*Kamerad*," he whispered. "*Kamerad*."

He reached into his tunic, and I thought he was going for a gun. It was war; you had only one chance to make the right decision. I pumped the last three shots in my rifle clip into his chest. As he toppled

Identification photo, November 9, 1944  
taken in France four days after receiving  
field commission as a lieutenant

WAR DEPARTMENT  
THE ADJUTANT GENERAL'S OFFICE  
WASHINGTON

This is to identify—  
(Name) \_\_\_\_\_  
(Serial No.) \_\_\_\_\_ Army of the United States,  
(Arm or service) \_\_\_\_\_ whose signature, photograph, and fingerprints appear hereon.  
The Adjutant General,  
The Adjutant General of the Army.

Counter-signed: *Daniel K. Inouye*  
(Signature of bearer)

Date of birth \_\_\_\_\_ Color hair \_\_\_\_\_  
Color eyes \_\_\_\_\_ Height \_\_\_\_\_ ft. \_\_\_\_\_ ins.  
Weight \_\_\_\_\_ lbs.

**DANIEL K. INOUE**  
O 1998638

Date issued \_\_\_\_\_  
Loss of this card will be reported to The Adjutant General without delay by the individual named hereon, with the circumstances.  
W.D., A.G.O. Form No. 62-4  
March 21, 1942 GPO 16-50107-1

FINGERPRINTS—RIGHT HAND

THUMB

over, his hand sprang spasmodically from the tunic, and he held up a snapshot, clutching it in death. It was a picture of a pretty woman and two little children, and there was a handwritten inscription: "Deine Dichliebende Frau, Hedi." So I had made a widow and two orphans.

I never got used to it. Deep down, I think, no one did. We pretended to be calloused and insensitive because we understood the fatal consequence of caring too much. You were no good to your men—you were through as a soldier—if you cared too much. But, hidden in the core of every man's being, there must have been a wound, a laceration of the spirit. The abrasives of war rubbed against it every day, and you thought that even if you lived, and the years passed, it would never stop bleeding.

It was while we were in France that a really unexpected thing happened to me. We had been in reserve for a while, but

were just about ready to lock horns with the Germans again in what later became famous as the battle to rescue "The Lost Battalion." Nearly 1000 GIs of the 1st Battalion of the 141st Infantry had been surrounded and were desperately short of supplies and ammunition. The 442nd was ordered to go to their relief.

But just as we were about to shove off, I was told that the C.O. wanted to see me. I took off for the command post, only to be ordered to report to the adjutant at regimental headquarters. There I was handed a letter. I had been awarded a battle-field commission and was now a 2nd lieutenant in the U.S. Army.

Two days later I started back to rejoin my outfit. By the time I reached them, the bloody battle of The Lost Battalion was over. The trapped soldiers had been rescued, but the fighting was desperate. My platoon, numbering 20 men when I left, now had 11 capable of carrying a weapon—and that included me.

I was lucky, I guess. So far I had always been lucky, and partly I attributed this fact

to two silver dollars which I had carried through every campaign. One was bent and the other cracked almost in two from the impact of a German bullet in France. Since I carried them in a breast pocket and had a purple welt on my chest for two weeks after the incident, I had ground for believing they really were lucky charms.

And then on the night of April 20, 1945—I remember the date well—the coins disappeared. I searched in the darkness as best I could, and asked around, but without result. Undoubtedly I had bent forward someplace with my pocket unflapped and the coins had slipped out.

After searching some more I walked to my tent, shivering a little, for the night had grown cold. I was troubled—we had been ordered into a new attack in the morning. My brain commanded me to be sensible; so I'd lost two beat-up silver dollars. So what? But from the message center in my heart, I kept hearing forebodings of disaster.

### **The Last Battle.**

We jumped off at first light. E Company's objective was Colle Musatello, a high and heavily defended ridge. All three rifle platoons were to be deployed, two moving up in a frontal attack, with my platoon skirting the left flank and coming in from the side. Whichever platoon reached the heights first was to secure them against counterattack.

Off to the right I could hear the crackle of rifle fire as the 1st and 2nd platoons closed in on the German perimeter. For us, though, it went like a training exercise. Everything worked. What little opposition we met, we outflanked or pinned down until someone could get close enough to finish them off with a grenade. We wiped out a patrol and a mortar observation post without really slowing down. As a result we reached the main line of

resistance long before the frontal assault force. We were right under the German guns, 40 yards from their bunkers. We had a choice of either continuing to move up or of getting out altogether.

We moved, and almost at once three machine guns opened up on us, pinning us down. I pulled a grenade from my belt and got up. Somebody punched me in the side, although there wasn't a soul near me, and I half fell backward. Then I counted off three seconds as I ran toward the nearest machine gun. I threw the grenade and it cleared the log bunker, exploding in a shower of dirt. When the gun crew staggered erect, I cut them down. My men were coming up now, and I waved them toward the other two emplacements.

"My God, Dan," someone yelled in my ear, "you're bleeding! Get down and I'll get an aid man." I looked down to where my right hand was clutching my stomach. Blood oozed between my fingers. I thought, "That was no punch, you dummy. You took a slug in the gut."

I wanted to keep moving. We were pinned down again and, unless we did something quickly they'd pick us off one at a time. I lurched up the hill again, and lobbed two grenades into the second emplacement before the gunners saw me. Then I fell to my knees. Somehow they wouldn't lock and I couldn't stand. I had to pull myself forward with one hand.

A man yelled, "Come on, you guys, go for broke!" And hunched over they charged into the fire of the third machine gun. I was fiercely proud of them. But they didn't have a chance against the deadly stutter of that last gun. They had to drop back and seek protection. But all that time I had been shuffling up on the flank, and at last I was close enough to pull the pin on my last grenade. As I drew my arm back, a German stood up waist-high in the bunker. He was aiming a rifle grenade at me from a range of ten yards. And then as

I cocked my arm to throw, he fired, and the grenade smashed into my right elbow. It exploded and all but tore my arm off. I looked at my hand, stunned. It dangled there by a few bloody shreds of tissue, my grenade still clenched in a fist that suddenly didn't belong to me anymore.

Some of my men were rushing up to help me. "Get back!" I screamed. Then I tried to pry the grenade out of that dead fist with my other hand. At last I had it free. The German was reloading his rifle, but my grenade blew up in his face. I stumbled to my feet, closing on the bunker, firing my tommy gun lefthanded, the useless right arm slapping red and wet against my side.

It was almost over. But one last German, before his death, squeezed off a final burst, and a bullet caught me in the right leg and threw me to the ground. I rolled over and over down the hill.

Some men came after me, but I yelled, "Get back up that hill! Nobody called off the war!"

After a while a medic got to me and gave me a shot of morphine. The German position was secured, and then they carried me away. It was April 21. The German resistance in our sector ended April 23. Nine days later, the war in Italy was over, and a week after that the enemy surrendered unconditionally.

### To Light a Cigarette

Of course the arm had to come off. It wasn't an emotionally big deal for me. I knew it had to be done and had stopped thinking of it as belonging to me. But acceptance and rehabilitation are two different things. I had adjusted to the shock of losing my arm *before* the operation. My rehabilitation began almost immediately afterward.

I was staring at the ceiling my first day as an amputee, when a nurse came by and

asked if I needed anything. "A cigarette would go pretty good," I said.

"Yes, surely." She smiled and walked off, returning in a few minutes with a fresh, unopened pack. "Here you are, lieutenant," she said, still smiling, and placed it neatly on my chest and went on her way.

For a while I just stared at the pack. I fingered it with my left hand. Then I sneaked a look around the hospital ward to see if there was anyone in good enough shape to help me. But everyone seemed to be at least as badly off as I was. So I began pawing at that cursed pack, holding it under my chin and trying to rip it open with my fingernails. It kept slipping away from me and I kept trying again, sweating as profusely in my fury and frustration as if I were on a forced march. In 15 minutes I'd torn the pack and half the cigarettes to shreds, but I'd finally got one between my lips. Which was when I realized that the nurse hadn't brought me any matches.

I rang the bell and she came sashaying in, still smiling, still trailing an aura of good cheer that made me want to clout her. "I need a light," I said.

"Oh," she said prettily, "of course you do." She pulled a pack of matches out of her pocket—she had had them all the time—and carefully put them in my hand. And she strolled off again.

If I obeyed my first impulse, I'd have belted her in rage. If I'd obeyed my second impulse, I'd have burst out crying. But I couldn't let her get the best of me. I just couldn't.

So I started fooling around with the matches. I pulled them and twisted them and dropped them, and I never came remotely close to tearing one free, let alone lighting it. But this time I had decided that I'd sooner boil in oil than ask her for anything again. So I lay there, fuming silently and having extremely unchristian thoughts about that angel of mercy.

I was on the verge of dozing off when she



reappeared, still smiling. "What's the matter, lieutenant?" she purred. "Have you decided to quit smoking? It's just as well...cigarettes make you cough and..."

"I couldn't get the damned thing lit."

She tsck-tscked and sat on the edge of my bed. "Some amputees like to figure it out for themselves," she said. "It gives them a feeling of—well, accomplishment. There'll be lots of things you'll be learning for yourself."

"Look," I growled, "just light the cigarette. I've been three hours trying to get this thing smoked."

"Yes, I know. But, you see, I won't be around to light your cigarettes all the time. You have only one hand with which to do all the things that you used to do with two. And you have to learn how. We'll start with the matches, all right?"

Then she opened the cover, bent a match forward, closed the cover, flicked the match down and lit it—all with one hand, all in a split second.

"See?" she asked. "Now you do it."

I did it. I lit the cigarette. And suddenly her smile was not objectionable at all. It was lovely. In a single moment she had made me see the job that lay ahead. It took me a year and a half to become fully functioning again, but I never learned a more important lesson than I did that afternoon.

### A Japanese Betrothal

Homecoming was a great day. I stood outside our house and I couldn't believe it. So much had happened in the two and a half years since I had seen this place. Was I really home? Then the door opened and my mother was calling my name.

I hugged her and felt her tears. I had my arm around all of them, my father, my sister May, who had been a child when I left and was now grown and beautiful, my brothers John and Robert. It was a sublimely happy moment.

John took my bag, Robert took my coat, May offered me a chair. "Shall I bring you something?" my mother whispered. "Tea? You are hungry?"

"No, Mama, I'm fine."

I looked around the house, suddenly grown smaller and yet just the same. There was the picture of President Roosevelt on the wall; a blue star hung in the window. When I turned back, they were all looking at me, my uniform, the ribbons on my chest and, inevitably, the empty right sleeve. Now came that moment of awkward silence, the fumbling for a thought after the first spontaneous greeting.

Nervously I lit a cigarette—smoking was a habit I had picked up in the Army—and took a deep drag before I realized what I was doing. Mother came to her feet as if she'd been pinched.

"Daniel Ken Inouye!" she said in exactly the old way she always used to scold me.

I looked sheepishly at the cigarette, then at her, then at the rest of them. And then we all began to laugh, my mother, too, and I knew I was home.

For a while there was a great, wild spree of homecoming celebrations. Two 442nd vets meeting on the street was reason enough for a party. But finally it was time to get back to normal living. The first thing I did was to register at the university. Doctoring was out, but I didn't care. I wanted now to become a lawyer, in the hope of entering public life. The pre-law courses required a lot of work and they were harnessed to my extracurricular activities in student government and veterans' organizations. Then one unforgettable autumn day I met Margaret Awamura. Marriage had never occurred to me before that moment, but afterward it never left my mind. I proposed on our second date. It was December 6, 1947. I know, because we have celebrated the occasion together ever since.

Of course—because we were *nisei*—it

wasn't as simple as all that. As soon as I informed my parents, they began to arrange things in the Japanese way. Tradition calls for a ceremonial event involving *nakoudos*—go-between—who represent the families of the prospective bride and groom and settle the terms of the marriage. By prearrangement the Inouye team (my parents, our *nakoudos* and I) arrived at the Awamuras' one evening bearing gifts of rice, *sake* and fish and took places on the floor. Our *nakoudos* faced their *nakoudos* across a low table. Behind them sat the respective families, the parents first and, farthest away from the action, Maggie and I, as though we were only incidental onlookers. Now and then I caught her eye and we smiled secretly. Only the *nakoudos* spoke.

First, gifts were exchanged. Then one of our representatives began to extol the virtues of Daniel Ken Inouye, a fine upstanding man, a war hero, and so forth.

Next our side listened to a recitation of Maggie's qualities: she had earned a master's degree, she was an accomplished seamstress, and her family's reputation for honor was unimpeachable. (I would have liked to add that she was beautiful, too.)

The *nakoudos* consulted briefly with their clients and recommended that the marriage be approved. Then at last glasses were filled, and a toast was drunk. Maggie and I were engaged—officially!

### A Quiet Revolution

The next years were busy and fruitful. I completed college while Maggie taught at the university. But from the day we returned from our honeymoon, politics was an integral part of our life. I attended weekly political meetings that went on hour after hour, and came tiptoeing home at two or three in the morning. I don't say it was fair, but Maggie understood, bless her, that for me it was necessary.

"But why does it always take so long?" she asked once. "Can't you all just decide what you want to do and then come home?"

"Why don't you come along tonight?" I suggested. "I think if you sat in with us..."

She stayed with it until around midnight. As always, the eight or ten of us who were present started with a discussion of our aims and aspirations; party philosophy, you might call it. Then we got down to cases—tactics, candidates, precincts, votes—the raw materials of politics. Once when I looked up from a heated conversation about the importance of block captains, Maggie lay curled up in a corner of the sofa, sound asleep. She never complained again.

What we were attempting to do was to rehabilitate the Democratic Party of Hawaii and, with it, the two-party system in the Islands. Before the war the Republican grip on the territorial legislature had been ironclad. Economic power was still held by the few dominant white families descended from the missionaries and traders who had organized the Islands' commerce 100 years before. They were solidly Republican, and their newspapers diligently preached the Republican message, and their plantation supervisors delivered the Republican vote of the field hands. As a result, the opposition almost never won an election.

A handful of us wanted to change all of that, and we believed the Democratic Party could do it if it attracted the *nisei* and all the other multitudes whose labor had helped to build the great *haole* fortunes. In 1924, the year I was born, Americans of Japanese ancestry made up a bare five percent of Hawaii's voting population. Twenty-three years later, when I came home from the Army, the *nisei* were the largest single voting bloc in the Islands. For all our Anglo-Saxon first names, we had gone off to war as the sons and grand-

sons of immigrants, heirs of an alien culture, and we were very much expected to resume our unobtrusive minority status when we returned. But the Army had given us a taste of full citizenship and an appetite for more. Thus, a quiet revolution was brewing.

We started out aiming for the moon. In 1948, there was to be an election to choose a delegate to the U.S. Congress. This was the most important office the people of Hawaii had at that time. We put up a candidate—and we lost. But we learned things, and we began to gain strength.

Our first job was to rid ourselves of the deadly influence of the International Longshoremen's and Warehousemen's Union. This union, which was infiltrated by communists, dominated the Democratic Party and, with that sort of backing, we hadn't a chance of getting into the territorial legislature. To wipe out the stigma, we had to get the union and its friends out of party posts. Hard work and the secret ballot did it. Jack Burns (now governor of Hawaii) was elected chairman of the party, and I was made secretary.

Meanwhile, I finished college and left for George Washington University in Washington, D.C., for my law course. There I made myself available to the Democratic National Committee, and so I went on learning.

By 1954, we believed we were really ready. Slowly we had been whittling away at the huge Republican majority in the legislature. Now there was a certain promise in the air that whispered, "Go for broke!"

In the Fourth district, where I lived, I stood for the legislature. It was the year of the eager young hopefuls. In my district alone, four of the six of us running were veterans, and racially we were a mixed bag: Japanese, Portuguese, Caucasian and Hawaiian. For the first time in years the

Republicans were on the defensive. To hold us back, they unwrapped the "Truth Squad" ploy, a group of politicians who interrupted the speaker at one of our meetings, ostensibly to "set the record straight." It turned out to be a big mistake.

One of our candidates had been talking for about five minutes when in charged the "Truth Squad." Their chairman grabbed the microphone to announce that they could no longer stand idly by while "these so-called Democrat" went on deceiving the people. The Democratic Party, he said, had been captured by the I.L.W.U. We were the willing tools of its leaders. Hence, we were, at the very least, soft on communism.

For a long moment I just sat there, the slanderous innuendo ringing in my ears. Then I got to my feet and went to the microphone. Maggie was in the audience, and later she told me, "I was afraid. The skin on your face was all tightened up and you looked as though you were going to kill somebody."

"I cannot help wondering," I said to the audience, "whether the people of Hawaii will not think it strange that the only weapon in the Republican arsenal is to label as communists men so recently returned from defending liberty on the firing lines in Italy and France. I know I speak for my colleagues on this platform when I say that we bitterly resent having our loyalty and patriotism questioned by cynical political hacks who lack the courage to debate the real issues in this campaign."

I had never before called attention to my disability, for the simple reason that I didn't consider it a qualification for public office. But at that moment, blinded with fury, yet coldly aware that I was engaging in a bit of demagoguery, I held up my empty right sleeve and shook it: "I gave this arm to fight fascists. If my country wants the other one to fight com-

munists, it can have it!"

There was a moment of stunned silence, then crashing applause. And some time during the tumult, the "Truth Squad" left the platform, and with them went any chance they had to win the election. We took 22 of the 30 seats in the Territorial House, and 10 of the 15 in the Senate, besides gaining control of most of the city and county councils. I was one of those elected to the House.

It was in the legislature's chambers, five years later in March 1959, that we heard the news relayed from Washington, D.C., that Hawaii had been accepted into the Union as the 50th state. This had been the dream, the everlasting hope of both political parties. Now even greater challenges lay ahead. For the first time Hawaii would be sending Representatives and Senators to the U.S. Congress.

### A Visit to the Ancestral Home

I'd be less than honest if I said I didn't see myself somewhere in the brand-new political picture that came with statehood. And after hard thought and long consultation with my colleagues, I decided to run for the U.S. House of Representatives in the special elections called in July. The campaign was brief but intense, and the outcome clear from the moment the first returns began coming into our headquarters. As early as 8:30 p.m., it was obvious that I was rolling up a big majority, and my opponent conceded defeat. I was the first American of Japanese ancestry ever elected to the House.

A freshman Congressman's life is arduous, his hours are long, and the work is often the strictly procedural, but nonetheless important, business of learning how to get things done. But there was one occasion, at least, that stands out in my memory as both exciting and unique.

In September 1960 I was asked to serve on the American delegation to the Inter-

parliamentary Union, which was meeting in Tokyo that year. While I was there, the ambassador suggested that I visit the birthplace of my forefathers. I was delighted and, as I could never have got there in the allotted time by other means, he arranged for an American Marine jet to fly me to Fukuoka, a city some 550 miles southwest of the capital, where there would be a car waiting to take me on to Yokoyama village.

It was clear the people had been given advance notice of my coming. An expectant crowd waited in front of the council hall, and it was with deep feelings indeed that I responded to their warm greeting.

A man stepped forward and was introduced to me as a member of the village's *samurai* family. He bowed and offered me the traditional *samurai* sword that must have been handed down among his people for hundreds of years. Again I expressed my gratitude, then asked to be taken to the Inouye family home.

We walked along the narrow, scrupulously clean streets, the people coming out of their houses to smile and nod. They were impressed, I later learned, not so much because I was an American Congressman, but because I came from a family where all four children had gone to college, and because I had risen to an officer's rank in the Army. But perhaps most important of all, I was an Inouye, a name that would always represent the highest honor in this valley because of the heroic lengths two generations had gone to, to pay a debt.

At last we came to the thatched-roof ancestral home where my uncle, now the head of the family, waited to greet me. I bowed low, strained for my best Japanese and said, "Dear sir, I have returned. I now desire to pay my respects to my ancestors and would be grateful if you would lead me to the burial ground."

He was enormously pleased, as were the

other members of the family who now edged closer to me, to think that I would have taken the trouble to learn the traditional procedure for a long-absent son.

When we returned to the house from the burial ground, I was escorted to a place of honor at their table, and we had a delightful meal. Then the women and children left, and my uncle cleared his throat.

"You understand," he said, "that had your dear father stayed here, or chosen to return, he would now be the head of the Inouye family. Therefore, should you now desire to stay among us, we would be honored to have you choose any house in the family to be your own."

With equal politeness, I told him that my home was now in America and that I must return to my family and duties. Then we said good-by, and I left the village where generations of Inouyes had lived and worked in quiet simplicity—and where I, too, would have grown up but for a fire on a night so long ago.

### End of the Odyssey

Two years later, my visit to the old country was given unique perspective by another visit—this time with President John F. Kennedy. I had decided to run for the U.S. Senate and had been elected. I took my father with me to Washington to witness my swearing-in; and at the ceremony, as I raised my arm and swore to defend and protect the Constitution of the United States, our eyes met and held fast. I tried to imagine the thoughts and images which must have been passing through his mind.

Then later, at lunch, I received a telephone call from the White House.

"I want to offer my congratulations, Senator," President Kennedy said. "I understand your father is in town. I'd like to meet him."

Promptly at nine o'clock the next morning, Maggie, my father and brothers and I were escorted into the Oval Room of the White House. President Kennedy rose from his desk to greet us warmly. My father, usually quite open and talkative, could hardly find words to speak, but although we officially had been allotted only five minutes for our appointment, it stretched to a solid half-hour.

It was decidedly my father's day, and as we left the President, a crowd of reporters and cameramen surged around him. "What did the President say, Mr. Inouye?" they called.

My father signaled for quiet, then spoke: "I want to thank the people of Hawaii for their goodness to my son," he said. "For myself, I have seen my son become a Senator, and now I have met the President of the United States. Nothing that happens to me can be greater. I will die a happy man."

I walked close to him out to our car, picturing once again the little Japanese village where he had been born. It had been his fate to make the transition between two vastly different cultures. Each had been demanding, each had been wonderful, and I felt proudly that he had done honor to both of them.



### **U.S. Senator Daniel K. Inouye**

Today, he serves as the Secretary of the U.S. Senate Democratic Conference—the third-ranking Democratic leader. He is also a senior member of the Appropriations Committee, serving on the Subcommittees on Defense; Foreign Operations; State-Justice-Commerce and Judiciary; Labor, Health, Human Services and Education; and Military Construction. He's also a senior member of the Commerce, Science and Transportation Committee and

serves on the Subcommittees on Aviation; Communications; and Merchant Marine. In addition, he is a member of the Select Committee on Indian Affairs, and the Committee on Rules and Administration. He is an ex-officio leadership member of the Senate Democratic Policy Committee; Senate Democratic Steering Committee; and the Democratic Senatorial Campaign Committee. He is also a Senate advisor to the Japan-U.S. Friendship Commission.

## SAMPLE LETTER OF SUPPORT

Dear Civil Liberties Public Education Fund Committee,

The National Japanese American Historical Society (NJAHS) has a long record of developing in-depth and educational exhibits, publications and programs. They have shown a remarkable commitment to preserving Japanese American history and culture in order to educate the American public about the mass removal and incarceration of Japanese Americans during World War II.

Combining innovative technology with compelling oral histories, NJAHS is equipped to develop the San Francisco Presidio and Fort Mason Center at Pier One. The stories of Japanese American Military Intelligence Service soldiers in its secret language school and General John L. DeWitt's implementation of Executive Order 9066 at the Presidio are of crucial historical importance. It reveals two contradictory understanding of Japanese Americans during World War II. On one hand they were trusted with top secret information and on the other, entire families and communities were uprooted and imprisoned based on questions of national allegiance.

Fort Mason Center at Pier One will continue NJAHS' historical site development through innovative technology. They have already designed one CD-ROM *Children of the Crane* to teach lessons about the use of nuclear weaponry on Hiroshima and Nagasaki. Fort Mason Center will be dedicated to teaching how to use new technology to present and educate the public on eviction and incarceration experiences through Japanese American history and culture.

I support NJAHS' proposed interpretive history site developments at Fort Mason Center at Pier One and the San Francisco Presidio. These sites will provide a strategic space for them to continue their work and expand their audience to San Francisco visitors from around the world. Together with the National Park Service and the Presidio Trust, NJAHS adds additional perspectives to the interpretations of these sites, adding depth to the complex World War II history in San Francisco.

Sincerely,

Name  
Title

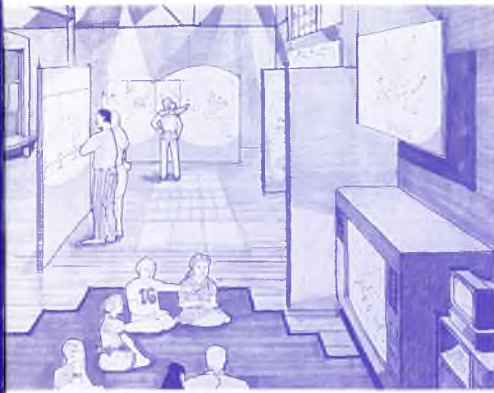




“Our new home  
is not a museum.  
It is a special  
place for  
everyone  
to learn, to  
interact,  
and to experience  
ethnic history in  
a new way...”

National Japanese American  
Historical Society  
1855 Folsom Street, Room 161  
San Francisco, CA 94103  
Telephone 415 431 5007





### Nikkei Heritage Gallery

This 2,000 square foot gallery will be designed to present programs of interest to an entire cultural and ethnic spectrum.

Children and adults will be encouraged to interpret the photographs, video, art, poetry and sounds in the gallery in their own way.

Working with educators, curriculum specialists and community advisors, NJAHS is forging a new concept in community education.

“Our new space will be experiential, engaging, and interactive.”

### Bookstore and Gift Shop

The shop will feature NJAHS' publications, videos, T-shirts, educational materials and a variety of Japanese American gift items.

### Conference Room

Our 500-square foot conference room will house program meetings, audiovisual screenings, and editing sessions.

### Oral History Room and Library

Visitors will be able to record their personal history in a relaxed, professional environment. Researchers will be able to explore NJAHS' extensive archive collections.

**NJAHS**  
**AT FORT**  
**MASON**  
**CENTER**



National Japanese American  
Historical Society  
1855 Folsom Street, Room 161  
San Francisco, CA 94103  
Telephone 415 431 5007

### Photo Archives

NJAHS boasts one of the nation's largest collections of historic photo archives on Japanese Americans.

### Workroom

A workroom will be available for visiting exhibit designers and volunteers to work on developing new traveling exhibits.

“Our new space will enable us to reach a broader audience.”



Students viewing *Children of Detention Camps* photo exhibit, July 1993.  
NJAHS Archives

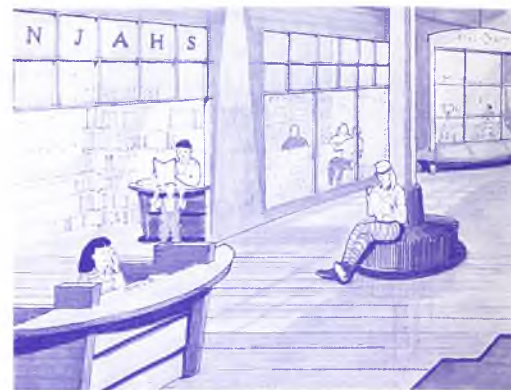


Annual NJAHS picnic fund-raiser at Shibata Garden, September 1992.  
NJAHS Archives

## Fort Mason Center

Our new home at Fort Mason Center will enable us to share our experience with a much broader public. Our stories will be told to a multicultural audience. In moving to Fort Mason Center, NJAHS will become an integral part of America's most attended urban national park. Located on the historic waterfront of San Francisco Bay, Fort Mason Center is a cultural mecca for over fifty non-profit groups.

NJAHS offices and Nikkei Heritage Gallery will be conveniently located at the newly renovated Pier One which provides easy access to members and to the two million visitors who come to the Center each year. Your participation in our Capital Fund Drive will ensure our presence at this national historic site.



Interior concept, Asian Neighborhood Design.

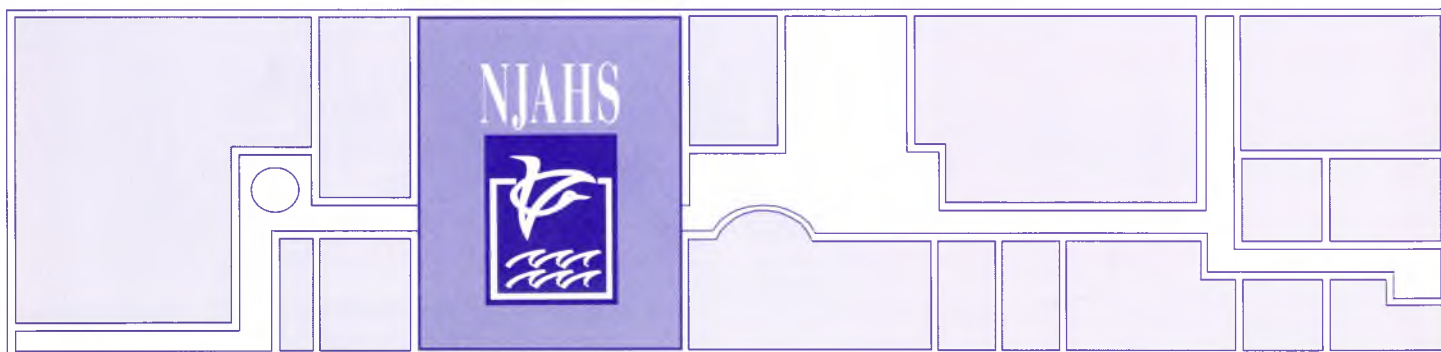
“We invite you to  
become a part of  
history.”

Your tax-deductible gift will be used to renovate the 4,000 square foot space and to expand our programs for the future. To do this, we need your help. Please contribute to the NJAHS Capital Fund. Contributions may be made in a single installment or may be arranged as a plan of scheduled payments.

Plans for the newly renovated space include a Donor Wall to be constructed in a place of prominence in honor of those donors who contribute \$1,000 or more to the NJAHS Capital Fund. Donor names or their designees will be inscribed on the wall in commemoration of their generous support of NJAHS.

Looking west toward the Pacific Ocean is an unobstructed breath-taking view of the Golden Gate Bridge. Centrally located on Pier One at Fort Mason Center, NJAHS will host private and public events.

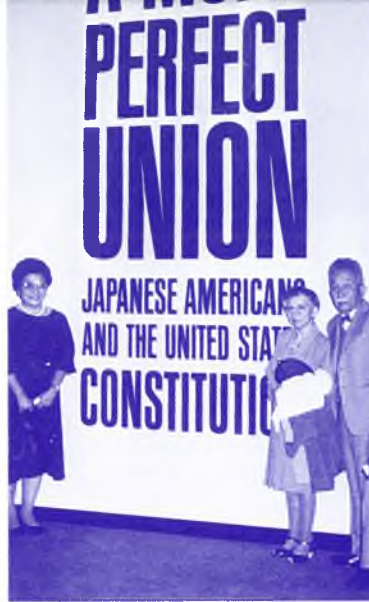
“Moving to Fort Mason Center  
share our experience with you.”



Pier One at Fort Mason Center (drawing not to scale).



The National Japanese American Historical Society (NJAHS) in San Francisco, founded in 1980, is a non-profit membership supported organization dedicated to the preservation, promotion and dissemination of materials related to the Japanese American experience.



Japanese American Exhibit at Smithsonian Institution, National Museum of American History, October 1987. NJAHS Archives

“In the past decade, NJAHS has grown from a group of volunteers to a highly esteemed educational and historical resource.”

We have successfully operated with the efficiency of a small business while maintaining our educational and nonprofit mission. A key function of the organization is in the sponsorship and development of photographic and three-dimensional exhibits.



*Strength & Diversity, Japanese American Women*, is a 3,500-square foot photo and artifact exhibit created and produced by NJAHS. Now touring nationally under the Smithsonian Institution Traveling Exhibition Services, the exhibit is booked in museums throughout the United States through 1996.

Issei Woman, Chicago, ca 1915. NJAHS Archives

“Our mission is to interpret, preserve, and promote the total experience of Americans of Japanese ancestry.”

In collaboration with the Smithsonian Institution, NJAHS served as principal consultant for the exhibit *A More Perfect Union, Americans of Japanese Ancestry and the U.S. Constitution*, 1987.



Fort Mason Pier One under renovation. Photo by Bob Hsiang.

“We are growing, as is our services, programs, and publications.”

The move to Fort Mason will enable NJAHS to continue its effort of cross-cultural and historical education. Programs of multicultural awareness, historical events, the arts and interactive activities are planned for the new space.

### Exhibits

Permanent, rotating and traveling exhibitions.

Among the traveling exhibits are:

*East to America*

*U.S. Detention Camps*

*Children of Detention Camps*

*Go for Broke/MIS*

*Strength and Diversity:*

*Japanese American Women*

### Programs and Public Events

Photo Archive Services to its members, publishing firms and public institutions.

Military Intelligence Service Archives and Fellowship Program.

Public panel discussions and booksigning events relating to Japanese American history.

### Publications (partial listing)

*Nikkei Heritage*, quarterly

*Heritage Calendar*, annually

*Due Process: Americans of Japanese Ancestry and the U.S. Constitution*

*Japanese American Women: Three Generations* (Nakano)

*Oral History Guide*

*Pacific War and Peace*

*Teacher's Guide: The Bill of Rights and the Japanese American Experience*

### Videos

*Yankee Samurai, Story of the 100/442* (Schory)

*Japanese American Women*

*50 Years of Silence*

*Nisei Soldiers in the Pacific*

# NJAHS AT FORT MASON CENTER



Below left  
100th Infantry Battalion on the move in Italy, June 1944.  
NJAHS Archives

Below center  
Manzanar detention camp, California 1942. Dorothea Lange  
National Archives

Below right  
Children headed for detention camp, May 1942. Dorothea Lange  
National Archives





# NJAHS AT FORT MASON CENTER



National Japanese American  
Historical Society

1855 Folsom Street, Room 161  
San Francisco, California 94103  
Telephone 415 431 5007  
FAX 415 431 0311

## CAPITAL FUND COMMITTEE

Co-chairs

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Mr. Yoshimi Shibata

## Capital Fund Drive Honorary Committee

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Hon. Frank Jordan,  
Mayor of San Francisco

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Hon. Dianne Feinstein, CA  
Hon. Daniel K. Inouye, HI

## U.S. House of Representatives

Hon. Robert T. Matsui, Sacramento, CA  
Hon. Norman Y. Mineta, San Jose, CA  
Hon. Patsy T. Mink, Honolulu, HI

## Architect

Asian Neighborhood Design  
Steven Suzuki  
Harry Ja Wong

## HISTORY OF FORT MASON CENTER

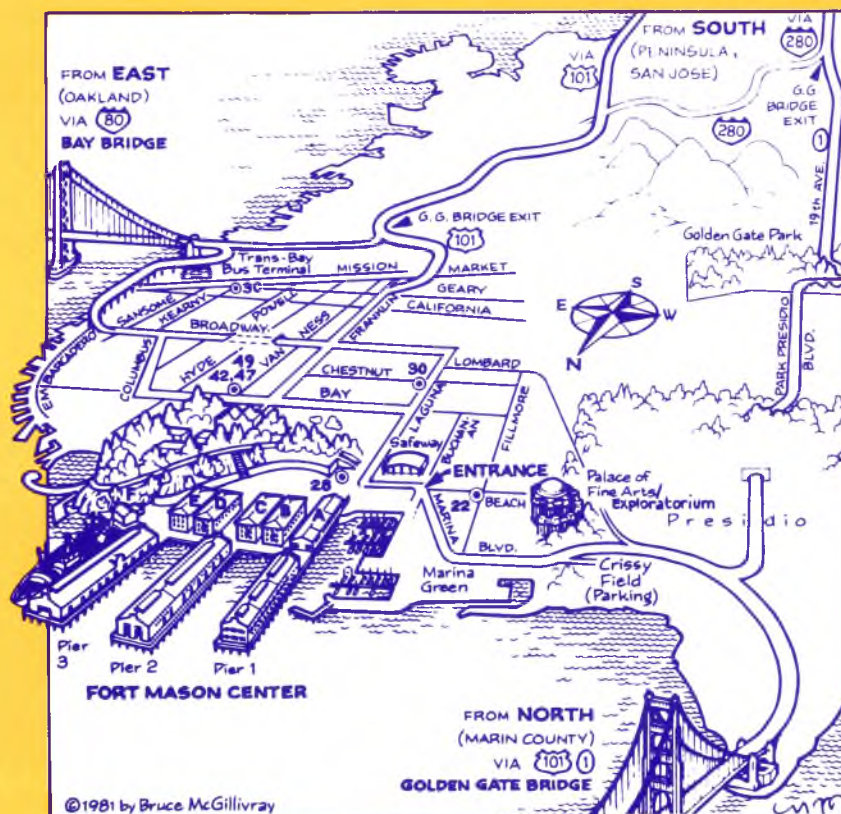
In 1850, the former Spanish presidio was declared U.S. military property, and renamed Fort Mason after Col. Richard Barnes Mason, military governor of California from 1847-1849. The area functioned as a military installation and as a port of embarkation during the Spanish-American War, World Wars I and II.

In the aftermath of the 1906 San Francisco earthquake and fire, Fort Mason became the refugee center and the Army Relief Headquarters for the city.

Located a short distance from Fort Mason was the Presidio of San Francisco, headquarters of the U.S. Army Western Defense Command, which implemented the Executive Order 9066 leading to the incarceration of Japanese Americans during World War II.

In 1972, Congress turned Fort Mason and several thousand acres of California shoreline over to the National Park Service as the Golden Gate National Recreation Area. In 1976, Fort Mason Foundation was formed to administer a wide variety of programs.

In January 1977, Fort Mason Center opened its door to the public. The latest renovation at the Center is at Pier One, which is the future home of the National Japanese American Historical Society.

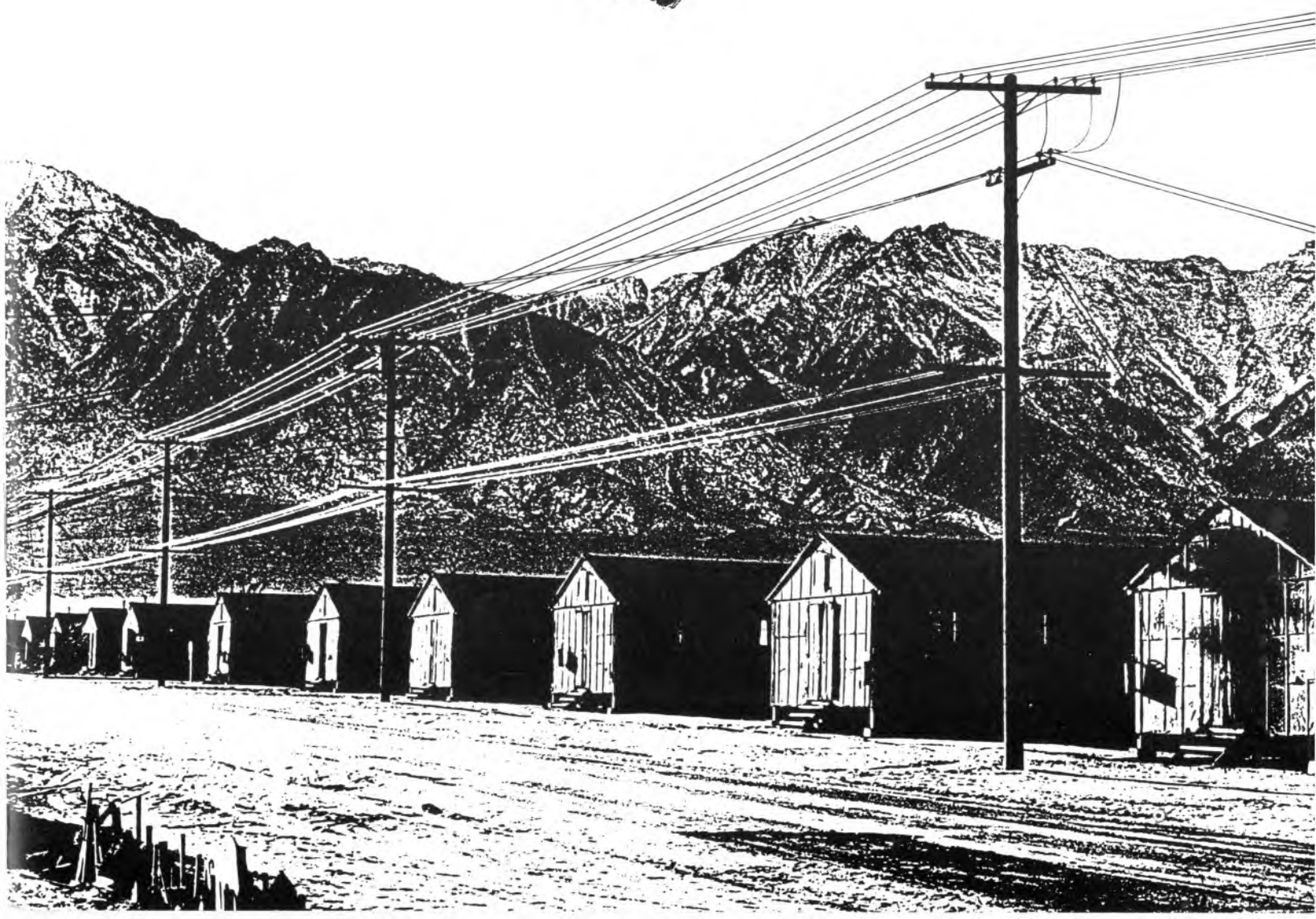


1976

# REDRESS!

THE AMERICAN PROMISE

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# THE AMERICAN PROMISE

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*By the President of the United States of America*

## **A Proclamation**

In this Bicentennial Year, we are commemorating the anniversary dates of many of the great events in American history. An honest reckoning, however, must include a recognition of our national mistakes as well as our national achievements. Learning from our mistakes is not pleasant, but as a great philosopher once admonished, we must do so if we want to avoid repeating them.

February 19th is the anniversary of a sad day in American history. It was on that date in 1942, in the midst of the response to the hostilities that began on December 7, 1941, that Executive Order No. 9066 was issued, subsequently enforced by the criminal penalties of a statute enacted March 21, 1942, resulting in the uprooting of loyal Americans. Over one hundred thousand persons of Japanese ancestry were removed from their homes, detained in special camps, and eventually relocated.

The tremendous effort by the War Relocation Authority and concerned Americans for the welfare of these Japanese-Americans may add perspective to that story, but it does not erase the setback to fundamental American principles. Fortunately, the Japanese-American community in Hawaii was spared the indignities suffered by those on our mainland.

We now know what we should have known then—not only was that evacuation wrong, but Japanese-Americans were and are loyal Americans. On the battlefield and at home, Japanese-Americans—names like Hamada, Mitsumori, Marimoto, Noguchi, Yamasaki, Kido, Munemori and Miyamura—have been and continue to be written in our history for the sacrifices and the contributions they have made to the well-being and security of this, our common Nation.

The Executive order that was issued on February 19, 1942, was for the sole purpose of prosecuting the war with the Axis Powers, and ceased to be effective with the end of those hostilities. Because there was no formal statement of its termination, however, there is concern among many Japanese-Americans that there may yet be some life in that obsolete document. I think it appropriate, in this our Bicentennial Year, to remove all doubt on that matter, and to make clear our commitment in the future.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby proclaim that all the authority conferred by Executive Order No. 9066 terminated upon the issuance of Proclamation No. 2714, which formally proclaimed the cessation of the hostilities of World War II on December 31, 1946.

I call upon the American people to affirm with me this American Promise—that we have learned from the tragedy of that long-ago experience forever to treasure liberty and justice for each individual American, and resolve that this kind of action shall never again be repeated.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of February in the year of our Lord nineteen hundred seventy-six, and of the Independence of the United States of America the two hundredth.





## THE CASE FOR REDRESS

This is a story of a tragic injustice incurred upon a group of people. It is a story of the government of the United States, urged on by men of prejudice, ignoring the Constitution of the nation and the Bill of Rights, ordering the mass removal of these people from the West Coast into detention camps during World War II. All accomplished without due process of law.

This is also a story about these people who were forcibly removed—the Japanese Americans. And their quest to right this wrong.

It is a case for redress.

To fully understand the Japanese American's quest for redress, it is important to know the history of the people. To say that more than 120,000 persons of Japanese ancestry were forcibly removed from the West Coast and imprisoned in detention camps scattered among the Western states of the nation would, by itself, justify the call for redress by the victims. But the story of the removal and detention is not complete without a historical review of the ebb and flow of events and forces which buffeted these people for a half-century and which finally led to the tragic removal and detention of the Japanese Americans and resident Japanese aliens in 1942.

The story of the Japanese in the United States is also a part of the history of the United States. In fact, the Japanese immigrants during the first half of this century played an important role in the growth and development of the West Coast. But coupled with this was the history of anti-Japanese agitation and legislation which flour-

ished among the West Coast states during the same period.

Amazingly, the exclusion, removal and detention of the 120,000 Japanese Americans and resident Japanese aliens during the early days of World War II were accomplished by the government of the United States despite the fact that not a single documented act of espionage, sabotage or fifth column activity was committed by those incarcerated. On the other hand, there was no mass removal and detention of American citizens of German and Italian descent.

Race prejudice? Of course. Deprived of the right to life, liberty, property and due process of law? Absolutely.

Why petition our government to redress the grievances of the Japanese Americans for those losses caused by the exclusion, removal and detention? Because the government, including Congress and the Supreme Court, failed to uphold the basic premise on which this nation was founded—a democracy whose foundation is the Constitution and the Bill of Rights.

This is why redress is not a Japanese American issue. It is an American issue.

"It is immoral to turn our faces away from protecting the foundations of our great democracy so that no other group of men will ever take our laws lightly and make decisions on government action based on ancestry. Redress is morally right and just," said Grayce Uyehara, the executive director of the Japanese American Citizen League's Education Committee.

Amen!

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Legislative Education Committee  
Pacific Southwest District Council  
Japanese American Citizens League  
Los Angeles, California

PHOTO CREDITS:  
Pacific Citizen  
Toyo Miyatake  
Visual Communications  
Private Collections





Shortage of workers in railroad, lumber and farm industries of Far West created demand for laborers from Japan.

## THE ROOT CAUSES

# IMPORTED AS LABORERS, THEY BECAME FARMERS, SHOP OWNERS

On June 19, 1868, a British vessel arrived in Honolulu with 149 Japanese aboard. They were not immigrants, but contract laborers and were the first major group of people to land in Hawaii from Japan.

Hawaii was by then a major supplier of sugar to the United States, and the sugar plantations were looking for cheap labor. More important, it was the beginning of the history of the Japanese in the United States.

The initial group which landed in Hawaii was recruited illegally by the plantations, because Japan prohibited laborers from leaving the nation. Eventually, the United States pressured Japan to allow laborers to emigrate in 1884, as the agricultural and lumber industries of the Western states were facing labor shortages.

By 1900, there were 24,000 Japanese working on the West Coast farms, forests and railroads. They represented the largest non-white ethnic group on the West Coast.

Since a large percentage of the immigrants came from rural areas of Japan, many of the workers left the railroads, sawmills, farms and the canneries after saving enough money to lease or purchase land and began farming.

They reclaimed unwanted land and developed it into rich agricultural areas. They began to outproduce the white farmers in California and began to alarm the farmers and labor unions.

In 1907, the United States, under pressure from California, signed a so-called Gentlemen's Agreement with Japan which barred immigration of laborers from Japan. This did not satisfy a

growing anti-Japanese movement.

In the meantime, thousands of Japanese women were arriving from Japan to join their husbands, or to marry men already here.

As families were started and children were born, the Japanese communities up and down the coast began to stabilize. Although forced to live in ghettoized areas, many opened small stores and shops in cities and towns to serve the farmers. Many of the children attended segregated schools or classes.

They were discriminated against in employment, forced to live in segregated areas, denied public accommodations, and in general, faced constant attacks from newspapers, politicians and organizations.

By 1909, about half of the Japanese population were working on the farms and three-quarters of the farm workers were in California.

The increasing success of the Japanese farmers was met with more hysterical outbursts by the anti-Japanese element. Organized groups began to clamor for more controls to hamper the Japanese competition, and they were joined by the politicians and newspapers, who took up the anti-Japanese chant.

Mob violence, including arson and forcible expulsion from farming areas, began to occur with increasing frequency as the media beat the drums and the politicians spewed anti-Japanese rhetoric.

In 1913, California passed the Alien Land Law, which prevented Asians from owning land.



Earning a living was tough enough, but ethnic Japanese faced many other barriers of discrimination (Hollywood-1920).

## IT TOOK 162 YEARS TO REMOVE RACE AS BAR FOR CITIZENSHIP

In 1790, Congress passed a law which restricted eligibility for naturalization to aliens who were "free white persons." The purpose of the law at that time was to prevent Negroes who had been brought in as slaves from becoming citizens. In 1870, however, after the end of the Civil War, it was amended to allow "persons of African nativity and descent" to become citizens.

Prevented from naturalization were Filipinos, who were considered "brown" and aliens from Japan, China, Korea and other Far East nations who were considered "yellow." The infamous alien land laws passed by many Western states in the early '20s preventing Asian aliens from owning land used the ineligibility of citizenship as the basis for their racial laws.

In 1943, as a gesture of friendship to China, who were allies during World War II, the Chinese were granted naturalization. Three years later, the Filipinos were off the black list.

It was not until 1952, when the Walter-McCarran Immigration and Naturalization Act was passed that the Japanese alien residents were able to become citizens. The 1952 Act not only eliminated race as a bar to naturalization, but also repealed the Oriental Exclusion Act of 1924, which had barred immigration from Far East nations.

In 1920, a stricter and tougher Alien Land Law was passed.

Under tremendous pressure from the West Coast states, Congress knuckled under the passed the blockbuster 1924 Oriental Exclusion Act. Primarily aimed at the Japanese, the law halted immigration of Asians from other Far East nations. It was a national insult to Japan, since it was the United States which had originally insisted on Japanese immigration in 1884.

In spite of these discriminatory setbacks, the Japanese doggedly pushed on. In many cities and towns, they built temples and churches, which were also used as community centers. Their children were admonished not only to behave in schools, but to make sure that they achieved their "A's."

Unable to become citizens, they worked to create exemplary communities up and down the coast, particularly as far as public records were concerned. They generally took care of their own problems so that the public records showed that the Japanese had hardly a person on the public welfare list or police blotters.

Due to the constant threat of the anti-Japanese factions, the application of a rigid community code of conduct was applied to the individual, the family, and finally, the community. This code of conduct was a form of security for the harassed Japanese. They thought that by keeping out of trouble, trouble would keep away from them.

But they never counted on war between the United States and Japan.



Aboard the President Wilson liner, men leave for Japan to bring back wives or find brides before Oriental Exclusion Act becomes law in 1924.



Starting out as hired hands, many saved money to become farmers and contributed to growth of West Coast's agricultural industry.

## ALIEN LAND LAW WAS POPULAR IN MANY STATES

In order to drive the Japanese farmers out of business, the anti-Japanese faction came up with the ploy to deny the farmers the right to own land because they were ineligible for citizenship. Called the Alien Land Law, it was passed by the state legislators of California with only a few dissenting votes in 1913.

Not satisfied with the 1913 version due to some loopholes, the state placed an initiative on the ballot in 1920 with stricter restrictions. The voters made it official.

The anti-Japanese law, according to a state official at that time, was "to discourage the coming of the Japanese to California."

Other states with the same bent began passing their versions of the Alien Land Law. Oregon, Washington, Nevada, Arizona, Idaho, Texas, Nebraska and even Delaware.

Even as late as 1948, the state of California was still filing escheat cases against the Japanese, who were returning from the detention camps.

Finally, in the *People vs. Oyama* case, the United States Supreme Court struck down the heart of the law in 1948 by declaring it unconstitutional. Other cases followed to cut the remaining portions of the law into shreds.

In 1949, the state of Oregon became the first state to repeal its alien land law. Others followed.

Since the California law was a state initiative, it took a state initiative to erase it from the books, even though it had been made inoperative due to the various court rulings. So the final chapter of the infamous Alien Land Law turned its last pages in 1956 when the state voters booted it out.



Like other Japanese, Mankichi Nakamura, a graduate of Univ. of Chicago, was not allowed to practice law because he was an alien ineligible for naturalization, so he served the community as a "legal advisor."



Boy Scout movement was popular in United States in '30s and Japanese communities were no different as they organized troops for their children. Troop 64 of Japanese M.E. Church of Los Angeles (1931).



Even though these youths lived in ghetto areas, it didn't stop them from organizing football teams to play against teams from other areas. The Oliver Club of Little Tokyo, Los Angeles (1933).



San Francisco police stack confiscated radios from Japanese who had to surrender radios and cameras after outbreak of war (1942).

## **THE OUTBREAK OF WAR**

# **BIGOTS IN AND OUT OF GOVERNMENT HAVE THEIR WAY WITH JAPANESE**

December 7, 1941. A day remembered by all Americans. On this day, Japanese planes bombed Pearl Harbor in Honolulu and triggered war between the United States and Japan. With a war already going full bore in Europe, the attack on Pearl Harbor expanded it to world-wide dimensions, flaming across continents and oceans.

Japanese communities from San Diego to Seattle went into a state of shock. Most did not know where Pearl Harbor was, and the eerie and surrealistic feeling that the war was not really happening evaporated as the newspaper headlines and radio broadcasts confirmed during the next few days that the unthinkable had happened.

The communities came to a virtual standstill as the FBI swooped in within 48 hours after the attack on Pearl Harbor and arrested hundreds of Japanese up and down the coast. Carrying with them a blanket "Presidential warrant," the FBI agents picked up men who were board members of various Japanese associations, chambers of commerce, Japanese language and martial arts schools, farmers' co-ops, and even Buddhist ministers. The resident Japanese aliens had now become "enemy aliens."

Although no specific charges were filed against these men, they were arrested because "the enemy aliens would be dangerous to the public peace and safety of the United States," according to government officials. Most of them did not know why they were arrested, and

neither did their families. Taken away without notice, the men were secretly shipped to one of 26 detention camps scattered in 16 states. Some of the families did not learn for years what happened to their husbands or fathers.

Stripped of their community leaders, the people had no one to provide them with the guidance and leadership they desperately needed during those troubled days. Their children, the Nisei, who were American citizens, were mostly in their teens.

In the meantime, the festering anti-Japanese element on the West Coast came out in full dress with flags flying. The war hysteria, together with rumors of espionage and sabotage by the Japanese in Hawaii, raised the level of anti-Japanese agitation to a higher pitch.

Secretary of the Navy Frank Knox added more fuel to the volatile situation with a statement to the effect that there was sabotage and espionage by the Japanese in Hawaii. The government knew, however, that this was not true and yet, did nothing to rectify it. Thus the country was falsely led to believe that both American citizens of Japanese descent and their alien parents were disloyal and a threat to American security.

State-wide organizations such as the Native Sons and Daughters of the Golden West, the Joint Immigration Committee, the American Legion, the State Grange, all of whom had been agitating against the Japanese since the '20s, joined the clamor. As the newspapers and the





The FBI rounded up schoolteachers, Buddhist ministers, leaders of farm associations and other organizations at outbreak of the war and placed them in special detention centers. This action stripped Japanese communities of advice and guidance as they faced numerous government edicts aside from constant threats by anti-Japanese groups.

radio stations began beating the drums to "do something with the local Japs," many public officials took up the cry, including California's Governor Culbert Olson, Attorney General Earl Warren and Mayor Fletcher Bowron of Los Angeles.

In the meantime, many of the Japanese families were facing difficulties since the breadwinners were hustled out by the FBI, others were fired from their jobs, many stores would not sell anything to them, and along with a curfew placed on all Japanese by the government, the community was in chaos.

Many of the families had sons already serving in the United States Army; but nobody cared. No Japanese American or resident alien was charged with any act of espionage or sabotage, but nobody listened. Most of the resident aliens had lived in the United States for more than 20 to 40 years, contributing to the growth and economy of the country, but nobody knew.

As the war entered the third month, sinister plans were being hatched against the Japanese people, citizens and aliens alike, on the West Coast. It was to shatter the lives of more than 120,000 persons.

On February 19, 1942, President Roosevelt signed Executive Order 9066.



Model airplane enthusiast Kiyomi Eguchi, who had lived in the United States for 45 years, is questioned by FBI agents about airplane models found in his home. Terminal Island (1942)



San Francisco Examiner's gleeful sounding headline of pending evacuation.



Detention camps were usually located in lonely and bleak areas. This is Heart Mountain, Wyoming, camp which held more than 10,000 persons.

## THE INCARCERATION

# MORE THAN 120,000 PERSONS WERE FORCED INTO CAMPS IN '42

When President Roosevelt signed Executive Order 9066, it set into motion an event many now call an "American Tragedy." It affected the lives of more than 120,000 innocent people who were herded into detention camps ringed with barbed wires and guard towers.

Incarcerated were the elderly, the middle-aged, the teenagers, the young tots, aliens and citizens alike.

No one was charged with any crime. But they had one thing in common—they were all of Japanese ancestry.

Prior to the President signing the executive order, which was about two months after the war started, there was intense politicking by racists and the misinformed to "get rid of the Japs."

Congressman Leland Ford of California was demanding that "all Japanese, whether citizens or not, be placed in inland concentration camps." He also stated that if the Nisei were loyal, they could "contribute to the safety and welfare of this country" by going to camp.

Attorney General Earl Warren admitted that there were no acts of sabotage or fifth column acts in California, but added that the absence of such activities by the Japanese Americans was confirmation that such actions were planned for the future.

John Edgar Hoover, the FBI chief, stated to government officials that there was no sabotage committed in Hawaii, but it fell upon deaf ears.

Things started to get out of hand as Congress joined the act. Senator Tom Stewart of Tennes-

see declared that, "the Japanese are cowardly and immoral. They are different from Americans in every conceivable way, and no Japanese should have the right to claim American citizenship."

Congressman John Rankin of Mississippi went further. "This is a race war . . . I say it is of vital importance that we get rid of every Japanese whether in Hawaii or on the mainland. . . . Damn them! Let us get rid of them now!"

The coalition of the Southern members of Congress with those from the Western states was not the only group in the capital pushing the President to remove the Japanese from the West Coast.

There was also the War Department. The most vociferous was Lt. Gen. John DeWitt, the commanding general of the Western Defense Command. In recommending exclusion, he wrote that "the Japanese race is an enemy race and while many second and third generation Japanese born on United States soil, possessed of United States citizenship, have become 'Americanized,' the racial strains are undiluted . . . It, therefore, follows that along the vital Pacific Coast over 112,000 potential enemies of Japanese extraction, are at large today."

The FBI and the Navy knew that the Army was overreacting to the issue and recommended that nothing more than careful watching of suspicious individuals were called for by existing conditions. They were, however, ignored.

Secretary of War Henry Stimson, without

insisting on a clear military justification for Gen. DeWitt's proposal to clear the West Coast of the Japanese, finally recommended that the exclusion measure be carried out and President Roosevelt signed the executive order.

Nobody seemed to care that martial law had not been declared on the West Coast. Executive Order 9066 gave broad powers to any military commander to exclude any person from any area. Although it did not specifically mention the Japanese Americans or aliens, the document was primarily prepared to remove and incarcerate them.

Very few voices were heard from others to protest this unconstitutional and unnecessary act of the government. The bewildered and helpless Japanese Americans and their alien parents were left alone to meet their fate.

The Constitution and the Bill of Rights were bent out of shape. Prejudice, ignorance, fear and greed had won.

Gen. DeWitt, who was one of the strongest advocates of the evacuation and detention order, did not, however, have a plan ready to implement it. Suddenly realizing the huge logistical problem and perhaps to lighten the load on the Army, he first urged the Japanese to "voluntarily" leave the military zone and move inland.

It never worked. Aside from the fact that only about 10,000 tried, many were met at the state borders by hostile vigilantes. It also didn't help to have the governors of the interior states complaining about their state becoming a "dumping ground" for the unwanted Japanese. Only about 2,000 persons moved out.

Gen. DeWitt quickly dumped his "voluntary" program and instead, placed all Japanese, both aliens and citizens, under curfew along with German and Italian aliens.

In March, 1942, Gen. DeWitt announced that all Japanese would be removed from the West Coast and interned in detention camps.

Soldiers in Jeeps appeared in various areas up and down the coast where there were concentrations of Japanese residents and began posting signs on utility poles. The signs defined the zones, usually covering an area with about 250 families, to be evacuated, the date of the evacuation and the place to assemble prior to being transported to temporary assembly camps. After the notices were put up, the people were given only about a week before evacuation.

This process went on week after week for months and created havoc with the communities.



While soldiers stand by, Japanese drug store in Los Angeles desperately tries to clear its shelves of goods before owner leaves for detention camp (1942).



Escorted by Army troops, Japanese residents of Bainbridge Island in Washington cross bridge to ferry on their way to confinement in detention camps. They were one of the first to be evacuated from their homes by Army evacuation orders.



Under guard towers looming around them, a group of evacuees enter Tule Lake, Calif., detention center. The Army built ten such camps scattered in seven Western states to confine 120,000 Japanese Americans and aliens.



Daily meals were served in mass "dining halls." With little privacy, family structure and discipline were strained.



With shoes neatly placed by Army cot, nursery school children take nap at Tule Lake, California, detention camp.

Since they were only allowed to take what the family could carry, including bedding and linen, change of clothes, toilet articles, eating utensils and other personal articles, it was an impossible situation for everyone.

Furniture and appliances had to be sold at giveaway prices or abandoned, farmers had to lease their land, cars had to be sold, businesses had to be disposed of, inventories had to be sold, stored or abandoned, and in effect, it was total chaos.

Buddhist and Christian churches, owned by the communities, stored many of the belongings of the members and then locked up. The irony of the situation was that no one knew if they would ever return.

Under the watchful eyes of soldiers with guns, the evacuees boarded buses or trains that took them to one of 15 temporary assembly centers or to two of the permanent detention centers under construction by the Army—Poston in Arizona and Manzanar in California.

Many of the temporary assembly centers were race tracks or fairgrounds and the whitewashed horse stalls were used to house the people.

All of the assembly centers held an average of about 5,000 Japanese with the exception of the Santa Anita racetrack camp near Los Angeles, which crammed in about 19,000 evacuees.

During the turmoil and panic the people faced in preparing for the actual evacuation ordered by the government of the United States, the people in most cases were confused and too busy to concern themselves with what the ominous evacuation and detention meant to them as individuals and also as a group. It was as though it was not really happening.

However, once the people were led to their small barracks room or the repainted horse stalls and sat down on the army cots with their families for the first time in the assembly centers, the reality of their situation hit them like a ton of bricks. Many cried and others were numb with disbelief.

A proud people, many of the elders had lived in the United States anywhere from 20 to 40 years, worked hard, stayed out of trouble, were good citizens although denied naturalization, and made their children toe the line to become good Americans. Now, it was all gone.

From these assembly centers, the Japanese were shipped in old trains, escorted by the military, to the ten detention camps built on government land. Most were located in desolate





Tar-papered wood barracks, where families lived in a single small room, were typical of all camps. This is Manzanar, California, detention center.

areas in the states of Arizona, Utah, Colorado, Wyoming, Idaho, Arkansas and California.

The people lived in tar-papered barracks with families living in a single room. The only furniture was the Army cots. Eating was in a "mess hall" with hundreds of other evacuees. Bathroom facilities were all centered in a common area. Privacy was impossible.

It was cold in Heart Mountain, Wyoming; it was hot in Gila, Arizona; it was wet in Rohwer, Arkansas; it was dusty and hot in Poston, Arizona. But life went on in the detention camps.

Behind the barbed wire fence and the watch-towers, the various churches reorganized, mimeographed newspapers were published, and the schools were being staffed from the ranks of the evacuees. Nothing was normal, and there were a myriad of problems, but the people were determined to make the best of a tragic situation.

But they were still held captive inside the detention camps. And the world outside of the camps did not like them, did not care about them and did not trust them.



Although equipment and facilities of schools in camps were primitive in the early years of detention, it did not deter the enthusiasm of these students in a Rohwer, Arkansas, detention camp elementary school.



When the Army announced the formation of an all-Japanese American military unit, these young men volunteered from Heart Mountain, Wyoming, detention camp.

## RESPONSE TO PREJUDICE

# **NISEI IN CAMPS VOLUNTEER FOR MILITARY SERVICE BY HUNDREDS**

When the war in the Pacific broke out, Japanese Americans already in the Army were either discharged or transferred to other units doing less sensitive work. There were about 3,500 Japanese Americans in uniform at the time. Others who were registered for the draft were reclassified as not wanted by the Army.

In Hawaii, the Japanese American soldiers were discharged from the Territorial Guard. On the other hand, due to a shortage of troops for the defense of the islands, Japanese Americans with the 298th and 299th Infantry Regiment were kept in service. Such are the inconsistencies in policies during the war.

The discharging of the Nisei from the Territorial Guard in Hawaii had a catastrophic effect upon the Japanese community. They comprised 37 percent of the population in Hawaii, and although the Japanese on the islands were not removed and incarcerated like the Japanese on the mainland, they were now positive that the government did not trust the local Japanese population.

Hurt by the discharge, the young men decided that the only way they could show the loyalty of the Hawaiian Japanese community was to serve in the Army.

In early 1942, those discharged petitioned Lt. Gen. Delos Emmons, the military governor of Hawaii, to allow them to serve in the Army to prove their loyalty.

In the meantime, the Japanese American Citizens League, the only national organization representing the interests of the Japanese, met in Salt Lake City and passed a resolution to petition

the War Department to restore Selective Service for the Nisei.

Mike Masaoka, the Washington D.C. representative of the JACL, reasoned that with Japanese in concentration camps, military service by the Japanese Americans would not only help blunt the anti-Japanese attitude which questioned the loyalty of the Japanese, but could possibly aid the return of the people back to normal life after the war's end.

While all this was going on, the War Department ordered the formation of a special battalion for combat purposes. From the 299th Infantry Regiment in Honolulu, 1,300 Japanese Americans were organized into the Hawaiian Provisional Infantry Battalion. This group was later redesignated as the 100th Infantry Battalion.

In February 1943, the War Department was asked by President Roosevelt to organize a combat team consisting of loyal American citizens of Japanese descent.

President Roosevelt, in ordering this proposal, wrote that "the principle on which this country was founded and by which it has always been governed, is that Americanism is a matter of mind and heart; Americanism is not, and never was, a matter of race or ancestry."

Answering the call, more than 10,000 Nisei volunteered for service from Hawaii and, amazingly, 1,500 from the concentration camps on the mainland. The Army selected 2,700 from Hawaii and 1,500 Nisei from the camps. These volunteers were all sent to Camp Selby in Mississippi for training. It was designated the 442nd Regimental Combat Team.



Unmindful of the rain, President Harry Truman salutes color guards of the 442nd Regimental Combat Unit after awarding Presidential Unit Citation.

## **THE SAGA OF THE NISEI SOLDIER**

### **THEIR COURAGE, DEEDS MADE ALL EVACUEES PROUD**

Maj. Gen Charles Ryder, the commander of the 34th Division, strode into the command post of the 100th Infantry Battalion. It was June, 1943, and the Allied Army was pushing off from the Anzio beachhead in Italy after being stalled for months by the tough and stubborn German defense. In a coordinated attack, the Allied forces surprised the Germans and broke out from the beachhead.

Two regiments (about 6,000 men) had been attacking a pass for days without success, and the American forces had to capture the pass for the offense to continue.

"We need to take it by tomorrow. It is essential that we capture it," Gen. Ryder emphasized to the officers of the 100th, the all-Nisei outfit. "I know you men could do it, and I am asking you to do it."

The plans for the attack were formulated that evening, and the 100th Battalion, 1,000 men strong, went into action. By noon, the Nisei soldiers had captured the pass and were on their way up to take the mountain when artillery shells

from the American forces began falling among them and forced them to stop their advance.

The artillery command post could not believe that the 100th could in a half a day wipe out the German defenses that a larger unit could not after days of trying.

Called by many of the top officers of the Fifth Army as the "finest offensive combat unit" in the Italian theater of operations, the 100th had done it again.

The all volunteer 442nd Regimental Combat Team joined the 100th later the same year in Italy. Together, they compiled one of the outstanding military records of World War II. They fought in Italy, in France, and back to Italy where they helped end the war in Italy.

The 442nd was in France when Gen. Mark Clark of the Fifth Army in Italy requesting the all-Nisei unit for a critical mission. It was March, 1945, and the 442nd was shipped to Italy in secret. The 442nd was already well known among the German command as one of the top offensive combat teams, and their movement to

another sector would alert them to wonder, "Hey, something is coming up in Italy."

The Allied Army was stalled by strong fortifications the Germans had built in the rugged mountains of the Apennines, and they had stopped the Allied 92nd Division for five months.

The 442nd attacked the mountain in a frontal assault. Climbing a steep 3,000 foot mountain, the Nisei soldiers surprised the Germans and captured the position within 32 hours. This broke the back of the defense, and the Allied Army raced through the gap. The war in Italy ended a month later.

For their action and successful operation, Gen. Dwight Eisenhower, Chief of Staff of the Allied Armies, commended the Nisei outfit.

"The successful accomplishment of this mission turned a diversionary action into a full-scale and victorious offensive . . . an important part in the destruction of the German armies in Italy," said General Eisenhower.

Called the most decorated unit of its size in the



The 442nd's 2nd Battalion moves forward to the battle front in the winter mud of the Vosges Mountains in France.

## "THE U.S. OWES A DEBT TO THESE MEN ...WHICH IT CAN NEVER REPAY."

U.S. Army, the 442nd Regimental Combat Team hauled in awards like it was going out of style. They received seven Presidential Unit Citations, a Congressional Medal of Honor, 52 Distinguished Service Crosses, 588 Silver Stars and 9,486 Purple Hearts.

The large number of Purple Hearts was due to many of the men being wounded more than once.

In the seven major campaigns fought by the unit, 680 men were killed in action.

The Japanese American soldiers were also serving in the Pacific campaign. There were 3,700 Nisei members in the Military Intelligence Service (MIS) who served with the Allied forces in the Pacific until the cessation of the war in August, 1945.

They were at Guadalcanal, Attu, India, Burma, New Guinea, the Philippines, Okinawa, Iwo Jima, and at other far-flung places where the Allied forces were fighting the Japanese army and navy.

They translated captured documents, interrogated prisoners, monitored radio transmissions,



A Japanese American Army interrogator questions a wounded Japanese soldier in the South Pacific.

and helped break the Japanese military code.

Probably Col. Sidney Mashbir, who headed the Allied Translator and Interpreter Section (ATIS) said it best in tribute to the Nisei soldiers:

"I want to make an unequivocal statement in regard to the Americans of Japanese ancestry who fought by our side in the war. Had it not been for the Nisei, that part of the war in the Pacific which was dependent upon intelligence gleaned from captured documents and prisoners of war would have been a far more hazardous long drawn-out affair.

"The United States owes a debt to these men and to their families which it can never fully repay. At a highly conservative estimate, thousands of American lives were preserved and millions of dollars in materials were saved as a result of their contribution to the war effort."

On December 30, 1944, Sgt. Frank Hachiya parachuted behind the enemy lines in the Philip-

pines on an intelligence mission. As he was returning to the American lines, he was mistaken for a Japanese soldier and shot. He delivered the maps of the Japanese defenses he had captured. He died three days later.

In the meantime, the American Legion post of his home town, Hood River, Oregon, had the names of 14 Japanese Americans, including Hachiya's, removed from the town's honor roll.

When the Army announced that Hachiya was awarded the Distinguished Service Cross posthumously, it was an embarrassed town that restored the names.

The Japanese Americans went to war to fight for democracy and at the same time, to prove to their country that they were loyal Americans. Many were killed in action, and when their parents were notified of their death, many of the fathers and mothers were still in the detention camps.



An elderly patient from a camp hospital is lifted onto a train for his return to the West Coast.

## **THE RETURN HOME**

# **INTERNEES ON LONG ROAD BACK TO PICK UP PIECES OF TORN LIFE**

On December 18, 1944, the Supreme Court ruled that loyal American citizens could not be detained against their will. Anticipating this ruling, the government had earlier announced that restrictions against Japanese Americans were being lifted, including the West Coast.

It had been three long years since the Japanese Americans were exiled from the West Coast. They could have returned earlier, if government and military officials had the courage to make decisions based upon facts and hard opinions rather than political reasons.

For example, the officials of the War Department had known since May, 1943, that the exclusion of loyal Japanese from the West Coast no longer had any military justification, but they never made it public.

Some members of President Roosevelt's administration later learned the same thing, but no one took any action because of the strong and vocal opposition from the West Coast. The fear of political repercussions from the rabid anti-Japanese factions forced government officials to put their heads in the sand on this issue. And so the sham continued until the Supreme Court ruling a year and a half later.

When the exclusion order was finally rescinded, about half of the original 120,000 persons were still in the detention camps. Aside from the young men serving in the military, the others had left the camps under the relocation program of the War Relocation Authority, the agency

responsible for the administration of the camps.

Those who had relocated settled mostly in the Rocky Mountain and Midwestern states, since the West Coast was off limits at the time.

Those who remained in the camps when the Supreme Court decision was made were primarily the elderly and the very young. For some of the Issei, the Japanese aliens, the closing of the detention camps meant that they would have to leave the security of the camps and go out into a hostile world, which made them reluctant to leave camp.

It didn't help matters any when the West Coast agitators started to get active again as the Japanese began their long road back to the towns and cities in which they had lived most of their lives prior to their ouster.

As the returnees began to trickle back to the West Coast, some were met by their old neighbors with open arms of welcome and helped with their resettlement problems.

On the other hand, widespread violence met other returnees. There were bombings, night rider shootings at farmhouses, assaults and other terrorism committed. And many merchants proudly had "We don't serve Japs" signs on their windows.

Many found the farms and orchards they had leased in ruins. The churches and temples where they had stored their belongings had been ransacked. It was a dismal return for many of the Japanese.

Mary Masuda had returned to Santa Ana





Takeo Miyama (arrow) recently returned evacuee, listens as San Francisco municipal bus mechanics protest his employment. Police join the discussion with other officials to mediate the situation.



The Takahashi family inspects a window broken by a thrown stone, missing flag showing a brother's war service. This Seattle incident in 1945 was one of many incidents which greeted returning evacuees.

from the Gila River, Arizona, detention camp and was threatened by local bullies to leave the area. Her brother, Sgt. Kazuo Masuda, had been killed in Italy. He deliberately sacrificed his own life so that his men could return safely from patrol. For this act of bravery, Masuda was awarded the Distinguished Service Cross.

The presentation of the nation's second highest award was made to Mary a few weeks after she had been threatened. The ceremony was held in front of the Masuda home with Gen. "Vinegar Joe" Stillwell, one of the outstanding generals of the Pacific war, making the presentation.

Stillwell said, "The Nisei bought an awful big chunk of America with their blood. You're damn right those Nisei boys have a place in the American heart, now and forever. We cannot allow a single injury to be done them without defeating the purpose for which we fought."

After the strong statement from Gen. Stillwell, Mary Masuda was never bothered again.

Housing for families was almost impossible to arrange since many places refused to rent to Japanese. As a consequence, the Christian and Buddhist churches, which the returnees reclaimed, were used as temporary hostels for hundreds of families. Many white Christian churches also provided housing for the Japanese.

With all of these problems, the returnees had another hurdle to face. They had to start rebuilding their lives from scratch. After being exiled for more than three years and losing almost everything in the process, it was not easy to begin a new life. Especially when the average age of the Issei was about 50.

With characteristic determination, patience and hard work, the Japanese began their slow climb back to normalcy. Despite continued harassment and agitation from anti-Japanese factions, the former residents were just glad to be back.



After years of being denied naturalization, hundreds of Japanese aliens pledge the oath of allegiance at the Hollywood Bowl. Most in their sixties and seventies, they had lived most of their lives in the United States.

## JUSTICE OWED, BUT EARNED

# ISSEI GRANTED CITIZENSHIP AS RACIST LAWS FALL

The war was over. The people were back on the West Coast except those who had relocated to Midwestern and Eastern states from the detention camps and chose to remain there. And the young men who went to war were returning.

The Japanese Americans and their Issei parents continued their struggle to rebuild their lives. There was, however, other important work to be done as well.

There were still anti-Japanese laws, remnants of the '20s and '30s, that were in force on federal and state books. Thus, the major goal of the national Japanese American Citizens League in the immediate postwar period was to eliminate all of these racist laws.

For example, three years after the cessation of the war, California was still filing escheat cases against the Japanese under the 1920 Alien Land Law. Other states also had similar alien land laws, which were patterned after California's law.

It was finally wiped off the books in 1949 after a series of separate cases were filed in the courts to fight the racist law, which prevented Japanese aliens from owning land. The courts ruled it

unconstitutional.

The big job was to gain naturalization rights for the Japanese aliens. They were the only group denied the opportunity to become naturalized citizens under federal law.

The 1790 law specified that only "free white persons" were eligible for naturalization.

Determining eligibility by color such as "brown" and "yellow," many races had originally been denied the privilege of becoming citizens. Over the years, however, the law had been amended many times to allow aliens of different races to become naturalized.

Chinese aliens were finally granted rights in 1943, and the Filipinos were allowed to become naturalized in 1946. Only the Japanese aliens were left out.

After a few heartbreaking efforts by the Japanese American Citizens League, they finally achieved their goal when a number of bills were spliced together in Congress into the Walter-McCarran Immigration and Naturalization Act and passed.

The legislation primarily restructured the nation's immigration laws, which previously barred

immigration from Far East nations and gave them token quotas. But it also eliminated race as a bar to naturalization. It was 1952.

By then, most of the Japanese aliens were in their sixties and seventies, but they diligently went to American history and government classes organized by local churches and organizations. And by the hundreds, they took and passed the citizenship examination and finally stood before federal judges and took the oath of allegiance.

They were the newest citizens of the United States. They had immigrated from Japan 30 to 50 years earlier, suffered harassment and even violence continuously from organized hate groups. Their character and loyalty were questioned and attacked, and they were forcibly removed and confined in detention camps unjustifiably and unnecessarily for three years, losing in the process everything they had worked hard for.

Who else would, or even could, continue to have faith in a nation that had treated them so shabbily for so long? They would—and they did.

# FEDERAL COMMISSION FINDS EVACUATION NOT JUSTIFIED

In 1980 Congress passed an Act creating a Commission on Wartime Relocation and Internment of Civilians (CWRIC), which was signed into law by President Jimmy Carter. Organized in February, 1981, the Commission conducted hearings in nine cities across the country, heard testimony from more than 750 witnesses and examined more than 10,000 documents.

In February, 1983, the Commission issued its report and found that military necessity did not exist in fact to justify the evacuation and exclusion of ethnic Japanese from the West Coast.

It also determined that the evacuation and exclusion was the result of "race prejudice, war

hysteria, and a failure of political leadership."

The Commission also confirmed that the excluded ethnic Japanese suffered enormous damages and losses, both material and intangible. In addition to disastrous loss of farms, homes and businesses, there was disruption of many years of careers and professional lives as well as the long-term loss of income, earnings and opportunity.

In areas where no compensation has been made, the Commission estimated the total loss of ethnic Japanese in 1983 dollars was between \$810 million and \$2 billion. Further analysis made by an independent firm has established the economic losses from \$2.5 million to \$6.2 million.

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## RECOMMENDATIONS OF FEDERAL COMMISSION

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[The remedies, which the commission on Wartime Relocation and Internment of Civilians issued on June 16, 1983, are based upon their fact-finding report and economic impact study.]

Each measure acknowledges to some degree the wrongs inflicted during the war upon the ethnic Japanese. None can fully compensate or, indeed, make the group whole again.

The Commission makes the following recommendations for remedies as an act of national apology.

1. That Congress pass a joint resolution, to be signed by the President, which recognizes that a grave injustice was done and offers the apologies of the nation for the acts of exclusion, removal and detention.

2. That the President pardon those who were convicted of violating the statutes imposing a curfew on American citizens. The Commission further recommends that the Department of Justice review other wartime convictions of the ethnic Japanese and recommend to the President that he pardon those whose offenses were grounded in a refusal to accept treatment that discriminated among citizens on the basis of race or ethnicity.

3. That the Congress direct the Executive agencies to which Japanese Americans may apply for the restitution of positions, status or entitlements lost in whole or in part because of acts or events between December 1941

and 1945.

4. That the Congress demonstrate official recognition of the injustice done to American citizens of Japanese ancestry and Japanese resident aliens during the Second World War, and that it recognize the nation's need to make redress for these events, by appropriating monies to establish a special foundation.

The Commission believes a fund for educational and humanitarian purposes related to the wartime events is appropriate and addresses an injustice suffered by an entire ethnic group.

5. That Congress establish a fund which will provide personal redress to those who were excluded.

Appropriations of \$1.5 billion should be made to the fund over a reasonable period to be determined by Congress. This fund should be used, first, to provide a one-time per capita compensatory payment of \$20,000 to each of the approximately 60,000 surviving persons excluded from their places of residence pursuant to Executive Order 9066. The burden should be on the government to locate survivors, without requiring any application for payment, and payments should be made to the oldest survivors first. After per capita payments, the remainder of the fund should be used for the public educational purposes as discussed in Recommendation #4.

The fund should be administered by a Board, the majority of whose members are Americans of Japanese descent appointed by the President and confirmed by the Senate.





This monument stands today in Owens Valley, California, and marks the site of Manzanar Detention Center.

There were ten major detention camps built by the government for the purpose of detaining Japanese Americans and aliens expelled from the West Coast during World War II. The last center was closed in October, 1946.

There were also a number of smaller detention centers where hundreds of other Japanese were interned. Most of the persons in these camps were picked up by the FBI a few days after the Pearl Harbor attack. They were mostly leaders of Japanese chambers of commerce, farm associations, martial arts groups, prefecture associations, schoolteachers and Buddhist ministers.

## THE CAMPS

1. Amache, Colorado, camp. (7,318 persons)
2. Gila River, Arizona, camp. (13,348 persons)
3. Heart Mountain, Wyoming, camp. (10,767 persons)
4. Jerome, Arkansas, camp. (8,497 persons)
5. Manzanar, California, camp. (10,046 persons)
6. Minidoka, Idaho, camp. (9,397 persons)
7. Rohwer, Arkansas, camp. (8,475 persons)
8. Tule Lake, California, camp. (18,789 persons)
9. Topaz, Utah, camp. (8,130 persons)
10. Poston, Arizona, camp. (17,814 persons)

## CLINICAL

# COUNSELING ASIANS: Psychotherapy in the Context of Racism and Asian-American History

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*The historical experience of Asian immigrants to the United States is outlined, and implications for counseling and psychotherapy with Asian-Americans are considered. It is suggested that, in charting therapeutic goals for Asians, three major factors must be taken into account: 1) when and why Asians migrated to the United States, and where they settled; 2) the number of years, and the impact, of public education; and 3) conflicting cultural norms that complicate the acculturation process.*

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For Asian-Americans, America is a rapidly changing scene reflecting as much the dramatic shifts of global power and politics as the moods in the United States.

Since the end of World War II, the United States has been directly involved in two unpopular wars in Asia. The fight on behalf of some Asians to ensure the right to self-determination has been a difficult task for this country—for America has barely begun to come to terms with its own racism against Asians. Are Manzanar, the first Japanese

relocation center of World War II and a symbol as powerful to Asian-Americans as Dachau is to the Jews, and Hiroshima true reflections of the more oppressive side of American attitudes toward Asians? Manzanar was 1941; Hiroshima, 1945. Was the intervention in Korea in 1950 and in Vietnam in 1958 possible to American minds because of the earlier unquestioning acceptance of Manzanar and Hiroshima?

Three years after the 1970 census, the number of Asians in the United States has increased significantly: the

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Chinese population rose 14% to 496,000; Filipinos increased by 26% to 43,000; Koreans by 80% to 126,000. At the end of World War II, the Asians in the United States numbered slightly over one half million, and the majority were U.S. citizens. Today the number is over 2½ million, and half are now foreign born. Unlike their predecessors, the new immigrants include middle-class entrepreneurs and professionals as well as laborers.

In 1969, sociologist Harry Kitano<sup>1</sup> noted the gradual breakdown of ethnic structures and the successful social assimilation of Asians into the mainstream of American life. A 1970 study<sup>2</sup> revealed that structural assimilation was no longer taking place, that

... Japanese Americans are still a structurally separate group . . . it is questionable whether they prefer to remain as such.

The recent immigrants have diffused the picture. Some 1976 data on the Koreans might shed light on the important changes that have taken place. Koreans are admitted to the U.S. at the rate of 30,000 a year. At the present rate of growth, they may reach the half million mark in 1980. Today, of 290,000 Koreans in this country, 215,000 are in households where Korean is spoken as a first or second language. Also, there are more female immigrants than male—68 males for every 100 females, compared with the turn of the century when 80% of the Korean immigrants were male.<sup>8</sup>

What are some of the dominant features of Asians settling on American soil? To what extent do Asian cultural values conflict with American values? How are such cultural conflicts resolved, individually and in the group?

I will discuss three areas that play a major role in the development of the Asian personality. While there are differences among the Chinese, Japanese, and Koreans, they do share, broadly speaking, a common cultural heritage. Also, the receptivity of the various states to the Asian immigrants did not differentiate among Chinese, Japanese, and Koreans. Most of the following material is drawn from the experiences of the Japanese, who constitute one of the largest Asian groups and on whom there is a considerable amount of data.

First, it is important to know when and why Asians migrated to the United States and where they settled; a brief review of Asian-American history will reveal some important historical differences in the way different states responded to Asian immigrants.

Second, while the impact of public education on the second generation of Asian immigrants was similar to that on other immigrants, the roots of their languages, religions, and values are from Eastern tradition. Hence, behavior patterns are more strenuously challenged, modified, or in need of replacement in the resocialization process in the new American homeland.

Third, cultural factors, both Asian and American, will be explored for their relevance to individual behavior and interpersonal relations. New rules for public and private roles characterize the shift from immigrant to acculturated American.

#### RECEPTIVITY TO ASIANS

The policies governing Asian migration to the United States were distinctly different from those affecting other migrations. Asian immigrants were recruited as a source of cheap, temporary

labor for Hawaii, as well as the continental U.S. For 50 years, 1857 to 1907, bachelors were the prime target for recruitment into the United States. The intention of the recruiters, the bachelor-laborers, and the U.S. government was that the immigrants from Asia would ultimately return to their homeland. To the Asian immigrant, the major motivation in coming to the United States (nicknamed "Mountain of Gold" by the Chinese) was to make a fortune. They were called sojourners.

The contract labor system bore a close resemblance to the slave trade: workers were recruited on a credit-ticket system whereby passage money was advanced by a broker. The immigrant was expected to buy his way out of debt with future earnings.

As problems grew with controlling and containing the Chinese workers, (the first Asian immigrants) in menial jobs and within specific geographical pockets, recruiters of labor moved to Korea, Japan, and then to the Philippines for a cheaper and, hopefully, less troublesome workforce. Language and cultural differences and centuries of historical animosity separated these Asian minorities from each other as well as from the American core culture. The fact that the Japanese were historically enemies of the Chinese, Koreans, and the Filipinos, led to separate ethnic societies that were reinforced geographically by vocation as well as by avocation. There were strict taboos against dating outside the ethnic group, indeed outside of one's caste within each group. Among the Chinese, a *punti* did not date a *hakka*; nor, within the Japanese group, were *Etas* considered suitable mates.

The demand for labor by sugar and

pineapple plantations in Hawaii closely paralleled the increase in Asian immigration on continental United States. However, as organized labor in California continued to agitate and attack Japanese immigrants, President Theodore Roosevelt, to avoid confrontation with Japan over treatment of its citizens in the U.S., signed the "Gentleman's Agreement" with Japan, which cut down Japanese immigration to the U.S. By executive order, he further barred immigration of Japanese from Mexico and Canada and migration from Hawaii to the mainland to prevent a further increase of Japanese immigrants to the West Coast. This executive order extended to citizens of Asian ancestry. Hence, even migration from Hawaii to the West Coast or to any part of the United States required a passport. The executive order would probably have been declared unconstitutional if it had been tested. It was revoked by President Harry Truman in 1948.

By 1924, Congress passed the Exclusion Act, which effectively barred all migration from Asia. There were considerable differences in the attitudes of communities in Hawaii and on the West Coast toward the new immigrants. These reflect the different histories of Hawaii and of the West Coast.

The monarchy of Hawaii was forcefully overthrown and annexed as a territory of the United States in 1898. Its largest source of income was from sugar and pineapple. Its economic system—based on sugar, pine, and shipping—as well as its political system, were dominated by a small, highly organized group, tightly held together by intermarriage and a complex of interlocking directorates of five major corporations. This group, known as the "Big Five,"

included a large number of sons of missionaries. They were extremely exploitative—plantation wages in Hawaii in 1909 were a minimum of \$9/month, compared to wages of \$4/day on the West Coast. While housing and food were also provided, the costs for these were arbitrarily estimated by the plantation companies, which then deducted these costs from future earnings.

Total control over the livelihood of the Asian plantation workers led to abusive treatment. However, the Hawaii planters, who were white, were actually a racial minority in a multiracial community, physically isolated and far removed from the protection of the U.S. government. Ironically, a bit of the Christian spirit plus a commitment to *laissez faire* economics and the spirit of *aloha* or the total acceptance of each new immigrant group by native Hawaiians, led to the establishment of the myth of racial harmony. The myth of racial harmony based on racial equality was crucial, for it provided the framework for the development of the islands. Hence, while immigration laws affected the quota of Asians, there were no laws prohibiting Asians in Hawaii from owning land or intermarrying; and public education was available to all.

The result was the development and movement of Asian immigrants into the mainstream of American life. By pooling their meager resources through *kaes*, *tanomoshi*, *huís*,\* Asians slowly made

their way out of the plantation system into small business and property ownership. The process was hampered but not deterred by language barriers and cultural traditions rooted in oriental philosophy. Even with the absence of any Asians, who constituted the majority of the population in Hawaii, in managerial or administrative jobs in these basic industries controlled by the white minority—the “Big Five”—the myth of racial harmony persisted and racial tokenism was an established way of life by 1940. All ethnic groups are honored at island celebrations. Not one but seven beauty queens are selected, one from each ethnic group. The interracial marriage rate rose to close to 40% by 1941.

Hence, island-born Asians or recent immigrants who have settled there have different orientations, perspectives, and options available to them than do West Coast Asians.

The reception accorded Asians on the West Coast was hostile. If we use the law as a reflection of the attitudes of mainland society, we find several pieces of anti-Asian legislation that were enacted primarily to keep Asians from coming to and settling in the United States. The laws included the Foreign Miner's tax passed in 1850, which levied a tax of \$20 a month on nonnative born miners. This tax on miners of foreign nationalities was the major source of funding the California State Government for 20 years, 1850 to

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\* Korean, Japanese and Chinese terms for a banking-loan system based on honor. Example: A person wanting \$1000 would ask ten friends with \$1000 each to join his *kae*. The first month he would bid 20% interest for a loan of \$100 from each member of the *kae*. Three months later, another member would bid 15% interest for \$1000; three months later it would be another member's turn. For those with notes due or cash-flow problems, it was a most useful money scheme. For those with no immediate need for \$1000, the interest rates made it a highly profitable investment.

1870.<sup>1</sup> A tax requiring each laundry business to pay \$15 per month was passed in 1873; a head tax of \$50 was charged to the owners of vessels for each passenger not eligible for citizenship (passed in 1855); another tax was a federal law limiting ships to carrying 15 Chinese passengers (1879). Statutes also excluded them from serving as witnesses in trials involving white men. (This led to the idiom, "You haven't got a Chinaman's chance!") Finally, the Chinese Exclusion Act of 1882 barred Chinese laborers from entering the U.S. The Scott Act of 1888 prevented Chinese laborers returning home from re-entering the U.S. (20,000 workers were involved). A Gentleman's Agreement Act, the Alien Land Act of 1913, prohibited aliens who were ineligible for citizenship in California from owning or leasing property.

These laws, in effect until 1965, not only ended Chinese migration to the United States but prevented spouses from joining their husbands, thereby frustrating attempts to establish natural families. It was not until 1946 that the U.S. Supreme Court reversed the California Supreme Court on the right of American-born children of these same immigrants to own land. This was also the year that a final attempt was made to add discriminatory alien land laws of 1920 to the State Constitution. Clearly, forces still exist to push forward and backward. In 1979, the California legislature is considering a bill to limit the amount of land owned by an alien.

In part, the hatred toward Asian immigrants, whose cheap labor western states actually needed for economic development, fed on the obvious physical and cultural differences of the Asian people *vis a vis* mainlanders. But the

animosity was intensified because the Asian laborers were primarily bachelors. Asian laborers were potential competitors, since women were a distinct and valued minority in the west.

In spite of all the discriminatory laws, Asians on the West Coast—where over one quarter of a million lived by 1940—were assimilated slowly and painfully into American society. Discrimination in housing, employment, and schools was common. To venture out of certain areas was to risk being refused service at restaurants, barbers, hotels, etc. Interracial marriages were prohibited by law.

But the most glaring act of racism against Asian-Americans is without parallel in American history. All persons of Japanese ancestry—one-third aliens and two-thirds U.S. citizens—were uprooted from their homes during World War II and put into internment camps without due process of law and without any evidence of sabotage or of any "clear and present danger." According to Ten Broeck, Barnhart and Matson,<sup>7</sup> this episode "embodied one of the most sweeping and complete deprivations of constitutional principle."

After World War II, 35% of the Japanese did not return to their homes on the West Coast. They had no homes to which they could return. As early as 1942, selected internees were given one-way tickets out of the internment camp. There was a shortage of labor in agricultural areas as well as the cities. Internees were sent to Chicago, Detroit, St. Louis, etc.—midwestern cities that accepted these displaced persons.

It is one of the great ironies of history that the internment camp experience, itself an oppressive and essentially un-American act, served as a catalyst for the Americanization and geographic

dispersement of the Japanese community. In spite of their "concentration camp surroundings" (barbed wire fences, guards), the destruction of their means of livelihood, loss of homes, disruption of families, exploitation of their labor (they were now paid \$16 a month), and loss of dignity, a process confirming the status of Japanese as Americans took place as the government dispersed members of the families into the interior of the country, and as contacts within the camps between inmates and the whites in the administration developed. In the camps, public schools as well as a form of community self-government were established. People voted for representatives, established rules, and developed community services. One could be a fireman, policeman, teacher, administrator, president of the student government, captain of the football team, cheerleader, or go to college with some hope that one's educational goals might be achieved. The sometime-rules of American parliamentary democracy were not only being taught but experienced by the inmates.

At the end of the war, the Japanese were freed and encouraged to leave the West Coast. And many did. Chicago and New York gained Japanese-American populations in 1945.

Many questions have been raised about the acculturation of Asians. Why did the Japanese, the majority of whom were under 20 years old and American citizens, not resist the evacuation? What Asian cultural values actually conflicted with American values? In this group of pre-World War II pioneers, why was there such a low rate for crime, delinquency, mental illness, and suicide? Were there any indications of deviant social behavior?

The lack of resistance to evacuation can be attributed to several cultural factors: 1) The Asian cultural value of obedience and conformity. 2) Given Japanese experience, there was a low expectation among the Japanese immigrants and citizens that they would be treated humanely. *Shigata ga nai* ("it can't be helped") expressed their stoic acceptance of the inevitable. As among Jews, there was among the Japanese a denial of reality: "It's not happening to us." 3) Moreover, the rounding up and removal of old, respected community leaders by the U.S. government had serious repercussions on the morale and the ability of the community to respond collectively.

Kitano<sup>4</sup> noted that socially acceptable means of psychological release were, in fact, utilized by the Japanese. Psychosomatic complaints, such as an obsession with stomach problems and high blood pressure went with rigid rules for social interaction, and with occupations that minimized both social interactions (e.g., gardening) and the opportunity for behavioral acting-out among the Japanese-Americans. By the 1960s, however, the highly Americanized third generation had joined the "me" generation. The larger "instant gratification" ideology of a segment of that generation challenged the Asian philosophy of the family, rather than the individual, as the central focal point.

Two factors, however, made complete assimilation difficult: the physical differences of the Asians and the racial prejudice harbored against them by the dominant white group. One could replace language, religion, values, and behavior pattern, but the physical differences and racism were outside any

individual's control. Some of the ramifications of these frustrations led to greater militancy, the continuation of structurally separate groups, and an identity conflict fed by racial and cultural factors.

#### CULTURAL NORMS

At this point, it may be useful to focus on some cultural norms that affect the hypothetically model Asian personality. The most noticeable characteristics (based on historical and anthropological observations) of an Asian are a deference to others and verbal devaluation of self and family. The absence of verbal aggression and direct expression of one's feelings, and the avoidance of confrontation, are personal qualities that are highly esteemed virtues in Asian society. They complicate the life of an acculturated Asian who tries to join the mainstream of competitive, individualistic American life. One's livelihood, in the American economy, if it is to be more than marginally successful, is based on assertive if not aggressive behavior and on "packaging" oneself into a valued commodity.

The Asian lack of assertiveness fits within its culture and is related to the Asian concept of shame. "Shame" in the Asian sense is guilt collectively shared by the family, as well as feelings of inferiority for not reaching ideals and goals as defined by them. Therefore, shame is a trait with many ethnocultural implications.

In Asia, the family is more important than the individual. All of the Asian's attributes derive from his affiliations: family, institution (the university is more important than the degree), village, etc. A person's rank within a group structure defines roles, governs behavior,

even determines speech and general countenance. Where one sits, to whom one bows, who one may marry, whether one's name is changed in marriage are predetermined. Each relationship carries different responsibilities and requires different responses. For example, in the work world, if one differs with a senior colleague, one is required to first summarize the person's work, then humbly depreciate oneself, and *then only* raise the question. Concurrent with this code of behavior is an entire system of acts: nonphysical movements and gestures, rituals that are part of an Asian's implicit nonverbal language.<sup>5</sup>

#### SHAME

In developing nonverbal dialogue, the Asians discipline their children through the ruthless use of shame. According to Pye,<sup>6</sup> the

... child is made hypersensitive to the judgment of ethics, to look to social situations for cues to guide his own actions and to be cautious about initiatives and innovations.

Asian parents have taught their children: "Don't pull the tail of the tiger while he's asleep," meant to convey to a child the consequence of shame for lack of sensitivity to timing. "Have you no eyes?", ask parents of children, meaning, "Can't you see and meet the needs of others without being asked?" Thus, children are taught to be ashamed of their lack of insight and aware that they have exposed themselves to the possible experience of shame, of failure or criticism of any kind. It is also an expression of empathy for the situation. Another term, *ha zu ka ski*, Japanese for "others will laugh at you," is meant to emphasize how "others" will react and bring shame



to oneself. However, exposing oneself to shame also places the "others" in the uncomfortable position of causing the embarrassment. One result is a pattern of behavior whereby the Japanese nods in agreement so as not to risk any embarrassment to the "other" by disagreeing.<sup>4</sup>

Weglyn<sup>5</sup> described the circumstances of one of two *Isseis* (first generation Japanese) who chose suicide over being evacuated because he felt that in a camp his trembling would be exposed, and the response would bring shame and disgrace to his daughter and ruin her chances for marriage.

For an acculturated Asian, it is shameful to be showy. A father who brags about his son's grades is expressing a lack of dignity and brings shame to the family. Within the family, the parents *assume* a child will perform well and thereby enhance the family name. Implicit in the concept of "shame to the family" is the need to repress one's own feelings in the service of the whole. An alcoholic father brings shame to the entire family, thus to children; a mother will caution, "Don't do any more to further shame the family name."

To reinforce the use of shame as part of the developmental process are words of warning and wisdom. *Cha ma* and *enryo* are the Korean and Japanese words, respectively, for asking one to enter a state of "being patient, being hesitant, holding back." Such an ability is a highly valued cultural trait. Another Japanese value, *Gaman*, is stressed. This means perseverance, to carry on without complaint, and is an expression of dignity. The Chinese word *Han* encompasses more than checking one's emotions. Not only

should anger not be shown, but talent, riches—anything that disrupts group harmony or places one above others—should also not be expressed.

The family name or honor is further reinforced by the rule of not discussing personal problems outside the family and discussing only certain topics within the family. One of Maxine Hong Kingston's mythical Woman Warriors, Fai My Lan, carries on her back a carved list of family grievances:

We are going to carve revenge on your back . . . wherever you go, whatever happens to you, people will know our sacrifice . . . and you'll never forget either.<sup>6</sup>

This internal dialogue, which an Asian child learns early to develop in each social situation, leads to the acceptance of the discrepancy between thought and action. It is this trait that sometimes hampers an Asian interpersonal relationship with Westerners, or even with other Asians of different orientation or generation.

The difficulty in articulating, or in seeing the *need* to articulate this internal dialogue under stressful conditions can have dire personal consequences. Here is an internal dialogue that interfered with the therapeutic process of an Asian student at a critical stage:

A student in therapy three times a week left for the month during Christmas break. At his last session before the holidays, the therapist said, "Call me if you need to see me." The patient thought, first, it's her (the therapist's) holiday too, and I shouldn't impose myself on her at this time; secondly, she didn't insist (a requirement in his value system for a sincere offer). He felt ashamed to ask for time, for it exposed his vulnerability. Four weeks at home without anyone with whom he felt he could discuss his feelings increased his anxieties to such an extent that, within two weeks of his return, he was hospitalized.

Table 1

**ATTITUDES AND PERCEPTIONS OF WESTERN INTERVIEWERS (ALL WHITE MALES) AND  
ASIAN INTERVIEWEES (ALL FEMALE) COMPARED**

WESTERN INTERVIEWERS	ASIAN INTERVIEWEES
Eye-to-eye contact attempted.	Eye-to-eye contact is shameful between strangers; only street women do that.
Asks for articulateness in self-presentation; some show of assertiveness (ambition) requested.	I am just a student. I am not important enough to be heard. They're all experts, maybe my future teachers.
Relaxed demeanor.	I sit as demurely as possible.
Requests, "Tell me about yourself."	It's shameful to brag. I must deny how good I am. He should dig out my accomplishments if he really is sincere about knowing them.
Requests presentation of balance in candidate's strong and weak points.	What a rude question (i.e., weak points); I must not answer, for it will mean exposing me and my family to shame. I must take the risk of being rejected for failing to respond.

The Asian family may be well in touch with its feelings, but the immediate expressing of feelings does not necessarily bring gratification; indeed it may reflect, negatively, on the family, and thus complicate the family's situation.

The different perceptions of Asians and Westerners are contrasted in TABLE 1, suggested by the experience of four Asian women recently interviewed and denied places in a graduate school. The Asian students were clearly at a disadvantage. They were denied entry to graduate school in part for their lack of understanding of Western body language and lack of Western-style assertiveness in self-presentation.

There are clear conflicts between Asian norms and psychotherapy norms. Therapy is based on *verbal assertiveness*. If the ideal client is indeed YAWVIS (young, articulate, white, verbal, intelligent, sensitive), then one would have to assume that therapy may not be an effective learning experience for Asians. Asian clients may be young

and intelligent and sensitive, but they are not white, verbal, or articulate.

However, a successful therapist is one who has the capacity to start where the client is. As the individual is clearly a product of his environment, a broad range of new factors have to be considered in understanding the dynamics of an Asian client: his nationality (Chinese, Japanese, Korean, Filipino, Vietnamese); where the family settled (rural, suburban, urban); social class and generation; and the family's interaction with other Asians in the community. One must understand that the values of counseling are antithetic to Asian philosophy, namely, that all problems can be solved only within the group, the family. In fact, mental illness is considered a genetic trait, another family secret not to be shared. The overwhelming respect for authority (and a therapist would be considered an authority figure to whom deference is accorded) adds an enormous complication to any therapeutic relationship.

However, there are several important

positive factors that can be used to develop a productive relationship between an Asian client and a non-Asian therapist. Most communication in any group is nonverbal; a part, of course, is verbal. The Asian, like the Westerner, has a highly developed sense of the meaning in their Asian culture of nonverbal cues. This can be used in a positive way. For example, an Asian hostess always crosses the threshold *with* her guest when she wants to indicate that the person is welcome to return. To politely inform a client that he or she is expected to return is often experienced as a sincere gesture, and as assurance to Asians that, regardless of the nature of the discussion, they are welcome to return. Such statements are considered by most Western psychoanalytic therapists as too structural and invasive, for they interfere with the client's freedom of choice.

To draw out the internal dialogue, some counselors have found Rogerian methods especially useful in working with Asian clients. The client-centered approach has clear advantages for a client accustomed to authority and direction, but it may also increase anxieties and instill a sense of futility. Resistance to interpretation may be a socially defined way an Asian protects his or her integrity.

In a series of conversations on psychotherapy and Asians, counselor Kiyo Morimoto of Harvard noted:

There is a crucial distinction related to the meaning of shame to Asians in the counseling process. The recognition of feelings in the western culture through sharing generally results in a confirmation of the legitimacy of the feeling. The sharing opens up the possibility for exploring and understanding other sources of conflict and pain.

For an Asian however, the empathic recogni-

tion of his/her feelings by the counselor threatens the client who is already experiencing feelings of shame for needing help and of even greater anxieties at further exposure of unacceptable feelings.

Some have found the traditional counseling relationship, which is heavily dependent on the client talking about personal experiences and problems, to be less effective than a relationship in which the therapist reveals some personal problems, sanctioning through this sharing the client's vulnerability. Through sharing, a trust can be developed with the therapist, who has had a completely different orientation and value system but has experienced the same feelings, yearnings, and experiences of love, hate, fear, loneliness, etc.

To some readers this may imply that group process might be a useful mechanism for Asian clients. However, many Asians have found groups especially traumatic in themselves. To share one's problems with *one* person was shameful enough; to share with a group was overwhelming. Also, work in a group seemed to require more expression of verbal aggression than Asians find worth the emotional effort. One student described her experience in these terms: "As soon as I had convinced myself that what I had to say was 'important' or as important as everyone else's problems, the session was over. . ."

Any Western therapeutic process is likely to be slower even for an acculturated Asian, for the client will need to overcome resistance to the sharing of perceptions that renders the Asian vulnerable to shame. Asians must familiarize themselves with the language of the expression of innermost feelings. The therapist, in turn, must learn the acute anxieties the Asian client is feel-

ing by just being "in therapy," and understand that verbalizing may not bring relief. In fact, it is not unusual for the Asian client to pick up nonverbal cues and hold them in an internal dialogue while talking about those issues the client feels the *therapist* would like to hear. Angry at the therapist for accepting these discussions as the client's innermost concerns, and frustrated that the therapist has not picked up on nonverbal cues, the Asian client often ends therapy abruptly.

In charting the goals of therapy, it is important for therapists to understand what personal change will mean to the Asian client. Therapists need to ask if they can help the Asian client switch, so that the client can use Western signals in a Western setting and Asian signals in an Asian setting. It would seem that only by helping the Asian client to understand and accept the need to develop "switching" signals ac-

cording to the setting can the integrity of the individual Asian be respected and maintained.

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# **Civilian Exclusion Order No. 5**

**WESTERN DEFENSE COMMAND AND FOURTH ARMY  
WARTIME CIVIL CONTROL ADMINISTRATION**

**Presidio of San Francisco, California**

**April 1, 1942**

## **INSTRUCTIONS TO ALL PERSONS OF JAPANESE ANCESTRY LIVING IN THE FOLLOWING AREA:**

All that portion of the City and County of San Francisco, State of California, lying generally west of the north-south line established by Junipero Serra Boulevard, Worcester Avenue, and Nineteenth Avenue, and lying generally north of the east-west line established by California Street, to the intersection of Market Street, and thence on Market Street to San Francisco Bay.

All Japanese persons, both alien and non-alien, will be evacuated from the above designated area by 12:00 o'clock noon, Tuesday, April 7, 1942.

No Japanese person will be permitted to enter or leave the above described area after 8:00 a. m., Thursday, April 2, 1942; without obtaining special permission from the Provost Marshal at the Civil Control Station located at:

**1701 Van Ness Avenue  
San Francisco, California**

The Civil Control Station is equipped to assist the Japanese population affected by this evacuation in the following ways:

1. Give advice and instructions on the evacuation.
2. Provide services with respect to the management, leasing, sale, storage or other disposition of most kinds of property including: real estate, business and professional equipment, buildings, household goods, boats, automobiles, livestock, etc.
3. Provide temporary residence elsewhere for all Japanese in family groups.
4. Transport persons and a limited amount of clothing and equipment to their new residence, as specified below.

## **THE FOLLOWING INSTRUCTIONS MUST BE OBSERVED:**

1. A responsible member of each family, preferably the head of the family, or the person in whose name most of the property is held, and each individual living alone, will report to the Civil Control Station to receive further instructions. This must be done between 8:00 a. m. and 5:00 p. m., Thursday, April 2, 1942, or between 8:00 a. m. and 5:00 p. m., Friday, April 3, 1942.

2. Evacuees must carry with them on departure for the Reception Center, the following property:

(a) Bedding and linens (no mattress) for each member of the family;

(b) Toilet articles for each member of the family;

(c) Extra clothing for each member of the family;

(d) Sufficient knives, forks, spoons, plates, bowls and cups for each member of the family;

(e) Essential personal effects for each member of the family.

All items carried will be securely packaged, tied and plainly marked with the name of the owner and numbered in accordance with instructions received at the Civil Control Station.

The size and number of packages is limited to that which can be carried by the individual or family group.

No contraband items as described in paragraph 6, Public Proclamation No. 3, Headquarters Western Defense Command and Fourth Army, dated March 24, 1942, will be carried.

3. The United States Government through its agencies will provide for the storage at the sole risk of the owner of the more substantial household items, such as iceboxes, washing machines, pianos and other heavy furniture. Cooking utensils and other small items will be accepted if crated, packed and plainly marked with the name and address of the owner. Only one name and address will be used by a given family.

4. Each family, and individual living alone, will be furnished transportation to the Reception Center. Private means of transportation will not be utilized. All instructions pertaining to the movement will be obtained at the Civil Control Station.

**Go to the Civil Control Station at 1701 Van Ness Avenue, San Francisco, California, between 8:00 a. m. and 5:00 p. m., Thursday, April 2, 1942, or between 8:00 a. m. and 5:00 p. m., Friday, April 3, 1942, to receive further instructions.**

**J. L. DeWITT**  
Lieutenant General, U. S. Army  
Commanding

Japanese  
American  
Citizens  
League  
Legislative  
Education  
Committee

*JoAnne H. Kagiwada*  
Executive Director

1730 Rhode Island Ave NW, Suite 204  
Washington, DC 20036  
(202) 223-1240 • FAX: (202) 296-8082



JAPANESE AMERICAN CITIZENS LEAGUE  
LEGISLATIVE EDUCATION COMMITTEE

BIENNIAL REPORT  
AUGUST 1988 - JUNE 1990

JACL NATIONAL CONVENTION  
SAN DIEGO, CALIFORNIA  
17-23 JUNE 1990

JACL-LEC BIENNIAL REPORT  
August 1988 - June 1990

TABLE OF CONTENTS

1. REPORT FROM THE BOARD CHAIR JERRY ENOMOTO
2. REPORT FROM THE TREASURER SHIG WAKAMATSU
3. REPORT FROM THE FUND DRIVE CHAIR MAE TAKAHASHI
4. REPORT FROM THE VICE-CHAIR, OPERATIONS CHERRY KINOSHITA
5. REPORT FROM VETERANS' LIAISON CHAIR ART MORIMITSU
6. REPORT FROM THE EXECUTIVE DIRECTOR JOANNE KAGIWADA
7. STATE'S TREATMENT OF REDRESS PAYMENTS
8. EXHIBITS
  - A. JACL-LEC Two-Year Plan: 1989-1990
  - B. "Redress Payment Issue Clarified" -- Takahashi Testimony
  - C. Letter to Appropriations Committee colleagues from Senator Daniel Inouye
  - D. "Redress for Japanese Americans: Senate Appropriations Soon" -- Action Alert from National IMPACT
  - E. Senate Entitlement Debate
  - F. LCCR Letter to Conference Committee
  - G. Washington Interreligious Staff Council Letter to Conference Committee
  - H. Community Leaders Praise President's Signature on Entitlement
  - I. Congressional Hearings Underscore Department of Justice Commitment to Redress
  - J. Legislative Chronology for Redress Entitlement





## ***The Japanese American Citizens League - Legislative Education Committee***

1730 Rhode Island Ave., NW, #204, Washington, D.C. 20036-3148 • (202) 223-1240 • Fax: (202) 296-8082

Jerry Enomoto, JACL-LEC National Board Chair

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**Staff:**

JoAnne Kagiwada  
*Executive Director*

Rochelle Wandzura  
*Administrative Assistant*

In the best of all possible worlds, as you read these words, each surviving and eligible victim of the wartime incarceration of Japanese Americans and their resident alien parents, would have received the long overdue Redress established by Public Law 100-383. Unfortunately, we will have to wait until the end of the federal fiscal year of 1993 to see that happen.

It is, however, not premature to "celebrate" this triumph that most felt we would never see. I say this because, as the words of the song go, "Time waits for no one," and the loss of so many of our fellow internees who will never see the victory, is grim testimony to that reality. It is particularly timely that the significance of what has been accomplished be properly recognized at this 31st Biennial National Convention of the Japanese American Citizens League (JACL).

History records that a Redress resolution was first introduced at the 1970 JACL National Convention in Chicago, and was followed by similar resolutions in each biennium until, at the 1978 Convention, the organization voted unanimously to make Redress the central objective of the JACL. It might be said that Redress finally became an "idea whose time had come." Why did it take so long? Much has already been said and written about the psychological, social, economic and political problems that prevented earlier action.

As in all ideas whose time finally comes, someone has to keep it before us, and not let us forget it. Edison Uno of San Francisco was one, who I personally knew, who urged action to secure Redress, when most of us lacked that vision. There are others who had that early vision and we owe them a great debt.

So this Convention, twenty years after the Redress resolution was first introduced in Chicago, and more than a decade since the JACL made it its number one priority, is a most fitting occasion to reflect on the past, appreciate the present, and hope for the future.

Part of that reflection must include the work done following the 1978 Convention, when the National JACL Redress Committee acted to implement the directives of the National Council. Members of that Committee, chaired by John Tateishi, were: Ron Mamiya, William Marutani, Henry Miyatake, Raymond Okamura, Phil Shigekuni, Min Yasui, and Ellen Endo (who later resigned and was replaced by Peter

Takeuchi and Paul Turner). Tateishi later served as the National JACL Redress Director. Thus began the intensive lobbying effort that had so much to do with how we got here.

Time and events have validated the judgment of those who urged the JACL to push for the creation of a federal commission to study the incarceration, and make recommendations for action. A theretofore largely forgotten issue was thus dramatically brought to the attention of Congress, after two years of extensive inquiry and testimony, elicited by the Commission on the Wartime Relocation and Internment of Civilians (CWRIC). A prominent presence on that Commission was then judge and respected JACLer, William Marutani of Philadelphia.

The CWRIC report, "Personal Justice Denied," concluded, among other findings, that the internment was caused by "race prejudice, war hysteria and a failure of political leadership;" and that; "A grave injustice was done to American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them, were excluded, removed and detained by the United States during World War II."

The CWRIC's recommendations included the recognition that individual monetary compensation, a traditional cornerstone of any official acknowledgment of wrongs committed, must be a part of any meaningful redress program. Accordingly, subsequent bills contained the provision of a payment of \$20,000 to each of the surviving internees.

Since 1983 the JACL has actively pursued legislation to implement the CWRIC's recommendations. Representative Jim Wright (D-TX) introduced HR. 4110 and Senator Spark Matsunaga (D-HI) introduced S. 2116 in the 98th Congress. They introduced them again in the 99th Congress, but those bills never got out of committee.

Thanks to the support and leadership of Representative Barney Frank (D-MA), HR. 442, introduced by Representative Tom Foley (D-WA), in the 100th Congress, was reported out of the House Judiciary Subcommittee, and then out of the House Committee on the Judiciary, chaired by Representative Peter Rodino (D-NJ). Representatives Robert Matsui and Norman Mineta of California, both themselves internees, were key leaders in the long fight in the House of Representatives.

On September 17, 1987, HR. 442 passed by a vote of 243-141. It should be noted that Representative Dan Lungren (R-CA), the only member of the CWRIC to vote against monetary compensation, introduced an amendment to eliminate it. The amendment was overwhelmingly defeated. Lungren's subsequent nomination for the office of California State Treasurer was rejected by the state Senate,

primarily through the efforts of Japanese Americans, who developed a coalition of organizations that examined his voting record, and decided that he was unfit for that office.

In the United State Senate, thanks to the single handed efforts of Senator Matsunaga, 71 senators co-sponsored S.1009. The Bill was reported out of the Governmental Affairs Sub-Committee on Federal Services, Post Office and Civil Service, chaired by Senator David Pryor (D-AR), and passed in the Senate Committee on Governmental Affairs, chaired by Senator John Glenn (D-OH) by a 9-0 vote.

On April 20, 1988, S.1009, renamed HR. 442, passed in the Senate by a vote of 69-27, four senators not voting.

Thus ended the Redress legislative campaign, one that took over a decade, and whose success was truly a community inspired victory.

The passage of HR. 442 signified a battle won, but the war was not over. An unsigned or vetoed bill is a hollow victory. The dramatic and honored record of Japanese American fighting men in Europe and Asia was instrumental in turning around the opposition of the White House. The pipeline to certain legislative leaders and the White House, provided by Legislative Strategy Vice Chair, Grant Ujifusa, was a significant asset in this arena.

Another battle in this war was won on August 10, 1988, when President Reagan signed HR. 442.

A bill passed and signed into law -- now we could finally relax and enjoy? Not yet, to our dismay we saw no money budgeted, and a year passed without any sign that a single internee would receive a cent. We saw the grim prospect of years passing, amid continuous competition in the appropriations process for scarce money, while more and more of our fellow internees died.

The man of the hour was Senator Daniel Inouye (D-HI), who, as we now know, introduced the concept of entitlement and obtained the support of key senators to secure its passage. In simple language, the Senator's action removed Redress dollars from the Appropriations competition, and assured that the full amount of \$1.25 billion would be paid by September 30, 1993.

As we pause and reflect, we also mourn the death of Senator Matsunaga. His key role in the Redress victory is one of the shining moments in an illustrious career of public service.

As the Redress campaign comes to a close, we are very aware that no one has yet received payment. However, we are reassured by the demonstrated commitment to a timely and efficient payment

process on the part of the Office of Redress Administration (ORA). As JACL-LEC phases out its operation, we plan to continue to work with the JACL organization to assist ORA in any way we can.

It is clear that the success of the Redress movement is a tribute to American democracy at its best, and embodies the real spirit of partnership between the community and its elected representatives. It was also a bipartisan effort. It was multi-ethnic, since all Americans helped. Many deserve credit, and the National Coalition for Redress and Reparations (NCRR) and the National Coalition for Japanese American Redress (NCJAR) deserve their share.

Certainly we can be proud of the major role played by the JACL-LEC, whose fund raising efforts, initially led by Past National JACL President, Harry Kajihara, and later by former CCDC Governor, Mae Takahashi, produced more than \$700,000. The grass roots lobbying that was so vital was begun under the direction of John Tateishi and continued by Grayce Uyehara, who maintained the effective nationwide network during the toughest part of the campaign to swing the House of Representatives our way. In the later stages of the campaign, Rita Takahashi served ably as Grayce's successor, and JoAnne Kagiwada did the "mop up" job as Executive Director. We cannot forget Rochelle Wandzura, whose staff support work was consistently helpful.

The late Min Yasui, a fighter for civil rights all his life, provided dedicated leadership as the first Chair of the JACL-LEC.

Fund raising and lobbying -- made possible by effective education, communication, and a partnership with the community -- those were the keys. Those keys were turned by the JACL-LEC Board and its staff. Each Board member, past and present, contributed more in time and resources than most. I was a relative late comer, but, as Chair, I feel an obligation to acknowledge particularly the work and support of Cherry Kinoshita, Denny Yasuhara, Mollie Fujioka, Mae Takahashi, Shig Wakamatsu, Meriko Mori, Hank Tanaka, and Tom Kometani -- whose untiring work behind the scenes and without fanfare, was so vital to our ultimate success. A roster of Board Members, past and present, follows this report.

The unique legislative and executive area contributions of Grant Ujifusa have been deservedly recognized. The special legal talents, as Legal Counsel, of Peggy Liggett and Gene Takamine were most appreciated.

As Veterans' Liaison on the Board, Art Morimitsu was instrumental in keeping our veterans groups focused on the Redress effort, and

assuring their support during the crucial times. Mike Masaoka, despite chronic health problems, was always available for help, as he has been during a lifetime of service to the Japanese American community.

I ask that the reader understand that this is one person's report and, as such, reflects limitations. It is not all inclusive, and certainly does not recognize the many individuals, past and present, who have contributed significantly to the Redress effort.

It is my hope that a future full accounting of the history of the movement will do justice to all.

Finally, keeping in perspective this achievement of JACL's top priority of the past decade, we should recognize that it was truly won by a determined quest for justice, and faith in democratic ideals that could not have happened without broad based support. It was a true team effort of which we should all be proud.

TREASURER'S REPORT  
by: Shig Wakamatsu

The treasurer's report consists of three different sections. The first section covers JACL-LEC's fourth Fiscal Year (1 June 1988 - 31 May 1989), the second covers the "Short Year" (1 June - 31 December 1989) and the third covers the first quarter of 1990 (1 January to 31 March 1990).

FISCAL YEAR 1 JUNE 88 - 31 MAY 1989  
LEC FUND DRIVE STATUS

OXNARD FUND RAISING DEPOSITORY

Balance at 1 June 1988		\$ 80,919.54
CBC Credit Union	28,907.14	
Barclay of Oxnard	52,012.40	
Interest to 18 November 1988		1,257.21
Balance at 18 November 1988		<u>82,176.75</u>
Disbursements		82,176.75
Transfer to Treasurer	60,000	
Transfer to Fresno Fund Raising Depository on 18 November 1988	22,176.75	
Total remaining at Oxnard depository after 18 November 1988		- 0 -

FRESNO FUND RAISING DEPOSITORY

Balance at 1 June 1988		114,359.14
Income		215,494.35
Donations	181,733.87	
Transfer from Oxnard	22,176.75	
Interest	11,583.73	
Total		<u>380,853.49</u>
Disbursements		270,000.00
Transfer to Treasurer	110,000.00	
Transfer to D.C. Office	10,000.00	
Purchase of Certificates of Deposit	150,000.00	
Balance at Fresno Union Bank Checking Account		<u>59,853.49</u>
Monies in C/D's		150,000.00
C/D 16 February - 17 August 89	50,000.00	
C/D 9 March - 7 September 89	100,000.00	
TOTAL FUNDS AVAILABLE IN FRESNO AT 1 JUNE 1989		<u>209,853.49</u>

SUMMARY OF RECEIPTS AND EXPENDITURES  
1 June 1988 - 31 May 1989

Balance as of 1 June 1988		\$ 26,907.27
Treasurer	\$24,678.57	
Washington, D.C. Office	1,072.99	
Legislative Strategy Chair	1,155.71	
Receipts		\$194,641.45
Transfers from Oxnard & Fresno	180,000.00	
M. Yasui Memorial Fund Grant	10,000.00	
Reimbursements/Credits	3,522.67	
Bank Interest	1,118.78	
Expenditures		203,545.53
Treasurer/Exec. Director (Uyehara)	164,552.31	
Washington, D.C. Office	31,672.92	
Legislative Strategy Chair	7,320.30	
Balances as of 31 May 1989		18,003.29
Treasurer	11,423.48	
Washington, D.C. Office	5,282.52	
Legislative Strategy Chair	1,297.29	

\* \* \* \*

DISTRIBUTION OF EXPENDITURES  
1 June 88 - 31 May 1989

ADMINISTRATION		\$ 50,468.50
Office Expenses	27,610.26	
Washington, D.C. Office	17,731.92	
Uyehara's W. Chester Ofc.	1,287.18	
Treasurer	2,303.68	
San Francisco JACL HQ	378.62	
Uyehara commute from PA	5,708.86	
LEC Board Expenses	18,423.62	
Personnel Committee	4,434.77	
LEC FUND DRIVE EXPENSES		18,618.13
PROGRAM/OPERATIONS		118,606.49
Staff	63,072.25	
Salaries	45,500.38	
Taxes, FICA/With-holding	13,349.88	
Insurance	4,221.99	
Direct Lobbying	14,442.26	
Mailgrams	10,193.84	
Legislative Strategy Chr.	4,248.42	

Distribution of Expenses 1 June 88 - 31 May 89  
page 2

Grassroots Lobbying	12,964.46	
Legislative Strategy Chr.	4,097.85	
Redress Monitor Newsletter	6,848.66	
Veterans' Liaison	2,023.95	
Materials Procurement (Booklets, Brochures, Certificates, Plaques, Tapes)	17,760.77	
LEC Chair (Phone, Travel, Sect'y)	4,150.90	
Leg. Str. Chr. (Phone, Bus. App't, Media)	4,130.86	
Vice Chair; Operations (Phone, Postage)	2,084.99	
PUBLIC RELATIONS/SPECIAL EVENTS		7,954.90
Presidential Signing in DC (Travel, Lodging)	2,669.34	
Seattle Convention	1,732.73	
Presentation of Plaques in Washington, DC	1,833.05	
Dinners, Contributions	1,719.78	
MISCELLANEOUS EXPENSES		7,435.97
"Orei" Honoraria	6,000.00	
Employee Transition	528.13	
Treasurer/Finance Committee	257.34	
Staff Travel, Fees	650.50	
TOTAL EXPENSES, 1 JUNE 88 - 31 MAY 1989		\$203,083.99

\* \* \* \* \*

SHORT YEAR: 1 JUNE 1989 - 31 DECEMBER 1989

LEC FUND DRIVE STATUS

BALANCE AS OF 1 JUNE 1989		\$ 59,853.49
Fresno Checking Account (Fund Drive Chair)		
RECEIPTS	92,441.85	
Donations	\$34,033.29	
Interest	8,408.56	
Cash from C/D	50,000.00	
TOTAL		\$152,295.34
DISBURSEMENTS		93,000.00
Transfer to Washington, DC Office	75,000.00	
Transfer to Treasurer	18,000.00	
BALANCE AT FRESNO CHECKING ACCOUNT		59,295.34
C/D, 6 June 1990	50,000.00	
C/D, 17 August 1990	50,000.00	
TOTAL FUNDS AVAILABLE IN FRESNO AS OF 31 DEC. 1989		\$159,295.34

SUMMARY OF RECEIPTS AND EXPENDITURES  
1 JUNE -31 DECEMBER 1989

BALANCES AS OF 1 JUNE 1989		\$ 18,003.29
Treasurer	11,423.48	
Washington, D.C. Office	5,282.52	
Legislative Strategy Chair	1,297.29	
RECEIPTS		94,354.78
Transfers from Fresno	93,000.00	
Reimbursements & Credits	910.00	
Interest	444.78	
EXPENDITURES		91,815.84
Treasurer	22,192.17	
Washington, DC Office	66,711.30	
Legislative Strategy Chair	2,912.37	
BALANCES AT 31 DECEMBER 1989		20,541.97
Treasurer	5,342.94	
Washington, DC Office	14,814.11	
Legislative Strategy Chair	384.92	

\* \* \*

DISTRIBUTION OF EXPENDITURES 1 JUNE - 31 DECEMBER 89

ADMINISTRATION		24,584.67
Office Expenses	16,122.90	
Washington, DC	\$14,270.81	
Treasurer	1,838.79	
San Francisco JACL	13.30	
LEC Board Meetings	8,367.43	
Personnel Committee	94.34	
FUND DRIVE EXPENSES		1,056.00
PROGRAM AND OPERATIONS		61,294.97
Staff	53,535.66	
Salaries	30,393.49	
Taxes, FICA, w/h	17,092.02	
Insurance/Pension	6,050.15	
Lobbying	3,402.99	
Legis. Str. Chair	2,912.37	
Veterans Liaison	550.62	
LEC Chair (phone, sect'y, travel)	2,507.12	
Leg. Str. Ch. (phone, bus. appts)	1,473.97	
Vice Chair for Operations	375.23	
PR/SPECIAL EVENTS (OCA, ADL, Matsui Sacramento)		1,010.00
MISC. EXPENSES		3,693.56
Staff Travel	1,115.56	
Employee Moving Expenses	2,578.00	

TOTAL EXPENDITURES FOR 1 JUNE - 31 DECEMBER 1989 91,638.64

FIRST QUARTER 1990, 1 JANUARY - 31 MARCH 1990

FUND DRIVE STATUS	
FRESNO CHECKING ACCOUNT BALANCE AT 1 JANUARY 1990	\$ 59,295.34
RECEIPTS	4,229.90
Donations	\$ 1,400.58
Interest	2,408.22
US Postal Service Business Reply Acct. closed	421.10
	63,525.24
DISBURSEMENTS	40,000.00
Transfer to Treasurer	10,000.00
Transfer to Washington, D.C. Office	30,000.00
FRESNO CHECKING ACCOUNT BALANCE AT 31 MARCH 1990	23,525.24
CERTIFICATE OF DEPOSIT DUE 6 JUNE 1990	50,000.00
CERTIFICATE OF DEPOSIT DUE 17 AUGUST 1990	50,000.00
TOTAL FUNDS AVAILABLE IN FRESNO AT 31 MARCH 1990	\$123,525.24

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SUMMARY OF RECEIPTS AND EXPENDITURES  
1 JANUARY - 31 MARCH 1990

BALANCES AT 1 JANUARY 1990		\$ 20,541.97
Treasurer	\$ 5,342.94	
Washington, DC Office	14,814.11	
Legislative Strategy Chair	384.92	
RECEIPTS		41,106.49
Transfers from Fresno	40,000.00	
Reimbursements/Credits	893.59	
Interest	212.90	
EXPENDITURES		37,784.87
Treasurer	5,849.99	
Washington, DC Office	31,549.96	
Legislative Strategy Chair	384.92	
BALANCES AT 31 MARCH 1990		23,863.89
Treasurer	9,570.18	
Washington, DC Office	14,293.71	
Legislative Strategy Chair (Account Closed)	- 0 -	

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DISTRIBUTION OF EXPENSES, 1 JANUARY - 31 MARCH 1990

ADMINISTRATION		\$ 7,886.65
Office Expenses	\$ 4,163.52	
Treasurer	\$ 258.26	
Washington, DC Office	3,905.26	
LEC Board Meetings	3,723.13	
LEC FUND DRIVE EXPENSES	- 0 -	
PROGRAM/OPERATION	28,294.77	
Staff	21,617.41	
Salaries	11,249.90	
Taxes/FICA/With-holding	7,821.67	
Insurance/Pension	2,545.84	
IRS penalties for late filing of tax return	3,425.94	
Lobbying	1,717.04	
Legislative Strategy Chr.	384.92	
Grassroots	1,332.12	
Staff travel	551.05	
Eun Thesis	628.37	
Uyehara expns.	74.92	
Mori expenses	77.78	
LEC Chair	749.59	
Legislative Strategy Chair	551.06	
Vice Chair for Operations	233.73	
PUBLIC RELATIONS/SPECIAL EVENTS	- 0 -	
MISCELLANEOUS	1,603.45	
(Flowers, Employee Transition, Jenner & Block expenses associated with pro bono legal services)		
TOTAL EXPENDITURES	37,784.87	

May 12, 1990

JACL-LEC FUND DRIVE REPORT

This report is presented in chronological order of events and functions performed from July 18, 1988 through May 12, 1990.

July 18, 1988	Submitted a written JACL-LEC Fund Drive Report to the National JACL Council, 1988 National JACL Convention in Seattle.
August 5, 1988	Submitted contributors list to Pacific Citizen for period ending February 29, 1988 for publications.
August 6, 1988	Reported to the JACL-LEC Board in Seattle, Washington. Updated the Board on the National JACL-LEC mail campaign. It was approved by the Board to initiate a National JACL-LEC mail campaign immediately after the signing of the Redress Bill. Letter of solicitation and business reply envelope will be used and the Pacific Citizen membership list would be used.
August 24, 1988	Initiated National JACL-LEC mail campaign with the assistance of Norbie Kumagai and Mollie Fujioka and Shig Wakamatsu and Grant Ujifusa. Mailed 25,000 letters of solicitations with a enclosure of President Reagan signing the Redress Bill and a return card and a business reply envelope. A procedure was established to receive the contributions in Fresno. Documentation of the contributions included recording the contributions with name, address, and dollar amount and by district. All the data was typed in Fresno and sent to Bacon Sakatani, LEC Data processor in West Covina to enter into the computer. The master file for the LEC Fund Drive was created by Bacon in 1985.
September 16, 1988	Updated the JACL-LEC Board (San Francisco) on the JACL-LEC mail campaign. A written report was distributed to the Board Members. The report included details of the progress of the National JACL-LEC mail campaign. As of September 15, 1988 2,237 individuals contributed \$76,818.00. It was approved by the Board to sent thank you notes to all donors to acknowledge their contributions.
October 10, 1988	Article submitted to the Pacific Citizen detailing the National JACL-LEC mail campaign.

November 1988 Hank Tanaka, JACL-LEC Board Member initiated a mail campaign in Cleveland.

November 11, 1988 Updated the JACL-LEC Board (Board Meeting in San Francisco) and distributed Fund Drive report. It was suggested by the Board the committee to explore other fund raising options. The Fund Raising Committee explored the Board's decision to do a follow-up on the National JACL-LEC mail campaign with a second mailing to the Pacific Citizen subscriber list in early part of 1989. After studying the decision the committee felt the return from the second mailing may not pay for the expenses. Instead it was decided to purchase an advertisement in Pacific Citizen acknowledging the donors and to encourage individuals to contribute. The committee also explored the concept of raising funds among non-JACLERS. After researching the concept it was decided by the committee the fund raising would best be served by contacting other Nikkei community organizations to use their mailing lists. Mollie Fujioka appealed to the Board to concentrate their energy to do his or her share in the fund raising effort.

November 18, 1988 The Redress Monitor, a national newsletter written and published by LEC was successfully mailed to over 6,000 donors. This success was due to the LEC Staff, Rita Takahashi, Executive Director and Rochelle Wandruza, and Bacon Sakatani. Bacon's expert skills with computer software was able to create a list of donors from the contributors recorded in his computer. It took Bacon 5 hours to extract the records, sort them and then reformat them with the correct addresses. Bob Sakaguchi also assisted with the final format to generate the address labels.

February 1989 Article was submitted to The Redress Monitor detailing the National JACL-LEC mail campaign and extended appreciation to the donors on behalf of the JACL-LEC Board of Directors.

February 25, 1989 Updated the JACL-LEC Board (Board Meeting in San Francisco) on the JACL-LEC mail campaign. The sum of \$131,175.78 was donated by 3,439 donors. An additional \$5,323.00 was received from 92 donors, for a total of \$137,074.78. It was agreed by the Board on the need for greater computer capacity to process mailing lists and donor lists at both the national and district levels.

March 1989

March 12, 1989

April 16, 1989

May 11, 1989

The Board agreed the fund raising committee explore the concept of having fund-raising banquet in June 1989 - either in Los Angeles or San Francisco.

Meriko Mori, JACL-LEC Board Member researched for a hotel site to hold the fundraising banquet in Los Angeles and spent considerable amount of time calling the various hotels to negotiate for a facility. Mollie Fujioka spent considerable amount of time contacting many Nikkei leaders to join LEC to support the fund-raising event for LEC. The event was not held due to logistical problems in schedules of the congressional and special guests to be honored.

Contacted Harry Honda, Pacific Citizen to initiate follow-up on the National JACL-LEC mail campaign with an Ad in the Pacific Citizen. The Ad in the Pacific Citizen had a two-fold purpose. It served to acknowledge all the donors by listing them and it served to promote fundraising for LEC. Due to Bacon Sakatani's expert computer skills he was able to coordinate with Harry Honda to create a list of donors on a diskette to be used by Pacific Citizen. This creative work by Bacon saved LEC 50 percent for the cost of the AD. We are indeed fortunate to have Bacon on our team. It is notable to commend Harry Honda for his valuable assistance in coordinating the Ad.

To initiate the Board's decision on the need for greater computer capacity to process mailing lists and donor lists at both the national and district levels and to receive and record contributions more effectively Bacon Sakatani, Mollie Fujioka, George Fujioka and Barbara Tanaguchi held a inservice at Mae Takahashi's residence in Clovis. Bacon inserviced the group for 2 days with hands instructions on the use of the program. All attended this inservice at their own expense. By initiating a secondary computer base in Clovis on Mae Takahashi's personal computer it reduced the time considerably in recording the contributions received. The contributions received in Fresno were entered in the computer in Clovis and a copy of the floppy disk with the contributions were mailed to Bacon to be entered into his master list in his computer.

Mailed draft of article to appear in the Pacific Citizen Ad to the Fund Raising Committee for input. All the committee members and Cherry Kinoshita gave input into the article. The final draft used was written by Cherry.



May 25, 1989 Mollie Fujioka drafted and mailed letters to District Govenors, District Redress Coordinators, and Chapter Presidents updating them on the National Mail Campaign and also requesting their assistance and support for fundraising at the local and district levels.

June 6, 1989 Submitted article and the diskete with the contributors names to the Pacific Citizen for publication. The Friday, June 16, 1989 issue of the Pacific Citizen published the names of the contributors by dollar amounts and districts. This publication was the result of the Ad coordinated to acknowledge the donors and to encourage individuals to contribute.

June 24, 1989 Reported to the JACL-LEC Board (Board Meeting in San Francisco) that the follow-up to the national mail campaign has been launched with a letter to 200 plus individuals and an AD in the Pacific Citizen.

August 1989 Drafted and submitted an article of appreciation to the donors and solicitation form to the Redress Monitor. This article generated approximately \$16,000.00 to the JACL-LEC Fund.

September 9, 1989 Executive Director JoAnne Kagiwada reported for Mae Takahashi. Mae Takahashi was not able to attend the JACL-LEC Board Meeting and mailed her report to the Executive Director to distribute her report to the Board Members. The Board approved Tom Kometani and Meriko Mori be added to the Fund-Raising Committee and accepted Grant Ujifusa's request to be relieved from serving on the committee.

September 1989 Submitted article to the Redress Monitor to express appreciation and update on the appeal for funds in the previous Redress Monitor. Also letters from individuals and organizations were published.

October 14, 1989 Bacon Sakatani, Mollie Fujioka, George Fujioka, Barbara Taniguchi met at Mae Takahashi's to follow-up on the inservice held on April 16, 1989 to set up the logistics for furthur fund raising for JACL-LEC in regards to the mechanics of creating a mailing list and receiving and recording contributions and to distribute the work load between West Covina, Fresno and Walnut Creek.

January 6, 1990 Distributed Fund Raising Report to the JACL-LEC Board at the board meeting in San Francisco. A report of the monthly receipts from fund-raising and interest income for the period June 1 through November 30, 1989. In addition an outline of the major fund-raising campaigns since May 1989, with their results. Contributions for the period June 1, 1985 through December 31, 1989, totaled \$702,889.98. During the period April 1987 through December 1989, 320 bank deposits were made and wrote and mailed 5,021 thank you notes to donors.

May 12, 1990 Prepared income report from fund-raising campaigns from April 1987 through May 1, 1990 for the National JACL Council, Convention in San Diego June 1990.

To conclude this report I would like to express my utmost appreciation and gratitude to Mollie Fujioka, JACL-LEC Board Member who assisted and guided me through our fund-raising campaigns for LEC, to Bacon Sakatani, LEC Data Processor who volunteered his time and expertise in creating a software especially for recording the donor's contributions and who spent hundreds of hours entering the contribution data into his computer and providing historical contribution data for my reports to the JACL-LEC Board, to Sachiye Kuwamoto, Regional Director/CCDC who volunteered her time to assist me in receiving and recording and preparing the donor's contribution to be entered into the computer, to Sue Koga, Nikkei Service Center/CCDC volunteer who assisted Sachiye Kuwamoto with the recording and preparing the donor's contribution, to Barbara Taniguichi, Fresno JACL Chapter who volunteered her time to record and prepare the donor's contribution, to Ken Yokota, Fresno JACL Chapter who volunteered his time to establish a JACL-LEC account and planned and arranged for the monies to earn the maximum interests, to Nancy Sasaki and Randy Sasaki, Fresno JACL Chapter who volunteered their time in writing thank you notes and to Norbie Kumagai, Sacramento for his assistance with the National JACL-LEC Mail Campaign, and to my committee members Hank Tanaka, Shig Wakamatsu, Grant Ujifusa, Meriko Mori, Mollie Fujioka and Tom Kometani for their valuable assistance and support.

The outstanding success of the JACL-LEC fund-raising effort was due to the innovation, committment and dedication of the District Redress Coordinators, Governors, Chapter Presidents and District and Chapter Fund Raising Chairs and hundreds of members who volunteered their time and resources to the Fund Raising effort all across the country. To all of them I extend my appreciation and gratitude on behalf of the JACL-LEC Board of Directors.

It has been an exciting and astonishing experience being the JACL-LEC Fund Raising Chair because you the contributors to the JACL-LEC Fund ensured the successful redress of Americans of Japanese ancestry and you demonstrated by your contributions the spirit of a group of people dedicated to the dignity and rights of all peoples. So it is a privilege for me to extend to you my appreciation and gratitude on behalf of the JACL-LEC Board of Directors

Respectfully submitted,



Mae Takahashi, JACL-LEC Fund Raising Chair  
05/12/90mt

THE FIGURES ON THIS PAGE REPRESENTS CONTRIBUTIONS BY DISTRICTS FROM THE NATIONAL JACL-LEC MAIL CAMPAIGN INITIATED ON AUGUST 24, 1988:

DISTRICTS:

I	PACIFIC NORTHWEST	\$ 12,300.00
II	NORTHERN CA-W NEV.-PACIFIC	66,773.55
III	CENTRAL CALIFORNIA	10,835.00
IV	PACIFIC SOUTHWEST	44,693.00
V	INTERMOUNTAIN	9,880.00
VI	MOUNTAIN PLAINS	3,310.00
VII	MIDWEST	29,048.00
VIII	EASTERN	13,203.00
TOTAL CONTRIBUTIONS		\$ 190,042.65

THE ABOVE DATA WAS PROVIDED BY BACON SAKATANI, JACL-LEC DATA PROCESSOR.

05/15/90MT

THE FIGURES PRESENTED ON THIS PAGE REPRESENTS CONTRIBUTIONS BY DISTRICTS FROM JUNE 1, 1985 THROUGH MAY 15, 1990:

DISTRICTS:

I	PACIFIC NORTHWEST	\$ 76,369.47
II	NORTHERN CAL-W NEV.-PACIFIC	233,296.09
III	CENTRAL CALIFORNIA	38,721.59
IV	PACIFIC SOUTHWEST	206,013.29
V	INTERMOUNTAIN	12,065.00
VI	MOUNTAIN PLAINS	8,540.00
VII	MIDWEST	78,255.28
VIII	EASTERN	57,782.84
STAFF		100.00
TOTAL CONTRIBUTIONS		\$ 711,143.56

THE ABOVE DATA WAS PROVIDED BY BACON SAKATANI,  
 JACL-LEC DATA PROCESSOR.

05/15/90MT

BIENNIAL REPORT OF JACL/LEC VICE CHAIR OF OPERATIONS

June 1990

Liaison with JACL

As one of the VC/Operations' responsibilities is to maintain liaison with JACL, a cooperative arrangement was worked out to utilize the redress coordinator network in coordination with the JACL regional offices/staff to provide assistance, conduct community redress workshops, and to offer a community service in connection with ORA documentation and verification processing. With both JACL National Director and the LEC Executive Director involved, this working relationship was visualized as one of the preliminary steps in the process of LEC phase down and eventual incorporation of LEC activities into the JACL operations.

With a view toward a smoother transition of the LEC operations into the JACL structure, a proposed contract service arrangement is being finalized with JACL to provide continuity in the monitoring of redress eligibility, redress payments, and any entitlement activity; servicing of community needs with redress processing assistance; assisting with state tax exemption legislation; and serving as a clearing house for redress information.

Monitoring of ORA

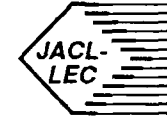
When the ORA regulations were first printed, the LEC Legal Counsel did an in-depth study of the provisions and compiled recommendations for simplification, which subsequently were substantially followed by the ORA. Along with monitoring of ORA, the VC/Operations submitted a list of close to 30 questions gathered from community input for the LEC Board meeting with ORA in January of this year. Answers were obtained to many of the questions which could be answered at that particular time, and subsequent contacts with ORA have brought further clarification. LEC had requested a form for reporting deaths more than six months ago, and this form was made available to the public in April.

Nominations/Elections

Because of the decision to phase down and, possibly within a short time, to phase out due to diminishing activity and lack of funds, the year end election for consideration of new Board members was not held. In April a decision was made to reduce the Board effective June 30, 1990 to the current Executive Committee of seven members. A further review of LEC operations will be made at the LEC Board meeting on June 22, 1990.

Personnel

Under the Personnel Committee Chair, an LEC personnel manual was developed during the past biennium. Three Executive Directors have served since full activation of the LEC in 1985. Grayce Uyehara, Rita Takahashi, and JoAnne Kagiwada have staffed the Washington D.C. LEC office throughout the period of over 5 years in providing direction to the grassroots network of redress coordinators and monitoring the legislative activity and eligibility issues.



Summary

In these last five years the JACL/LEC has achieved its mandate and made significant contributions toward achieving passage of the Civil Liberties Act of 1988; and toward more favorable implementation of the Act:

- in providing the organizational leadership in legislative strategies
- in providing the key contacts at crucial stages of the lobbying process and in securing administration support
- in promoting persistent and strenuous efforts in effective lobbying by the grassroots constituents
- in working with a coalition of organizations in persuading and supporting key congressional legislators
- in turning around the requirement that only living eligible individuals would receive payment and assuring that heirs be made recipients in the event of death of eligible individuals
- in advocating and influencing the simplification of eligibility, documentation and verification requirements
- in providing outreach efforts and informational services as a community service to facilitate the processing of the redress program

\* \* \* \* \*

JACL-LEC VETERANS LIAISON'S REPORT

Art Morimitsu

June 1990

National Board:

Jerry Enomoto  
*Chair*  
Sacramento, CA

Mollie Fujioka  
Walnut Creek, CA

Cherry Kinoshita  
Seattle, WA

Tom Kometani  
Warren, NJ

Peggy Liggett  
Fresno, CA

Meriko Mori  
Los Angeles, CA

Arthur Morimitsu  
Chicago, IL

Cressey Nakagawa  
San Francisco, CA

Mae Takahashi  
Fresno, CA

Henry Tanaka  
Cleveland Heights, OH

Grant Ujifusa  
Chappaqua, NY

Shig Wakamatsu  
Chicago, IL

Staff:

JoAnne Kagiwada  
*Executive Director*

Rochelle Wandzura  
*Administrative Assistant*

1979: At the Hawaii Nisei Veterans Reunion, Senator Inouye announced at the final Aloha banquet that he would sponsor a bill to investigate the internment of American citizens of Japanese descent during World War II.

1980: Chicago Nisei Post 1183 and the Department of the State of Illinois American Legion adopted a resolution supporting the Inouye-sponsored commission bill. The Illinois resolution was declared moot at the convention subcommittee because Congress had passed the bill and President Carter had signed it into law.

1983: While a delegate to the American Legion national convention in Seattle, Washington, it was brought to my attention that an anti-redress resolution was to be introduced by the Washington state delegate. The Illinois delegates were alerted, so the resolution was rejected at the subcommittee session.

1984: We drafted a resolution from Chicago Nisei Post 1183 which was adopted by the 1st Division and the Department of Illinois and presented at the 1984 National Legion convention at Salt Lake City, Utah. Because of the strong efforts of the Illinois delegates, Resolution 318, which recognized the injustice of internment of American citizens of Japanese descent and their strong patriotism, was adopted.

A similar resolution was presented at the national convention of the Veteran of Foreign Wars at Chicago by the Nisei VFW 14-Post Coalition of California. We received permission to display the Go For Broke photo exhibit at the VFW convention, and, combined with strong support from various VFW delegates, the resolution was adopted.

1988: We introduced plans at the Seattle National JACL convention to honor veterans organizations and individuals for supporting the redress campaign. Thirty-three (33) plaques were authorized by the LEC and presented at various veterans functions with LEC and JACL officers making the presentations.

1988 and 1989: After receiving anti-redress resolutions and other matters from our Washington, DC LEC office, we were asked to solicit support to have these anti-redress

resolutions rejected by the major veterans organizations -- the American Legion and the Veterans of Foreign Wars. Fortunately, veterans, Nikkei and others affiliated with these major veterans organizations, were able to mobilize support so these anti-redress resolutions were rejected by the major veterans organizations whose total membership exceeds five million, and who maintain powerful lobbies in Washington, DC.

Since members of Congress listen when veterans groups lobby them, Grant Ujifusa has often stated that it was vitally important that the VFW and the American Legion stay neutral on the redress matter.

1989: During the critical period when Congress did not appropriate sufficient funds for the redress budget, LEC legislative strategist Grant Ujifusa called to have veterans, especially those close to Senator Dan Inouye, call the Senator or his office to ask his urgent support for the appropriations needed.

By contacts made through our Veterans Affairs committee, former members of Inouye's Company "E" and others, including officers close to Inouye -- Sam Yoshinari and Pershing Nakada (both of Chicago), Mas Shiozaki, Nikkei veterans in Seattle, Denver, Los Angeles, San Francisco and Seattle were contacted. Senator Inouye who is very close and loyal to his fellow men responded with the entitlement proposal which was strongly approved by Congress.

To conclude this summary, we wish to acknowledge the strong support and cooperation we received from the officers and staff members of our Washington, DC LEC office starting with Grayce Uyehara, Rita Takahashi and JoAnne Kagiwada. They have provided much helpful data to our veterans liaison committee.

# # #



## *The Japanese American Citizens League - Legislative Education Committee*

1730 Rhode Island Ave., NW, #204, Washington, D.C. 20036-3148 • (202) 223-1240 • Fax: (202) 296-8082

### BIENNIAL REPORT OF THE EXECUTIVE DIRECTOR

JoAnne H. Kagiwada  
June 1990

#### National Board:

Jerry Enomoto  
*Chair*  
Sacramento, CA

Mollie Fujioka  
Walnut Creek, CA

Cherry Kinoshita  
Seattle, WA

Tom Kometani  
Warren, NJ

Peggy Liggett  
Fresno, CA

Meriko Mori  
Los Angeles, CA

Arthur Morimitsu  
Chicago, IL

Cressey Nakagawa  
San Francisco, CA

Mae Takahashi  
Fresno, CA

Henry Tanaka  
Cleveland Heights, OH

Grant Ujifusa  
Chappaqua, NY

Shig Wakamatsu  
Chicago, IL

Denny Yasuhara  
Spokane, WA

The successful conclusion of the campaign to enact the Redress Bill was celebrated on 10 August 1988, in the middle of the Seattle JACL Convention, when President Ronald Reagan signed H.R. 442 into law. It became Public Law 100-383, popularly known as the Civil Liberties Act of 1988. In early Spring of 1989, an attempt was made to provide immediate funding for redress payments. This failed. Later, the House approved \$50 million in funds to begin payments in October of that year. The Senate offered an alternative which would guarantee maximum funding over the life of redress, but postponed the first payments until October of 1990. It was this program, which made redress a permanent federal entitlement, which was finally adopted.

In order to implement the Civil Liberties Act of 1988, the Department of Justice created the Office of Reparations Administration (later changed to the Office of Redress Administration) to carry out the responsibility given to the Attorney General to identify, locate, and when funds are appropriated, make payments of \$20,000 to eligible individuals of Japanese ancestry who were evacuated, relocated or interned during World War II. Regulations for the work of the Office were developed, and after receiving comments from the public, were revised for adoption in Federal Rules and Regulations. The ORA has announced that work is proceeding well and they will be ready to make the first year's payments on schedule.

In order to keep the community and friends up to date on redress, the staff of the JACL-LEC continued its mailings to its network of redress organizers, and periodically sent out a newsletter, the REDRESS MONITOR. The staff also prepared testimony given at legislative hearings, sent out action alerts to supporting organizations and individuals, developed good working relationships with the staffs of members of Congress and the ORA, and served as an information and referral source for people within the community. This was accomplished despite changes, and reductions, in office personnel.

#### OFFICE OF REDRESS ADMINISTRATION

Shortly after passage of the redress legislation, the Justice Department designated its Civil Rights Division as responsible for administration of the payment program. The Office of Reparations Administration was established. It was renamed the Office of Redress Administration after

Director Kagiwada, Biennial Report  
June 1990  
page 2

hearing from community spokespersons that the change in title would signal more accurately the fundamental constitutional principles at stake. It also conveys the message that Congress had acted in response to actions taken by the community "to petition the Government for a redress of grievances" as guaranteed under the First Amendment.

The Office of Redress Administration (ORA) named three major tasks necessary for implementation of the Civil Liberties Act: identifying and locating eligible individuals, verification and notification, and then making the payments. When redress achieved the status of a federal entitlement, the ORA substantially increased the pace of their operations. The FY 1991 appropriation of \$500 million would cover 25,000 payments to the oldest eligible individuals or their heirs. ORA expects to be fully prepared to send out checks to the first year's recipients by the first of October, which is the anticipated date that 1991 funds will become available. ORA has grown from four staff persons to more than forty, working with a computer data base of over 78,000 potential eligibles, representing the number of individuals who have contacted ORA as well as the names that were on government records.

Eligibility provisions as described in the Civil Liberties Act of 1988 were spelled out in regulations signed by Attorney General Dick Thornburgh on the first anniversary of P.L. 100-383. When ORA began work on the regulations in the Fall of 1988, LEC Special Counsel John Nakahata drafted a letter for JACL-LEC advocating a liberal interpretation of eligibility. Numerous meetings and conversations took place with ORA as the eligibility categories were being developed.

Proposed regulations were published in the Federal Register on 14 June 1989, offering a 30 day opportunity for public comment before the rules were finalized. Comments drafted by LEC Legal Counsel Peggy Liggett were submitted to the ORA. After reviewing all the public comments received, ORA reduced the documentation requirements for eligibility verification. ORA later agreed to look into the feasibility of greater use of Social Security records in the identity verification process. After several months of discussion with the Social Security Administration, changes were made.

However, the categories of eligibility in the final text of the regulations remained substantially unchanged. Subsequently, the ORA has requested that veterans and other individuals send in a Voluntary Information Form even if they do not clearly fit the specific eligibility categories so they can be evaluated on a case-by-case basis. Cases of more than 200 veterans have been processed already, and letters asking for specific additional information have been mailed out. In the case-by-case review

Director Kagiwada, Biennial Report  
June 1990  
page 3

process, some individuals, who had thought that they were not eligible for redress, have learned that they are.

Credit should be given to ORA Administrator Bob Bratt for aggressively pursuing the creation of a new type of administrative agency -- one that had to figure out how to locate its clientele through research of old government records rather than the usual procedure of relying on individual applications. He also took the risk of moving ahead immediately to put the office into operation, gambling that funds for administration would somehow be allocated. That strategy has paid off.

In response to many questions asked about the redress law when it first was enacted, Rita Takahashi (at that time LEC's Associate Director) prepared a Question and Answer paper for distribution to redress supporters. This Q&A served as the original basis of the ORA's information booklets. The ORA periodically distributes updated versions of these Q&A's to interested organizations and individuals. Included in the ORA's program of community outreach is an intensive schedule of workshops and information meetings set by Bratt in response to requests by local groups. With identity verifications proceeding at about 800 notifications per week, ORA has again set up a toll-free phone number for people who need help in filling out their verification forms. It has been widely used, so much so that callers sometimes experience difficulty in completing their calls. The number is 1-800-395-4672. A toll-free TDD number for the hearing impaired is also available, 1-800-727-1886. The hours for both numbers are 9:30 am - 5:30 pm, Eastern Time, Monday through Friday.

The LEC staff was frequently called upon by interested persons, including the media, to answer questions -- both procedural questions about the verification and payment program and "historical" questions about how the program came into being. LEC staff also provided information to the network of redress workers and JACL staff so that they could help individuals in their own areas. The regional JACL offices will continue to provide information about ORA procedures.

Original estimates that there would be about 60,000 persons eligible under the terms of P.L. 100-383 have been found to be quite low. More recent analysis of actual responses has led ORA to revise their estimates upward to 64-65,000 persons alive on the date the bill was signed. If that is so, there is a possibility that additional funds will have to be authorized and appropriated in the third year of the entitlement program in order to complete the payments to all eligible persons.

This Spring, Paul Suddes was appointed by Civil Rights Executive Office/ORA Administrator Bratt as full-time Deputy Administrator for ORA. This position was expanded from a part-time position

because of the shortened time line for pay-outs made possible by the entitlement program. It was also anticipated that the much delayed appointment of an Assistant Attorney General for the Civil Rights Division would open up a much heavier civil rights agenda. Therefore, Shirley Lloyd, previously Deputy Administrator for Executive Office/ORA, has moved back to full-time responsibilities as Deputy Administrator for the Executive Office only.

#### LEGISLATIVE ACTIONS

On the occasion of signing the redress law, President Reagan declared:

[W]e gather here to right a grave wrong.... what is most important in this bill has less to do with property than with honor. For here we admit a wrong. Here we reaffirm our commitment as a nation to equal justice under the law.

But his proposed 1990 budget included only \$20 million for the symbolic token of apology. Justification for this meager allocation came from the Office of Management and Budget, asserting that the Department of Justice had not identified the oldest survivors and was "not geared up to begin verifying and processing claims for the fiscal year that begins next October 1 [1989]."

Redress alert packets were sent out to the Redress Network, followed by a mass mailing to 8,000 individuals, calling for immediate action to protest the administration's position. To everyone's disappointment, that low figure was confirmed in President George Bush's 1990 budget.

JACL-LEC Acting Executive Director Rita Takahashi presented testimony at hearings held by the Appropriations Subcommittees on Commerce, Justice, State, the Judiciary and Related Agencies of both the House and Senate in the Spring of 1989. She also testified at oversight hearings of the House Judiciary Subcommittee on Civil and Constitutional Rights. In her testimony before the Judiciary Subcommittee, Takahashi corrected a misinterpretation of the law by Attorney General Richard Thornburgh, who had stated that all eligible persons had to be identified before redress payments could begin. Questioning of the various witnesses was skillful led by subcommittee staffer, Stuart Ishimaru.

In a surprise move following the hearings, the House Appropriations Subcommittee, chaired by Neal Smith (D-IA), recommended that the 1989 Supplemental Appropriations include \$250 million for redress payments and \$6.4 million for ORA. But the House turned back the bill that included this provision and subsequently passed legislation that did not include any monies for redress payments in 1989.

For fiscal 1990, the House Appropriations Subcommittee sent out a bill still containing the Administration figure of only \$20 million for redress. Members of the committee, which also handles appropriations for the anti-drug programs, lamented the fact that they were working under such stringent budget constraints. But debate in the full committee resulted in acceptance of an amendment by Steny Hoyer (D-MD) to increase funding to \$50 million.

On the Senate side, in the meanwhile, Senator Daniel Inouye (D-HI) was working to insure maximum funding for redress. In addition to other efforts, he wrote a personal letter to his colleagues on the Senate Appropriations Committee. Speaking from his own experience, he was able to move the other committee members to support making redress into a permanent federal entitlement program.

When the Senate Appropriations Committee marked up their bill, it included Senator Inouye's proposal to make redress payments a permanent entitlement program beginning in fiscal 1991. But no funds were allocated for 1990. The Senate gave overwhelming support to this proposal and agreed to the procedural changes needed to guarantee full redress funding over the next three years.

After the House/Senate Conference Committee approved the Senate formula for funding, Congress made additional adjustments in the bill and then sent it to the White House. President Bush signed the bill on 21 November 1989, just before Congress adjourned for the holidays.

This change in the law removed redress from the annual appropriations process where it was vulnerable to the kinds of budget battles it had been subjected to that Spring. It is subject to other budget constraints, however. As an entitlement, full funding is automatically appropriated, but it is still subject to "sequestration" under the Gramm-Rudman-Hollings Act. Depending on the outcome of Congressional debates this summer, an excessive budget deficit could trigger automatic across-the-board cuts in spending for 1991. The amount of the reduction will depend on the size of the deficit.

#### LOBBYING ACTIVITIES

Throughout the entire process of securing appropriations to fund the redress program, our Redress network, joined by other community activists, flooded the offices of the House and Senate Appropriations Committee members with mail and personal calls urging support for redress funding. LEC staff contacted civil rights and church organizations who were part of the Washington, DC coalition, requesting them to activate their State telephone trees in districts of Appropriations Committee members. Congressional staff told us at that stage of the process, that mail is



Director Kagiwada, Biennial Report  
June 1990  
page 6

very important but "two personal contacts with Senator Hollings from his constituents are worth 1,000 form letters."

"Dear Colleague" letters were sent in both the House and Senate, the most notable being the letter sent by Senator Inouye to Senate Appropriations Committee colleagues. In sharing a draft of that letter with LEC staff, the Senator had expressed some concern about its length, but there is no doubt that the personal narrative carried a very powerful and persuasive message. This was clearly shown during the Senate debate when he used his letter in introducing the entitlement proposal. Senators who had not intended to speak on the issue came forward to support entitlement.

Coordinated by LEC Executive Director Kagiwada, church and civil rights organizations gave their wholehearted support to the drive for funding. A letter signed by eighteen of the member organizations of the Washington Interreligious Staff Council and another from members of the Leadership Conference on Civil Rights were sent to the House and Senate members of the Joint Conference Committee asking that the appropriations bill include both the 1990 funds in the House bill and also the Senate entitlement proposal. Other organizations sent their own letters.

In addition to the unfaltering energy of our Redress Network, frequent, and often unsolicited, offers of help came from concerned individuals and organizations across the country. LEC Veterans Liaison, Art Morimitsu, continued his excellent work in monitoring the activities of the various veterans groups as well.

LEC staff prepared press kits for use when the President signed the 1990 appropriations bill. West Coast press conferences were held in conjunction with NCCR in Los Angeles and San Francisco. LEC Board Chair Jerry Enomoto organized a press event in Sacramento.

Discussions with Congressional staff led to the idea of compiling a list of individuals who had died before redress payments would begin, as a way to dramatize the impact of the continuing delays in Congress. Community members were requested to send in names of deceased eligibles for inclusion in a "Justice Denied" memorial list. The information was used by members of Congress to personalize the urgency for action. After the passage of entitlement, interest in continuing to compile a memorial list dwindled. The ORA still finds it helpful for their record keeping, but their new Death Information Form simplifies the procedure for sending that information directly to them.

#### PRO BONO LEGAL SERVICES

In November 1988, JACL-LEC entered into an agreement with the law firm of Jenner & Block to provide pro bono legal services. The

Director Kagiwada, Biennial Report  
June 1990  
page 7

agreement named John Nakahata, an associate in Jenner & Block's Washington office as lead counsel for these services. Nakahata, a former JACL Thomas T. Hayashi Law Scholarship recipient, graduated cum laude from Harvard Law School. When ORA first asked for comments on the question of eligibility in the Fall of 1988, he drafted a position paper for LEC advocating a liberal interpretation of the law's provisions regarding eligibility.

When ORA reported that they were receiving many identity documents which were not properly notarized, Nakahata wrote a letter to ORA calling attention to a federal statute providing that an unsworn declaration signed under penalty of perjury may be submitted in all instances where affidavits or sworn statements are required. ORA responded quickly, announcing that signed statements of authenticity, using the exact wording provided by ORA, could be substituted for notarization.

Many questions were asked about entitlement when it was first proposed in the Senate. Nakahata prepared a short statement, "What Does It Mean for Redress to be an Entitlement?" which was distributed to the Redress Network and the news media.

On 9 March 1989, a lawsuit, Jacobs v. Thornburgh, was filed in the U.S. District Court for the District of Columbia. Plaintiff Jacobs asserted that all persons, regardless of race or nationality, who were interned during World War II should be eligible for the remedies provided in the Civil Liberties Act of 1988. On behalf of LEC and JACL, Nakahata prepared a number of legal briefs in connection with the suit. Jacobs asked that the redress law be declared unconstitutional because it only provides a remedy for persons of Japanese ancestry, but not for the injury he suffered as a child interned in Crystal City along with his alien German father. The government argued that the redress program lawfully provided a remedy to specific, identified victims of past discrimination. LEC and JACL submitted a friend-of-the-court brief in support of the Justice Department's motion to dismiss the suit. The court has not yet indicated when it will take up this case.

Early this year, Nakahata left Jenner & Block to become a legislative assistant for Senator Joseph Lieberman (D-CT), and the relationship with Jenner & Block was terminated. By that time, the law firm had provided more than \$30,000 in unbilled pro bono legal services to LEC. Nakahata has agreed to continue as counsel for LEC in the prehearing stage of the Jacobs case.

#### STATES SURVEY/COMMINGLING OF FUNDS

The Civil Liberties Act of 1988 provides for exemption of redress payments from federal income tax and from determination of eligibility for certain public benefit programs. To find out how States would treat the payments, LEC conducted a survey of the



States. To begin the data gathering, Executive Director Takahashi wrote letters to the governors of each State asking for this information. Twenty-five States responded to that first letter. Follow-up correspondence has gotten a similar good response and the survey has been completed. Except for Mississippi which has said it intends to count redress as income and Kansas which did not respond to our survey, residents of the 50 States will not be required to pay state income tax.

The redress law also excludes payments from being counted as income or resources when determining eligibility and level of benefits for certain federal benefit programs. However, redress monies could lose that exclusion if they are commingled (mixed together) with other funds. The easiest way to keep the record straight is to keep redress monies separate and segregated from other funds. This is not mandatory, as long as satisfactory records are kept, assuring that the excluded funds are sufficiently "identifiable" to make it clear what their source is. In all cases, it is important to keep careful records. For younger recipients, it is more likely that redress monies will be commingled with other funds over the years, with the risk of losing their favorable status in calculating eligibility for benefit programs in the future.

This is especially an important matter for the first year's recipients, many of whom are currently receiving benefits from these federal programs.

States administering federally funded programs are required to follow the federal rule in determining eligibility and level of benefits. However, survey responses indicated that some States also have locally funded assistance programs. LEC learned that there is a wide variety in the number and types of state assistance programs available. Some States have said that they will not exclude redress from eligibility determination, but others have stated that they will follow the federal rule. Therefore, the same caution to keep redress monies "identifiable" applies to eligibility for state funded programs. In a few instances, this favorable treatment extends to proceeds and interest from redress monies as well.

More detailed information, including names of state officials and offices, is available in the States Survey correspondence files. These records are at the Japanese American Library, P.O. Box 590598, San Francisco, CA 94159. The phone number is 415/567-5006.

#### REDRESS FOR CANADIANS AND ALEUTS

Besides providing redress for Americans of Japanese ancestry who were unconstitutionally evacuated, interned and relocated by the U.S. government during World War II, P.L. 100-383 also authorized

compensation to members of the Aleut community who were removed from their home villages under government orders and held in deplorable, makeshift conditions during the war. Ill-fed, ill-housed and lacking medical care, many died.

At the beginning of the year, payments of \$12,000 were given to some 400 surviving Aleuts, supplemented by funds which went to the Aleut Corporation, the holder of much of their land, and additional funds for a trust fund and for the rebuilding of their churches. Funding for the Aleuts was administered by the Department of the Interior. While individual payments made to Aleuts are smaller than those to Japanese Americans, when the other payments are added in, the total is about the same.

Following the example of the United States, on 22 September 1988 the government of Canada set up their own program of redress compensation. Although they started six weeks after the signing of the U.S. redress bill, the first checks were mailed before Christmas 1989. Originally projecting that about 12,000 people would be eligible for redress, the Canadian Redress Secretariat plans to finish making payments to more than 16,000 people by September of this year, one month before the first U.S. payments will even begin.

#### OFFICE STAFF

Work in the office has been carried out without interruption in spite of a number of staff changes in the past two years. The office staff was at its greatest numerical strength in the Fall of 1987. Working with Executive Director Grayce Uyehara were two Associate Directors, Colleen Darling and Rita Takahashi, intern Steven Nishiura and secretary Rochelle Wandzura, on loan from JACL. In an office restructuring, Colleen and Steve left at the beginning of 1988, and Emi Kamachi was hired to be part-time secretary to the Executive Director.

In the course of the year, the part-time secretary position was eliminated, Rita took on half-time responsibilities as the JACL Washington Representative, and Grayce decided to retire from LEC. Rita was named Acting Executive Director and LEC decided to hire a full time secretary of its own. Jane Miyahara served in that capacity for the first half of 1989, and Rochelle moved over from the JACL payroll as Administrative Assistant for LEC after that. Current Executive Director JoAnne Kagiwada was hired in May, 1989. With JACL's decision to reactivate the Washington Office and hire Paul Igasaki starting in July, LEC's effective staff capability was reduced to two persons. This transition was eased by the presence of volunteer intern Candace Taira during the Summer. In August, Louann Igasaki began work with the new Washington Representative as the JACL Secretary. Following the Board's action last January, all current LEC staff positions have been eliminated.

Director Kagiwada, Biennial Report  
June 1990  
page 10

#### JACL-LEC PHASE DOWN

With favorable action by Congress on entitlement, the LEC Board began thinking about ending its work. As a first step they decided last October to bring an end to their fundraising efforts and to cancel the annual election of new Board members. After reviewing their 1989-1990 Work Plan at the January 1990 meeting, the Board confirmed those decisions and decided that it no longer needed to maintain operations in its Washington, DC office. The Executive Director would leave at the end of June, and the Board anticipated that the office would close entirely at the end of 1990. With the passage of entitlement and assurances from ORA that they would be ready to make the first year's payments by October when fiscal 1991 begins, the Board decided that their mandate had been largely fulfilled.

The Japanese American Library has agreed to serve as the archives for JACL-LEC. All LEC records will be sent there and professionally indexed for research purposes.

Completing the survey of States to learn whether they will follow the federal intent to exempt redress payments from income tax and determination of eligibility for public assistance programs was cited by the Board as an important piece of unfinished business. The States Survey has been completed, although follow-up work remains for the local Redress workers. Kansas is the only state which did not respond at all. Mississippi is the only State which has said that it plans to count redress payments for income tax purposes. Local legislative campaigns are under way in some of the States to put state laws in line with the federal law.

The Board also began making plans for a major celebration event at the biennial JACL convention in San Diego to pay tribute to everyone who participated in the long struggle for redress.

# # #



## The Japanese American Citizens League - Legislative Education Committee

1730 Rhode Island Ave., NW, #204, Washington, D.C. 20036-3148 • (202) 223-1240 • Fax: (202) 296-8082

### SUMMARY OF STATES' TREATMENT OF REDRESS PAYMENTS JUNE 1990

People are advised to check with their state authorities to make sure this information is current. All states periodically revise their laws and regulations on tax and benefit programs.

KEY: YES means payments are exempt; NO means payments are included as income or resources.

#### ALABAMA

TAXES: Yes, exempt from taxation

BENEFITS: Yes, exempt for state's food stamp and AFDC programs. For further information, contact Michael Mason (205) 242-1101.

#### ALASKA

TAXES: Yes: no personal income tax.

BENEFITS: Yes for federally funded programs. For State programs, the Department of Health and Social Services is currently researching the need for changes in statutes or regulations -- "presently supportive" of excluding payments. \*\* Contact the Director of Division of Public Assistance \*\*

#### ARIZONA

TAXES: Yes: based on federal adjusted gross income  
BENEFITS: No response to this question.

#### ARKANSAS

TAXES: Yes, follows federal law, exempts damages for human suffering.  
BENEFITS: Yes for federally funded programs; excluded from gross income

for state tax programs for senior citizens (property tax) and low income households (sales tax exemptions on electricity).

#### CALIFORNIA

TAXES: Yes: State law exempts damages for human suffering.

BENEFITS: Yes for federally funded programs; excluded as income or resources for determining eligibility to receive Medi-Cal or public assistance, or the amount of those benefits.

#### COLORADO

TAXES: Yes: based on Federal Adjusted Gross income  
BENEFITS: Yes, payments will be excluded as income or resources when determining eligibility or benefit amounts for state funded social service programs.

#### CONNECTICUT

TAXES: Yes: no state personal income tax except on capital gains, dividends, and interest income.  
BENEFITS: Yes for federally funded programs (food stamps, public assistance); no exclusion for State programs.

#### DELAWARE

TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes for AFDC based on federal eligibility regulations. No standards established for other programs because "no claims for Delaware General Assistance have been made by recipients" of redress payments.

#### FLORIDA

TAXES: Yes: no state income tax.  
BENEFITS: Yes for federal programs; AFDC, food stamps, medicaid.

#### GEORGIA

TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes for federally funded programs.

#### HAWAII

TAXES: Yes: by State law.  
BENEFITS: Yes for federally funded AFDC, food stamps, general assistance, & social service programs; yes for State social and economic programs, including agricultural and natural disaster loan programs.

#### IDAHO

TAXES: Yes: follows

federal law.  
BENEFITS: Yes, not considered as income for programs administered by State Tax Commission; e.g., property tax reduction program. \*\* Contact Idaho Department of Health and Welfare about programs under their administration. \*\*

ILLINOIS  
TAXES: Yes: not considered income under State law.  
BENEFITS: MAYBE: Payments may affect "entitlement privileges," making redress recipients ineligible for services which they are now receiving. Legislation has been introduced.

INDIANA  
TAXES: Yes: follows federal law; exempts damages for human suffering.  
BENEFITS: "No formal policy statement has been issued ... However, it is likely that the state programs will follow the federal programs..." \*\* Contact Dept. of Human Services regarding Housing and energy assistance programs. \*\*

IOWA  
TAXES: Yes: excluded as satisfaction of a claim against the US for deprivation of liberty or property.  
BENEFITS: Yes: excluded as income or assets in determining eligibility for state or local government benefits or entitlement programs. Liens, ex-

cept liens for child support, are not enforceable against these payments.

KANSAS  
TAXES: No response  
BENEFITS: No response

KENTUCKY  
TAXES: Yes: follows federal law by exempting damages for human suffering.  
BENEFITS: Yes for federally funded AFDC, Food Stamp, Medicaid, Refugee, and Weatherization assistance programs; and for the State Supplementation program assisting individuals who need personal care services in their own home or licensed personal or family care homes.

LOUISIANA  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes for AFDC and Food Stamp programs; Louisiana has no state funded public assistance programs.

MAINE  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: NO for State public assistance programs: eligibility is based on actual need and redress compensation "has to be taken into consideration because it has lessened that persons' need...."

MARYLAND  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes for State programs administered by Dept. of Human Resources.

Sent in inquiry to Dept. of Housing on 12 April.

MASSACHUSETTS  
TAXES: Probably yes: based on federal adjusted gross income, but advised to request Letter Ruling to verify. \*\* Contact the Department of Revenue, Rulings and Regulations Bureau. \*\*  
BENEFITS: Yes for food stamps, but as of 17 July 1989, hadn't been advised as to other federal programs. Generally, all income is included, unless explicitly excluded. \*\* Contact Department of Public Welfare. \*\*

MICHIGAN  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes, generally follows federal guidelines for eligibility for services and benefits provided by the State.

MINNESOTA  
TAXES: Yes: follows federal law; damages for personal injury are not taxed.  
BENEFITS: Yes: excluded as income and resources for food stamps, AFDC, SSI, and State programs for Family MA, GA and GAMC; also MSA, MA for aged, blind and disabled and GMAC for single adults and married couples without dependent children; and GA/WR programs.

MISSISSIPPI  
TAXES: NO: individuals are taxed on all income unless specifically

excluded.  
BENEFITS: Yes: follows federal guidelines for eligibility for AFDC and food assistance.

MISSOURI  
TAXES: Yes: based on federal adjusted gross income, but people are advised to review regularly.  
BENEFITS: Yes for food stamps; other programs don't have regulations written yet.

MONTANA  
TAXES: Yes: follows federal law; damages are not taxed.  
BENEFITS: Yes: payments are not included in determining eligibility for any "tax incentives or credits presently in place in Montana."

NEBRASKA  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes for federally funded assistance, medical, or service benefits.

NEVADA  
TAXES: Yes: no state income tax.  
BENEFITS: Yes for federally funded programs; "benefits paid by [State agencies] would be unaffected by the payments as well.

NEW HAMPSHIRE  
TAXES: Yes: no state personal income tax, except on dividends and interest.  
BENEFITS: Yes for federally and State funded programs: Old Age Assistance,

Aid to the Needy Blind, and Aid to the Disabled.

NEW JERSEY  
TAXES: Yes: not included in categories of taxable income.  
BENEFITS: Yes for federally funded programs, legislation is pending in the State Senate to cover the State's PAAD program.

NEW MEXICO  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: NO for State programs: included in calculating modified gross income for purposes of Low Income Food and Medical Tax Rebate, Comprehensive Tax Rebate, and Property Tax Rebate. \*\* Contact Human Services Department about AFDC, Medicare/Medicaid, etc. \*\*

NEW YORK  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes for Public Assistance and food stamps. For State social services, legislation has been introduced and a lobbying campaign organized to push for passage.

NORTH CAROLINA  
TAXES: Yes, by State law.  
BENEFITS: Yes for AFDC, food stamps.

NORTH DAKOTA  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes for AFDC, food stamps, Medicaid, Energy assistance.

OHIO  
TAXES: Yes: based on federal adjusted gross income; damages not taxed.  
BENEFITS: Yes: Ohio Dept. of Human Services exempts redress payments for public assistance programs in determining both eligibility and level of benefits.

OKLAHOMA  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: \*\* Contact Department of Human Services. \*\*

OREGON  
TAXES: Yes: state law exempts damages for human suffering.  
BENEFITS: Yes for federally funded programs and programs administered by Adult and Family Services division. NO for state General Assistance Programs. Except for certain nursing facility residents, recipients would lose eligibility until "lump-sum" income is exhausted.

PENNSYLVANIA  
TAXES: Yes, not within the eight taxable classes of income.  
BENEFITS: Yes for federally funded programs including AFDC, Social Security, Medicaid, food stamps, and housing assistance. But redress is included as income in "determining forgiveness under special state tax provisions for poverty."

RHODE ISLAND  
TAXES: Yes: based on



STATES' SUMMARY

June 1990

page 4

federal adjusted gross income  
BENEFITS: Yes for AFDC, General public assistance, Food Stamps, Medical Assistance, Supplemental Security Income.

SOUTH CAROLINA  
TAXES: Yes: "not subject to South Carolina income tax."  
BENEFITS: Yes: payments excluded "for determining eligibility for public benefit programs, such as food stamps, AFDC, State Housing Authority financing, etc."

SOUTH DAKOTA  
TAXES: Yes: no state income tax; "not taxable under our present tax structure."  
BENEFITS: Yes for all "social services" programs.

TENNESSEE  
TAXES: Yes: state taxes only on interest and dividends.  
BENEFITS: No response to this question.

TEXAS  
TAXES: Yes: no state income tax.  
BENEFITS: Yes for all benefits available through the Department of Human Services.

UTAH  
TAXES: Yes: by State law.  
BENEFITS: Yes: not counted as "resources" for eligibility determination by Department of Social Services.

VERMONT  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes, not counted as resources by agency of Human Services.

VIRGINIA  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes for federally funded programs such as Medicaid, food stamps, WIC, AFDC, school lunches.  
WASHINGTON  
TAXES: Yes: no state personal income tax.  
BENEFITS: Yes: for public assistance and nursing home care, payments are exempt, "including all income and resources derived therefrom."

WEST VIRGINIA  
TAXES: Yes: based on federal adjusted gross income  
BENEFITS: Yes for federally funded programs.

WISCONSIN  
TAXES: Yes: based on federally adjusted gross income.  
BENEFITS: Yes for federally funded programs and property tax relief programs.

WYOMING  
TAXES: Yes: no state income tax.  
BENEFITS: Yes: follows federal guidelines.

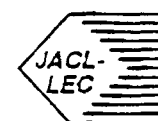
21 September 1988

JACL-LEC TWO-YEAR PLAN: 1989 - 1990

<u>Projected Date of Completion</u>	<u>Activity to be Completed</u>
February 1989 Board Meeting	Recommend criteria and qualifications for the Civil Liberties Public Education Fund Board of Directors.
February 1989 Board Meeting	Establish a Resource Committee to the Washington, D.C. JACL-LEC.
May 1989 Board Meeting	Write and publish a text which addresses current and historical aspects of redress.
1989-1990	Write and print/publish Quarterly Newsletters.
1989	Write a question and answer brochure, if necessary (if another agency/organization did not prepare one).
1989	Develop and implement strategies to see that bills are passed at the state and local level -- which exempt redress dollars from taxes and from inclusion in eligibility (for services) determination. Monitor the process.
1989 - 1990	Lobby for maximum levels of redress appropriations. Monitor redress appropriations and ensure rights and interests are protected.

- 1989 - 1990      Monitor identification processes and ensure that appropriate, prompt, and effective actions taken to identify all individuals eligible for redress payments.
- 1989 - 1990      Establish a redress coalition. Build from existing relations. Keep the coalition active in promoting proper appropriations and processes.
- 1989 - 1990      Keep individuals and groups informed through letters, press releases, printed matter, and oral communications and presentations.
- 1989 - 1990      Serve as a resource and referral source by responding to public and private sector requests for information and recommendations.
- 1989 - 1990      Maintain an efficient and effective Washington, D.C. Office operations in such ways as to
- Implement policies and programs established by the JACL-LEC Board.
  - Plan and reorganize overall office programs and procedures.
  - Provide for proper supervision of staff.
  - Pay bills and maintain checking and petty cash accounts.
  - Maintain liaison responsibilities with groups and individuals in the local community and with the Resource Committee.
  - Keep the Board informed through regularly-written operational reports.

discussed and adopted by the National JACL-LEC Board at its  
16 September 1988 Board Meeting in San Francisco, California



17 March 1989

news release

contact: Rita Takahashi

REDRESS PAYMENT ISSUE CLARIFIED

Public Law 100-383 stipulates that the most senior eligible persons are to be paid first. However, the law does not require the Department of Justice (DOJ) to identify each and every eligible person before it begins redress payments. Specifically, the law says:

The Attorney General shall endeavor to make payments under this section to eligible individuals in the order of date of birth (with the oldest individual on the date of the enactment of this Act (or if applicable, that individual's [eligible] survivors . . .), until all eligible individuals have received payment in full." (emphasis added)

This portion of the law has caused some confusion, and this has led to misinterpretation of the law. Richard Thornburgh, the U.S. Attorney General, testified before the Senate Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary and Related Agencies, that the Justice Department had to identify all eligible persons before payment could begin.

In addition, the Office of Management and Budget (OMB) has been saying the same thing. In a 9 March 1989 letter to the Japanese American Citizens League - Legislative Education Committee (JACL-LEC), an OMB representative made the following statement: "Until the identification and location process is completed, the Department of Justice will not be in a position to make individual payments. That is because the law requires that funds be disbursed to eligible recipients in order of age, starting with the oldest."

Because of the inaccurate statements by Administration, Rita Takahashi, Acting JACL-LEC Director, quoted the law in her testimony before the House Judiciary Subcommittee on Civil and Constitutional Rights (15 March 1989) and said:

Contrary to the testimony given by the Attorney General during a Senate hearing a few weeks ago, the law does not require the Attorney General to first identify all eligible persons and then begin payments. Rather, the Attorney General is to attempt to make payments to the oldest eligible persons first. This means that payments can be

JACL-LEC news release  
17 March 1989  
page 2

made to the oldest persons who have been identified at the time monies are appropriated. In no way should the payment process be delayed because each and every eligible person had not been identified. Congress had no intention of setting up such barriers to redress implementation.

When asked about this issue the next day (16 March 1989), during hearings before the same Subcommittee (which was chaired by Representative Don Edwards), Bob Bratt said that they do not plan to wait until they identify all eligible persons. They will, however, attempt to identify as many as possible before payments begin. In fact, he said that they were in the process of trying to locate the harder to reach eligible persons (such as persons living in Canada and Japan, as well as those in remote rural areas).

Upon hearing that these and other important issues were raised during the House Judiciary Subcommittee hearings, Jerry Enomoto, JACL-LEC's Chairperson, said "I am pleased that this critical information was entered into the record. This is very important because it impinges on appropriations. I am thankful that Representative Don Edwards held these hearings. I am also grateful that the Subcommittee's Counsel, Stuart Ishimaru, asked excellent questions to bring these significant points out."

JACL-LEC's Legislative Strategy Chair, Grant Ujifusa, said that "It is very important that people continue to write letters to the Chairs of the House and Senate Budget Committees, and to the Chairs of the House and Senate Appropriations Subcommittee on Commerce, Justice and State, the Judiciary and Related Agencies. In addition, people should continue to write to President Bush and to OMB Director, Richard Darman. Richard Thornburgh, the Attorney General, also needs to be contacted. It would be helpful if you reinforce that the AG is not required to wait until each eligible person is identified before payments begin."

The hearings were important because they brought to the record important testimony with regard to the administration of the redress program. Furthermore, it dispelled some of the incorrect interpretations of the law. People should write to Representative Don Edwards (House Judiciary Subcommittee on Civil and Constitutional Rights, 806 House Office Building, Annex I, Washington, D.C. 20515) to express their appreciation for his very supportive stands.

# # # # #

DANIEL K. INOUE  
HAWAII

## United States Senate

SUITE 722, HART SENATE BUILDING  
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July 25, 1989

Although the matter of redress for Americans of Japanese ancestry, who were interned in federal government internment camps during World War II, has been before us and debated for over a decade, my participation in these debates, as you may have been aware, has been minimal. It is most difficult for me to admit that I have been very inhibited and reluctant to say much in these debates because of my ethnic background. I believe that by this reluctance and inhibition, I may have performed a grave disservice to many Americans, especially those with whom I served in the Army during World War II.

I believe the time has come for me to tell you what has been in my heart for all these years. I was a young 18-year-old high school graduate when I volunteered and put on the uniform of my country. At that moment, because of war-time censorship and other restrictions, I was not aware of the strange plight of my fellow Americans of Japanese ancestry on the mainland U.S. However, I was made aware of their unbelievable problems soon after I joined them in training camp. I learned that over 120,000 Americans were given 48 hours to settle their accounts and businesses and required by law to leave their residences of many years for incarceration in barracks and makeshift camps in distant parts of the United States. History now shows that their only crime was that they were born of parents of Japanese ancestry. History also shows that there was no evidence of any "fifth column" sabotage activities carried out by any of these Americans of Japanese ancestry.

When our special infantry regiment was being formed, I was aware that half of the regiment would be made up of men from Hawaii and the other half from the mainland United States. These mainland men volunteered from behind barbed wires in these camps. They did not volunteer as other Americans did in free American communities. To this day, I look back with disbelief that men who had been denied their civil rights,

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July 25, 1989  
Page -2-

deprived of their worldly goods, and humiliated with unjust incarceration, would nonetheless stand up and take the oath to defend the country that was mistreating them without due process of law. I have often times asked myself the question, "Would I have volunteered under these circumstances?" I, in all honesty, cannot give you a forthright answer.

The men who volunteered from these camps were very reluctant to share their unfortunate internment experiences with us Hawaiians. They would just shrug their shoulders and mutter, "I suppose that is the way it is." But in a rare moment, one of them would open up and tell us about an episode in his camp. For example, I remember a story I had heard on a cold spring night in the field. One of my mainland buddies told us about the Manzanar camp, where soldiers shot and killed three internees and wounded about ten others because they were demonstrating for the release of a fellow internee who had been arrested for allegedly assaulting another internee. According to the provisions of this bill, those three dead men would not receive any redress payments. Then, while we were training in Mississippi to prepare us for combat in Europe, word came to several of my buddies from California that their State had begun to implement a law which had authorized the seizure and resale of "idle farm machinery." Obviously, "idle farm machinery" that were found in the State of California during that period were almost always ones that the internees were forced to abandon. And, needless to say, these California internees were not around to purchase them. Further, we were at times told about the great losses that these young volunteers and their families had to incur. For example, it was commonplace for residences, farms, and personal items to be sold for a fraction of their market value. In fact, one of my buddies sold his almost brand-new 1941 Ford for \$100. It was in a good and clean condition, but that was all he could get from his neighbors. We are now told that these losses exceeded \$6 billion.

Most of the members of the Senate have been in this body for at least ten years. During that period, we have given our support and votes to other reparations programs. Redress and reparations are not unique in our history. For example, in 1980, we appropriated funds to provide \$10,000 to each of 1,318 anti-Vietnam War demonstrators who were found to have been "wrongfully" jailed for one weekend. More recently, in 1986, we appropriated sums to give each American hostage \$22,000 for his or her bitter experience in Iran. The internment of some of the families of those with whom I served in combat went on for over three years.

July 25, 1989  
Page -3-

My mainland buddies were silent because they could not bring themselves to share their humiliation with those of us from Hawaii. As a footnote, I should point out that during the one year of almost continuous and intensive combat in Europe, over 200 of these mainland volunteers from the internment camps went through the ranks of my Company-- Company E, 2nd Battalion, 442nd Infantry Regimental Combat Team. Of that number, all, with the exception of about 20, were either wounded or killed in action. That is a very high percentage of Purple Hearts. Incidentally, the Regiment, with which I was privileged and honored to serve, was the most decorated Army unit of its size in World War II.

I am certain you must have concluded that this letter has been most difficult to compose. It is with some measure of reluctance that I share it with you. I hope that when the time for decision is upon us, you will join me in remembering those men from the internment camps who proudly and courageously demonstrated their "last full measure of devotion" in the defense of their country. Although these men will not receive benefits from the provisions of this bill, I am certain that they will gratefully rest in peace.

Most respectfully,



DANIEL K. INOUE  
United States Senator

DKI:mbd

# ACTION

NATIONAL  
IMPACT



August 11, 1989

101-B3

## Redress for Japanese Americans: Senate Appropriations Soon

### ISSUE

Funding in 1990 for redress payments to Japanese Americans interned in World War II will be taken up in the Senate right after Labor Day. The House, in its version of the 1990 Appropriations Bill, has designated only \$50 million for redress, an amount which would provide payments to only 2,500 elderly survivors of the internment camps.

It is critical that the Senate include a more adequate amount for the Conference Committee to consider in preparing its report for the final vote on the 1990 Appropriations Bill. The law authorizing the redress program provided for a maximum \$500 million annual appropriation. A compromise amount of \$320 million has been suggested, which would be sufficient to make payments to eligible survivors age 70 and older.

### RECOMMENDED ACTION

This ALERT is being sent to members of the Civil Rights & Religious Liberties network who reside in states with Senators on the Appropriations Subcommittee on Commerce, Justice, State and the Judiciary. This subcommittee is chaired by Sen. Hollings (D-SC), a redress opponent. Sen. Inouye (D-HI), the #2 person on the subcommittee, is committed to working for additional funding for redress. He will need the active support of his colleagues to overcome the opposition of the chair.

- 1) Make an appointment during the August recess with your Senator at the local office, urging a vote for the highest possible level of funding for redress;
- 2) Write a short, personal letter to your Senator with the same message, timed to arrive in Washington, D.C. around Labor Day, just before the Subcommittee meets. (Mail in the Capitol is backlogged as much as two weeks.)
- 3) In your contacts with your Senator, express appreciation for his vote for the Civil Liberties Act of 1988, the bill authorizing the Redress Program. (Yes: Inouye (D-HI), Bumpers (D-AR), Lautenberg (D-NJ), Sasser (D-TN), Adams (D-WA), Rudman (R-NH), Stevens (R-AK), Hatfield (R-OR), Kasten (R-WI). No: Hollings (D-SC), Gramm (R-TX).) Ask him to follow through on appropriations, even if he voted no. Urge him to support the highest possible level of funding so that the nation can keep its promise to pay a debt of honor.



WRITE OR  
PHONE

The Honorable \_\_\_\_\_  
United States Senate  
Washington, D.C. 20510

U.S. Capitol Switchboard: (202) 224-3121 (Call this number for the local telephone numbers of your Senators.)

#### BACKGROUND

In the Civil Liberties Act of 1988, Congress offered a formal apology on behalf of the nation for the evacuation, relocation and internment of Japanese Americans during World War II. Acknowledging that the government's actions were "motivated largely by racial prejudice, wartime hysteria and a failure of political leadership," the Act authorized the payment of \$20,000 to each eligible person as a tangible expression of sincerity of the nation's apology. The total amount authorized was \$1.25 billion to be paid within 10 years, with the oldest receiving payment first. A maximum of \$500 million can be paid out in any one year.

The money is admittedly a token, for it cannot begin to compensate internees for the loss of freedom and dignity suffered, or for property and businesses hastily sold or abandoned when the government orders were posted. Almost 120,000 Japanese Americans, from infants to aged grandparents, were summarily removed from their homes on the West Coast and interned in camps surrounded by barbed wire fences and armed guard towers, situated in isolated inland areas. Many remained in those camps for the duration of the war -- confined by their own government without benefit of due process, their only crime being their Japanese ancestry.

Almost 50 years passed before the government took action to apologize for that grave wrong committed against some of its own people. Half of their number died before the law was enacted on August 10, 1988. Under the terms of the bill, only those still alive on that date are eligible to receive any compensation. Moreover, it is estimated that more than one-quarter of those eligible survivors are older than 70, and they are dying at the rate of about 200 per month. The \$50 million in the House bill will only be enough to pay those who have reached the age of 87, older than actuarial estimates for life expectancy in this country. The apology needs to be made to those who suffered the harm, not to their heirs. That vindication is already long overdue.

#### LET'S COMMUNICATE

JoAnne Kagiwada, Executive Director, Japanese American Citizens League,  
1730 Rhode Island Ave., NW, #204, Washington, D.C. 20036, (202) 223-1240.

IMPACT is a legislative information network sponsored by the national agencies of seventeen Protestant, Roman Catholic and Jewish groups. National IMPACT monitors legislation before the U.S. Congress under these priorities: Halt the Arms Race, Secure Economic Justice and Protect Human Rights. State IMPACT affiliates provide legislative information about state issues. IMPACT Policy Board Chair, Jay Lintner; National Director, Gretchen Eick; Publications Editor, Richard Houston.

The national membership fee is \$20.00. State IMPACT membership is also available, in these states: AL, CA, CO, CT, FL, IA, IL, IN, MI, MN, MO, NJ, NY, OH, OK, OR, PA, TX, WI, WV. Contact National IMPACT for more information. Persons interested in joining the IMPACT network should send to the address below the following appropriate membership fee, name, address, and phone number, and denominational faith/group affiliation.

100 Maryland Avenue, N.E. Washington, D.C. 20002 (202) 544-8636



## The Japanese American Citizens League - Legislative Education Committee

1730 Rhode Island Ave., NW, #204, Washington, D.C. 20036-3148 • (202) 223-1240 • Fax: (202) 296-8082

#### SENATE ENTITLEMENT DEBATE

by: JoAnne Kagiwada

11 October 1989

On 29 September 1989, the Senate, by an overwhelming vote of 74-22, added a provision to one of its 1990 appropriations bills which would make redress payments into an entitlement program beginning in fiscal 1991. When Senator Dan Inouye (D-HI) said, "I believe the time has come for me to tell my colleagues what has been in my heart for all these many years," it set the tone for the debate which followed. Fellow Senators rose to support his entitlement proposal, agreeing with Senator Rudman's statement that, "there comes a time when something is the right thing to do, and this is one of those times."

Commenting on the Senate action, Grant Ujifusa, JACL-LEC Strategy Chair, said that "the community is deeply indebted to Senator Daniel Inouye. All of redress came down to what the Senator would do, and he delivered in heroic fashion. Inouye took the big political risks, and Japanese Americans came out the winners."

Floor debate was over an objection raised by Senator Jesse Helms (R-NC), that a new entitlement could not be created for a fiscal year for which a budget resolution has not yet been passed. In other words, the FY 1991 budget would have to be adopted before the entitlement could be considered. Helms also voiced his concern about adding to the federal deficit in fiscal 1991. He recalled the debate in April of 1988 when the Senate considered S. 1009, clearly stating that redress payments would be subject to the availability of annual appropriations.

But Senator Hollings (D-SC) reminded Helms of the current budget dilemma which forced the subcommittee to make this difficult choice so that "we would not continue to delay the acknowledged act of the U.S. Government itself in making these reparations payments with the families waiting and diminishing each day and some will never see it."

Members arrived in the Senate chamber to hear Senator Inouye speak of his "awe and disbelief" when he learned about the experiences of his mainland buddies in the 442nd who had volunteered to serve in the military service from behind barbed wire. The Senator confessed that he had often asked himself whether he would have volunteered under such circumstances. "In all honesty, I cannot give you a forthright answer," he said.

Obviously moved by Inouye's comments, his colleagues rose to speak in tribute to him, referring to his heroism during

-- MORE --

World War II as well as his achievements in the Senate. Speaking from their own experiences, each senator emphasized his strong conviction that the budget waiver was necessary.

Senator Warren Rudman (R-NH) said that "there is a time when one whose name is part of the Deficit Control Act of 1985 believes the Budget Act ought to be waived, and this is one of those times." He asked his colleagues to give "overwhelming support to waive the Budget Act to redress finally for the now elderly Americans, the justice that money will never recompense."

His remarks were supported by Senator Arlen Specter (R-PA), who said "this is not a close question at all. There is no bigger black mark in American history, at least in this century, than that which was perpetrated on American citizens of Japanese extraction..."

Senator Bumpers (D-AR) noted that the Jerome and Rohwer camps were located in Arkansas. Recalling the "unspeakable conditions" under which families lived, he said, "It is one of the most shameful episodes in the history of our country." He added re-gretfully that it is an issue that is still widely misunderstood even by people who remember it, but that he intends to respond to his constituents by sending them copies of Senator Inouye's speech, saying, "Enclosed is the reason I voted as I did."

When Senator Joe Biden (D-DE) prefaced his remarks by saying, "I did not intend to speak on this issue," he expressed the need of other colleagues as well to share their feelings on this matter. He emphasized that it was most important to acknowledge the injustice that was done, "if we fail to acknowledge it now, if we fail to rectify it now, what record are we leaving for history?"

Recalling that Italian Americans had some problems during World War II, Sen. Pete V. Domenici (R-NM), ranking member of the Budget Committee, remembered how upset his family was when his mother was arrested because of a misunderstanding about her citizenship. But, he said, that mistake was a very small mistake compared to what happened to Japanese Americans, adding the redress law passed last year embodied the government's intent "to try in a small way to recompense for a very bad mistake." Noting that it had become clear that these payments were not going to be made in a timely way through discretionary appropriations as originally anticipated, he stated strongly, "To be for the bill that created the right and not be for the waiver today borders close to hypocrisy."

Senator Bill Bradley (D-NJ) stressed the importance of letting people know that "we do not want to do the normal

political thing -- to make a big speech and then do nothing -- but that we want to back up our statements with a little bit, to compensate for the pain, suffering, indignity, and infringement on individual liberty that they endured."

Senator Paul Simon (D-IL), who grew up in Oregon, recalled his boyhood embarrassment when his father, a Lutheran minister, made an unpopular statement on a local radio program that what was happening to Japanese Americans was wrong. But he now looks back on that as one of things for which he is proudest of his father. He continued, "I think it is important that we do the right thing here; not just for Japanese Americans, but to signal the future generations that this can never happen again."

Senator Brock Adams (D-WA) recalled that one third of his classmates were moved out of his Seattle high school one day because they were of Japanese American descent. Many of those classmates did not come back, having died in Italy fighting for the United States. Stressing the implications for the future, Adams added, "We need to be certain that this stain on our honor is cleansed. This entitlement language does that."

And in the end, the Senate acted overwhelmingly to waive the Budget Act. The vote of 74-22 was greater than the Senate vote on passage of S. 1009 last year. The Senate thus took one more step to bring about the long sought goal of Redress.

Jerry Enomoto, JACL-LEC Board Chair reflected on the many years during which the JACL-LEC has worked hard in the Nation's capitol and in the community on behalf of redress. He stated, "In the years we have worked on redress, we have seen many major achievements. Sen. Inouye's success in seeing the entitlement provision through the Senate certainly stands out." Enomoto added that the support of veterans groups has been very significant, and particularly pointed out the work of LEC Board Veterans liaison, Art Morimitsu.



# Leadership Conference on Civil Rights

2027 Massachusetts Ave., N.W.  
Washington, D.C. 20036  
202 667-1780

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## ADMINISTRATIVE ASSISTANT

Lisa M. Haywood

13 October 1989

The Honorable Neal Smith  
U.S. House of Representatives  
2373 Rayburn House Office Bldg.  
Washington, D.C. 20515

Dear Representative Smith:

We are writing to urge you, as a member of the Conference Committee considering the 1990 Commerce, State, Justice appropriations, to support two specific funding proposals for the Japanese American Redress program:

1. The Senate language making Redress an entitlement program beginning in FY 1991; and
2. The House provision for \$50 million in 1990 appropriations.

The Senate agreed overwhelmingly with Senator Rudman that it was necessary "to waive the Budget Act to redress finally for the now elderly Americans, the justice that money will never recompense." We sincerely hope that the Conference Committee will come to the same conclusion. Without the entitlement, there is a very real risk that the tragic injustice done in World War II will never be redressed.

In addition, it is very important that money be kept in this year's appropriation so that as many people as possible can see closure on this matter before they die. The Office of Redress Administration (ORA), in order to expedite the verification procedure so that they can begin making payments as soon as money is appropriated, has sent out preliminary letters to the most elderly former internees. More than 1,300 are past the age of 90. Many of these elderly people have died already, many more are dying each day. We just heard about the case of Joe Kosai of Puyallup, WA, whose 92 year old aunt received notification regarding her potential eligibility from the ORA on the very day she died.

Mrs. Kinuyo Hokoda, a Los Angeles retirement home resident, has not received her letter from the ORA because at age 87, she is not old enough to be in-

-- MORE --

\*Deceased

39th ANNUAL MEETING • MAY 9, 1989 • WASHINGTON, D.C.

*"Equality In a Free, Plural, Democratic Society"*

1990 Appropriations  
13 October 1989  
page 2

cluded in the first round of correspondence. After 45 years, she is still waiting for the government to make good on its promise. She remarked, "We trust America, but we doubt.... We doubt. We are not sure now."

The promise which was made to former internees needs to be kept now. For Joe Kosai's aunt, and thousands of others, it is already too late. It may soon be too late for Mrs. Hokoda as well. We urge you to act on the government's commitment expeditiously by including in the conference report both the House approved funds for this year, and the Senate approved entitlement program for the following years.

We hope that we can count on your support. Thank you.

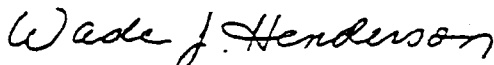
Sincerely,



Ralph G. Neas  
Executive Director  
Leadership Conference  
on Civil Rights




Jess Hordes  
Washington Representative  
Anti-Defamation League of  
B'nai B'rith



Wade J. Henderson  
Associate Director  
Washington Office  
American Civil Liberties  
Union



JoAnne H. Kagiwada  
Executive Director  
Japanese American Citizens  
League-Legislative  
Education Committee



Raul Yzaguirre  
President  
National Council of  
La Raza



Bob McAlpine  
Director  
Policy/Government Relations  
National Urban League

REPLY TO WASHINGTON ADDRESS

October 13, 1989

RECEIVED OCT 17 1989

FYI  
*Jay Lintner*



The Honorable ^F1^  
^F2^  
United States Senate  
Washington, DC 20510

Dear Senator ^F3^:

As you meet in Conference Committee to decide funding for redress payments for Japanese Americans, we urge you to adopt the Senate language which will make payments an entitlement beginning in FY91, and to adopt the House language to appropriate \$50 million in FY90.

Our organizations have long supported redress for those unjustly put in detention camps in World War II. We are delighted that we now have legislation that addresses this injustice, but distressed that there has been delay in funding this commitment.

Since those who were in the camps are now at an age where many will die each year and never see justice, the Senate commitment to see that this is an entitlement program with a quick payout is imperative. The House commitment to provide \$50 million this year is also vital for the 1,300 who have already received preliminary letters of eligibility from the Office of Redress Administration. As the oldest internees, many of these will not survive a delay.

We are delighted with the support you have already offered on this issue and urge you to make this final step.

Sincerely,

*Jay Lintner*

The Rev. Jay Lintner  
Director, Washington Office  
UCC Office for Church in Society

*Sally Timmel*

Sally Timmel  
Director, Washington Office  
Church Women United

*Herbert Blinder*

Herbert Blinder  
Director, Washington Ethical  
Action Office  
American Ethical Union

*Melva B. Jimerson*

Melva B. Jimerson  
Acting Director  
Church of the Brethren Washington Office

*Mark Mengel*

The Rev. Mark Mengel, S.S.C.  
Director of Columban Fathers  
Justice and Peace Office, Washington, DC

*Robert W. Tiller*

Robert W. Tiller, Director  
Office of Governmental Relations  
American Baptist Churches, USA

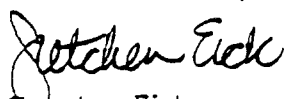
UNITED CHURCH OF CHRIST

OFFICE FOR CHURCH IN SOCIETY

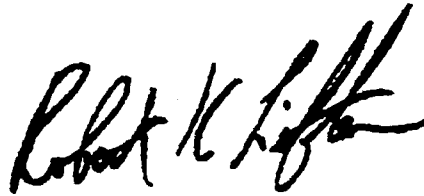
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YVONNE V. DELK  
Executive Director

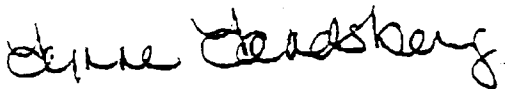
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Gretchen Eick  
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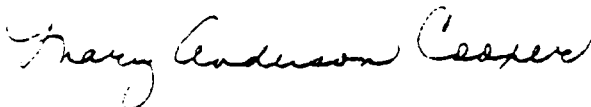
Robert K. Lifton  
President  
American Jewish Congress



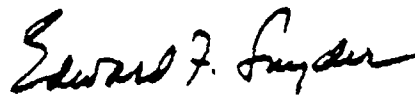
Rabbi Lynne Landsberg  
Associate Director  
Religious Action Center of Reform Judaism  
Union of American Hebrew Congregations



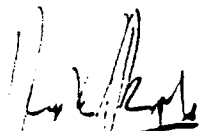
Kit Gage  
Washington Representative  
National Committee Against Repressive  
Legislation



Mary Anderson Cooper  
Acting Director  
Washington Office  
National Council of Churches



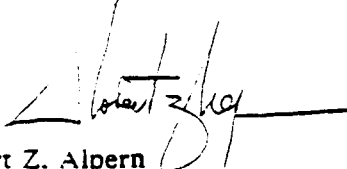
Edward F. Snyder  
Executive Secretary  
Friends Committee on National Legislation



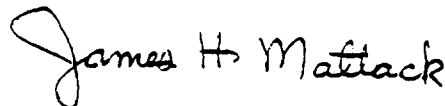
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Washington Office of the Episcopal Church



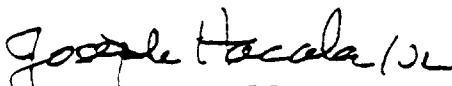
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National Office  
Jesuit Social Ministries



Mary Jane Patterson  
Director, Washington Office  
Presbyterian Church (U.S.A.)



## ***The Japanese American Citizens League - Legislative Education Committee***

1730 Rhode Island Ave., NW, #204, Washington, D.C. 20036-3148 • (202) 223-1240 • Fax: (202) 296-8082

NEWS RELEASE  
27 November 1989

CONTACT: JoAnne Kagiwada  
(202) 223-1240

### **COMMUNITY LEADERS PRAISE PRESIDENT'S SIGNATURE ON ENTITLEMENT**

Many individuals have expressed their pleasure that, with the President's signature on the 1990 appropriations bill for Commerce, State, Justice, & the Judiciary, redress will finally become real for the survivors of the World War II Japanese American internment camps.

Jerry Enomoto, Chair of the JACL-LEC Board, praised the President for signing the bill and expressed his appreciation for the stalwart efforts of the community in working for redress. He added, "JACL-LEC is also grateful for the persistent, active support of civil rights and civil liberties groups, church groups and veterans groups, which have added to the grass roots lobbying by our own community and helped make redress a reality."

---

Angus Macbeth, Special Counsel to the Commission on Wartime Relocation and Internment of Civilians said, "Six years ago the CWRIC...recommended that an apology be offered to those that had been excluded and detained; and that a payment of \$20,000 be made to each survivor....With passage of this bill, we know that the country has acted forthrightly and unambiguously to repair the damage of the past."

He said that while the Commission tried to illuminate the wartime events as fully and fairly as it could, it was the work of many others which "brought the Commission's effort to fulfillment."

---

Joe Rauh, Legal Counsel for the Leadership Conference on Civil Rights and former member of the JACL-LEC Board, said, "I will never forget the picture of a tiny Japanese American boy waving a small American flag out the window of the railroad car carrying him and his family to a concentration camp. Full redress for the years of imprisonment is not possible, but we can at least venture the hope that a nation willing to atone for its violations of civil freedom is less likely to repeat them ever again."

---

Speaking for the National Council of the Churches (NCC), General Secretary James A. Hamilton said, "We welcome the creation of an entitlement program as an important step in the direction of restitution; but we are dismayed that Congress has failed to provide funds so that the most elderly of those eligible for compensation could receive this benefit promptly....The payments authorized by

-- MORE --

Comments of Community Leaders  
27 November 1989  
page 2

Congress in 1988 will serve as a token of the Government's regret for its action....Justice demands that we lose no more time in meeting this commitment.

---

Ed Snyder, Executive Secretary of the Friends Committee on National Legislation, recalled that members of the Religious Society of Friends (Quakers) protested the government actions and assisted families as they had to leave the West Coast. "After the war," he continued, "FCNL worked closely with the JACL to support the establishment of the 'Evacuation Claims Commission.' Ultimately, to the great disappointment of FCNL and JACL, the attorney general was permitted to offer very low settlements to former internees." He concluded, "We now celebrate with the JACL that Congress will recognize an entitlement to the restitution that has been promised to those who suffered from this never-to-be-forgotten error in our nation's history."

---

Veteran JACL lobbyist, Mike Masaoka, Washington Representative of the Go For Broke Veterans Association, recalled the many hurdles that the Japanese American community has overcome. He said that the recognition of the necessity for redress was "long overdue -- and there is much more to be accomplished."

---

American Civil Liberties Union Washington Representative, Wade Henderson, speaking about ACLU's involvement in the long campaign for redress, said, "Led by JACL-LEC, with the strong support of the civil liberties community, the struggle itself was a testament to the deep commitment of the American people to simple justice and the healing of the nation."

---

American Jewish Committee President Sholom D. Comay noted that the Civil Liberties Act "helps to correct one of the great injustices in American history." However, he added, "without appropriate and timely redress payments, this nation's commitment would be a meaningless gesture for this nation and especially for Japanese Americans."

---

"The Organization of Chinese Americans is pleased to have followed JACL-LEC's lead in working with members of Congress to pass the entitlement program," said Executive Director, Melinda Yee. "The struggle for justice for those people whose civil rights were denied has been long and arduous. The success of redress, and making redress into an entitlement program, has been an inspiration to all of us concerned with civil liberties."





## ***The Japanese American Citizens League - Legislative Education Committee***

1730 Rhode Island Ave., NW, #204, Washington, D.C. 20036-3148 • (202) 223-1240 • Fax: (202) 296-8082

PRESS RELEASE  
9 March 1990

CONTACT: JOANNE KAGIWADA  
(202) 223-1240

### **CONGRESSIONAL HEARINGS UNDERScore DEPARTMENT OF JUSTICE COMMITMENT TO REDRESS**

At two Congressional hearings held recently, the Department of Justice reaffirmed its commitment to go forward with the redress program as expeditiously as possible.

The Senate Judiciary Committee, on 8 March, recommended confirmation of former New York State Senator John R. Dunne as Assistant Attorney General for Civil Rights. Senator Paul Simon (D-IL), who chaired the hearing on the previous day, remarked on the long delay in funding for Redress, and asked Dunne about his commitment to ensure that the Office of Redress Administration would be ready to start making payments by the beginning of Fiscal 1991. "Absolutely," Dunne stated confidently, "as soon as the money is available, ORA will be ready."

In response to a request from Senator Simon's office, JACL-LEC prepared questions for him about the operation of the Office of Redress Administration.

The only negative vote on the committee came from Howard Metzenbaum (D-OH) who was troubled by Dunne's membership in two all-male clubs and his failure to speak out against their policies excluding women. But, Metzenbaum said, "I don't think we're going to get anybody better" nominated by the Bush Administration. Dunne resigned from both clubs when his name surfaced as a leading contender for this position.

In oversight hearings on 8 March 1990, the House Appropriations Subcommittee for Commerce, Justice, State took written testimony from Acting Assistant Attorney General for Civil Rights, James P. Turner. But, as there was no further action for them to take on this matter, they did not question him. In his prepared statement, Turner reminded the committee members that redress is "now an entitlement program....[and] payments to the first 25,000 will begin in Fiscal Year 1991." Turner acknowledged that the workload is formidable, but the DOJ is "absolutely committed to being ready to begin issuing checks immediately after funds for that purpose are released."

In the process of identifying potential eligibles, ORA, using historical records of the US Government, "has established a masterlist which specifically identifies over 119,300 Japanese Americans known to have been interned or evacuated." While the list is believed to be more than 99% complete, it could take years to identify the last remaining individuals. "These are

-- MORE --

DOJ MAKES COMMITMENT TO REDRESS  
9 March 1990  
page 2

largely those whose names are not recorded in historical records, including some voluntary evacuees and a very small number of persons held at obscure locations."

Turner continued, "Voluntary contacts to ORA ... now exceed 78,000....For those former internees with years of birth through 1914, we have located 8,503 living eligibles, 6 percent more than predicted by our recent actuarial study."

He described how staff has been increased from 8 federal employees "and a small number of contract employees" to the current level of 33 persons. "Through automated improved methods, ... our analysts are processing upwards of 30 cases daily."

The first letters were sent in August, 1989, and ORA has now sent out over 12,500 letters. JACL-LEC Executive Director, JoAnne Kagiwada, learned from them that more than 1,900 letters have been sent out to persons age 90 and older. ORA originally estimated there would be about 1000.

The two major problems which ORA is still experiencing are first, people have been very slow to return documentation (only 5,739 of the first 9,536 have done so), and second, about half of the responses require follow-up letters because the documentation submitted is incomplete. To help prevent delay in making payments to these potential recipients, the ORA has taken several steps. A new toll-free, bilingual Help-Line (1-800-395-4672) has been established, the original notification letters have been rewritten, and a series of follow-up letters will go to potential eligibles who have not responded within 60 days of the original letter.

Turner closed by stating, "I believe that we have established excellent rapport within the Japanese American community, and we are gratified by their wholehearted support of our efforts....We will be fully prepared to begin payments in October 1990."



## *The Japanese American Citizens League - Legislative Education Committee*

1730 Rhode Island Ave., NW, #204, Washington, D.C. 20036-3148 • (202) 223-1240 • Fax: (202) 296-8082

### LEGISLATIVE CHRONOLOGY FOR REDRESS ENTITLEMENT 10 August 1988 - 21 November 1989

10 August 1988: President Ronald Reagan signs H.R. 442 into law. It becomes Public Law 100-383, an Act to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians; Title I is the Civil Liberties Act of 1988 and Title II is the Aleutian and Pribilof Islands Restitution Act.

9 January 1989: President Reagan's 1990 budget proposal contains only \$20 million for Japanese American redress. The Office of Management and Budget justifies this meager allocation asserting that the Department of Justice has not identified the oldest survivors and is "not geared up to begin verifying and processing claims for the fiscal year that begins next October 1." President Bush's budget still uses the Reagan figure.

15 March 1989: House Judiciary Subcommittee on Civil and Constitutional Rights holds oversight hearing. As well as commenting favorably on the actions of the ORA in her testimony, Acting LEC Executive Director Takahashi corrects a misinterpretation of the law by the Justice Department. Attorney General Dick Thornburgh had wrongly stated that all eligible persons had to be identified before redress payments could begin.

April 1989: Oral and written testimony is presented by Takahashi at the hearings held by both the House and Senate Appropriations Subcommittees on Commerce, Justice, State, the Judiciary and Related Agencies. The House Subcommittee then approves an "urgent" supplemental appropriations for redress payments and the Office of Redress Administration. But the full House turns back the bill that includes this provision and passes legislation which does not include any monies for redress payments in FY 1989.

25 July 1989: The House Appropriations Committee substitutes \$50 million for the \$20 million recommended by the subcommittee for redress payments in FY 1990 (which begins 1 October 1989).

1 August 1989: House of Representatives approves the Commerce, Justice, State appropriations bill including \$50 million for redress payments.

27 September 1989: The Senate Appropriations Committee accepts the proposal from their subcommittee which contains Senator Daniel Inouye's amendment to make redress into an entitlement program beginning in fiscal 1991. But the trade-off is that no funds (even the House's \$50 million) are included for 1990.

Entitlement Chronology  
page 2

29 September 1989: The Senate approves the entitlement amendment, making possible a three-year completion schedule for redress payments. The payments will begin in fiscal 1991.

Under this provision, the \$20,000 payments for each eligible person would be made a federal entitlement program. But, no funds are appropriated for fiscal 1990. Any funding for fiscal 1990 will have to be negotiated in the House/Senate Conference Committee.

19 October 1989: The Conference Committee approves the Senate proposal to make redress a federal entitlement program, beginning in fiscal 1991. However, the \$50 million which was in the House bill for the current fiscal year is not included in the conference report.

26 October 1989: The House approves the Conference Committee Report.

1 November 1989: The Senate accepts the Conference Report. However, the Senate adds an amendment to another section of the report which the House has not approved, thus delaying final action on the report.

7 November 1989: The House gives unanimous consent to the new language negotiated by the Conference Committee on the matter unrelated to redress.

8 November 1989: The Senate gives final approval to the Conference Report.

21 November 1989: President George Bush signs the H.R. 2991, the 1990 appropriations bill for Commerce, Justice, State, which contains the provision which makes redress payments into an entitlement program beginning in October 1990.

Entitlement will take redress out of the annual appropriations funding battle. Beginning in fiscal 1991, it mandates \$500 million per year for redress payments until all eligible individuals are paid. The Civil Liberties Act provides for a total of \$1.25 billion for payments, but puts a cap on annual expenditures at \$500 million. All monies should therefore be made available within three years.



## Contacting ORA

You may reach ORA by contacting the ORA Help Line, toll free, at:

**1-888-219-6900  
(202) 219-4710 (TDD)\***

\*Telephone Device for the Deaf

You may also send written inquiries to:

**OFFICE OF REDRESS ADMINISTRATION  
P.O. BOX 66260  
WASHINGTON, D.C. 20035-6260**

When writing to ORA, please include your current name, name during the internment period, current address, social security number, date of birth, and a brief summary regarding your experiences during the internment period - December 7, 1941, through June 30, 1946.

**It is very important that you reply to ORA correspondence as soon as possible.**

ORA has a "sunset date" of August 10, 1998, and it will be unable to process or make payment on any cases after that date!

**Office of Redress Administration**

P.O. Box 66260  
Washington, D.C. 20035-6260  
1-888-219-6900  
Fax: (202) 219-9314

# Redress and You



*How the Civil Liberties  
Act of 1988 impacts  
you.*

**U.S. Department of Justice  
Civil Rights Division  
Office of Redress Administration  
P.O. Box 66260  
Washington, D.C. 20035-6260**



## Introduction

The Civil Liberties Act of 1988 authorizes compensation of \$20,000 to eligible persons of Japanese ancestry who were evacuated, relocated, or interned during World War II. The Act became law on August 10, 1988, and the Attorney General was authorized to implement the Act. The Office of Redress Administration (ORA) was created as a new organization within the Civil Rights Division of the Department of Justice specifically to carry out the redress provisions of the Act.

ORA is able to verify that an individual was evacuated, relocated, interned, or otherwise deprived of liberty or property as a result of specific federal government action during World War II by using a variety of historical records collected from the National Archives, as well as documentation which has been provided by an individual. To date, ORA has made payment to over 79,900 eligible individuals. It is important to note that the redress program will be concluding on August 10, 1998. No cases may be opened or payments made after that date.

I hope that this will answer some of your questions regarding the redress program. If you have further questions, please do not hesitate to contact ORA.

Sincerely,



DeDe Greene  
Administrator for Redress

## Who is Eligible?

### All eligible individuals must:

- Be of Japanese ancestry, or be the spouse or parent of a person of Japanese ancestry;
- Have been a United States citizen or permanent resident alien during the internment period, from December 7, 1941, through June 30, 1946; and,
- Have been living on August 10, 1988.

### Beyond that, most, but not all, eligible individuals may fall into one of the following categories:

- Those who were interned in Assembly Centers and/or Relocation Centers; or were interned by the Army in Hawaii; or were interned by the Department of Justice in any of the Immigration and Naturalization Service (INS) Camps.
- Those who filed Change of Residence Cards.
- Those who moved from prohibited zones on or after March 29, 1942.
- Those who were ordered to leave Bainbridge Island or Terminal Island.
- Those who were in the U.S. Military during the internment period and never spent time in camps, but lost property as a result of government action because their homes were in prohibited zones, or were prohibited by government regulations from visiting their interned families or were subject to undue restrictions prior to visits.

- Those who were born in Assembly Centers, Relocation Centers, or Internment Camps, including those born to parents from Latin America who were interned in the United States.
- Those who were born after one or both parents were evacuated and interned from the prohibited military zones on the West Coast and released from an internment camp during the war period.
- Those who were born after one or both parents evacuated pursuant to federal government action from the prohibited military zones on the West Coast and relocated to another area during World War II.
- Those who were forcibly brought to the United States from Latin America for internment, and later acquired a change in immigration status to permanent resident, retroactive to the internment period.
- Those who spent the internment in institutions, such as sanitariums, under the administrative authority of the War Relocation Authority.
- Those who suffered a termination of a significant, pre-existing relationship as a result of the creation of a prohibited zone in Arizona.
- Those, who as unemancipated minors, were relocated from the United States to Japan during World War II.