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U.S. Prisoners of War and Civilian American Citizens Captured and Interned by Japan in World War II: The Issue of Compensation by Japan

Updated July 27, 2001

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Summary

Of the approximately 130,000 American prisoners of war (POWs) in World War II (WWII), 27,000 or more were held by Japan. Of the approximately 19,000 American civilian internees held in WWII, close to 14,000 were captured and interned by Japan. After the conclusion of WWII, Congress passed the War Claims Act of 1948, which created a War Claims Commission (WCC) to adjudicate claims and pay out small lump-sum compensation payments from a War Claims Fund consisting of seized Japanese, German, and other Axis assets. Payments to POWs held by either Germany or Japan were at the rate of \$1 to \$2.50 per day of imprisonment. The WCC also paid civilian internees of Japan \$60 for each month of internment, and civilians were also eligible for compensation for disability or death. The War Claims Act of 1948 did not authorize compensation for civilian internees held by Germany.

Since payments were already being made to U.S. POWs out of Japanese assets via the War Claims Act, POWs of other Allied countries were given first claim on payments from Japanese assets situated in neutral countries or countries with which the Allied powers were at war, as specified in the Multilateral Peace Treaty with Japan of 1951. In the decades since this initial compensation, POW and internee groups have tried several routes to obtain more compensation for their internment by Japan. Groups have tried and failed to get legislation passed, to have the U.S. Court of Claims hear their claims, to get Japan to pay reparations of about \$20,000 to each legitimate claimant, or to have the United States compensate them.

In 1995 POW and civilian internee groups from several countries filed suits in the Japanese court system, seeking a net payment of \$20,000 for each POW/internee. However, Japanese courts ruled out compensation, pointing to Article 14 of the Multilateral Peace Treaty, in which the United States waived any further claims by U.S. citizens against Japan. In late 1999, in a new tactic, POWs/internees who claim to have been used as forced laborers filed suit in California courts against several major Japanese companies seeking reparations; so far all suits have been dismissed. On June 28, 2000, the Senate Judiciary Committee held a hearing on POW survivors of the Bataan Death March and their claims against Japanese companies they allege used them as slave laborers. Although attempts to give POWs additional U.S. compensation failed in the 106th Congress, legislation was passed to find, declassify, and release any Japanese records that the United States might have relating to Japanese WWII war crimes. A sense of Congress resolution also passed that asked the Administration to facilitate discussions between POWs and Japanese companies over POW slave labor claims. As the number of living POWs and civilian internees dwindles, those that survive continue to press the issue. This report will be updated as legislation or events warrant.

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U.S. Prisoners of War and Civilian American Citizens Captured and Interned by the Japanese in World War II: The Issue of Compensation by Japan

World War II—U.S. Prisoners of War and Civilian Internees

World War II (WWII) was fought during 1939-1945 in all corners of the globe by the Axis powers (Germany, Japan, Italy, and some smaller states) against the Allies (United States, United Kingdom, Free French, Nationalist China, the Soviet Union, and other allies). Major air, land, and sea battles took place on and around the European landmass, the Mediterranean, Asia, North Africa, the Far East, the Atlantic, the Pacific, and elsewhere. Estimates of people and resources involved in WWII vary widely. According to *Louis L. Snyder's Historical Guide to World War II*, military forces at their peaks are estimated to have ranged from a high estimate of 68.8 million combatants to a low estimate of 66.6 million combatants. According to this same source, estimated worldwide deaths, both military and civilian, were somewhere between 24.4 million and 30 million.¹ *The World War Two Almanac, 1931-1945*, gives an estimate of 60 million combatants and worldwide deaths as being more than 53 million.² Finally, the essay on WWII deaths in *The Historical Encyclopedia of World War II* estimates that somewhere between 45 and 50 million people were killed by the direct effects of WWII.³

For the United States, WWII formally started when Japan's attack on Pearl Harbor on December 7, 1941, triggered President Franklin D. Roosevelt's December 8 request that "... Congress declare that since the unprovoked and dastardly attack by Japan on Sunday December 7, 1941, a state of war has existed between the United States and the Japanese Empire."⁴ This led to a declaration of war by Congress on

¹Snyder, Louis. L. *Louis L. Snyder's Historical Guide to World War II*. Westport, CT, Greenwood, 1982. p. 126.

²"World War Two: The Road to Victory." Special pull-out section. *Washington Times*, August. 14, 1995. p. 9. Chart, "World War II by the Numbers."

Source for statistics: Goralski, Robert. *World War Two Almanac, 1931-1945: A Political and Military Record*. New York, Bonanza Books, 1981.

³Marcel Bradot et al., eds. *The Historical Encyclopedia of World War II*. New York, Facts on File, 1980. p. 131-3.

⁴ Roosevelt, Franklin D. *The Public Papers and Addresses of Franklin D. Roosevelt*. (continued...)

the same day.⁵ A total of 16.1 million U.S. troops served in WWII, and these troops suffered 291,557 battle deaths, 113,842 other deaths (due to disease, accident, etc.), and 671,846 wounds which were not mortal.⁶ In addition to these casualties, according to some estimates (discussed below), some 130,000 U.S. troops were captured and became Prisoners of War (POWs).⁷ Germany held almost 94,000 U.S. POWs, and Japan held over 27,000.⁸ Prior to the outbreak of WWII, many American civilians were working and living abroad in areas which were to become combat areas as WWII progressed. According to one report, approximately 4,700 U.S. citizens were captured and interned by Germany, and almost 14,000 U.S. citizens were captured and interned by Japan.⁹

Counting WWII Prisoners of War and Internees

The immense problems of World War II record-keeping in the heat of battle, how *POWs* and *internees* are defined, and sometimes unknowable individual circumstances, make an authoritative determination of the precise number of POWs and internees held by Germany and Japan in WWII virtually impossible. In the case of POWs, Charles A. Stenger, formerly with the Veterans Administration (VA), developed a set of figures revised annually since 1976 for POWs and an estimate for current numbers of surviving POWs for the Department of Veterans Affairs Advisory Committee on Former Prisoners of War. According to Dr. Stenger, these figures were compiled in cooperation with the Department of Defense (DOD), the National Academy of Sciences, and the National Archives. They are recognized and used by the Department of Veterans Affairs (VA) and other government agencies. Dr.

⁴(...continued)

Comp. by Samuel I. Rosenman. New York, Harper, 1950. 1941 volume, p. 514-6.

⁵P.L. 328, 55 Stat 795 (1941).

⁶Department of Defense. Office of the Secretary of Defense. Washington Headquarters Services. Directorate for Information Operations and Reports. *Department of Defense Selected Manpower Statistics*. Table 2-23, Principal Wars in Which the United States Participated. U.S. Military Personnel Serving and Casualties. This publication is now only available online, and this table can be found on the DIOR Web site at [<http://web.1whs.osd.mil/mmid/m01/SMS223R.HTM>].

⁷CRS Issue Brief IB92101, *POWs and MIAs: Status and Accounting Issues*.

⁸Stenger, Charles A. *American Prisoners of War in WWI, WWII, Korea, Vietnam, Persian Gulf, Somalia, Bosnia, and Kosovo*. Statistical Data Concerning Numbers Captured, Repatriated, and Still Alive as of January 1, 2000. Prepared for the DVA Advisory Committee on Former Prisoners of War, Mental Health Strategic Group, VHA, DVA, American Ex-Prisoners of War Association. [n.p., Bethesda, MD? 2000] 7 p. Mimeographed.

⁹ See statistics on WWII POWs and internees from the Center for Internee Rights, Inc an advocacy group, at its Web site [<http://www.expows.com>].

Stenger lists 27,465 POWS in the Pacific, of whom 11,107 died while in detention. He estimates that 5,745 of the survivors were alive on January 1, 2000.¹⁰

According to Dr. Stenger, figures for civilian internees are less solid. He lists 7,300 American civilians as having been interned by Japan, of whom he estimates 2,301 were alive on January 1, 2000. He also cites an additional 13,000 Amerasians holding American citizenship who hid during this period, but who were never interned; he estimates that 1,786 of those 13,000 Amerasians were still alive as of January 1, 2000.¹¹ The Office of the Army's Provost Marshal General, Prisoner of War Division, listed 13,979 American civilian internees (including War, Navy, and Merchant Marine personnel) in its compilation of internees "Formerly Detained by the Japanese Government."¹² The Center for Internee Rights, Inc. (CFIR), an internee advocacy group, calculates that there were 13,996 civilian internees held by Japan, of which the Center calculated 1,497 to be alive as of January 1, 2000.¹³

War Claims Commission

In the United States, payments to WWII POWs and internees were made by the War Claims Commission (WCC), which was established by the War Claims Act of 1948 (50 U.S.C. App. 2001 et seq.). Under section 12 of the War Claims Act, German and Japanese assets seized by the United States after December 17, 1941, under the Trading with the Enemy Act of October 6, 1917, (40 Stat. 411) as amended, were to be liquidated and placed in a War Claims Fund created on the books of the U.S. Treasury. According to 1959 testimony by the head of the Foreign Claims Settlement Commission, the total amount of these liquidated assets amounted to \$228,750,000.¹⁴ The 1952 amendments to the War Claims Act (P.L. 303, 66 Stat.

¹⁰Ibid.

¹¹Stenger, *American Prisoners of War in WWI, WWII, Korea...* Plus several telephone discussions with Dr. Stenger 1999-2000.

¹²Office of the [Army] Provost Marshal General. Prisoner of War Division. *American Civilian Internees Formerly Detained by the Japanese Government (including War, Navy, and Merchant Marine Personnel)*, 7 December 1941-14 August 1945. CFN-127. [n.p., n.d.] The author has the title page and first and last pages of the tally contained in this three-volume, 350+- page document. The last page of this tally has a handwritten correction to the total number of internees changing the number to 13,979 from 13,97?.

¹³Statistics on WWII POWs and Internees from the Center for Internee Rights, Inc.

¹⁴U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Commerce and Finance. *War Claims and Enemy Property Legislation*. Hearing, 86th Congress, first session. Washington, GPO, 1959.

The head of the Foreign Claims Settlement Commission, Whitney Gilliland, stated in the hearing that the total amount of "... all sums covered [transferred] into the Treasury pursuant to section 39 of the Trading With the Enemy Act, that is, the net proceeds of the liquidation of vested World War II German and Japanese assets by the Office of Alien Property in the Department of Justice ... totaled \$228,750,000 ... and there was a balance of a little over \$500,000 remaining" (p. 3-4).

47, 49 [1952]), designated April 9, 1953, as the last day for the Commission to receive claims relative to WWII, and WCC programs were completed on March 31, 1955.

Foreign Claims Settlement Commission

The War Claims Commission was combined with the International Claims Commission to form the Foreign Claims Settlement Commission. Subsequently, the Foreign Claims Settlement Commission was made a part of the Department of Justice.¹⁵ The Commission took over the remaining duties of the WCC, and has administered WWII property claims programs under Title II of the War Claims Act and claims programs related to subsequent conflicts in which the United States has been involved (Korean Conflict, Vietnam War). It has also handled U.S. property claims against a number of other countries from wars in the 20th century, and is involved in the newly created Holocaust Claims Program recently agreed to by the United States and Germany.¹⁶

Prisoners of War

A *prisoner of war* is defined in the original War Claims Act as “... any regularly appointed, enrolled, enlisted or inducted member of the military or naval forces of the United States who was held as a prisoner of war for any period subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.” Thus, POWs captured by any of the Axis powers—Germany, Italy, or Japan—were eligible to apply for compensation.

The preceding definition apparently accounts for the denial, cited in a footnote in the Foreign Claims Settlement Commission’s 1998 *Annual Report*, of many thousands of claims for compensation by residents of U.S. territories and possessions occupied by enemy forces. This was because the claimants, many of them Filipinos,

¹⁴(...continued)

The December 31, 1957 Report of the Commission stated that of an estimated \$225 million in vested assets of Germany and Japan, approximately \$171 million were of German origin and \$54 million were of Japanese origin. Claims against Italy were paid from a \$5 million fund provided by Italy. The Report also stated that awards paid for POW claims against Japan were approximately \$71.6 million and that awards for civilian internees’ claims against Japan were approximately \$18.1 million, while awards for U.S. POW claims against Germany totaled approximately \$51.78 million.—Foreign Claims Settlement Commission. *Seventh Semiannual Report to Congress for the Period Ending December 31, 1957*. Washington, GPO, 1958.

¹⁵Interview with David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission. 1/24/00. Reorganization Plan No. 1 of 1954. 68 Stat. 1279; 19 *Federal Register* 3985, July 1, 1954.

¹⁶For information on this program, go to the Department of Justice’s Foreign Claims Settlement Commission Web site at [<http://www.usdoj.gov/fcsc/>].

were not officially listed as members of duly recognized units of the U.S. Armed Forces during WWII.¹⁷

Internees

Under the War Claims Act, compensation of civilians was to go only to “civilian American citizens,” i.e., “... any person who, being then a citizen of the United States, was captured by the Imperial Japanese government on or after December 7, 1941, at Midway, Guam, Wake Island, the Philippine Islands or any Territory or possession of the United States attacked or invaded by such government, or ... while in transit to or from ... or who went into hiding at any such place.” Thus civilian internees held by Japan were able to file for compensation but not civilian internees captured by the Germans. A later amendment¹⁸ to the War Claims Act extended coverage to certain Guamanians who were captured and interned by Japan.

American Civilians in Europe and Asia vs. Those in the Philippines

In the 1948 hearings on the War Claims Act, a distinction was made between those American civilians living in Europe and Asia who State Department testimony indicated had been warned several times to leave Europe and Asia, and those American citizens in the Philippines and vicinity who were not warned. Only “civilian American citizens” who were in hiding, in transit in the area of the Philippines, or captured and interned by the Japanese were entitled to apply for compensation by this legislation.¹⁹

¹⁷U.S. Department of Justice. Foreign Claims Settlement Commission. *1998 Annual Report*. Washington, GPO, 1999. p. 69. Footnote 1 to Table of Completed Programs, War Claims Act of 1948.

¹⁸Foreign Claims Settlement Commission, *Decisions and Annotations*, p. 666. In 1962, P.L. 87-617 amended the War Claims Act to add detention benefits for Guamanians captured on Wake Island by Japan.

¹⁹U.S. House. Committee on Interstate and Foreign Commerce. *Amending the Trading with the Enemy Act; Creating A Commission to Make Injury and Report with Respect to War Claims; and Providing Relief for Internees in Certain Cases*. Report to accompany H.R. 4044. H.Rept. 976, 80th Congress, first session. Washington, GPO, 1947.

According to this report, a distinction was made between American civilians who were in **Europe and Asia** and who **had been warned** by the State Department several times before the war to leave and who had several boats sent to Europe to return them to the U. S., and American civilians who were in the **Philippines and other American territories and possessions** who **had not been warned** to leave as a matter of national policy. See, for instance, letter of the former High Commissioner to the Philippine Islands on p. 6-7, and samples of State Department warning messages in the appendix (p. 21-23).

Peace Treaties with Japan and Germany

The United States concluded a treaty ending the state of war between the United States and Japan in 1951 that included POW compensation provisions. In addition, the War Claims Act (WCA) dealt with U.S. POWs held by all Axis powers, as well as civilian American internees of Japan. Since the United States did not conclude a peace treaty with Germany, only recently has compensation for some U.S. civilian internees of Germany been awarded.²⁰

War Claims Compensation

Under the War Claims Act of 1948, POWs held “... by any government of any nation with which the United States has been at war subsequent to [December 7, 1941]” were paid a lump sum payment based on \$1 per day of imprisonment in which a POW was able to prove under Section 6(b) of the law that “... the enemy government or its agents failed to furnish him such quantity or quality of food (as he was entitled to as a prisoner of war under the Geneva Convention on Treatment of

²⁰Despite meetings beginning with the Potsdam Conference, July 17-August 2, 1945, and, culminating in the 2 plus 4 agreement of September 1990, no peace treaty officially ending the war with Germany was ever signed. (A treaty might have dealt with the issue of compensation of U.S. civilian internees.) For background see CRS Report 90-523, *German Unification*.

The first instance of internee compensation began with the Hugo Princz decision. Hugo Princz was an American citizen living with his family in Slovakia. When the United States declared war against Germany, Princz and the seven members of his family were turned over to the Nazis. He spent 3 years in Auschwitz and was the only member of his immediate family to survive. After the war, he waged a 40-year battle through the courts and Congress for reparations from Germany. Finally, in 1995, Princz and 10 other American survivors shared in a \$2.1 million settlement from Germany. Subsequently, an agreement between the U.S. government and that of Germany resulted in the establishment of the Holocaust Claims Program.

In 1997, the Foreign Claims Settlement Commission ruled that only those Americans who suffered in a concentration camp or subcamp, or were made to participate in a forced labor march, were eligible for the Holocaust Claims Program. As a result of an agreement between the United States and Germany which is part of the Holocaust Claims Program, the U.S. Treasury received \$18.5 million from Germany, which, reportedly, it will pay out to 235 eligible survivors in lump sum payments of \$30,000 to \$250,000. According to an article from the Jewish Telegraphic Agency, until the 1995 Hugo Princz decision, no individuals imprisoned in Nazi camps who were U.S. citizens at the time of the war had been compensated by Germany.

Source: Ephross, Peter. U.S. Holocaust Survivors Scheduled to Receive German Reparation Funds. *Jewish Telegraphic Agency*, June 22, 1999 [Online]. Available: NEXIS Library: NEWS File: CURNWS.

According to David E. Bradley, Chief Counsel of the Foreign Claims Settlement Commission, all but one of these claimants participating in the Holocaust Claims Program have been paid. Phone discussion with Mr. Bradley, June 24, 2000.

Prisoners of War of July 27, 1929).”²¹ The 1952 amendments added section 6(d) that provided for payment of an additional \$1.50 per day if a POW were able to prove that he was subjected to “inhumane treatment” or forced to perform hard labor, thus bringing total aggregate payments to a maximum of \$2.50 per day of imprisonment.²² Detention benefits could also be paid to members of a deceased POW’s immediate family. Claims for disability or ongoing health problems due to being a POW of the Axis powers were subsequently handled by the Veterans Administration.²³

Adult “civilian American citizens” who were interned by Japan or in hiding on Midway, Guam, Wake, the Philippine islands, or in territories or possessions of the United States were paid at the rate of \$60 per month of detention (children under 18 were paid \$25/month). Civilian disability payments of \$25 per week (which was calculated as two-thirds of a weekly pay of \$37.50) had a lifetime cap of \$7,500. A similar cap of \$7,500 applied to death benefits, which were calculated based on the individual situation for each applicant. According to statute, these amounts were arrived at by using pay computations based on the then current compensation tables for longshoremen.²⁴ Funeral expenses of up to \$3,000 were also available. As with POW payments, payments could be made to a deceased internee’s immediate family. Continuing medical payments were made thereafter by the Department of Labor’s Office of Workers Compensation, with no cap for those who could show that their illnesses were caused by being an internee; 44 internees were receiving payments from the Office of Workers Compensation at the Department of Labor as of June 30, 1999.²⁵ The Foreign Claims Settlement Commission, in its latest annual report to Congress (1998), listed payments that had been made by the War Claims Commission and subsequently the Foreign Claims Settlement Commission for WWII POWs and internees or their immediate families as the following:

²¹Friedman, Leon, ed. *The Law of War: A Documentary History*. New York, Random House, 1972. v. 2, p. 488-522.

²²*An Act to Amend Sections 6 and 7 of the War Claims Act of 1948*, Chapter 167, 66 Stat. 47.

²³The VA has a list of presumptive conditions related to being a POW that has expanded over the years since WWII. See the VA Fact Sheet, “VA Benefits for Former Prisoners of War,” at its Web site [<http://www.va.gov/pressrel/98fspow.htm>].

See also [<http://www.vba.va.gov/ro/central/indy/pow/POWPrsmp.htm>] for more detail on presumptive disabilities.

²⁴War Claims Act of 1948, Section 5 (f)(1).

²⁵Phone discussion with Roberta Mosier, Office of Workers Compensation, Department of Labor, June 2, 1999, August 9, 1999, and June 22, 2000. For the time period July 1, 1998-June 30, 1999, the DOL paid out \$146,555 in medical claims to 44 civilian internees from WWII. According to a handout from the Office of Workers’ Compensation titled, “War Claims Act of 1948,” “Unlike the department of Veteran’s Affairs, which accepts a number of conditions as presumptive in ex-POWs, OWCP accepts only periodontitis on a presumptive basis.”

- POWs @\$1 inadequate food rate [filing period 1/30/50-3/31/52]
286,315 claims, 179,725 awards = \$49,935,899²⁶
- POWs @ additional \$1.50 forced labor rate [filing period 4/9/52-8/1/54]
254,228 claims, 178,900 awards = \$73,492,926
- Civilian internees interned or in hiding @\$60 rate [filing period 4/9/52-8/1/54]
23,000 claims, 9,260 awards = \$13,679,329²⁷
- American POWs enlisted in Allied forces [completed 8/31/56]
266 claims, 206 awards = \$335,836²⁸
- American merchant seamen captured and interned by Germany or Japan [completed
8/31/56]
385 claims, 171 awards = \$333,594²⁹
- Interned civilian contractor employees @\$60 rate [filing period 8/31/54-8/31/55]
2,968 claims, 2,222 awards = \$4,082,086³⁰
- Guamanians captured by the Japanese on Wake Island in WWII detention benefits
[program completed 12/31/63]
35 claims, 35 awards = \$91,782³¹

²⁶According to the footnote on p. 69 in the *1998 Annual Report* of the Foreign Claims Settlement Commission, the high number of denials was due to many thousands of claims by residents of U.S. territories and possessions occupied by enemy forces who were not officially listed as members of duly recognized units of the U.S. Armed Forces during WWII.

²⁷Foreign Claims Settlement Commission, *1998 Annual Report*, p. 68-69. Under the War Claims Act of 1948, claims were also paid to reimburse U.S. affiliated and non-U.S. affiliated religious organizations and personnel who had aided U.S. armed forces and civilians in the Philippines, as well as to pay them for damage to educational and non-religious facilities in the Philippines, and for sequestration of U.S. citizen, military, and business bank accounts in the Philippines.

In 1962, P.L. 87-617 amended the War Claims Act to add detention benefits for Guamanians captured on Wake Island by the Japanese. According to the chart in the Foreign Claims Settlement Commission *1998 Annual Report* (p. 63-69), of the more than \$517 million paid out for WWII claims under the War Claims Act, almost \$335 million was paid out under Title II, for war damage to property in certain Eastern European countries, territories attacked or occupied by the Japanese, and damage to ships, losses to insurers, and by passengers of ships, that was authorized by other 1962 amendments to the War Claims Act contained in P.L. 87-846.

²⁸U.S. Foreign Claims Settlement Commission. *Decisions and Annotations*. Washington, GPO, 1968. p. 665. Compensation was authorized by P.L. 83-744, a 1954 amendment to the War Claims Act of 1948.

²⁹Foreign Claims Settlement Commission, *1998 Annual Report*, p. 68-69.

³⁰Committee on Interstate and Foreign Commerce, *War Claims and Enemy Property Legislation*, p. 4. According to testimony by Whitney Gilliland, these claimants were not covered by the original Act.

³¹Foreign Claims Settlement Commission, *Decisions and Annotations*, p. 666.

According to the Chief Counsel for the Foreign Claims Settlement Commission, there were approximately 39,000 claimants in the category of POWs held by Japan, or their survivors, and approximately 81,200 claimants in the category of POWs held by Germany or their survivors.³²

Although the WCC believed that it had done a good job of publicizing its program and of contacting potential claimants, POW/internee groups, such as the National American Ex-POW Association, Inc. and the Center for Internee Rights, Inc. believed that insufficient efforts were made to find potential claimants.³³ These groups also contended that because many of the effects of internment might not show up until many years after the fact, the cutoff dates for filing claims were too short.³⁴

Treaty of Peace with Japan

The Multilateral Treaty of Peace with Japan (3 UST (United States Treaties and Other International Agreements) 3169, TIAS (Treaties and Other International Acts Series) 2490, September 8, 1951), that officially ended the state of war between Japan and the Allies, stated in Chapter V (dealing with issues relating to claims and property), Article 14(a) that:

It is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations.

In addition, Article 14 (b) stated that:

³²Fax from David Bradley, Chief Counsel, Foreign Claims Settlement Commission. July 12, 2000. This estimate for claims from the Pacific theater exclude claims sent to claimants in the Philippines.

³³The WCC listed the following “Informational Activities” in their third *Semi-Annual Report to the Congress from the War Claims Commission for the Period Ending March 13, 1951*: “Special letters and releases [publicizing the March 1, 1951 deadline for filing] were prepared and sent to members of Congress, to directors of veterans’ agencies and governors of each State and Territory, to each member of all State legislatures in session, to other interested individuals, to veteran and internee organizations, press bureaus, weekly newspapers, and to radio stations. A total of 35,426 letters and releases were distributed in connection with this program. The Commission received press clippings from all sections of the country showing extensive use of its released material. Between January 20, 1950 and February 28, 1951, the Commission noted 8,286 column inches of war claims items. ... As noted previously, the Philippine press has given extensive coverage to the activities of the War Claims Commission as they relate to Philippine claimants” (p. 14).

³⁴National American Ex-POW Association, Inc., and the Center for Civilian Internee Rights, Inc. *A Legislative Prospectus on American Civilian POW’s and Hostages*. [n.p. The Association and the Center] 1991. n.p.

Except as otherwise noted in the present Treaty, the Allied Powers waive all reparations claims of the Allied Powers, other claims of the Allied Powers and their nationals arising out of any actions taken by Japan and its nationals in the course of the prosecution of the war, and claims of the Allied Powers for direct military costs of occupation.

Chapter V, Article 16 of the Treaty, which addresses indemnification of Allied prisoners of war, stated that:

As an expression of its desire to indemnify those members of the armed forces of the Allied Powers who suffered undue hardships while prisoners of war of Japan, Japan will transfer its assets and those of its nationals in countries which were neutral during the war, or which were at war with any of the Allied Powers, or, at its option, the equivalent of such assets, to the International Committee of the Red Cross which shall liquidate such assets and distribute the resultant fund to appropriate national agencies, for the benefit of former prisoners of war and their families on such basis as it may determine to be equitable.

In Chapter V, Article 19 Japan waived all war claims of Japan and its nationals against the Allied powers.

Thus in lieu of reparations, certain categories of Japanese assets in neutral countries or in countries with which the Allied powers were at war, as designated by the Treaty, were liquidated and the money was transferred to the International Committee of the Red Cross, which in turn was to distribute it to the appropriate national agency in each Allied government. Each Allied government was then to distribute it to its POW claimants on an equitable basis. However, since the United States had already paid out money to its POWs via the War Claims Commission, first claim on the \$12.6 million in Japanese assets raised under the Treaty was given to POWs from other Allied countries.³⁵

Survival Rates in Japanese and German WWII Camps

The stark differences in reported death rates for U.S. soldiers and civilians in German vs. Japanese camps dramatize the nature of the experience of Japan's camps

³⁵Information dated December 27, 1999 from William Slany, State Department's Office of the Historian, plus accompanying pages from the International Committee of the Red Cross, from unidentified printed sources.

For information on U.S. renunciation of money due it under Article 16 of the Treaty, see also p. 4 and 13 of the *Report on the Activity of the International Committee of the Red Cross For the Indemnification of Former Allied Prisoners of War in Japanese Hands* (International Committee of the Red Cross, Geneva, 1971). Page 38 of this document lists the total amount received from Japan plus interest as of December 31, 1970, as being SFr 71,400,288.20 (Swiss francs), which at 1970 exchange rates equaled \$16,543,162.

See also *War Claims Arising Out of World War II*. H. Doc. 67, 83rd Congress, 2nd session. Washington, GPO, 1953. p. 40-43. This contains the supplementary report of the War Claims Commission on war claims arising out of World War II.

for POWs and internees. Dr. Stenger's figures list 93,941 U.S. military personnel captured and interned by Germany, of whom 1,121 died (a little over a 1% death rate), and 27,465 U.S. military personnel captured and interned by Japan, of whom 11,107 died (more than a 40% death rate).³⁶ The Center for Internee Rights (CFIR), an internee advocacy group, uses the same figures as Dr. Stenger for Nazi POWs and POW deaths. However, CFIR has different figures for POWs of Japan. Using its higher figures for both American POWs held by Japan (36,260) and their higher number of POW deaths (13,851) results in a slightly lower percentage of POW deaths, 38.2%. According to the Center for Internee Rights, of the 4,749 U.S. civilians held by the Germans, 168, or 3.5%, died; in contrast, of the 13,996 American civilian internees they believe were held by Japan, 1,536, or 11 %, died.³⁷ A similar figure of 13,979 for the total number of American civilian internees held by Japan was compiled by the Army's Office of the Provost Marshal General's Prisoner of War Division.³⁸

The Bataan Death March

One of the most notable instances of Japanese brutality towards U.S. POWs occurred after the fall of Bataan in the Philippines. During what came to be known as "The Bataan Death March," the Japanese military force-marched almost 80,000 starving, sick, and injured U.S. and Filipino troops, who had surrendered on Bataan in the Philippines, over 60 miles to prison camps at Camp O'Donnell in April 1942. According to Louis L. Snyder's account, during these 6 days Japanese soldiers robbed, beat, tortured, and killed marchers at will. After the war Lt. General Masaharu Homma, who commanded Japanese troops at Bataan, was held responsible for Japanese actions and was arrested, tried, and executed by firing squad in April 1946. As with some other WWII statistics, the estimated death toll during this 6-day march varies. Stanley Falk estimates 5,000-10,000 Filipinos were killed plus a maximum of 650 Americans; Louis L. Snyder estimates that 10,000 prisoners, 2,300 of them American, died or were killed.³⁹

³⁶Stenger, *American Prisoners of War in WWI, WWII, Korea ...*

³⁷Statistics on WWII POWs and Internees from the Center for Internee Rights, Inc.

³⁸*American Civilian Internees Formerly Detained by the Japanese Government.*

³⁹Falk, Stanley L. *Bataan, the March of Death*. Easton Press, Norwalk, CT, 1962. See p. 194-200 for discussion of his process of estimating the number of deaths.

Snyder, *Historical Guide to World War II*, p. 68-69.

Morton, Louis. *The Fall of the Philippines*. Washington, Office of the Chief of Military History, Department of the Army, 1953, p. 467. (United States Army in World War II. The War in the Pacific). The volume covering the fall of the Philippines in the multivolume official Army history of WWII, which covered each action by the Army in minute detail, devotes only one paragraph to the Bataan Death March, noting in a footnote that "The individual surrender of units and the death march are not treated in this volume since they did not affect the course of military operations on Bataan." The footnote then refers the reader to what was then Stanley L. Falk's M.A. thesis, entitled "The Bataan Death March."

Hell Ships

Thousands of American POWs were reportedly transported to work in the Philippines, Japan, China, Thailand, and Korea in 23 prison vessels known as “Hell Ships.” Packed so tightly many could hardly do anything but stand in the inadequately ventilated holds of cargo ships, fed almost no food and given little water, U.S. POWs were reportedly also subject to attack when their prison ships, unmarked in violation of international law, were attacked by U.S. submarines.⁴⁰ According to one news source, the greatest loss of life apparently occurred when the *Arisan Maru*, holding 1,800 U.S. POWs, was torpedoed by the *U.S.S. Snook*, killing all but 5 POWs.⁴¹ Another attack with major POW losses was the torpedo attack by the submarine *U.S.S. Paddle* on the *Shinyo Maru*, which reportedly resulted in the deaths of all but 82 of the 750 U.S. POWs packed into her hull. There were reports of survivors in the water being shot by Japanese guards. According to one news account, a total of five hell ships were sunk by U.S. ships and planes, resulting in the deaths of about 5,000 U.S. POWs.⁴²

POWs Made to Perform Forced Labor

Because researchers lack access to Japanese government and private company records, no one knows how many people Japanese firms used as forced laborers. Some historians have speculated that there were approximately 700,000 Koreans, 40,000 Chinese, and hundreds of thousands of other Asians who were used as slave laborers. They guess that perhaps half of the 140,000 Allied POWs captured by the Japanese were forced to work.⁴³ U.S. POWs took part in the building of the infamous “Bridge Over the River Kwai” [Khwae Noi river] in Thailand, and many performed hard and dangerous labor in mines, factories, and steel mills in Japan.⁴⁴

⁴⁰Striking Back At Japan, Inc. *TIMEAsia*, August 16, 1999.

[<http://www.time.com/time/asia/asia/magazine/1999/990816/payback1.html>].

⁴¹Thousands Died in Hell Ships. *Associated Press*, Sept. 8, 2000, story posted on the *St. Augustine Record's* Web site at [http://staugustine.com/stories/090800/nat_20000908.029.shtml].

See also the listing for the *U.S.S. Snook*, confirming her sinking of the *Arisan Maru* on October 24, 1944, in the *Dictionary of American Naval Fighting Ships*, v. VI, p. 540, (Washington, Naval History Division, Department of the Navy, 1976).

⁴²Torpedo Survivors Gather in Fla. *AP Online*. September 8, 2000. [Online] Available: NEXIS Library: NEWS File: ALLNWS.

See listing for *U.S.S. Paddle's* sinking of the *Shinyo Maru* on September 7, 1944, in *Dictionary of American Naval Fighting Ships*, v. V, p. 198.

⁴³Slave Labor Is Japan's Forgotten Holocaust. Litigation: Former Allied Prisoners of War, Asian Slave Laborers, ‘Comfort Women’ and Others Are Seeking Tens of Billions of Dollars in Reparations from Japanese Firms. *Baltimore Sun*, July 9, 2000. p. 6C.

⁴⁴Tribute: U.S. Honors ‘Death Railway’ Prisoners; Ambassador Unveils Plaque at River
(continued...)

Unit 731

Starting with the 1980 publication of “Japan’s Germ Warfare: The U.S. Cover-up of a War Crime,” in *The Bulletin of Concerned Asian Scholars*, information on alleged Japanese Army biological warfare experiments on POWs has slowly been revealed, contributing to the continuing intensity of the WWII POW issue.⁴⁵ According to Sheldon Harris, there were apparently at least two different chemical and biological warfare units centered in Manchuria, each commanded by a different officer. One organization was Unit 100, with a central headquarters at Changchun, 150 miles south of Harbin: it was commanded by Major, later Major General, Wakamatsu Yujiro. Although, Harris reported, it experimented on humans, it has gotten little attention so far.⁴⁶ The experiments about which the most is known are the biological warfare (BW) as well as some chemical warfare (CW) experiments, reportedly directed by a military doctor named Shiro Ishii.⁴⁷ From the mid-1930s through 1945, Dr. Ishii, who eventually rose to the rank of Lieutenant General, reportedly directed BW experiment organizations under various names at a number of locations in and around the northern Manchurian city of Harbin, capital of Heilongjiang province. His main organization, Unit 731, was based in Manchuria, 15

⁴⁴(...continued)

Kwae. *Bangkok Post*, September 15, 1997. p. 3. Sailors from the U.S.S. *Houston* and artillerymen from the “Lost Battalion,” captured in Indonesia, worked on the “Death Railway.” According to one article, of the 688 U.S. POWs working on the railway, 356 died “from disease, starvation and brutality inflicted by Japanese prison guards.”

⁴⁵Powell, John W. Japan’s Germ Warfare: The U.S. Cover-up of a War Crime. *Bulletin of Concerned Asian Scholars*, v. 12, no. 4, October-Dec. 1980. p.17.

See statement by Han Xiao, China’s leading expert on Unit 731, that U.S. POWs were experimented on in A Half Century of Denial: The Hidden Truth About Japan’s Unit 731. *U.S. News and World Report*, v. 119, no. 5, July 31, 1995. p. 56.

See Japan Rebuffs Requests for Information about Its Germ-Warfare Atrocities, *New York Times*, March 4, 1999, section A, p.12, for the statement, “It is still not established, for example, whether American prisoners of war were among those experimented on.”

⁴⁶Harris, Sheldon. *Factories of Death: Japanese Biological Warfare, 1932-945, and the American Coverup*. London, New York, Routledge, 1994. p. 83-100.

⁴⁷In Search of Buried Poison. *Newsweek*, July 20, 1998. p. 27. A chemical warfare unit about which little is known at the present time was Unit 516, headquartered at Qiqihar in northeast China.

In 1999 the Japanese government signed an agreement with China which pledged that Japan would be responsible for demilitarizing what Japan says are some 700,000 or more shells filled with CW agents left in China after Japanese forces withdrew after their defeat in WWII. China puts this figure at 2,000,000 shells. China had claimed that these live munitions had injured or killed over 2,000 Chinese who had accidentally encountered them since 1945. See: Gov’t Oks Use of Articles for Weapons Disposal in China. *Japan Weekly Monitor*, April 24, 2000 [Online] Available: NEXIS Library: NEWS File: CURNWS.

Japan, China OK Chemical Arms Cleanup. *Asahi News Service*, August 2, 1999 [Online] Available: NEXIS Library: NEWS File: CURNWS.

Cleaning Up a Poisonous China. *The Japan Times*, August 15, 1998 [Online]. Available: NEXIS Library: NEWS File: CURNWS.

miles south of Harbin at Ping Fan.⁴⁸ The base at Ping Fan had a perimeter of almost four miles, an airfield, and a rail spur from Harbin, 150 buildings, and 3,000 employees.⁴⁹ Ping Fan was declared a Special Military Region and was very securely fortified and guarded.⁵⁰

Three books have been written about the activities of Unit 731, and it has been the subject of frequent mentions in U.S. newspaper articles in the late 1990s. A one-hour television documentary on Unit 731, entitled *History Undercover: Unit 731, Nightmare in Manchuria*, was broadcast on the History Channel on March 7, 1999, and was rebroadcast an additional three times.⁵¹ Books have been written about Unit 731 in Japan, former members have come forward to tell of their activities, and a traveling exhibit about it has been seen by some 200,000 Japanese.⁵²

Ongoing private investigations by scholars have described Unit 731 as spreading disease and causing epidemics in field experiments that may have killed tens or even hundreds of thousands of Chinese.⁵³ Although exact numbers are unknown, various researchers have alleged that Unit 731 performed laboratory experiments on somewhere between 850 to 10,000 or more subjects, and that none of them

⁴⁸Sheldon Harris quotes Lt. Gen. Kajitsuka Ryuji, Lt. General in the Medical Service and former Chief of the Medical Administration of the Kwantung Army, as saying that he saw an imperial decree giving Ishii permission to start the initial BW operation in Manchuria in 1936 “by Command of the Emperor” and that later on Emperor Hirohito also issued a decree authorizing creation of Unit 731. Prince Mikasa, the emperor’s brother, also reportedly inspected the work at Pingfan in 1943.—Harris, *Factories of Death*, p. 40 and 142.

See also A Half Century of Denial. *U.S. News & World Report*, July 31, 1995. p. 56.

⁴⁹Harris, *Factories of Death*, p. 33-35.

Bacteriological Warfare Museum to Open in Harbin Next June. *Asian Political News*. [Online] Available: NEXIS Library: NEWS File: CURNWS. According to news accounts, in June 2001 the Chinese plan to open to the public part of a “Unit 731 Bacteriological Warfare Museum” in Harbin and to ask that the U.N. Educational, Scientific, and Cultural Organization (UNESCO) put this site on its World Heritage list.

⁵⁰Harris, *Factories of Death*, p. 31-56.

⁵¹Information on the History Channel Web site [<http://www.historychannel.com/>] and from discussion with AETV customer relations representative, December 3, 1999. This program can be ordered through the History Channel Web site.

⁵²“Japan’s Auschwitz” Revealed; Nation Confronts Unit 731’s Cruelty. *Phoenix [Ariz.] Gazette*, September 30, 1994. p. A6.

Japanese language books on Unit 731 include Seiichi Morimura’s 1981 *The Devil’s Gluttony*, a three-volume fictional narrative based on historical research, and Keiichi Tsuneishi’s later book, *The Biological Warfare Unit That Disappeared*.

Wartime Skeletons Return to Haunt Japan: Human Remains Found on a Tokyo Building Site Have Revived the Ghosts of Japan’s Experiments with Biological Weapons. *The New Scientist*, February 25, 1995. p.12.

⁵³ Japanese War Crimes Are Still Coming to Light; The So-Called “Asian Holocaust” Was Covered Up by the Americans, Some Experts Say. *The Orlando Sentinel*, March 14, 1999. p. A6. “Chinese researchers say they keep uncovering new sites where anthrax, typhoid, plague and other diseases were spread, wiping out perhaps hundreds of thousands of Chinese.”

survived.⁵⁴ According to author Sheldon Harris, victims consisted mostly of Han Chinese inhabitants of the area around Harbin but also included stateless White Russians, Harbin Jews, criminals, communist guerrillas or spies, Mongolians, Koreans, the mentally handicapped, and also Soviet soldiers captured in border skirmishes.⁵⁵ Newspaper articles also state that Allied soldiers, possibly including some Americans, might have been experimented on.⁵⁶

Experiments on humans reportedly not only included infection with anthrax, typhoid, and other infectious diseases but also live dissection of prisoners without anesthesia, exposing prisoners to low air pressure, freezing of prisoners, removal of limbs, blood, and organs (often without anesthesia) to see the results, exposing humans to fragmentation rounds containing infectious agents, and other experiments.⁵⁷ However, in his 1994 book, *Factories of Death*, Sheldon Harris analyzed the fragmentary and sparse available data and concluded that "... the evidence, while inconclusive, suggests strongly that they [U.S. POWs] were not" [among those] "subjected to human BW experiments at Mukden."⁵⁸

⁵⁴Death Factories. *New York Times Book Review*, January 23, 2000. p. 22. A low estimate of 850 POW experimentees is cited in this book review of *The Biology of Doom: The History of America's Secret Germ Warfare Project*.

See: Japan Rebuffs Requests for Information, *New York Times*, March 4, 1999, for an estimate of 10,000.

⁵⁵Harris, *Factories of Death*, p. 49.

⁵⁶See: Human Guinea Pigs 'Advanced Medical Science'; Japan, the Shame of Unit 731. *The Independent* (London), April 16, 1995, p. 14, for information on a former Unit 731 member who said he saw specimen jars of organs labeled Chinese, Korean, and later Russian, American, French, and British.

See: Japanese Doctor Lectures as Penance for Horrors Inflicted on War Prisoners. *The Washington Times*, May 21, 1995, p. A1, for the allegation that American, Australian, British, Chinese and Russian POWs were injected with tetanus, anthrax, bubonic plague and other germs.

Also see A Half Century of Denial, *U.S. News & World Report*, for a statement by Chinese Unit 731 expert Han Xiao that American POWs at Mukden were injected with bacteria to test their immunity.

⁵⁷Harris, *Factories of Death*, p. 57-82.

⁵⁸*Ibid.*, p. 130.

The one reported instance of punishment for vivisection of American POWs was that of the trial and conviction of several doctors from the anatomy department of Kyushu University who dissected captured U.S. crewmen of a B-29 which crashed on May 5, 1945. Of the dozen U.S. airmen who parachuted down, at least nine were taken into custody. All but the crew's captain, who was sent to Tokyo for interrogation, were subjected to vivisection experiments similar to those done at Unit 731. Thirty people were brought to trial by the Allied war crimes tribunal in Yokohama on March 11, 1948, on charges of vivisection, wrongful removal of body parts, and cannibalism. Of the accused, 23 were found guilty of various charges (cannibalism charges were dismissed for lack of proof), five were sentenced to death, four to life imprisonment, and the rest to shorter terms. In September 1950, General MacArthur reduced most of the sentences and by 1958 all those convicted were free. None of the death sentences was carried out.—Japan Admits Dissecting WWII POWs. *The Denver*

(continued...)

News accounts have indicated that possibly as many as 1,500 U.S. POWs, many of them survivors of the Bataan Death March, were among Allied POWs sent to a POW camp at Mukden (also known as Shenyang) in Manchuria, more than 300 miles southwest of Harbin.⁵⁹ The first testimony by a U.S. POW about his experiences at Mukden apparently occurred in the brief testimony of Warren W. Whelchel in a 1982 field hearing on VA health care in Montana. At the hearing, Whelchel testified that different men were given different injections and, thereafter, the Japanese took careful note of each man's condition.⁶⁰

At a half-day hearing of the Compensation Subcommittee of the House Veterans Affairs Committee, held in 1986 on treatment of U.S. POWs in Mukden, much of the discussion focused on compensation issues. There were four witnesses at the 1986 hearing, only one of whom was a former POW. The first witness, John H. Hatcher, Chief of Army Records Management and Army Archivist, testified that no primary records had been found by the Army dealing with what might have happened at Mukden and that Japanese Army records which could have contained such information had been returned unread to Japan. He stated that the Army had no records which could confirm or deny claims that had been made (p. 7-16). Former POW James Frank, the second witness, testified that he had been sent to Mukden and that he believed he had been experimented on. He described what he saw when he was assigned to help Unit 731 personnel with autopsies of those who died and he stated that Unit 731 functionaries were interested in only certain of the dead POWs. He also testified that after he had been liberated, he and others had been required by the Army to sign papers promising not to reveal what had gone on at the camp under penalty of court martial. He also spoke of the difficulty in getting the VA to accept claims for illnesses he believed were caused by his time at Mukden when the VA said no medical records of such time existed (p. 16-24).

The third witness at the 1986 hearing, Greg Rodriguez, Jr., was the son of a deceased POW and had previously testified at the 1982 hearing in Montana. He stated he believed his father's many ailments stemmed from being experimented on at Mukden, talked of his father's struggle to get veterans' benefits and about the records the son had found about Mukden (p. 24-32). The last witness, William Triplett, who had written a book focusing on involvement of Unit 731 personnel in the Tokyo Imperial Bank murders in 1948, said that in his research he had found declassified DOD documents which he believed attested to the existence of Unit 731, to the fact that it performed biological warfare experiments on human beings, and that Army occupation officials knew about these facts when dealing with former members of Unit 731. He quoted from a State Department memorandum that was part of a U.S. War Department Judge Advocate General document, which said, "It should be

⁵⁸(...continued)

Post, June 1, 1995. p. A2.

⁵⁹Ex-POWs Suspect Germ Test Cover-Up; Japan and the U.S. Say the Records of the WWII Experiments Were Destroyed. *Austin American-Statesman*, March 31, 1995. p. A18.

⁶⁰U.S. Congress. House. Veterans' Affairs Committee. Subcommittee on Oversight and Investigations. *Veterans Administration Programs in Montana*. Hearing, 97th Congress, 2nd session, June 19, 1982. Washington, GPO, 1982. p. 19.

kept in mind that there is a remote possibility that the independent investigation conducted by the Soviets in the Mukden area may have already disclosed evidence that American prisoners of war were used to experimental purposes of a BW nature and that they lost their lives as a result of these experiments” (p. 34-35).⁶¹ Mr. Triplett stated that he believed that the government was in possession of records about what happened to POWs at Mukden that could help the VA in diagnosing POWs’ ailments (p. 32-37).⁶² Since 1994, there have been newspaper accounts discussing the experiences of several American POWs who were interned at Mukden.⁶³

One of the most persistent allegations surrounding Unit 731 is one made in the initial 1980 article, “Japan’s Germ Warfare: The U.S. Cover-up of a War Crime” (in *The Bulletin of Concerned Asian Scholars*), in Harris’s *Factories of Death*, and elsewhere—that General Ishii and his staff were given immunity against prosecution as war criminals by the United States in exchange for the scientific information gathered during Unit 731’s experiments. In a letter to Rabbi Abraham Cooper of the Simon Wiesenthal Center in Los Angeles, dated December 17, 1998, Eli M. Rosenbaum, Director of the Department of Justice’s Office of Special Investigations, indicated that such a deal was struck. Mr. Rosenbaum wrote that “Two of these [formerly classified] reports [about biological warfare data collected by the Japanese and the arrangement made between the United States and Lieutenant General Shiro Ishii, the commander of Unit 731], dated November 17, 1981, and May 5, 1982, confirm that Ishii and his colleagues received immunity from prosecution and that, in exchange, they provided a great deal of information to U.S. authorities.”⁶⁴

According to news accounts, Gen. Ishii returned to Japan after the war where he was permitted to continue medical research, was paid a Japanese government pension, and died of cancer in 1959.⁶⁵ Moreover, many of Ishii’s chief lieutenants

⁶¹Several such statements are cited in material inserted into the *Congressional Record* on November 10, 1999, by Senator Feinstein, in her remarks introducing S. 1902, the Japanese Imperial Army Disclosure Act of 1999. See *Congressional Record*, 106th Congress, 2nd session, November 10, 1999. p. S14541-7.

⁶²U.S. Congress. House. Veterans Affairs Committee. Subcommittee on Compensation, Pension, and Insurance. *Treatment of American Prisoners of War in Manchuria*. Hearing, 99th Congress, 2nd session, September 17, 1986. Washington, GPO, 1986. p. 16.

⁶³Secret File: Japanese Scientists Experimented on U.S. Prisoners. *Orlando Sentinel*, August 15, 1995. p. A1.

See also Truth Emerging on Ailing POWs, Japan Germ Unit. *Los Angeles Times*, March 20, 1995. p. A1.

⁶⁴Letter dated December 17, 1998, on Department of Justice Criminal Division stationery, headed “RE: U.S. Non-Prosecution of Japanese War Criminals” and sent to Rabbi Abraham Cooper, Associate Dean, Simon Wiesenthal Center, Los Angeles, CA. Copy faxed to the author on July 5, 2000 by Eli M. Rosenbaum, Director, Office of Special Investigations, Department of Justice.

⁶⁵Lawyers Target Japanese Abuses; WWII Compensation Effort Shifts From Europe to Asia. *Washington Post*, March 5, 2000. p. A1.

occupied prominent positions in post-war Japanese society.⁶⁶ According to one news account, the several hundred remaining members of Unit 731 were still holding their annual reunion in Japan as of 1999.⁶⁷

Missing Records

In the 20-year controversy over whether Americans were experimented on, the chief problem has been the lack of documentary evidence to support anecdotal accounts. According to U.S. Army testimony in the 1986 hearing on treatment of U.S. POWs in Mukden, the United States captured the records of the Imperial Army when it occupied Japan. These very hard-to-translate records were brought to this country, remained here for some 13 years largely untranslated and unread, and were then returned to Japan.⁶⁸ However, according to a 1999 *New York Times* article, in 1948 the Central Intelligence Agency screened the records before they were turned over to the National Archives. Later, 5% of the records were hurriedly microfilmed by a group including scholars from Harvard and Georgetown University, between the time they were ordered returned to Japan in 1957 and when they were actually put on a boat in February 1958. Japan has denied access to these records to those trying to document the actions of Unit 731.⁶⁹ Author Sheldon Harris is quoted in the *New York*

⁶⁵(...continued)

See also High-Stakes Conflict Brings Out the Most Inhumane Research. *The San Diego Union-Tribune*, August 9, 1995. p. E1.

See: Japan Confirms WWII Tests on Humans. *United Press International*, April 17, 1982. Available: NEXIS Library: NEWS File: ALLNWS. Japanese Social Welfare Ministry official Kikuo Moriyama states that Lt. General Shiro Ishii received \$90,000 in government pension payments until his death.

⁶⁶Japan Blood Supplier, Facing H.I.V Penalty, to Be Acquired. *New York Times*, February 25, 1997. Section D, p. 7. For example, according to this article, Ryoichi Naito, founder and chairman of the Green Cross Corporation, a pharmaceutical company that became the largest producer of blood products in Japan, was one of Ishii's officers; and Dr. Hisato Yoshimura, who directed Unit 731's frostbite experiments, became president of Kyoto Medical College and was an advisor to Japan's Antarctic expedition. According to another *New York Times* article, other Unit 731 members went on to be governor of Tokyo, president of the Japanese Medical Association, and head of the Japanese Olympic Committee. See: Unmasking Horror—A special report; Japan Confronting Gruesome War Atrocity. *New York Times*, March 17, 1995. p. A. 1.

Human Guinea Pigs 'Advanced Medical Science'; Japan/The Shame of Unit 731. *The Independent* (London, April 16, 1995. p. 14. This article asserted that members of Unit 731 served in senior positions in the National Hygiene Institute, the Ground Self-Defence Forces Medical School, and the universities of Tokyo, Kyoto, and Osaka.

⁶⁷Commentary; Tokyo Must Address the Actions of its Wartime 'Killing Machine'; War Crimes; Japan Conducted Medical Experiments on Prisoners; This Issue Has Never Been Publically Examined. *Los Angeles Times*, April 26, 1999. part B5.

⁶⁸Veterans' Affairs Committee, *Treatment of American Prisoners of War in Manchuria*, p. 9.

⁶⁹Japan Rebuffs Requests for Information ..., *New York Times*, March 4, 1999. Statement by (continued...)

Times article as saying that he learned from Freedom of Information Act requests for military debriefing records dealing with this issue that relevant records were lost in the fire at the St. Louis Military Personnel Records Center in 1973.⁷⁰ In 1995 an article in the *Washington Times* quoted Ken McKinnon, spokesman for the Department of Veterans Affairs, as saying, “The Veterans Administration has never seen evidence that research was done on U.S. POWs. We would be more than willing to see new information on how POWs were treated and review the causes of injury and death.” Mr. McKinnon said that the VA depends on DOD for analysis and documentation in this area. The article then went on to say that a Pentagon spokesman said he had never heard about U.S. POWs and the germ-warfare experiments at Mukden.⁷¹

Efforts to Obtain An Apology

Several times since the end of WWII, Japanese government officials made statements that they regarded as an apology for their conduct in WWII, but that other nations did not accept as a full, direct, and unambiguous apology.⁷² These statements have evolved. In 1989, Prime Minister Noboru Takeshita stated that, “We cannot say in affirmative terms whether the Japanese state was an aggressor nation. That is a matter for future historians to judge.”⁷³ But, in 1991, on the 50th anniversary of the Japanese attack on Pearl Harbor, Japanese Prime Minister Kiichi Miyazawa apologized to the United States by expressing his “deep remorse ... that we inflicted an unbearable blow on the people of America and the Asian countries.”⁷⁴ In 1992, Prime Minister Kiichi Miyazawa apologized to the people of the Asia-Pacific Region, saying, “During a period in the past, the people of the Asia-Pacific region experienced

⁶⁹(...continued)

Japanese Embassy spokesman Tsuyoshi Yamamoto that his government would not comment because this matter concerned “... the specifics of Japanese cooperation with the United States, which are of a diplomatic nature.”

See also *Revisiting World War II Atrocities; Comparing the Unspeakable to the Unthinkable*. *New York Times*, March 7, 1999. Section 4, p. 4.

⁷⁰See the VA Fact Sheet, “Facts About the 1973 St. Louis Fire and Lost Records,” available at the VA Web site [<http://www.va.gov/pressrel/stlouis.htm>] about the fire that took place.

⁷¹GIs Tell of Germ Horrors in Japan. *Washington Times*, March 10, 1995. p. A17.

⁷²WWII Apology Fails to Find a Voice in Japan; Asia: Lower House Approves A Statement on War Actions That Wins Praise Neither at Home nor Abroad. *Los Angeles Times*, June 10, 1995. p. A12.

Asia Underwhelmed by Japan’s Apology; Statement on WWII Gets Tepid Reaction Elsewhere, But Could Play Well Politically at Home. *Washington Post*, August 16, 1995. p. A21.

Lawyers Target Japanese Abuses; WWII Compensation Effort Shifts From Europe to Asia. *Washington Post*, March 5, 2000. p. A1.

⁷³“Sorry? Japan Has Been Talking of Apology in the Approach to Today’s Anniversary of Its Attack on Pearl Harbor. But Does It Actually Go Any Deeper Than Talk?” *The Daily Telegraph* (London), December 7, 1991. p. 15.

⁷⁴Miyazawa Expresses ‘Remorse’; Japanese Premier Calls Pearl Harbor ‘Unbearable Blow.’ *Washington Post*, December 7, 1991. p. A1.

unbearable suffering and pain due to our country's behavior. I would like to express again deep remorse and regret." According to the article citing his apology, this apology to the people of the Asia-Pacific region was the first apology by a Japanese prime minister in a policy speech. A senior government official said that this apology to the people of the Asia-Pacific region was also meant to apply to the United States. However, a month before this apology, the Japanese parliament rejected a bill which called specifically for a Japanese apology on the anniversary of the attack on Pearl Harbor.⁷⁵ In August 1993, Japanese Prime Minister Morihiro Hosokawa stated that the Japanese "... state clearly before all the world our remorse at our past history and our renewed determination to do better."⁷⁶

In 1994 the Japanese Foreign Ministry apologized for the "deeply regrettable" conduct of failing to break off diplomatic relations before their attack on Pearl Harbor. However, a Japanese Foreign Ministry spokesman said that this apology was to the Japanese people and not to the people of the United States.⁷⁷

On August 15, 1995, Japanese Prime Minister Tomiichi Murayama made the following statement, "During a certain period in the not too distant past, Japan, following a mistaken national policy, advanced along the road to war, only to ensnare the Japanese people in a fateful crisis, and through its colonial rule and aggression caused tremendous damage and suffering to the people of many countries, particularly to those of Asian nations." He went on to say, "In the hope that no such mistake be made in the future, I regard, in a spirit of humility, these irrefutable facts of history, and express here once again my feelings of deep remorse and state my heartfelt apology."⁷⁸ However, some observers pointed out that he made his apology in the first person, on his behalf, and not that of Japan.⁷⁹ This statement was not seen as adequate by various victims' groups because, they said, it was not endorsed by the Japanese parliament.⁸⁰ According to newspaper accounts Prime Minister Murayama's apology obtained a tepid reaction in Asia.⁸¹ Speaking to veterans in Honolulu on the 50th anniversary of V-J Day, a few days after Murayama's remarks, President Clinton said, "...let me say especially how much the American people appreciate the recent

⁷⁵Miyazawa Proclaims 1992 Test Year for Japan's Int'l Role. *Kyodo News Service, Japan Economic Newswire*, January 24, 1992 [Online]. Available: NEXIS Library: NEWS File: ALLNWS.

⁷⁶Japan Makes First Apology for Conduct in WWII. *The Boston Globe*, August 15, 1995. p. 1.

⁷⁷Japan Apologizes to Itself for Pearl Harbor; "Deeply Regrettable" Lapse by Diplomats Said to Have Brought Shame to the Country. *Washington Post*, November 22, 1994. p. A23.

⁷⁸Premier of Japan Offers 'Apology' for Its War Acts. *New York Times*, August 15, 1995. p. A1.

⁷⁹Japanese Apology Still Falls Short [editorial]. *Omaha World Herald*, August 19, 1995. p. 46.

⁸⁰Lawyers Target Japanese Abuses. *Washington Post*, March 5, 2000. p. A1.

⁸¹Asia Underwhelmed by Japan's Apology; Statement on WWII Gets Tepid Reaction Elsewhere, But Could Play Well Politically at Home. *Washington Post*, August 16, 1995. p. A21.

powerful words of the Japanese Prime Minister, Mr. Murayama, when he expressed his nation's regret for its past aggression and its gratitude for the hand of reconciliation that this, the World War II generation, extended 50 years ago."⁸²

Efforts to Obtain More Compensation—Congressional

In the years since the War Claims Commission's payments, POW/internee groups have tried various approaches to obtain more compensation either directly from Japan or from the United States. For instance, in the 98th Congress, H.R. 3188 was introduced, which proposed permitting Bataan Death March prisoners held afterwards as Japanese POWs to sue in the U.S. Court of Claims. The Justice Department testified in opposition to the bill, citing numerous reasons why giving these POWs ability to sue the Japanese government or the U.S. government over this issue would violate established case law, international law, the Feres Doctrine (which disallows suits by members of the military for damages received while in the military), and the established jurisdiction of the U.S. Court of Claims; there was no floor action on this bill.⁸³ In the 101st Congress, S. 3191, the Civilian Ex-Prisoner of War Health Benefits Act of 1990, was introduced but had no floor action.

In the 104th Congress, H.Con.Res. 176, calling on Japan to pay reparations and express formal regret to U.S. POWs and civilian internees, was introduced, but there was no hearing and no floor action on this concurrent resolution. H.R. 3084, the Former Civilian Prisoners of War Benefits Act of 1996, dealing with providing medical care and disability benefits for former civilian prisoners of war, was also introduced in the 104th Congress, but no floor action occurred.

The 105th Congress passed P.L. 105-246, the Nazi War Crimes Disclosure Act which established a Nazi War Criminal Records Interagency Working Group (IWG) with a 3-year term to review and declassify any records which pertained to any person who "... ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion." Although the main focus of this law was Nazi Germany, it also applied to "any government that was an ally of the Nazi Government of Germany."⁸⁴ In conformance with P.L. 105-246, the President issued Executive Order 13110 of January 11, 1999, which established the IWG. According to a recent account, the IWG has declassified some 1.5 million

⁸²Clinton Thanks Japan for WWII Apology; Vets Praised for Spirit of Reconciliation. *Washington Times*, September 2, 1995. p. A1.

Public Papers of the Presidents: William J. Clinton. Remarks at the Joint Service Review ... Honolulu, Hawaii, September 1, 1995. Washington, GPO, 1996. 1995: Book II, p. 1278.

⁸³U.S. Congress. House. Judiciary Committee. Administrative Law and Governmental Relations Subcommittee. *Hearing on H.R. 3188 Permitting Bataan Death March Prisoners to Sue in U.S. Court of Claims*. 98th Congress, 2nd session, June 14, 1984. Washington, GPO, 1984. p. 25-27.

⁸⁴See Section 3(a)(1) and 3(a)(1)(D) of the Act.

pages of records dealing with Nazi war crimes, and now the IWG is initiating a second phase, examining records related to Japanese war crimes.⁸⁵

Action in the 106th Congress

Legislation. A number of bills and resolutions dealing with compensation for, or apologies to POWs, their search for records, or court suits by POWs who were forced to perform labor by Japanese companies in World War II were introduced in 1999-2000. Among them were:

H.R. 4438, which sought to provide \$4 per day plus interest for each day that veterans who survived the Bataan Death March were held as prisoners of war by the Japanese. This bill received an unfavorable executive comment from the Department of Defense and was not reported out of the House Committee on Armed Services.

H.Res. 304, which expressed the sense of the House that Japan should formally issue a clear and unambiguous apology for WWII war crimes and sought release (to the VA or to designated private physicians) of all records in U.S. possession dealing with Japanese experiments on POWs at Mukden, including any received from Japan. This bill was never reported out.

S. 1806 and **H.R. 5639**, which proposed providing \$20,000 to each veteran of Bataan or Corregidor who subsequently was made to perform slave labor by the Japanese. S. 1806's provision for a \$20,000 payment was incorporated into the Senate version of the FY2001 Department of Defense Authorization Bill; it was not in the House version.⁸⁶ This provision was removed from the bill by the conference committee.

S. 1856, which sought to allow federal district courts to hear civil actions to recover damages for injuries to persons and property resulting from actions of the Nazis or their allies, including being "... forced to perform involuntary labor..." or being subjected to "... involuntary medical treatment or experimentation ...". This bill was referred to the Senate Judiciary Committee but not reported out.

S. 1902 and its companion bill, **H.R. 3561**, which proposed setting up a temporary interagency working group to search classified and other records of the Japanese Imperial Army held by the United States relating to any person who "ordered, incited, assisted or otherwise participated in the experimentation and persecution of any person because of race, religion, national origin, or political option [sic] during the period beginning September 18, 1931, and ending on December 31, 1948" and releasing those that do not compromise national security. This bill would also apply to any WWII allies of Japan. Although no floor action occurred on S. 1902, a similar but slightly more restrictive provision extending the life of the existing Nazi War Criminal Records Interagency Working Group for 3 years and directing it to search

⁸⁵National Coordinating Committee for the Promotion of History. [Online] [<http://www2.h-net.msu.edu/~ncc/>] *NCC Washington Update*, v. 6, no. 21, June 22, 2000.

⁸⁶U.S. Congress. Senate. Judiciary Committee. *Hearing on POW Survivors of the Bataan Death March*, June 28, 2000 [Online]. Available NEXIS Library: NEWS File: CURNWS.

out, recommend for declassification, and make public all appropriate classified Japanese Imperial Government records concerning medical experimentation or persecution was inserted into H.R. 5630, the Intelligence Authorization Act for Fiscal Year 2001, which became P.L. 106-567.⁸⁷

S.Con.Res. 158. Late in the second session of the 106th Congress, the House and Senate agreed to S.Con.Res. 158, which although it does not have the force of law, expressed the sense of Congress that

“... it is in the interest of justice and fairness that the United States, through the Secretary of State or other appropriate officials, put forth its best efforts to facilitate discussions designed to resolve all issues between former members of the Armed Forces of the United States who were prisoners of war forced into slave labor for the benefit of Japanese companies during World War II and the private Japanese companies who profited from their slave labor.”

Hearings. The Senate Judiciary Committee held a hearing on June 28, 2000, on POW survivors of the Bataan Death March in which several POWs described their experiences. The POWs reported being shipped to Japan on ships whose lethal conditions earned them the name “Hell Ships,” and then of having to work in mines, steel mills, and elsewhere for Japanese companies. The POWs described being starved, beaten by company employees, and forced to do hard manual labor for companies including Nippon Steel Corporation, Mitsui Mining, and Mitsubishi Mining.⁸⁸

Also discussed at this hearing was the Statement of Interest of the United States on Plaintiffs’ Motion to Remand filed by the Justice Department in the case of *Heimbuch vs. Ishihara Sangyo Kaisha* recently filed in the United States District Court for the Northern District of California. According to David Ogden, acting assistant attorney general for the Civil Division of the Department of Justice, the judge asked:

... whether federal law governs any claims by American soldiers captured and imprisoned by Japan during World War II. Where such claims are directed to private companies, private Japanese companies, for whom such soldiers were forced to work as slaves. And, whether removal of such claims from state court to federal court is proper.

Mr. Ogden stated that in its Statement of Interest the Department of Justice “... expressed the position that such suits were governed by federal law and should be heard in federal court.” Next, Ronald Bettauer, State Department deputy legal advisor, testified that the Multilateral Peace Treaty with Japan barred any suits by

⁸⁷ “Bill Could Hamper Investigation into U.S. Knowledge of Japanese Atrocities”; “Congress: Plans to Extend an Inquiry into the Intelligence Community’s WWII Dealings Have Hit a Roadblock, But Historians Vow To Continue Working.” *Los Angeles Times*, October 26, 2000. p. A22.

⁸⁸U.S. Congress. Senate. Judiciary Committee. *Former U.S. World War II POW’s: A Struggle for Justice*. Hearing, 106th Congress, 2nd session, June 28, 2000. S. Hrg. 106-585. Serial No. J-106-94.

U.S. citizens against private Japanese companies. Mr. Bettauer also discussed the legislative history of the Treaty and asserted that the Senate indeed meant to cut off the possibility of such suits when it agreed to the treaty.⁸⁹ Subsequently, complaints from POWs reportedly helped prompt S. Con. Res. 158 (above) that called for the Administration to facilitate discussions between POWs and Japanese companies on the issue of their claims.⁹⁰

Action in the 107th Congress

H.R. 963 was introduced on March 8, 2001; it proposed a payment of \$4 per day plus interest for each day a survivor of the Bataan Death March was held by the Japanese.

H.R. 1198 introduced March 22, 2001 and a similar bill, **S. 1154**, introduced June 29, 2001, would:

—Direct U.S. federal courts **not** to interpret article 14(b) of the Treaty of Peace with Japan as a waiver of claims which would prevent U.S. POWs from pursuing forced labor suits against Japanese individuals or private corporations.

—Require that the applicable state statute of limitations apply to any such suit.

—Insure that article 26 of the Peace Treaty with Japan, which stated that if any war claims settlement by Japan with another country was more beneficial than the terms extended to the United States that those more beneficial terms would apply to the United States, should apply to forced labor suits by United States POWs.

—Provide that the Secretary of Veterans Affairs may secure directly from any department or agency of the United States government information relating to any chemical or biological tests conducted by Japan on members of the U.S. Armed Forces held as POWs in WWII and that such material should be provided to the individual concerned to the extent provided by law.

H.Amdt. 188 (to H.R. 2500, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002) was introduced on July 18, 2001, and was passed in the House by roll call vote #243 (395-33). It would prohibit the use of any funds, appropriated by this Act for the Departments of Justice or State, from being used for filing a motion in any court opposing a civil action against any Japanese individual or corporation for compensation or reparations in which the plaintiff in the action alleges that as an American prisoner of war during WWII, he or she was used for slave or forced labor.

⁸⁹Ibid.

⁹⁰Former POWs Blast Federal Opposition to Lawsuits Against Japanese Companies. *Associated Press*, June 28, 2000 [Online]. Available: NEXIS Library: NEWS File: CURNWS.

Efforts to Obtain More Compensation—Legal

Another approach is being pursued by a group of Allied military POWs and civilian internees who have filed several law suits seeking reparations from Japan in Japanese courts. To date, none of these suits has resulted in a victory for the claimants, with the Japanese courts citing the Article 14(b) peace treaty waiver as barring any further compensation to POWs by Japan.⁹¹ According to a *Los Angeles Times* article, Japanese officials point to a 1993 study by the Japanese National Diet Library showing that Japan has paid out more than \$27 billion in war compensation to some 27 countries under the terms of the 1951 Treaty and state-to-state settlements.⁹² (For further information, see also CRS Report 91-216, *Japan's WWII Reparations: A Factsheet*.) However, with regard to U.S. POWs and internees, in a recent federal district court filing, the Department of Justice reportedly said that after WWII the United States seized \$90 million in Japanese assets and that \$20 million of this money was used to pay for war claims of U.S. POWs and internees.⁹³ The German government, on the other hand, as of January 1, 1998, had paid some \$60 billion in WWII reparations, according to data reportedly from the Germany Ministry of Finance cited in a recent conference on Holocaust-Era Assets.⁹⁴ Germany recently acknowledged responsibility for its treatment of some U.S. civilian internees who were sent to recognized Nazi concentration camps. As noted above, the U.S. Treasury received \$18.5 million from Germany and reportedly distributed it to 235 eligible survivors.⁹⁵

⁹¹Japanese Court Rejects WWII Lawsuits. *National Law Journal*, December 14, 1998. p. A11.

⁹²Japan's War Victims in New Battle; Growing Movement Is Using Lawsuits, Legislation to Bring Attention to Crimes, But Tokyo Feels It has Done Its Part and Some Americans Fear Rekindling of Animosity. *Los Angeles Times*, August 16, 1999. p. A1.

In declaring that it had already paid sufficient compensation, Japanese government spokesmen pointed to the \$27 billion in government-to-government payments that it had already made. This statement apparently referred to a 1993 report in Japanese, titled "Problems Arising From Post War Reparations: Overview," written by Takashi Tsukamoto of the National Diet Library.

⁹³U.S. Stance on Reparations by Japan Angers Ex-POWs. *Los Angeles Times*, June 28, 2000. Part A, part. 1, p. 3.

⁹⁴Washington Conference on Holocaust-Era Assets, November 30-December 5, 1998. Proceedings. Washington, GPO, 1999. See p. 626 for figure of 102.1 billion Deutsche Marks (DM) paid in compensation through January 1, 1998, with at least another DM24 billion in payments to come.

⁹⁵These settlement efforts follow on the initial 1995 settlement for Hugo Princz and others. See U.S. Department of State. Office of the Legal Advisor. *The U.S.-Germany Nazi Persecution (Princz) Agreement* [handout]. [Washington, 1999?]

See also Germany Will Pay Victims of Nazis. *Washington Times*, June 22, 1999. p. A13.

For more detail, one can go to the Holocaust Museum Web site at [<http://www.ushmm.org/assets/frg.htm>].

Similar information is also available at the Department of Justice's Foreign Claims (continued...)

On July 6, 2000, the German parliament passed a law setting up a \$5-billion claim fund to pay Nazi-era slave and forced laborers, those experimented on, and some other Holocaust-related claims. At the same time, the parliament also passed a separate resolution apologizing to victims "... for that which Germans did to them, ... [in] taking away their rights, displacement, maltreatment and exploitation ..." The resolution also declared that "With the law, an historic moral duty is redeemed in the form of a long overdue humanitarian and financial gesture."⁹⁶

Of our WWII Allies, Canada and, subsequently, the United Kingdom decided to pay their POWs compensation. Canada, having concluded that Japan will not pay compensation, has committed to paying each of some 700 still living veterans and surviving spouses of POWs \$24,000 Canadian (U.S. \$15,600) tax-free as compensation.⁹⁷ These Canadian payments have begun.⁹⁸

In early November 2000, the British Ministry of Defense announced a one-time tax-free payment of £10,000 (\$15,000) for payment of what the defense minister called a "debt of honor" to each of the 16,700 individuals, including former members of the armed forces, the merchant navy, or civilians who were POWs of Japan; this figure included over 4,500 widows of POWs.⁹⁹

Attempts to Get Compensation—State

In July 1999, California became the first state to enact a law allowing claimants to file civil suits in state courts for compensation by any survivor of slave labor imposed by Nazi Germany or its allies; this California law also extended the time to file such suits until 2010. On April 12, 2000, two class action suits were filed by former U.S. and foreign POWs in California Superior Court in Orange County against Mitsui & Co., Nippon Steel U.S.A., Inc., Mitsubishi Co., and their subsidiaries alleging torture, beatings, and forced labor.¹⁰⁰ These suits, which are being appealed,

⁹⁵(...continued)

Settlement Commission Web site at [<http://www.usdoj.gov/fcsc/>].

⁹⁶Germany Passes Nazi Slave Fund. *Associated Press* wire story, July 6, 2000 [Online]. [<http://www.stiftungsinitiative.de/eindex.html>].

⁹⁷Canada to Compensate Veterans Captured by Japan at Hong Kong. *Associated Press* wire story, December 12, 1998 [Online]. Available: NEXIS Library: NEWS File: ALLNWS.

⁹⁸ Canada. Receiver General. *Public Accounts of Canada, 1999*. [Ottawa, Queen's Printer, 1999] v. II, part II, Additional Information and Analyses. p. 10.20-10.27.

⁹⁹A news report on this decision also stated that in June 2000 the Isle of Man decided to pay £10,000 to its POWs and mentioned that the Swiss government had given its soldiers who were POWs of the Japanese a payment of £2,000 each in 1955.—Pounds 10,000 Payout to Japan POWs; 'Debt of Honor' Repaid After 50-Year Struggle. *The Guardian* (London), November 8, 2000. p. 12.

¹⁰⁰Former U.S., Foreign POWs Sue Japan Firms for Forced Labor. *Japan Policy and Politics*, April 17, 2000 [Online]. Available: NEXIS Library: NEWS File: CURNWS.

were dismissed in late September 2000 with the judge citing the 1951 Treaty as settling all claims.¹⁰¹ As of late May 2000, 28 suits had been filed in California courts on behalf of former prisoners of Japan. Since passage of this California law, an additional 10 states are reportedly considering similar bills or resolutions dealing with damage claims and/or apologies from Japan.¹⁰²

Very recent developments which might influence the future course of suits against Japanese companies in Japan and perhaps in other countries include the following:

In July 2000 a suit was settled against the Nachi-Fujikoshi Corp. by elderly South Koreans who alleged that they were forced laborers in WWII. While the company did not give the Koreans the apology and acknowledgment of responsibility they were seeking, the company agreed to pay them 30 million yen in "settlement money." One of the reasons cited for the company's decision to settle was their knowledge that the plaintiffs were about to join a suit filed in the California courts.¹⁰³

Four years ago a suit was filed in Japanese court by Chinese who claimed that during WWII they were taken to Japan and made to perform slave labor for the large multinational Japanese construction and mining corporation, Kajima. However, after 4 years of litigation in which Kajima denied any responsibility, in November 2000 the company, while still saying it admitted no responsibility, offered to pay compensation of \$4.6 million dollars to the few remaining survivors and the relatives of those who died. This is the first time a suit filed by Chinese slave laborers in the Japanese courts was successful.¹⁰⁴

¹⁰⁰(...continued)

California Calls on Japan to Apologize for War Crimes. *Japan Policy and Politics*, August 30, 1999 [Online]. Available: NEXIS Library: NEWS File: CURNWS.

Treaty Might Ban POW's Suit Against Japanese Firms. *Albuquerque Journal*, September 16, 1999. p. B1.

WWII Vets Revive Grievances With Japan; U.S. Ambassador Says Claims Over Forced Labor Not Valid Under Peace Treaty. *Washington Post*, January 19, 2000. p. A17.

¹⁰¹POWs Who Sued Japanese Firms Likely to Appeal Ruling. *San Diego Union-Tribune*, September 23, 2000. p. A7.

¹⁰²U.S. Ex-POWs Intensify Compensation Campaign. *Kyodo News Service, Japan Economic Newswire*, May 20, 2000 [Online]. Available: NEXIS Library: NEWS File: CURNWS.

¹⁰³Forced Labor Settlement Set Precedent Fujikoshi, Plaintiffs Agrees on 30 Mil. Yen At Supreme Court. *The Daily Yomiuri* (Tokyo), July 19, 2000. p. 3.

¹⁰⁴Fund for Wartime Slaves Set Up in Japan. *New York Times*, November 30, 2000. p. A14.

According to a recent *New York Times* article,¹⁰⁵ another development is the increasing willingness of Japanese courts to hear testimony about Japanese atrocities rather than dismissing the case at the beginning. The *New York Times* cites the ongoing testimony of Yoshio Shinozuka, a member of Unit 731, and other Unit 731 members in a court case brought by Chinese victims of Unit 731 now being held in Tokyo. This is apparently the first time Unit 731 members have been allowed to testify about Unit 731's alleged war crimes in a Japanese court.

Other recent developments noted in the *New York Times* article were the agreement by Mitsubishi Heavy Industries to meet with 50 plaintiffs in two slave labor suits brought by WWII captive foreign workers who allege they were used as slave laborers by Mitsubishi and the recent war tribunal convened in Tokyo by various advocacy groups which highlighted the role of Japan's wartime leaders, including Emperor Hirohito, in the sexual slavery of the "comfort women."

Dwindling Numbers of POWS and Internees

Differing calculations have been given for the number of POWs and internees held by Germany and Japan, and differing numbers have been estimated for the number of surviving POWs and internees today as noted in the preceding pages. It is evident, however, that the number of POWs and internees who might be eligible for compensation is small and rapidly dwindling.

¹⁰⁵Japanese Veteran Testifies in War Atrocity Suit. *New York Times*, December 21, 2000. p. A3.

In addition, two recently released scholarly books continue the reevaluation of Japan's alleged WWII atrocities and relations between the United States and Japan immediately after the war that could have an impact on the issue of compensation for U.S. POWs. The first work, a very heavily researched book by Herbert P. Bix, *Hirohito and the Making of Modern Japan* (Harper Collins, New York, 2000), alleges that Emperor Hirohito was a full and active participant in the planning and prosecution of the war.

The other book, by John W. Dower, *Embracing Defeat: Japan in the Wake of World War II* (New York, W.W. Norton, 1999), alleges that U.S. occupation authorities deliberately portrayed the Emperor as having little or no power or responsibility for WWII, so that they did not have to try him as a war criminal. This way, he says, they could use the Emperor as a powerful pacifying and unifying force to make the occupation more acceptable to the Japanese. This book also touches on occupation authorities' dealings with Unit 731 personnel.

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