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Justice and Its Others:  
On the Politics of Redress for Japanese *Latin* Americans

A dissertation submitted in partial satisfaction of the  
Requirements for the degree Doctorate of Philosophy

in

Ethnic Studies

by

Cathleen Kiyomi Kozen

Committee in charge:

Professor Yen Le Espiritu, Chair  
Professor Victor Bascara  
Professor John D. Blanco  
Professor Ross H. Frank  
Professor Denise Ferreira da Silva  
Professor Kalindi Vora

2016

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Chair

University of California, San Diego

2016

## DEDICATION

This dissertation is dedicated to the Latin American Japanese deportees and activists still in pursuit of justice.

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At UC San Diego, as a student in the Ethnic Studies Graduate Program, I have had the opportunity and privilege of working with so many brilliant professors over the years—professors both within and affiliated with the Ethnic Studies Department. First and foremost, I thank my advisor Yen Le Espiritu, scholar and mentor extraordinaire, who has generously offered me her personal and intellectual guidance ever since I first started in the program. There are not enough words or ways to adequately thank her for her time, feedback and mentorship. From organizing and hosting countless writing groups to meeting with me over Skype given my long commute, her steadfast support and encouragement has been the constant, most important external factor toward the completion of this project. If ever there were a model to emulate as a scholar, teacher, advisor, it would be her. Denise Ferreira da Silva, who has since left UCSD after my qualifying exam but thankfully remained on my committee, has assumed an absolutely formative role in my development as a scholar. From the two courses I took with her on

“critical theory” and “race and the law” to a reading and writing group she hosted to her impeccable feedback on this project, I stand indebted to her important work and commitment to push the paradigmatic boundaries of a critical ethnic studies project. Ross Frank, also there for me since I first began my studies at UCSD, has always been a dependable source of wise counsel. For this project, he has not only unfailingly and enthusiastically made himself available to meet or write a letter of recommendation no matter his busy schedule but offered insightful feedback, particularly as the only Native American studies scholar and historian on my committee. I am extremely grateful to Kalindi Vora, Jody Blanco, Victor Bascara (UCLA) all of whom joined my committee later in the project and proceeded to give me generous and productive feedback on how to improve it. I truly appreciate each of their close engagements with my work and look forward to more conversations to come. Finally, though they have also since left UC San Diego, Lisa Yoneyama and Tak Fujitani, who were originally on my committee, both assumed significant and pivotal roles in the shaping of my project—through their own research, the courses I was able to take with them and their always detailed, constructive feedback. I would like to thank them for their generous support and encouragement over the years.

Still, none of this would have been possible without the true friendships and collegiality of the students and colleagues I have been fortunate to associate with since our time at UC San Diego. I am so grateful for Maile Arvin, Long Bui, Kyung Hee Ha, Angie Morrill, Kit Myers, Ayako Sahara, Tomoko Tsuchiya and Ma Vang. Kyung Hee, in particular, as my writing partner in the later stages of this project, provided invaluable, detailed feedback on drafts of chapters as well as much needed encouragement. I would



also like to take this opportunity to thank the many advanced graduate students (now professors) who offered their informal mentorship, especially during my first years in the program—in particular, Jose Fuste, Myrna Garcia, Julie Hua, Becky Kinney, Angela Kong and Traci Voyles. Finally, I would like to thank our Graduate Program Coordinator Christa Ludeking for her assistance and guidance in navigating the many formal stipulations required for successfully submitting the dissertation.

Outside of UC San Diego, I thank particularly A. Naomi Paik, whose generous support of my work and unsolicited assistance in sending me records she had of the testimonies given by the Japanese Latin American former deportees at the 1981 Commission on Wartime Relocation and Internment of Civilians (CWRIC) hearings helped me save much time and resources toward completing chapter two of the dissertation. I am so grateful to have crossed paths with her along this journey and to be able to call her a friend and mentor. I am also grateful to the librarians and archivists who assisted me in my research at the many archives I visited, including Karl Yoneda at the Japanese American National Library in San Francisco and Jane Nakasako at the Hirasaki National Resource Center at the Japanese American National Museum in Los Angeles.

Numerous fellowships and scholarships have supported my research for this project including: University of California (UC) California Studies Consortium (CSC) Graduate Student Research Travel Grant; San Diego Japanese American Citizens League Scholarship; University of California Human Rights Center Fellowship; University of California, San Diego Latino Studies Research Initiative Summer Research Grant; University of California, San Diego Center for Global California Studies Summer Graduate Fellowship; California Civil Liberties Public Education Program Grant;

California Japanese American Alumni Association Scholarship; and Ethnic Studies Departmental Fellowship, University of California, San Diego.

Outside of academia, I am grateful for my friends and family who have supported me unconditionally every step of the way. In particular, I thank Marcela Molina for the quality of her friendship for nearly thirty years. Her enthusiasm and encouragement of my work has been unbounded and carried me through many difficult times. I would also like to express my deep gratitude to my parents, Robert and Julia Kozen, and my sisters and their significant others, Carolyn Wilbur and Mark Wilbur, Kristina Kozen-Lim and Daniel Lim, and Lori Kozen and Joji Maekawa, for all their love and support of this and all my endeavors throughout the years. I thank my partner, Eric Chan, for his crucial role in providing me emotional and practical support during this long journey. Finally, I thank my daughter, Evvy, for offering much needed comic relief at times, distraction and joy and at the same time enormous amounts of patience and understanding so I could write—far surpassing that of a typical three-/four-year-old.

Last, but certainly not least, I would like to thank those associated with the Japanese Latin American redress efforts who willingly granted me access to their archives, their homes, their work and their hearts. First and foremost, I thank Grace Shimizu—undoubtedly and indisputably the key person who has spearheaded JLA redress efforts since the passage of the CLA. Without her, there would be no *Campaign for Justice* nor this project of which to speak. Grace graciously welcomed me into the organization as a volunteer intern and into her home and archive as a researcher and collaborator. She spent hours upon hours with me sharing her insights, interpretations and ongoing questions regarding the complex politics of JA/JLA redress as well as her tips

and leads regarding other data I might like to pursue. I really cannot thank her enough for her partnership and friendship and for always leading with an admirable ethics of racial and social justice. Julie Small, as well, former *CFJ* co-chair, generously made herself and her archive available to me so I could access other key proprietary data. All my interviewees generously gave of their time and themselves to participate in in-depth personal interviews, revisiting often difficult and painful memories of their WWII experiences and their lasting effects and/or their ongoing struggle for governmental redress. This dissertation is dedicated to them—the activists and former deportees who continue to at once question and fight for ‘justice.’

Part of chapter 1 is in preparation to be published in fall 2016 as “Traces of the Transpacific U.S.-American Empire: A Japanese Latin American Critique” in *Amerasia Journal*. The author of this dissertation will be the single researcher/author of this article.

Part of chapter 2 is in preparation to be published in fall 2016 as “Traces of the Transpacific U.S.-American Empire: A Japanese Latin American Critique” in *Amerasia Journal*. The author of this dissertation will be the single researcher/author of this article.

An earlier version of chapter 3 was published as “Redress as American-Style Justice: Congressional Narratives of Japanese American Redress at the End of the Cold War” in *Time & Society* 21:1 (2012), 104-120. The author of this dissertation was the single researcher/author of this article.

## VITA

### EDUCATION

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Expected Completion: June 2016

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### FIELDS OF INTEREST

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Comparative Ethnic Studies, Political Theory on Violence and Justice, Redress and Reparations Theory, History and Memory of War and Trauma, U.S. Militarism and Empire in Asia and Latin America, Asian American Studies.

### PUBLICATIONS

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"Traces of the Transpacific U.S.-American Empire: A Japanese Latin American Critique," *Amerasia Journal*, forthcoming fall 2016.

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### FELLOWSHIPS/HONORS/AWARDS

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Ethnic Studies Departmental Fellowship, University of California, San Diego, 2008-2009  
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Japanese American Citizens League Minoru Yasui Memorial Scholarship, 2005-2006  
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"U.S. Empire and Japanese Latin American Critique." Roundtable comments presented at Annual Meeting of American Historical Association, Pacific Coast Branch, Sacramento, CA, August 7, 2015.

"Justice and the Specter of U.S. Empire: On the Politics of Japanese Latin American Redress." Paper presented at Association for Asian American Studies Conference, Evanston, Illinois, April 25, 2015.

“Radical Connections Across Time and Space.” Roundtable comments presented at Annual Meeting of the American Studies Association, Los Angeles, November 6, 2014.

‘Never Again!’: The Case of Japanese Latin/American Redress and the Politics of (Un)redressability.” Paper presented at Association for Asian American Studies Conference, Austin, Texas, April 10, 2010.

“Performing Human Rights in Asia/America.” Panel respondent paper presented at Association for Asian American Studies Conference, Austin, Texas, April 8, 2010.

“‘Never Again!’: Tracing a Politics of Japanese Latin American Redress as Global Justice.” Paper presented at UCSD Center for Global California Studies Summer Graduate Student Fellows Roundtable, University of California, San Diego, March 11, 2010.

“‘Never Again!’: Tracing a Politics of Japanese Latin/American Redress as Global Justice.” Paper presented at Annual Meeting of the American Studies Association, Washington, D.C., November 5, 2009.

“Toward a Critical Human Rights: The Case of Japanese Latin American Redress and the Politics of (Un)redressability.” Paper presented at UCSD First Annual Human Rights Symposium, University of California, San Diego, October 16, 2009.

“‘Never Again!’: On the Politics of Japanese Latin/American Redress as Racial Justice.” Paper presented at the “Ethnic Studies 40 Years Later: Race, Resistance and Relevance” Conference, San Francisco State University, College of Ethnic Studies, October 8, 2009.

“‘Never Again!’: Tracing a Politics of Japanese Latin American Redress and Reparations as Global Justice.” Paper presented at Annual LatCrit Conference: “Outsiders Inside: Critical Outsider Theory and Praxis in the Policymaking of the New American Regime,” Washington College of Law, American University, October 3, 2009.

“The Possibilities for Sovereignty and Resistance Against US Colonialism in the Asia-Pacific Region.” Panel respondent paper presented at 2008 UCSD Ethnic Studies Conference: “Postcolonial' Futures in a Not-Yet Postcolonial World: Locating the Intersections of Ethnic, Indigenous, and Postcolonial Studies,” University of California, San Diego, March 6, 2008.

“Achieving the (Im)possible Dream: Japanese American Redress and the Construction of American Justice.” Paper presented at 5<sup>th</sup> Annual Conference of Ethnic Studies in California: “Crossing Borders: Ghosts, Monsters and the Dead,” University of California, San Diego, March 3, 2007.

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“Rewriting the Erased: U.S. Imperialism and Militarism in Guam, Korea, and El Salvador.” Panel respondent paper presented at 2010 UCSD Ethnic Studies Honors Symposium,” University of California, San Diego, June 2, 2010.

“Tracing a Politics of Japanese American Redress,” presentation to UCSD Ethnic Studies Honors class, University of California, San Diego, March 3, 2010.

“Re-membering Japanese Latin American Internment and Redress,” presentation at UCSD Nikkei Student Union Day of Remembrance Event, University of California, San Diego, February 12, 2010.

“The Founding and Ongoing Work of Campaign For Justice,” presentation at screening of film *Hidden Internment: The Art Shibayama Story* organized by the Nihonmachi Outreach Committee (NOC), San Jose, CA, September 13, 2009.

“Japanese Latin American Redress and the Campaign For Justice,” workshop presentation to volunteer docents of the Japanese American National Museum (JANM), Los Angeles, CA, August 27, 2009.

“Campaign For Justice Update,” presentation at the National Japanese American Historical Society (NJAHS) Annual Members’ Meeting, Oakland Museum, Oakland, CA, July 25, 2009.

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Campaign For Justice: Redress Now for Japanese Latin Americans! (CFJ), El Cerrito,  
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United for a Fair Economy (UFE), *The Color of Wealth* book (2006), Boston, MA,  
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Sticky Rice Project (race and racism workshops), Boston, MA, Facilitator, June 2003-  
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Coalition for Asian Pacific American Youth (CAPAY), Boston, MA, Adult Advisor,  
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ABSTRACT OF THE DISSERTATION

Justice and Its Others:  
On the Politics of Redress for Japanese *Latin* Americans

by

Cathleen Kiyomi Kozen

Doctorate of Philosophy in Ethnic Studies

University of California, San Diego, 2016

Professor Yen Le Espiritu, Chair

In 2013, the Civil Liberties Act (CLA) of 1988, the U.S. government legislation which provided for a formal apology and a payment of \$20,000 to each surviving Japanese American citizen and Japanese resident alien interned during World War II, celebrated its twentieth-fifth anniversary. Indeed, since its passage, the CLA has been upheld as a piece of “landmark legislation”—a precedent and even a model for subsequent redress and reparations movements; these are movements not only within the U.S. but around the world. Still, I find that the so-called “success” of Japanese American redress remains haunted—haunted by the memories of the 2,264 Japanese Latin

Americans (JLAs) who were, in effect, kidnapped upon U.S. order by the governments of thirteen Latin American countries and brought to U.S. concentration camps whereby hundreds were then used in a U.S. hostage exchange program with Japan. Despite their efforts, these internees were denied recognition under the CLA and only after filing a class-action lawsuit against the U.S. government in 1998 were offered a sum of just \$5,000. This dissertation maps the varied discourses marking the subsequent attempts at governmental redress for the JLA deportation and internment program over the last thirty some years. Probing the question of historical justice for racialized state violence within the overlapping contexts of U.S. empire and international human rights regimes, it asks: What are the transformative possibilities and limits of “redress” as *the* late-modern paradigmatic logic for racial/social justice, including its underlying liberal humanist ethicality of violence, redemption and justice? What does this case in particular open up in terms of the politics of knowledge and historical justice concerning U.S. global reach and hegemony in the Americas and U.S. empire more broadly at the current global historical moment? Ultimately, this project, deploying a rigorously interdisciplinary approach, *both* illuminates the very paradigmatic violence of redress *as* late-modern juridical justice, including its formative role as a fundamental condition of U.S. empire since the end of the cold war, and, at the same time, reveals the very paradigmatic productivity of such violence—its opening up of alternative imaginings and praxis of *justice* located not within the law itself but precisely in its critique and deconstruction.

**Introduction:  
Violence, History, Justice: Toward a Politics of Redress**

“The internment” was something that I always *knew* happened. *How* I learnt about it exactly or *when* my parents’ and grandparents’ and great-grandparents’ experiences *as my own* started to raise for me unsettling questions concerning its significance—I do not know. However, I do know when I started to look in earnest for answers. It was 1995 as a freshman undergraduate at UC Berkeley during which I took a course focused on racial inequality in education taught by Professor Pedro Noguera and “Introduction to Asian American Studies” taught by the late Professor Ronald Takaki. Both courses had a profound effect on my worldview as I grappled for the first time with the institutionalized nature of race and racism and its formative role in U.S. history.

Fast-forward ten years later and I was still searching for answers regarding my own interpellation as a model minority Japanese/American citizen subject and the significance of that interpellation to the critical ethnic studies project of which I had become a part. For my master’s thesis in the UCSD ethnic studies graduate program, I chose to engage in a close, careful reading of the congressional debates on the Civil Liberties Act of 1988 (CLA)—the U.S. government legislation, which granted an apology and a reparations payment of \$20,000 to each surviving Japanese American citizen and Japanese resident alien incarcerated during WWII. Utilizing the tools I had thus acquired—critical theories on the *global* historical production of race, gender and modern law, on U.S.-American imperialism and empire, on historical memory of war, race and violence—as well as a rigorous interdisciplinary training, I formulated my thesis concerning the relationship between “Japanese American redress” and “U.S. empire.”

Here, building off the important work of many critical race theorists who had expressed concerns that the successful redress legislation could become a tool domestically for disciplining other racialized communities of color (via the trope of the model minority), I added to the conversation largely by firmly placing “Japanese American redress” within the *global* context of U.S. national formation. Ultimately, I argued that “redress” for “Japanese American internment” emerged as a fundamental condition of U.S. empire beginning at the end of the cold war; specifically, the political symbolic signifier of “Japanese American redress” served to at once wipe the slate clean of U.S. racial violence then and now as well as re-produce the U.S. as an exceptional moral nation—an exemplar realization of the *universal* moral tenets of human rights and multiculturalism. To be sure, especially as I myself being a direct beneficiary of the CLA, my goal was never to diminish the lived experiences of the WWII incarceration as well as of the complex, multifaceted struggles for governmental redress; on the contrary, my purpose has always been, precisely out of a concern for justice, to build toward a more critical understanding of what *articulations* of such an ‘episode’ of U.S. racial violence and its seeming ‘resolution’ mean to the global present.

For my dissertation project, having established the significance of “Japanese American redress” to U.S. nation-building and empire, I was interested in what a broader tracing of the long duree of Japanese American redress, beginning with the late-1960s campaign for repeal of Title II of the National Security Act up to the present moment, stood to reveal concerning the political possibilities and predicaments of “redress” as *the* late-modern paradigm for racial/social justice. At this point in my project, the case of Japanese Latin American redress was only meant to be one of many parts of a larger

critique of the onto-epistemological paradigm of “Japanese American redress.” However, as I began to gather my data, which included extensive ethnographic fieldwork with the primary JLA redress organization, *Campaign for Justice: Redress Now for Japanese Latin Americans!* (CFJ), I realized the significance of the case and how centering it could open up further questions regarding, on the one hand, U.S. empire both in Latin America and Japan, and, on the other, the politics of historical redress by the U.S. government for militarized racial violence within the context of the post-cold war, post-9/11 periods.

This project thus takes as its point of entry, the case of redress for Japanese *Latin Americans*—the ‘others’ of justice, the unredressable under the CLA. Indeed, since its passage, the CLA has been upheld as “landmark legislation”—a precedent and even a model for subsequent redress and reparations movements, not only within the U.S. but around the world.<sup>1</sup> Still, I find this so-called “success” remains haunted—haunted by the memories of these 2,264 Japanese Latin Americans (JLAs) who were, in effect, kidnapped upon U.S. order by the governments of thirteen Latin American countries and brought to U.S. concentration camps whereby hundreds were then used in a U.S. hostage exchange program with Japan. Despite their efforts, these internees were denied recognition under the CLA and only after filing a class-action lawsuit against the U.S. government in 1996 (*Mochizuki vs. USA*) were offered a sum of just \$5,000.

This dissertation maps the varied discourses marking the subsequent attempts at governmental redress for the JLA deportation and internment program over the last thirty some years. Probing the question of historical justice for racialized state violence within the overlapping contexts of U.S. empire and international human rights regimes, it asks:

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<sup>1</sup> See, e.g., Brooks, ed. 1999; Barkan 2000; Yamamoto 1997.

What are the transformative possibilities and limits of “redress” as *the* late-modern paradigmatic logic for racial/social justice, including its underlying liberal humanist ethicality of violence, redemption and justice? What does this case in particular open up in terms of the politics of knowledge and historical justice concerning U.S. global reach and hegemony in the Americas and U.S. empire more broadly at the current global historical moment? How might we glean an alternative politics and praxis of justice located not in the law itself but precisely in its deconstruction, in its failures?

At the heart of my project is the question of empire—a question which has rarely, if ever, entered scholarly and legal discussions on Japanese Latin/American redress, the debates about the “illegal alien” status of JLAs, the eligibility requirements of the CLA, the extent of U.S. legal jurisdiction (both in the Americas and in Japan), the viability of international law and the thorny question of Peru’s and the twelve other Latin American countries’ own participation and complicity in the JLA deportation program. A critical part of this project is thus to (re)conceptualize what we have come to know of as “the internment” and its “redress”—as not solely a violation of constitutional and civil rights perpetrated against a model minority of loyal Americans (the internment) followed by its overcoming (its redress), as many scholars have done—but rather as part and parcel of an *ongoing globalized* military operation based on U.S. hegemony and militarism in the Americas as well as other parts of the world. I contend that, at this moment of reinvigorated U.S. imperialism, the time is ripe for a critical examination of the case of the JLAs—one which situates their abduction, forced displacement, incarceration and second deportation (from the U.S. to Japan) during WWII as well as the politics of their

redress in relation to U.S. national and imperial formations in both regions and within the context of ongoing U.S. globalized militarization.

To undertake such a task, this project deploys a rigorously interdisciplinary framework and approach, bringing together critical race and cultural studies to explore a subject matter traditionally examined by scholars in the oft-distinct fields of Japanese/Asian American studies, legal studies/political theory and war/international studies. As such, *Justice and Its Others* is comprised of two crucial and dependent layers: 1) Via a critical re-reading of “the internment” and its “redress” against the grain of U.S. militarized empire (particularly the case of the JLA WWII deportation program), it illuminates historical redress as a paradigmatic regime of il/legibility and un/redressability of racialized state violence. That is, it illuminates the very violence of late-modern juridical justice itself that is reinstated precisely in the rendering of un/redressable, un/worthy, un/deserving socio-political subjects and their histories. Moreover, it establishes this paradigm (which has not coincidentally formed the core of racial social justice movements in the last half century) as a fundamental condition of (U.S.) late-modernity and U.S. national formation and empire since the end of the cold war. 2) Taking such as its premise, this project also shows how within this condition, there are cracks and fissures, critical spaces for maneuvering within and without the law, that hold the possibility for critique and re-imagining an alternative politics based, not on resolution and redemption—the conversion of violence into ‘justice’—and individual rights, but rather on a sort of inter-subjective state of being in which ‘justice’ is continually in flux and always, in the words of Derrida, “a venir”—to come.

In this dissertation, I borrow from critical legal scholars Patricia Tuitt and Peter Fitzpatrick to posit the unredressable, illegible JLA deportees as “critical beings”—as “people excluded or marginalized in the persistent but ever unsettled processes of national/global affirmation.” Fitzpatrick and Tuitt write, “Such people are ‘critical’ for and of these processes, yet also disruptive of them.”<sup>2</sup> As I will show, the JLA deportees, in their ‘critical’ dimension as (im)possible redressable subjects, hold the possibility of radical political critique through their engagement with forms of governmental redress as historical justice. Derrida has stated, “Justice as the experience of absolute alterity is unrepresentable, but it is the chance of the event and the condition of history.”<sup>3</sup> The JLAs, I will show, as *critical beings* and *the ‘others’ of justice* who continue to this day to fight for governmental redress, in their calling for a “something to be done,”<sup>4</sup> in their persistent critiques of the CLA and the proper redressable subject, indeed suggest that the possibility of redress *as justice* may lie precisely in its excess, in its deconstruction, and in the *politics* of (un)redressability.

## **Narratives of Redress: About Stories of Progress, Lessons for Success**

### ***A Civic Lesson: Japanese American Redress as Proof of American Universalism***

This project is a conscious attempt to dislodge memories of Japanese American internment and redress, as well as the emergent notions of “redress” and “redressability” themselves, from their comfortable shelters within *progressive humanist narratives* and *national histories* and rather *re-visit* and *re-consider* them in terms of questions around

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<sup>2</sup> Tuitt and Fitzpatrick 2004, xi.

<sup>3</sup> Derrida 1992, 27.

<sup>4</sup> Gordon 1997.



the *politics* of *redress*, *recognition* and *racial reconciliation* and the *construction* of historical knowledge and memory. In doing so, it aims to (re)conceptualize “Japanese American redress” as a crucial *paradigm*, a moral and political *configuration* (rather than a *given* object of study), for at once advancing a *critical* understanding of the U.S. nation, of the global present, and of the foundations and formulations of modern law, while also inaugurating alternative pasts and transformative futures for global/racial justice.

To be sure, at its premise, my project certainly deploys a conceptualization of “redress” which takes into account its “multivalent meanings”<sup>5</sup> as produced by multiple actors from within diverse and overlapping fields of power. Again, my goal here is not to diminish the long history of community-based efforts toward governmental redress and reparations for the incarceration of Japanese U.S-American citizens and residents nor the important multi-pronged, race-based, grassroots social movements (e.g., Asian American Yellow Power movement, Third World anticolonial liberation movements, anti-war movement) of which they were enmeshed as well as owe much of their politicization. Rather, it is precisely because of this important history (which in many ways has become erased and/or domesticated in dominant narratives of race-based social movements), that I am worried about what “Japanese American redress”—as a form of remembrance—has come to *signify*, particularly in the current global historical moment.

In this section, I map the trends of what I demarcate as two major bodies of existing literature on Japanese American redress—both of which I assert tend to offer up both the “Japanese American redress and reparations movement” as well as the formal legislation of the Civil Liberties Act as an unquestioned achievement and a *successful*

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<sup>5</sup> Yoneyama 2003.

*universal* model for racial/global justice. That is, whether framed within the context of the “Japanese American community,” “American democracy” at large, or broader struggles against “human injustices” *around the world*, these scholars, for the most part, uncritically presume “Japanese American redress” as “justice” done and “progress” made via the act of recognition and inclusion. Significantly, reading these two bodies of literature together underscores the constructed coherence of this powerful edible *history* as premised upon the “universalizing force” of so-called American style justice in the international context: To put it simply, just as the *Japanese American* movement for redress unquestioningly becomes an *American* movement, the *American* movement unquestioningly becomes the exemplary model to rectify all human injustices around the world. Here, the inclusion/exclusion frame for understanding (racial/cultural) difference alongside the recuperation of the universality of modern law (and of liberal democracy) function to reproduce the exceptionalism of the U.S. nation in the global space via the performance of multicultural inclusion under the paradigm of human rights (and its programs of redress, reparations, reconciliation) as the limit of racial/global justice.

The first group of literature, produced primarily by scholars in the overlapping fields of Japanese American and Asian American studies, deploys a structural-functional approach to offer descriptive histories of Japanese American redress as a race-based social “movement.” Furthermore, for the most part, these works conceptualize such a movement within a nationalist U.S.-based framework and are celebratory in tone and form, positing narratives of a successful social and political struggle—a triumph of civil rights for one small minority group in multiracial America. They characterize Japanese American redress as a fundamentally *American* lesson – one that exposes the

“frailties of the Constitution and Bill of Rights” and “the need to be ever vigilant in safeguarding every American’s civil liberties.”<sup>6</sup> As such, in essence, in this literature, Japanese American redress functions as a symbol of what historian Nikhil Pal Singh terms “the universalizing force of American norms and institutions.”<sup>7</sup> As part of his critique of the dominant civil rights narrative and its central functioning in (what he terms) the broader “civic *mythology* of racial progress,” Singh asserts, “Today no better proof of American universalism is offered than *the idea* that dominated or excluded groups have struggled against discrimination and inequality in the name of the superior ideas and values of the nation.”<sup>8</sup>

In arguably one of the most widely-cited works on Japanese American redress, for example, Leslie Hatamiya contends that beyond its significance for the Japanese American community, on a “more universal level,” the bill “reconfirmed *all* citizens’ constitutional civil rights and civil liberties.”<sup>9</sup> She writes, “For this reason, passage was more than just a victory for Japanese Americans: it was a victory for all Americans. It was a promise by the U.S. government that it would never again incarcerate a group of its own citizenship en masse, without due process of law, solely on the basis of ethnicity.”<sup>10</sup> Hatamiya argues that the passage of the Civil Liberties Act was a “historic legislative achievement” and, as such, provides an instructive window into the U.S. policymaking process—one which involved a number of different factors beyond the standard explanation of electoral interest pressure. Political, institutional and external factors, such

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<sup>6</sup> Maki *et al* 1999, 241. See also Hohri 1988; Nakano 1990, 202-207.

<sup>7</sup> Singh 2004, 4.

<sup>8</sup> Singh 2004, 5, 19, emphasis added.

<sup>9</sup> Hatamiya 1993, 1, emphasis added.

<sup>10</sup> Hatamiya 1993, 1.

as the grassroots lobbying efforts of the Japanese American community, the influence of Japanese American members of Congress and the political strategy of defining the bill as an issue of constitutional rights, all converged to lead to the signing and passage of this “landmark legislation.”<sup>11</sup>

In a similar fashion, in another Japanese American redress “classic,” Mitchell T. Maki, Harry H. L. Kitano and S. Megan Berthold present the “Kitano-Maki proper alignment model” for conceptualizing the passage of the CLA. Like Hatamiya, they argue that it was the convergence of various “specific streams of influence,” including changing attitudes of the American public, shifts in Japanese American community politics and various actions taken by the legislative, judicial, and executive branches of U.S. government, which created the context in which redress was successfully obtained.<sup>12</sup> They conclude, “[R]edress is not just a great Japanese American story. It is a great *American story*. The story includes the nightmare of the World War II concentration camps and the subsequent dream of an apology and compensation for unjust treatment. It includes pain, humiliation, and suffering, along with acknowledgement, accomplishment, and redress. It is a story of how an impossible dream became a reality.”<sup>13</sup> In sum, Hatamiya and Maki *et al* present redress as a progressive national narrative that culminates in the ultimate achievement of justice, wherein the victor is not only Japanese Americans but *America* as a “truly great nation”<sup>14</sup>—one which was willing to admit a past injustice and attempted to make amends.

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<sup>11</sup> Hatamiya 1993, 5.

<sup>12</sup> Maki *et al* 1999, 6-7.

<sup>13</sup> Maki *et al* 1999, 241.

<sup>14</sup> Maki, *et al* 1999, x.

In a related vein, other literature on Japanese American redress considers the implications of the “successful redress movement” to Japanese American community building and “ethnic identity formation” in the U.S. context. Anthropologist Yasuko I. Takezawa, for example, offers a generational perspective of the redress movement and its implications for the “transformation of ethnic identity” in the “American social context.”<sup>15</sup> Here, she examines the relationship between the resurgence of ethnic identity and Americanization, in which the latter encompasses, not only structural assimilation, but also shifts in cultural values, norms and identification. Understood as such, she concludes that the redress movement “unquestionably helped to revive ethnicity and just as undeniably pressed the Americanization of Japanese Americans further than ever before.” It was precisely *as Americans* that Japanese sought redress. In other words, redress was part of their transformation in American society from “Japanese immigrants to Japanese Americans as an *American ethnic group*.”<sup>16</sup>

In sum, this body of literature considers the effects and consequences of redress for Japanese Americans as a community as well as in relation to the question of civil rights, but in a way that essentially presupposes redress and reparations as a “successful movement.” As such, whether they understand it as “a great American story” for “all citizens,” or as one event in the progressive trajectory of Japanese Americans’ incorporation into U.S. society, these works remain limited in their analyses of the implications and functions of redress in the larger *global* historical context. Specifically, at a base level, they tend to assume that the (exceptional) U.S. nation-state and its liberal-

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<sup>15</sup> Takezawa 1995.

<sup>16</sup> Takezawa 1995, 209, emphasis added.

democratic principles of tolerance and inclusion provide the necessary “horizons and instruments” for achieving racial justice.<sup>17</sup> In short, I suggest, by adhering to and *reifying* this paradigm via a *nation-based* linear narrative of Japanese Americans’ progress “from relocation to redress,”<sup>18</sup> these works foreclose any possibility for a *critical* reading of the *idea* of Japanese American redress—its emergence at the level of the political-symbolic as indeed a *global* signifier and the effects of such signification for the present global moral, juridical configuration.

### ***A Narrative of Progress: Japanese American Redress as Model and Precedent***

A second body of literature studying Japanese American redress, comprised primarily of scholarship produced in the areas of critical legal studies and political theory, directly situates it within the larger debates concerned with redress and reparations for other “historical/human injustices.” Also, seeking to understand its “success,” this scholarship analyzes Japanese American redress in terms of its legal framework and political positioning specifically in regard to prospects and strategies for other reparations movements. Several works compare Japanese American redress and reparations to that sought for African Americans and ask why the former has achieved success but not the latter.<sup>19</sup> Other legal scholars also consider how the international context for Japanese

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<sup>17</sup> Singh 2004, 19.

<sup>18</sup> Phrase taken from the title of the anthology: *Japanese Americans: From Relocation to Redress* by Daniels, Taylor, and Kitano, eds. 1991.

<sup>19</sup> See Howard-Hassman 2004. Legal scholar Rhoda E. Howard-Hassmann concludes that the main difficulties for the movement for African American reparations is that the victims of direct harm are dead, the perpetrators are diffuse, the causal chain of harm is long and complex and the estimates of reparations may pose “unreasonable burdens on government and American citizens.” By contrast, the Japanese American claim for reparations was easily framed: both the victims and perpetrators were easily identifiable and the event took place over a short, finite period; thus, the harm was clear and the causal chain was short and free of complication. Howard-Hassmann asserts that the African American reparations

American redress, specifically U.S.-Japan relations, may have factored into its success.<sup>20</sup>

Drawing upon these works among others, renowned law professor Roy L. Brooks considers “lessons from Japanese American reparations” in developing the requisite interest-convergence for African American reparations.<sup>21</sup> He conceptualizes various factors under the rubrics of “patience” (e.g., the Commission’s step-by-step strategy of presenting a historical analysis and then recommendations) and “careful issue-planning” (e.g., the framing of reparations in terms of the traditional values of patriotism and individual rights). Brooks frames his argument under the overall assertion that reparations

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movement should learn from the Japanese American experience; in all likelihood, the only “concrete reparations” that will result for African Americans are those framed in terms of “clear” “recognizable wrongs” which have occurred “within living memory.” See also Laremont 2001. Political scientist Ricardo Rene Laremont engages the question: “Why did Japanese Americans Reparations Win?” He suggests several factors including the “moral,” “solidarity,” and “political commitment” of the Japanese American community, the broad base of support it garnered across racial and partisan lines, the inside advocacy of Japanese American congress members, and the limited number of reparations beneficiaries. However, the most important reason behind Japanese Americans’ success was the rising Asian voting population, which by 1988, was perceived by Republicans as the swing vote. Presidential candidate George Bush endorsed reparations because he needed the support of Asian Americans in California, and other Republicans joined him.

<sup>20</sup> See Magee 1993. Rhonda V. Magee argues that a key distinction between Black reparations and Japanese American reparations is the political leverage they wield based on ties to their respective homelands. She points out that the “favorable congressional response to the Japanese-American case for reparations unfolded contemporaneously with the pro-Japan trade policies of the Reagan Administration.” Put in terms of Derrick Bell’s interest-convergence thesis, the political context of favored trade relations between Japan and the United States provided the essential “major crisis, or tragic circumstances that conveyed the necessity or at least the clear advantages of adopting a reparations scheme” (909). She says that, unfortunately for African Americans, “no leverage-laden tie to political or economic power exists between the descendents of American slaves and a ‘first world’ economic power.” Hence, the “requisite political incentive structure” posited by Bell does not exist for African Americans (909). See also Westley 1998. Similarly, in an article on (re)framing the argument for black reparations, Robert Westley contends that, in the case of Japanese American redress, that “Japan had become an important U.S. ally and a major economic force” was indeed an important factor for its success. Responding to critical race theorist Eric K. Yamamoto’s assertion that successful claims must fit tightly within the individual rights paradigm of the law, Westley argues that a tight fit alone is not a moral or legal prerequisite. Rather, movements for legislative redress must be understood in the context of changing political realities, which for Japanese Americans in the 1980s, included the diffusion of anti-Asian hostility, the emerging politics of Japanese American community activists, and favorable U.S.-Japan relations.

<sup>21</sup> Brooks 2002.

(particularly African American reparations) “afford America a powerful opportunity to resolve the color line” in the twenty-first century.<sup>22</sup>

A final group within this second body of literature examines the connections among different redress movements on an “*international*” scale. In these works, scholars tend to cite Japanese American redress as an important model and an historical catalyst in what they conceive of as “a significant shift in world politics.”<sup>23</sup> For example, in his widely read work, historian and political theorist Elazar Barkan raises the questions: How does the growing practice of negotiating restitution restore a sense of morality and enhance prospects for world peace? Where has restitution worked and where has it not?<sup>24</sup> Barkan argues that beyond its moral implications, restitution reflects a critical shift in political and economic bargaining around the world. While preserving individual rights, restitution enables victimized groups to receive growing recognition as groups. Like Brooks, he conceives of Japanese American redress as a model for other movements in formulating their demands for justice; he notes how the “agreement” (between Japanese Americans and the U.S. government) quickly became cited as a precedent for renewed

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<sup>22</sup> Brooks 2002, 1712.

<sup>23</sup> In *When Sorry Isn't Enough*, Roy L. Brooks presents a collection of essays by an array of scholars, activists and political leaders that consider the various conditions necessary for successful redress of human injustices around the world.<sup>23</sup> Divided into different sections - including Nazi persecution, Korean comfort women, Native Americans, African American slavery, Jim Crow, South Africa, and, of course, Japanese Americans – the anthology again seeks to understand the “success” of the Japanese American redress model in the relation to other redress movements. Indeed, the first question Brooks cites as arising in the “current worldwide ferment over human injustices” is: Why does the U.S. offer \$20,000 atonement money to Japanese Americans relocated to concentration camps during World War II, while not even apologizing to African Americans for 250 years of human bondage and another century of institutionalized discrimination? In his introduction to the section on Japanese Americans, *Brooks asserts that Japanese Americans' successful advancing of the redress bill through the American political system was a “monumental - and unique - achievement.” Under the assumption that “[t]he success of any organized attempt to seek redress for human injustices is inextricably linked to politics, not justice or logic,” he contends that by “studying the experiences of Japanese Americans, we can glean important lessons about the redress of human injustices within the complex web of the American political system.”* The essays in this section speak to this goal, including *writings by Roger Daniels and Leslie Hatamiya.*

<sup>24</sup> *Barkan 2000.*



claims by African Americans for slavery.<sup>25</sup> Barkan concludes that while a theory of restitution may not be a panacea—a comprehensive solution that can put an absolute end to all inequality—it does “improve on the existing social injustice,” thereby “providing a meaningful improvement in international morality.”<sup>26</sup>

In his most recent book, Roy L. Brooks again situates the arguments for reparations within a larger, international framework, but this time within what he terms, “a post-Holocaust vision of government responsibility for genocide, slavery, apartheid, and similar acts of injustice.”<sup>27</sup> Brooks’ aim is to reframe the debate on black reparations from the backward-looking question of compensation for victims to a more forward-looking racial reconciliation. He proffers an “atonement model”—atonement as meaning both a substantial government apology and significant reparations, a tangible act which serves to turn the rhetoric of apology into a meaningful, material reality. In developing his argument, Brooks identifies the Civil Liberties Act of 1988 as *the* catalyst for inducing what he conceptualizes as the modern phase of the black redress movement. He notes how John Conyers, the congress member who submitted H.R. 40 (the slave redress bill) to Congress in 1989, has identified the 1988 Act as his inspiration. It was at this moment that the black reparations movement gained an international face and became part of an “international, cross-cultural push for atonement.”<sup>28</sup> Brooks contends that the Japanese American redress movement shares important similarities with redress movements in other parts of the world, including South Africa, Japan, and Australia as well as the domestic movements by Native Americans and Hawaiians; all are less about

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<sup>25</sup> *Barkan 2000*, xxiv.

<sup>26</sup> *Barkan 2000*, 348.

<sup>27</sup> Brooks 2004.

<sup>28</sup> Brooks 2004, 12.

money than atonement—apology plus reparations. Japanese Americans neither built political coalitions nor sought international assistance; rather, they “simply drew upon the post-Holocaust vision of heightened morality, identification, egalitarianism, and restorative justice—in other words, the rhetoric of atonement.”<sup>29</sup> They prevailed in large part because they captured the higher moral ground and garnered the support of a few key congressional leaders.

For the most part, this literature, which situates Japanese American redress in the larger discussion concerning other movements for reconciliation and atonement in the domestic as well as international contexts, (like the first body of literature) tends to *uncritically assume* its status as a successful *universal* model and precedent. While some works do aim to historicize the moment of “success,” on the whole, they nevertheless fail to capture the nuanced complexity of forces at work at the time. As such, in general, their “analyses” do not go beyond providing descriptive histories of the Japanese American redress movement—particularly its legal framework and “moral” and political positionings—as framed within *presupposed* narratives of national and worldwide “progress” toward racial and “social” justice. Indeed, as I have been arguing, what is left intact and remains unquestioned is precisely the universality of modern law itself and its fundamental presumptions of rights, morality and just what constitutes the proper juridical subject. Moreover, in this literature, we also begin to see more explicitly the effects of signification of Japanese American redress as a *global* symbol of *universal* justice; that is, these works, I contend, put into bold relief the *universalizing* force of

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<sup>29</sup> Brooks 2004, 19.

redress for Japanese American internment and the (re)production of the U.S. itself as the *moral* signifier of such “justice” on the *global* stage.

Needless to say what is crucially missing from such accounts is a nuanced critique of ‘redress’ as a concept and as a political/symbolic as well as moral/juridical *configuration* within the context of modern law and liberal political philosophy. Indeed, my project, informed by this significant gap in scholarship, is interested precisely in what Japanese American redress opens up as a *paradigm* and specifically as a political-symbolic signifier in the global space. It is interested in both the signifying processes and layers of translation of violence into justice as well as in the productive effects of such signification for constituting the global present.

### **A Critique of the “Social Meanings” of Redress**

Contributing to an important third body of literature engaged in the topic of Japanese American redress and writing from the premise of the pivotal role of Japanese American redress in subsequent movements for racial and social justice in the U.S., scholars of Asian American critical legal studies aim to discern the “social meanings” of Japanese American redress, including its potential “lurking danger” as a hegemonic device deployed by the state to manage domestic race relations.<sup>30</sup> Mari J. Matsuda, in a seminal article published in 1987, arguably the height of the movement for Japanese American redress, expounds on the “transformative power” of reparations as a ‘critical

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<sup>30</sup> While I focus on the body of work that specifically interrogates the implications of the Civil Liberties Act of 1988, other important critical legal scholarship considers the legality of the internment itself and examines the implications and legacies of the *coram nobis* cases – in particular, *Hirabayashi vs. United States* and *Korematsu vs. United States*. See Yamamoto, Chon, Izumi, Kang, and Wu, eds. 2001; Chon and Yamamoto 2003; Chon and Arzt 2005; and Matsuda 1998.

legalism’—“a legal concept which avoids the traps of individualism, neutrality and indeterminacy that plague many mainstream concepts of rights or legal principles,” as it condemns exploitation and adopts “a vision of a more just world.”<sup>31</sup> Reparations, she says, serves as an example of a legal concept generated, not from abstraction, but from the actual experiences, history, culture and intellectual traditions of “those at the bottom”—which she designates as the people of color in America whom have “seen and felt the falsity of the liberal promise.”<sup>32</sup> Still, as part of the same discussion, Matsuda also warns that this “progressive” view of reparations can “mask lurking dangers,” particularly the risk of “commodification” in which reparations are perceived as an equivalent exchange for past wrongs, thereby ending any continuing claims of injustice. Relatedly, there is also the risk of reparations as merely enforcing the role of the United States as lawgiver and patron. In this scenario, reparations can function to buy off protest, assuage white guilt, and/or transfer responsibility for continued racism upon the victims. Matsuda thus concludes that in order to avoid these potential dangers and acts of “corruption,” victims must resist commodification and assume the role of key actors in defining the remedies and in pursuing continued reparations until “all vestiges of past injustice are dead and buried.”<sup>33</sup>

Writing five years later, Eric K. Yamamoto, similar to Matsuda, proposes that a reparations law’s salient social meanings go beyond the law itself (transcending the colliding salutary and critical views) and, rather, lie in “the commitment of recipients and others to build upon the reparations process’ inter-group linkages and political insights to

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<sup>31</sup> Matsuda 1987, 323, 393-394.

<sup>32</sup> Matsuda 1987, 24, 362.

<sup>33</sup> Matsuda 1987, 394-397.

contribute to broad-based institutional and attitudinal restructuring.”<sup>34</sup> In other words, the enduring legacy of Japanese American redress is contingent and continuously evolving—dependent upon the political role that Japanese Americans (and Asian Americans generally) play in other struggles for racial justice by other communities of color.<sup>35</sup> Yamamoto suggests that reparations allowed Republicans to point to a “model minority” group to defend its conservative racial policies. This stereotype channeled a number of silent messages, ultimately conveying to the nation that if other minorities were the same as Japanese Americans and had overcome hardship without government aid, they, too, would be rewarded.<sup>36</sup> Yamamoto thus concludes that Japanese Americans have an obligation to scrutinize their model minority status, to challenge governmental excesses of national security power that restrict civil liberties, and to join in addressing other broad-based issues facing all minority communities throughout the U.S. Reparations comes with a responsibility—a refusal to be “used” to excuse or perpetuate the racism that caused the internment in the first place.<sup>37</sup> Heeding Yamamoto’s call, Chris Iijima traces the political and ideological values implicit in the congressional debates on the Japanese American redress bill. He argues that, via the framing of the dominant narrative by supporters around the “acquiescent response” of the internees and the heroism of the 442<sup>nd</sup> Regimental Combat Team, ultimately, redress for internment was a celebration of the “superpatriotic” response to it, of “blind obedience to injustice.”<sup>38</sup> That is, the

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<sup>34</sup> Yamamoto 1992, 224.

<sup>35</sup> Yamamoto 1992, 232.

<sup>36</sup> Yamamoto 1992, 238.

<sup>37</sup> Yamamoto 1992, 240. Yamamoto cites Matsuda 1987.

<sup>38</sup> Iijima 1998, 395, 399, 405. Iijima argues that politicians, lobbyists and media largely shaped crucial reparations arguments around the “acquiescent response” of the internees and the heroism of the 442<sup>nd</sup> Regimental Combat Team while instances of dissent and resistance as well as internal disagreement (e.g.,

message from Congress and President Ronald Reagan was clear: “there are rewards for acquiescence.”<sup>39</sup> Iijima contends that such discourse essentially asks Japanese Americans to accept reparations at the same price they were asked to pay at the time of internment itself—“accommodation of governmental racial injustice”—a call, which, aside from obvious damaging effects on broader struggles for racial justice, “places us back at our original humiliation.”<sup>40</sup>

Finally, Natsu Taylor Saito, in a more recent article on the ‘racing’ of Arab Americans as ‘terrorists’ in the context of post-Japanese American redress, again pursues the question: What does Japanese American redress symbolize?<sup>41</sup> Drawing on Iijima’s assertion that Japanese American reparations may become a “return to original humiliation” if we allow it to symbolize “the rewarding of acquiescence rather than the righting of wrongs,” Saito also contends that redress means nothing unless it effects real institutional change toward social justice. In her article, Saito explores parallels between the Japanese American experience and the contemporary social, political, and legal treatment of Arab Americans and Muslims in the U.S. and concludes that “the wrongs of the Japanese American internment really have not been righted.” She writes, “The government is still subverting our civil rights and undermining the safeguards of judicial review by tapping into race-based fears and playing the ‘national security’ trump card.”<sup>42</sup> Like the other aforementioned scholars, she urges Japanese Americans, as beneficiaries

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the Heart Mountain draft resistance movement and various other riots, demonstrations and strikes) were consistently avoided. He also points to the “express and consistent connection made between the bill and the political perspective of Mike Masaoka,” the Executive Secretary and spokesperson of the JACL at the time of internment, who, along with other JACL leadership, espoused a political agenda of “super-patriotism” and suppression of dissent in the face of Japanese American resistance.

<sup>39</sup> Iijima 1998, 408.

<sup>40</sup> Iijima 1998, 410.

<sup>41</sup> Saito 2001.

<sup>42</sup> Saito 2001, 26.

of the redress movement and as (in Mari J. Matsuda's words) the 'authors' of internment, to assume their "particular responsibility"—"to make that redress live up to its potential."<sup>43</sup>

Indeed, these scholars provide valuable critical perspectives on the implications and social meanings of Japanese American redress as "justice done." Iijima's analysis, in particular, as one of the few, if only, discourse analyses of the congressional debates, offers a generative reading of some of the ideological themes implicit in the "official" redress discourse. His identifying of the celebratory narrative of Japanese Americans' "superpatriotism" and "blind obedience to injustice" as a key theme running throughout the debates serves as an important contribution toward developing a critical understanding of the ideological/political functions and legacies of Japanese American redress and its possibilities for effecting truly radical change toward justice. Still, I contend, in this literature what ultimately remains unquestioned is the "potential" of redress itself. Here, the overarching assumption is that the "potential" of "reparations" as a 'critical legalism,' that is, its potential for effecting "racial" and "social" justice within the *internal* borders of an isolated United States, will ultimately be determined by the political role that Japanese Americans (and Asian Americans generally) assume in other struggles for racial justice by other communities of color.<sup>44</sup> In other words, it seems that the answer for these scholars across the board is for Japanese Americans, as beneficiaries of redress and the "authors" of internment, to assume their "particular responsibility" in essentially helping other aggrieved groups within the U.S. to also achieve redress and

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<sup>43</sup> Saito 2001, 26, 29.

<sup>44</sup> Yamamoto 1992, 232.

reparations for past injustices. That is, the answer, to recall Matsuda, is for the victims to assume their roles as key actors and to pursue continued reparations until “all vestiges of past injustice are dead and buried.”<sup>45</sup> I argue that the power of such critiques remains delimited precisely by this nationalist perspective of civil rights and social justice and its attendant framing of racial difference again based on a “socio-historical logic of exclusion.”<sup>46</sup>

To explain, Iijima, Yamamoto, Taylor and Matsuda each deploy a nation-based framework of *American* justice and, accordingly, their critiques reflect this limitation. Iijima, for example, after elaborating upon the aforementioned “ideological baggage” of Japanese American redress (namely the celebration of Japanese Americans’ “superpatriotic” response to internment), situates it within the context of “*America’s* racial hierarchy.”<sup>47</sup> In fact, as with Yamamoto’s work comparing Japanese American redress and African American claims, Iijima’s entire analysis is premised on this frame of racism in the *American* context. According to Iijima, the danger of Japanese Americans’ (and, by extension, Asian Americans’) acceptance of “the carrot of model minority status” is the perpetuation of *America’s* “racial status quo,” one which grants Asian Americans a higher racial status than African Americans while maintaining the overall operation of white supremacy. Saito, as well, in her work looking at the ‘racing’ of Arab Americans as ‘terrorists,’ conceptualizes a primarily domestic “post-Japanese American redress” context in which, again, what is at stake is *American citizens’ civil* rights within the U.S. judiciary system. Indeed, I contend that while these works open up possibilities

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<sup>45</sup> Matsuda 1987, 394-397.

<sup>46</sup> Silva 2004.

<sup>47</sup> Iijima 1998, 396, emphasis added.



for a critique of Japanese American redress, by framing their analyses to focus on whether ‘other groups’ will indeed benefit from Japanese American redress—that is, whether they too will participate, will be included, will take part in this gesture of recognition and inclusion—they essentially rely upon and (re)produce the very limited inclusion/exclusion logic of racial justice/subjection. Thus, granted, while their ‘race-conscious’ approach is attentive to the “institutionalization” of “race” and “racism” and the importance of redress as a catalyst for instigating larger institutional changes and “attitudinal restructuring” “outside of the law” *within* the United States, it nevertheless leaves untouched not only national borders, but, not surprisingly, the law itself: specifically, the universality of modern law and the assumed proper modern juridical subject at the center of ‘redress.’ As such, in the end, these works foreclose such larger questions and critiques as those concerning the (im)possibility of redress as justice, the limits and possibilities of human rights *discourse*, and the relationship between redress, (neo)liberalism and violence.

It is from herein that stem my concern and ultimate questions: How might redress as an *idea* continue to circumscribe critical scholarship aimed toward global justice? Still, how might the idea of redress *as* justice be *re*-conceptualized to critically call into question the very paradigmatic notions of violence, redemption and justice which it has come to signify?

### **Toward a Critical Redress Study**

Numerous works published over the last two decades, and especially in the past ten years, ranging the fields of critical legal theory, political philosophy, cultural studies,

anthropology and history and memory studies have variously staked out critical positions in regard to the questions of human rights as global justice, cosmopolitanism and forgiveness, and modern (neo)liberal notions of violence and redemption. The re- invigoration of “human rights” discourse in the post-cold war era over the last nearly thirty years beginning in the late-1980s, and in particular the proliferation of Truth Commissions as one of the most important institutional forms to advance its project, have been the concern and object of study of numerous critical projects. Moreover, this “post- 9/11” moment and the present global historical conditions seem to have wrought a further epistemic shift in terms of a “renewed scrutiny” of theories and concepts on violence and historical justice. As Lisa Yoneyama points out, this critical attention reflects:

intensifying intellectual concerns for coextensive yet seemingly bipolarized historical developments. These include: the new internationalism, the rise of the human security paradigm and international feminist jurisprudence, the intensifying quest for redress, reparation, and reconciliation, on the one hand; and the precariat and other new social movements under neo-liberalization and in the face of failing juridico-political premises of modernity, the simultaneous banalization and (re)spectacularization of weapons of mass destruction, and the (re)assertion of the sovereign and the expansion of thanatospaces such as refugee and migrant camps, prisons, the global ghettos, the so-called ‘low-intensity’ conflict zones, etc. on the other.<sup>48</sup>

In this section, I chart some of the key conversations addressing various dimensions of this apparent conundrum of global historical conditions, pointing to both their limits and possibilities as deconstructionist critiques of modern liberalist notions of violence, justice / human rights and the law. In doing so, I pay particular attention to the underlying (and often uninterrogated, naturalized and/or assumed) (modern, liberal

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<sup>48</sup> Quote taken from the syllabus description by Lisa Yoneyama for the graduate seminar LTCS 210: Violence, History and Justice, offered in spring 2008 at the University of California, San Diego.

humanist) *ethical economy* of violence and redemption framing and buttressing many of these scholarly accounts. Ultimately, I contend that it is only by *reconceptualizing* “redress” itself as a moral, political and symbolic *configuration* (rather than a purely juridical term and/or a *given* object of study) and within the *global* historical context of modernity and (neo)coloniality<sup>49</sup> as certain scholars have done, that we can begin to move toward a *critical study of redress* and its attendant paradigm of human rights—one that at once advances a *critical* understanding of the U.S. nation, of the global present, and of the foundations, formulations and effects of modern law. Here, I also discuss how my project of tracing a *politics* of redress for Japanese Latin Americans builds upon and intervenes into the literature, joining this collaborative project of rethinking some of our most deeply held notions of justice, freedom and violence. In sum, as my project aims to do, I suggest a deconstruction of “redress” that works to imbue it with rigorous political critique, calling into question the traditional liberalist notions of violence, redemption and justice while also perhaps inaugurating alternative pasts and transformative futures for global justice.

### ***The Problem of Historiography in Restorative and Transitional Justice***

To begin, a number of recent works offer assessments as to the limits and possibilities of historical redress, restitution and other forms of so-called restorative and transitional justice for *past acts* of state violence. Many engage in a valuable critique of

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<sup>49</sup> By the “the global historical context of modernity and (neo)coloniality,” (as will be elaborated upon throughout the paper) I am relying on Denise Silva’s formulation of globality as the other modern “ontoepistemological context” for the political-symbolic production of modern political subjects – one “that fuses particular bodily traits, social configurations, and global regions, in which human difference is reproduced as irreducible and unoblitable” (xix).

the *historiographic function* central to such forms—the move to convert violence into non-violence via language and the narrative. Pointing to the political-symbolic violence actually inherent in the act of naming, periodizing, and exceptionalizing “violence,” such works also maintain “the great historical possibility,” the deep uncertainty engendered at such moments via the excesses of violence that cannot be neatly contained by History. At the heart of many of these conversations is the debate over the “*therapeutic*” capacities of this mode of transitional justice—in particular, of the Truth Commission as again a *new* form of judicialism. Critical legal studies scholar Martha Minow, for example, in one of the early works to grapple with questions of “justice,” “history” and “truth” following state-sanctioned genocide and mass violence, working from the notion that “vengeance” and “forgiveness” occupy *necessarily* opposing ends of “the spectrum of human responses to atrocity”<sup>50</sup> and that justice may lie “somewhere between the two,” ultimately argues for the *power of forgiveness* and “the desire to rebuild” as the *proper* response to violence—a power and desire that, in *juxtaposition* to retribution and revenge, “requires a kind of transcendence that cannot be achieved on command or by remote control.”<sup>51</sup> Throughout her assessment of the “goals and limitations for each kind of response,” Minow maintains resistance to the idea of closure or precision, to the possibility for “tidy endings following mass atrocities.”<sup>52</sup> This, perhaps her most valuable contribution toward a critical theory of violence and (*un*)redressability, establishes the notion of “the incompleteness and inescapable inadequacy of each possible response to collective

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<sup>50</sup> Minow 1998, 21.

<sup>51</sup> Minow 1998, 21.

<sup>52</sup> Minow 1998, 4.

atrocities”—that is, that “no response can ever be adequate,” that “[c]losure is not possible.”<sup>53</sup>

Indeed, in many ways, I read Minow’s work as emblematic of many others working toward *a theory* of redress, reparations and restorative justice in the context of the global historical conditions following the end of the cold war. Adhering to a similar framework, other scholars as well, in variously mapping and assessing the possibilities of responses to “historical injustices,” even as they put forth valuable critiques of the forms and functions of redressive and transitional justice, also persist to assert the potentially transformative role of the “act” of “forgiveness,” “atonement,” and /or “apology,” for example: to “enable a new encounter with history” (however uneven the process may be) in moving toward a “sensibility for abstract justice,” “common humanity experienced in its variety”<sup>54</sup>; to “improve on the existing social injustice,” thereby “providing a meaningful improvement in international morality”<sup>55</sup>; and to institute a “higher moral ground”—“the post-Holocaust vision of heightened morality, identification, egalitarianism, and restorative justice.”<sup>56</sup> Taken together, I contend, works such as these among others seem to hold onto (what Randall Williams refers to as) a particular “hegemonic humanist ethicality”<sup>57</sup>—that is, a strategically constructed economy of violence, redemption and justice couched in the universalist assumptions of modern

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<sup>53</sup> Minow 1998, 5, emphasis added.

<sup>54</sup> Field 1997, 39-40.

<sup>55</sup> Barkan 2000, 348.

<sup>56</sup> Brooks 2004, 19.

<sup>57</sup> Williams, Randall. The quotation is from my notes taken at a graduate seminar (ETHN 261: Race & Law, fall 2007) on November 15, 2007.

liberal humanism.<sup>58</sup> My point here is to suggest what such critiques of liberal notions of historical justice may in fact leave intact in terms of moving toward a *radical* critique of modern liberal humanism *itself* and its underlying ethical and moral assumptions that work to delimit just what *qualifies* as “justice,” “freedom,” and “violence.” Here, I wish to highlight the ethical grip of the unquestioned ideas of a universal humanity and of forgiveness as “freedom from vengeance.”

Indeed a host of scholars, in also seeking to critique the historicizing form and function of dominant modes and institutions for justice following mass violence and eschewing the pursuit of a single truth and narrative closure, further raise and address the important questions of truth, positionality and authenticity in official narrations of and apologies for a nation’s past atrocities.<sup>59</sup> For instance, Hyunah Yang, in an important 1997 *positions* special publication on the “issue” of Korean ‘military comfort women,’ discusses how the dominant interpretation, beginning with its initial framing, is premised upon male-centered assumptions of sexuality in which women are taken for granted as sexual objects whose purpose is to foster men’s psychological security. She asserts that within the structure of such discourse, “the existence of the military comfort women is simply a self-evident consequence of the Japanese military and imperial project,” and as a result, the women’s stories and beings are relegated to the margins.<sup>60</sup> Importantly, in line with Minow, Yang argues for a concept of “truth” as something *produced* rather than “simply discovered”—that is, as embedded in relations of power, in the politics of

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<sup>58</sup> See also, for example, the essays published in the collection, Rotberg and Thompson 2000, on the South African Truth and Reconciliation Commission, including Rotberg 2000, Gutmann and Thompson 2000, Kiss 2000, Toit 2000, Minow 2000.

<sup>59</sup> See, e.g., Dai Sil Kim-Gibson 1997; Theresa Godwin Phelps 2004.

<sup>60</sup> Yang 1997, 52.

knowledge and positionality.<sup>61</sup> Yang thus puts forth the idea of moving toward an articulation of the Korean women's (counter-) positionalities, toward a revelation of the hidden "speaking subject" and an articulation of alternatives to the dominant view point. In another example, anthropologist Fiona Ross also engages the question of narration and the multiple, context-specific frameworks through which subjects' truth claims are interpreted. Through her close examination of women's testimonial processes and practices as part of the South African TRC, she points to the need (similar to Yang's counter-positionalities) for "careful attention to the constraints on verbalizing experience, and an awareness of the ways that social conventions work in constituting linguistic bearings' ... – voice, silence and subjectivity."<sup>62</sup> She thus argues for the importance to "*incorporate alternative stories* into a repertoire so that new scripts for living can be held, enacted and offered for the future. In their *absence*, any understanding of violence and its effects is narrowed, women's experiences may be undervalued or unrecognized, and the possibility of expanding or legitimating the range of repertoires upon which people can draw in *reconfiguring their lives may be missed*."<sup>63</sup> In sum, works such as these, I contend, offer valuable critiques of what Allen Feldman describes as "the descriptive adequacy of those narratological strategies that reduce the evidentiary to a transparent linear event history"—part of "the commission's ethic of 'transparency' as a process of disclosure heavily dependent on the authenticated witness salvaging an occluded past through both the public performance and the content of his/her pain and

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<sup>61</sup> Yang 1997, 57. She writes: "If intellectual efforts are not made in full consciousness of the politics of this particular truth, Japan's central position in the construction of the history of the comfort women admits no possibility of intervention. As a result, the viewpoint of the colonizer will continue to prevail in the history of the colonized."

<sup>62</sup> Ross 2003, 165.

<sup>63</sup> Ross 2003, 132, emphasis added.

testimony.”<sup>64</sup> This body of scholarship points to the limits of existing paradigms of historical justice and thus the urgent need for a re-thinking of the closure of the progressive narrative, the unity of the victim-subject, and the politics of history and memory particularly around issues of war, violence and nation.

Along these lines, as mentioned, a number of recent works also center on critically interrogating precisely (in Ross’ words) “the equation of speaking subject with healed subject”<sup>65</sup>—the *cathartic* design and proclaimed aim of the institution of the Truth Commission as functioning not only as a recording apparatus but through its production of historical knowledge—as a mechanism of *therapeusis* for victims as well as nations. The idea is that in this “restorative forum” and in the interests of reconciliation (and forgiveness), witnessing victims forego or convert any vengeance or demands for retribution in exchange for *representational agency*—that is, the becoming of the Historical agent subject via the recording of their accounts as truth in the official archive. Such “form of settlement” has its proximate basis in the official human rights discourse—the foundation of the *Universal Declaration of Human Rights* (UDHR), the first freedom, which serves as the anchor for the rest of the rights to follow: “the liberty to tell one’s story.” Indeed a host of scholars have critically engaged the emergence and effects of these new so-called cathartic testimonial forms within the institutional context of the Truth Commission and the larger regime and discourse of human rights to which it belongs.<sup>66</sup> Women’s studies scholars Kay Schaffer and Sidonie Smith, for example, argue that claims on behalf of “new and specialist rights” in fact challenge the “universalist

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<sup>64</sup> Feldman 2004, 169.

<sup>65</sup> Ross 2003, 165.

<sup>66</sup> See, e.g., Young 2004; Hesford 2004.



assumptions of the UDHR” and signal the emergence of “new human rights agendas” and “diverse platforms for advocacy especially as they respond to the cultural contingencies of minority cultures and indigenous groups.”<sup>67</sup> Their main assertion is that acts of personal narration, *however* “compromised” they may become in “the unpredictable transits of reception between local and global locations,” *nevertheless* “remain foundational to the expansion and proliferation of claims on behalf of human dignity, freedom and justice.”<sup>68</sup> In brief, works such as this and others, while they critically call into question conventional modes and understandings of trauma, memory and history, thereby gesturing toward a *politics* of history and memory, nevertheless leave intact a “human rights” framework and its particular geohistorical economy of violence and redemption rooted in the modern liberal humanist *ethicality* of human dignity and freedom.

It is at this juncture that the compelling work of Allen Feldman leads to some critical openings. What Feldman does as a departure from other works in this area, is to *rethink* the very idea of violence itself through his deconstructionist critique of the “biographical artifact of historical horror”—one which “bears traces of the relationality of violence, and as a text of mourning, the traces of the absent, the disappeared, and the dead.”<sup>69</sup> That is, he posits these narratives of human rights violations as “testimonials to the irreconcilable”—which, as “asymmetric subject positions, are *produced*, not only as “figures within the narrative,” but as “relationships inscribed into the symbolic economy

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<sup>67</sup> Schaffer & Smith 2004 (“Conjunctions”), 20. Also see Schaffer & Smith 2004 (*Human Rights*).

<sup>68</sup> Schaffer & Smith 2004 (“Conjunctions”), 20-1.

<sup>69</sup> Feldman 2004, 195.

of narrative transmission, response, and adjudication.”<sup>70</sup> Thus, Feldman, in effect, gestures to the productivity of political-symbolic violence—how the “rigidified subject position of the assaulted and aggrieved” located at the center of narratives of human rights violations “can readily serve as the *ontological* ground for justifying and replicating *renewed violence*.”<sup>71</sup> Moreover, Feldman ends his work by posing important questions regarding “the underside of the neo-liberal project of making history transparent,” such as: “What is the moral geography of extracting or eliciting testimony of the other from historical, geographical, and economic margins afflicted by this violence?”; “What are the entrenched and uncomfortable memory formations that underwrite neo-liberal humanism’s own contradictions and dis-ease in bearing witness to the afflicted other?”<sup>72</sup> In sum, Feldman indeed offers a provocative and generative critique of the *ethicality* of modern liberal notions of violence, historical justice and human rights—one that signals new directions for critiques of redress, reconciliation and restorative justice that move toward situating such *ideas* within the global historical horizon of modernity/(neo)coloniality.

***The (Im)possibility of Human Rights as Global Justice and the Myth of Universal Freedom***

The related issue of the political utility of an international human rights practice is one that also continues to populate studies across the fields of political theory, critical legal studies and cultural studies. Numerous inquiries have been made to address the question: “Can human rights serve to advance progressive politics in the contemporary

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<sup>70</sup> Feldman 2004, 194.

<sup>71</sup> Feldman 2004, 196, emphasis added.

<sup>72</sup> Feldman 2004, 196.

world?”<sup>73</sup> The range of staked out critical positions runs the gamut—from those who argue for the hope of human rights as “an oppositional framework capable of contesting the globalized force and world devastations of contemporary capitalism” to those who see it as “a convenient cover for the [global] extension of capitalist-democratic uneven relations of power by reinforcing imperialist hegemonic control.”<sup>74</sup> Numerous published works seek to address what they call the “paradox,” “contradiction,” and/or “perplexity” of the international human rights regime. Various identifying the risks, dangers and realities that there is a “particular conditional order of hospitality (and universalism or cosmopolitanism),”<sup>75</sup> that there is “inequality and injustice often written into the very formulations and definitions of humanity and rights, or at least into their mobilization...,”<sup>76</sup> and that there is a “complicity that sometimes exists between humanitarianism and human rights violations,”<sup>77</sup> these interventions tend to be framed with the ultimate aim to resolve or overcome such “obstacles” or “politics” in working toward the *uncontaminated* “justice” that the *universality* of “human rights” purports to offer.

Others, on the other hand, also recognizing the “yawning gap between the promise and the record, the hope and the reality,”<sup>78</sup> variously zero in on the connection between the rise of human rights discourse and the reign of U.S. imperialism in the

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<sup>73</sup> Williams 2006, chapter 1, 14.

<sup>74</sup> Williams 2006, chapter 1, 14-15. For the first group of literature, see, e.g., Appadurai 2001; Harvey 2000. For the second group, see Hardt and Negri 2000; Grewal 2005; Brennan 1997.

<sup>75</sup> Honig 2006, 112.

<sup>76</sup> Balfour and Cadava 2004, 279.

<sup>77</sup> Balfour and Cadava 2004, 279.

<sup>78</sup> Williams 2006, chapter 1, 22.

context of globalization.<sup>79</sup> Scholars such as cultural theorist Timothy Brennan and Michael Hardt & Antonio Negri, for example, offer seething critiques and admonitions of the “normative projection of cosmopolitanism”<sup>80</sup> and the “*appeal to essential values of justice*,” respectively.<sup>81</sup> Wendy Brown also offers an important critique of what she describes as the “ahistorical, acultural, acontextual idiom” that is the “political discourse” of “rights.”<sup>82</sup> Wary of falling back on a notion of *universal* rights as “simply attached to Kantian subjects,” she identifies and renders problematic (following a similar line as that proffered by Brennan and Hardt & Negri) the very depoliticized, *moral* humanitarian politics of “Human Rights” as the “ideology of military intervention serving specific economic-political purposes.”<sup>83</sup> Importantly, taken together, what these scholars gesture to (albeit some more than others) is the emergence of human rights discourse *as political*,

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<sup>79</sup> See, e.g., Nguyen 2012, Atanasoski 2013.

<sup>80</sup> Brennan 1997. Examining the intersections of cultural studies (and its attendant theories of cultural hybridity, transculturation and globalism), global capitalism and U.S. governmental plans for a new world order, Brennan argues that a normative cosmopolitanism, including the “arena of ‘universal human rights,’ has functioned to obscure the elusive workings of imperialism, American hegemony (including the “globalization of U.S. domestic law” (136-137) and U.S.-centric perspectives, and the very real national and ethnic dissonances and political stakes within the so-called universal, global diaspora. The “weakness of the cosmopolitan outlook,” he asserts, lies in “the explicit failure to see cosmopolitanism as less an expansive ethos than an expansionist policy: a move not toward complexity and variety but toward centralization and suffocating stagnation” (55).

<sup>81</sup> Hardt and Negri 2000, 18. In their more recent work, Hardt and Negri, as discussed previously, also offer a critique of the international human rights regime and its attendant morality of “universal values” from the perspective of “empire” – what they are describing as the emergence of a new global-judicial order in which the U.S. reigns as the sole political-economic power. Here, human rights functions not as an instrument toward ‘justice’ but as a “form of high moral imperialism in the service of Empire.” In other words, human rights constitutes *absolutely* one the U.S. empire’s primary powers of intervention and imperial hegemonic control via a discourse of morality and within the context of the processes of contemporary globalization.

<sup>82</sup> Brown 2004, 460.

<sup>83</sup> Brown 2004. Brown writes: “If the global problem today is defined as terrible human suffering consequent to limited individual rights against abusive state powers, then human rights may be the best tactic against this problem. But if it is diagnosed as the relatively unchecked globalization of capital, postcolonial political deformations, and superpower imperialism combining to disenfranchise peoples in many parts of the first, second, and third worlds from the prospects of self-governance to a degree historically unparalleled in modernity,” and if indeed we were to recognize human rights *as* “political,” as an organizer of political space, and as collaborator with liberal imperialism and global free trade – *then* “other kinds of political projects, including other international justice projects” may “offer a more appropriate and far-reaching remedy” (461).

as (in the words of Randall Williams) “a privileged figure in the ideological arsenal of contemporary [U.S] imperialism.”<sup>84</sup>

Other works extend this critique to argue for the *myth* of modern humanism itself, of *universal human freedom*. Cultural studies and postcolonial theorist Pheng Cheah, for instance, points to what he calls the “inhuman conditions of humanity”—that is, how the discourse of human rights figures the globe as human *precisely* via the inhuman, the field of (inhuman) instrumentality that is global capitalism. Thus, identifying the “normative” framework of human rights discourse as “based in the doctrine of human reason’s capacity to transcend the inhuman,” Cheah makes a case for the “heteronormity of the field of instrumentality” as *not* the absolute, dialectical opposite of freedom that can be sublated or transcended but *rather* “the very condition of the (im)possibility of human freedom.”<sup>85</sup> Thus, what Cheah ultimately points to is a *rethinking* of the human and its “freedom” as precisely an unstable “product-effect” of the inhuman—“always haunted and possessed by it,” the borderline between the two rendered indeterminate. Denise Silva, in an important essay that traces the (re)emergence of the ‘global black female subject’ in the feminist discourses on female genital cutting, effectively shows how the discourse of women’s rights as universal human rights both (re)produces and relies upon a particular global political/symbolic configuration based on the constructed oppositional *cultural difference* between modern (Western/embodiments of universality) societies and

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<sup>84</sup> Williams 2006, chapter 1, 26.

<sup>85</sup> Cheah 2006, 264-265. Accordingly, using a Foucaultian frame of bio-power, Cheah argues that the so-called universal human rights of female domestic workers in Southeast Asia, for example, “do not exist a priori but are generated and actualized by a field of generalized instrumentality that produces and sustains the human subject and its various collective forms. The human rights and humanity of the female migrant worker do not preexist inhuman forces. They come into presence, into the phenomenality of enlightened public reason, as an aftereffect within the inhuman force field that subtends the various collective and individual actors. Human rights are points of resistance immanent to this inhuman field” (265).

primitive (non-Western/embodiments of particularity) societies. Drawing on her seminal book, *Toward a Global Idea of Race*, Silva argues that these (re)emerging subjectivities are not ‘new’ to the ‘global era’ but rather can be traced back to the “production of modern particularity” and “transcendentality,” the writing of “man” as a global historical consciousness via “strategies deployed to explain/produce differences among human collectivities inhabiting different regions of the globe.”<sup>86</sup> In his work, Randall Williams puts forth the idea of the “international division of humanity” as it emerges out of the history of “colonial capitalism” to conceptualize what he describes as “the production of a juridical boundary which, on the one hand distributes the subject of violence along an ethical axis of qualified and disqualified victims and, on the other hand, organizes the field of resistance along a political axis of those practices that fall inside or outside the law.”<sup>87</sup> He argues that this “asymmetrical structure” through globalized state violence and the (re)production of the appropriate legal subject/victim “renders largely invisible and illegible all forms of struggle that do not adhere to the demands of an appellative structure of redress.”<sup>88</sup> In short, he shows how “a kind of neo-colonial, neo-Enlightenment human rights episteme” is mobilized as a sanctioned force for (re)producing a particular modern/(neo)colonial global historical configuration via precisely the management of the question of violence.

Finally, elsewhere, renowned literary scholar Lisa Lowe essentially makes a similar argument in which, via a tracing of the figure of the transatlantic Chinese “coolie” in the historiography of the early Americas, she shows how the very constitution of

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<sup>86</sup> Silva 2004. See also Silva 2007.

<sup>87</sup> Williams 2006: chapter 1, 29-30.

<sup>88</sup> Williams 2006: chapter 1, 30.

modern humanism and its so-called universal “human freedom” relied upon a governing system of racial hierarchies and an international division of labor based on dynamic, intersecting notions of race, class, gender, sexuality and family.<sup>89</sup> Moreover, it is precisely the “economy of affirmation and forgetting,” which structures and formalizes modern liberal humanism “within the regime of desiring freedom,”<sup>90</sup> that at once disavows and reproduces a racialized, gendered *global systemic distribution of* “freedom.”

Taken together, these last works among others<sup>91</sup> not only deconstruct and dislodge from their transcendent positions the ideas of universal human rights and human freedom but point to the production of the inhuman, those beings outside such ‘freedom,’ as the

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<sup>89</sup> Lowe 2006, 195. Specifically, Lowe discusses how the *figures* of the Chinese woman and of Chinese sexuality were key to the creation of a colonial fantasy of the Chinese capacity for bourgeoisie family, intimacy and ‘freedom.’ This fantasy (of course never realized) was central to the constitution of the Chinese as an intermediary, “paradoxical” figure, a “contiguous ‘other’” that served as a critical “racial barrier” between white colonials and black slaves. Here, within “the crucible of American modernity,” “the contracts of labor and marriage became the very symbols of humanity and freedom.”<sup>89</sup> Even more, as Lowe expounds upon, the representations of Chinese indentured labor as “*freely*” contracted served to buttress liberal promises of freedom for former slaves while still serving the economic needs of the colonial regime via a range of intermediate forms of *coercive* labor. The Chinese coolie, then, appears as a key figure in the emergence of “a modern racial governmentality” in which “a political hierarchy ranging from ‘free’ to ‘unfree’ was deployed in the management of the diverse labors of colonized peoples.”

<sup>90</sup> Lowe 2006, 206.

<sup>91</sup> See, e.g., Fitzpatrick 2004, 120-121. Legal theorist Peter Fitzpatrick as well argues that it is the (re)production of those beings ostensibly “apart from the universally human,” specifically, “the evil of their alterity,” that actually *necessarily* accords the seemingly “transcendent human” of human rights its integrity and very existence, however inherently unsettled and unstable. See also Mbembe 2003. Engaging ‘violence’ as a primary analytic for conceptualizing contemporary modes of global subjection, Mbembe effectively displaces the normative transcendent redemptive potential of liberal politics by taking us back to the *global historical* conditions of the modern/(neo)colonial time/space by outlining some of the “repressed topographies of cruelty” – namely, the colony and the plantation. Similar to Williams’ formulation of an “international division of humanity” based on the “colonial deformations of Empire,” Mbembe, working from Agamben’s notion of the state of exception in connection to Foucault’s biopolitics, argues that such spaces, their economy of terror and brutality, is such that the central project of sovereignty is not “biopolitics” – that is, the struggle for autonomy over the domain of life – but rather necropolitics – “*the generalized instrumentalization of human existence and the material destruction of human bodies and populations*” under conditions of a ‘war without end.’<sup>91</sup> Within these time/spaces, essentially *outside the law*, the state of exception is no longer exceptional but rather the rule, the normative condition of power exercised in the name of ‘civilization.’ Mbembe argues that such conditions persist under late-modern colonial occupation through contemporary forms of necropower as the deployment of weapons with the purpose of maximum destruction of persons and social relations and the creation of “*death-worlds*.”

necessary condition of liberal humanism itself, of the global present. In doing so, I contend, they open up new possibilities for deconstructing and reconfiguring the (in)human and its (in)humanist ethicality of violence, law and historical justice.<sup>92</sup> That is, by illuminating the global distribution of so-called “freedom,” they reveal the very violence of “freedom” itself. Thus, the question we must now return to is that of violence and the paradigmatic ethicality of human rights and its attendant programs for redress, reconciliation and restorative justice, which Feldman began to conjure up. In the section that follows, I pursue a line of inquiry into the intersections of violence, freedom and justice by engaging select critical works that move toward a radical critique of the liberalist economy of violence and forgiveness and the deeply held assumption of justice as freedom from violence.

### ***Rethinking Violence, Justice and Redemption***

Recalling the work of Minow, for instance, for many scholars, the “humanism” of human rights and its attendant, albeit sometimes underlying, tropes of friendship, forgiveness, and hospitality via the moral “grip” of “desiring human freedom” constitute the ultimate recourse in interrogations into the questions of rights, violence and justice.

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<sup>92</sup> See also Hua 2006. Hua works from both Silva and Fitzpatrick as well as Inderpal Grewal (2005), Caren Kaplan (1996, 2001), Mino Moallem (2005) and Tani Barlow (2000) to trace the production of women’s human rights and global feminist discourses within the (re)emergence of modern/(neo)colonial global configurations. She argues that it is, in part, through “the championing of women’s human rights,” and “the placing of diversity and difference at the forefront,” that the U.S. is able to fashion itself as the global leader of the 21<sup>st</sup> century (6). Moreover, such productive “celebration of the diversity of women’s rights” strategically serves to cover over the fact that the so-called new global juridical order defined by racial/gender progress is actually simply a reconfiguration of modernity/coloniality cloaked in the garb of its supposed demise. In regards to the question, “Is human rights worth saving?” – Hua asserts (in line with Cheah and Fitzpatrick among others) that it is only by first understanding its crucial limitations (e.g., its assumption of the subject as a self-determined “I,” its reproduction of the very (neo)colonial, western privilege it claims to be “beyond”) – that is, rendering it “un-savable,” that we can even begin to consider the question of its (im)possibility as global ‘justice.’



Here, I grapple with the key works of certain critical theorists as possibly gesturing toward radical alternatives to such recourse or at the very least pointing to the limits that bound so much of the existing scholarship seeking to theorize (post)colonial violence and redemption.

Slavoj Žižek, for example, offers a notion of “violence as symptom” to describe what he calls “the political suspension of the ethical” that marks the limit of acceptable violence in even the most ‘tolerant’ liberal imagination. In making his case, he asserts: “...witness the uneasiness of ‘radical’ post-colonialist Afro-American studies Fanon apropos of Frantz Fanon’s fundamental insight into the unavoidability of violence in the process of effective decolonization.”<sup>93</sup> In short, according to Žižek’s account, the predominant “liberal stance” conceives of conditions of violence as essentially “pre-political” and often recasts them into humanitarian terms. Indeed, as political theorists Candace Vogler and Patchen Markell assert: “Violence haunts liberal political thought.” Importantly, bringing us back to the original “image” of “redemption from violence,” they propose the construction of the constant threat of the state of nature and the legitimized role of the liberal state to “control our violent tendencies” via the monopolization of the right to use violence via “consent” and all in the name peace and redemption. In other words, violence again is essentially both “pre-political” and a “symptom” of political life whose excesses must be brought under control, if only through (state) violence itself.<sup>94</sup> In short, Vogler and Markell urge a crucial rethinking of the relationship between violence and redemption under liberalism and the ethics of

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<sup>93</sup> Žižek 2006, 1.

<sup>94</sup> Vogler and Markell 2003, 2.

violence that drives our notions of historical justice. They ask: What does it mean to imagine a better future in a present marked by violence and suffering? Is such an imagination necessarily redemptive? Are redemptive imaginations necessarily deceptive, and deceived?<sup>95</sup> In his work, Etienne Balibar has also suggested: “there is no liberation from violence”; “there is no such thing as non-violence.”<sup>96</sup> Again, troubling any absolute ethical framework of non-violence overcoming violence or the aim of finding a “universal ‘solution’” to the “problem of violence,” he thus suggests “that “the only ‘way’ out of this circle is to invent a *politics of violence*, or to *introduce the issue of violence...into the concept and practice of politics....*”<sup>97</sup> Finally, scholars have also argued that the liberal idea of “recognition” as justice is itself an act of violence. For example, Markell elsewhere suggests that the pursuit of “recognition” (e.g., as in multiculturalism) is actually a misrecognition—a failure to “acknowledge” one’s own basic finitude, one’s fundamental intersubjectivity and vulnerability and thus the very impossibility of mutual recognition in the first instance. As such, such pursuits can end up not only reinforcing existing relations of subordination but also creating new ones. The result is that while some parties may appear to benefit from their so-called achievement of recognition, others are made to bear a disproportionate burden of such an impossible pursuit of sovereign agency. In sum, Markell again takes us back to the question of violence, (historical) justice and universality. His insights point to the

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<sup>95</sup> Vogler and Markell 2003, 9.

<sup>96</sup> Balibar 2002, 145. Balibar contends that “extreme violence arises from institutions as much as it arises against them, and it is not possible to escape this circle by ‘absolute’ decisions such as choosing between a violent or a non-violent politics, or between force and law.

<sup>97</sup> Balibar 2002, xi-xii, emphasis in original.

violence inherent in the liberal notion of so-called “universal” (historical) justice itself, its fundamental ideals of recognition, sovereignty and freedom as self-determination.<sup>98</sup>

In sum, these works undermine the myth of freedom from violence and liberal humanist narrative of violence toward redemption. Taken together, all these bodies of literature raise important questions for a *critical redress study*. Returning to Williams, in his work, he argues that ‘redress’ and the construction of the proper redressable subject within the contemporary (neo)colonial context in fact signals the *absolute limits* of human rights as a *possibility* for justice. Working from the insights of Fanon, he contends that what needs to be rethought is the state’s monopolization of legitimate violence and by extension the myth of modern law itself. The contemporary liberalist “asymmetrical structure” of visibility and legibility of violence and justice *works to reproduce* a particular post-Enlightenment *global* configuration of social subjection. Following Williams, I am indeed interested in the *productive paradigm* of “redress” in relation to modern, neocolonial global formations and the construction of a particular economy of violence and justice. Still, I am also interested in how those figures outside the limits of “redressability,” may also *productively reveal* the very *possibilities* for imagining a new ethicality—for *reconfiguring* the relations among resistance, violence and justice, as some of these critical theorists have done. In the next section, drawing upon the works of Derrida, Yoneyama and Fitzpatrick among others, I discuss my project, *Justice and Its Others*, and its contribution toward a critical redress study.

### ***Justice and Its Others***

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<sup>98</sup> See also, e.g., Cacho 2012, Reddy 2011.

In one of his last pieces ever written that interrogates the “mystical foundation of authority,” Derrida compellingly argues that it is precisely the very seemingly paradoxical (de)constructibility of law that renders “justice” possible. That is, it is the experience of the *aporia* between justice and the law, the questioning and deconstruction of the law (itself constructed in performative and interpretive violence), that *is* justice.<sup>99</sup> In short, Derrida offers not only a crucial re-thinking of law enforcement as (un)just force, but also an alternative notion of (late-modern) justice as precisely possible *only* in the cracks and ruptures, the critical spaces surrounding and outside, of the law. Indeed, I find his following proposal very useful: that it is the very performativity of ‘justice’ and its “overflowing” that renders it always “perhaps,” a “yet to come, *a venir*.”<sup>100</sup> He further writes: “Justice as the experience of absolute alterity is unrepresentable, but it is the chance of the event and the condition of history.”<sup>101</sup> I concur to suggest that the possibility of redress *as* justice may lie precisely in its excess, in its deconstruction and in the politics of its (un)redressable others.

In an important article on Japanese American redress and reparations, Natsu Taylor Saito makes the call for U.S. scholars and activists to collectively “look beyond reparations” when “envisioning a world that is actually just” – “one in which we can live without having to be in denial about the extent of human suffering that our privilege is built on.”<sup>102</sup> Saito’s call, I contend, gestures to some important questions concerning the politics and possibilities of redress in the global present. Lisa Yoneyama, in her recent work, suggests the (un)redressability of U.S. military violence. Drawing on Derrida’s

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<sup>99</sup> Derrida 1992.

<sup>100</sup> Derrida 1992, 27.

<sup>101</sup> Derrida 1992, 27.

<sup>102</sup> Saito 2003, 56.

crucial insight of the very *impossibility* of forgiveness (that is, that “forgiveness forgives [and emerges] only [out of] the unforgivable,”<sup>103</sup> that “forgiveness must necessarily retain that which is unforgivable”<sup>104</sup>), Yoneyama issues important links between the asymmetric U.S. economy of liberation (one that marks the liberated as eternally indebted to the benevolent liberator, the U.S., based on U.S. claims that it “fights its wars for the sake of liberating others”<sup>105</sup>) and the (un)redressability of U.S. war atrocities. She argues, in line with Derrida, that in the pursuit of legislative redress, “forgiveness and justice need to be posited logically as an excess and to remain, ‘heterogeneous to the order of politics or the juridical.’”<sup>106</sup> Still, she contends, such efforts are “necessary *at the same time* precisely so that we can acknowledge that which is unforgivable and is beyond the available parlance of institutionalized justice.”<sup>107</sup>

In sum, what these scholars move toward is a transformative alternative conception of justice—located precisely *outside* modern liberal humanism’s redress *as* universal justice, precisely in its deconstruction. It is here that the work of critical legal scholars Patricia Tuitt and Peter Fitzpatrick is also helpful. Similar to Cheah’s notion of the normative frame of human rights, they assert that the *seeming* coherence and stability of the discourse of human rights is “achieved” by “combining the ‘universally human’ and the particular constituted through exclusion” in certain ‘exemplary’ regions throughout the globe via the “national extraversion” and neo-imperialism of the U.S. in relation to human rights, war and the global market. Still, it is these “*critical beings*,” as

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<sup>103</sup> Derrida 2001, 32.

<sup>104</sup> Yoneyama 2005, 143.

<sup>105</sup> Yoneyama 2005, 142.

<sup>106</sup> Yoneyama 2005, 143.

<sup>107</sup> Yoneyama 2005, 143.

the excluded, marginalized, illegible inhuman, that at once constitute *the very global condition of irresolution* that make human rights and the “occidental arrogation of the human” *ever* uncertain and vulnerable. That is, critical beings, as the others of justice, “are ‘critical’ for and of these processes, yet also disruptive of them.”<sup>108</sup> For these scholars, there exists “no ‘critical mass’, no ‘multitude’ ready to engage directly the power of the global nations.”<sup>109</sup> Rather, maneuvering within a juridical order that is “far from settled” and “continually in formative negotiation with the ‘critical beings’” themselves, such global subjects, precisely through their *ambivalent* relation to law, nation and the global, hold the possibility of radical political critique and new ways of being in the critical space “between the nation’s particular emplacement and its universal extraversion.”<sup>110</sup>

JLA former deportees, I propose, in their ‘critical’ dimension as (im)possible redressable subjects, also hold the possibility of radical political critique through their engagement with forms of governmental redress as historical justice. Like the ‘critical beings’ outlined above, they are not “utterly subjugated” but are also not oriented along definite political pathways. In this dissertation, via my mapping of the JLA redress efforts toward “justice” articulated over the last thirty some years, I attempt to offer a tracing of such a politics of *un/redressability*. The JLA subjects, as the following chapters will show—as critical beings and the ‘others’ of justice who continue to this day to fight for

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<sup>108</sup> Tuitt 2004, xi.

<sup>109</sup> Tuitt 2004, xix-xx. The pieces offered in the anthology are positioned against recent attempts (e.g., Giorgio Agamben’s *Homer Sacer*” *Sovereign Power and Bare Life* (1998) and Michael Hardt and Antonio Negri’s *Empire* (2000)) to delineate a ‘new global juridical order’ with fully formed global legal subjects “pursuing definite claims, and establishing particular, identifiable ‘rights.’”

<sup>110</sup> Tuitt 2004, xix.

governmental redress, in their calling for a “something to be done,”<sup>111</sup> in their persistent critiques of the CLA and the proper redressable subject—indeed point to the possibilities of imagining a new ethicality based not on juridical redress and recognition as justice *done* but rather on a notion of justice *ongoing*, continually in flux, self-critical and located precisely in the margins and failures of Justice.

### **On the Japanese Latin American *Problem* and the Logic of Exclusion**

For the most part, existing scholarship produced primarily within the fields of Japanese American studies as well as Asian American critical legal studies has either completely omitted the Japanese Latin Americans’ redress efforts or pigeonholed the “issue” of JLA redress as one of the “problems” of the otherwise successful CLA.<sup>112</sup> What is thus left intact and unquestioned across these conversations is the aforementioned nation-based, civil rights framing of “the internment” as well as its accompanying teleological national narrative of “the internment” and its successful “redress.” Here, deploying a socio-historical logic of exclusion, these scholars seem to variously describe the JLA case as both an historical question mark as to *if* the JLAs, as a constituency, would be “included” in any of the early redress plans as well as one of many “categories of unclear ‘eligibility’”<sup>113</sup> in the aftermath of the CLA. Historian Alice Yang Murray, for example, in one of the later books published on Japanese American redress, discusses briefly the question that the case of the JLAs posed for the JACL in terms of “who exactly deserved redress” and the feeling by certain members of the JACL

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<sup>111</sup> Gordon 1997.

<sup>112</sup> See, e.g., Daniels *et al*, eds. 1991; Hata and Hata 2011; Hatamiya 1993; Maki *et al* 1999; Yamamoto *et al* 2001.

<sup>113</sup> Maki *et al* 1999.

that their *inclusion* would make it more “difficult to secure congressional passage.”<sup>114</sup> Legal scholars Eric Yamamoto *et al* in their important anthology on Japanese American redress published in 2001 and republished in 2013 situate the JLAs as one of the “*other* racial and indigenous groups” seeking “redress and social justice”<sup>115</sup>—among them African Americans, Native Hawaiians, South Africans and Korean sex slaves. Here, in the 2001 edition, they ask: “In what ways are Japanese American reparations connected to redress movements by other racial groups? What lessons might be drawn by contemporary redress advocates?”<sup>116</sup> They then go on to describe in the section, “Japanese Latin Americans”: “The Civil Liberties Act limited reparations to citizens and legal resident aliens. This limiting language created a *bizarre anomaly*. Japanese Latin Americans (JLAs)—that is, persons of Japanese ancestry who were citizens of Latin American countries—failed to qualify for reparations even though they had been kidnapped in those countries by the United States and taken to the United States and placed in internment camps.”<sup>117</sup> Roy Brooks, in a piece published in his anthology that examines various redress cases, posits that the case of the JLAs’ ineligibility under the CLA (due to not being citizens or legal permanent residents at the time of their internment) simply illustrates the “narrow tailoring of the Civil Liberties Act,” which, in the following paragraph, he describes as a “monumental—and unique—achievement of the Japanese Americans in advancing the redress bill through the American political system.”<sup>118</sup>

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<sup>114</sup> Murray, 294.

<sup>115</sup> Yamamoto *et al* 2001, 428, emphasis added.

<sup>116</sup> Yamamoto *et al* 2001, 428.

<sup>117</sup> Yamamoto *et al* 2001, 428, emphasis added.

<sup>118</sup> Brooks 1999, 162.



In short, works such as these again tend to conceptualize the ‘issue’ of JLA redress as an unfortunate, *untheorized* ‘problem’ of an *otherwise* successful and exemplar redress legislation. Perhaps, Attorney Robert Sakaniwa (quoted by Asian American studies scholar Phil Tajitsu Nash) captured it best when he stated in August 1998: “While there have been *problems*, such as the fact that Japanese Latin Americans did not win the redress given to other Japanese Americans, the passage and implementation of the Civil Liberties Act of 1988 represented an excellent example of people fighting for their rights and a government using legislative methods to rectify an injustice.”<sup>119</sup>

To be sure, in the 2013 revised edition of their anthology, Yamamoto *et al* discuss briefly what they see as the implications of the U.S. government’s failure to redress the JLAs. They write:

Rather than promote this kind of social, communal healing, the JLA story may instead ‘reveal[] the [U.S.] government’s apparent *realpolitik*, short-term approach to group injustice—and group healing—with little apparent appreciation for how to break cycles of bitterness and recrimination.’ The JLA reparatory efforts also likely affect U.S. legitimacy and hence its authority to advocate and enforce international law. Its ‘central message may be that the U.S. government can disregard international law and violate human rights with impunity.’ This raises poignant questions about U.S. moral authority to condemn others for human rights violations without first acknowledging and then redressing its own.<sup>120</sup>

Hence, while they fall back on Yamamoto’s “social healing” framework of “meaningful redress” (which I read as locked into the particular aforementioned liberal humanist ethical economy of violence and redemption), they nevertheless raise some crucial points regarding the U.S.’s relationship to international law and human rights in the global context, in which the U.S. has emerged as the world’s leading authority on the matter.

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<sup>119</sup> Nash 2011, xxxii. Nash quotes Attorney Robert Sakaniwa from conversation that took place in August 1998.

<sup>120</sup> Yamamoto *et al* 2013, 347.

Here, they draw upon and quote an important article by Natsu Taylor Saito (discussed further below)—one of the few, if only, legal studies scholars to focus on the JLA case on more than one occasion and consider its implications for U.S. plenary power in the world context.

Overall, there has yet to be published an in-depth, interdisciplinary study of the JLA redress efforts. Still, my purpose is not to *expose* a “hidden history” of “JLA redress” per se—to merely recuperate the lost details of the U.S. racialized state violence *they experienced* and their efforts toward governmental redress of such violence. Rather, steering away from an additive approach toward a purported universal history, this project aims to critique this very paradigm, thereby illuminating the “economy of affirmation and forgetting”<sup>121</sup> that at once renders legible and redressable “the internment” and the case of the JLAs a “problem.” In the next two sections, I discuss my approach and attempt toward a critical examination of the Japanese Latin American case—specifically, the emergence of the figure of the JLA deportee as an *undressable*, *illegible* subject and its linkages to a U.S.-American empire, traceable from the very inception of the U.S. nation-state to the present globalized war on terror.

### **Traces of the Transpacific U.S.-American Empire: A Japanese Latin American Critique**

In terms of the field of Japanese American studies, for the most part, the U.S.-led JLA deportation and internment operation has been relegated to the margins of what scholars seem to identify and conceptualize as the *main* “internment” of Japanese U.S.-

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<sup>121</sup> Lowe 2006.

American residents and citizens.<sup>122</sup> To be sure, particularly in recent years, a number of works have intervened into such domestication and reduction of the global aspects of “the internment” (to borrow Eiichiro Azuma’s description) to “a single issue of civil liberties,” “locked on to constitutional rights of the America-born Japanese.”<sup>123</sup> Specifically, several explore aspects of the “lesser known” WWII Department of Justice (DOJ) camps that incarcerated enemy aliens, including the Japanese from Latin America.<sup>124</sup> Still, the handful of works which have focused more in-depth on the JLA WWII rendition program have been written primarily by historians of war and international studies, deploying historical as well as area studies frameworks.<sup>125</sup>

What has been left intact and unquestioned across *these* conversations is, on the one hand, the complex politics of historical knowledge concerning the management of memories of U.S. racialized state violence and, on the other, the important question of U.S. empire in the global present.<sup>126</sup> This dissertation attempts to address these serious gaps in scholarship as part of the project of a *critical redress study* delineated above. To do so, I build off certain critical works emerging from within the burgeoning field of *hemispheric* American studies as well as Asian American Studies, Ethnic Studies and American Studies more broadly that move away from nationalist as well as area studies paradigms to consider “[U.S.-]America’s embeddedness within transnational and hemispheric cultures and histories.”<sup>127</sup> Moreover, I borrow from other recent work from

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<sup>122</sup> See, e.g., Daniels 1986/1991/2001 and Hata 1995/2005/2011.

<sup>123</sup> Azuma 2005, “From Civil Rights to Human Rights,” 109.

<sup>124</sup> See Mak 2009; Kashima 2003; Robinson 2009; Wegars 2010.

<sup>125</sup> See Barnhart 1962, Gardiner 1981, Connell 2002, Masterson and Funada-Classen 2004, Corbett 1987, Elleman 2006.

<sup>126</sup> Ibid.

<sup>127</sup> Espiritu 2014, 16. While I do not consider this essay in the area of “hemispheric studies” per se, I draw

within those fields that effectively reveal how U.S. colonial and imperial histories lay the groundwork for ongoing forms of militarization both locally and globally.<sup>128</sup>

To date, most theorizations of U.S. empire vis-à-vis the global formations of “Latin America” and of the “Asia Pacific” largely remain separated according to the two geographic areas. As will be shown in the chapters to follow, my project, via a critical examination of the case of Japanese Latin American WWII rendition and redress, stands to reveal the very connectedness between the two—not only by linking two global geohistorical regions per se but by mapping the shifts and continuities of a U.S. global militarized empire in ascendance from the inception of the Monroe Doctrine vis-à-vis Latin America to the U.S. occupation of Japan in the post-WWII period. To be sure, a number of recent studies have proliferated in the areas of “hemispheric Asian American studies” and “Japanese/Asian diaspora studies” which certainly connect the two areas. Still, I contend, most rely on a traditional “im/migration” approach premised on push/pull (voluntary) flows, networks, “dispersals” and community formations across already formed nations and regions of the globe, paying little attention to the workings of U.S.-American empire and imperial power in relation to such ‘phenomena.’<sup>129</sup>

I argue that, at this moment of reinvigorated U.S. imperialism, the time is ripe for a critical examination of the case of the JLAs—one which situates their abduction, forced displacement, incarceration and second deportation (from the U.S. to Japan) during WWII as well as the politics of their redress in relation to U.S. national and imperial

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from the frameworks put forth by scholars to forge a hemispheric approach to the study of the Americas—one that conceptualizes “the north and south as profoundly intertwined” (Taylor 2003, 277). See also, e.g., Shukla and Tinsman 2007.

<sup>128</sup> See, e.g., Grandin 2006; Shigematsu and Camacho, eds. 2010.

<sup>129</sup> See, e.g., Adachi, ed. 2006; L. Hirabayashi, Kikumura-Yano, and J. Hirabayashi, eds. 2002; Hu-DeHart 2007; Lee 2012.

formations and within the context of *ongoing* U.S. globalized militarization. In Chapter one, I offer a tracing of the transpacific U.S.-American empire extending from Latin America to Japan via a Japanese Latin American critique: an analytic which follows the ghosts of the Japanese Latin American (JLA) former deportees—the illegible and unredressable victim-subjects of U.S. World War II *globalized* military violence. Here, I offer an alternative genealogy to the narrative of “the internment” which I show to be part and parcel of the long *duree* of U.S. imperialism and empire in both Latin America and later Asia. I will argue that a close, critical examination of the WWII program reveals precisely *how* U.S. militarized empire *works*—*how*, in a period of supposed “non-intervention,” the U.S. military in collusion with the governments of thirteen Latin American countries successfully executed the forced relocation to the U.S. of 2,264 Latin Americans of Japanese descent as well as 4,058 and 287 Latin Americans of German and Italian descent, respectively, during WWII. To be sure, my intention here is not to provide a definitive or comprehensive history of U.S./Latin American relations or of the JLA WWII Enemy Alien deportation/internment program itself. Rather, it is to engage in a deliberate *re-reading* of the operation’s global historical context to better explain and conceptualize *how* the operation was possible.

In her aforementioned article focused on the legality of U.S. governmental redress for the JLA deportees, critical legal studies scholar Natsu Taylor Saito offers a compelling critique of the *Mochizuki v USA* settlement by the U.S. government in 1998 (which offered the JLAs \$5,000 and generic apology). Here, she cites the government’s failure to acknowledge that it “violated any domestic or international law” and suggests that the settlement’s “central message may be that the U.S. government can disregard

international law and violate human rights with impunity.”<sup>130</sup> Moreover, she discusses how the “terms” of the settlement “imply that the harm inflicted on Japanese Latin Americans, because they were non-resident aliens, was less significant than that inflicted upon Japanese Americans.”<sup>131</sup> In a later book publication (2007), Saito situates the JLA case within the long duree of U.S. exercise of plenary power from the 1880s to the present war on terror and argues that what is at stake is not only “individual rights” but “the very foundations of our national security—democracy and the rule of law.”<sup>132</sup>

This project takes this work as a point of departure and widens and deepens the stakes to offer not necessarily an indictment of the U.S.’s *abuse* of plenary power and its *violation* of the rule of law but rather a wholesale critique of the *myth of modern law* itself and its deeply held ethicality of violence and redemption that grants ‘rights’ and ‘justice’ to some but not others. Moreover, as a *critical redress study* (as outlined above), it is interested in the possibilities of alternative forms of ‘justice’ that do not at once rely upon and disavow liberalism’s particular racialized/gendered/sexualized “regime of il/legibility of violence.”<sup>133</sup> Only an interdisciplinary approach allows me to perform such a task, to ask critical questions concerning the politics of historical knowledge production in relation to nation- and empire-building, the impossibility of human rights as global justice and the possibility of (to borrow from Lisa Cacho) an “unthinkable politics” emergent from within the very acts of resistance produced by the “others” of justice rendered rightless, unworthy, illegible.<sup>134</sup> In the next section, I discuss my methodology

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<sup>130</sup> Saito 1998, 278.

<sup>131</sup> Saito 1998, 279.

<sup>132</sup> Saito 2007.

<sup>133</sup> Yoneyama 2010.

<sup>134</sup> Cacho 2012.

and methods toward a rigorously interdisciplinary study of JLA redress—one that brings together critical race and cultural studies (specifically critiques of modern liberal humanism) to critically examine this subject matter traditionally covered by the oft-distinct fields of Japanese American studies, legal studies/political theory and war/international studies.

### **History, Memory and the Politics of Redress**

In a sense, *Justice and Its Others* begins with the (un)settling of memories of the CLA as ‘justice done’ in the present global historical moment and works its way backwards. Its point of entry is precisely these ‘others’ of justice and their ongoing (failed) efforts toward governmental redress. As mentioned, this project was largely inaugurated via my internship with the community-based, JLA redress organization, *Campaign for Justice: Redress Now for Japanese Latin Americans!* (CFJ). During this time, activists were actively engaged in a campaign to build congressional support for a commission study bill, for which a hearing was held at the House subcommittee level in March 2009. Such research would provide the basis for the last chapter (chapter 6) of my dissertation. From there, came chapter 4 (on the aftermath of the CLA and the *Mochizuki vs. USA* lawsuit and settlement) and chapter 5 (on the continuing JLA redress efforts particularly in the context of “post-9/11”). Chapter 2 followed to discuss the concurrent production of “the internment,” on the one hand, and the disavowal of the JLA WWII rendition program, on the other, leading up to production and passage of the CLA. Chapter 1, on traces of the transpacific U.S.-American empire, was written last.

To effectively map such a politics of redress and re-membering as it has emerged over the last forty plus years along the discursive terrain of post-colonial, cold war, post-cold war, and post-post cold war realities, this project utilizes both Michel Foucault's genealogical method and his formulation of discourse and historicity, Jacques Derrida's account of signification and notion of the trace, as well as Walter Benjamin's (among others') rethinking of the project of "History." Taken together, these tools enable me to explore the instability of and tensions within such emergences wherein meanings and historical knowledge are constantly being negotiated, renegotiated and differentially reproduced by historical actors located within multiple fields of power across space and time.

As Lisa Yoneyama reminds us, "The conventional discourse of justice within liberal societies' political and juridical channels *has always* relied on a regime of il/legibility of violence."<sup>135</sup> I posit that a critical examination of the CLA, as itself a regime of il/legibility, un/redressability, has much to reveal concerning *how* the U.S. nation-state has managed memories of racialized state violence through its juridical forms of so-called 'justice' since the end of the cold war. We must ask the important questions (in the words of Yoneyama): "Which and whose sufferings are known to us and for whose and which suffering is human rights justice exercised? Which acts of violence are regarded as unjust and deserving of redress while others are rendered invisible?"<sup>136</sup>

To begin, Foucault's Nietzschean-inspired methodology for writing a "history of the present" and asserting "the historical constitution of our most prized certainties about

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<sup>135</sup> Yoneyama 2010, 664 (my emphasis).

<sup>136</sup> Yoneyama 2010, 664.



ourselves and the world in its attempt to de-naturalize explanations for the existence of phenomena” offers a set of valuable analytics for developing a critical interrogation of Japanese Latin/American redress as not merely an object of study per se but as an ontoepistemological paradigm.<sup>137</sup> Here, Foucault, in delineating the relationship between genealogy and “history in the traditional sense,” argues for a rethinking of “the historical sense” as that which at once refuses certain absolutes; introduces discontinuity into our very being; confirms our existence among countless lost events, without landmark of point of reference; and affirms knowledge as perspective.<sup>138</sup> Such an “effective history” precisely rejects the “demagogy” of History (big “H”)—its cloak of universals, objectivity, faceless anonymity; its quest for origins and essential truth; its “metahistorical deployment of ideal significations and indefinite teleologies.”<sup>139</sup> Foucault thus describes genealogy, on the other hand, as that which “must record the singularity of events outside of any monotonous finality; it must seek them in the most unpromising places, in what we tend to feel is without history—in sentiments, love, conscience, instincts; it must be sensitive to their recurrence, not in order to trace the gradual curve of their evolution, but to isolate the different scenes where they are engaged in different roles. Finally, genealogy must define even those instances where they are absent, the moment when they remained unrealized.”<sup>140</sup>

For my project, I propose such a genealogy of the *idea* of “Japanese Latin/American redress”—a tracing of the historical processes of (what Foucault terms) *descent* and *emergence* by which “redress” comes into being, is produced and

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<sup>137</sup> Olssen 1999, 14.

<sup>138</sup> Foucault 1977, 153-56.

<sup>139</sup> Foucault 1977, 140, 157-60.

<sup>140</sup> Foucault 1977, 139-40.

subsequently reproduced across the global historical terrain of post-WWII realities. Thus, my goal here is not to write a History of the JLA WWII rendition program and subsequent redress efforts per se—that is, to uncover such a ‘hidden’ history or buried past that has not been well-covered in scholarship and for the purposes of “adding” to the official historical record. Rather, this project, fundamentally an investigation of the *processes* of historical knowledge and memory *production*, should be thought of as focusing just as much on the *how* as on the *what* of the Japanese American redress *paradigm*. In particular, in my analysis, I am attentive to how *national* acts of remembering necessarily entail a certain forgetting – strategic *amnesiac* processes of subjugation and marginalization of memories, especially those that do not fit within the state-sanctioned linear narrative of progress. Yoneyama reminds us: “The process of remembering, therefore, necessarily entails the forgetting of forgetfulness.... The ongoing reformulation of knowledge about the nation’s recent past is a process of amnes(t)ic remembering whereby the past is tamed through the reinscription of memories.”<sup>141</sup> Along a similar line, in his study of Japan’s national memorialization of the bombing of Hiroshima, Michael S. Roth articulates: “to make the past into a narrative is to confront the past with the forces of forgetting. If something is unforgettable, this is, paradoxically, because it cannot be remembered or recounted.”<sup>142</sup> In short, Roth and Yoneyama thus caution us to remain vigilantly aware that official acts of remembering may in fact be attempts to achieve precisely the inverse: as in the case of redress for Japanese American internment, how naming and remembering “the internment” as heroic

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<sup>141</sup> Yoneyama 1999, 32.

<sup>142</sup> Edkins 2003, 113. Edkins quotes Michael S. Roth. 1995. “*Hiroshima Mon Amour*: You Must Remember This.” In *Revisioning History: Film and the Construction of a New Past*, edited by Robert A. Rothenstone. Princeton: Princeton University Press, 91-101, 98.

narratives of self-sacrifice on behalf of the Nisei soldier and as an “event” eventually redressed and “made right,” may necessarily (and purposefully) require forgetting certain ‘others’ and the intricate state-sanctioned, state-perpetrated *relational* structures of violence and trauma that continue to infuse the present.

Returning to Foucault’s genealogical method, his naming of “a culture’s plastic power that enables it actively to forget for the enhancement of life” and his formulations of “subjugated knowledges” and “counter-memory,” I contend, also offer effective tools for a critical redress study.<sup>143</sup> Again, recall Foucault’s description of genealogy as that which “must seek them [events] in the most unpromising places,” “must define even those instances where they are absent, the moment when they remained unrealized.”<sup>144</sup> Thus, in developing his methodology, Foucault variously conceives of the task of the genealogist as “to afflict the comfortable by dredging up what has been forgotten, whether actively or passively.” In other words, she is to “counteract[t] the prevailing social amnesia” via “an insurrection of subjugated knowledges” – the means by which “local critique” may proceed.<sup>145</sup> By “subjugated knowledges,” Foucault specifically means two things: “the buried knowledges of erudition and those disqualified from the hierarchy of knowledges and sciences.”<sup>146</sup> In terms of the latter meaning, Foucault further describes it as “a whole set of knowledges that have been disqualified as inadequate to their task or insufficiently elaborated; naive knowledges, located low down on the hierarchy, beneath the required level of cognition or scientificity.”<sup>147</sup> Critique thus

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<sup>143</sup> Mahon 1992, 120.

<sup>144</sup> Foucault 1977, 139-40.

<sup>145</sup> Mahon 1992, 120.

<sup>146</sup> Mahon 1992, 120.

<sup>147</sup> Mahon 1992, 121.

functions precisely by means of the insurrection of such *regional, subjugated knowledges* – knowledges which, according to Foucault, vitally “maintain the memory of historical struggles; their insurrection resurrects the memory of hostile encounters.”<sup>148</sup>

For my project of constructing a genealogy of Japanese Latin/American redress, I am interested in what such “insurrections” of regional, disqualified knowledges of “redress” reveal as to its politics and poetics as both a strategy for and signifier of global justice. That is, my stakes lie in the possibility of critique made viable *only* through (in the words of Foucault) the “dredging up” of what has been (made) forgotten, the “counteracting” of “social amnesia.” It is here that Derrida’s formulation of writing and the trace is also useful to my project for I am interested not in locating the ‘origin’ of what redress has come to signify, but rather in the *play* of significations and what Yoneyama also describes as the “deferred effect.”<sup>149</sup> In her work, Yoneyama asserts that the testimonial practices of the survivors of Hiroshima’s atomic bombing by the U.S. “do not simply fill the gaps in the official history or satisfy others’ desire to know. Instead, they refer to what is everywhere and always present: the haunting absence of knowledge, the inevitability of memory’s deficiency.”<sup>150</sup> Here, again, it is the critique of the search for pure origins and ultimate Truth and the understanding that it is the identification with the (pure) trace that must be eternally deferred, that enables Yoneyama to critically

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<sup>148</sup> Mahon 1992, 121.

<sup>149</sup> Here, I work from Derrida’s formulations of the trace, difference and différance to critique Western traditional notions of writing, part of “the great epoch of metaphysics” – its foundational conceptualization of the absolute, irreducible difference between the (transcendental) signified and signifier (See Derrida (1998), especially pages 60-73). Derrida’s account of signification significantly proposes that representation always “mingles with what it represents,” that “the substance of *meaning*...be placed in parenthesis,” and that “[t]here is no longer a simple origin” (36, 57). He thus reformulates the signified within a framework of the “*instituted trace*” as a “starting point” that is always already in position of the signifier (47-8).

<sup>150</sup> Yoneyama 1999, 121.

interrogate, not the hidden experiences nor authentic knowledges behind the event, but rather its “play” of meanings (in a Derridean sense), the construction and “quality” of different knowledges of the event across time and space. In short, it is “out of a concern for justice,” in the *ceaseless* following of the traces, understood precisely as *non*-origins, always already themselves signifiers and effects of exteriority, that may not only (partially) reveal the violence of signification but also signal other possible presents and futures.

Thus, given my attempt to map such traces, one might also conceptualize my work as, in the words of Avery Gordon, an investigation of “ghostly matters.” Gordon’s formulation of the ghost as a sign, a “seething presence,” a social figure “pregnant with unfulfilled possibility, with a something to be done that the wavering present is demanding” presents yet another valuable critical analytic tool for constructing my genealogy of Japanese American redress.<sup>151</sup> Here, what I take from Gordon, among much else, is her conceptualization that “[t]o write stories concerning exclusions and invisibilities is to write ghost stories.” Moreover: “To write ghost stories implies that ghosts are real, that is to say, that they produce material effects.”<sup>152</sup> Accordingly, I posit my tracing of Japanese American redress as not only a genealogy of meanings per se but perhaps, more aptly, a following of ghosts, a mapping and interrogation of hauntings in the pursuit of the unrealized possibilities they signal from the dark corners of the global present.

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<sup>151</sup> Gordon 2004.

<sup>152</sup> Gordon 2004, 17.

Finally, I also frame my project (as a history of the wavering present) in relation to Walter Benjamin's materialist historiography. As Gordon so eloquently puts it:

Fighting for the past appears to be a paradoxical gesture, but is Benjamin's way of figuring the historical materialist's relationship to what seems dead, but is nonetheless alive, operating in the present, even if obliquely, even if barely visible. Upon recognition, the oppressed past or ghostly will shock us into recognizing its animating force. Indeed, to fight for an oppressed past is to make this past come alive as the lever for the work of the present: obliterating the sources and conditions that link the violence of what seems finished with the present, ending this history and setting in place a different future.<sup>153</sup>

Indeed, Benjamin's critique of universalist historiography and his radicalization of linear time have much to offer in terms of opening up the possibilities, stakes and responsibilities of a critical (materialist) historiography. He describes:

Materialist historiography... is based on a constructive principle. Thinking involves not only the flow of thoughts, but their arrest as well. Where thinking suddenly stops in a configuration pregnant with tensions, it gives that configuration a shock, but which it crystallizes into a monad. A historical materialist approaches a historical subject only where he encounters it as a monad. In this structure he recognizes... a revolutionary chance in the fight for the oppressed past. He takes cognizance of it in order to blast a specific era out of the homogenous course of history – blasting a specific life out of the era or a specific work out of the lifework.<sup>154</sup>

Thus, the work of a historical materialist seeks to reclaim, not only the *unstable* annexations, but also the numerous “counterpoints” of history, the revolutionary “now-time” (*Jetztzeit*) that can *only* be articulated “by seiz[ing] hold of a memory that flashes up at a moment of danger”—a danger which arises “as knowledge about the past is constantly assimilated into a teleological narrative that assumes historical progress.”<sup>155</sup>

That is, her project is an attempt to “brush history against the grain”—to “blas[t] a

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<sup>153</sup> Gordon 2004, 66.

<sup>154</sup> Benjamin 1969, 262-63.

<sup>155</sup> Benjamin 1969, 255.

specific life out of the era or a specific work out of the lifework,”<sup>156</sup> to reclaim “missed opportunities,” “unfulfilled promises,” and “unrealized events” from “a history that is made to appear as if it unfolds through time naturally and automatically.”<sup>157</sup>

Returning to my project, at the heart of my genealogy of Japanese Latin/American redress is precisely this notion of “blasting open” the “barbaric” continuum of rational time and linear history, of the revolutionary future possibilities of the past. I take to heart Benjamin’s assertion that “[t]he tradition of the oppressed teaches us that the ‘state of emergency’ in which we live is not the exception but the rule.” He urges, “We must attain to a conception of history that is in keeping with this insight.”<sup>158</sup> Indeed, what Foucault himself suggests and Benjamin makes explicit are the *urgent* present and future stakes of a *critical* interpretation of the past that retains the complexities of histories, the messiness of events and categories, and the contingencies of pasts, presents and future.<sup>159</sup> In sum, by attending to both the annexations and counterpoints, the visible and invisible, the remembering and forgetting, the official national narrative and legislation and the cracks and “ghostly matters” lurking within them, my project aims to reveal not only their mutually constituted nature but also the very contingent and fragile processes out of which historical knowledge is both naturalized and yet ripe with possibility.

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<sup>156</sup> Benjamin 1969, 257, 263.

<sup>157</sup> Yoneyama 1999, 29.

<sup>158</sup> Benjamin 1969, 257.

<sup>159</sup> Mahon 1992. Mahon describes and quotes Foucault’s genealogical method as indeed future-oriented, as ‘retrospective disciplines’ that find ‘their point of departure in our actuality’” (121). He writes: “Genealogy is a critique as a historical investigation into the events that have led us to constitute ourselves and to recognize ourselves as subjects of what we are doing, thinking, saying. Moreover, critique is genealogical; that is, genealogy is history oriented toward the future. Genealogy separates out, from the contingency that has made us what we are, the possibility of no longer being, doing, or thinking what we are, do, or think” (122).

I take, as my data, a range of texts, including congressional hearings and bills, mainstream and community-based media publications, ethnographic fieldwork data and approximately eighteen in-depth interviews with activists and JLA former deportees. During spring and summer 2009, I worked as an intern with *Campaign for Justice: Redress Now for Japanese Latin Americans* (CFJ), the community-based organization headquartered in the San Francisco Bay Area that has spearheaded efforts to secure redress from the U.S. government for the “human rights violations” experienced by the JLAs. With the support of several fellowships and grants, I was able to interact intensively with the heads of the organization as a participant observer. In this role, I took part in numerous community events, strategic planning sessions, and a delegation to Washington, D.C. to support a House subcommittee hearing on a JLA commission bill, among other activities. It was through this experience, that I conducted critical ethnographic fieldwork and extensive interviews with key activists and supporters as well as collected crucial research data, including campaign materials and organizing activity records proprietary to the organization.

As mentioned, to date, there has been no substantive scholarly research on the JLA redress efforts. Hence, much of even my “background” knowledge has been based on primary sources. In addition to the data collected through CFJ, I also examined numerous archival collections containing materials on Japanese American redress and to a much lesser extent on Japanese Latin American redress located at both university libraries and community-based research organizations; these include: Bancroft Library at UC Berkeley, Young Research Library at UC Los Angeles, Hirasaki National Resource Center at the Japanese American National Museum in Los Angeles, Japanese American



National Library in San Francisco, University Library at CSU Dominguez Hills and Densho, a community-based online digital archives resource.

In sum, in my analysis of the data, I pay close attention to the intertextuality among the different texts. Because I am most interested in the complex processes through which historical knowledge, memory and redressive forms of justice are produced, my aim is not to simply recount or unearth a buried history of the struggle for Japanese Latin American redress, but rather weave together a multifaceted critique of “redress” itself as paradigmatic logic and fundamental condition of the global present. Moreover, as I will discuss in the following chapters, I find that while the case of JLA redress certainly illuminates the very violence of redressive juridical justice—its racialized distributive feature, its delimiting periodization— it also points to the crucial productivity of that violence, located in the resistance and ongoing political struggles it engenders.

## **Overview**

This dissertation is divided into two parts. **Part I** (three chapters): I offer a critical re-reading of the knowledge formations “the internment” and its “redress” against the grain of U.S. empire. **Chapter 1**: I introduce my analytic of a “Japanese Latin American critique”: one which follows the ghosts of the Japanese Latin American (JLA) former deportees—the illegible and unredressable victim-subjects of U.S. World War II *globalized* military violence. Here, I show how the imperial legacy of U.S. militarized presence in the region of Latin America (particularly Peru) in the name of “hemispheric defense” during WWII laid the groundwork for the production of JLAs as deportable “enemy aliens” and dispensable hostages for exchange with Japan. In short, I propose an

alternative genealogy to “the internment”—a tracing of the transpacific U.S.-American empire from the Monroe Doctrine to the WWII JLA deportation program to the occupation of Japan post-WWII.

In **Chapter 2**, I continue to follow the ghosts of these JLA former deportees to examine their traces as they appear (and/or seem to disappear) at key junctures in the early formations of “the internment” and its “redress” (including the first congressional Japanese American redress bill and the commission study hearings and report). I ask: How were they *made* to be absent and how could History and history have gone another way? How can we, in the words of Lisa Lowe, “imagine a much more complicated set of stories about the emergence of the now”?<sup>160</sup> Ultimately, I argue that the disavowal of memories of the WWII JLA rendition program by the U.S. nation-state (which I read as the disavowal of U.S. global reach in Latin America *gone awry*) sets the stage for “the internment” to emerge as a redressable national tragedy—a neatly packaged *civil* rights violation resolvable by U.S. institutions and norms.

**Chapter 3:** Through an analysis of the congressional debates on the CLA, I argue that “Japanese American redress” emerges at the end of the cold war as a fundamental condition of U.S. empire. That is, as a crucial component in the restoration of the “Good War” narrative of WWII and the reproduction of the U.S. as a mighty and moral superpower, the CLA works to not only resolve ‘the internment’ in the national imaginary but to provide a mandate for the U.S. to intervene across the globe in the name of ‘human rights’ as the world’s leading adjudicator of ‘justice.’ Taken together, the tandem chapters 2 and 3 show how the marginalization and (attempted) erasure of

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<sup>160</sup> Lowe 2006, 208.

memories of the WWII rendition of the JLAs should be read precisely *as a disavowal of empire*—a move both crucial and necessary to the re-production of U.S.-American exceptionalism and the global militarized regime that it supports.

**Part II** (3 chapters): I trace articulations marking the various efforts towards governmental redress for the JLAs as they have emerged over the last nearly three decades since the passage of the CLA. What is revealed is not only the political limits of “redress” as a paradigm for racial/social justice but perhaps more importantly a more radical politics of justice, located not in the law itself but in its very ruptures and deconstruction. That is, I find that JLA redress activists and supporters, in their persistent critiques of the CLA *as* justice done and of *ongoing* U.S. militarized violence, point to the very productivity of the failures of juridical justice, a re-imagining of politics proper. **Chapter 4** examines the emergence of the JLAs as unredressable political subjects under the CLA due to their “illegal alien” status “at the time of their internment.” Even after the *Mochizuki vs. USA* class action lawsuit and settlement, I argue, they remain an uncontainable “global excess” of the civil rights legislation.

**Chapter 5** analyzes the continuing JLA redress efforts, particularly in the context of “post-9/11” in which activists strategically use the present to re-activate and transform the past and visa-versa.

The first part of **Chapter 6** focuses on the most recent legislative efforts toward JLA redress, including a congressional hearing that took place on a commission study bill in 2009. It then turns toward the politics of historical memory in the setting of community-based commemorations marking the twentieth anniversary of the CLA.

**Chapter 1:  
Traces of the Transpacific U.S.-American Empire:  
A Japanese Latin American Critique**

In the early 1930s, Franklin D. Roosevelt promised that henceforth the United States would be a ‘good neighbor,’ that it would recognize the absolute sovereignty of individual nations, renounce its right to engage in unilateral interventions, and make concessions to economic nationalists. Rather than weaken U.S. influence in the Western Hemisphere, the newfound moderation in fact institutionalized Washington’s authority, drawing Latin American republics tighter into its political, economic, and cultural orbit through a series of multilateral treaties and regional organizations. The Good Neighbor policy was the model for the European and Asian alliance system, providing a blueprint for America’s ‘empire by invitation,’ as one historian famously described Washington’s rise to unprecedented heights of world power.”

Greg Grandin, *Empire’s Workshop*<sup>1</sup>

“Here in the Western Hemisphere, we have already achieved in substantial measure *what the world as a whole must achieve*. Through what we call our Inter-American System, which has become steadily stronger for half a century, we have learned to work together to solve our problems by friendly cooperation and mutual respect.”

Harry S. Truman, 1947<sup>2</sup>

In 1976, Michi Weglyn published her variously described “seminal,” “pathbreaking,” and now “classic” work *Years of Infamy: The Untold Story of America’s Concentration Camps*. In it, Weglyn outlines what she terms a “hemispheric operation” led by the U.S. in cooperation with fourteen Central and South American states to remove and detain over two thousand deportees of Japanese ancestry for purposes of a prisoner barter exchange with Japan.<sup>3</sup> She writes, “The removals in the United States *were only a part* of forced uprootings which occurred almost simultaneously in Alaska, Canada, Mexico, Central America, parts of South America, and the Caribbean island of Haiti and the Dominican Republic.”<sup>4</sup>

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<sup>1</sup> Grandin 2006, 50.

<sup>2</sup> Grandin 2006, 30. Truman’s statement during state visit to Mexico in 1947, emphasis added.

<sup>3</sup> Weglyn 1996, 59 (my emphasis).

<sup>4</sup> Weglyn 1996, 56.

Such an account of the U.S. militarized violence perpetrated against the Japanese throughout the Western Hemisphere during WWII paints quite a different picture than that of “the internment” which we have come to know in the national imaginary. Predominant renderings tend to focus primarily on the outcome of Executive Order 9066 and the rounding up and incarceration of approximately 120,000 Japanese living on the West Coast of the U.S. of whom two-thirds were US-American citizens, my own parents among them. “The internment”—as it has come to be known—has thus been framed as a civil and constitutional rights violation and, moreover, one which was resolved with the act of ‘redress’—the Civil Liberties Act of 1988 (CLA) which granted an apology and a reparations payment of \$20,000 to each surviving Japanese American citizen and Japanese resident alien incarcerated during WWII. It was at this moment, with the passage of the CLA at the end of the cold war, that “the internment” achieved its place in state-sanctioned History as “one of the worst violations of *constitutional* and *civil* rights” perpetrated against a (rehabilitated model) minority of U.S.-American citizens and residents.

This chapter and the two that follow offer a critical re-reading of such representations via a “Japanese Latin American critique”: an analytic which follows the ghosts of the Japanese Latin American (JLA) former deportees—the illegible and unredressable victim-subjects of U.S. World War II *globalized* military violence. Here, I offer an alternative genealogy to “the internment” which I show to be part and parcel of the long duree of U.S. imperialism and empire in both Latin America and later Asia. During WWII, in the name of “hemispheric defense” and under the U.S. government’s Enemy Alien Program, 2,264 Japanese residing in Latin America were in effect

kidnapped upon U.S. order by the governments of thirteen Latin American countries and deported and interned in Department of Justice camps throughout the U.S. From there, over 800 JLAs were included with Japanese U.S.-American nationals in two prisoner of war exchanges with Japan. After the end of the war, more than 900 of those remaining JLA deportees were again forcibly deported to war torn Japan under the auspices of their “enemy alien” status. Approximately 350 JLAs successfully fought deportation orders and remained in the U.S. as paroles of the state.

For the most part, historians of the subject matter (mostly in the fields of war and international studies) have deployed a similar framework as that used by scholars of “the internment.” Here, they posit the WWII Latin American deportation program as an historical *mistake*—“clearly a violation of human rights” that “was not justified by a plausible threat to the security of the Western Hemisphere”<sup>5</sup> but rather was driven by a combination of historical racism on behalf of U.S.-American diplomats and anti-foreign prejudice and economic competition on behalf of the Latin American countries which wanted to rid themselves of the Japanese element. Moreover, taking place during the “heyday” of President Roosevelt’s Good Neighbor Policy—the program is observed as an aberration of such a policy, a violation of the promise “to not interfere in the internal affairs of Latin American countries.”<sup>6</sup>

In this chapter, I argue, on the contrary, that a close, critical examination of the WWII program reveals precisely *how* U.S. militarized empire *works*—*how*, in a period of supposed “non-intervention,” the U.S. military in collusion with the governments of

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<sup>5</sup> Gardiner 1981, 175, quoting Emmerson 1978, 148.

<sup>6</sup> Friedman 2003, 15.

thirteen Latin American countries successfully executed the forced relocation to the U.S. of 2,264 Latin Americans of Japanese descent as well as 4,058 and 287 Latin Americans of German and Italian descent, respectively, during WWII. To be sure, my intention here is not to provide a definitive or comprehensive history of U.S./Latin American relations or of the JLA WWII Enemy Alien deportation/internment program itself. Rather, it is to engage in a deliberate *re*-reading of the operation's global historical context to better explain and conceptualize *how* the operation was possible.

This chapter makes two related arguments: The first about U.S. (neo)colonial militarized presence and empire in Latin America, which contends that it was precisely the region's (neo)colonial relationship with the United States under the Good Neighbor Policy that fostered the "hemispheric unity" and "friendly cooperation" needed to successfully enact and carry out the WWII JLA deportation program; the second about the contours and connections between U.S. empire in Latin America and U.S. empire in Asia—specifically Japan. Here, I show that the route taken by the Japanese forcibly deported from countries in Latin America through Panama to DOJ camps in the U.S. and then to war torn Japan during and after the war follows what Yen Le Espiritu also describes as the "dictates of an 'militarized organizing logic.'" <sup>7</sup> That is, what is revealed is an organized constellation of U.S. militarized reach throughout the Americas and expanding into Asia in the postwar period. I conceptualize the JLA deportees as an excess—a global excess that cannot be subsumed into the U.S. nation's attempt to resolve the contradiction of the internment via transforming it into an assimilationist program. Instead, forcibly relocated to war torn Japan, these deportees grapple with another form

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<sup>7</sup> Espiritu 2014, 26.

of U.S. “anxious liberal paternalism”<sup>8</sup>—the U.S. occupation of Japan. As I will discuss, their route thus reveals the broad continuities of the logics of U.S. empire across space and time, specifically the transpacific via the legacy of the Good Neighbor Policy as the core of American soft power in Japan in the new post-war moment.

Indeed, at the heart of this project is the question of empire – a question which has rarely, if ever, entered the scholarly and legal debates about Japanese Latin American redress, the “enemy alien”/“illegal alien” status of JLAs, the eligibility requirements of the CLA, the extent of U.S. legal jurisdiction, the viability of international law and the thorny question of Peru’s and the twelve other Latin American countries’ own participation and complicity in the JLA deportation program. In short, at this moment of reinvigorated U.S. imperialism and the perpetual “war on terror,” the time is ripe for a critical re-examination of this case—one that interrogates the politics of Japanese Latin American redress and re-memorializing and the formation of “Japanese American internment” in relation to U.S. national and imperial formations and within a context of ongoing U.S. globalized militarization.

### **Where is Latin America?**

As with “the internment” of Japanese U.S.-American citizens and resident aliens by the U.S. government, the main reasoning articulated at the time and into the present moment for the program to deport Japanese from Latin America under the Enemy Alien Program was “national security”—in this case “national security” as “*hemispheric* security,” security of the entire Western Hemisphere. In this section, I trace this idea of

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<sup>8</sup> Simpson 2001.



U.S. *national* security “from the North Pole to the South Pole”<sup>9</sup> back to the early formation of the U.S. nation state—illuminating both its imperial roots and its formative role in the laying the ideological foundation for U.S. militarization of Latin America during WWII under the Good Neighbor Policy.

***“The United States’ Sphere of Interest”***

Historian Greg Grandin has asserted that, “. . .the region [of Latin America] has long served as a workshop of empire, the place where the United States elaborated tactics of extraterritorial administration and acquired its conception of itself as an empire like no other before it.” He goes on to elaborate, “The Western Hemisphere was to be the staging ground for a new ‘empire for liberty,’ a phrase used by Thomas Jefferson especially in reference to Spanish Florida and Cuba. Unlike European empires, ours was supposed to entail a concert of equal, sovereign democratic American republics, with shared interests and values, led but not dominated by the United States—a conception of empire that remains Washington’s guiding vision.”<sup>10</sup>

Indeed, since its inception and more formally under the banner of the Monroe Doctrine of 1823, the U.S. laid claim to the region of Latin America as its exceptional protectorate, with President James Monroe warning that “any attempt on the part of Europeans to extend their political system to ‘this hemisphere’ [would be considered] a danger to ‘our peace and safety.’” Moreover, the Americas were not to be considered ‘subjects of future colonization by any European powers’<sup>11</sup> and rather were obligated to

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<sup>9</sup> Mak 2009, 36.

<sup>10</sup> Grandin 2006, 2.

<sup>11</sup> Mak 2009, 31.

respect “the Western Hemisphere” as “the United States' sphere of interest.” Accordingly, in the years to follow, the U.S. would invoke the Monroe Doctrine on innumerable occasions under the guise of protecting the Western hemispheric nations from foreign military intervention and European colonialism. Hence, the U.S., from its formation, was always ‘in’ Latin America. By the mid-nineteenth century, it had incorporated nearly half of Mexico into its territory. From 1869 to 1897, it had sent warships into the region’s ports approximately 5,980 times “to protect American commercial interests and, increasingly, to flex its muscles to Europe.”<sup>12</sup> In 1898, as a result of the Spanish-American War, the U.S. took Puerto Rico and the Philippines as colonies and Cuba as a protectorate and established a series of coaling stations and naval bases throughout the Caribbean.<sup>13</sup> Throughout the 1800s and especially after the corporate mergers of the 1890s, many of the U.S.’s largest corporations had their initial growth in the region as billions were invested first in mining, railroads, and sugar, then in electricity, oil and agriculture.<sup>14</sup> In 1903, the U.S., under the leadership of President Theodore Roosevelt, initiated a revolt “to shave the province of Panama off Columbia”<sup>15</sup> and begin construction of the Panama Canal Zone as an U.S.-American owned and operated district. With construction completed in 1914, the zone not only became an important global transit route for the U.S. both commercially and militarily, but, as will be discussed further later in the chapter, worked to transform “national security” into “hemispheric and continental security.”<sup>16</sup>

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<sup>12</sup> Grandin 2006, 20.

<sup>13</sup> Grandin 2006.

<sup>14</sup> Grandin 2006, 16-17.

<sup>15</sup> Mak 2009, 31.

<sup>16</sup> Mak 2009, 32.

In 1904, under the auspices of the Monroe Doctrine, President Roosevelt, in response to threats by European creditors of several Latin American countries of armed intervention to collect debts, officially proclaimed the right of the U.S. to exercise “international police power” to curb such “chronic wrongdoing.” Over the next thirty years, U.S. troops invaded Caribbean countries at least thirty-four times, occupied Honduras, Mexico, Guatemala, and Costa Rica for short periods, and remained in Haiti, Cuba, Nicaragua, Panama, and the Dominican Republic for longer stays.<sup>17</sup> During the same time period, a shift began to take place as the U.S. developed what Grandin describes as “the rudiments of its exceptional, nonterritorial conception of empire, that the idea of national security, overseas development, and global democratic reform were indivisible goals began to seep into the sinews of American diplomacy.”<sup>18</sup> In sum, we see the increasing convergence of U.S. commercial interests with U.S. militarism in the region. Not coincidentally, during his term from 1910-1913, President William Howard Taft also officially enacted his “Dollar Diplomacy” U.S. foreign policy, particularly in Latin American and East Asia. There, he proclaimed to be ‘substituting dollars for bullets,’ which he asserted ‘appeals alike to idealistic humanitarian sentiments, to the dictates of sound policy and strategy, and to legitimate commercial aims.’<sup>19</sup> Still, despite these “diplomatic” efforts there continued to be “mounting Latin American anti-imperialist resistance, including armed resistance” toward U.S. military forces in the region. In short, it is within this context of increasing commercial interests and

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<sup>17</sup> Grandin 2006, 20.

<sup>18</sup> Grandin 2006, 27.

<sup>19</sup> Grandin 2006, 27.

heightened unrest that the so-called “Good Neighbor Policy” emerges, which is where I now turn.

### ***To Be a “Good Neighbor”***

Over 100 years after the inauguration of the Monroe Doctrine, the U.S. again reiterated “Pan-Americanism” but this time under an overtly (purportedly) anti-interventionist policy—the Good Neighbor Policy of 1933. On March 4, 1933, U.S. President Franklin Roosevelt famously stated during his inaugural address: “In the field of world policy I would dedicate this nation to the policy of the good neighbor—the neighbor who resolutely respects himself and, because he does so, respects the rights of others.”<sup>20</sup> This position was later reaffirmed in an address to the Pan-American Union also in 1933 in which Roosevelt proclaimed, “Your Americanism and mine must be a structure built of confidence, cemented by a sympathy which recognizes only equality and fraternity.”<sup>21</sup> At the same conference, his Secretary of State Cordell Hull also proclaimed, “No country has the right to intervene in the internal or external affairs of another.” In short, thus ushered in a new “Pan-Americanism” era of purportedly anti-interventionist policy—“the withdrawal of troops from the Caribbean, the renegotiation of treaties, and the increased tolerance of economic nationalism.”<sup>22</sup> Increasingly, the Good Neighbor Policy was upheld by U.S. diplomats as a ‘showpiece,’ as the U.S. ambassador to Germany put it, for diplomatic initiatives in Europe and Asia.”<sup>23</sup> At the San Diego Exposition in 1935, President Roosevelt stated, “I hope from the bottom of my

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<sup>20</sup> Mak 2009, 31.

<sup>21</sup> Grandin 2006, 28.

<sup>22</sup> Grandin 2006, 35.

<sup>23</sup> Grandin 2006.

heart, in every continent and in every clime, Nation will follow Nation in providing by deed as well as by word their adherence to the ideal of the Americas—I am a good neighbor.”<sup>24</sup>

Indeed, the Good Neighbor Policy was not only about U.S. foreign policy in Latin America per se but should be read, I argue, as a crucial moment in the formation of U.S.-American empire on the *world* stage. As will be discussed later in this chapter, the legacies of the policy can be traced long into the post-WWII period, Cold War and post-Cold War eras as continuing to define a U.S. empire in ascendance—its “flexible system of extraterritorial administration...all free from the burden of *formal* colonialism.”<sup>25</sup> Thus, in this sense, the ostensible *anti*-colonial stance of the policy and of Roosevelt himself, which “repudiated the stultifying effects of formal colonialism while celebrating the creative promise of equitable capitalist expansion,”<sup>26</sup> worked to not only cover over but foster the persistent *neocolonial* nature of the policy and relationships between the U.S. and countries of Latin America. In other words, the supposed example of “peaceful,” cooperative international relations under the Good Neighbor Policy, I argue, not coincidentally coincided with heightened U.S. militarism and military intervention in the name of hemispheric security.

### ***“To Secure the Western Hemisphere”***

It only took five years or so after the declaration by Roosevelt that the “definite policy of the United States from now on is one opposed to armed intervention” for the

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<sup>24</sup> Mak 2009, 31-32. Mak cites: Irwin F. Gellman, *Secret Affairs: Franklin Roosevelt, Cordell Hull, and Sumner Welles* (Baltimore: Johns Hopkins University Press, 1995), 92.

<sup>25</sup> Grandin 2006, 40 (my emphasis).

<sup>26</sup> Grandin 2006, 39.

U.S.-American military to once again up its presence—and again in the name of “hemispheric security.” Thus, I read this moment under the Good Neighbor Policy not as a marked shift in U.S. foreign policy toward Latin American (as many scholars have done) but rather as a momentary consolidation of sorts of “Pan-Americanism” and “hemispheric unity” which resulted in not a deterred but increased U.S. militarized presence in the region.

Six weeks after the signing of the Munich Agreement in September of 1938, in which Great Britain, France, and Italy permitted Germany to annex the Sudetenland in Czechoslovakia, President Franklin Roosevelt told his advisors at a conference in the White House: “The United States must be prepared to resist attack on the western hemisphere from the North Pole to the South Pole, including all of North America and South America.”<sup>27</sup> In December of that year, at the Pan American Conference in Lima, the U.S. again stressed “hemispheric unity in the face of totalitarian aggression.”<sup>28</sup>

As part of this, by June 1940, President Roosevelt would authorize the Federal Bureau of Investigation (FBI) to conduct “foreign intelligence work” throughout the Western Hemisphere. It was only a year prior that he had instructed the FBI, the Military Intelligence Division (MID), and the Office of Naval Intelligence (ONI) to track “the fifth column” and coordinate their investigation of espionage and sabotage in the United States and around the world. Not long thereafter, the FBI established the Special Intelligence Service (SIS) and sent agents—known as legal attaches—to Mexico, Central America, South America, and the Caribbean. Legal attaches gathered information about

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<sup>27</sup> Mak 2009, 36.

<sup>28</sup> Gardiner 1981, 9.

subversive activities and shared it with Military and Naval Intelligence. Roosevelt instructed all intelligence agencies to maintain contact with U.S. ambassadors in order that the “American war program in any particular country” not be “embarrassed or jeopardized by uncoordinated action.”<sup>29</sup>

During the same time period, in June of 1940, United States naval and military representatives conferred extensively with key cabinet officers in Peru. According to Historian Harvey Gardiner, at a final meeting, “all three Ministers, evidently reflecting the President’s views, again expressed the primary concern of Peru with respect to Japan.”<sup>30</sup> Panama as well would elicit special interest from the U.S. government leading up to and during WWII. To “protect” the Panama Canal, as early as November of 1940, the U.S. military began making plans to occupy territory well beyond the U.S. Canal Zone and into the Republic of Panama. Ambassador William Dawson assured President Arnulfo Arias that “all lands, when no longer required by the United States Government, will revert to the Republic of Panama.”<sup>31</sup> The nearby Galapagos Islands, located 650 miles off the coast of Ecuador likewise garnered the attention of the U.S. government for the purposes of “hemispheric defense.” In April 1939, in a letter to the White House written by a WWI veteran, it was proposed that the U.S. purchase the islands so the U.S. could defend the Pacific end of the Panama Canal. Moreover, the U.S. Air Force could use the islands as a refueling station without having to rely on Hawaii. Initially, the idea was rejected by Roosevelt on the grounds that it “violated the Good Neighbor Policy.”<sup>32</sup> Ultimately, the U.S. acquired ‘consent’ from Ecuador to build a military base on the

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<sup>29</sup> Mak 2009, 46.

<sup>30</sup> Gardiner 1981, 9-10.

<sup>31</sup> Mak 2009, 38.

<sup>32</sup> Mak 2009, 39-40.

islands, which it opened in 1942. In all, the U.S. would establish at least sixteen air and navel bases throughout Latin America during the war.<sup>33</sup>

Finally, on July 17, 1941, Roosevelt issued his Presidential Proclamation, informing the other American republics in “unequivocal language” that the commercial and financial facilities of the United States would no longer be available to firms or individuals who acted on behalf of the Axis powers as determined by a “Proclaimed List of Certain Blocked Nationals.”<sup>34</sup> The goal, in the words of Historian Harvey Gardiner, was essentially “economic strangulation through government-sponsored boycott.”<sup>35</sup> While the Proclaimed List was officially unilaterally imposed, as the war wore on and especially after the attack on Pearl Harbor, the U.S. realized that, in order to enforce such economic sanctions ostensibly for the purposes of “hemispheric security,” it needed “to secure the cooperation of Latin American governments in ‘taking effective local action.’”<sup>36</sup> Such “cooperation” is where I now turn.

### **A WWII “Hemispheric Operation”**

According to historians, just hours following the attack at Pearl Harbor, President Roosevelt pledged to not only reinforce the Pacific fleet but also to protect the Panama Canal and acquire the diplomatic support of countries in the Western Hemisphere.<sup>37</sup>

Within the next three days, nine American countries declared war against the Axis: the Dominican Republic, Cuba and Haiti in the Caribbean and Guatemala, Nicaragua, El

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<sup>33</sup> Mak 2009, 42.

<sup>34</sup> Mak 2009, 56.

<sup>35</sup> Gardiner 1981, 14.

<sup>36</sup> Mak 2009, 57-58.

<sup>37</sup> Mak 2009, 30.



Salvador, Honduras, Costa Rica and Panama in Central America.<sup>38</sup> Within two weeks, Mexico, Colombia and Venezuela also suspended relations with the Axis while Argentina, Brazil, and Chile, however, remained neutral. Argentine Foreign Minister Enrique Ruiz-Guiñazu questioned whether they had an obligation to react to an attack on territory *outside* the political and geographical boundaries of what they considered the “Western Hemisphere.”<sup>39</sup>

As will be discussed, for the most part, scholars tend to describe the relationship between the U.S. and Latin American Republics during this time as one characterized by “mutual interests” and “friendly cooperation” in the name of “Western hemispheric defense.” In this section, I unpack such a description, grafting the U.S. imperial logic of ‘hemispheric security’ I discussed in the last section onto the JLA WWII deportation program. That is, I show how it was precisely the deep militarized, imperial presence of the U.S. in Latin America, and especially Peru, which not only made possible, but logical and unquestioned at the time, the deportation, internment and ‘repatriation’ of so-called “enemy aliens” of the Western Hemisphere.

***“Hemispheric Unity” at Rio de Janeiro: Establishing “a more real Pan-Americanism”***

Following the Pearl Harbor attack, Roosevelt called for an emergency meeting of Foreign Ministers to be held in Rio de Janeiro on January 15, 1942. According to historians, the U.S. wanted a “more general and forceful identification of all Latin America with the widened war”—“unanimous support of a resolution binding all the

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<sup>38</sup> Mak 2009, 30.

<sup>39</sup> Mak 2009, 30.

American republics to sever diplomatic relations with the Axis states.”<sup>40</sup> The conference marked the first “Pan American” conference “ever held during a major war.”<sup>41</sup> Seeing the “opportunity to redefine the boundaries of hemispheric defense to include all countries in the Western Hemisphere,”<sup>42</sup> the U.S. insisted that the attack at Pearl Harbor threatened the security of all countries in the Western Hemisphere. Still, at the start of the conference, Argentina and Chile preferred to remain neutral. The story goes that the U.S., in seeking to isolate Argentina, offered military aid to Brazil and Chile. At first, the strategy worked as Argentine Foreign Minister Enrique Ruiz-Guiñazu agreed to cut ties with the Axis. Argentine President Ramon Castillo, however, overruled him, threatening to break ranks with the American republics and thereby instilling fear in Brazilian President Vargas that should the Axis invade, Argentina would seize parts of Brazil. “For the sake of unanimity,” Undersecretary of State Sumner Welles changed the “proclamation” to a “recommendation.” On January 23, the Foreign Ministers of all twenty-one American Republics “recommended” that their governments sever diplomatic relations with the governments of Japan, Germany and Italy. On January 24, in a radio address, Welles stated, “I think we will all leave with the conviction deep in our hearts that there exists today a more practical, a more solid, and a more real Pan-Americanism than has ever existed in the history of the world.”<sup>43</sup>

In the Final Act of that January 1942 conference, a detailed resolution (XVII) regarding “subversive activities” was established. The resolution defined “acts of aggression of a non-military character” as “propaganda, espionage, sabotage, instigation

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<sup>40</sup> Gardiner 1981, 16.

<sup>41</sup> Mak 2009, 61. He cites a column written by

<sup>42</sup> Mak 2009, 63.

<sup>43</sup> Mak 2009, 66-67.

of public disorder, or any other activity designed to disturb the public life of the country.”<sup>44</sup> Recommendations were thus advanced in four areas: (1) Control of Dangerous Aliens, (2) Prevention of Abuse of Citizenship, (3) Control of International Travel, and (4) Prevention of Espionage, Sabotage, and Subversive Propaganda.<sup>45</sup> To “coordinate” such “hemispheric security measures,” a special inter-American agency, the Committee for Political Defense (CPD), was founded with headquarters subsequently established in Montevideo, Uruguay.<sup>46</sup> The committee was comprised of seven representatives from the following countries: Argentina, Brazil, Chile, Mexico, the United States, Uruguay and Venezuela. Over the course of its fifteen months of operation (April 1942-July 1943), the CPD submitted to the governments of the Western Hemisphere twenty-one programs of action based on the recommendations. Such a program in its entirety, in the words of Historian Gardiner, “represented a continuing pressure for unified outlook and action within the hemisphere, something that the United States desired and could not hope to attain through the occasional conference alone.”<sup>47</sup> On May 21, 1943 the committee approved Resolution XX entitled, “Detention and Expulsion of Dangerous Axis Nationals”—a resolution drafted by the U.S. Department of Justice in conjunction with the Department of State that called for preventive detention of dangerous Axis nationals and for the “deportation of such persons to another American republic for detention when adequate local detention facilities are lacking.” The resolution also assured interested states that not only detention but shipping facilities would be provided by the U.S. “at its own expense.” Finally, the U.S. State Department

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<sup>44</sup> Mak 2009, 68.

<sup>45</sup> Gardiner 1981, 16-17; Mak 2009, 68-69.

<sup>46</sup> Weglyn 1976, 58-59.

<sup>47</sup> Gardiner 1981, 17.

noted it “would include any of the official and civilian nationals of the participating republics in whatever exchange arrangements the U.S. would subsequently make with Axis powers.”<sup>48</sup>

Interestingly, by the time Resolution XX was transmitted to governments throughout Latin America (on June 4, 1943), the U.S. had already established full-blown deportation-internment programs with Peru and Panama—the first and second largest “senders” of Japanese deportees to the U.S., respectively. (See table in Appendix (page 339).) The purpose of the resolution thus was not only to propose and circulate a “potentially normative program for all interested governments” per se but also to accord “an air of legitimacy to actions already taken.”<sup>49</sup> Before turning to the case of Peru, I will first trace back the special role of Panama to the U.S. within the context of this hemispheric deportation-internment operation.

### ***The Role of Panama***

The U.S. government first implemented its WWII policies for “hemispheric defense,” which included internment, immigration restriction and air surveillance, in Panama.<sup>50</sup> More than a month *before* the bombing of Pearl Harbor, through U.S. Ambassador to Panama Edwin C. Wilson, the U.S. made an informal, oral offer to Panama specifically regarding the internment of Japanese. As part of the offer, although Panama would implement the operation, the U.S. would foot all costs of internment and guarding as well as take all responsibility for any possible resulting negative claims or

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<sup>48</sup> Weglyn 1976, 59.

<sup>49</sup> Gardiner 1981, 18.

<sup>50</sup> Mak 2009, 37.

ramifications.<sup>51</sup> Panama agreed that in the event of war, it would intern all Japanese outside the Canal Zone at nearby Taboga Island.<sup>52</sup> Less than two months later, the day after the attack at Pearl Harbor, the U.S. established a similar arrangement with Costa Rica.<sup>53</sup>

In many ways, such “Panamanian cooperation” was reminiscent of WWI during which President Woodrow Wilson ordered sweeping surveillance measures and the registration of ‘enemy aliens’ both in the U.S. and in the Panama Canal Zone. There, U.S. authorities, with Panama’s permission, detained and deported to U.S. internment camps at least ninety-eight German ‘enemy aliens.’<sup>54</sup> Still, during this war, the “arrangement” with Panama did even more to advance U.S. interests—it provided a valuable “pattern that American planners in Washington and American representatives throughout Latin America, and especially those in Peru, desired to emulate.”<sup>55</sup> Two days after the attack at Pearl Harbor, the U.S. government expanded its aforementioned Proclaimed List of Certain Blocked Nationals initiated in July of 1941 to now include Japanese in addition to the Germans and Italians.<sup>56</sup> During this time, Panamanian and U.S. agents immediately rounded up the Panamanian Japanese. Most of Panama’s approximately 400 Japanese—the majority men who owned small businesses such as barbershops—resided in the cities of Colon and Panama City.<sup>57</sup> Panama also quickly declared war against the Axis states, froze Axis funds, and allowed for not only the transfer of its Japanese enemy aliens to the

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<sup>51</sup> Weglyn 1976, 58.

<sup>52</sup> Mak 2009, 38.

<sup>53</sup> Weglyn 1976, 58.

<sup>54</sup> Mak 2009, 34.

<sup>55</sup> Gardiner 1981, 14.

<sup>56</sup> Gardiner 1981, 14.

<sup>57</sup> Their numbers remained small, in large part because of discriminatory laws. In 1938, for example, the Panamanian government passed a law excluding all foreigners from the fishing industry and in 1940 it banned all immigrants of the “yellow race.” See Masterson and Funada-Classen 2004, 118-119.

U.S. but also their exchange for citizens of the Western Hemisphere held by Japan.<sup>58</sup> In regard to the U.S. deportation of Latin American Japanese, Historian Harvey Gardiner stated at the Commission on Wartime Relocation and Internment of Civilians Hearings which took place in 1981: “Initially, the first push was made with Panama, because in one day’s time 98% of the Japanese in Panama were seized and then patterns were usually established in terms of what happened with regard to Panama.”<sup>59</sup> In all, a total of 247 Panamanian Japanese (the second highest of all the Latin American sending countries behind Peru) were abducted and deported to U.S. internment camps.<sup>60</sup>

Indeed, that Panama should serve as an emblematic model of “hemispheric cooperation” for the U.S. and later as a hard labor camp stopover for the majority of Latin American Japanese “enemy aliens” should be of no surprise given its long history as a site of U.S. imperial projects, including the development and heavy militarization of the Panama Canal Zone and surrounding areas. In other words, the significant role of Panama during WWII should be understood within the context of its already established geopolitical position strategically in terms of U.S. ‘Western hemispheric defense’ and symbolically in terms of ‘opening up’ Latin America as a ‘gateway’ to the south—a signifier of a burgeoning modern U.S. empire in ascendance.<sup>61</sup>

### *The Case of Peru*

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<sup>58</sup> Gardiner 1981, 14.

<sup>59</sup> Testimony of Harvey Gardiner, CWRIC, Chicago, Illinois, September 22, 1981, CWRIC Files, NARA, 75.

<sup>60</sup> Friedman 2003.

<sup>61</sup> Bascara 2007, 367.

The case of Peru is no different, I argue, in that its significant ‘participation’ in the U.S. deportation program (in which approximately eighty percent of the total Latin American Japanese deportees were from Peru (1,799 Japanese Peruvians), accounting for the largest group of Axis nationals deported from any one country) should be understood, not only in terms of the roles of specific U.S. diplomats and/or Peru’s ‘cultural prejudice’ toward the Japanese (which many scholars have focused on), but even more so in terms of the deep and layered U.S. (neo)colonial militarization of the region which provided the unquestioned infrastructure for such an operation to take place.

To be sure, according to historians, anti-Japanese sentiment in Peru dates back to at least the early-twentieth century following the first phase of Japanese migration, which began in spring 1899.<sup>62</sup> By the early post-WWI period, the Peruvian government began to consider “anti-foreign measures” which would negatively affect Japanese migrants.<sup>63</sup> For example, the government program to ‘Peruvianize’ economic activity aimed principally at eliminating Japanese interests and enterprises via import quotas and legislation requiring 80 percent of any workforce to be ‘native Peruvian.’ In 1934, Peru denounced the four-year-old treaty with Japan of friendship, commerce, and navigation. In June 1936, the Peruvian government established immigration quotas and regulations designed to limit incoming Japanese, the largest immigrant group in the country at the time. In July of that year, it also suspended the granting of naturalization papers to resident aliens as well as imposed restrictions on the citizenship rights of Kibei—second-generation

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<sup>62</sup> Gardiner 1981, 8. Gardiner writes how in rural areas, clashes occurred, physical and otherwise, between Japanese immigrants and “native Peruvians.” There was the mindset that “Japanese farmers had taken over control of the fertile Chancay Valley and other select agricultural zones.”<sup>62</sup> In urban areas, there was the “cry of unfair competition and monopoly” which negatively affected Japanese barbers and other businesses.

<sup>63</sup> Gardiner 1981, 8.

Peruvian Japanese who went to Japan for schooling.”<sup>64</sup> Finally, in May 1940, rioting Peruvians invaded and plundered hundreds of Japanese homes and businesses in Lima and Callao, where approximately 80 percent of the Peruvian Japanese were residing.<sup>65</sup> According to historians, despite pleas from the Japanese Consulate, Peruvian police made no effort to make arrests or to control the mobs for days. In a survey conducted by the consulate, 620 households reported losses due to the rioting valued at a total of \$6 million-U.S. dollars<sup>66</sup>

Immediately following the attack on Pearl Harbor on December 7, 1941, the Peruvian government moved quickly to impose restrictions on the Japanese, forcing Japanese newspapers to close, forbidding gatherings of more than three persons and freezing Japanese Peruvians bank accounts.<sup>67</sup> As mentioned above, as early as 1940, the U.S. FBI sent agents to a number of countries in Latin America, including Peru, to “engage in non military intelligence gathering throughout the Western Hemisphere.” It is said by some historians such as Gardiner that the “American officials fell willing victims of questing Peruvian politicians” and “the Peruvians fed the exaggerated fears of Americans, in Lima and Washington.”<sup>68</sup> Moreover, evidence even suggests that Peru considered its own mass internment of Japanese Peruvians during war.<sup>69</sup>

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<sup>64</sup> Hagihara and Shimizu 2002, 206.

<sup>65</sup> Gardiner 1981, 5, 9. According to Gardiner (5), that year, the Japanese numbered 17,598, representing 28.08 percent of the foreign population of Peru. According to Emmerson (131), the official census reported 25,888 Japanese Peruvians (17,598 Issei and 8,790 Nisei).

<sup>66</sup> Hagihara and Shimizu 2002, 207.

<sup>67</sup> Gardiner 1981, 62.

<sup>68</sup> Gardiner 1981, 10.

<sup>69</sup> Mak 2009, 70-71. Mak writes that on April 7, 1942, U.S. Undersecretary of State Welles asked his assistant, Laurence Duggan, to retrieve from the War and Agriculture Department “some report on the program which we are carrying out covering the Japanese who have been removed from the Pacific Coast and put to work in the Rocky Mountain states.” According to Welles, the Peruvian Minister of Finance,



Overall, leading scholars tend to frame the WWII Japanese Peruvian deportation-internment program as one fueled by mutual interests and willing cooperation on behalf of both Peru and the U.S. with overarching responsibility laying with the U.S. government. Michi Weglyn, for example, in *Years of Infamy*, writes, "...the Peruvian President's unexpected eagerness to cooperate to the fullest came as a welcome turn of events and as an instant go ahead for the core of U.S. advisers to assist in widening the scope of Peruvian expulsions."<sup>70</sup> Here, she credits both the "racial antagonism" within Peru "fed by resentment of the foreign element as being exceedingly successful economic competition"<sup>71</sup> as well the U.S.'s own desire for more Japanese bodies to fill its prisoner reserve. Historian Harvey Gardiner, who, as mentioned, also testified at the CWRIC hearings, describes, "In the United States, the Alien Enemy Act of 1798 permitted the summary apprehension and internment of nationals of states at war with the United States. But in order to apply this 143 year-old law to Peruvian Japanese, authorities would have to get their hands on those enemy aliens and bring them within range of American legal authority. *That called for United States-Peruvian cooperation at the executive level.*"<sup>72</sup> Still, both historians make clear that such was a U.S.-led operation with its origins in the U.S. State Department and "responsibility" for its "success" shared by the U.S. Departments of War, Navy, and Justice.<sup>73</sup> Gardiner, in his 1981 publication, names the Alien Act of 1798, President Roosevelt's Executive Order 9066, General

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David Dasso, requested the information because "it would be most helpful to his Government in forming their own plans for taking care of the Japanese they have to look after in Peru."

<sup>70</sup> Weglyn 1976, 61.

<sup>71</sup> Weglyn 1976, 60.

<sup>72</sup> Gardiner 1981, xiii, emphasis added.

<sup>73</sup> Weglyn 1976, 59.

DeWitt's orders on our West Coast and Ambassador Norweb's program in Peru as "foster[ing] gross abuse of elementary human rights."<sup>74</sup>

Such 'mutual interests' and 'friendly cooperation' between the U.S. and Latin American republics should be seen not as merely coincidental per se nor as a grand manipulation conducted by the U.S. government *over* these countries per se but rather as a convergence of many layered interests sedimented over more than a century of U.S. commercial and political interests in Latin America fortified by the Monroe Doctrine and then diplomatically crafted into the Good Neighbor Policy. I will argue in the rest of this section that these U.S.-led programs should be further understood within the context of the militarized, neocolonial relationship between the U.S. and Peru as well as the other twelve participating republics. That is, that the U.S. considered Latin America its 'sphere of influence,' its own backyard since the Monroe Doctrine and was thus concerned about the "presence of Axis powers" there beginning in the late-1930s, should not be taken for granted but rather brought to the fore and thoroughly deconstructed as a paradigm of U.S. empire at work.

As mentioned, in 1938, the U.S. convened a Pan-American conference in Lima where it stressed "hemispheric unity in the face of totalitarian aggression."<sup>75</sup> Following this conference, the U.S. began to pay special attention to "totalitarian activities" in Peru, particularly in terms of the Japanese. In June of 1940, U.S. naval and military representatives conferred extensively with key cabinet officers in Peru and established "the primary concern of Peru with respect to Japan."<sup>76</sup> The next month, the U.S. initiated

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<sup>74</sup> Gardiner 1981, 176.

<sup>75</sup> Gardiner 1981, 9.

<sup>76</sup> Gardiner 1981, 9-10.

two agreements with Peru that provided for an U.S.-American naval mission to “improve the efficiency of the Peruvian navy and its aviation program.”<sup>77</sup> In spring 1941, in a similar arrangement, the U.S. sent in a military adviser to the Remount Service of the Peruvian army.<sup>78</sup> According to Gardiner, following Pearl Harbor, “A flurry of negotiations and agreements increasingly identified Peru with the American war effort.”<sup>79</sup> One arrangement was to place “a small United States military force” at Talara, near the oil fields in northern Peru. The ostensible purpose was “American defense of the Pacific approach to the Panama Canal.” Less than a week later, the U.S. established a “lend-lease” agreement with Peru, promising approximately \$29 million worth of armaments and munitions—the largest consignment in all Latin American at the time.<sup>80</sup>

This agreement was made under the U.S. government legislation the Lend-Lease Act (formally entitled, “An Act to Promote the Defense of the United States”) enacted March 1941 to September 1945. The act served as the principal means for providing U.S. military aid to foreign nations during World War II. It authorized the president to transfer arms or any other defense materials for which Congress appropriated money to ‘the government of any country whose defense the President deems vital to the defense of the United States.’ Notably, isolationists, such as Republican Senator Robert Taft, opposed it. Taft argued that the bill would ‘give the President power to carry on a kind of undeclared war all over the world, in which America would do everything except actually put soldiers in the front-line trenches where the fighting is.’ Indeed, I argue that the Lend-Lease Act should be understood as an extension of U.S. military reach throughout the

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<sup>77</sup> Gardiner 1981, 10.

<sup>78</sup> Gardiner 1981.

<sup>79</sup> Gardiner 1981, 21.

<sup>80</sup> Gardiner 1981.

world and, in a sense, a precursor of a post-WWII U.S. militarized empire. In total, the U.S. ‘lent’ a total of \$50 billion worth of ‘military aid’ to thirty-six ‘Allied nations’ during WWII. Not coincidentally, among these, eighteen were Latin American countries, all of which either participated in the U.S. Enemy Alien deportation program (if not sending Japanese, sending Germans) or instituted their own internment programs, as in the case of Brazil and Uruguay.<sup>81</sup>

Finally, as with all of Latin America, with Peru, the U.S. had economic interests to protect and foster, particularly in terms of raw materials, and negotiations thus reflected this. In spring 1941, the U.S. and Peru engaged in intense negotiations regarding U.S. purchase of “certain critical and strategic minerals.” At the same time, a “reciprocal trade agreement” was reached that took into account “the economic disruption Peru was suffering because of the war.”<sup>82</sup> In January 1942, at the time of the lend-lease agreement, negotiations also concerned Peruvian rubber, cinchona bark, and “other strategic needs of the United States,” as well as Export-Import Bank credits for Peru, and yet another “reciprocal trade agreement” this time geared toward “the wartime requirements of both countries.”<sup>83</sup> As Gardiner himself put it, “Along with all else, the dimensions of the repatriation issue widened.” Thus, in short, it is within this complex and deeply layered context, I argue, of multiple political, economic and military entanglements involving the U.S. in Peru as well as the twelve other Latin American countries, that we must

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<sup>81</sup> History.com, “Lend-Lease Act,” <http://www.history.com/topics/world-war-ii/lend-lease-act.com>, excerpts from *The Reader’s Companion to American History*. Eric Foner and John A. Garraty, Editors. Houghton Mifflin Harcourt Publishing Company, 1991.

<sup>82</sup> Gardiner 1981, 10.

<sup>83</sup> Gardiner 1981, 21.

conceptualize the JLA deportation program—its production of “enemy aliens” and hostages for exchange, which is where I now turn.

***Producing “Enemy Aliens,” Hostages for Exchange***

Invoking the Alien Enemies Act of 1798, the U.S. government nevertheless needed the ‘cooperation’ of the governments of Peru and other Latin American republics in order to bring Japanese Latin American citizens and residents within “range of [U.S.-] American legal authority.” Without such ‘cooperation,’ these Japanese subjects would be considered ‘aliens’ not of an ‘enemy’ nation (Japan) but of the ‘friendly’ nations of Latin America. In this section, I will show how the U.S. *produced* “enemy aliens” from within these 13 Latin American countries and used them as hostages for exchange with Japan—an operation I read as paradigmatic of U.S. empire at work then and now.

Shortly after the conclusion of the Pan-American Conference in Rio de Janeiro on January 24, 1942, plans got underway for the deportation-repatriation program in Peru. In February, the U.S. sent to Lima then Third Secretary aforementioned John K. Emmerson to aid in the process of selecting prospective deportees/internees/repatriates. As the only person with a command of the Japanese language on probably any U.S. diplomatic mission in all Latin America,<sup>84</sup> Emmerson exuded an “aura of keen scholarship and wisdom.”<sup>85</sup> Once, there, within an auxiliary section of the embassy, Emmerson researched old files of Lima-based Japanese newspapers, translated certain materials for the use of Peruvian authorities and thus used such information to

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<sup>84</sup> Gardiner 1981, 22.

<sup>85</sup> “Mochizuki Correspondence / Weglyn, Michi 1977” Folder 18, Box 1, Yukio Mochizuki Collection, Archives and Special Collections at California State University, Dominguez Hills; Weglyn correspondence to Yukio Mochizuki dated September 21, 1977.

supplement and lengthen the Proclaimed List of Peruvian Japanese. He also sought informants in the field who “knew the Japanese community,” including Peruvian Chinese.<sup>86</sup> Weglyn would later describe Emmerson as “monomaniacal in his determination to have the Japanese ‘menace’ removed from Peru, in the manner of Bendetsen vis-à-vis the JAs”—“the mastermind who encouraged the J. Peruvian expulsion with uncommon zeal.”<sup>87</sup> For twenty months from 1942-43, Emmerson would play a “pivotal role” in the deportation of Peruvian Japanese.<sup>88</sup>

Around mid-March 1942, a conversation between Under Secretary of State Sumner Welles and Attorney General Francis Biddle regarding Latin American citizens among the internees that had arrived from Panama and Costa Rica concluded that (1) the situation posed no legal difficulties and (2) the Department of Justice was the only agency that should handle the question of the internees from Latin America. Thus, before the first “enemy alien” left Peru for the U.S., the way was clear for the deportation and internment of Peruvian citizens, whether naturalized or native-born Peruvians.<sup>89</sup> Moreover, on March 24, 1942, Ambassador Henry Norweb reported to the U.S. State Department that he had informed the Peruvian Foreign Office, “the United States Government is prepared to transport from Peru to the United States for immediate repatriation and exchange not only the Axis officials...but also nonofficial Axis nationals. My Government will interpose no objection to the repatriation of any category of Axis personnel, including men of military age, with certain exceptions such as airplane

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<sup>86</sup> Gardiner 1981, 22.

<sup>87</sup> “Mochizuki Correspondence” 1977.

<sup>88</sup> Gardiner 1981, 22.

<sup>89</sup> Gardiner 1981, 22.

pilots and submarine commanders, who may be interned locally.”<sup>90</sup> Finally, the U.S. Department of State instructed its embassies in Latin American *not* to issue visas throughout the war. The plan was to confiscate deportees’ passports *before* they landed on U.S. soil, thereby allowing the INS to be able to classify Japanese and other deportees from Latin America as ‘illegal aliens’—“devoid of any rights afforded to citizens and permanent residents within the U.S.”<sup>91</sup> In short, by the end of March 1942, much of the plans were laid for the production of Japanese “enemy aliens” in Latin America and hostages for exchange. In early April, the U.S. Department of State sent the embassy in Lima its estimate of the number and handling of the “enemy aliens” to be removed from the west coast of South America all the while the U.S. naval ship, *Etolin*, already lay at anchor at the port of Callao, Peru—“ready to take aboard what its skipper considered prisoners of war.”<sup>92</sup>

On April 4, 1942, the first ship of Peruvian “enemy aliens” departed the port of Callao; on board included approximately 1,000 Japanese, 300 Germans and 30 Italians. From there, the ship picked up approximately 850 Germans, Japanese and Italians from Ecuador, Colombia, and Bolivia, and an additional 184 from Panama and Costa Rica.<sup>93</sup> Between 1942-1945, 2,264 Japanese from throughout Latin America were deported along with 4,058 Germans and 287 Italians.<sup>94</sup> At first, the deportees were mostly men, although there were a few women, and they were interned either at a former Civilian Conservation Corps camp that was converted into an internment camp in Kenedy, Texas and a former

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<sup>90</sup> Gardiner 1981, 23.

<sup>91</sup> Hagihara and Shimizu 2002, 208.

<sup>92</sup> Gardiner 1981, 23-24.

<sup>93</sup> Hagihara and Shimizu 2002, 208.

<sup>94</sup> Mak 2009, 286.

model federal reformatory for female offenders in Seagoville, Texas. Three other camps were established in Santa Fe, New Mexico, Kooskia, Idaho and Missoula, Montana. In 1943, in Crystal City, Texas, about 120 miles southwest of San Antonio, the Department of Justice established what became the largest facility of the INS for the detention of enemy aliens.”<sup>95</sup>

During this time, two hostage exchanges took place with Japan. The first in July 1942 in which the Swedish motorship *Gripsholm* set sail from New York carrying 1,065 Japanese, including 128 Japanese Latin Americans and the rest Japanese U.S.-Americans. The ship also picked up an additional 417 Latin American Japanese at Rio de Janeiro.<sup>96</sup> In September 1943, a second exchange took place wherein another 1,300 Japanese U.S.-Americans and Japanese Latin Americans were forced to leave for Japan, over half from Latin American countries.<sup>97</sup> According to historians, the U.S. wanted to schedule a third exchange with Japan for another 1,500 Japanese, but the Japanese government refused, citing the U.S. treatment of Japanese U.S.-Americans and Japanese Latin Americans. Apparently, Japan “did not want to take in Japanese Americans or Japanese Latin Americans who did not wish to be forcibly repatriated to Japan.”<sup>98</sup> Gardiner writes, “No interested party, in June 1942, would have believed that fifteen months would elapse before the second exchange with Japan could occur, nor that it would be the last one.”<sup>99</sup>

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<sup>95</sup> Hagihara and Shimizu 2002, 210-211.

<sup>96</sup> Hagihara and Shimizu 2002, 211.

<sup>97</sup> Hagihara and Shimizu 2002.

<sup>98</sup> Hagihara and Shimizu 2002.

<sup>99</sup> Gardiner 1981, 50.



By mid-summer/fall of 1943, Emmerson believed that his job was done and began looking for reassignment.<sup>100</sup> Around this time, family reunification began as families of men who were abducted and deported earlier ‘voluntarily’ left Peru via U.S. naval ship to be reunited with fathers and husbands at Seagoville or Crystal City. A number of scholars cite this part of the program as likely motivated not by “humanitarian reasons” but more so to swell the “barter reserve” of Japanese for purposes of exchange.<sup>101</sup> In March 1944, for example, Fusako Elisa Shibayama Sumimoto arrived with her family as a young girl aboard the USS Cuba at the port of New Orleans en route to the Crystal City camp. Everyone aboard, including women and children, was ordered to strip naked and were then sprayed with disinfectant taken to a mass stall for showers. She is quoted as stating in press article, “We didn’t understand what was going on and thought we were all going to die there.”<sup>102</sup>

It was around this time in spring 1944, however, that the U.S. government began realize there would be no more exchanges with Japan.<sup>103</sup> In June 1944, another ship of deportees left Callao, this time carrying 377 deportees of which almost all (91%) were Peruvian Japanese and mostly family members aiming to reunite in the U.S.<sup>104</sup> In October 1944, the last ship to depart Peru left Callao with just thirty-two deportees (ten German and twenty two Japanese). The ship in transit also picked up another 134 earlier deportees in the Panama Canal Zone who were from Bolivia, Costa Rica, Ecuador and Peru. Like many of the other ‘shipments’ of ‘enemy aliens’ that had come before it, this one arrived

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<sup>100</sup> Gardiner 1981, 80-81.

<sup>101</sup> Hagihara and Shimizu 2002, 211; Weglyn 1976, 62.

<sup>102</sup> Hagihara and Shimizu 2002, 211.

<sup>103</sup> United States 1997, 310.

<sup>104</sup> Gardiner 1981, 89-95.

in New Orleans and from there, families traveled via train to Crystal City and single men to Santa Fe.<sup>105</sup>

At the end of the war, the U.S. was then left with an unexpected surplus (approximately 1,333) of Japanese from Latin America—all of whom, as planned, were not only labeled ‘enemy aliens’ but also had been rendered ‘illegal aliens’ at their point of entry into the U.S. In July of 1945, President Truman issued Proclamation 2655, authorizing the U.S. to deport “enemy aliens” considered “to be dangerous to the public peace and safety of the U.S.”<sup>106</sup> and between November 1945 and June 1946, over 800 JLAs were forcibly deported to war torn Japan on the grounds of their “enemy alien” status.

In 1978, John Emmerson would infamously concede, “...we found no reliable evidence of planned or contemplated acts of sabotage, subversion, or espionage.”<sup>107</sup> Leading scholars, including the aforementioned Michi Weglyn, have surmised that the U.S. “sought custody of Japanese Latin Americans *not because of perceived subversive activity but for the purpose of using them in hostage exchanges with Japan.*”<sup>108</sup> My purpose here has not been to determine or delineate a definitive history of the U.S. operation but rather to better understand how such an operation could work—*how* the U.S. in ‘cooperation’ with 13 Latin American countries *could* produce 2,264 Latin American Japanese “enemy aliens,” deport them to the U.S. and then use them as hostages for exchange with Japan. Such a case, I contend, is particularly relevant today when, in the words of Giorgio Agamben, the “state of exception”—the perceived “state

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<sup>105</sup> Gardiner 1981, 107-108.

<sup>106</sup> Gardiner 1981, 112.

<sup>107</sup> United States 1997, 314.

<sup>108</sup> Hagihara and Shimizu 2002, 209, emphasis added.

of emergency” authorizing the indefinite detention of noncitizens suspected of “terrorist” activities—has become, not a ‘provisional measure,’ but a “working paradigm of government.”<sup>109</sup>

***“No formal arrangement was ever made”***

Not surprisingly, aside from the aforementioned Resolution XX (passed on May 21, 1943—well *after* the deportation/internment programs were underway), no formal, written agreement was ever made between the U.S. and Peru<sup>110</sup> or any of the other twelve ‘cooperating’ Latin American republics regarding the Enemy Alien deportation program. At the CWRIC hearings held in 1981, Historian Gardiner noted that, in regards to Peru, the U.S. government “specifically avoided doing so because it knew it was going to be treating with a dozen or more countries and, therefore, it was to be as loose and as general as they wanted to make it at the given moment, as loose as they could make it.”<sup>111</sup> In all, thirteen LA countries participated to deport a total of over 6,500 “enemy aliens”; among them: Bolivia, Columbia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Peru and Venezuela. Three states, Brazil, Uruguay and Paraguay, instituted their own detention programs. Argentina and Chile did not break off diplomatic relations with the Axis powers until later and thus did not participate in the “hemispheric imprisonments.”<sup>112</sup> Approximately, 4,058 total Germans were deported, 2,264 Japanese and 287 Italians from the participating Latin American republics (See table in Appendix).

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<sup>109</sup> Agamben 2005.

<sup>110</sup> Gardiner 1981, 23.

<sup>111</sup> Testimony of Harvey Gardiner 1981, 75.

<sup>112</sup> Weglyn 1976, 59.

That no formal arrangements had to be made to orchestrate this program is telling, I contend, of U.S. power and presence in the region, particularly during a period of supposed non-intervention. The “myth” of the Good Neighbor Policy<sup>113</sup> raises crucial questions regarding exactly what characterizes ‘military intervention’ versus ‘friendly cooperation,’ ‘defense,’ and ‘military aid.’ As mentioned, the U.S. established military lend-lease agreements with a total of eighteen Latin American republics throughout WWII. I argue that this case illustrates, not only the interchangeable definitions of ‘military intervention’ and ‘military aid’ but also specifically the taken-for-granted ‘sphere of interest’ of Latin America within the context of U.S. empire. *So, where is Latin America?* Historian Greg Grandin has argued that Latin America, since the inception of the U.S. nation-state, has served as an almost invisible ‘workshop’ of U.S. empire—used to both experiment with and shore up U.S. (neo)imperialism abroad. This case, I contend, demonstrates yet another example of U.S. militarized imperial reach in the region, not only showing the emergence of what Grandin describes as the ‘working blueprint’ of a post-war U.S. empire (particularly in Asia and Europe) based on soft power and extraterritorial control, but also illuminating, as Amy Kaplan did with the case of Guantanamo,<sup>114</sup> the imperial legacy of U.S. empire that at once brings ‘Latin America’ into its ‘sphere of interest’ but keeps it outside its jurisdiction.

In this next and final section, I continue to follow the flow of the JLA deportees through their forced deportation to war torn Japan at the end of the war. I argue that their route also is illustrative of the flow of U.S. empire. Japan, which had earlier rejected any

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<sup>113</sup> Grandin 2006.

<sup>114</sup> Kaplan 2005.

more Japanese deportees as hostages for exchange now was in no position to reject the Western hemisphere's "enemy aliens." Not coincidentally, this site where the U.S. would unload its surplus of "subversives" is also where the U.S. would next set its sights on extending its "empire by invitation" into Asia via its new strategy of soft power diplomacy.

### **Following the Japanese Thread Through the Transpacific U.S.-American Empire**

As mentioned, at the end of the war, there remained an unexpected surplus of Japanese "enemy aliens" from Latin America who had not been repatriated in the two hostage exchanges with Japan. As of June 1945, approximately 1,333 JLAs (the majority from Peru) remained interned in U.S. DOJ camps.<sup>115</sup> This chapter examines how the U.S. nation state dealt with this "excess" of JLAs at the end of the war. It argues that their forced deportation as not only "illegal aliens" of the U.S. but as a stateless people is revealing of, not an anomaly of U.S. democracy, but rather the *paradigmatic* contours of U.S.-American empire at work. Such offers a significant revelation of a U.S.-American empire not only during and after WWII but today in the endless and ongoing so-called "war on terror."

### ***Assimilation, Resettlement and Occupation at the End of the War: A Global Resolution***

Certain scholars have suggested that the WRA camps incarcerating Japanese U.S.-American citizens and resident aliens during WWII be read as a sort of liberal,

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<sup>115</sup> Gardiner 1981, 112.

paternalist “assimilationist program”<sup>116</sup>—or, in the words of Jodi Kim, a “project of gendered racial rehabilitation.”<sup>117</sup> Kim as well as Caroline Chung Simpson conceptualize the postwar U.S. occupation of Japan as also a U.S. liberal project characterized by an “anxious liberal paternalism”—one that should be understood as fundamentally, both conceptually and materially, linked to the racialized, gendered re-configuring of Japanese U.S.-American subjects as dislocated Others in need of rehabilitation via assimilation within the U.S. nation-state. As such, both the internment and later resettlement programs in the U.S. and the postwar occupation of Japan are seen as intimately connected—a global resolution to, on the one hand, the contradiction of “the internment” as U.S. racialized military violence perpetrated against innocent civilians in the U.S. and, on the other, the contradiction of the dropping of the atomic bombs in Hiroshima and Nagasaki as also U.S. racialized military violence perpetrated against innocent civilians in Japan. What emerges to paraphrase Kim is an attempt to produce “properly assimilated and anticommunist liberal Japanese and Japanese American citizen-subjects, on the one hand, and a tamed and demilitarized yet economically integrated Japanese nation-state that would serve as America’s junior Cold War partner in Asia, on the other.”<sup>118</sup>

These works capture what I term the “global resolution” to the internment as well as the question of post-war Japan. The JLA “enemy alien” deportees, however, appear in the immediate postwar period as outside such a resolution as a sort of excess. Unlike the Japanese U.S.-American citizens and residents or even the national subjects of Japan, it is unclear whether they are redeemable as liberated beings of a post-WWII world.

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<sup>116</sup> Simpson 2001.

<sup>117</sup> Kim 2010, 99.

<sup>118</sup> Kim 2010.

### *Deporting the JLA Excess*

As early as Spring 1945, the Inter-American Conference on Problems of War and Peace held February 21—March 8, 1945 in Mexico passed a resolution recommending that those deported for security reasons (i.e., “enemy aliens”) be prevented from residing anywhere in the Western Hemisphere, so long as such residence was deemed detrimental to the future security or welfare of the Americas.<sup>119</sup> As mentioned in June 1945, approximately 1,333 JLAs (the majority from Peru) remained interned in U.S. DOJ camps.<sup>120</sup> In July, President Truman issued Proclamation 2655, authorizing the U.S. to deport “enemy aliens” considered “to be dangerous to the public peace and safety of the U.S.”<sup>121</sup> At this time, many of the JLA deportees sought to return to Latin America; however, Peru and other countries refused to accept them.<sup>122</sup> Moreover, because all their paperwork was confiscated by the U.S. Department of Justice upon entry, they were now officially stateless. Eventually, Peru allowed about 100 of its (former) citizens to return home—mostly native-Peruvian wives and Peruvian-citizen children.<sup>123</sup> Thus, between November 1945 and June 1946, over 800 JLAs were forcibly deported to Japan on the grounds of their “enemy alien” status compounded by their “illegal alien” status.<sup>124</sup>

During this time, a contingent of over 300 Japanese Peruvians successfully fought deportation orders with the help of ACLU Attorney Wayne Collins. Granted a “stay of deportation” with the hopes of eventually being able to return to Peru, these deportees, as

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<sup>119</sup> Hagihara and Shimizu 2002, 212.

<sup>120</sup> Gardiner 1981, 112.

<sup>121</sup> Gardiner 1981.

<sup>122</sup> Weglyn 1976, 64.

<sup>123</sup> Ibid., 64.

<sup>124</sup> Hagihara and Shimizu 2002, 212.

“illegal aliens,” remained in the U.S. as “paroles.”<sup>125</sup> As such they were required to secure “sponsors” somewhere in the U.S. While a select few headed to the West Coast under the sponsorship of churches and other organizations, the majority went to Seabrook Farms, a meat packing company in Bridgton, New Jersey, to work as manual laborers. There, as “illegal aliens” they were required to pay a thirty percent premium in higher taxes. In 1949, the deportees were allowed to leave the company and relocate, though they would still be required to meet regularly with probation officials given their status.<sup>126</sup> Meanwhile, those who were deported to Japan experienced “extreme hardship”—living through “starvation conditions of a war-torn nation and further oppression by the U.S. military occupation.” Moreover, the circumstances were especially difficult for children, who had never been to Japan before and spoke only Spanish.<sup>127</sup> Not surprisingly, U.S.-occupied Japan would also be the next stop for John K. Emmerson who would become an assistant to General MacArthur in the postwar ‘rehabilitation’ of the Japanese nation and its subjects.<sup>128</sup>

In sum, I argue that this route traveled by the majority of JLA deportees as well as Emmerson himself to war torn Japan by the end of the war signals a revealing logic of U.S. globalized military violence—one that spans not just the U.S. and Japan per se but the entire Western Hemisphere into the Pacific. It is not coincidental, for example, that a significant portion of Latin American Japanese during WWII was Okinawan. This was due to the fact that Okinawans, whose independent country was annexed by Japan in the early 1800s, were restricted from emigrating from Japan due to discriminatory laws until

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<sup>125</sup> Gardiner 1981, 143-144.

<sup>126</sup> Hagihara and Shimizu 2002, 212.

<sup>127</sup> Hagihara and Shimizu 2002, 213.

<sup>128</sup> Emmerson 1978.



1899. This, coupled with the Gentlemen's Agreement enacted by the U.S. in 1907, which limited the number of entering Japanese male immigrants, and many Okinawans ended up going to Latin America.<sup>129</sup> As a result, a significant number of JLA deportees who had lineage in Okinawa ended up there in the post-war period. In the years to come, Okinawa would also become an intensively militarized site as a result of the U.S. occupation of Japan and its enduring presence thereafter. In sum, one can chart the affects of U.S. law and U.S. militarism not only across the Pacific between the U.S. and Japan but also through Latin American and back. This, coupled with Japan's own (neo)colonial relationship with Okinawa itself and one can begin to see the layered affects of U.S. imperialism, militarism and so-called soft power diplomacy with Japan via the Japanese Latin American "enemy alien" post-war subject.

As will be discussed in the next section, the logic of U.S. militarized empire can also be traced via the legacy of the Good Neighbor Policy, which though said to have ended in Latin America in 1945, would endure in various forms for decades to come as the working paradigm for an expanding U.S. empire in the postwar, cold war era.

### ***U.S. Empire and the Legacy of the Good Neighbor Policy***

As World War II was coming to a close, President Roosevelt often held up the "illustration of the [American] Republics of this continent" as a model for postwar reconstruction.<sup>130</sup> In 1947, at a state visit to Mexico, Harry S. Truman continued to reflect these sentiments, stating, "Here in the Western Hemisphere, we have already achieved in

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<sup>129</sup> Hagihara and Shimizu 2002, 205.

<sup>130</sup> Grandin 2006, 39.

substantial measure what the world as a whole must achieve. Through what we call our Inter-American System, which has become steadily stronger for half a century, we have learned to work together to solve our problems by friendly cooperation and mutual respect.”<sup>131</sup> Indeed, as Historian Greg Grandin has argued, the hemispheric alliance system provided a “working blueprint”—“a model that U.S. diplomatic, intellectual, and military leaders followed to extend channels of authority and corporations used to establish chains of production, finance and markets elsewhere, in Western Europe, East Asia, the Middle East, and Africa.” He further writes, “It was a flexible system of extraterritorial administration, one that allowed the United States, in the name of fighting Communism and promoting development, to structure the internal political and economic relations of allied countries in ways that allowed it to accrue more and more power and to exercise effective control over the supply of oil, ore, minerals, and other primary resources—all free from the burden of formal colonialism.”<sup>132</sup> Thus, it was not just during the period of ‘postwar reconstruction’ that the legacy of the Good Neighbor Policy proved enduring but well into the cold war, where one can trace its formative role in the construction of American soft power.

Interestingly, for Latin America (as well as many other part of the world), within the context of the “cold” war, this meant rearming, a shift to “hard power”—but once again in the name of “hemispheric defense” against outside aggression, this time against communism and the Soviet Union. Throughout the cold war, the U.S. directly or indirectly attacked all suspected socialist or nationalist movements in Latin American for

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<sup>131</sup> Grandin 2006, 39.

<sup>132</sup> Grandin 2006, 39-40.

purposes of “preventing the spread of Soviet influence.” U.S. interventions included the CIA overthrow of Guatemala's President Jacobo Árbenz in 1954, the unsuccessful CIA-backed Bay of Pigs Invasion in Cuba in 1961, CIA subversion of Chilean President Salvador Allende in 1970–73, and CIA subversion of Nicaragua's Sandinista government from about 1981 to 1990. As during WWII, Latin America served as U.S.-America's own backyard within what some historians have called a “closed hemisphere” within an evermore “Open World.”<sup>133</sup> The Rio Pact of 1947, as it was called, which formalized a mutual defense treaty with Latin America empowering signatory nations to “act collectively against outside aggression,” set a precedent for the creation of a regional organization (the Organization of American States) bound by its own set of rules and regulations outside the U.N. Not surprisingly, NATO and the Southeast Asia Treaty Organization were modeled directly after the Rio Pact.<sup>134</sup>

In all, I argue that such is illustrative of the workings of a flexible, dynamic and *global* U.S.-American empire in ascendance particularly beginning with WWII. That the enemy alien deportation-internment program was conceived of and “successfully” implemented under the Good Neighbor Policy should be seen not as a fluke or anomaly at an exceptional moment but rather as a testament, revealing of a paradigm of U.S. empire that would provide the context of emergence for Simpson's “anxious paternal liberalism” toward Japan. In the next two chapters, we will see how Japan's shifting position in the postwar global configuration combined with the emergence of “human rights” as a new paradigm of empire would provide the context for various acts of

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<sup>133</sup> Grandin 2006, 40.

<sup>134</sup> Grandin 2006, 40.

“redress” and “remorse” for “the internment” of Japanese American citizens and resident aliens and for the deportation of JLAs by ‘even’ Emerson himself.

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In this chapter, via a “Japanese Latin American critique,” I have offered an alternative genealogy to that of the predominant narrative of “the internment” as the civil rights violation of Japanese U.S.-American citizens and resident aliens during WWII. As part of this move, I have put at the center of my excavation, the question of U.S. empire as, in the words of Yen Le Espiritu, the “layering of past colonial and ongoing militarization practices.”<sup>135</sup> Thereby “conceptualizing militarism as an extension of colonialism,”<sup>136</sup> I argue that the (neo)imperial relationship between the U.S. and region of Latin America (begun before even before the U.S. nation’s inception) indeed provided the context for the U.S. deportation-internment-repatriation of Japanese from Latin America during WWII. The program was a highly militarized one—conceived of by the U.S. Department of State and carried out by the Departments of War, Justice and Navy.<sup>137</sup> Grafting the historical and ongoing militarization of Latin America by the U.S. in the name of “hemispheric defense” onto this operation, I have shown that what is revealed is not an exceptional moment of U.S. diplomatic power gone awry but rather quite the opposite: a paradigmatic moment of U.S. militarized empire at work. Moreover, also revealed and reflected are the oft-overlooked linkages between U.S. empire in two geographical regions: Latin America and the Asia Pacific. Tracing the U.S.’s postwar

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<sup>135</sup> Espiritu 2014, 26.

<sup>136</sup> Espiritu 2015, UCSD ETHN 155 (U.S. Militarism) course syllabus; phrase from course description.

<sup>137</sup> Weglyn 1976, 59.

“anxious paternal liberalism” toward Japan back through the path traversed by the Japanese taken from Latin America offers yet another dimension toward a critical understanding of the *transpacific* imperial roots of U.S. postwar, neocolonial empire. In the next chapter, I will examine how the U.S. and Japanese Latin American former deportees themselves grapple with memories of this global militarized racial violence in the postwar / cold war moment—a moment when what is at stake is precisely the emergence of the U.S. as the world’s sole superpower.

Part of chapter 1 is in preparation to be published in fall 2016 as “Traces of the Transpacific U.S.-American Empire: A Japanese Latin American Critique” in *Amerasia Journal*. The author of this dissertation will be the single researcher/author of this article.

**Chapter 2:**  
**Delimiting “The Internment”:**  
**Subjugated Knowledges and the Disavowal of U.S. Empire**

The document is not the fortunate tool of a history that is primarily and fundamentally memory; history is one way in which a society recognizes and develops a mass of documentation with which it is inextricably linked. To be brief, then, let us say that history, in its traditional form, undertook to 'memorize' the *monuments* of the past, transform them into *documents*, and lend speech to those traces which, in themselves, are often not verbal, or which say in silence something other than what they actually say; in our time, history is that which transforms *documents* into *monuments*.

Michel Foucault, *The Archeology of Knowledge*<sup>1</sup>

In his pivotal work, *The State of Exception* published in 2003, renowned Italian philosopher Giorgio Agamben, in his discussion of U.S. President Franklin Roosevelt’s demonstrations of sovereign power during WWII, cites as an example “the internment of seventy thousand American citizens of Japanese descent who resided on the West Coast (along with forty thousand Japanese citizens who lived and worked there)” as “the most spectacular violation of civil rights (all the more serious because of the solely racial motivation).”<sup>2</sup> He points to the date February 19, 1942—the day Executive Order 9066 was enacted. Agamben certainly got it right that the U.S. racialized state violence wrought upon U.S.-American Japanese during WWII may serve as an appropriate example to support his theory of “the state of exception.” Still, I ask: How might a revelation of such violence which considers also the extension of U.S. sovereign power throughout the Americas during WWII—the concurrent deportations, internment, and hostage exchanges of Japanese “enemy aliens” from Latin America in the name of “Western hemispheric defense”—alter or enhance his theory, in which he argues that,

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<sup>1</sup> Foucault 1972, 7, emphasis in original.

<sup>2</sup> Agamben 2005, 22.

post 9/11, “the state of exception” has become a working paradigm of modern democratic regimes?

That Agamben himself highlights the internment of Japanese U.S.-American citizens and resident aliens as “the most spectacular violation of *civil rights*” should not be surprising given the remarkable and seemingly unshakeable cornerstone this narrative has achieved, not only in the national imaginary but in a global sense around the *world*, among scholars and activists alike. In the following chapter, I argue that it is with the passage of the Civil Liberties Act of 1988 (CLA), the U.S. government legislation which granted a formal apology and reparations payment of \$20,000 to each surviving Japanese U.S.-American citizen and Japanese U.S.-resident alien incarcerated during WWII, that “the internment” achieves its place in state-sanctioned History as “one of the worst violations of *constitutional* and *civil rights*.” Strategically framing “the internment” as a *civil rights* violation and its “redress” as a *civil rights* legislation, the production works as a sort of teleological narrative of progress and redemption for the U.S. nation-state—both for a domestic audience as well as on the world stage. At a crucial moment in the reorganization in the world order, such a “resolution” was significant for the emergence of the U.S. as the world’s leading superpower—its mighty as well as moral leader.

Interestingly, but (as I will show) not coincidentally, the 2,264 *Latin Americans* of Japanese descent deported by the U.S. government from 13 Latin American countries and interned and used in hostage exchanges with Japan alongside Japanese U.S.-Americans citizens and residents during WWII appear nowhere to be found in this production—not in the congressional debates on the Japanese American redress bill nor in the text of the bill itself. As I discuss in chapter four, during the implementation phase

of the CLA as JLA former deportees apply for redress under the bill, it becomes apparent that they are ineligible on the basis that were not citizens nor legal permanent residents at the time of their internment—an eligibility requirement clearly stated in the text of the bill. Indeed, many JLA redress activists have speculated that such ‘implicit exclusion’ was calculated and intentional on behalf of legislators and activists crafting the bill. To be sure, producing an historical account of the exact political machinations that went on behind the legislative scenes is a task to be left to another scholar. Rather, I am interested “out of a concern for justice” in what these ghosts *as traces* (of “the internment” and its “redress”) signal about the present and how they may lead us to (in the words of Lisa Yoneyama on Walter Benjamin) reclaim “missed opportunities,” “unfulfilled promises,” and “unrealized events” from “a history that is made to appear as if it unfolds through time naturally and automatically.”<sup>3</sup>

In this chapter, taking their absent presence in the CLA as a point of departure, I go back to the archive and follow the ghosts of these JLA former deportees to examine their traces as they appear (and/or seem to disappear) at key junctures in the early formations of “the internment” and its “redress”; these include early incarnations of “Japanese American redress” including the first reparations bill introduced in Congress in 1979, the Commission on Wartime Relocation and Internment of Civilians (CWRIC) hearings which took place in 1981 and the Commission report published in 1982. I ask: How were they *made* to be absent and how could History and history have gone another

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<sup>3</sup> Yoneyama 1999, 29.



way? How can we, in the words of Lisa Lowe, “imagine a much more complicated set of stories about the emergence of the now”?<sup>4</sup>

In the final section, I show how the disavowal of memories of the WWII JLA rendition program (which I read as the disavowal of U.S. global reach in Latin America *gone awry*) sets the stage for “the internment” to emerge as a redressable national tragedy—a neatly packaged *civil* rights violation resolvable by U.S. institutions and norms. A major assertion of this project, which I discuss further in the next chapter, is that “Japanese American redress” is produced at the end of the cold war as a fundamental condition of U.S. empire. That is, as a crucial component in the restoration of the “Good War” narrative of WWII and the reproduction of the U.S. as a mighty and moral superpower, the CLA works to not only resolve ‘the internment’ in the national imaginary but to provide a mandate for the U.S. to intervene across the globe in the name of ‘human rights’ as the world’s leading adjudicator of ‘justice.’ Ultimately, I read the marginalization and (attempted) erasure of memories of the U.S. militarized racial violence associated with the WWII rendition of JLAs in the name of “Western hemispheric security” as a *disavowal of empire*—a move both crucial and necessary to the re-production of U.S.-American exceptionalism at a pivotal global historical moment.

### **Early Articulations of “Human Rights” and “Redress”**

As early as 1970, Edison Uno, one of the members of the JACL who actively pushed for the organization’s involvement in the Title II repeal movement, introduced a resolution at the JACL national convention calling for the organization to seek redress

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<sup>4</sup> Lowe 2006, 208.

and compensation for former internees via congressional legislation. Meanwhile, Henry Miyatake of the Seattle chapter of the JACL had also already begun researching possible legal routes to redress and by 1973 introduced the “Seattle Plan” – the first concrete redress proposal which included compensation to individuals as a key element. From 1973 to 1978, while the national JACL remained largely ambivalent, inactive and even hostile toward the redress issue, seeing it as a political non-starter and fearing that it would stir up anti-Japanese American sentiment, the Seattle Evacuation Redress Committee (“SERC”) engaged in a rigorous grassroots campaign – launching the first ever Day of Remembrance, making appeals for redress activism to each of the 102 JACL chapters, and pursuing and realizing the revocation of Executive Order 9066 by President Gerald Ford in 1976.<sup>5</sup>

According to scholars and activists, JLAs were indeed included in the Seattle Plan.<sup>6</sup> Miyatake has been quoted saying: “[It] covered everybody...including Germans, Indians, Italians, everybody that was affected by the government, not just the E.O. 9066, but the coverage by some of the other resolutions, executive orders that were put out for the eastern seaboard. That was a separate sector altogether. Those people were affected.”<sup>7</sup> In his book on the Seattle redress efforts, Robert Shimabukuro writes that Miyatake “felt strongly that all these groups had been subject to the unfair application of the law, especially the Aleuts” and also believed that “broad coverage would help passage of the

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<sup>5</sup> Maki *et al* 1999, 70-71, emphasis added. See also Shimabukuro 2001, 30, 34; Takezawa 1995, 36-42; and Hohri 1991, 197.

<sup>6</sup> See, e.g., Takezawa 1995, 37. Takezawa writes, “The ‘Seattle Plan,’ as it later became known, proposed individual payments to all people who were evacuated or interned during World War II, including Latin American Japanese deported to the United States for internment and the native American Aleuts who were evacuated from their residents [SIC]” (37).

<sup>7</sup> Shimabukuro 2011, 60.

bill, because it would gain more supporters.”<sup>8</sup> Still, there exists much evidence from as early as 1976 of pushback from the JACL to have a more *exclusive* version of redress. In her work that examines the community-based politics leading up to the passage of the CLA, Alice Yang Murray cites a letter sent by JACL leader Mike Masaoka to SERC in May 1976 stating that the inclusion of internees from Hawaii and Central and South America would make it more ““difficult to secure congressional passage.””<sup>9</sup>

As mentioned, I am less interested in conducting an investigation into the motivations and political maneuvers behind the legislative or even grassroots scenes toward ‘discovering’ how and why the JLAs were ultimately excluded from the CLA redress bill. Still, I am interested in the politics of “il/legibility of violence” (to borrow from Lisa Yoneyama<sup>10</sup>)—in how certain ‘acts’ of state violence are rendered il/legible and un/redressable both by the state and its political subjects. To get at this, in this section, I begin with the well-known story about the successful JACL-backed commission bill introduced into Congress in 1979 and passed in 1980. It is this bill that directly led to the creation of the CWRIC study and hearings, which would take place in 1981. Taking this ‘History’ as a point of departure, I then engage in a close examination of the *failed* Lowry Bill—the first Japanese American reparations bill debated in Congress in 1980 alongside the commission bill. While the commission bill was explicitly focused on Executive Order 9066 and its impact of “American citizens and permanent resident aliens,” the Lowry Bill deployed an explicit “human rights” framework and stipulated, “No individual shall be denied a payment” due to “the

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<sup>8</sup> Shimabukuro 2011.

<sup>9</sup> Murray 2008, 294.

<sup>10</sup> Yoneyama 2010.

residence or citizenship of the individual.” I close this section by looking at a booklet first published in 1978 by the JACL advocating for redress. Here, I detect a notable slippage between “human rights” and “civil rights” but yet also the precursor to what would become an exclusive civil rights frame for delimiting “the internment.”

To be sure, my aim here is not to *advocate* for a “human rights framework” (which I actually contend is also problematic) as the *correct* framework for *including* JLAs in any governmental redress legislation but rather to better understand the complex history of the present that has rendered at once “the internment” a *civil rights* violation, the JLAs as *unredressable* and *illegible* subjects within this frame and the U.S. a *human rights* leader. In this chapter, I ask both *how* history could have gone another way and how “internment” History emerges within the context of a converging human rights discourse and U.S. empire in ascendance.

### ***The ‘Commission Route’***

The JACL, despite finally adopting a formal redress proposal (which included both an official apology from the U.S. government and individual redress compensation of \$25,000) at its 1978 national convention, in 1979 shifted its stance to endorse a commission study bill instead. The story goes that after meeting with Japanese American congress members Senators Daniel Inouye and Spark Matsunaga and House Representatives Norman Mineta and Robert Matsui, the majority of the JACL’s National Committee for Redress stood convinced of the ‘commission route’ and on March 3, 1979 voted 4 to 2 for “the concept of a congressional commission to the exclusion of any other

redress plan.”<sup>11</sup> Meanwhile, SERC, deeply offended by the JACL’s switch to a “commission approach,” forged ahead with working with Congressional Representative Mike Lowry (D-WA) to craft a redress bill. Ultimately, in 1979, both bills were introduced in Congress. In August 1979, S. 1647, a commission study bill, was introduced by Senator Inouye (and co-sponsored by Senate Majority Whip Ted Stevens (R-Alaska)), and in September 1979, H.R. 5499, the House version of the commission bill was introduced by Representative Jim Wright (and co-sponsored by Representatives Mineta and Matsui).<sup>12</sup> In November 1979, H.R. 5977, a redress bill calling for individual redress payments of \$15,000 plus \$15 per day of incarceration was introduced by Representative Lowry in the House of Representatives. S. 1647 passed the Senate on May 22, 1980 “with very little controversy.”<sup>13</sup> On the House side, both H.R. 5499 and H.R. 5977 were debated upon within the House Judiciary Committee on June 2. Lowry himself and William Hohri (who had been working with SERC and represented the National Council for Japanese American Redress (NCJAR)) testified in support of Lowry’s bill while John Tateishi and Mike Masaoka, representing JACL, testified in support of the commission bill. Lowry’s bill died in committee while H.R. 5499 passed out and subsequently passed in Congress on July 21, 1980. On July 31, President Jimmy Carter signed the commission bill into law, which would establish the Commission on Wartime Relocation and Internment of Civilians.<sup>14</sup>

### ***The Failed “Human Rights Violations Act”***

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<sup>11</sup> Shimabukuro 2001, 56; Murray 2008, 298-299.

<sup>12</sup> Murray 2008, 300.

<sup>13</sup> Shimabukuro 2001, 62.

<sup>14</sup> Shimabukuro 2001, 62; Takezawa 1995, 46-48.

As mentioned, although the Lowry Bill ‘failed,’ many recognize it as being the first to introduce to Congress the idea of reparations for Japanese and Japanese American former internees in the form of individual direct redress payments. They thus credit the proposal as playing an important role in setting the stage for the eventual passage of the CLA. Still, upon close examination, the Lowry bill reveals itself to be quite different than that “successful” reparations bill that did end up defining “Japanese American redress.” First, despite also not explicitly naming JLAs as “eligible individuals,” H.R. 5977 seems to have a much more expansive definition of who qualifies for redress than the CLA. H.R. 5977 defines “eligible individual” to mean “any individual of Japanese ancestry who was interned or detained or forcibly relocated by the United States at any time during the World War II internment period” with “internment period” meaning “the period beginning on December 7, 1941, and ending on December 31, 1952.”<sup>15</sup> While the “Germans, Indians, Italians and Aleuts” whom Miyatake had hoped to include were excluded by this requirement, the JLA former internees indeed seem to be included for, unlike the CLA, the Lowry bill did not include any stipulation requiring U.S. legal residency or citizenship of such eligible individual. In fact, it required just the opposite. Under the section “Payments,” the bill states, “(d) No individual shall be denied a payment made pursuant to subsection (a) because of the residence or citizenship of the individual.”

I argue this implicit *inclusion* of JLAs must be read vis-à-vis the framing of the bill as a human rights vs. civil rights legislation. Entitled, “World War II Japanese-

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<sup>15</sup> United States Congress, 96<sup>th</sup> Congress, 1<sup>st</sup> session, 1979, House of Representatives. Subcommittee on Administrative Law and Governmental Relations of the Judiciary Committee, *Hearings on H.R. 5977, Japanese American Human Rights Violations Act*. The bill also includes heirs (CLA did not) and has a longer “internment period” than the CLA.

American Human Rights Violations Act,” H.R.5977, unlike the Civil Liberties Act (as well as the commission bill), contained a clear, consistent focus on the WWII forcible relocation, deportation and/or internment of Japanese/Americans as “injustices and violations of *human rights*.”

The three stated purposes of H.R. 5977 were as follows:

- (1) to recognize and redress the injustices and violations of *human rights* perpetrated during the World War II internment period against individuals of Japanese ancestry by the United States;
- (2) to discourage similar injustices and violations of *human rights* in the future; and
- (3) to make more credible and sincere any declarations of concern by the United States over violations of *human rights* committed by other nations.

As will be discussed more in depth in the next chapter, in contrast, the *Civil Liberties Act* was much more narrowly, and I argue carefully, framed such that it worked to acknowledge “the internment” as a *civil rights* violation in order to (re)produce the U.S. as a *human rights* leader. For with the CLA, the third purpose remained intact word for word while the first two purposes were altered to be focused on the “violations of civil rights” of “citizens and permanent resident aliens.”<sup>16</sup> I contend that the changes were organized and strategic – a way for the U.S. to contain and domesticate memories of “the internment” within a civil rights frame all the while maintaining the act of redress as a human rights imperative.

To be sure, both bills ostensibly share the similar aim: to re-produce the U.S. as *the* proven and professed leader of human rights around the globe. At the time, the crucial importance of the U.S. re-emerging as *the* leading adjudicator of ‘justice’ in the world

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<sup>16</sup> United States Congress, *Hearings on H.R. 5977*.

context was becoming apparent, and the “image of American democracy”<sup>17</sup> abroad assumed a central role in this production.<sup>18</sup> I argue that “the internment,” as a form of remembrance, was thus emerging as something the U.S. must overcome on the *world* stage in order to assume its position as a global superpower. The question was how would they get there? *How* would they get it done? In the late 1970s, the discourse of “human rights” was taking shape as the preferred language of choice in dealing with matters of ‘justice.’ In 1978, the American Convention on Human Rights signed by the Organization of American States in 1969 entered into force and marked the establishment of the Inter-American Court of Human Rights. This would be the same court that Art Shibayama would file a petition for his case twenty-five years later. Scholars of U.S. militarism have also noted the “the intellectual reorientation of American diplomacy in the wake of Vietnam” during this time—“the increasing willingness of militarists to champion human rights, nation building, and democratic reform.”<sup>19</sup> Not coincidentally, also in 1978, former U.S. Diplomat John K. Emmerson published his well-cited work, *The Japanese Thread: A Life in the U.S. Foreign Service* in which he discusses his experience with and perspective on the Japanese in Peru during his time as the Second Secretary of the Embassy. Emmerson, described by Weglyn in 1977 as “monomaniacal in his determination to have the Japanese ‘menace’ removed from Peru, in the manner of Bendetsen vis-à-vis the JAs,” “the mastermind who encouraged the J. Peruvian expulsion

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<sup>17</sup> Dudziak 2000.

<sup>18</sup> Many scholars have noted the connection between domestic race relations at home and the image of U.S. military and moral leadership abroad, particularly during the cold war. See, e.g., Dudziak 2000; Anderson 2003; Kaplan 1993.

<sup>19</sup> Grandin 2006, 7.



with uncommon zeal,”<sup>20</sup> seemed to have had a change of heart by 1978. In his book, he writes, “As I look back on the Peruvian experience I am not proud to have been part of the Japanese operation... / ...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.”<sup>21</sup> Hence, *even* Emerson, also described by Weglyn as “a racist through and through”<sup>22</sup> not only publically expressed regret in 1978 regarding his role in the deportation and internment of the Japanese Peruvians but also named the episode a “violation” and specifically a “violation of *human rights*.”

***Slippages: “Human Rights,” “Civil Rights”***

Indeed, I read this moment in the late 1970s/early 1980s as a window offering various nodes of missed opportunity (however ambiguous or fleeting) to articulate “the internment” *otherwise*—otherwise than what has become a primarily civil rights narrative of U.S. racial violence towards national redemption. Moreover, I read it as a moment of possibility when the JLA former deportees *could have been* rendered redressable subjects by the U.S. nation-state—legible via the discourse of ‘human rights.’ The booklet entitled *The Japanese American Incarceration: A Case for Redress* (third edition) published in

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<sup>20</sup> “Mochizuki Correspondence / Weglyn, Michi 1977” Folder 18, Box 1, Yukio Mochizuki Collection, Archives and Special Collections, University Library, California State University, Dominguez Hills; Weglyn correspondence to Yukio Mochizuki dated September 21, 1977. Weglyn further wrote, “His writings and correspondence shows him to be a racist through and through (as with John McCloy) – and I consider him the mastermind who encouraged the J. Peruvian expulsion with uncommon zeal. The State Department fell for it hook, line and sinker.”

<sup>21</sup> Emerson 1978, 149.

<sup>22</sup> “Mochizuki Correspondence” 1977.

1980 (first edition published in 1978) by the JACL's National Committee for Redress is another interesting case in point. Here, the authors in fact mention the JLAs when describing the experiences of the Issei who were arrested by the FBI prior to the mass incarceration and placed in "special prison camps." They write that while some were eventually moved to the mass detention camps where they reunited with their families, others remained in these 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.*"<sup>23</sup> This is the only mention of the JLAs in the booklet but it is important because 1) it once again shows that the JACL as an organization was aware of the U.S. operation to deport and intern JLAs during WWII, 2) it describes (albeit pithily) the experience of the JLAs as connected to that of the Issei (via being placed in the same DOJ camps) and 3) it alludes to the culpability of the U.S. for such an operation.

However, I find, in the last instance, the booklet nevertheless remains focused on the "constitutional rights" of the second generation *Nisei* – the Japanese *Americans*. It is here, I contend, one can detect the early formation of the dialogical link between, on the one hand, the production of "the internment" as a civil rights violation of American citizens, and, on the other, the making of the U.S. as a human rights leader: For instance, in the conclusion section of the booklet, it reads, "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

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<sup>23</sup> National Committee for Redress, Japanese American Citizens League, "The Japanese American Incarceration: A Case for Redress" pamphlet, Asian American Studies Collections, Ethnic Studies Library, UC Berkeley, 10, my emphasis.

meaningful action to correct its own mistakes.”<sup>24</sup> It goes on as its final passage: “Redress is a moral and *human rights* issue based on the *constitutional* guarantees of all *Americans*. It is one in which a query into, and an understanding of, the events that shaped a fateful policy in 1942 can help to protect the principles of democracy in the future.”<sup>25</sup> Thus while “redress” is considered by the authors to be “a moral and *human rights* issue” and the U.S. a “civil and *human rights* leader,” the violation itself is narrowly defined and contained to be a constitutional issue, a violation of the “constitutional guarantees” of *Americans*. This slippage between “the internment” as a civil rights case and its redress as a universal human rights issue would get be more refined in redress discourses as “the internment” itself would get more domesticated.<sup>26</sup> Still, I contend, it is precisely within such a slippage that the possibility of critique exists. I argue that discourses concerning the JLA deportation and internment program contain the possibility to demand a critique of “human rights” as a late modern political-symbolic regime—a critique that stands to call into question the (re)production of the U.S. nation as the exceptional U.S. human rights leader. That is, bringing to the fore subjugated knowledges of U.S. empire and U.S. globalized racial violence, memories of the JLA WWII rendition program proffer to create a rupture in the teleological narrative of redress as redemption—proof of America’s ability to lead *the world* into a utopia free of interethnic strife.

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<sup>24</sup> Ibid., 24.

<sup>25</sup> Ibid.

<sup>26</sup> Recent scholarship has cited and engaged this problem of the domestication and reduction of the global aspects of “the internment” to “a single issue of civil liberties,” “locked on to constitutional rights of the America-born Japanese.” See Azuma 2005, “From Civil Rights to Human Rights,” 109. See also: Azuma 2005, *Between Two Empires*; Hayashi 2004; Mak 2009, 286. I argue that this *problem* of knowledge production within scholarship must be understood within the broader context of, not only governmental redress efforts, but also of U.S. empire and modern law within which these efforts get defined and articulated.

### **Testifying to Empire: On Truth and Testimony**

As mentioned, the three directives of the CWRIC as stated in the commission bill were as follows: “To 1.) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive Order on *American citizens and permanent resident aliens*; 2.) review directives of U.S. military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and 3.) recommend appropriate remedies.”<sup>27</sup> Indeed, the narrow parameters of the mandate—to focus exclusively on the impacts of Executive Order 9066 on American citizens and permanent resident aliens as well as of U.S. military activity on the Aleutian and Pribilof Islands—like the CLA would do later, implicitly excluded JLAs. Nevertheless, eight would end up testifying on behalf of the deported and interned Japanese Peruvians: five testifiers in Chicago, one in Los Angeles and two in New York. From July to December 1981, the CWRIC held eleven hearings in ten cities throughout the U.S. and recorded the testimonies of over 750 witnesses.<sup>28</sup> According to CFJ and testifiers Eigo and Elsa Kudo, support for Japanese Peruvians’ participation at the hearings was informal and weak at best. When the Higashide and Kudo families then living in Hawaii heard about the impending hearings and inquired about participating, they were told by the Commission that they should be able to join one of the programs in Los Angeles, San Francisco, Seattle or Chicago. They were told they must contact the JACL themselves in each of the cities to see if they could be

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<sup>27</sup> United States, Commission Wartime Relocation and Internment of Civilians 1997, 1, my emphasis.

<sup>28</sup> United States 1997; see also Maki *et al* 1999, 99; Hata 1995, 26; Ichioka 1981; and Hohri 1988, 87-183.

included. According to Eigo, “Los Angeles said right away, no. San Francisco said no. Seattle said no. Chicago originally said no.”<sup>29</sup> As Elsa seemed to reason, “They were booked. They were booked already. They were *all* booked.”<sup>30</sup> It was only with the help of JACL leader Chiye Tomihiro in Chicago (with whom they were able to make a connection through Elsa’s brother Carlos) that they were able to get on Chicago’s program, along with Elsa’s father, Seiichi Higashide, George Fujii and Professor C. Harvey Gardiner who was doing work on Japanese in Peru and particularly on their deportation and internment during WWII. Japanese Peruvian internees Ginzo Muroto and Arthur Shinei Yakabi also testified in New York, and Hector Watanabe testified in Los Angeles.

In this section, I offer a close, careful reading of the testimonies of these eight, seeking to explore both their limits and possibilities as narratives of experience wherein *experience* (in the words of Joan Scott) “is at once already an interpretation *and* something that needs to be interpreted....; it is always contested, and always therefore political.”<sup>31</sup> As Allen Feldman reminds us, “The production of biographical narrative, life history, oral history, and testimony in the aftermath of ethnocidal, genocidal, colonial, and postcolonial violence occurs within specific structural conditions, cognitive constraints, and institutional norms.”<sup>32</sup> Feldman, among other scholars, thus challenge us to think critically about (to quote Lisa Yoneyama) “the ways in which power operates in the production of historical knowledge, wielded in domination and as resistance” and to ask the question of “what exactly is at stake in remembering and forgetting past events in

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<sup>29</sup> Eigo Kudo, author’s interview.

<sup>30</sup> Elsa Kudo, author’s interview.

<sup>31</sup> Scott 1994, 387, emphasis in original.

<sup>32</sup> Feldman 2004, 163.

certain ways and not in others.”<sup>33</sup> In the case of narratives produced within the post-colonial, late-capitalist institutionalized setting of the ‘truth commission,’ we must remain wary of “narratological strategies that reduce the evidentiary to a transparent linear event history”—part of “the commission’s ethic of ‘transparency’”—“a process of disclosure heavily dependent on the authenticated witness salvaging an occluded past through both the public performance and the content of his/her pain and testimony.”<sup>34</sup> Moreover, even as we remain attentive to “the conditions under which such narratives arise—the political agency that such narrations refract, replicate, and authorize,” we must also account for the vast range of “circuits that filter and consume the biographical artifact.”<sup>35</sup> A critical reading of the testimonies produced within the CWRIC hearings demands engagement with such concerns—particularly, when the narratives emerging from these testimonies have indeed formed and informed the official (linear, teleological) national history of “the internment” and its “redress” over the last thirty some years. In what follows, I attempt to read the eight testimonies against the grain of this postcolonial reality of the ‘truth’ commission while also remaining vigilant of the ever-present pregnant radical possibilities within such settings—the subjugated knowledges and opportunities to destabilize and subvert dominant narratives and edible histories.

### ***Memory Theatres and Relationality of Violence***

In an important article that considers the case of the South African Truth and Reconciliation Commission (TRC) published in a special issue of *Biography* (2004),

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<sup>33</sup> Yoneyama 1999, 28.

<sup>34</sup> Feldman 2004, 169.

<sup>35</sup> Feldman 2004, 163.

Allen Feldman calls our attention to the “normative and moralizing periodization built into the post-violent depiction of violence”—the linear emplotment of the biographical narrative “meant to culminate in the cathartic ‘break’ with the past – establishing the pastness of prior violence, and managing and controlling the conditions and terms of its periodic reentry into the present.”<sup>36</sup> He further argues that the “ritual of staging the moral opposition between abusive legal and psychomedical rationality and post-violent corrective legalities and medicalized therapeutics is a necessary moment in the reinstatement of a post-violence reason: a moment in which reason divides itself in two, exiling its double through convenient periodization.”<sup>37</sup> Indeed, I find that the CWRIC hearings were also similarly staged such that “the internment” was produced as a *contained episode* of racialized state violence “scheduled for eventual overcoming”<sup>38</sup> in the post-violent, *non-violent* present. The CWRIC, like the TRC, essentially held the notion that it “would hold up a mirror” which “would allow the nation to confront its past and then make a clean break...”<sup>39</sup> As mentioned, the third directive of the CWRIC was to “recommend appropriate remedies.” Thus, I contend, the CWRIC, like its other truth commission prototypes, was institutionally structured from the first instance to be a forum of restoration, restitution, and reconciliation *toward remedy*. The testimonies of the seven internees and one scholar speaking on behalf of the Japanese Peruvians indeed could be read as quite simply following such a structure via their periodized narrations that delimit the violence they experienced as something of the past and via their appeals for “reparation” in the present from the state. Ginzo Muroto, for instance, who testified

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<sup>36</sup> Feldman 2004, 164, 170.

<sup>37</sup> Feldman 2004, 168.

<sup>38</sup> Feldman 2004, 165.

<sup>39</sup> Feldman 2004, 168.

at the New York hearings, stated: “Speaking as a former internee and *a citizen* of the United States, the greatest country and strongest advocate of freedom and human rights in the world, I ask for acknowledgement of the injustice and hope that such an event will never again be repeated in the future.”<sup>40</sup> Hence, again, in this passage, the “injustice” is contained as just that – a singular, nameable disconnected aberration located in the nation’s past while the nation, as “the greatest country and strongest advocate of freedom and human rights in the world,” itself remains intact—and, in fact, strengthened by the performance of so-called truth-seeking and reconciliation. As I will discuss in the next chapter, I find that within the congressional hearings on the Civil Liberties Act, “the internment” is constructed precisely as a *redressable* national tragedy—a signifier that, rather than calling into the question the U.S. nation-state and its co-called ideals of democracy and due process, instead works to bolster and in fact re-produce American exceptionalism at a crucial global historical moment.

Still, in examining these testimonies, I am interested to glean the political possibilities embedded in their narrations, in what they may have to reveal concerning the relationality of violence, the politics of historical knowledge and, in the words of Yoneyama, the “excess of memory”<sup>41</sup> that would not be contained in the seemingly seamlessly packaged official history of “the internment.” How might we locate their “residual historical fragments”—the “marginal, repressed, denied, and unreconciled historical fragments that call the present into question”<sup>42</sup> and that have not been easily integrated into master narratives of progress and reconciliation delineating “the

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<sup>40</sup> Testimony of Ginzo Muroto, CWRIC, New York, NY, November 23, 1981, CWRIC Files, NARA, 32, my emphasis.

<sup>41</sup> Yoneyama 1999, 170.

<sup>42</sup> Feldman 2004, 164.



internment” and its “redress”? Feldman writes, “The biographical artifact of historical horror is not the history of a single typified subject; rather, it bears traces of the relationality of violence, and as a text of mourning, the traces of the absent, the disappeared, and the dead. The biographical artifact anthropomorphizes the relationality of violence, and thus can serve as the embarkation point for an analysis of this relation, but it can only slip into further repression if allowed to languish in the rigidified form of a terminal legal, medical, redressive, therapeutic subject.”<sup>43</sup> Thus, I am interested in these testimonies as an “embarkation point for an analysis” of the relationality of violence and the “excess of memory” as it pertains to historical knowledge formations concerning “the internment” and its “redress.” Specifically, how does the positionality of JLA former internees as neither U.S. citizens nor legal permanent residents at the time of their internment point to “histories” outside the official narrative of “the internment” as a “*national* tragedy”—one delimited to issues of constitutional and civil rights? What does it mean that these eight testifiers were not even technically authorized to speak at the CWRIC hearings but inserted themselves *anyways*—*outside* the federal mandate outlined in the commission bill?

***“The U.S. brought us here by force”***

The question of Japanese Peruvians’ and Japanese Latin Americans’ place (or lack thereof) in History was raised more than once during the testimonies. Former internee George Fujii, for instance, concluded his statement at the Chicago hearing by emphasizing: “I tell this story from the Japanese American Peruvian point of view. I also

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<sup>43</sup> Feldman 2004, 195.

feel that should get the same consideration as the Japanese Americans in the United States, thank you.”<sup>44</sup> Hector Watanabe, a month earlier in Los Angeles, also concluded, “Most of the people weren’t aware of the Japanese Peruvians also being incarcerated in the United States. It still appalls me.”<sup>45</sup> Finally, also in Chicago, scholar and expert on the history Japanese Peruvian WWII internment, asserted, “Repeatedly, the wartime history of the FBI has been written, but the World War II operation in 12 countries has been ignored.”<sup>46</sup> Taken together, passages such as these bespeak the palpable tensions concerning the positionality of JLAs within dominant knowledge formations that have privileged primarily the Japanese American citizen, and to a lesser degree the Japanese American legal permanent resident (alien), as the unitary victim subject of “the internment.” I argue that despite some of their efforts to appeal to personhood vis-à-vis their subsequent legal permanent residency or citizenship status (as in the aforementioned testimony by Ginzo Muroño), these JP internee subjects remained marked by a history located outside “the internment” narrative—one which produced them as “illegals.” During the hearings, at least five of the seven internees spoke about their classification as “illegal aliens”—how for ten years, as stateless “paroles,” they lived under the constant threat of deportation *to Japan*, paid significantly higher taxes than U.S. citizens and when faced with the choice of either deportation or draft were forced to serve a country to which they did not officially belong.<sup>47</sup>

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<sup>44</sup> Testimony of George Fujii, CWRIC, Chicago, Illinois, September 22, 1981, CWRIC Files, NARA, 348.

<sup>45</sup> Testimony of Hector Watanabe, CWRIC, Los Angeles, CA, August 5, 1981, CWRIC Files, NARA, 601.

<sup>46</sup> Testimony of Harvey Gardiner, CWRIC, Chicago, Illinois, September 22, 1981, CWRIC Files, NARA, 61.

<sup>47</sup> See testimony of Seichi Higashide, CWRIC, Chicago, Illinois, September 22, 1981, CWRIC Files, NARA, 66; testimony of Eigo Kudo, CWRIC, Chicago, Illinois, September 22, 1981, CWRIC Files, NARA, 74; testimony of Muroño, 31.

Indeed, it is important to keep in mind that only 365 of the 2,375 JLA internees actually remained in the U.S. after the war. These seven Japanese Peruvian testifiers were among them. The majority were forcibly deported to war-torn Japan at the end of the war. Still, their stories were here within the testimonies. Internee Seichi Higashide, author of *Adios to Tears*, the only published memoir on the JLA rendition program, stated at the Chicago hearings: “After the war ended, we could neither return to Peru, nor remain in the U.S. Many were shipped to Japan where they had no place to stay, no food to eat.”<sup>48</sup> Authur Yakabi, in New York, also articulated:

My world fell apart. I was in jail and was to be shipped to wartime Japan. What was to become of me?... Then came Wayne Collins to save me. I was so happy I cried out in joy. I would soon be back in Peru with my family. Soon after that came news that Peru did not want us back and more terrible news, that the United States, for me, since *I did not have a passport, I was an illegal alien. All this time I was never accused of a crime, never had a trial.* I was accused of entering the United States illegally. So, *here I was in jail with no papers and no country.* The United States that got me and hundreds of others here never had one thought, no one, not one person ever thought about that, *what to do with us once the war was over.*<sup>49</sup>

The JLA internee victim subjects, I contend, not only as “illegal aliens” but as “stateless” and violently displaced peoples, products of U.S. militarism and empire, destabilize narratives of “the internment” that tend to frame the episode of state violence in solely national terms, as a violation (and eventual redemption) of the civil and constitutional rights of loyal American citizens/residents. Moreover, they call into question the myth of ‘immigrant America’—“the telos of [*voluntary*] immigrant

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<sup>48</sup> Testimony of Higashide, 66.

<sup>49</sup> Testimony of Authur Yakabi, CWRIC, New York, NY, November 23, 1981, CWRIC Files, NARA, 35-36.

settlement, assimilation, and citizenship”<sup>50</sup>—which dominant narratives of “Japanese American internment” and redress not only leave intact but re-produce. For example, Elsa Kudo, daughter of Higashide expressed, “We remained in camp a year after the war ended, because we were considered illegal aliens. We asked, why are we illegal aliens, when *the U.S. brought us here by force* and the Immigration Authorities processed us?”<sup>51</sup> By bringing to the fore their *forced* “illegal entry” into the U.S. and subsequent status as stateless criminals, these testifiers at once confound the purported “immigrant” pathway toward personhood so central to U.S. national ontology as well as anthropomorphize a brand of U.S. institutionalized, racialized rightlessness well in excess of *civil* liberties violations. In the following two sections, I follow the path laid out by testifiers retracing the steps of such rightlessness through the outposts of U.S.-American empire.

***“We were imprisoned in the Panama Canal Zone”***

During the hearings, several testifiers described experiences related to the imprisonment of JLA men in the Panama Canal Zone for months while being forced to perform hard labor preceding their transport to DOJ camps in the U.S. Authur Yakabi, for example, testified,

We were put to work clearing the jungle around the camp. One extra hot, humid day we had to dig a pit. I had a terrible thought that it was to be my grave. As soon as the pit was deep enough for the guards, we had to run back to camp and clean the officers’ old floor in the latrine. As we carried the buckets of human waste to the pit, we retched and were sickened by the indescribable stench. The guards, who kept a safe distance away, laughed and jeered at us. We always had to run to and from our work area. The older men were so tired that they could not run fast enough to

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<sup>50</sup> Ngai 2004.

<sup>51</sup> Testimony of Elsa Kudo, CWRIC, Chicago, Illinois, September 22, 1981, CWRIC Files, NARA, 90, emphasis added.

please the guards, so they were poked and shoved by the guards with bayonets. When it was time to take my fingerprints, my fingers were so blistered and raw, they had to wait.<sup>52</sup>

Seichi Higashide also described: “During the time that we were imprisoned in the Panama Canal Zone, even those men beyond 65 years of age were forced to perform hard labor wearing used and ill-fitting Army fatigues and boots. We asked for the assistance of the Red Cross but we were told that *the Red Cross was not available to us*.”<sup>53</sup> His daughter, Elsa, depicted her reunification with her father in the U.S. following her transport from Peru, stating, “Mother wept at the sight of father’s changed physical appearance and the hard labor he was forced to perform in the Panama Canal Zone Army prison camp had taken its toll.”<sup>54</sup> While historian Gardiner was the only testifier to *name* the fact that “hundreds of men were compelled to labor for months without compensation” as a “violation of the Geneva Convention”<sup>55</sup> (again, a clear departure from the alleged ‘civil rights’ violation of ‘the internment’ proper), such statements, I contend, are significant in their depictions of U.S. militarized violence in such an *imperial* space as the Panama Canal Zone—a space ostensibly ‘outside’ the rule of law but under U.S. sovereignty. Such a *route*, through this *zone*, at the time an “insular area” of the U.S., bespeaks the imperial nature of the militarized displacement experienced by these Japanese Peruvians. Moreover, such depictions again paint quite a different scenario than that of “the internment” defined as an operation confined within the national borders of the United States proper. In the next section, I explore statements given by testifiers which speak to the militarized, imperial nature of U.S. power in the

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<sup>52</sup> Testimony of Yakabi, 34.

<sup>53</sup> Testimony of Higashide, 65.

<sup>54</sup> Testimony of Elsa Kudo, 90.

<sup>55</sup> Testimony of Gardiner, 61.

region wrought by hegemonic diplomacy and a deep relationship with each of the “dozen or more countries” involved in the extensive operation—all in the name of *hemispheric* security.

***“By order of the United States”***

At least five testifiers spoke clearly of U.S. responsibility in the operation, mentioning that the only explanation they were given by Peruvian authorities for the arrest, detention and deportation of certain Japanese individuals was that it was “by order of the United States.”<sup>56</sup> Professor Gardiner summed it up as follows: “In 12 Latin American countries, in Central America, in the Caribbean and South America, U.S. officials were primarily responsible for kidnapping and impoverishing thousands of men, women and children. During World War II, the State Department and the FBI kidnapped thousands of people, the American Army and Navy transported them to America, and the U.S. Immigration and Naturalization Service housed them in Texan-based concentration camps.”<sup>57</sup> Gardiner went on to discuss the role of U.S. Ambassador to Peru Henry Norweb and the American embassy’s work to “propagandize the Japanese threat in Peru,” “persuad[e] Peruvian officials to approve a deportation scheme,” and “arrange for transportation to the United States of those men” “labeled ‘undesirable.’”<sup>58</sup> Seichi Higashide also made a point to emphasize the culpability of the U.S. and its primary role; he stated, “In conclusion, it is acknowledged that wars create great tragedies, but this super power forcefully involved an innocent group of people who were residing in a

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<sup>56</sup> See testimony of Elsa Kudo, 88; testimony of Eigo Kudo, 72-73; testimony of Muroto, 29.

<sup>57</sup> Testimony of Gardiner, 60.

<sup>58</sup> Testimony of Gardiner, 62.

foreign country which created such a disruption of lives causing great mental and emotional anguish as well as physical and financial suffering. So many lives were unnecessarily and irreparably damaged. I do believe that the United States is responsible for what happened to us and I firmly believe that reasonable reparation is due us.”<sup>59</sup>

Taken together, such testimonies bespeak the role of unmistakable U.S. hegemony in the region and how taken-for-granted ‘soft power’ under the Good Neighbor Policy translated into militarized violence perpetrated against a racialized group sprawled throughout the Americas.

As discussed in the previous chapter, during the Q&A, when asked about “the existence of or the nature of any agreement between the United States and the Peruvian government,” Gardiner responded:

No formal arrangement was ever made and the Government, our government specifically avoided doing so because it knew it was going to be treating with a dozen or more countries and, therefore, it was to be as loose and as general as they wanted to make it at the given moment, as loose as they could make it, and so *there never was a formal arrangement made*. Initially, the first push was made with Panama, *because in one day’s time 98% of the Japanese in Panama were seized and then patterns were usually established in terms of what happened with regard to Panama*.<sup>60</sup>

That no formal arrangements had to be made to orchestrate this program is telling, I contend, of U.S. power and presence in the region, particularly during a period of supposed non-intervention. As will be explored in the next section, the question of U.S. responsibility in the “hemispheric operation” would become pivotal in the writing of “the internment” history and the annexation and ultimate disavowal of U.S. empire.

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<sup>59</sup> Testimony of Higashide, 66.

<sup>60</sup> Testimony of Gardiner, 75 (my emphasis).

## **From Annexation to Disavowal of Empire: Peru’s “Cultural Prejudice”**

### ***“Appendix: Latin Americans”***

The original report of the CWRIC, entitled *Personal Justice Denied*, was published in two volumes: One volume in 1982 (containing “Part I. Nisei and Issei” and “Part II. The Aleuts”) and the other in 1983 (entitled *Part II: Recommendations*). The story of JLA deportation and internment can be found at the end of Part I as “Appendix: Latin Americans.” The report was subsequently republished in 1997 by the Civil Liberties Public Education Fund (CLPEF, the education fund established by the CLA) and the University of Washington Press. With a new prologue authored by the board of CLPEF and a new foreword by Japanese American studies scholar Tetsuden Kashima, the new publication looks more like a large paperback book, combining both original volumes of the report into one. The place of the “Latin Americans” however remains the same—as the “appendix” to Part I and less than 11 pages (including endnotes) out of the total 493 pages that comprise the report. The formal definition of “appendix” is as follows: “*supplementary material* at the end of a book, article, document, or other text”; “a section of *extra information* added at the end of a book”; and “the section at the end of a book that gives *additional information* on the topic explored in the contents of the text” (my emphases). Indeed, all information regarding the JLAs is *contained* in this appendix with no mention in the main text nor in the twenty three page “Summary” section located at the beginning of the report nor in the 11.5 page “Recommendations” section.

That the topic of JLA deportation and internment did not make it into these sections of the report perhaps should be of no surprise given that the mandate of the commission was again to review the facts and circumstances surrounding Executive



Order Numbered 9066 and its impact on *American citizens and permanent resident aliens* as well as review directives of U.S. military forces requiring the relocation and detention of Aleut civilians and permanent resident aliens on the Aleutian and Pribilof Islands. Certainly, the commissioners' report seems to hold true to this mandate with its ever familiar, well-rehearsed framing of "the internment" as a "grave injustice" "done to American citizens and resident aliens of Japanese ancestry."<sup>61</sup> Even in an issue published in 1981 of *Amerasia* (the first Asian American studies scholarly journal) in which fifteen CWRIC testimonies are published, the editor makes no mention of the JLAs, deploying a primarily nation-based framework and analyzing the testimonies as follows: "Perhaps, most importantly, the testimonies reveal the deliberate and brutal violation of the due process and *constitutional rights of citizens and permanent resident aliens of the United States*—those who have lived, contributed to, and made America their home."<sup>62</sup> Thus, my question is why "include" the JLAs at all in the CWRIC report? Was it really that they were "important" enough to be included (as an appendix) but not quite important enough to make it into the main body or the other aforementioned sections of the text?

In this section, I argue that the "inclusion" of the "Latin Americans" as an "appendix"—as "supplementary material" or "extra," "additional information" in the report—must be read as, in the words of Caroline Chung Simpson, a "simultaneous containment of its meaning."<sup>63</sup> As Lisa Yoneyama also reminds us, "The process of remembering, therefore, necessarily entails the forgetting of forgetfulness.... The ongoing reformulation of knowledge about the nation's recent past is a process of

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<sup>61</sup> United States Commission on Wartime Relocation and Internment of Civilians 1997, 18.

<sup>62</sup> Leong 1981, 57.

<sup>63</sup> Simpson 2001, 3.

amnes(t)ic remembering whereby the past is tamed through the reinscription of memories.”<sup>64</sup> Thus, I propose we read the *extrication* and *containment* of JLAs within the report against the grain as an act of forgetting as well as remembering and as, in fact (as I will discuss), an act of remembering *in order* to forget. Here, Foucault’s notion of the shifting discursive function of counter-histories as (in the words of Simpson) “the *necessary occlusions* of national history” is also helpful. In his late College de France lectures on “racisms of the state,” Foucault, rejecting “the notion of power as repression,” was interested in how the state, which first disqualified them, annexed such histories “bringing then back within the fold of their [unitary] discourse[s] and to invest them with everything this implies in terms of their effects of knowledge and power.”<sup>65</sup> Simpson, in her work, deploying such a framework, argues that during the postwar period, popular discourses about Japanese American internment attempted to “reclaim that event as an unstable counter-historical narrative ‘within the very unitary discourses [it] opposed’.” I posit here the uneasy reclamation of the “Latin Americans” as an appendix in the report as an attempt by the state to contain not only the “history” of JLA deportation and internment but also official narratives of “the internment” as a violation of constitutional rights of American citizens of Japanese ancestry and resident Japanese aliens—the “Nisei and Issei” (the title of Part I of the report). That is, I read the containment of representations of U.S. military operations in the Americas as supplementary material as a highly productive move— one that works to at once delimit the internment as a redressable national tragedy (a violation of the civil rights of loyal model minority

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<sup>64</sup> Yoneyama 1999, 32.

<sup>65</sup> Foucault 1994, xiv, 621.

Americans) and concomitantly disavow its *global* excess (the hemispheric, transpacific rendition and forced ‘repatriation’ of Japanese from Latin America).

**“*Military Necessity*”**

The authors of the report write in the opening paragraph of the appendix, “During World War II the United States expanded its internment program and national security investigations to Latin America on the basis of ‘military necessity.’... Although this program was not conducted pursuant to Executive Order 9066, an examination of the extraordinary program of interning aliens from Latin America in the United States *completes the account* of federal actions to detain and intern civilians of enemy or foreign nationality, particularly those of Japanese ancestry.”<sup>66</sup> Indeed, it goes without saying we that must remain vigilant of this so-called “completing” of “the account.” Certainly, there are a number of things I find not only simply missing from the text but also, and perhaps more importantly, working within it to paint a particular picture of historical events. To begin, as quoted above, the program is written less as part of a U.S. led “hemispheric operation” (as conceived by Michi Weglyn) and more as an expansion of the already existing domestic internment program of Japanese resident aliens and Japanese U.S. American citizens. I argue that such a move works to not only domesticate re-memberings of the Latin American operation but also naturalize the idea of U.S. jurisdiction over the Western Hemisphere. That is, as the idea that the deportation program originated out of ‘military necessity’ “to secure the Western Hemisphere from internal threats” becomes (to quote Yoneyama) “incorporated and settled into our

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<sup>66</sup> United States 1997, 305. my emphasis.

commonsense knowledge about the past,” what gets obscured is any scrutiny or questioning of U.S. empire and hegemony in the Americas. In short, as with narratives of the Japanese U.S. American internment program, this account contains no questioning of the taken-for-granted “basis of ‘military necessity’” prerogative of the state and rather only shows regret for the fact that (as stated by John Emmerson) “we found no reliable evidence of planned or contemplated acts of sabotage, subversion, or espionage.”

Interestingly, the report actually contains much information regarding how the U.S. became “directly involved with security in Latin America”—the \$29 million armaments Lend-Lease agreement with Peru (the largest pledge to a Latin American state) and the placement of U.S. military installations out of the U.S. State Department’s aim to “integrate Peru’s economy and government into the war effort,” the other Lend-Lease and trade consignments between the U.S. and other Latin American countries that “strengthened hemispheric unity,” the posting of U.S. FBI agents in U.S. embassies throughout Latin American as early 1939 to compile information on Axis nationals and sympathizers, and even the U.S. State Department’s custodial role in holding deported internees in camps run by the U.S. Justice Department’s Immigration and Naturalization Service (INS). Such information, however, becomes merely accepted background knowledge to the main narrative pointing to *Peru* as the main perpetrator of an operation gone awry.

### ***Peru’s “Cultural Prejudice”***

In the second paragraph of the appendix, the authors begin to make their case, writing, “What began as a controlled, closely monitored deportation program to detain

potentially dangerous diplomatic and consular officials of Axis nations and Axis businessmen grew to include enemy aliens who were teachers, small businessmen, tailors and barbers—mostly people of Japanese ancestry.”<sup>67</sup> They go on to state that over eighty percent of deportees “*came* from Peru.”<sup>68</sup> Throughout the rest of the report, the authors emphasize on the one hand, the *reasonable* desire of the U.S. to “secure the Western Hemisphere from internal threats” as well as garner Japanese bodies for prisoner exchanges with Japan for U.S. citizens, and on the other, the corrupt, inept, racist motivations of Peru and its government. That is, while the U.S. demonstrated selectivity and reason in the deportation operation, it was really Peru, driven by its own “cultural prejudice and antagonism based on economic competition,”<sup>69</sup> that marred an otherwise legal, acceptable military operation. For example, they write:

The initial targets of the American-Peruvian deportation program were enemy alien diplomatic and consular officials and some business representatives of Japan. Peru wished to deport all Japanese and other Axis nationals as well, but the United States recognized its limited need of Latin American Japanese for exchange with Japan; the problems of limited shipping facilities; and the administrative burden of a full-scale enemy alien deportation program. The United States limited the program to deporting officials and ‘dangerous’ enemy aliens.<sup>70</sup>

They go to stress that although Emmerson was “assigned to help the Peruvians identify ‘dangerous’ aliens,” the “deportations were in fact planned with little coordination between the United States and Peru” and it was Peru who “chose some deportees over others for no apparent reason, although bribery may have been involved.” They further write that it was “the inaccurate portrayal by Peruvian officials of Peruvian Japanese as

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<sup>67</sup> United States 1997, 305.

<sup>68</sup> United States 1997, emphasis added.

<sup>69</sup> United States 1997, 305.

<sup>70</sup> United States 1997, 308.

deceptive and dangerous encouraged the United States to deport and intern not only Japanese nationals, but some Peruvian citizens of Japanese descent.”<sup>71</sup>

Such depictions, I contend, are a far cry from the commentary by Michi Weglyn calling Emmerson “the mastermind who encouraged the J. Peruvian expulsion with uncommon zeal,”<sup>72</sup> or even the testimonies by JP former internees stressing their beliefs that their kidnappings were “upon U.S. order” and that the U.S. (not Peru) should be held primarily responsible. Interestingly, the report draws heavily on the scholarship of Professor C. Harvey Gardiner and yet, I argue, *strategically* leaves out key portions of his analyses, particularly his indictment of the U.S. for its key role and responsibility in the operation. For example, in his book, published in 1981, from which he drew much information for this testimony at the CWRIC hearings, Gardiner writes:

Even as one reflects upon 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 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.<sup>73</sup>

Clearly, Gardiner, the foremost expert on the subject of JLA deportation and internment at the time, has no qualms about holding the U.S. accountable for what he calls the “gross abuse of elementary human rights.” Emmerson himself, in his 1978 publication, though

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<sup>71</sup> United States 1997.

<sup>72</sup> Cite Yukio Correspondence folder from CSUDH Archives and Special Collections. Weglyn further wrote, “His writings and correspondence shows him to be a racist through and through (as with John McCloy) – and I consider him the mastermind who encouraged the J. Peruvian expulsion with uncommon zeal. The State Department fell for it hook, line and sinker.”

<sup>73</sup> Gardiner 1981, 176.

positioning the U.S. as a participant in the “wartime collaboration among the governments of Peru, the United States, and the American republics,” nevertheless points to U.S. culpability in the “forcible detention of Japanese from Peru”—which he states “was clearly a violation of human rights and was not justified by any plausible threat to the security of the Western Hemisphere.”<sup>74</sup> Indeed, it seems the authors of the report opted to leave out such narrations as well as countless others which were available to the Commission at the time the report was written concerning U.S. accountability and the operation itself as a violation of *international* law.

***“One of the Strange, Unhappy, Largely forgotten Stories of World War II”***

In the end, it is the final move by the authors in the concluding paragraph of the appendix section that works as a sort of narratological strategy to absolve the U.S. of this episode of racialized state violence. They write:

Historical documents concerning the ethnic Japanese in Latin America are, of course, housed in distant archives, and the Commission *has not researched that body of material*. Although the need for this extensive, disruptive program *has not been definitely reviewed by the Commission*, John Emmerson, a well-informed American diplomat in Peru during the program, wrote more than thirty years later: ‘During my period of service in the embassy, we found no reliable evidence of planned or contemplated acts of sabotage, subversion, or espionage.’ *Whatever justification is offered* for this treatment of enemy aliens, many Latin American Japanese never saw their homes again after remaining for many years in a kind of legal no-man’s-land. Their history is one of the strange, unhappy, largely forgotten stories of World War II.<sup>75</sup>

I argue that it is this move to posit the history of JLA deportation and internment as unknowable, unresearched and ultimately outside the scope of the Commission that

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<sup>74</sup> Emmerson 1978, 149.

<sup>75</sup> United States 1997, 314.

works as a form of simultaneous articulation and disavowal of such violence. That is, it seems the report, which first claimed to examine “the extraordinary program of interning aliens from Latin America in the United States” with the aim to “complet[e] the account of federal actions to detain and intern civilians of enemy or foreign nationality, particularly those of Japanese ancestry”<sup>76</sup> (to recall the appendix’ opening paragraph) conjured up certain re-memberings only to disclaim them in the last instant. Such would set the stage for the Commission’s silence on the matter in the “Recommendations” section of the report published the following year in which again the discussion is sectioned and circumscribed around the exclusion, removal and detention of Japanese American citizens and Japanese resident aliens—as well as the Aleuts—during World War II, with no mention whatsoever of the “Latin Americans.”

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As will be discussed in the following chapter, at the moment when “the internment” is to be resolved, the JLAs appear nowhere to be found—not in in any of the congressional debates on the CLA, nor within the text of the bill itself. Still, I contend, they *are* there—haunting the legislation, setting its parameters, naming the redressable subjects and managing articulations of ‘the internment’ as a legible history. In this chapter, taking their absent presence as a point of departure, I have sought to follow the ghosts of the JLA former deportees back through the archives in an effort to understand their official illegibility and ultimate unredressability as subjects of U.S. racial violence. What is revealed and reflected is not only the disavowal of the JLA WWII

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<sup>76</sup> United States 1997, 305, my emphasis.



deportation/internment program as a U.S. operation but the simultaneous disavowal and reliance on “Latin America” as the U.S.’s ‘own sphere influence,’ ‘its own backyard.’ By naturalizing “hemispheric defense” as a “military necessity” of the U.S. during WWII as well as the concomitant rendition of “enemy aliens” without trial, what is left intact is both U.S. plenary power in the “state of exception” as well as U.S. imperial reach, not only in Latin America, but *wherever in the world* the U.S. deems a threat to its *internal* security. Such is the state of affairs in the present global historical moment. It is for this reason, I contend, we must remain vigilant as to the politics of history, the politics of redress. We must ask (in the words of Yoneyama): “Which and whose sufferings are known to us and for whose and which suffering is human rights justice exercised? Which acts of violence are regarded as unjust and deserving of redress while others are rendered invisible?”<sup>77</sup> Should we fail to do so, we risk reproducing the very structural violence we so seek to critique and obliterate.

Part of chapter 2 is in preparation to be published in fall 2016 as “Traces of the Transpacific U.S.-American Empire: A Japanese Latin American Critique” in *Amerasia Journal*. The author of this dissertation will be the single researcher/author of this article.

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<sup>77</sup> Yoneyama 2010, 664.

### Chapter 3: Redress as American-Style Justice at the End of the Cold War

Full acknowledgement of the memory of the camps would require a refiguring of the definition of the national meaning of “America,” an acknowledgement that winning the war profoundly hampered discourse on the question of national myth for decades, a questioning that had been active prior to the war. In rethinking this history, it is therefore necessary for us to consider the weight of this myth of American war morality on subsequent historical events, not simply the cold war and U.S. imperialism, but the postwar ideology of what constitutes an American.

- Marita Sturken, “Absent Images of Memory”<sup>1</sup>

In an important essay, media critic Marita Sturken suggests that Japanese American internment as a form of remembrance constitutes an “absent presence” in postwar national memory. She characterizes it as “an historical event marked by absences and strategic forgetting”—in other words, “an event for which history provides images primarily through their absence.”<sup>2</sup> Resisting certain kinds of direct cultural representation, the internment produced no singular image icons, which would speak to “conflict, resistance or brutal injustice.”<sup>3</sup> Literary scholar Caroline Chung Simpson engages Sturken’s analysis to posit that throughout the 1940s and 1950s, Japanese American internment history was indeed articulated “within a simultaneous containment of its meaning, as an ‘absent presence’” *either* by displacement or engagement in the national discourse<sup>4</sup>— “uneasily reclaimed in the interest of the national celebration of the war and of postwar Americanism.”<sup>5</sup> Simpson thus explores how, at key moments of national crises, the “specter of internment” and articulations of “Japanese Americans’

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<sup>1</sup> Sturken 2001, 47.

<sup>2</sup> Sturken 2001, 36.

<sup>3</sup> Sturken 2001, 40.

<sup>4</sup> Simpson 2001, 3.

<sup>5</sup> Simpson 2001, 19.

place in the national order” became implicated and even proved vital in the (re)production of U.S. nationhood in the postwar/cold war contexts.

In this chapter, I take such studies as a point of departure to argue that at a key moment in the reorganization of the world order, “Japanese American *redress*” via the signifier of the Civil Liberties Act of 1988 (CLA) (the U.S. government legislation which offered a formal apology and reparations payment of \$20,000 to each surviving Japanese American citizen and resident alien interned during WWII) emerges as a crucial icon in the national imaginary—a way for the U.S. nation state to resolve the contradiction of “the internment” and, in turn, not only restore but reinvigorate the good war narrative of WWII. In the previous chapter, I traced several pivotal moments in the knowledge production of “the internment” preceding its “redress.” I showed how, against the grain of historical remembrances of a *globalized* “hemispheric operation” that included the rendition of Japanese from *Latin America* (JLAs) during WWII, “the internment” works as a mechanism of strategic disavowal—disavowal of not only the JLAs per se but disavowal of U.S. empire—both in Latin America and the Asia Pacific region. This chapter, by examining the official state-sanctioned discourse on the CLA, thus traces the consolidation of “the internment” as redressable racialized state violence, resolvable by U.S. institutions and norms and the production of its “redress” as a *moral* act, “an act of greatness by a nation.”

This chapter originates from my concern that “Japanese American redress,” since its passage nearly thirty years ago, has emerged in the post-cold war period as an

unquestioned exemplar of American-style justice—a “landmark legislation,”<sup>6</sup> a “great American story,”<sup>7</sup> in which the victor was not only Japanese Americans but *America* as a “truly great nation,”<sup>8</sup> one which was willing to admit a past injustice and make amends. Even more, the act continues to be upheld as a precedent and even a model for subsequent redress and reparations movements for both scholars and activists alike. These are movements not only in the U.S., such as for African American slavery and Jim Crow reparations and by Native Americans for land claims litigation, but also around the world, in South Africa for apartheid and from the Japanese government for its war time crimes of forced labor and sexual violence.<sup>9</sup> I argue that at this current global historical moment – a moment of “reinvigorated U.S. imperialism”<sup>10</sup> and a moment when “the United States, indeed the world, has gone apology crazy,”<sup>11</sup> when well-respected scholars are proclaiming that this “ever-spreading trend presents a new moral order in world politics,”<sup>12</sup>—it is important to return to “the politics and poetics of redress”<sup>13</sup> for “the internment” and the construction of its particular national *universal* brand of racial and social justice at the end of the Cold War era.

Certain critical legal scholars have offered critiques of the “social meanings” of Japanese American redress, cautioning against its use as a tool for disciplining other racialized communities of color in the U.S. national context via the trope of the ‘model

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<sup>6</sup> Hatamiya 1993, 5.

<sup>7</sup> Maki *et al* 1999, 241.

<sup>8</sup> Maki *et al* 1999., x.

<sup>9</sup> See, e.g., Brooks, ed. 1999; Barkan 2000; Yamamoto 1997.

<sup>10</sup> Espiritu 2006, “The ‘We-Win-Even-When-We-Lose’ Syndrome,” 329.

<sup>11</sup> Yamamoto 1997, 47. Yamamoto was one of the scholars first to consider the “spate of race apologies” in the United States following the Civil Liberties Act of 1988 as part of a “worldwide phenomenon.”

<sup>12</sup> Barkan 2000.

<sup>13</sup> Yoneyama 2003, 59. Yoneyama uses this term to describe the discourse on redress and reparations for Japanese war crimes.

minority.’<sup>14</sup> This chapter seeks to further conceptualize “Japanese American redress” as an ontoepistemological paradigm, situating it within not only a nation-based framework of domestic race relations but a global context of U.S. nation-building and empire and the late-modern liberal humanist ethicality of violence, redemption and justice that continues to dominate both scholarship and activism concerning racial/social justice. It thus asks: How was the dominant narrative of Japanese American redress constructed in its particular global historical context of U.S. postwar liberal ideology, the end of the Cold War, 1980s Reaganomics, U.S.-Japan relations, and domestic race relations? How were the meanings of “reconciliation” and “justice” articulated in such discourse? How did the politics of remembering intersect with the politics and poetics of redress? Who and what were (dis)remembered precisely to enable this production of dominant historical knowledge?

### **Analyzing the Production of Redress in the Halls of Congress**

To explore such questions, I analyze the transcripts of the 1987 and 1988 U.S. House and Senate congressional debates on the CLA which preceded its signing into law by President Ronald Reagan in August 1988.<sup>15</sup> I focus my examination on these debates because I am most interested to analyze the production of the official state-sanctioned discourse on Japanese American redress as it takes shape in relation to the (re)formation of a US national ontology at a pivotal political moment, both domestically and

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<sup>14</sup> See Iijima 1998; Matsuda 1997; Yamamoto 1998; Yamamoto 1999.

<sup>15</sup> This chapter examines the House debate on bill HR 442 which took place on 17 September 1987, the Senate debate on bill SR 1009 which took place on 19 and 20 April 1988, and a final House debate on 4 August 1988 during which Congress members passed the conference report to reconcile the two bills (the House and Senate versions). On 17 September 1987 and 20 April 1988, respectively, Congress members passed the bills in the House (241: 141) and in the Senate (69: 27).

worldwide. I pay close, critical attention to the politics of national redress – that is, to how official historical knowledge and collective national memory are constructed and mediated around the so-named originary episode of state violence, to the interpellation and production of redressable national subjects, and to the complex relationship between national redress and nation-building. Congressional hearings constitute critical, productive sites of national cultural production and meaning-making processes wherein national ideologies, myths, and dominant historical knowledge are continually rearticulated, reproduced, and naturalized for political purposes that go far beyond the legislation itself.<sup>16</sup> Moreover, as Yoneyama suggests, “The ongoing reformulation of knowledge about the nation’s recent past is a process of amnes(t)ic remembering whereby the past is tamed through the reinscription of memories.”<sup>17</sup> Thus, in my tracing of the production of Japanese American redress within these debates, I remain keenly attentive to that which is necessarily “forgotten” in the discourse and has been subjugated, marginalized and/or hidden precisely to enable the prevailing narratives.

At this moment, when “the internment” is to be resolved, the JLAs appear nowhere to be found—not in in any of the congressional debates on the CLA, nor within the text of the bill itself. Still, I contend, they *are* there—haunting the legislation, setting its parameters, naming the redressable subjects and managing articulations of ‘the internment’ as a legible history. Many have indeed speculated that though the JLAs are not explicitly named within the bill (nor the debates), they were in fact *intentionally* implicitly excluded via the act’s stipulation that an eligible individual must be a citizen or

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<sup>16</sup> See, e.g., Chock 1991.

<sup>17</sup> Yoneyama 1999, 32.

legal permanent resident at the time of his/her internment. To recall, the JLAs were rendered “illegal” from the moment they set foot on the U.S. proper and thus were considered such during their “internment.” Journalist, scholar and activist Phil Tajitsu Nash, for example, wrote in 2011: “While the original wartime experience was bad enough, JLAs felt the sting of discrimination once again when the Civil Liberties Act of 1988 (CLA), which gave a token \$20,000 payment and an apology to other incarcerated Japanese Americans, *specifically* was written to exclude them.”<sup>18</sup> Others also cite evidence that the reasoning for the implicit exclusion of the JLAs was that ‘redress would not pass’ if they were included.<sup>19</sup>

Regardless of such particularities in terms of the specific political machinations and actors behind the legislative scenes, I contend, the more urgent question revolves around the particular distribution of justice and “il/legibility of violence”<sup>20</sup> which the CLA reveals. Lisa Yoneyama has argued, “The conventional discourse of justice within liberal societies’ political and juridical channels *has always* relied on a regime of il/legibility of violence.”<sup>21</sup> I posit that a critical examination of the CLA, as itself a regime of il/legibility, un/redressability, has much to reveal concerning *how* the U.S. nation-state has managed memories of racialized state violence through its juridical forms of so-called ‘justice’ since the end of the cold war.

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<sup>18</sup> Nash 2011, xxxvii, my emphasis.

<sup>19</sup> JPOHP Update #1, quoting congressional members. Grace Shimizu Archive. Also Murray 2008, 294. Murray cites a letter sent by JAACL leader Mike Masaoka to the Seattle-based group of redress activists (SERC) in May 1976, stating that “including internees from Hawaii and Central and South America would make it more ‘difficult to secure congressional passage.’”

<sup>20</sup> Yoneyama 2010, 664.

<sup>21</sup> Yoneyama 2010, my emphasis.

Through my reading, I identify two overarching narratives: one that centers on the incarceration of Japanese and Japanese Americans as “a shameful and tragic chapter in our nation’s history”<sup>22</sup> and “one of the most unconscionable violations of our Government of the civil rights of any people,”<sup>23</sup> and another on the act of its redress as the “right thing”<sup>24</sup> to do, one to show the world “our national – and natural – capacity for justice and wisdom.”<sup>25</sup> Granted, in themselves, these narratives are not novel per se as in many ways they have become naturalized understandings of these two ‘episodes’ in American history. However, when read together and in relation to U.S. nation-building and the politics of national war memories, these two accounts of the internment as a national tragedy and its redress as an act of greatness for a nation assume a much greater meaning and significance than merely a case of ‘justice’ served, as they are often understood. If the possibility of “critical re-membering” – particularly of national events involving violence, mass destruction, sexual atrocities, and oppression – is inextricably tied to “the global and national conditions within which knowledge about the past is currently being reconstituted,”<sup>26</sup> then the task to understand the political meanings and implications of governmental redress for historical injustices involves remaining especially attentive to the conditions for re-membering the historical injustice itself.

As mentioned, the cultural and political symbolic importance for US national ontology of the recuperation of the wartime incarceration by the US government of

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<sup>22</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24284, Representative Richard J. Durbin (D-IL).

<sup>23</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24302, Representative Sidney R. Yates (D-IL).

<sup>24</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24289, Representative Meldon E. Levine (D-CA).

<sup>25</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24276, Representative Norman Y. Mineta (D-CA).

<sup>26</sup> Fujitani *et al* 2001, 5.



Japanese and Japanese Americans into postwar national narratives of the Second World War as the ‘good war’ and of the US as a ‘moral nation’ is significant. The internment, as a form of remembrance, has the potential to disrupt such narratives that purport that the US not only liberated people from oppressive government regimes (including Asians, and Japanese too, from Japan’s military fanaticism), but also “rehabilitated them into free and prosperous citizens of the democratic world.”<sup>27</sup> I add to this discussion by considering how redress for Japanese American internment, as itself a crucial form of re-membering, took place at a pivotal national and international moment when, on the eve of its Cold War victory, the US faced a crucial crossroads in its path toward leadership of the free world. This crossroads was marked by a certain degree of apprehension as the nation continued to struggle to rehabilitate itself, not only with regards to the persistent legacy of the Vietnam War as the lost war, but also in terms of severe economic uncertainty in the face of the stock market crash in October 1988, the federal budget deficit reaching an unprecedented \$2.3 trillion<sup>28</sup>, and the looming threat of Japan as a rising economic model and superpower.<sup>29</sup> Within this context, the US also faced increasingly visible domestic racial strife, particularly between black and white Americans, which many perceived to be the result of the failure and/or neglect of effective government policies on civil rights.<sup>30</sup> In short, what was needed at this moment of national economic and social crisis as well as global uncertainty as to the US’s emergent role as the world’s leading military

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<sup>27</sup> Yoneyama, 2003, 58.

<sup>28</sup> Maki *et al* 1999, 161.

<sup>29</sup> Palumbo-Liu 2001. See also Johnson 2004, 259. Johnson writes that by the mid-1980s, the US had been displaced by its supposed junior-partner (Japan) as the world’s leading creditor nation and turned into the world’s largest debtor.

<sup>30</sup> See Gilmore 2007 in which she discusses the growth of the prison-industrial complex throughout the 1980s.

and moral authority, was the rehabilitation and reassertion of a particular brand of American exceptionalism—one that rested on the production of the US as a mighty, just and, specifically, racially inclusive nation.

In what follows, I show how the performance of Japanese American redress on the world stage strategically served this need. Not only did it function to ‘close the book on a sad chapter’ in American history—‘the internment’ as the one ‘blemish’ in the nation’s vital ‘good war’ memories of rescue and liberation—even more, it reinvigorated those memories with a newfound sense of *America* as the world’s just, moral and multicultural leader. Members of Congress, in constructing “the internment” as a hypervisible isolated national tragedy, conveniently covered over the historical and contemporary structures of U.S. racism and colonialism in which the internment was enmeshed in order to produce its ‘redress’ as emblematic *exceptional* ‘American-style justice’—“a particular shining example to the world of America’s concrete commitment to justice and the redress of wrongs.”<sup>31</sup> Specifically, I argue that by narrowly framing ‘the internment’ as fundamentally a *civil* rights violation and, at that, “one of the most egregious violations of constitutional rights and safeguards”<sup>32</sup>—the limit case—congressional members could then call upon the myth of the ‘universalizing force of American norms and institutions’<sup>33</sup> to not only resolve the violation of the internment but, in turn, wipe the slate clean so-to-speak for the *nation* to emerge as the world’s just and moral leader. Ironically and not coincidentally, it is this same myth, repeatedly called upon

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<sup>31</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4268, Senator John H. Glenn (D-OH).

<sup>32</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24300, Representative Steny H. Hoyer (D-MD).

<sup>33</sup> Singh, 2004, 4.

in the post-Cold War era, which continues to legitimate and embolden U.S. imperial interventions across the globe.

### **‘The Internment’ as a Redressable National Tragedy**

‘The internment’ achieves its legibility within the congressional redress debates precisely as a redressable, historical event—one scheduled for eventual overcoming and emplotted in a linear narrative of national moral and racial progress. A crucial component of this construction was the representation of ‘the internment’ as a racist wrongdoing located in the nation’s past. Deploying such familiar tropes as “an old mistake,”<sup>34</sup> “an act based on ill-founded fear and xenophobia,”<sup>35</sup> “a grievous wrong,”<sup>36</sup> and “a terrible failure of judgment”<sup>37</sup> to describe the wartime incarceration of Japanese and Japanese Americans, Congress members on both sides of the aisle, both supporting and opposing the redress bill, seemed to agree upon this particular interpretation.

At this moment in the late 1980s, such a consensus on the two-fold historic ‘racism’ and ‘wrong’ of ‘the internment’ was not new. Rather, I read it as a consolidation of earlier trends in national sentiment as discussed in Chapter 2; this includes those articulated in the report by the Commission on Wartime Relocation and Internment of Civilians (CWRIC), first published in 1983, which configured the internment as a ‘grave injustice’ caused by ‘race prejudice, war hysteria and a failure of political leadership’

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<sup>34</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24287, Representative James P. Moody (D-WI).

<sup>35</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24287, Representative Tom Lantos (D-CA).

<sup>36</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24288, Representative Meldon E. Levine (D-CA).

<sup>37</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4325, Senator Pete Wilson (R-CA).

(United States Commission on Wartime Relocation and Internment of Civilians, 1997). Still, within the redress discourse, this re-articulation of existing narratives of ‘the internment’ served a specific purpose: as a highly organized strategy of containment, it not only periodized and isolated ‘the internment’ as a historical, nameable episode of state violence but likewise presented a delimited view of U.S. racism in general as a contemporaneous, circumstantial, and emotion-driven phenomenon. That is, by portraying ‘the internment’ as an unfortunate event driven by hysterics, “raw, racial prejudice,”<sup>38</sup> and the “irrationality” of a few bad apples at a time of war and “extreme national stress”<sup>39</sup> when “national passions were running very, very high,”<sup>40</sup> Congress members also contained the idea of ‘racism’ itself, tying it to individual perpetrators and specific extreme circumstances and detaching it from anything fundamental or sedimented within U.S. systems and institutions. Such a framing of ‘the internment’ and its racism as an historic momentary glitch in an otherwise sound, non-racist system was key, not only to its construction as a redressable historical injustice, but also to the ultimate production of its redress as an act of atonement and racial reconciliation – one to resolve any lingering questions as to the moral position of the U.S. in regards to civil *and* human rights.

Following this logic, also crucial to internment’s redressability as forged by Congress members was its emergent hypervisibility as “the worst single wholesale

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<sup>38</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4387, Senator Daniel J. Evans (R-WA).

<sup>39</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24307, Representative Jim Wright (D-TX).

<sup>40</sup> Congressional Record, 100th Congress, 2nd session, volume 134, no. 50, 19 April 1988, S 4268, Senator John H. Glenn (D-OH).

violation of civil rights of American citizens in our history,”<sup>41</sup> “one of the most flagrant violations of the principles laid down in this historic document [the US Constitution],”<sup>42</sup> and “one of the most egregious violations of constitutional rights and safeguards.”<sup>43</sup> This overt engagement and insertion of Japanese American internment into the national discourse as both “blatantly racist,”<sup>44</sup> and “one of the most unconscionable violations of our Government of the civil rights of any people”<sup>45</sup> worked well to establish it as a redressable injustice – one that could be resolved by U.S. norms and institutions. By making ‘the internment’ into an overdetermined aberration in America’s political history – “an appalling abuse of civil rights”<sup>46</sup> and “inimical to the fundamental principles of law and justice embodied in our Constitution and characterizing almost all of our history”<sup>47</sup> – this potentially disruptive past could be recognized and remembered in the national discourse in a way that not only left intact but reinvigorated the national symbolic central to U.S.-nation-building throughout the second half of the twentieth century and since – that of the U.S. as “the triumphant country of World War II,” a “moral nation.”<sup>48</sup>

This rendition of ‘the internment’ as essentially the limit case of civil rights violations perpetrated by the US government – as “one of the most serious violations of

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<sup>41</sup> Congressional Record, 100th Congress, 2nd session, volume 134, no. 50, 19 April 1988, S 4279, Senator Alan Cranston (D-CA).

<sup>42</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24287, Representative Tom Lantos (D-CA).

<sup>43</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24300, Representative Steny H. Hoyer (D-MD).

<sup>44</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4331, Senator Harry Reid (D-NV).

<sup>45</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24302, Representative Sidney R. Yates (D-IL).

<sup>46</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24286, Representative Nancy Pelosi (D-CA).

<sup>47</sup> Congressional Record, 100th Cong., 2nd sess., 1988. Vol. 134, no. 51, S 4400, Senator Robert Dole (R-KS).

<sup>48</sup> Sturken, 2001: 47

constitutional rights in the history of this nation”<sup>49</sup> and “unprecedented in the history of American civil rights deprivation,”<sup>50</sup> functioned to strengthen the perception of what America is specifically by emphasizing what it is not. Particularly, by exceptionalizing and periodizing ‘the internment’ as “a most unfortunate and blatant display of racism”<sup>51</sup> located in its ‘violent’ past, the nation, with the act of redress, would be able to reaffirm, by linear juxtaposition, what it truly stood for in its ‘postviolent’ present and, more importantly, what it has stood for all along – a just and inclusive nation embodying the liberal promise of rights, freedom, and progress.

The structuring of ‘the internment’ as a violation of civil rights as opposed to an international crime against humanity has proven crucial to this narrative. As I argued in Chapter 2, the covering over of other human rights related aspects of ‘the internment,’ including the detention of first generation Japanese residents under the Enemy Alien Program and the rendition of over 2,300 JLAs, has *necessarily* served to contain potentially disruptive memories that might not be resolvable by simply restoring America’s universalizing system of law and justice.<sup>52</sup> Such a civil rights framework would be necessary to the making of ‘the internment’ as the universal limit case of U.S. racial violence – neatly packaged for producing the act of its redress as the premiere symbol of national redemption and moral triumph on the world stage.

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<sup>49</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24286, Representative Nancy Pelosi (D-CA).

<sup>50</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4323, Senator Daniel K. Inouye (D-HI).

<sup>51</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24303, Representative Vic Fazio (D-CA).

<sup>52</sup> See, e.g., Saito 1998.

Before moving on to the act of redress, it is important to explore the internment's ultimate construction as a profound and harrowing national tragedy—as a detached, politically insular, and temporally and spatially contained event located “at the outer edges of intelligibility, at the very boundaries of representation.”<sup>53</sup> Throughout the debates, Congress members routinely referred to it as “one of the ugliest episodes of our Nation’s past”<sup>54</sup>: “a dark day for our country,”<sup>55</sup> “one of the saddest chapters in American history,”<sup>56</sup> “a deep stain on the honor of our nation,”<sup>57</sup> and “a terrible affront to the ideals for which our Nation stands.”<sup>58</sup> Some explicitly expressed their profound distress that such an event could take place on ‘American soil.’ Representative Lawrence Smith (D-FL), for example, described it as “the most bitter example of how people can, under the threat of the possibility of war, be set upon and pitted against one another even in a democracy, even in this country.”<sup>59</sup>

Diana Taylor has observed that the aesthetic connotation of tragedy functions as a strategic, temporal structure of containment whereby the “massive potential for destruction” is “contained by the form itself” – “deliver[ing] the devastation in a miniaturized and ‘complete’ package, neatly organized with a beginning, middle, and end.” Such an aesthetically whole, teleological construction assures its audience that “the

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<sup>53</sup> Taylor 2003, 263.

<sup>54</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24277, Representative David E. Bonior (D-MI).

<sup>55</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24286, Representative Richard H. Lehman (D-CA).

<sup>56</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24281, Representative Charles Pashayan (R-CA).

<sup>57</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24287, Representative Ronald V. Dellums (D-CA).

<sup>58</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 50, S 4278, Senator Alan Cranston (D-CA).

<sup>59</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24311, Representative Lawrence Smith (D-FL).

crisis will be resolved and balance restored” ultimately in the final act and the “fear and pity we, as spectators, feel will be purified by the action.”<sup>60</sup> Indeed, I understand the staging of ‘the internment’ as a haunting tragedy from the nation’s past to be part and parcel of the performance of its redress as a monumental, even heroic, act of the post-violent present – one to bring proper and final resolution to the national crisis and recuperate the “proud history” of “a good nation.”<sup>61</sup> Put differently, I read the narratives of ‘the internment’ and its redress as a two-part dialogical production by which the nation could not only contain memories of ‘the internment’ but ultimately imbue it with a heroic finale to serve as representative proof of the *essential* and *exceptional* good of the nation. In the next two sections, I examine this second act, paying close attention to its constructedness as an exemplar of ‘American-style’ justice, not just domestically but globally, on the world stage.

### **Redress as National Racial Redemption**

The act of redress for Japanese American internment was posited in the national discourse as an act with far-reaching repercussions that extended well beyond ‘making whole’ former internees’ personal losses. Produced as a national act, it was portrayed as a remedy of sorts—meant to repair a nation still haunted and “shaken” by the “acknowledgement of this stain on our national record.”<sup>62</sup> In the House, for example, having scheduled the debate intentionally on the day of the two-hundredth anniversary of

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<sup>60</sup> Taylor 2003, 261.

<sup>61</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4325, Senator Pete Wilson (R-CA).

<sup>62</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24298, Representative Howard L. Berman (D-CA).



the signing of the U.S. Constitution, supporters put forth the notion that the bill “not only attempts to compensate Americans of Japanese ancestry who were interned during World War II, but. . . also reaffirms, in a meaningful way, our faith in the fundamental constitutional principles of liberty and justice for all.”<sup>63</sup> Within this narrative of restored faith, the CLA was espoused as “the final act”<sup>64</sup> to “close the book on one of the most shameful events in our nation’s history”<sup>65</sup> and “to finally consider this issue and put it behind us.”<sup>66</sup> Congress members variously asserted that the bill would “remove this blight from our conscience,”<sup>67</sup> “dra[w] a conclusion to one of the most shameful episodes of American history,”<sup>68</sup> and “remove forever a longstanding blot on that great Constitution of the United States.”<sup>69</sup> Redress and reparations, with the aim to repair, would be the way to bring closure and resolution to the national tragedy of ‘the internment,’ a “healthy” way “for us as a nation”<sup>70</sup> to heal from the trauma generated by a rupture to US national ontology premised upon the liberal promise of freedom, equality and liberty and justice for all.

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<sup>63</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24291, Representative Douglas H. Bosco (D-CA).

<sup>64</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4324, Senator Ted Stevens (R-AK).

<sup>65</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24276, Representative Norman Y. Mineta (D-CA).

<sup>66</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24279, Representative E. Clay Shaw (R-FL).

<sup>67</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24283, Representative Vincente Blaz (R-GU).

<sup>68</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24281, Representative Charles Pashayan (R-CA).

<sup>69</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4327, Senator Spark M. Matsunaga (D-HI).

<sup>70</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24279, Representative E. Clay Shaw (R-FL).

Several members emphasized how their initial contentions with the bill over the issue of “unnecessary spending”<sup>71</sup> were overcome in the last instant as they became convinced that ‘this legislation is the only means available to put behind us this sad chapter of our history,’<sup>72</sup> “to bring this painful issue to a responsible conclusion.”<sup>73</sup> The ‘money,’ they stressed, was symbolic. Although “very, very modest,”<sup>74</sup> “just token,”<sup>75</sup> or “a very small amount,”<sup>76</sup> it was “the most appropriate gesture,” and “the only equitable and reasonable step we can now take.”<sup>77</sup> In sum, this legislation, served up as “an important expression”—“not simply for Japanese-Americans, but for all Americans”<sup>78</sup>—assumed a crucial symbolic role in US nation-building: a powerful way for the nation to resolve the nagging ontological contradiction wrought by traumatic memories of the internment and finally render that history totalized, settled, and closed.

Still, this narrative of Japanese American redress, structured strategically to culminate in the cathartic act of redemption by which the nation would honor its “deep moral and special obligation,”<sup>79</sup> and “repay [its] moral debt,”<sup>80</sup> in order “to atone for one

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<sup>71</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 115, H 6310, Representative Bill Frenzel (R-MN).

<sup>72</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4406, Senator Nancy Kassebaum (R-KS).

<sup>73</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24281, Representative Charles Pashayan (R-CA).

<sup>74</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24284, Representative Don Edwards (D-CA).

<sup>75</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4323, Senator Daniel K. Inouye (D-HI).

<sup>76</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24299, Representative Bruce A. Morrison (D-CT).

<sup>77</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24287, Representative Tom Lantos (D-CA).

<sup>78</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24298, Representative Howard L. Berman (D-CA).

<sup>79</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24302, Representative Sidney R. Yates (D-IL).

of the most infamous incidents in our country's history,"<sup>81</sup> was also about re-asserting a specific brand of US exceptionalism via a performance of racial reconciliation and inclusion. Central to this performance was the figuring of Japanese Americans as deserving model minority victims. Specifically, they were portrayed as "heroic soldiers" and "loyal Americans" who, unwavering in their level of commitment and personal self-sacrifice for the US nation, "gave us their sons as volunteers,"<sup>82</sup> despite the "racism" and "hostility" directed against them. As legal scholar Chris Iijima points out, this particular representation of Japanese and Japanese American former internees' "accommodation" and "superpatriotic response" to the internment was not inevitable; at the time of the debates, there was much documentation of the resistance tactics employed by internees during their incarceration, including strikes, riots, petitions, and, of course, draft resistance.<sup>83</sup> I read such a calculated effort by congressional supporters of the redress bill to cover over this history and instead put forth celebratory singular narratives of Japanese Americans' sacrifice and subsequent 'success' as a move to not only uphold the 'bootstraps' model of the American Dream and thereby manage claims to the nation-state by other domestic racialized groups but also to reclaim the nation itself as the space of freedom in the world context. That is, narratives of Japanese Americans as proper redressable, *model minority* citizen subjects indeed provided the center stage upon which the US could perform its inspirational national linear narrative of moral, racial progress:

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<sup>80</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24304, Representative Vic Fazio (D-CA).

<sup>81</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24300, Representative Steny H. Hoyer (D-MD).

<sup>82</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 50, S 4325, Senator Pete Wilson (R-CA).

<sup>83</sup> Iijima 1998.

the assumption of the burden of its racist history, the recognition of an exceptional patriotic minority, and its declaration, ‘never again.’

Japanese American redress was thus designed to be a universal symbol, emblematic of ‘American-style justice,’ but not a precedent for addressing other historical racial injustices perpetrated by the US government. In fact, the issue of redress and reparations for Japanese American internment posing “the spectacle of unwieldy precedent” for “those with similar grievances”<sup>84</sup> was a central concern among members of Congress, particularly those opposed to the redress bill. Several members drew upon the historical experiences of African Americans and Native Americans in the US to illustrate what they described as “the potentially grave consequences... of [a]ttempting to put a price tag on misbegotten policies of the past.”<sup>85</sup> For example, on the first day of the Senate debate, Senator Ernest F. Hollings (D-SC) asked: “If we establish a precedent with S. 1009, where do we draw the line against reparations to the countless other groups of Americans who have suffered because of actions of the US Government? Or do we tell those other groups that their suffering was somehow less meaningful, less tragic, less deserving to recompense?”<sup>86</sup> The following day, in an extensive statement, Senator John H. Chafee (R-RI) similarly argued: “While the relocation and internment of Japanese-Americans was a terrible error by the US Government—no one disputes that now—it is not the only error the Government has made. Japanese-Americans are not the only group that has been unjustly wronged.” He went on to state:

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<sup>84</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24295, Representative Daniel E. Lungren (R-CA).

<sup>85</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4411, Senator Jesse Helms (R-NC).

<sup>86</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 50, S 4280, Senator Ernest F. Hollings (D-SC).

For example, what will passage of this measure say to the American Indians whose ancestors were brutally removed from their lands? Surely arguments can be made that the reservations on which so many Indians were placed, and continue to live today, and the Federal programs in place to assist American Indians, have not sufficiently redressed the wrongs committed against them.... What about black Americans? Think of those, how about those, their families, their predecessors who were in slavery in this Nation, not temporarily but permanently in slavery? How are we going to make a redress to them and their descendants? . . . They suffered the most outrageous discrimination in this Nation right up to the mid-sixties when some of the civil rights laws were passed. Are we going to make some kind of a redress to them?<sup>87</sup>

An amendment proposed by Senator Jesse Helms (R-NC), which addressed this very issue eventually passed on the Senate floor by an unanimous voice vote; the amendment, characterized by Helms as “an insurance policy,”<sup>88</sup> stated that “nothing in this Act shall be construed as recognition of any claim of Mexico or any other country or any Indian tribe (except as expressly provided in this Act with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor shall it be construed as providing any basis for compensation in connection with any such claim.”<sup>89</sup> With this “safeguard”<sup>90</sup> in place to foreclose any redress possibilities connected to the US’ colonial past, ‘the internment’ came to signify, not just one of the worst aberrations on America’s moral record (an articulation necessary for its incorporation into the dominant historical narrative), but the universal limit case in the history of American racism. Such a production of an exceptional, yet paradigmatic racial injustice set the stage for the act of

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<sup>87</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4335, Senator John H. Chafee (R-RI).

<sup>88</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4394, Senator Jesse Helms (R-NC).

<sup>89</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4397, Senator Jesse Helms (R-NC).

<sup>90</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4394, Senator Jesse Helms (R-NC).

its redress then to become an exceptional, yet paradigmatically American act of national redemption—one which could symbolically stand in to atone for all other racial and colonial injustices of the nation’s past, for America to wipe the slate clean and re-emerge and redeem itself as an exemplary moral, multicultural nation at a pivotal international moment.

### **‘A Shining Example to the World’: U.S. as Just and Moral Leader**

“So the burden has fallen upon us to right the wrongs of 45 years ago. Great nations demonstrate their greatness by admitting and redressing the wrongs that they commit, and it has been left to this Congress to act accordingly.”<sup>91</sup> These words, spoken by Representative Norman Mineta (D-CA), demonstrate how the act of redress, via a periodized narrative of redemption, functioned at once to define what constitutes a great nation (the recognition of ‘past mistakes’) while simultaneously designating the U.S. nation as such. In another illustrative testimony, Representative Bruce A. Morrison (D-CT) stated: “This is a challenge on a great day to a great nation to have the strength that only a great nation can have to recognize when it is wrong and to try to correct its wrong no matter how late in the day that realization comes.”<sup>92</sup>

Thus, the act of redress would come to represent not merely “the right thing to do” but an *exceptional* act of moral greatness for the U.S. nation. As Congress members variously asserted, the redress bill – as a bill “for all Americans, including those yet to be

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<sup>91</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24305, Representative Norman Y. Mineta (D-CA).

<sup>92</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24299, Representative Bruce A. Morrison (D-CT).

born,”<sup>93</sup> “a test of historic magnitude,”<sup>94</sup> and thus vital to “our future strength as a nation”<sup>95</sup>—would “prove that our beloved country is great enough to acknowledge and correct its past mistakes,”<sup>96</sup> “demonstrate our national—and natural—capacity for justice and wisdom,”<sup>97</sup> “show the strength of our nation and our system of laws,”<sup>98</sup> and “send a message down the corridors of the future that America is big enough to admit a mistake and honest enough within itself to try to make atonement for the error.”<sup>99</sup> Redress, as an act of greatness, had become a key moment of U.S. national formation and a pivotal opportunity to rearticulate and reassert America’s moral exceptionalism.

Such a performance should be read not within an isolated domestic space—that is, as solely performed for an ‘American audience’—but as inherently and fundamentally produced by and for particular global historical forces and international audiences.

Throughout the debates, Congress members themselves alluded to the performance of the U.S. on the world stage and the making of a great nation within the context of a newly emerging global world order. Here, Japanese American redress was thus produced as an important test for the U.S. nation, in the assumption and fulfillment of its emergent position as “leader of the free world and a strong and persuasive voice for *human rights*

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<sup>93</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24306, Representative Norman Y. Mineta (D-CA).

<sup>94</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24297, Representative Dan Glickman (D-KS).

<sup>95</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4399, Senator Pete V. Domenici (R-NM).

<sup>96</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4327, Senator Spark M. Matsunaga (D-HI).

<sup>97</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24276, Representative Norman Y. Mineta (D-CA).

<sup>98</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24276, Representative Norman Y. Mineta (D-CA).

<sup>99</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24307, Representative Jim Wright (D-TX).

and freedom.”<sup>100</sup> Congress members expressed the need for the U.S. government to “tell the world that this body is genuine in its commitment to the Constitution”<sup>101</sup> and to send this message “to those around the world, who want to know whether America does in fact stand for the principles that it so eloquently talks about on this floor and around the world.”<sup>102</sup>

Ultimately, redress then became a testament of the nation’s exceptional moral authority in the world context: “a great example for the rest of the world that a strong and powerful and free Nation is not embarrassed about saying that we are not perfect and we are getting better, and we acknowledge that we made a mistake.”<sup>103</sup> The notion of the act of redress as an exemplar and “an unprecedented action” that “no other nation on Earth”<sup>104</sup> would undertake, was prevalent throughout the debates. Moreover, central to this narrative, was the idea of redress as a “human rights” endeavor and thus the U.S.-nation as *the world’s human rights leader*. For example, Representative Dan Glickman (D-KS) proclaimed: “Mr. Speaker, this is a great day for America, because it bears witness to the unique and special greatness of America that we are today repaying American citizens for injustices suffered during World War II as a result of denial of due process. Very few other societies or countries would do what we Americans are doing today. Mr. Speaker, *this bill proves our respect for human rights and liberties is*

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<sup>100</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24290, Representative John Miller (R-WA).

<sup>101</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24305, Representative Norman Y. Mineta (D-CA).

<sup>102</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24301, Representative Steny H. Hoyer (D-MD).

<sup>103</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24279, Representative Barney Frank (D-MA).

<sup>104</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 50, S 4268, Senator John H. Glenn (D-OH).



*paramount.*”<sup>105</sup> Likewise, Representative Barbara Boxer (D-CA), drawing parallels between Japanese American internment and other human rights violations around the world, testified:

Because of my own ancestry, I had aunts and uncles and cousins and grandparents pulled from their homes in Western Europe because of one reason – their ethnicity. This kind of ripping apart of humanity must have no place in the world – no place! Our action here today is very significant not just in this country but all over the world. We are saying no, never again! Whether it’s *the Japanese American relocation*, or *the Armenian genocide*, or *the Holocaust or apartheid*, or *the refuseniks in Russia*, or *solidarity in Poland*, we say ‘No.’<sup>106</sup>

Hence, redress for Japanese American internment was not only about fashioning national imaginings of a utopian multicultural domestic future, but also global imaginings of an international humanitarian regime of which the US would reign as its just and moral leader. Put differently, at a key moment in the reorganization of the world order, the act of redressing Japanese American internment worked to establish not only a national past but also a global present and future in which the U.S. would reclaim and remake itself as the space of freedom and as the adjudicator of *world* justice – the nation “to lead all nations to a new future devoid of interethnic strife.”<sup>107</sup>

### **From Civil Rights Violation to Human Rights Leader**

“America did not invent human rights. In a very real sense, it is the other way around. Human rights invented America.”

Jimmy Carter, 1977-1981

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<sup>105</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 115, H 6310, Representative Dan Glickman (D-KS).

<sup>106</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24312, Representative Barbara Boxer (D-CA).

<sup>107</sup> Sanchez 2000, 41.

That the discourse of “human rights” becomes part and parcel of the production of “redress” for Japanese American “internment” should not be surprising given its rising popularity and prevalence at the time and its emergent centrality to U.S. national ontology. Still, more interesting is the ever so subtle transference from the framing of Japanese American ‘internment’ as an aberrational *civil* rights violation resolvable by U.S. law to the production of *America* as the world’s *human* rights champion and adjudicator of justice. To explain, even in the text of the bill itself, included as the last of seven stated “purposes of the *Civil Liberties Act of 1988*,” is the following: “make more credible and sincere any declarations of concern by the United States over violations of *human rights* committed by other nations.”<sup>108</sup> It is this formal “purpose,” I contend, that captures the ideological function of Japanese American redress. I argue that while the “violations” of the internment were quite tightly framed and contained as “fundamental violations” of “basic civil liberties and constitutional rights,”<sup>109</sup> the act of its redress works to universalize the episode such that the U.S. may claim its universal authority on *human* rights for the *world*. Going back to Taylor’s conception of ‘tragedy,’ I argue that the making of the ‘internment’ into a national tragedy again is meaningful because of the work it does to at once exceptionalize and universalize the violence of internment. What results is the ‘internment’ becoming the paradigmatic limit of U.S. “rights” violations and thus the apology for it a symbol of U.S. authority on human rights around the globe. Not coincidentally, this same narrative, repeatedly called upon, would serve to justify and

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<sup>108</sup> United States Congress, 100<sup>th</sup> Congress, 1<sup>st</sup> session, 1988, *The Civil Liberties Act of 1998*.

<sup>109</sup> United States Congress, *The Civil Liberties Act of 1998*.

embolden the proliferation of U.S. military interventions in the name of democracy, justice and human rights in the years to follow.

Indeed, I am arguing that the emergence of “Japanese American redress” in 1988 constitutes a key moment in the formation of the U.S. as *the world’s human rights* leader in the post-Cold War era, a crucial condition of U.S.-American empire. Still, I am also arguing that within this very same production, there are gaps and slippages—openings which signal opportunities for History to go another way. As the following chapters will explore, in the case of redress for the JLAs, it has been precisely this slippage between, on the hand, the containment of “the internment” as a civil rights violation (and concurrent disavowal of U.S. globalized military violence) and, on the other, its “redress” as a universal human rights legislation (and thus the U.S. as exemplar human rights leader) that has consistently offered a space for critique, a revelation of the contradiction of U.S.-American empire. As we will see, specifically, activists forge a critical understanding of the case of (failed) JLA redress by calling attention to the global excesses of the CLA—“the war crimes against humanity,” “the violations of international law,” which continue to go unresolved, remaining marginalized or erased in the national narrative of redress as justice done. That is, it is precisely as failure of the CLA, an unacknowledged “violation of *human* rights,” that the JLA case serves to threaten U.S. nationhood and empire, this neatly packaged narrative of the world’s human rights leader in ascendance. In this sense, the ongoing pursuit of ‘justice’ by JLA former internees and activists holds the possibility of re-politicizing Japanese American redress—seizing it from its confines within dominant nationalist, imperial narratives and connecting it with

current and future struggles against a global U.S.-American regime of militarized racial violence.

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In this chapter, I have sought to interrogate what has become an important exemplar of ‘American-style justice.’ I find that instead of using the debates on the redress bill as an opportunity to open up and take a critical look at America’s colonial and racist history, Congress members opted to do just the opposite and constructed the CLA as a symbol of justice done in order to cover over the intricate, relational state-sanctioned structures of U.S. racism that are not only contained in the past but continue to infuse the present. At a crucial moment of national crisis and on the brink of the reorganization of the world order, this dominant narrative of Japanese American redress conveniently served to not only recuperate national memories of the Second World War as the ‘good war’ but even more reinvigorate and imbue such memories with a newfound sense of American exceptionalism—one centered upon utopian visions of a global humanitarian justice regime *over* which the U.S. would reign as its just and moral leader.

Taken together with the previous chapter, which traces the disavowal of “America’s other internment”<sup>110</sup> (the abduction, displacement, incarceration, deportation of Japanese from Latin America), I argue that redress for “Japanese American internment,” *as a condition of U.S. empire, required* the disavowal of memories of the U.S. WWII rendition of JLAs—the disavowal of empire itself. At a pivotal moment occurring between the ‘end’ of the Vietnam War and leading up to the ‘end’ of the cold

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<sup>110</sup> Mak 2009.

war, the U.S. stood at crossroads as to how to rehabilitate both its ‘hard power’ and more importantly its *moral power*.<sup>111</sup> The symbol of “Japanese American redress” thus produced a crucially necessary *moral and multicultural* brand of U.S.-American exceptionalism. In sum, what is revealed are the fundamental yet often overlooked links between historical redress, national myth and empire in which the latter two rely on the former to *both* produce and deny themselves in the name of so-called ‘justice.’

An earlier version of chapter 3 was published as “Redress as American-Style Justice: Congressional Narratives of Japanese American Redress at the End of the Cold War” in *Time & Society* 21:1 (2012), 104-120. The author of this dissertation was the single researcher/author of this article.

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<sup>111</sup> Grandin 2006.

**Chapter 4:  
Justice and Its Failures:  
Global Excesses of the Civil Liberties Act**

“...although often subordinated within dominant discourses, the global subject is not utterly subjugated. In its ‘critical’ dimension, the global subject has rather a disruptive effect on both current critical thought and standard forms of political being. It is this ‘global subject’ which provides us with intimations of other ways of being in the yielding up of the space between the nation’s particular emplacement and its universal extraversion.”

--Patricia Tuitt and Peter Fitzpatrick<sup>1</sup>

In 1989, when Japanese Latin American (JLA) former deportee Art Shibayama applied for his redress payment under the Civil Liberties Act (CLA<sup>2</sup>), he was denied on the grounds that he was neither a citizen nor legal permanent resident at the time of his internment—an ‘eligibility’ requirement stated in the text of the bill. Art subsequently appealed the U.S. Government’s decision three times and each time was denied on the same basis. Art’s case is not unique. He, along with the other 2,263 other Japanese Latin Americans who were in effect kidnapped by the U.S. government and placed in Department of Justice (DOJ) camps across the U.S. during World War II, had their passports confiscated and were rendered “illegal aliens” upon entry. Due to this designation, under the “rules of enforcement” of the redress legislation, these deportees were officially rendered *ineligible*.<sup>3</sup>

As I assert in the preceding two chapters, “the internment” and its “redress” emerge as a fundamental condition of U.S. nationhood and empire at a critical juncture in

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<sup>1</sup> Tuitt and Fitzpatrick 2004, xix.

<sup>2</sup> The CLA was the U.S. government legislation passed in Congress in 1988 which provided for a formal apology and a payment of \$20,000 to each surviving Japanese American citizen and Japanese resident alien interned during World War II.

<sup>3</sup> Eventually, 189 internees were able to receive redress payments under the CLA via a loophole: For those who remained in the U.S. following the war, some had been granted permanent residency status retroactive to their date of entry and thus were found to be “eligible” for redress under the CLA.

the reorganization of the world order at the end of the cold war. In chapter 2, via a critical analysis of several key moments in the production of “the interment,” I show how the marginalization and/or erasure of historical memories of the JLA WWII rendition program work to delimit “the internment” as a civil rights violation—one resolvable by U.S. institutions and norms. In chapter 3, I show how “Japanese American redress” conveniently serves as not only *the* exemplar resolution to “the internment” (the one blot in the history of a great nation), but also to reproduce a particular brand of U.S.-American exceptionalism—that based on the U.S. as the world’s exceptional mighty, *moral and multicultural* leader. Here, at a formative moment in the discourse of ‘human rights’ and the global present, the U.S. emerges as *the* universal *human* rights leader, the ultimate prototype of a late-modern judicial system. I argue that ultimately these two productions must be read in tandem and against the grain of another global production—that of an emboldened U.S.-American empire beginning at the end of the cold war. What is revealed is not merely the disavowal of the WWII U.S. rendition of JLAs per se but the *disavowal of U.S. empire* and its *globalized* military violence—a move, I contend, both crucial and necessary to the re-production of U.S.-American exceptionalism and, ironically but not coincidentally, the very globalized, militarized regime it supports.

This chapter continues my tracing of the case of JLA redress as it emerges as a failure of the CLA. Specifically, I map articulations of “justice” for the JLAs that surface during the ten-year implementation period of the CLA. It seems that although the JLAs were ostensibly erased from the redress legislation both within the text of the bill and throughout the debates, during its implementation phase, they re-appear—almost as ghosts from the past, a nagging ‘problem’ that would not simply go away. I read this

seeming failure as an excess—a *global* excess of the production of “the internment” and its “redress” discussed in chapters 2 and 3. While most scholars of “Japanese American redress” have pigeonholed the case of the JLAs via a logic of inclusion/exclusion (that is, as an unfortunate liability of an otherwise highly successful resolution to the national tragedy of “the internment”), I read it as fundamentally unresolvable to the CLA and to the U.S.-nation. That is, I read it as a global excess that inevitably comes back to haunt historical justice and threaten its containment of U.S. racial violence within the neatly packaged civil rights narrative of “the internment.”

Indeed, since the passage of the CLA in 1988, the primary strategic goal articulated by the JLA redress activists themselves was always to garner the ‘same redress,’ the ‘equal justice’ as that received by the Japanese U.S.-Americans under the CLA.<sup>4</sup> As this chapter will show, this ostensible aspiration toward political inclusion and recognition within the U.S. nation state indeed acquired its own global excesses, its own traces of U.S. globalized military racial violence. Ultimately, the state’s attempt to resolve such excesses, via the *Mochizuki vs. USA* settlement offer of \$5,000 individual reparations (to be taken from the CLA leftover funds) and an ‘apology’, would come to represent yet another ‘failure’ of justice for the JLAs. I contend it is precisely out of such failures that the JLAs, as *unresolvable global subjects*, emerge as “critical beings”—as figures at once outside, constitutive and critical of the limits marking the proper redressable subject. As we will see, by refusing the ‘justice’ offered in the *Mochizuki* settlement, the JLAs inaugurate perhaps a different kind of justice—located not in the law

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<sup>4</sup> Even before the passage of the bill, certain JLA former internees made efforts to be included in the ongoing Japanese/American redress



itself but in its very deconstruction, its excesses. Such is a tension that I will follow throughout the rest of this dissertation: the (im)possibility of the JLAs as redressable subjects, the dynamic and uneven ways “JLA redress” *as (failed)* justice get articulated within and without the law.

### **Regimes of Un/redressability: Redress for “Citizens and Legal Permanent Residents”**

It seems that although the JLAs were ostensibly erased from the CLA both within the text of the bill and throughout the congressional debates, during the implementation phase of the legislation, they re-appear—almost as ghosts from the past, a nagging ‘problem’ that would not simply go away. In 1989, 77 comments advocating for redress eligibility for all JLA former internees were submitted to the Federal Register of the CLA; these included comments submitted by Ellen Carson, Esq., a lawyer hired by former Japanese Peruvian deportee Seichi Higashide, as well as joint comments submitted by the American Civil Liberties Union-Santa Clara Valley Chapter, Asian Law Alliance, Asian Pacific Bar Association of the South Bay Area, La Raza Lawyers National Organization-Santa Clara County Chapter, National Lawyers Guild-Santa Clara Valley Chapter, and South Bay Black Lawyers Association.<sup>5</sup> Later that same year, the Department of Justice adopted rules for enforcement of the CLA and formally ruled that JLA former internees on the whole would be denied redress eligibility because of their status as ‘illegal aliens’—not U.S. citizens or permanent residents—at the time of their internment. Children born in the U.S. to JLA parents during the internment period

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<sup>5</sup> “Grace Shimizu: History of Redress Efforts By Japanese Latin American Internees, 10/98,” 3-4, Grace Shimizu Archive.

(determined to be December 7, 1941 to June 30, 1946) as well as those JLAs who obtained the status of *retroactive permanent resident alien* extending retroactively to the internment period, however, met the threshold statutory requirement and were deemed eligible for redress.<sup>6</sup>

In this section, I follow the trajectories of two Japanese Peruvian former internees, both of whom remained in the United States following the war under probation as “illegal aliens,” both of whom subsequently received notice in the 1950s that their choice was either “deportation or draft,” both of whom then served in the U.S. Army, but only one of whom received retroactive residency status in 1954 and therefore redress under the CLA. As I will show, these cases open up a host of questions regarding not only the precarious space that illegal aliens occupy in the U.S. nation—a space (to recall Lisa Cacho) of “racialized rightlessness”—but also the fluidity in and out of such a space for certain racialized subjects at different global historical moments. In the last instance, these cases also show the U.S. nation’s attempt to simultaneously deny and fold in such histories in the continual re-production of the myth of “immigrant America”—the nation of immigrants.

### ***“Deportation or Draft”***

Toward the end of the war, approximately 1,400 JLAs remained in the U.S. (over 1,200 had already been used in hostage exchanges with Japan). In summer 1945, the U.S. and other Western Hemisphere nations “began to consider the postwar fate of interned

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<sup>6</sup> “Grace Shimizu: History of Redress Efforts By Japanese Latin American Internees, 10/98,” 4, Grace Shimizu Archive.

Axis nationals.”<sup>7</sup> Desiring to conclude the program by “removing all dangerous Axis influences from the hemisphere,” the State Department in September 1945 secured a proclamation from President Truman directing the Secretary of State to “remove any enemy aliens in the United States from the Western Hemisphere, including those from Latin America, who were illegal aliens and dangerous to hemispheric security.” Thus, it was on the basis of their “illegal status”—that “they lacked proper credentials: they had entered the U.S. illegally without visas and without passports”<sup>8</sup>—that over 900 JLAs were forcibly deported to war-devastated Japan between November 1945 and June 1946. It is important to note that this forced deportation operation was officially deemed “voluntary.” Told they had no chance of returning to Peru or “release,” (in the words of Weglyn) “[m]any had acquiesced to this drastic federal action in the belief that reunion with families left behind in Peru could not otherwise be achieved.”<sup>9</sup> More than 300 JLAs remained in the U.S. to fight deportation with the hopes of returning to their homes in Latin America—among them, the families of both Art and Eigo. In the end, only approximately 100 were permitted re-entry into Peru while those who remained as “illegals” in the U.S. thus needed to secure “sponsorship” upon their “release” from camp. Over two-thirds were “paroled” to work at Seabrook Farms, a meatpacking company located in Seabrook, New Jersey. There, as manual laborers, they worked 12 hour days / seven days a week, living in barracks and paying thirty percent “extra” in income taxes due to their ‘illegal’ status.

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<sup>7</sup> United States 1997, 311. Authors cite Emmerson 1978.

<sup>8</sup> Weglyn 1976, 64. See also United States 1997, 312.

<sup>9</sup> Weglyn 1976, 64.

After two and half years at Seabrook Farms, both families “gave up” trying to return to Peru and moved to Chicago in 1949 where all the members of each family remained classified as “illegal aliens” and under threat of deportation “back” to Japan. In the first half of the 1950s, it was as “illegal aliens”—literally probationary Americans—that Art and Eigo, among other Japanese Peruvian illegals, received their draft notices. Told their choice was either “deportation or draft,” both chose the draft. This, however, is where their similarity in legal status ends and their fates vis-à-vis ‘qualifying’ for redress under the CLA take two very different paths. In this next section, I examine Eigo’s successful procurement of retroactive residency and Art’s failed attempts and what these examples may reveal about not only the politics of citizenship as well as redress per se but more broadly the politics of historical knowledge concerning the racilized violence perpetrated against the JLAs within the context of U.S. empire.

### ***Retroactive Residency and ‘Qualifying’ for Redress***

In March 1954, Eigo Kudo joined the U.S. Army and in December of that year received his green card—his *legal* permanent residency status retroactive to the day he set foot on U.S. soil in 1943. Eigo was one of among approximately 150 Japanese Peruvians who were granted retroactive residency in the U.S. without ever having to leave and re-enter the country. When he reported back to service after his holiday break, his captain informed him that since he was in the Army, he could bypass the standard five-year wait period that most legal permanent residents need to go through and immediately apply for his citizenship. In June 1955, Eigo became the first Japanese Peruvian U.S. citizen.

Art's story paints a different picture. Drafted two years earlier than Eigo, Art fought in the Korean War going overseas to Germany from 1952 to 1954. During his tenure, because he was required to handle paperwork, medical supplies and classified documents, Art tried to obtain citizenship in order to get 'clearance;' however, he was denied on the basis of his "illegal entry" into the U.S. Upon his release from the army in April 1954, taking the advice of his superior section leader, Art went to the U.S. Immigration Office in Chicago to investigate the matter of his citizenship status. He describes his experience: "...they didn't know what to do with me 'cause they never had a case like mine. So then, they said, 'Go study and let me call you back.'" Art did not hear back for the immigration office for over two years until July 1956 at which point he was told that the only way for him to become a legal permanent resident and eventually get his citizenship would be to go through Canada and re-enter the U.S. *legally*, bringing back a letter from Canadian Immigration as proof. Art thus did what he was told, going to Canada along with his two brothers and two sisters who were also still considered illegal. Upon his return to the U.S., he was informed that U.S. Immigration would give him permanent residency but he would have to wait five years to apply for citizenship. In 1970, Art applied for and received his citizenship.

As a result of their differing experiences, when applying for redress under the CLA, Eigo indeed "qualified" due to his retroactive permanent residency status granted in 1954 whereas Art, on the other hand, was denied because the permanent residency he was granted in 1956 was not retroactive and therefore he was not a "legal permanent resident" at the time of his internment. Specifically, the government claimed that because he went to Canada in pursuit of his citizenship, he had 'left the country *voluntarily*' and

thus retroactive residency was not possible for him. Art's response: "But, how can that be voluntarily when they're telling me that's the only way you're going to get your permanent residence?" Interestingly, Art's mother and one of his sisters, Fusa, both applied and received redress under the CLA apparently because they happened to decide (for different reasons) not to go to Canada with Art and the rest of his brothers and sisters, and the legal permanent residency they eventually garnered was retroactive. Art's comment: "It must have been—because they got their twenty thousand."<sup>10</sup> Fusa had chosen not to go with Art and the rest of her sibling because her husband—"a no, no boy"—had denounced his citizenship at Tule Lake. Art explains, "So, she was afraid if she went to Canada, she might not be able to come back..."<sup>11</sup> Art believes that his father who died in 1976 would have also qualified for redress had he been alive since he also had received retroactive residency like his mother.

As mentioned, Art's case is not unique. In fact, Eigo's brother, Juan Sukiro Kudo, also was drafted into the U.S. Army, became a naturalized citizen in 1953 and so did not apply for residency under Wayne Collins. As a result, he was not granted retroactive residency and thus did appear eligible for redress under the CLA. In an article published in the *Sacramento Bee* on July 15, 1989, entitled "Some internees left out of US reparations plan," he stated, "Denying me eligibility and granting eligibility to other Japanese Peruvians when I was in the same group on the same ship, arriving on the same date at the same Port of New Orleans, would be incomprehensible."<sup>12</sup> In total, by 1993, only approximately 150 JLAs qualified for redress under the CLA, which included 26

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<sup>10</sup> Art Shibayama, author's interview.

<sup>11</sup> Art Shibayama, author's interview.

<sup>12</sup> Judy Tachibana, "Some internees left out of US reparations plan," *Sacramento Bee*, July 15, 1989.

babies who were born in camp. Thus, the vast majority of JLA former internees—including those who fought deportation orders and remained in the U.S. following the war but did not get retroactive residency (approximately 200), those who were exchanged or deported to Japan (approximately 1,581) as well as those 100 or so who eventually made it back to Peru—all were not considered eligible for governmental redress under the CLA. In the rest of this chapter, I trace the various and often divergent efforts of JLA former deportees and activists to garner redress from the U.S. government for all JLA deportees during the ten-year implementation phase of the CLA. What emerges, I contend, precisely out of the failures of so-called “justice,” in its messy aftermath, is that “otherness” of justice as outlined by Derrida—glimpses of the moment the aporia between justice and the law deconstructs the law itself and its rights-based politics.

### **“Justice *Requires* Redress and Reparations for JLA Internees”**

“Justice Requires Redress and Reparations for JLA Internees”—this was the subheading under the “Our Developing Analysis of Redress” section published in the fourth issue of the “JPOHP Update” in December 1993. The JPOHP Update was an “internal publication” (“not available to the general public”), produced and distributed by the Japanese Peruvian Oral History Project (JPOHP) to its members from 1992-1994, that focused “on efforts to gain redress and reparations for former Japanese Peruvian internees.”<sup>13</sup> Established in 1991, JPOHP was founded by a group of former internees and their families “to preserve the remembrances of those who were forcibly taken from Peru and interned in concentration camps in Panama and the United States during World

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<sup>13</sup> “JPOHP Update #1,” Grace Shimizu Archive.

War II.” The project’s four-pronged mission was: to collect and conduct oral histories; to educate ourselves and others about the Japanese Peruvian experience during World War II; to promote dialogue and interaction among Japanese Peruvians and the broader society in the US, Peru and Japan; and to provide information and referral for former Japanese Latin American internees and their families seeking redress.”<sup>14</sup>

In this section, I outline some of the early strategies toward and definitions of “justice” which emerge out of the calls for redress from the U.S. government for JLA former deportees. I argue that while such organizing efforts may appear to be merely a fight for *inclusion*, a fight for legibility and redressability by the U.S. nation-state and perhaps another “rush toward juridical forms of redress and reconciliation” symptomatic of Zizek’s “pervasive retreat from the political in global liberal societies,”<sup>15</sup> they actually might be read quite differently: as crucial and necessary acts of deconstruction of the law which point to the limits of so-called “justice” and that which remains “inassimilable to the order of politics and law.”<sup>16</sup>

### ***Routes to Redress***

Indeed, from the first JPOHP Update published in March 1992, the main “goal” articulated by activists and former internees associated with the JPOHP was “to obtain redress and reparations for all JLAs who were deported and interned in Panama or the US during WWII.” Here, the organization focused on the “existing redress legislation” (the CLA), its implementation and issues of “eligibility” and the “need to amend or pass new

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<sup>14</sup> “What is JPOHP?,” Grace Shimizu Archive.

<sup>15</sup> Yoneyama 2010, 665.

<sup>16</sup> Yoneyama 2010, 664.



legislation” or file a lawsuit “to get redress and reparations to all JLAs who were deported and interned” including “those JLAs who remained in the US but were not able to get their permanent residency status made retroactive to the date of their initial entry into the US.” They wrote: “We can learn from the lessons of the JA redress campaign. They utilized both a lawsuit approach and a legislative approach with strong grassroots community organizing.../...In our situation we are lucky to be able to build off of the work of the JA redress struggle and the fact that some JPs have been recognized as eligible for reparations and have gotten their payments.”<sup>17</sup>

Over a year later (by the end of 1993), their strategy had evolved from “comparing the pros and cons of enacting new legislation and bringing a lawsuit against the US government” to “pursuing 4 courses of action simultaneously: administrative policy changes, legislation, lawsuit and international exposure.” At this point, “administrative policy changes” was the “preferred approach” whereby JLA redress activists continued their efforts (begun in 1989) of working with the Office of Redress Administration (ORA) to “do whatever possible to include all JLAs in the redress program.” It was in this area, that activists also began working more closely with the Japanese American community-based organization National Committee for Redress/Reparations (NCRR) as well as the Japanese American Citizens League (JACL), particularly to meet with government officials from the Office of the Attorney General and ORA in Washington, D.C. and “urge them to have a more inclusive interpretation of the current redress legislation.” The main arguments they put forth were: 1) “Reference to JLAs as ‘illegal aliens’ should cease since it has been a fabrication of the US government

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<sup>17</sup> “JPOHP Update #1,” Grace Shimizu Archive.

in its attempt to control the exchange hostages,” and 2) “Retroactive permanent residency status should be given to all former JLA internees holding current US citizenship or permanent residency status.”<sup>18</sup> Even though JLA redress activists realized that such “retroactivity” would not “cover all the JLAs,” they were hopeful that such action would also lead to the DOJ/Clinton Administration initiating an “amendment or new legislation” which would.

The legislative route (the second course of action) was also focused on “redress” for “all JLAs”—“similar as that given to JAs.” Here, as delineated in JPOHP Update #4, JLA redress activists reasoned that an “amendment to the existing legislation would be better than new legislation,” which would require they go through the “more difficult process of establishing the validity of new legislation.” Interestingly, they proffered that a “possible argument” for an amendment would be that Congress made an ‘inadvertent error’ in “crafting legislation which was discriminatory against the JLAs.” They described: “It was an ‘oversight’ because the DOJ, Congress, and redress attorneys didn’t realize that JLAs couldn’t be excluded as a matter of law.” In short, they implied that while they are aware that “Congress did not intend the current law to include JLAs,” it may be possible to amend the law via that argument.

The possible third ‘route’ to redress, “lawsuit against US government,” involved two developing legal theories (which I discuss further later in chapter): 1) “the Civil Liberties Act is a violation of equal protection since it discriminates against the JLAs without any compelling government interest” and 2) “the treatment of JLAs was a violation of international human rights law which requires a mandatory program of

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<sup>18</sup> “JPOHP Update #4,” page 6, Grace Shimizu Archive.

redress.” The fourth route, “international exposure of the JLA redress issue” (also discussed below) was described as an approach “to increase pressure on the administration and Congress and to investigate redress opportunities in the international arena (e.g., United Nations, Organization of American States, World Court).”

In sum, one could certainly read such a *politics* of JLA redress as merely relying on an inclusion/exclusion logic vis-à-vis the CLA and Japanese *American* redress activity. As discussed, from its onset, the primary goal articulated by JPOHP and its allies was indeed to garner the “same,” “equal” redress and reparations as that which the “Japanese Americans” received under the CLA. As will be discussed in the following two chapters, this would remain a fundamental priority for the movement over the next two decades. Still, as I will show, in their re-defining of “justice” as that which “*requires* redress and reparations for JLA internees,” activists were also doing the important work of calling out the limits of the CLA itself—its narrow constitutional, nation-based framing, its periodization *as justice done*, as well as its dangerous implications as a model and precedent. I now turn to the critiques of redress variously embedded in these articulations of redress put forth by JLA activists and supporters.

### ***Critiques of Redress***

As mentioned, from the first JPOHP Update, organizers recognized “the work of the JA redress struggle” and thus framed their “strategy” as “building off” of what had been already been accomplished.<sup>19</sup> Still, embedded in such seemingly *uncritical* discourse, was a much more incisive critique of not only the CLA *as justice* but also of

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<sup>19</sup> “JPOHP Update #1,” Grace Shimizu Archive.

“the internment” as *the* legible History of U.S. WWII racialized state violence. Indeed, from the first inaugural issue of the Update publication, JLA redress activists pointed to and challenged the narrow, constitutional rights-based framing of the CLA. Here, under the heading “Legislative History,” they articulated their “understanding” of the political machinations behind their absence in the redress bill. They cited an explanation given in an “old Hokubei Mainichi newsarticle” wherein House Representative Patricia Saiki (R-Hawaii) is quoted as stating: “The drafters of H.R. 442 believed that the awarding of reparations to Japanese Peruvians by the US government could not be legally defended. The main argument was that *these individuals were not legal residents* when they were interned and thus *did not possess US constitutional rights*.... It would be very difficult to now include Japanese Peruvians in a further *American* redress effort, regardless of the rightness of cause.” They go on to state that Senator Spark Matsunaga (D. Hawaii) “believed that the only recourse for Japanese Peruvians (JP) would be legal action against the US government.”<sup>20</sup> The writers then conclude:

It appears our Nikkei congresspersons and other redress organizations *did not understand, did not agree with or did not want to fight for our interests*. The US government wanted exchange hostages. The US government, in collusion with the Latin American governments, forcibly brought us to the US and put us into concentration camps. *There was nothing voluntary about the situation*; it was by force and coercion. Then the US government declared us to be illegal aliens. *How could we have illegally entered and resided in the US when the government took away our passports and didn't issue visas and put us into camp? Our human rights were violated. Our situation was acknowledged in the early drafts of proposed redress legislation. Why was it not included in the final bill submitted to Congress?*<sup>21</sup>

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<sup>20</sup> “JPOHP Update #1,” page 2, Grace Shimizu Archive, emphasis added.

<sup>21</sup> “JPOHP Update #1,” pages 2-3, Grace Shimizu Archive.

Such discourse is important I contend because it at once challenges the very purported premise for the JLAs' absence (read as exclusion) from the Japanese American redress bill (their status as "illegal aliens" and therefore not in possession of constitutional rights) as well as calls out the paradigm of "redress" itself as, in the words of Lisa Yoneyama, a "regime of il/legibility of violence."<sup>22</sup> That is, by de-naturalizing "the internment" as indeed a constructed history intentionally produced for the purposes of 'redress,' these activists call attention to the *politics* of historical knowledge—the relationship between remembering and forgetting within multiple fields of power. The question posed for the reader: "Why was it [their 'situation'] not included in the final bill submitted to Congress?"<sup>23</sup> seemed to be raised rhetorically whereby the answer was already suggested: It was not included because those in position to draft the bill decidedly "deleted" them as they either "did not understand, did not agree with or did not want to fight for" their interests—interests which were not aligned with the overdetermined constitutional rights-based argument for redress.

The passage concludes:

The US government's central role in the violation of our *human* rights has been acknowledged to some of us but not to all of us. How deplorable that *this injustice* has been allowed to continue. What a sad commentary that the majority of the Japanese American community, our elected officials and civic leaders *do not even know our story. The question is once people do know the situation, what are they willing to do about it.*<sup>24</sup>

Here, as with the quote above, JLA redress activists, importantly, claim "human rights" (which I discuss further below) as the appropriate alternative paradigm for interpreting the racialized state violence *they* experienced. Moreover, they allude both to,

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<sup>22</sup> Yoneyama 2011, 664.

<sup>23</sup> "JPOHP Update #1," pages 2-3, Grace Shimizu Archive.

<sup>24</sup> "JPOHP Update #1," page 3, Grace Shimizu Archive.

again, the forgetting of their “story” as well as to the question of legitimacy, which I read as Žižek’s “proper logic of political antagonism”—“the struggle for one’s voice to be heard and recognized as the voice of a *legitimate* partner.”<sup>25</sup> Posing the question, “once people do know the situation, what are they willing to do about it,” they demonstrate an understanding that their struggle is not simply a politics of recognition, inclusion and visibility per se, but rather a question of legibility and redressability of violence which demands a reworking of the edible, redressable *civil* rights narrative of “the internment.”

By December 1993, organizers had further developed both their “redress strategy” (now delineated according to “4 courses of action” discussed above) as well as “analysis of redress.” In JPOHP Update #4, under the “Our Developing Analysis of Redress” section, they wrote the following:

We have now had 5 years to understand the strengths and shortcomings of that Civil Liberties Act: in the way it was written, what it included and didn’t include, and how it is being interpreted and administered. In these 5 years, we can say *a measure of justice has been achieved, but we have not achieved full justice*. Presently, there are over 2200 JAs who have been denied redress and are appealing. The US congress continues to deny monies of the Education Fund. And the US government has not yet acknowledged the full violation of the human rights of the JLAs.<sup>26</sup>

JLA redress activists, in aligning their case, their lack of redress and recognition, with other failures of the CLA (the “over 2200 JAs” who were being denied redress and in the process of appealing and the ongoing recantation of the promised Education Fund stipulated in the CLA), were doing the important work of offering a crucial and necessary critique of the *passage* of the CLA as justice *done*. That is, by calling out these examples which bring to the fore the contradictions of the CLA as a symbol of “justice for all” and

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<sup>25</sup> Žižek 1999, 28.

<sup>26</sup> “JPOHP Update #4,” page 2, Grace Shimizu Archive, emphasis added.

epitome of a successful redress movement, they served to disrupt the theological narrative of redress as the unquestioned resolution to “the internment.”

In the following passage the authors go on to warn of the “danger” of the CLA precisely as a precedent and guide for the future. They write: “The JLAs have a right to redress from the US government. *By denying redress, the injustice is continuing. There is a danger here* that the internment experiences of JAs and JLAs and how the redress program is being implemented could be used as a guide for what the government can and cannot get away with should it ever decide to forcibly relocate and intern people again. *A precedent is being set as to what governmental action and inaction is permissible.*”<sup>27</sup>

While somewhat vague, these activists, are, again, pointing to what is being covered over by the CLA (what is *illegible, unrecognized*) and what *this* does as a precedent for future racialized state violence. They do this precisely through the lens of the JLA case vis-à-vis “the internment.” Read against grain of the predominant discourse “Never again!” that emerges in the production of the CLA, this move thus turns such a statement on its head, pointing precisely to what is being condoned now and in the future.

### **“Violations of Human Rights, of International Human Rights Law”**

Finally, as mentioned, by December 1993, JLA redress activists also began deploying a further developed “human rights” framework—a marked point of departure from the constitutional rights argument and strategy of the CLA. In JPOHP Update #4, under “Our Developing Analysis of Redress,” they wrote:

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<sup>27</sup> “JPOHP Update #4,” page 2, Grace Shimizu Archive, emphasis added.

The Japanese American internment experience has become more widely recognized as *a violation of US Constitutional rights by the US government*. It is little known that the US government also violated the rights of 2264 persons of Japanese ancestry from 12 Latin American countries. It is only just becoming understood that *both these internment experiences were also violations of human rights, of international human rights law*. Under pre-WWII customary international law and post-war treaties, the deportation, forced relocation and internment of civilians are *violations of human rights*. They are *war crimes* for which compensation is mandatory.

JLA redress activists, I argue, while strategically aligning themselves with “JA redress groups,” and emphasizing “our common goal” (“regardless of whether we are American citizens, permanent residents or civilians forcibly brought from Latin America”), “our common purpose,” were nevertheless proposing not merely a politics of additive inclusion of JLA ‘history’ but rather a revised history—one that remade “the internment” into “also violations of human rights, of international human rights law” and specifically “war crimes for which compensation is *mandatory*.”

Such discourse played an especially relevant role in the fourth ‘route’ to redress, “international exposure,” which aimed “to increase pressure on the administration and Congress and to investigate redress opportunities in the international arena (e.g., United Nations, Organization of American States, World Court).” In 1993, JLA redress activists sent an information packet to John Shattuck, Secretary of State for Human Rights. He’s quoted as responding that the “issue is entirely within the jurisdiction of the Justice Department.” Nevertheless, JLA redress activists maintained their “view” of “the issue as within his jurisdiction because the discrimination issue is not getting resolved [domestically].” They went on to state, “We want to establish dialogue about his possible contribution to promote *domestic resolution* of the issue since, in our opinion, the US is



not complying with *international human rights standards*.<sup>28</sup> In February 1994, the group also sent an information packet and a statement with human rights attorney Karen Parker to distribute at the session meeting of the United Nations Commission on Human Rights in Geneva, Switzerland. The group had considered attending the meeting themselves, but decided against it due to both financial considerations as well as the preparation needed to launch a lawsuit against the U.S. government, which at this point was strongly being considered. In their statement under the heading, “Former Japanese Latin American Internees And Their Families Seek Redress,” they wrote, “To date, meetings with United States government officials and Congresspersons to urge administrative policy changes and redress legislations have been unsuccessful. It is after these efforts that former internees and their families turn to the international community for assistance.”<sup>29</sup> Parker as well delivered a speech at the session in which she requested, on behalf of the JLAs, “support for efforts ‘to obtain full disclosure of the facts, an apology and appropriate monetary compensation.’”<sup>30</sup>

Indeed, for the most part, the strategy of the JLA redress activists was to forge an “international opinion” on the issue to thereby build up enough “pressure” on the U.S. government to grant the JLAs redress via domestic means. They proposed doing this by both garnering “international attention” on their “issue” and developing “contacts and relationships with other groups around the world seeking compensation on similar issues,” including, for example, the ‘comfort women’ seeking redress from the U.S.

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<sup>28</sup> “JPOHP Update #5,” page 4, Grace Shimizu Archive.

<sup>29</sup> “Unfinished Business - - Japanese Latin American Internment: A Case For Redress For Violations of Human Rights During WWII” statement (written in English, Japanese and Spanish) distributed at the United Nations Commission of Human Rights, Geneva, Switzerland, Grace Shimizu Archive.

<sup>30</sup> “JPOHP Update #5,” page 4, Grace Shimizu Archive.

government for forced relocation and sex slavery.<sup>31</sup> Still, in the aforementioned statement they issued, they went a step further, asking the United Nations Commission on Human Rights to “consider establishing a special panel”—one which would review the pertinent information on their case, issue a report and recommend the appropriate remedies, including hopefully a “strong request that the United States government provide adequate redress (including a personal and public apology and monetary compensation) to all victims of its World War II relocation and internment policies.” This possible ‘route’ to redress, I contend, is significant because it would demand the U.S. (the purported ‘human rights leader’ and adjudicator of world justice) be held accountable to a jurisdiction outside itself—a scenario yet to be seen.<sup>32</sup> Even more, I argue, by positioning their case as part of the “unfinished business” of WWII—as a “case in point” of the “violations of human rights during World War II which have not been properly acknowledged nor redressed”—this approach served to offer an important critique of the CLA as a symbolic resolution to the U.S. racialized state violence of WWII. As I argued in the last chapter, such a symbol emerged at the end of the cold war as a crucial signifier in the production of the U.S. as a mighty and moral superpower—the world’s leading adjudicator of human rights. Importantly, the raising of the JLA redress “issue” in a major international forum such as the UN Commission on Human Rights serves to disrupt this production, calling attention to the “limited redress” of the CLA and politics of historical knowledge concerning “the internment.” In the immediate years to follow, while JLA redress activists would focus their energies on the “lawsuit” approach to redress via a domestic

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<sup>31</sup> “JPOHP Update #6,” page 4, Grace Shimizu Archive; “JPOHP Update #5,” page 4, Grace Shimizu Archive.

<sup>32</sup> Saito 2010.

law argument (discussed in the next section), this “international strategy” would remain on the backburner and later re-emerge as an important facet of their efforts.

### ***Mochizuki vs USA: “Seeking the Same Redress”<sup>33</sup> as Japanese Americans***

By 1994, as JLA redress activists continued to explore the various “routes” to redress, they came to the conclusion that both “administrative policy changes” and “legislation” were not viable. In JPOHP Update #5 published in February 1994, they wrote that they had “been put in a holding pattern.” The ORA, at this point, only considered “babies born in camp” and those who had retroactive permanent residency status as eligible for redress. The “retroactivity issue” had been turned over to the INS and it seemed “official attention” still was solely focused on the question of whether retroactive status should be given to those JLAs who successfully fought deportation orders and remained in the U.S. at the end of the war but not to “all” JLAs. On the legislative front, the activists reported “no motion” due to the fact that “Nikkei Congressmen,” including Senator Inouye, “strongly discouraged attempts to get redress legislation for JLA former internees”—both an amendment or new legislation.<sup>34</sup>

It was in this context then that JLA redress activists became increasingly focused on a lawsuit against the U.S. government as a plausible approach to “get redress for all former JLA internees.” In this section, I explore the predicaments and possibilities that emerge from the class action lawsuit, *Mochizuki vs USA*, filed on August 26, 1996 on behalf of JLA former deportees/internees seeking redress. What emerges, I contend, out

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<sup>33</sup> *New York Times*, “Held in War, Latinos Seek Reparations: Japanese Descent, They Were Interned,” August 29, 1996, A-18.

<sup>34</sup> “JPOHP Update #5,” page 1, Grace Shimizu Archive; “JPOHP Update #4,” pages 7-8, Grace Shimizu Archive.

of the demands for “the same redress as that granted to Japanese Americans” is not only an important critique of the CLA as “limited redress” but also a critique of the U.S. nation and empire—an indictment on its systemic ability to *make* “illegal aliens” and render them rightless and unworthy.

### ***“A Constitutional Challenge”***

As mentioned, in early 1993, JLA redress activists began developing possible legal theories for a lawsuit which included on the one hand, a constitutional-based argument that “the Civil Liberties Act is a violation of equal protection since it discriminates against the JLAs without any compelling government interest” and on the other, that “the treatment of JLAs was a violation of international human rights law which requires a mandatory program of redress (not a discretionary program as currently exists, whereby the US government has used its discretion to exclude JLAs).”<sup>35</sup> Ultimately, the activists and the lawyers who took on the case (attorneys from the ACLU of Southern California) settled on framing the lawsuit primarily as a constitutional challenge focused on domestic law with international law being a secondary consideration.<sup>36</sup> In their “civil rights complaint” filed in August 1996, they charged that the Civil Liberties of 1988, because it denied “equal protection of the law” to JLA former internees who were ineligible for redress due to their illegal status at the time of their internment, unlawfully discriminated against such individuals. They thus asked the Court

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<sup>35</sup> “JPOHP Update #4,” Grace Shimizu Archive.

<sup>36</sup> Grace Shimizu, founder and Director of JPOHP, had wanted to take “a human rights/international law angle rather than constitutional law” but was unable to persuade the ACLU nor secure a different law firm. She entered into talks with lawyers from The Center for Constitutional Rights in New York who were “very interested” in “focusing on the human rights angle” but they never proceeded.

to declare ‘invalid’ the citizen/legal permanent resident requirement of the bill, which, they argued, was unconstitutional and “prejudices the due process rights” of the JLAs. In an amendment filed in February 1997, they added the argument that the JLAs were not “illegal aliens” at the time of their incarceration but rather “permanent resident aliens” under the PRUCOL (permanent resident aliens under color of law) doctrine” because they were brought to the U.S. against their will.<sup>37</sup> As such, they should qualify for redress under the CLA even under its current eligibility requirements. In the original complaint, attorneys had also cited the violation of “the international law rights of the Japanese Latin-Americans” by both “their forcible deportation to, and imprisonment in, the United States during World War” and “their exclusion from redress under the Eligibility Provision.” Interestingly, in the February 1997 amendment, the former charge was dropped to argue that international law was violated only by the JLAs’ exclusion from the CLA. Again, this argument was secondary to the constitutional law argument put forth in the claim.

The lawsuit was filed as a class-action lawsuit with three named plaintiffs representing the ‘similarly situated’ plaintiffs or ‘class members’; they were: Carmen Mochizuki, 64 years of age, Alice Nishimoto, 63 years of age, and Henry Shima, 73 years of age. All three, former citizens and residents of Peru, had been “transported without [his/her] consent or intention” and “without due process or legal justification” to the U.S. in 1943 “in a scheme initiated, orchestrated, and financed by the U.S.A.” Both Alice

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<sup>37</sup> See Kulkarni 1995. Kulkari, also an attorney on the case, argued in her article published in 1995 that “the most feasible of the four redress options available to Japanese Peruvians” under the CLA was to gain retroactive residency through PRUCOL (permanent residency under color law). She writes, “Utilizing PRUCOL enables them to become eligible for reparations without actually having to challenge the statute itself.”

Nishimoto and Carmen Mochizuki had also been deported to Japan at the end of the war and later returned to the U.S. Henry Shima, who had also been imprisoned in a hard labor camp in Panama for several months before arriving to the U.S., successfully fought deportation orders at the end of the war and remained in the U.S. All were currently U.S. citizens and residents of Los Angeles County, California at the time of the lawsuit filing.<sup>38</sup> In February 1997, two more plaintiffs were added to the complaint: Sumiko Tsuboi, 65 years of age, and Masaji Sugimaru, 80 years of age. Both had been citizens of Peru when they were forcibly transported to the U.S. and then forcibly used in the prisoner-hostage exchange program with Japan where they remained. Both were citizens of Japan at the time of the lawsuit amendment filing and served to represent a “sub-class” of the approximately 1,700 JLAs “involuntarily relocated” to Japan.<sup>39</sup>

### *A “Campaign For Justice”*

“Campaign For Justice: Redress Now for Japanese Latin Americans!” (CFJ) was founded in June 1996 as a “coalition of individuals and human rights and civil rights organizations”<sup>40</sup> precisely to do “public outreach around the lawsuit.”<sup>41</sup> Formally founded by the National Coalition for Redress/Reparations (NCRR), Japanese American Citizens League (JACL), Japanese Peruvian Oral History Project (JPOHP) and the American Civil Liberties Union of Southern California (ACLU) of Southern California, CFJ formed the organizational core of the “political strategy” formulated by lawyers and activists to go

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<sup>38</sup> *Mochizuki vs. U.S.*, No. 96-5986 (C.D. Cal. August, 27, 1996), 3-4.

<sup>39</sup> *Mochizuki vs. U.S.*, First Amended Complaint filed February 3, 1997, 4-5, 7-8.

<sup>40</sup> “Solicitation letter from CFJ dated Winter 1996,” Grace Shimizu Archive.

<sup>41</sup> Small, author’s interview.

“along with [the] lawsuit” to “bring about redress.”<sup>42</sup> In my interview with him, one of the leading attorneys on the legal team articulated his reasoning at the time, “We have the courts that are packed with conservatives. We need to really have a political strategy. That’s the only way I can see this working. They are going to play off each other. Political opinion, pressure on the right political points, along with this lawsuit, can bring about redress. But without it, we can’t rely on one or the other.”<sup>43</sup> Indeed, from its inception, the objectives of the campaign were “to take advantage of the publicity and legitimacy created by the lawsuit, to put political pressure on the federal government’s Office of Redress Administration, the Department of Justice, and/or the U.S. Congress” in order to “encourage the government to settle the lawsuit.”<sup>44</sup> As the lead organizer of the JLA redress efforts at this point, Grace Shimizu (Founding Project Coordinator of JPOHP) assumed the position of Campaign Director of CFJ; she also hired Julie Small (a freelance journalist) to fulfill the position of Assistant Director and Media Advisor. Beginning that winter of 1996, the campaign also brought on Ayako Hagihara from NCRR to replace Shimizu as Director both to give the campaign more depth and so that Shimizu could formally represent JPOHP.

During this time, CFJ launched a letter writing campaign to U.S. President Bill Clinton “urging him to grant the Japanese Latin Americans the same redress and apology given to Japanese Americans.”<sup>45</sup> Ultimately, the group gathered approximately 4,000 letters signed by people in the U.S. as well as Peru and Japan, which they hand-delivered

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<sup>42</sup> Shimonishi, author’s interview.

<sup>43</sup> Shimonishi, author’s interview.

<sup>44</sup> Memorandum sent to Al Muratsuchi, Julie Small and Ayako Hagihara from attorneys Robin Toma and Paul Mills of the ACLU, dated June 12, 1996, Julie Small Archive.

<sup>45</sup> “Solicitation letter from CFJ dated Winter 1996,” Grace Shimizu Archive.

to Congress in March 1997. On this trip, a delegation (comprised of two ACLU attorneys (Robin Toma and Fred Okrand), three former internees (Alice Nishimoto (named plaintiff), Carmen Mochizuki (named plaintiff), and Art Shibayama), NCRR Vice-President Kay Ochi, Small and Hagihara (representing CFJ) and Shimizu (representing JPOHP)) met with numerous House Representatives and Senate Members as well as community leaders, asking them to publicly endorse the campaign and “urge” President Clinton to settle the lawsuit. In their conversations, the group, again, emphasized the main legal basis of their argument that “the denial of eligibility for redress violates constitutional guarantees under the equal protection clause” and accordingly they were simply seeking “inclusion of Japanese Latin Americans in the Civil Liberties Act of 1988.”<sup>46</sup> In October 1997, a delegation (comprised of attorneys Toma and Okrand, former deportee/internee Art Shibayama, Small and Shimizu and Bob Sakinawa (JACL Lobbyist)) again traveled to D.C. to meet with congressional officials, this time, asking them to sign a letter addressed to President Clinton; the letter asked for the president’s “assistance in adjusting the status of these Japanese Latin Americans by Executive Order so that they may receive justice [under the CLA].” In all, 80 members of Congress signed the letter.<sup>47</sup> Here, again, the emphasis was that the JLAs were “left out” of the CLA on the technicality of their illegal status and “therefore, should be eligible for redress.” The “matter” was of “utmost urgency” as the CLA would “sunset” the following year.

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<sup>46</sup> Letters penned by CFJ to House Representatives and Senate Members, Grace Shimizu Archive.

<sup>47</sup> Al Muratsuchi and Harry K. Honda, “Congressmen urge Clinton to settle Japanese Peruvian appeal for redress,” *Pacific Citizen*, Nov. 7-10, 1997, front page. In the article, the authors write, “The effort was spearheaded by Reps. Patsy T. Mink (D-Hawaii) and Anna Eshoo (C-Calif.) in gathering their signatures, including two Senators from Hawaii, Daniel Inouye and Daniel Akaka, two House Republicans Tom Campbell (Calif.), Benjamin Gilman (N.Y.) and 76 House Democrats including Robert Matsui (Calif.) and Barney Frank (Mass.)”



Such was the political strategy of the campaign to, in the words of Julie Small, “emphasize that it was the hidden story of World War II. This group had suffered *the same injustice* as Japanese Americans but...they were left out of redress...this was simply righting the wrong that had been overlooked in the redress process and finishing the job.” She went on to explain, “And that was part of the sales pitch because we didn’t want to make it sound like we are opening up a whole new redress bill, or anything like that.”<sup>48</sup> Accordingly, the group even argued that because it seemed there would be “money left” that had not been “collected by Japanese Americans” under the CLA, “the fiscal impact should be minimal to none”—that is, “no new entitlements will be required.”<sup>49</sup>

Still, I contend, the violence could not be contained in this neatly packaged argument for inclusion of the JLAs under the CLA. There were excesses that erupted—in the media, in the community and in the cracks and fissures of the law itself. These were excesses which pointed to the paradigmatic (not just technical) limits of the CLA as a *civil* rights legislation as well as brought to the fore both the political subject and social figure of the “illegal alien” as, in the words of Mae Ngai, not a “natural or fixed condition” but a “product of positive law”—“contingent,” “at times unstable” and always in flux with national imaginaries and formations within a global context. As I will argue in the next section, while the official party line of the campaign was to “say this group [Japanese Latin Americans] was the same as that group [Japanese Americans]—they just didn’t get redress”<sup>50</sup> due to the “technicality” of their status as “illegal aliens” at the time

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<sup>48</sup> Small, author’s interview, emphasis added.

<sup>49</sup> Informational presentation to US Representative Anna Eshoo by CFJ dated June 30, 1997.

<sup>50</sup> Small, author’s interview.

of their internment—a close reading of the discourse concerning the lawsuit and pursuit of “justice” for the JLAs reveals a much more incisive critique. This was a critique not only of the *CLA* as *the* resolution to the one blot in the nation’s history, particularly its ‘good war’ narrative of WWII, but of the U.S. nation itself: its prerogative power within a *global* militarized context and its ongoing failure to acknowledge this disturbing past.

### Global Excesses

To be sure, the message that the JLAs now living in Peru, Japan and the U.S. were seeking “the same” or “similar” “redress the U.S. granted to Nikkei citizens and legal permanent resident aliens of this country”<sup>51</sup> proliferated in the media—both mainstream and ethnic press. Here, former internees and campaign representatives variously stressed that they were requesting—“the same amount,”<sup>52</sup> “the same benefits,”<sup>53</sup> “the same consideration,”<sup>54</sup> “a similar deal,”<sup>55</sup> “reparations similar,”<sup>56</sup> and so on. They also emphasized that “because they suffered the same unfairness,” “they only want what is fair.”<sup>57</sup> In this sense, the story reads like a moral tale of exclusion with former internees like Art Shibayama posing the rhetorical question, “Why are we left out?”<sup>58</sup> I find the

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<sup>51</sup> *New York Times*, “Held in War, Latinos Seek Reparations: Japanese Descent, They Were Interned,” August 29, 1996, A-18.

<sup>52</sup> *San Francisco Examiner*, “Uprooted, imported, held hostage in U.S.,” August 29, 1996, A-1.

<sup>53</sup> *San Francisco Chronicle*, “Latin Americans of Japanese Descent Seek War Reparations,” August 29, 1996, C-4.

<sup>54</sup> *New York Times*, “Held in War, Latinos Seek Reparations: Japanese Descent, They Were Interned,” August 29, 1996, A-18.

<sup>55</sup> *The Rafu Shimpo*, “Redress: Peruvians Plan to File Suit in Federal Court This Week: Victims of World War II from Latin America want similar reparations as other internees,” August 26, 1996.

<sup>56</sup> National Public Radio, Morning Edition (6:00am ET), “Latin Americans Interned During World War II File Suit,” August 29, 1996, Transcript #1944-11.

<sup>57</sup> *CNN*, “Aging Japanese from South America sue for reparations,” September 11, 1996.

<sup>58</sup> *San Francisco Chronicle*, “Latin Americans of Japanese Descent Seek War Reparations,” August 29, 1996, C-4.; *New York Times*, “Held in War, Latinos Seek Reparations: Japanese Descent, They Were Interned,” August 29, 1996, A-18.

messaging was also clear that “they [JLA former deportees/internees] and their survivors contend they are *entitled* to the same benefits as Japanese American internees.” That is, the appeal was that these JLAs were not only “seeking” reparations and an apology “similar” (to JAs) but that they were “deserving” of such. For example, in an article entitled, “Latin Americans Want Reparations, Too,” published in on March 12, 1997, named plaintiff Alice Nishimoto is quoted as saying, ‘I don’t want your sympathy. I want justice... We all *deserve* an apology. We need our *dignity*.’<sup>59</sup> This quote published by at least four separate presses exemplifies the demand for JLA redress as not only a demand for an apology and monetary reparations per se but a demand for recognition and for personhood wherein “redress” is re-produced as a measure of value, of self-worth, of “dignity.”

Indeed, one might read such a framing as merely re-producing what Lisa Cacho describes as a limited rights-based argument for personhood—one which relies on “notions of who is and is not a deserving member of society” and thereby “inadvertently replicates the logic that creates and normalizes states of social and literal death.” That is, by arguing “we were not illegal” in order to gain eligibility under the CLA, JLA former internees and activists sought redress *as* justice without challenging the very regime of il/legibility of state violence which only recognizes citizens and legal permanent residents as redressable political subjects. Such a strategy went hand-in-hand with the main legal argument that had been a cornerstone among JLA redress activists—that “the Latin American Japanese were *not* ‘illegally admitted’ to the country” and thus they should be

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<sup>59</sup> *St. Louis Post-Dispatch*, “Latin Americans Want Reparations, Too,” March 12, 1997, A-4. See also: *Honolulu Advertiser*, “Japanese Latin internees ask for compensation,” Nation & World section; *Sacramento Bee*, “Internees seek redress,” March 12, 1997, A-11; *Chattanooga Free Press*, “Internees Were Brought to U.S. From South America; Japanese Latinos Seek Redress,” March 12, 1997, A-8.

eligible and deemed worthy of redress—the *same redress* granted to Japanese *American* citizens and residents. Still, I argue, out of the very failure of the CLA to recognize the JLAs as indeed redressable subjects, worthy of an apology and reparations, emerged an important critique that worked to both denaturalize the figure of the “illegal alien” as inherently immoral, criminal and unworthy as well as re-frame “the internment” as part and parcel of a *global* militarized operation—a violation of *international* law. For example, in an article published in *The Los Angeles Times* on August 26, 1996—three days before the filing of the *Mochizuki vs. USA* lawsuit—journalist Hector Tobar described “the reason for denial” of redress to the JLAs as “a bureaucratic Catch-22 that has kept alive the sting of an old injustice.” He writes, “Since the Japanese Latin Americans were abducted and brought to the United States against their will, they were not legal U.S. residents, and thus, not eligible for an apology under the law.” Still, the article goes beyond this thesis of “a *bureaucratic* Catch-22” primarily via its use of quotes given by former internees and activists; for instance, plaintiff Alice Nishimoto is quoted as posing the critical question: “How can they call us illegal immigrants when we were forced to come here?” Grace Shimizu also states, “These actions were a violation of international law. This was kidnapping civilians from a third country not at war, taking them across international waters and jailing them. It's important to hold the government accountable.”<sup>60</sup>

Indeed, this was not the only major media publication in which Nishimoto as well as Shimizu and others are quoted as questioning the U.S. government’s legal authority in

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<sup>60</sup> *Los Angeles Times*, “WWII’s ‘Other’ Detainees Press Claims Against U.S.,” August 26, 1996. Shimizu was also quoted making the same statement in the *Rafu Shimpō*; see *Rafu Shimpō*, “Peruvians Plan to File Suit in Federal Court This Week,” August 26, 1996.

its forced deportation and criminalization of Japanese Peruvians. For instance, in a separate article published over a year later, Nishimoto is quoted as stating, “They brought us here to this country. We didn’t come here by choice. They took everything that we owned and then they said we came here illegally, with no passport. They arrested us and took our identities. It was kidnap, mass kidnap.”<sup>61</sup>

Nishimoto is again quoted as asking, “How can they call us ‘illegal immigrants’?” She goes on to state, “We didn’t even want to come (to the U.S.). And, now they want to deny us redress because we didn’t have our papers? Of course, we didn’t have our passports. We were kidnapped!”<sup>62</sup> In another article, Art Shibayama is similarly quoted as stating, “They say that we entered the country illegally, but we did not come here by choice. They forced us to come here.”<sup>63</sup> In yet another article, attorney Paul Mills states, “This is a story—a little known story—of the *use of the law* to take away the lives... of people *overseas* for our purpose.... The citizenship papers were taken away so *they were made illegal*. As illegal aliens, they were subject to complete control by the U.S. government.”<sup>64</sup> Finally, besides naming the U.S. state violence experienced by the JLAs as “a violation of international law,” Grace Shimizu also termed it a “war crime” in several media publications as well as at community-based events taking place during the time of the lawsuit. For instance, in a widely cited statement, she asserts: “A lot of us consider that the United States committed a war crime, and should be held accountable for that. They went into a third country not at war, kidnapped citizens, and then interned

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<sup>61</sup> *Los Angeles Times*, “Forgotten Internees of WWII Want Aid,” September 21, 1997.

<sup>62</sup> *Hokubei Mainichi*, “80 Legislators Urge Clinton to Grant Redress,” October 22, 1997.

<sup>63</sup> *San Jose Mercury News*, “Forgotten W.W. II internees seek reparations from U.S.,” August 29, 1996.

<sup>64</sup> *Oakland Tribune*, “Latin Japanese interned in U.S. file suit,” August 29, 1996, A-15, emphasis added.

them. (They) put some of them through hard labor and tried to put the civilians into a war-type situation.”<sup>65</sup>

Taken together, I contend, such discourse represents the excesses, the *global* excesses, of the Civil Liberties Act that could not be easily subsumed into an argument for inclusion in the *civil* rights legislation. As I argue in the previous two chapters, both “the internment” and its “redress” should be read as highly organized strategies of containment—a way for the U.S. to forget its *global* militarized violence in order to reproduce itself as a human rights leader, the leading adjudicator of ‘justice’ for the world. That is, by producing “the internment” as a civil rights violation perpetrated solely against its own citizens and legal permanent residents and one that was resolved with the act of redress, the hyper-visible CLA works to cover over the globalized U.S. WWII military violence of which “the internment” was just one component. In fact, as I show, it is precisely via this disavowal, this organized forgetting of what could be termed “human rights abuses” perpetrated against civilians outside its borders, that the U.S emerges at the end of the cold war as *the world’s* human rights leader. Not coincidentally, such a periodized amnesiac production has served as a mandate for further building its global militarized empire, then and now. Articulations concerning redress for the JLAs that appear in the aftermath of the passage of the CLA, I contend, thus threaten to unravel this very production.

In an article published in *The Washington Times*, less than one month after the filing of the lawsuit, attorney Paul Mills stated, “The law [the Civil Liberties Act of 1988] itself states that one of its primary purposes is to make more credible and more

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<sup>65</sup> *Nichi Bei Times*, “Wartime Captives Seek Redress From U.S.,” September 6, 1996, 3.

believable the sincerity of U.S. criticism of human rights abuses in other countries. / However, the exclusion from redress for human rights abuses on a basis that they were not U.S. citizens of my clients makes less credible that sincerity.” He went on to note, “The effect of this lawsuit will be that the United States will include our clients in redress and that will enhance and strengthen United States’ credibility.”<sup>66</sup> Here, I contend, like ghosts haunting the signifier of the CLA *as* justice done, JLA redress activists, supporters and former internees explicitly bring to the fore the very global context of “the internment” that the CLA could not ultimately cover over. As a contradictory excess, as a failure of “justice,” they threaten to rupture the *moral* authority of the U.S. produced by the CLA specifically by deploying its same moral grammar of “human rights” and turning it on its head. In another article published in the *Pacific Citizen* (the JACL’s national newspaper) and written by JACL leaders Ai Muratsuchi and Harry K. Honda, the authors again bring to light the contradiction that the failure of JLA redress threatens to unmask. They write, “Though not addressed during the redress committee strategy meeting, [JACL] National President Helen Kawagoe, in a timely observation, added, ‘While President Clinton has criticized China for being on the ‘wrong side of history’ with their human rights abuses, he should be reminded that our own great nation has some unfinished business to be redressed.’ During the eight-day visit (Oct. 26-Nov. 3) by China President Jiang Zemin, protestors were out in full force criticizing China’s human rights policies.”<sup>67</sup> Here, in their quoting of Kawagoe, Muratsuchi and Honda surprisingly offer an important critique—one that challenges the very moral authority of the U.S. in

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<sup>66</sup> *Washington Times*, “Japanese Latin Americans seek redress,” September 27, 1996, A-18.

<sup>67</sup> *Pacific Citizen*, “Congressmen urge Clinton to settle Japanese Peruvian appeal for redress,” November 7-20, 1997, 1.

the global context that the CLA was designed to produce. As the rest of this chapter will show, it is precisely this moral authority at stake in the *Mochizuki vs. USA* case that its settlement aims to leave intact.

### **A Strategy of Containment: \$5,000 and an ‘Apology’**

Shortly after the campaign’s visit to Washington D.C. in October 1997, the DOJ filed a “motion to dismiss” against the complaint on November 14, 1997. The filing was followed by the plaintiff’s “memorandum in opposition” filed on January 13, 1998 and the defendant’s subsequent reply filed on January 28, 1998. In February 1998, the campaign sent a third 26-member delegation to Washington D.C. to lobby congress members, meet with White House and DOJ officials and attend the court hearing scheduled at the U.S. Court of Federal Claims where Justice Loren Smith was scheduled to make a ruling on the case. Proceeding arguments at the hearing, government attorneys requested a two-week postponement of a court decision in order to consider a settlement. Justice Smith granted the delay and rescheduled a ruling for March 3, 1998 barring any agreement. March through May was filled with continuing delays with no settlement offer as Justice Smith continued to urge a settlement due to “the *moral* issue involved”<sup>68</sup> and issued no ruling. It was not until June 10, 1998 that a settlement agreement was formally filed whereby JLA former deportees were to be granted an “apology” and \$5,000 each in “compensation” for “their wrongful internment during World War II.”

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<sup>68</sup> *Pacific Citizen*, “Judge encourages government to settle Japanese Latin Americans’ redress case,” April 3-16, 1998.



In this section, I offer a close, careful reading of the discourses concerning this “bittersweet victory.” Ultimately, I argue that the settlement should be read as a strategy of containment—an attempt by the U.S. nation state and U.S. empire to once again contain the global excess of “the internment” and leave intact its “moral resolution” that the Civil Liberties Act of 1988 was designed to produce. Specifically, by calling upon the familiar moral lexicon of Japanese American redress as an act of greatness by a mighty and *moral* nation, the discourse of the settlement, I contend, sought to bring closure “once and for all” to the potential *moral* rupture which the lawsuit threatened in the national as well as global imaginary. Still, I contend, the settlement could not contain absolutely the messy excesses—excesses that would continue to haunt the case’s “controversial settlement agreement.”

***“To Do the Right and Moral Thing”***

As the lawsuit wore on and settlement talks continually stalled from February through June 1998, the *Mochizuki vs. USA* case became increasingly framed in the media and by Justice Loren Smith himself as a *moral* case. For example, on April 13, 1998, he stated, “The compensation system adopted by the United States [with the CLA] was an action of deep moral significance. It reaffirmed that this is a moral nation and recognizes that when we act in an immoral way we must apologize and make restitution to the extent possible. This [settlement] would do great credit to the moral integrity of our nation.”<sup>69</sup> He also noted, “While the parties have the power to do the right and moral thing, courts have the solemn duty to take the court of action the law requires. Sometimes, particularly

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<sup>69</sup> *Nichi Bei Times*, “Ruling in Redress Case Postponed; Settlement Discussed,” April 15, 1998.

in the case of affirmative acts, this falls far short of the right and moral resolution. That is why this case should be settled.” In sum, not coincidentally, the judge deployed the same *moral* grammar used to produce the CLA in the first instance. Moreover, he indicated in his statement that on a legal basis, should a settlement not be reached, he would not be able to rule in favor of the plaintiffs given the limiting language of the CLA; thus, the “right and moral resolution” lay in the hands of the U.S. government. Advocates and activists alike also deployed this language—in their lobbying and in the media. For example, in an opinion piece published in the *Washington Post* on behalf of the editorial board on April 9, 1998 (just days before one of the many deadlines set for the DOJ to make a settlement offer), it reads: “On Friday the Clinton administration has a rare chance to bring justice to a small group of wronged people in a case so clear that no one disputes the merits of their claim. These people were kidnapped from their homes by order of the U.S. government and imprisoned without hearing or just cause. The Justice Department should not pass up this chance to make amends.”<sup>70</sup> The article concludes by quoting Judge Smith’s statement: “This [a settlement] would do great credit to the moral integrity of our nation,” followed by an affirmative: “He’s right.” The JACL chapter letters sent to President Clinton around the same time period also focused on similar messaging, stating: “Providing redress for Japanese Latin Americans is the moral thing to do.”

In short, it is against this grain then that I read the settlement offer of \$5,000 in “leftovers” from the CLA fund and a generalized ‘apology’ as the nation’s attempt to again contain and engulf the JLA case as one of the global excesses of ‘the internment’

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<sup>70</sup> *Washington Post*, “After 50 years, Amends,” April 9, 1998.

threatening “the moral integrity” of the nation. As I argued in the preceding chapter, the emergence of the CLA as exceptional American-style justice was crucial to the emergence of the U.S. itself as a mighty and moral nation at a critical global historical moment. Central to this production, was the move to delimit “the internment” as solely a civil rights violation—resolvable by U.S. institutions and norms—but then at the same time universalize “Japanese American redress” as the exemplar epitome of justice done—emblematic of the U.S. as a *human* rights leader. The case of the JLA WWII rendition program, I contend, as a *global* excess of the CLA, as a failure of justice due precisely to the act’s limiting language that distributes ‘redress’ to U.S. citizens and legal permanent residents *only*, threatens to disrupt this production of the U.S. as a moral authority and human rights leader on the world stage. Moreover, it threatens the resolution to “the internment” that the CLA purports to offer. The settlement, I will show, attempts to neutralize this threat by bringing the “illegal” JLAs into the fold of the nation using the same civil rights paradigm used to produce “the internment” and the CLA. A close look at both the apology letter and press release issued by the White House as well as the terms of the \$5,000 reparations amount to be paid to the JLA former deportees under the settlement puts this move into bold relief—which is where I now turn.

***“Addressing the Wrongful Internment of Latin Americans of Japanese Descent”***

On June 12, 1998, plaintiffs in *Mochizuki vs. USA* announced the settlement of their federal class action lawsuit filed in August 1996. That same day, the White House issued the following statement:

STATEMENT BY THE PRESIDENT ON ADDRESSING THE  
WRONGFUL INTERNMENT OF LATIN AMERICANS OF  
JAPANESE DESCENT

I am please that the Department of Justice has reached a settlement that will compensate Latin Americans of Japanese ancestry for their wrongful internment during World War II. The United States Government forcibly brought these individuals to the United States from their homes in Latin America during the war, and interned them with U.S. citizens and permanent residents of Japanese ancestry.

Through the Civil Liberties Act of 1988, our nation offered redress to U.S. citizens and permanent residents who suffered serious injustice. The settlement addresses the injustice endured by Japanese Latin American who were interned.

Payments for this settlement will come from the fund established by the Civil Liberties Act. If 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 provide by this settlement.

Here, although the statement does acknowledge that “the United States Government forcibly brought these individuals [Latin Americans of Japanese ancestry] to the United States from their homes in Latin America during the war,” the framework, I contend, remains locked into “the internment” narrative with no mention, for example, of the U.S. hostage exchange program with Japan or forced deportation program (from the United States to Japan) of which these JLA deportees were a part. Rather, the language is again centered on “the wrongful *internment*” of the JLAs “during World War II”—which I interpret as an additive (rather than transformative) approach to domesticate and incorporate the disturbing pasts of these JLA former deportees associated with U.S. *globalized* militarism into the nation-based framework of Japanese American ‘internment’ History.

The actual apology letter undated and signed by President Clinton (see below) executes a similar strategy and is even less specific:

THE WHITE HOUSE  
WASHINGTON

More than 50 years ago, the United States Government unjustly interned, evacuated, relocated, or otherwise deprived you of liberty. Today, on behalf of all Americans, I offer a sincere apology of the actions that unfairly denied you fundamental liberties during World War II.

We recognize the wrongs of the past and offer our profound regret 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 as a nation to renewing and strengthening equality, justice, and freedom. Together, we can guarantee a better future for generations to come.

You and your family have my best wishes.  
Bill Clinton [handwritten signature]

Here, again deploying much of the same language used to produce “the internment”—such as the words “interned,” “evacuated,” “relocated,” and the phrases, “wartime hysteria,” and “racial prejudice”—the letter issues an ‘apology’ in a opaque sense such as not to disturb the official “internment” narrative. Even the use of the phrase “you and your family” falls back onto the “family” trope used to produce Japanese American former internees as deserving, *morally* worthy redressable political subjects (discussed in chapter 3). At the press conference announcing the settlement, former internee Art Shibayama also critiqued the vagueness of the letter, stating: “...I am disappointed that it [the apology letter] doesn’t explain the gravity of violations that occurred. Reading the apology letter no one would know that the US government went to Latin American countries and forcibly deported and incarcerated civilians into internment

camps in the US and used many of them in a hostage exchange program.”<sup>71</sup> Ironically, it is this very press release and apology letter that proponents of the settlement agreement, including CFJ Co-Chair Julie Small, cite as a foremost ‘victory’ for the campaign. In my interview with her, she expressed:

Everyone got a little money; that helped people live a little, but it was more about coming out and having their story known. When the White House sent the letter, they wrote a press release. That’s to me, the most historic part of our campaign—was when Bill Clinton said this was done to you, it was wrong, done by the U.S. government. This was the first official, acknowledgment by the U.S. government that this, that they had done this, and I don’t think anything was acknowledged since; there has been nothing further on that front, so that was big. It [the \$5,000 in reparations] wasn’t everything everyone wanted, and it certainly wasn’t fair, from Japanese American redress, and people thought that Japanese American redress wasn’t enough and this was smaller, but from the level of admitting we had done something wrong, we are the U.S. government, we are apologizing to you, from that level it was huge, I think.<sup>72</sup>

Attorney Toma (for the plaintiffs), in an article published in the *LA Times*, also stated that “the symbolic value of the government's apology was enough to cement the agreement, even though the payments ‘will never be enough to compensate for what they lost.’”<sup>73</sup>

Taken together, I read the texts of the letter and press release and articulations praising such acts of ‘apology’ and ‘acknowledgement’ as symbols of justice done (*despite* the apparent discrepancy between the \$20,000 reparations granted to Japanese Americans under the CLA vs. the \$5,000 reparations granted to Japanese Latin Americans under the settlement) as again a convenient way to domesticate the global excesses that demands for JLA redress conjure up in order to reproduce the U.S. as a moral nation. That is, such discourse uncritically falls back on the nationalist narrative of

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<sup>71</sup> Statement given by Art Shibayama at settlement press conference on June 12, 1998 in San Francisco, CA, Grace Shimizu Archive.

<sup>72</sup> Small, author’s interview.

<sup>73</sup> *Los Angeles Times*, “U.S. Apologizes to Internees,” June 13, 1998.

Japanese American “internment” and its “redress,” including its liberal humanist moral economy of violence and redemption, without coming to terms with the much larger U.S. hemispheric and globalized military operation of which the JLAs were a part. As will be discussed in the next section, while the U.S. government and others, including the JACL, indeed articulated the settlement agreement as a “triumph of justice,” a “victory,” many activists, former deportees and other organizations expressed their “disappointment” in the settlement—particularly “in the *partial* redress payment of \$5,000” in unguaranteed “leftovers” from the CLA fund. I interpret this tension that emerges out of the controversial settlement agreement as a response to the material fallout of the attempt to sweep the JLAs under the civil rights umbrella of the CLA. That is, the ill-fitting addition of the JLAs onto the Japanese American redress bill and the subsequent material lack in monetary reparations offered to the Latin American deportees could not be completely covered over by the so-called symbolic act of apology. This lack would continue to haunt the settlement and the ‘closure’ it was meant to bring—not only in its immediate aftermath but for decades to come.

***“A Bittersweet Victory”: “I Wanted to Get Equal Justice”***

According to my interviews of those involved with the campaign, the story goes that when the settlement was offered by the DOJ, “the internees were really pressured to accept it.” Moreover, it was a “take it or leave it offer with no plausible negotiations.” DOJ lawyers were hesitant to settle as “they believed they could win the case in court” but ultimately “they just wanted to stop the lawsuit.” Thus, the plaintiffs were told by their own lawyers (with the exception of Paul Mills) and those involved from the JACL,

“This is the best you are going to get.”<sup>74</sup> In order for a settlement to be reached, all three named plaintiffs of the main class were required by law to accept the government’s offer. Plaintiff Koshio Henry Shima in particular had reservations and “kept changing his mind” but ultimately decided to accept it given the agreement’s provision that if he later “opted out” of the settlement, he would still be able to pursue further litigation—which he did two months later with Mills as his lawyer.<sup>75</sup> Still, others involved with the lawsuit, including Grace Shimizu and former deportee Art Shibayama, never wanted to accept the offer, calling it a “slap in the face.” Indeed, even before an agreement was reached, the proposed settlement was fraught with tension and controversy and differing opinions as to what constitutes “justice.”

On the day the agreement was announced, June 12, 1998, the campaign held two press conferences—one in Los Angeles in the morning and one in San Francisco in the afternoon. Many of those I interviewed recalled how at first press conference, when DOJ representative Acting Assistant Attorney General for Civil Rights Bill Lann Lee arrived, he had anticipated a “warm welcome,” “a red carpet rolled out for him by a group of grateful constituents”; instead, he was “railroaded” by the members of the campaign and former deportees who expressed deep concerns particularly about the monetary difference between the reparations amount granted to Japanese Americans under the CLA versus Japanese Latin Americans under the settlement.<sup>76</sup> At the conference, Lee characterized the settlement as “a compromise,” stating, “like many compromises, the

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<sup>74</sup> Shimizu, author’s interview.

<sup>75</sup> Shimizu, author’s interview.

<sup>76</sup> Art Shibayama, author’s interview; Betty Shibayama, author’s interview; Shimizu, author’s interview.



essence of your highest hopes aren't realized."<sup>77</sup> Still, he maintained that "the settlement is fair" and asserted, "The United States government is doing the right thing -- acknowledging a wrong and bringing closure to the uncertainties of litigation."<sup>78</sup> That same day, the JACL also issued its own press release entitled, "Nat'l Asian Pacific Civil Rights Orgn Applauds US Govt for Righting Wrong of 56 years ago." In it, National Vice President of Public Affairs Lori Fujimoto is quoted as stating: "We are elated that we have moved one step closer to closing the chapter, once and for all, on a shameful chapter in our great nation's history." The press release concludes with Fujimoto again stating, "We will utilize our vast network of chapters to help locate the eligible Japanese Latin Americans and initiate any additional work to close the chapter, once and for all."<sup>79</sup>

Taken together, statements such as these bespeak the political symbolic significance of the settlement as an articulation of closure and resolution to the rupture in the national imaginary produced by the lawsuit. Moreover, again, I read the settlement offer of an 'apology' and monetary reparations of \$5,000 to the JLA deportees as not just a way to pragmatically "stop the lawsuit" per se but as a move to contain the global excess that the JLAs produce—the moral crisis they engender for the U.S. nation and empire. That is, I argue that the settlement was strategically designed to resolve the threat of the JLAs to the production of "Japanese American redress" as a moral act and even more to reproduce the U.S. as a moral nation doing the "right" and "fair" thing.

Still, as discussed above, from the moment of its inception, the settlement could not contain completely such global excesses of the CLA. In its own press release, the

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<sup>77</sup> *Los Angeles Times*, "World War II: Clinton voices regret at incarcerating Japanese from Latin America and pledges \$5,000 each," June 13, 1998.

<sup>78</sup> *CNN*, "U.S. to pay Japanese Latin Americans held during WWII," June 12, 1998.

<sup>79</sup> JACL press release date June 12, 1998, Julie Small Archive.

campaign chose to frame the settlement as a “bittersweet victory,” expressing: “While acknowledging the significance of the formal apology, former internees are none-the-less disappointed that the settlement does not guarantee redress payment, which is one quarter of the amount given to Japanese Americans who were interned at the same time. In addition, former internees must apply for redress by August 10, 1998.”<sup>80</sup> Here, members expressed concerns that not all the JLAs who might apply for redress under the settlement would be covered by the “leftover” CLA funds which were steadily depleting. They were also concerned that the fast approaching “sunset” date of the CLA of August 10, 1998 did not give enough time for the notification and application of the estimated 1,200 eligible JLA former deportees living in the U.S., Japan and South America.

At the two press conferences covered by several major media outlets, plaintiffs and representatives of the campaign also variously emphasized that “this is truly a bittersweet settlement agreement.”<sup>81</sup> Plaintiff Alice Nishimoto, for example, stated through tears, “I can’t say that it was a fair settlement. I would be lying if I said I am very happy today. I wanted to get equal justice.”<sup>82</sup> She went on to say, “In some sense you can say this is a victory. It’s a victory, but this injustice is going to be in the history forever.... Why were we discriminated [against]? We are the same human beings. We were in the same camp [as Japanese American internees]. We experienced the same suffering, maybe

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<sup>80</sup> “Japanese Latin Americans Imprisoned by U.S. During W.W.II Win Bittersweet Victory from Department of Justice,” press release issued by *Campaign For Justice-Redress Now for Japanese Latin Americans!*, June 13, 1998, Julie Small Archive.

<sup>81</sup> Introduction given by Grace Shimizu at press conference held in San Francisco, CA; Julie Small Archive.

<sup>82</sup> *CNN*, “U.S. to pay Japanese Latin Americans held during WWII,” June 12, 1998.

more, because we were kidnapped from another country and brought to this country against our will.”<sup>83</sup> Grace Shimizu also made the following statement:

I believe it is with conflicting emotion that the former JLA internees in this case enter into this settlement agreement with the US government. / It is an important achievement that the US government has finally apologized. And further that it agrees that compensation is warranted... / And while this is an important achievement for the US government and our families and our supporters worldwide, we have serious concern that it not become a hollow victory. / Why is it that the JLAs are treated so differently from the JAs regarding redress, especially since President Clinton has stated that the injustice suffered by the JLAs was no different from that suffered by JAs. The US government promises reduced monetary compensation but does not guarantee actual payment to any JLA. Our families are being asked to wait until all JAs have gotten their redress and to accept reduced payment from the left over monies.... If the US government can issue a letter of apology, why can't full compensation be guaranteed to all JLAs?<sup>84</sup>

I argue that it was at this moment in the announcing of the settlement that a new sense of “justice” was initiated out of its very failure—a justice based not on linear time and juridical resolution but on what Jenny Edkins has termed “trauma time”—the disruptive back-to-front time that works to challenge the modern nation-state’s containment of trauma wrought by state violence within its linear narratives of progress.<sup>85</sup> As the following chapters will attest, this “settlement” meant to bring closure to the “shameful period in our great nation’s history” of WWII U.S. militarized violence, actually achieved quite the opposite effect; it worked to initiate further efforts toward redressive historical ‘justice’ and further questioning and critique of the CLA itself as justice done. In the next section, I examine some of these efforts, including the move by

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<sup>83</sup> *Los Angeles Times*, “U.S. Apologizes to Internees,” June 13, 1998.

<sup>84</sup> Statement delivered by Grace Shimizu at CFJ press conference held in San Francisco, CA on June 12, 1998, Grace Shimizu Archive.

<sup>85</sup> Edkins 2003.

certain activists and JLA deportees to refuse the U.S.'s government settlement offer and rather continue to pursue further litigation and legislation in the name of "justice."

### **"Chapter Not Yet Closed in JLA Redress Struggle"**

In the days following the settlement announcement, a "splintering" (in the words of Grace Shimizu) seemed to have occurred among the various JLA redress activists and supporters and their associated organizations. On the one hand, key leaders of the JACL, for example, continued to publicly express praise of the settlement, calling it a "triumph of justice,"<sup>86</sup> "a major victory."<sup>87</sup> Here, the emphasis again seemed to be that the *token* amount of \$5,000 should be enough in accomplishing "final resolution" to the lawsuit and "closure" in the "chapter" on "the internment." John Tateishi (consultant to the JALC for the campaign), for instance, wrote, "In accepting the government's offer of \$5,000 and a letter of apology from the President, the final chapter of the World War II internment of people of Japanese ancestry within the borders of the U.S. was finally closed. / Although \$5,000 was hardly adequate for their abduction from their homes in Latin America, their imprisonment at Crystal City, and the deportation of many of them to Japan in exchange for Americans held prisoner there, it was—like the \$20,000 for Japanese Americans—a meaningful and significant gesture." He concluded by stating, "No amount can truly compensate them [the JLAs] for their treatment, but the settlement is a step toward helping them heal the wounds and a *closing on the final chapter on the*

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<sup>86</sup> Bill Hosokawa, "Triumph of Justice," *Pacific Citizen*, June 19-July 2, 1998.

<sup>87</sup> John Tateishi, "Insider's View: Redress Settlement Was a Major Victory," *Hokubei Mainichi*, June 25, 1998.

*internment.*”<sup>88</sup> Less than a week prior, Sharon Tanihara of NCCR wrote her own “Letter to the Editor” entitled, “Japanese American Redress Settlement an Insult,” published in another Japanese/American newspaper, the *Nichi Bei Times*.<sup>89</sup> Here, she did just the opposite of Tateishi—focusing on the *inadequacy* of the \$5,000 reparations amount and its implications for not only the JLA former deportees but the U.S. nation as a whole. She wrote, “. . .in settlement of the Mochizuki vs. U.S. government lawsuit, even though the government has conceded its crime, it is an insult and disappointment that Japanese Latin Americas are being granted less than their full measure of justice in the form of an apology and partial redress payment of \$5,000, with that amount depending on whether there is enough money left in the redress fund. / Such an apology does not give the recipients the impression of a sincere and heartfelt gesture!” She concluded the letter by asserting, “In order to live up to the claims of human rights, fair play, justice and equality that America espouses to the rest of the world, the United States government would have done a better deed by long ago granting redress and finding the monies to fully compensate each Japanese Latin American internee, rather than working so long and hard to oppose the Japanese Latin Americans, and, as the redress program comes to an end, granting only a partial payment to the individuals in this category.” Thus, for Tanihara, the \$5,000 redress payment represents not a “final resolution” to the case of JLA redress nor “closure” to the past episode of state violence as it did for Tateishi, but rather a “less than full measure of justice” and a misstep of the U.S. government to live up to the “human rights” claims it “espouses to the rest of the world.”

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<sup>88</sup> John Tateishi, “Insider’s View: Redress Settlement Was a Major Victory,” *Hokubei Mainichi*, June 25, 1998, emphasis added.

<sup>89</sup> Sharon Tanihara, “Letter to the Editor: Japanese Latin American Redress Settlement an Insult,” *Nichi Bei Times*, June 18, 1998,.

Indeed, according to Julie Small in her own “Guest Commentary” published in the *Nichi Bei Times* in August of 1998, entitled “The Campaign for Justice Is Not Over Yet,” in the weeks following the settlement, “many internees and prominent members of the community...criticized the government’s decision to offer only \$5,000 to Japanese Latin Americans who underwent the same deprivation of liberty as Japanese Americans imprisoned during World War II.” She continued, “Critics condemn the disparity as a symbol of continuing discrimination that should be addressed through legal or legislative action.”<sup>90</sup> JPOHP in its newsletter for September 1998 characterized the litigation as a “controversial settlement agreement” writing, “The settlement does not include JLAs in the Civil Liberties Act and does not give equal treatment for redress.” The organization put as the newsletter’s main headline, “CHAPTER NOT YET CLOSED IN JLA REDRESS STRUGGLE.” They stated, “The public has been left with the impression that this shameful chapter in US history is now closed. But the JLA struggle for justice and redress is *not yet over*. The Campaign For Justice continues to support efforts to uphold the settlement agreement, to pass legislation for additional compensation payments and to pursue other legal action.”<sup>91</sup>

In sum, in the aftermath of the settlement announcement, out of the very juridical measure purported by the U.S. government to resolve the *problem* of the JLAs as unredressable political subjects under the *Civil Liberties Act*, emerged renewed debates as well as critiques and organizing efforts concerning “justice and redress” for the JLAs. In the rest of this section, I trace some of these strategic efforts, which again I read as the

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<sup>90</sup> *Nichi Bei Times*, “The Campaign for Justice Is Not Over Yet: Japanese Latin Americans to Continue to Fight for Equal Treatment,” August 5, 1998, “Guest Commentary” section.

<sup>91</sup> JPOHP Newsletter, Vol. III, September 1998, Grace Shimizu Archive.

blowback resulting from the uncontrollable excess of the settlement, including two new lawsuits against the U.S. government and declarations made by JLA former deportees regarding “class reaction” to the settlement.

***Refusals of ‘Justice’: “Opting Out,” “Requests for Exclusion”***

According to Grace Shimizu, a key provision of the *Mochizuki vs. USA* settlement agreement hard fought for by JLA redress activists involved with the lawsuit was the option for class members to “opt out” of the settlement, thereby declining the government’s offer and retaining the right to sue for further reparations. To do so, they were required to file a “request for exclusion” form postmarked by September 10, 1998 and mailed to the U.S. DOJ. Also according to Shimizu, based on her interviews with over a hundred class members in Japan, Peru and the U.S., the decision “of whether to accept or reject” the settlement was a difficult one. In her formal declaration regarding “class reaction to settlement” of *Mochizuki vs. USA* submitted to the U.S. Court of Federal Claims on January 7, 1999 as part of the “fairness hearing” on the settlement (discussed below), Shimizu stated, “For many internees, it meant coming to terms with one’s own hopes and expectations and the reality of one’s treatment in the political and legal system. And some also expressed the weight of responsibility in realizing that any decision affected not only one’s self or family, but also has consequences for other internees and their families and could set a precedent for redress for other people around the world.”<sup>92</sup> Indeed, sometimes, even within one family, different members made

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<sup>92</sup> “Declaration re: Class Reaction to Settlement of this Action” in case of *Mochizuki vs. USA* written by Grace Shimizu, submitted on January 7, 1999 to the U.S. Court of Federal Claims, paragraphs 4 and 7.

opposing decisions regarding the settlement. For example, Rose Nishimura, sister of the aforementioned Art Shibayama, decided to accept the settlement whereas Art opted out, later filing his own lawsuit against the U.S. government (discussed in chapter five). In her statement submitted at the fairness hearing, Nishimura expressed:

Though the amount proposed by the settlement is not fair, I support it because, hopefully, at least some of the older persons will receive a little recognition of the injustice that had been inflicted upon us. But I don't understand why we are receiving less than the Japanese Americans. We suffered equally as they did. Indeed, when you think about it, perhaps even more because we were snatched from our own country and brought to a strange land whose language we did not know. Deciding whether to accept the settlement has been so difficult that it divided our family: while I and my sister chose to accept it, my brothers have chosen not to. However, we support each other's decision.<sup>93</sup>

Ultimately, seventeen class members chose to “opt out” while 713 accepted the settlement. As will be discussed further below, the consensus among the majority of the class members seemed to be that “it is better to compromise and get something as soon as possible than to get nothing.”<sup>94</sup> Indeed, while there were “mixed emotions and reactions regarding the Settlement Agreement,” according to Shimizu at the fairness hearing, “No internee expressed unqualified satisfaction with the Settlement nor characterized it as a ‘triumph for justice.’ Most felt that it is for each internee to decide from his/her own heart and that such decisions would be respected and supported.”<sup>95</sup>

On August 25, 1998, “opt outer” Koshio Henry Shima (also one of the original named plaintiffs in *Mochizuki vs. USA*) filed the first subsequent lawsuit against the U.S.

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<sup>93</sup> “Declaration re: Class Reaction to Settlement of this Action” in case of *Mochizuki vs. USA* written by Rose Akiko Nishimura, submitted on January 7, 1999 to the U.S. Court of Federal Claims, paragraph 12.

<sup>94</sup> “Declaration re: Class Reaction to Settlement of this Action” in case of *Mochizuki vs. USA* written by Grace Shimizu, submitted on January 7, 1999 to the U.S. Court of Federal Claims, paragraph 15.

<sup>95</sup> “Declaration re: Class Reaction to Settlement of this Action” in case of *Mochizuki vs. USA* written by Grace Shimizu, submitted on January 7, 1999 to the U.S. Court of Federal Claims, paragraph 8.



government under the representation of attorney Paul Mills. Here, he sought “full compensation for discrimination and violation of his rights under US and international laws.”<sup>96</sup> This included \$20,000 reparation, an apology and funding for an education campaign on the internment. Shima also filed a separate but related claim against the U.S. government for \$10 million for “his imprisonment, loss of Peruvian citizenship and violation of his equal protection rights.”<sup>97</sup> In an article by the Associated Press printed in *The Honolulu Advertiser* and *The San Diego Union-Tribune* on August 26, 1998, Shima is quoted as stating, “I’m going to be 75 pretty soon. I don’t want to fight, you know. But I still have to finish this.” The article also stated that “while the \$5,000 payment is nearly a given, the elderly widower doesn’t want it. He’s prepared for years of litigation, knowing that he could lose.” The article ends with his statement: “That’s the chance I take.”<sup>98</sup> Ultimately, both the claim for damages (later filed as a lawsuit) and the case *Shima vs. USA* case were dismissed on technicalities without any court hearings.

I argue that the “requests for exclusion” and subsequent litigation efforts should be read as acts of resistance—a calculated refusal of the qualified “justice” offered by the state. As I asserted above, I read the settlement itself as a strategy of containment—a way for the U.S. nation state to contain the global excesses of the CLA, which the JLA’s signify. Moreover, I also contend the settlement should be understood as part of a process of what Yen Le Espiritu (2003) terms “differential inclusion” or what Espiritu, Lowe and Yoneyama (2016) describe as “an operation that proposes to convert subjugated others

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<sup>96</sup> JPOHP Newsletter, Vol. III, September 1998, Grace Shimizu Archive.

<sup>97</sup> *Honolulu Advertiser*, “Latin war internee sues U.S.,” August 26, 1998, A11. In the article, it also states that after six months he could file a lawsuit based on the claim.

<sup>98</sup> *Honolulu Advertiser*, “Latin war internee sues U.S.,” August 26, 1998, A11; *San Diego Union-Tribune*, “WWII internee seeks redress,” August 26, 1998, A-3, A-5.

into normative humanity and multicultural citizenship,” “a process of racial governance.”<sup>99</sup> That is, I read the move to “include” the JLAs under the CLA by offering the “leftovers” of the fund and a generalized apology as a way for the U.S. nation state to perform the incorporation of the JLAs as now legalized former illegals without addressing the much deeper, vaster institutionalized structure of which their case is a part. At the same time, the “difficult decision” to “opt out” of or to accept the government’s offer of “inclusion” should not be read as merely a rational choice of differential inclusion / exclusion. Rather, as I have tried to show, the responses articulated by former deportees regarding the agreement need to be read closely and understood as strategies within the context of limited options and complex relations of power. My aim here is not to attribute motives per se but rather to better understand how political subjects maneuver in regard to the law in matters of historical redress and ‘justice’ for state violence. I now turn to another significant move by JLA former deportees and redress activists in pursuit of ‘justice’: another lawsuit bringing to the fore yet another (moral) failure of the CLA that emerges in the aftermath of the settlement.

***Another “Failure” of the CLA: “A Breach of Fiduciary Duty”***

On October 13, 1998, lawyers representing NCRR and JLA former deportee Joe M. Suzuki filed a lawsuit against the U.S. government in U.S. District Court for Northern California; they charged that the U.S Treasury Department failed to properly invest the \$1.65 billion appropriated by Congress for reparations and an education fund under the CLA, resulting in approximately \$200 million in lost interest. As a consequence, the fund

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<sup>99</sup> Espiritu *et al* (forthcoming), 15.

had distributed only \$5 million (of the promised \$50 million earmarked in the redress bill) to-date in education grants and had less than \$6 million left to pay 474 redress claims, which meant approximately 200 qualified applicants would not receive their payment. The suit thus asked for the \$200 million back in lost interest due to this “breach in fiduciary duty” to both replenish the education fund and pay the JLAs “the redress promised under the settlement.”<sup>100</sup> On December 22, 1998, U.S. District Judge Charles Legge dismissed the suit, stating it was “premature to consider the issue of lost interest” before the scheduled fairness hearing on the settlement and even thereafter he may not be able to order the government to replenish the reparations fund due to its termination on August 10, 1998.<sup>101</sup>

I contend this lawsuit, though it failed to advance through the U.S. court system, is significant in that it represents yet another threat to the exemplar morality of the U.S. nation that the CLA was designed to produce. From the day the lawsuit was filed, in the media, NCCR, CFJ and Joe Suzuki, along with their lawyers, framed it as a *moral* issue, essentially turning the presumed moral economy of “Japanese American redress” on its head. That is, by emphasizing the federal government’s “mistake,” its “grave negligence of fiduciary duty” and its “moral and legal obligation to fulfill the mandate of the Civil Liberties Act,” plaintiffs and advocates affectively turned the discourse of the CLA as a moral act—the right thing to do—back on the state through this revelation of failure.

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<sup>100</sup> See, e.g., news articles: *San Francisco Examiner*, “Japanese Americans sue U.S. for breach,” October 14, 1998, A-8; *San Francisco Chronicle*, “Suit Contends Reparations Falling Short,” October 15, 1998, C-18; *San Jose Mercury News*, “Reparation fund is lacking, lawsuit says,” October 16, 1998.

<sup>101</sup> Article by Associated Press printed in at least three major presses: *Honolulu Advertiser*, “Latin Americans lose case on reparations,” December 23, 1998; *San Diego Union-Tribune*, “Japanese Latin-American internees lose suit,” December 23, 1998, A-3, A-4; *Los Angeles Times*, “Japanese Latin Americans’ Reparation Suit Voided,” December 23, 1998.

When the dismissal by Judge Legge was announced, lawyers and activists also emphasized “the government’s *illegal* action,” stating that it “cannot be assumed to be part of the settlement agreement.”<sup>102</sup> Former deportee Art Shibayama stated, “It’s not right that the government can get away with violating the law.”<sup>103</sup> Richard Katsuda, then president of NCRR, also went on record stating, “If the court is unable or unwilling to enforce the will of Congress, then we must call on our legislators to correct this grave mistake. Clearly, the lost monies should be returned to the Civil Liberties Act fund. It is only right.”<sup>104</sup>

Indeed, this was not the last time that JLA redress activists would work together with other organizations in pursuit of their mutual interests in the CLA or in a broader critique of redressive historical justice from the U.S. government. I now turn to the fairness hearing on the settlement, which I read as yet another (failed) juridical, political symbolic move to contain finally the global excesses of the settlement in the name of “fairness.”

### ***A “Fairness Hearing”: “Compensation Is Never Fair”***

On January 7, 1999, a fairness hearing on the settlement took place in the U.S. Court of Federal Claims in Washington, D.C. with Chief Justice Loren Smith again presiding. The purported purpose of the hearing was to determine the “fairness” of the settlement agreement whereby the judge would decide whether or not to give the settlement final approval. As part of this, former JLA deportees Carmen Mochizuki,

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<sup>102</sup> *Nichi Bei Times*, “Attorneys to Appeal ‘Missing’ Redress Decision,” December 29, 1998; statement by Attorney for Joe Suzuki, Robin Toma, Grace Shimizu Archives.

<sup>103</sup> *Nichi Bei Times*, “Attorneys to Appeal.”

<sup>104</sup> *Nichi Bei Times*, “Attorneys to Appeal.”

Kazuo Matsubayashi, Rose A. Nishimura and Saduharu Sakamoto and activist and daughter of a former JLA deportee Grace Shimizu filed declarations and made statements regarding the reaction of members of the class to the agreement. As mentioned, in her statement, Shimizu described the “mixed emotion and reactions” among the JLA deportees, based on her interviews with over 100 class members living in Japan, Peru and the U.S. She discussed how the “majority of internees I spoke with voiced that the Settlement was a ‘bittersweet victory’ and ‘the best we could get’” and that “[n]o internee expressed unqualified satisfaction with the Settlement nor characterized it as a ‘triumph for justice.’”<sup>105</sup> The other four JLA former deportees expressed similar sentiments of unease and reservation, with three stating they had accepted the settlement and one (Kazuo Matsubayashi) not clarifying either way but asserting he had “ambivalent feelings sitting here telling my personal story” and that he agreed both with the opt outs and with those who had accepted the agreement. The following are excerpts from the other three statements:

Carmen Mochizuki (a named plaintiff in the case): “I support the decision to settle the class action lawsuit of *Carmen Mochizuki vs. the United States of America, however, with reservations*. Although my family and others suffered the loss of liberty, freedom and assets as a direct result of the action of the United States of America, *we can never be adequately repaid. The United States government has seen fit to compound the travesty by offering to settle this case for less than was deemed necessary for others interned under the same conditions.* / The United States government has issued an official apology and determined a set amount as [SIC] redress to its citizens who it illegally and wrongfully deprived of freedom and livelihood. *Why would the people, although not citizens of the United States of America at the time, who were kidnapped from their own country, and interned in the United States by the United States, be entitled to any less? /.../* The process of seeking justice and closure for this dark period of

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<sup>105</sup> “Declaration re: Class Reaction to Settlement of this Action” in case of *Mochizuki vs. USA* written by Grace Shimizu, submitted on January 7, 1999 to the U.S. Court of Federal Claims, paragraphs 8 and 9.

time has drained me. Reliving the terror and loss has produced this end. *It is under this strain and with these reservations* that I thankfully and gratefully accept the settlement as attribute to the efforts of those who have diligently and righteously fought for what is true, right and just.”<sup>106</sup>

Saduharu Sakamoto: “...*I feel bad about not being paid the full redress.* We have suffered so much, having been taken from our country, lost the business my brothers and I had worked hard to establish, and never able to return.... However, I still support the settlement, since I understand that it is the best we can hope for. The reality of the matter is that we are aging rapidly and, having had many friends pass away already, I feel the need for a speedy resolution to this injustice.”<sup>107</sup>

Rose A. Nishimura: “Though *the amount proposed by the settlement is not fair*, I support it because, hopefully, at least some of the older persons will receive a little recognition of the injustice that had been inflicted upon us. *But I don't understand why we are receiving less than the Japanese Americans.* We suffered equally as they did. Indeed, when you think about it, perhaps even more because we were snatched from our own country and brought to a strange land whose language we did not now.”<sup>108</sup>

Taken together, I read these statements as articulations of the unease haunting the settlement's attempt at resolving the problem of the JLAs. Such, unease, I contend, should not be glossed over but rather studied carefully and taken seriously in the analysis of the settlement. The Chief Judge Loren Smith himself, who spoke at the conclusion of the hearing, after all statements were given, also expressed what I read as a lack of resolution. He began by asserting that “in the real world that we all live in,” “compensation is never fair.” He expressed, “I mean, those individuals who suffered, as

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<sup>106</sup> Declaration re: Class Reaction to Settlement of this Action” in case of *Mochizuki vs. USA* written by Carmen Mochizuki, submitted on January 7, 1999 to the U.S. Court of Federal Claims, paragraph 12, emphasis added.

<sup>107</sup> Declaration re: Class Reaction to Settlement of this Action” in case of *Mochizuki vs. USA* written by Sadaharu Sakamoto, submitted on January 7, 1999 to the U.S. Court of Federal Claims, paragraph 16 and 17, emphasis added.

<sup>108</sup> Declaration re: Class Reaction to Settlement of this Action” in case of *Mochizuki vs. USA* written by Rose Akiko Nishimura, submitted on January 7, 1999 to the U.S. Court of Federal Claims, paragraph 12, emphasis added.

we've heard today, \$20,000 wouldn't—you wouldn't accept for that nor would you accept ten times \$20,000.”<sup>109</sup> He then went on to state:

I mean, there is a thing that would probably—a rate that at least should be equal to what the Americans of Japanese descent and the program resident aliens would have gotten. / *But that isn't the real world. The real world is we make compromises. We try to do a little bit of justice, as we can, as well as the law can.* And it seems to me that this settlement is a step in the right direction, maybe in the course of the wrongs that have been done for 8,000 or 10,000 years by human beings to each other. / It's a significant step that we're trying to undo some wrongs. We're not able to undo most of them. *It's more symbolic.* As I said, no one would accept anything that's been done to them for ten times \$20,000 or 100 times. And, yet, *it's a small step.* / So with those thoughts, I will sign the settlement agreement and the class certifications, and also the dismissal.<sup>110</sup>

Indeed, the judge himself would not characterize the settlement as a “triumph of justice” (as Bill Hosokawa for the JACL did) but rather as “a little bit of justice,” “more symbolic,” “a small step.” Granted though he does seem to consider the settlement “a step in the right direction” in a trajectory of progress and he did approve the settlement agreement, still, I would argue that such lack of finality, as with the activists and deportees, works to leave the door open for future organizing efforts toward (in the words of Julie Small) “a more just resolution.”<sup>111</sup> As the following chapters will attest, the Mochizuki lawsuit and settlement indeed marked just the beginning of over a decade of subsequent organizing concerning issues of JLA redress from the U.S. government. I now turn to the ‘final’ implementation of the settlement agreement following the official closure of the Office of Redress Administration (ORA). As we will see, although the ORA closed its doors on the ten-year redress program mandated by the CLA on February

<sup>109</sup> Chief Judge Loren A. Smith, United States Court of Federal Claims, *Carmen Mochizuki vs. USA*, January 7, 1999, Washington, D.C., Docket No.: 97-294-C, page 66.

<sup>110</sup> Chief Judge Loren A. Smith, United States Court of Federal Claims, *Carmen Mochizuki vs. USA*, January 7, 1999, Washington, D.C., Docket No.: 97-294-C, pages 66-67.

<sup>111</sup> Small 2000.

5, 1999 (less than one month after the fairness hearing), the DOJ would be forced to reckon with certain “unfinished business” under the act and settlement agreement throughout the year to follow.

### **“The Endings That Are Not Over”<sup>112</sup>**

On the day the ORA closed its doors, approximately \$5 million of federal funds had been spent to-date on education and \$1.65 billion had been spent on redress payments under the CLA and *Mochizuki vs. USA* settlement agreement to: 82,030 Japanese U.S.-American citizens and legal permanent resident aliens at \$20,000 each, 189 Japanese Latin Americans at \$20,000 each (due to their retroactive permanent residency status or birth while incarcerated), and 145 JLAs at \$5,000 each under the settlement.<sup>113</sup> According to the DOJ, there remained approximately 396 eligible JLA claimants and 133 JLAs who were ‘pending’ but not yet declared ‘eligible,’ all of whom were still owed payment.<sup>114</sup> On February 10, 1999, plaintiffs in *Mochizuki vs. USA* filed with the U.S. District Court a “Motion to Remedy Breaches of and Ensure Compliance with Settlement Agreement.” In April of that year, they along with a delegation of activists, community members and scholars, engaged in an “emergency” lobbying trip to Washington, D.C., asking for presidential and congressional support of a “Supplemental Appropriations Bill” to secure additional funding to pay the remaining JLA claimants as well as of other requests related to the CLA. These included requests to: “Restore the

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<sup>112</sup> Espiritu 2005.

<sup>113</sup> JPOHP Memorandum dated March 2, 1999, Grace Shimizu Archive. Memorandum cites as its sources: “2/19/99 press release by Department of Justice, 3/10/99 Declaration of Tink Cooper (ORA attorney) filed in the *Mochizuki* case, and 3/4/99 press release by US Senator Dan Inouye of Hawaii.”

<sup>114</sup> JPOHP Memorandum dated March 2, 1999, Grace Shimizu Archive.



estimated \$200 million in lost interest due to non-investment,” “provide an equitable resolution for Japanese Latin Americans” (which included “apology and individual compensation of \$20,000, more thorough worldwide notification and extension of the application deadline”), and redress for “all remaining eligible Japanese Americans, including disputed railroad and mining families as well as individuals of Japanese ancestry born in an internment camp between June 30, 1946 and March 1, 1948.”<sup>115</sup> In September 1999, while the other issues remained outstanding, the DOJ agreed to pay the remaining (approximately 528) JLA claimants by March 2000 using agency funds.<sup>116</sup>

In November 1999, Julie Small wrote an epilogue to the 2000 release of the memoir by Seiichi Higashide, *Adios to Tears: The Memoirs of a Japanese-Peruvian Internee in U.S. Concentration Camps*. In it, she wrote:

The Mochizuki settlement provided internees with an acknowledgment that a wrongdoing had been perpetrated against them by the United States during World War II. The settlement did not, however, admit or recognize any legal obligation by the United States to provide redress for those violations and *fails to address the gravity of the human rights violations committed. The forced deportation of civilians, thrusting civilians into a war zone, and putting civilians to hard labor, all violate the Geneva Convention and existing international customary law*. The U.S. government characterized the settlement as a complete resolution. Others, including many of the internees felt *the settlement did not resolve the issue and should not set the standard for redress of war crimes*. Even those who agreed to the settlement did so with the intent *to fight for a more just resolution*.<sup>117</sup>

I read such a statement as a representation of the ongoing *global excess* that could not be neatly contained by the CLA and settlement and instead continues to trouble, haunt and threaten their purported “resolution.” Small’s assertion that the settlement “fails to

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<sup>115</sup> Letter to President William Jefferson Clinton, dated April 19, 1999, signed by sponsoring individuals and organizations, Grace Shimizu Archive.

<sup>116</sup> Small 2000, 252.

<sup>117</sup> Small 2000, emphasis added.

address the gravity of the human rights violations committed” and “should not set the standard for redress of war crimes” is a far cry from the “closure” and “triumph of justice” touted by certain JACL and DOJ representatives. I assert that it is here that we may glean a new politics of justice—located not in the law itself but precisely in its critique and deconstruction. Small concluded the epilogue by stating, “Campaign for Justice continues through litigation and legislative efforts to secure redress for all Japanese Latin American internees of World War II.”<sup>118</sup>

Indeed, the *Campaign for Justice: Redress Now for Japanese Latin Americans!*, initially founded specifically to support the *Mochizuki vs. USA* lawsuit, would live on long after the last redress payments under the settlement agreement were distributed in 2000. In this sense, it is out of the very failures of juridical ‘justice,’ that a politics concerning “proper governmental redress” for JLAs would continue to evolve. As Grace Shimizu put it: “We needed to go through this to get to the international.”<sup>119</sup> Told they needed to exhaust domestic remedies before they could have a viable chance in the international arena, Shimizu and others saw the Inter-American Commission on Human Rights as the “logical next step” in their pursuit of redress. As will be discussed in the next chapter, the campaign would continue to evolve in terms of its analysis, strategies and allies—particularly in a dynamic global historical context, including the post-9/11 ‘war on terror.’

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### ***JLAs as Critical Beings—the Others of Justice***

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<sup>118</sup> Small 2000, 253.

<sup>119</sup> Conversation with Grace Shimizu on December 11, 2015.

By way of conclusion, I would like to propose that the JLAs, as figures at once outside, constitutive and critical of the limits marking the proper redressable subject, serve a critical function: to not only embody the political limits of governmental redress as ‘justice’ per se, but to gesture to a different kind of justice—a justice ongoing and located *only* outside the law. In an important collection of essays entitled, *Critical Beings: Law, Nation and the Global Subject* and edited by critical legal scholars Patricia Tuitt and Peter Fitzpatrick, scholars advance a concept of “critical beings” as “people excluded or marginalized in the persistent but ever unsettled processes of national/global affirmation.” Fitzpatrick and Tuitt write, “Such people are ‘critical’ for and of these processes, yet also disruptive of them.”<sup>120</sup> For these scholars, there exists “no ‘critical mass’, no ‘multitude’ ready to engage directly the power of the global nations.”<sup>121</sup> Rather, maneuvering within a juridical order that is “far from settled” and “continually in formative negotiation with the ‘critical beings’” themselves, such global subjects, precisely through their *ambivalent* relation to law, nation and the global, hold the possibility of radical political critique and new ways of being in the critical space “between the nation’s particular emplacement and its universal extraversion.”<sup>122</sup>

JLA former internees, I propose, in their ‘critical’ dimension as (im)possible redressable subjects, also hold the possibility of radical political critique through their engagement with forms of governmental redress as historical justice. These JLA activists,

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<sup>120</sup> Tuitt and Fitzpatrick 2004, xi.

<sup>121</sup> Tuitt and Fitzpatrick 2004, xix-xx. The pieces offered in the anthology are positioned against recent attempts (e.g., Giorgio Agamben’s *Homer Sacer*” *Sovereign Power and Bare Life* (1998) and Michael Hardt and Antonio Negri’s *Empire* (2000)) to delineate a ‘new global juridical order’ with fully formed global legal subjects “pursuing definite claims, and establishing particular, identifiable ‘rights.’”

<sup>122</sup> Tuitt and Fitzpatrick 2004, xix.

like the ‘critical beings’ outlined above, are not “utterly subjugated” but are also not oriented along definite political pathways. Jacques Derrida has stated, “Justice as the experience of absolute alterity is unrepresentable, but it is the chance of the event and the condition of history.”<sup>123</sup> The JLAs, I argue, as critical beings and the ‘others’ of justice who continue to this day to fight for governmental redress, in their calling for a “something to be done,”<sup>124</sup> in their persistent critiques of the CLA and the proper redressable subject, indeed suggest that the possibility of redress *as* justice may lie precisely in its excess, in its deconstruction, and in the *politics* of its (un)redressability. In the chapters that follow, I follow these ‘others’ in their ongoing pursuit and critiques of ‘justice’ over the decades to come. As they will show, it is precisely in their ever-evolving political strategies both within and outside the law and nation, that their critiques *productively reveal* the *possibilities* for imagining a new ethicality—for *reconfiguring* the relations among resistance, violence and justice.

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<sup>123</sup> Derrida 1992, 27.

<sup>124</sup> Gordon 1997.

**Chapter 5:**  
**Hauntings and Rearticulations:**  
**Time, Space and Arrested Histories in the Pursuit of Justice**

Until the U.S. admits the truth, their violations are ongoing, and our fight for justice continues.

--Karen Parker, *Attorney for Shibayama vs. USA*<sup>1</sup>

“[J]ustice, insofar as it is not only a juridical or political concept, opens up for l’avenir the transformation, the recasting or refounding of law and politics... Justice as the experience of absolute alterity is unrepresentable, but it is the chance of the event and the condition of history.”

--Jacques Derrida, “*Forces of Law*,” 1992<sup>2</sup>

In an important essay interrogating the “mystical foundation of authority,” Jacques Derrida compellingly argues that it is precisely the very seemingly paradoxical (de)constructibility of law that renders “justice” possible. That is, it is the experience of the *aporia* between justice and the law, the questioning and deconstruction of the law (itself constructed in performative and interpretive violence), that *is* justice.<sup>3</sup> In short, Derrida offers not only a crucial re-thinking of law enforcement as (un)just force, but also an alternative notion of (late-modern) justice as precisely possible *only* in the cracks and ruptures, the critical spaces surrounding and outside, of the law.

I find Derrida’s keen insight particularly useful when examining articulations of “justice” for Japanese Latin American WWII internment in the aftermath of the highly controversial *Mochizuki v. USA* lawsuit and settlement. To recall, in 1996, a group of JLA former internees and activists organized to file a class action lawsuit against the U.S. government calling for redress and reparations for JLAs under the Civil Liberties Act of 1988, which provided for a formal government apology and \$20,000 reparations payment

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<sup>1</sup> CFJ update, entitled, “Redress Fight Continues in Court,” dated April 2001, Grace Shimizu Archive.

<sup>2</sup> Derrida 1992, 27.

<sup>3</sup> Derrida 1992.

to each surviving Japanese American citizen and Japanese resident alien interned during WWII. In 1998, a settlement agreement was reached just before the closing of the Office of Redress Administration which offered the JLAs a general apology and reparations payment of \$5,000 each—the funding of which was to be provided by the estimated monies “leftover” from funds earmarked for the CLA. As part of the settlement negotiations, internees who accepted the settlement would still be allowed to pursue further legislation for “equitable redress” but not further litigation. Ultimately, 17 JLA former internees rejected the settlement with the intent of continuing litigation in their quest for “redress equity.” The settlement offered by the Department of Justice (DOJ) was thus highly controversial as some parties saw it as a “victory,” others as a “*bittersweet* victory” and still others as “a slap in the face.” The offer is said to have been the result of a “backdoor deal” between the JACL, DOJ and Japanese American congressional leaders: that once the settlement was offered, neither the JACL nor the congressional leaders would support further campaigning for JLA redress.

This chapter, as well as the one that follows, examine the strategies and articulations put forth by JLA former internees and activists over the subsequent twenty plus years following the settlement to refuse such proposed ‘closure’ and continue in their governmental redress efforts. Here, I pay close, critical attention to conceptualizations of redress as they are formulated vis-à-vis concerns of justice, international law, and ongoing U.S. militarized violence. Ultimately, I argue that by calling into question what had become the commonsensical assumption of the Civil Liberties Act *as* justice, a new ethicality begins to emerge within the JLA redress “movement”—an ethicality premised, not on the overcoming of violence with the

achievement of so-called “restorative” state policy, but rather on the ongoingness of that violence embedded in such policies themselves and thus perhaps the very *impossibility* of “justice.” In his book that examines Japanese American postwar community politics across the “Nisei” and “Sansei” generations, scholar Jere Takahashi writes that while the “success of the redress and reparations movement” generated a sense of political empowerment for this “small minority group,” ironically, the “success” created a “vacuum” within the Japanese American community in that there is no longer a “central issue,” a “common ground” upon which members can organize.<sup>4</sup> JLA redress activists, I contend, challenge this very notion; that is, by refusing such ‘closure’—the idea of the violations of WWII and its redress as “over and done with”—which the CLA as well as the settlement were supposed to provide, the struggles for JLA redress point to a rethinking of “justice” as, to recall Derrida, “a venir” —to come, *always* to come.

Moreover, as I have been suggesting throughout this dissertation, Japanese Latin Americans—as ‘critical beings’—call for a critical rethinking of the very violence of late-modern justice itself, particularly its ‘distributive’ feature as is showcased in the CLA. Political theorist Patchen Markell argues that the pursuit of “recognition” is actually a *misrecognition*—a failure to “acknowledge” one’s own basic finitude, one’s fundamental *intersubjectivity* and vulnerability in a world full of surprises, contingencies and uncertainties and thus the very *impossibility* of mutual recognition in the first instance. Along these lines, the ideal of recognition and the aspiration to sovereignty fail to apprehend the much deeper meanings and sources of injustice rooted at the ontological level of being and sedimented over centuries in our state institutions. As such, such

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<sup>4</sup> Takahashi 1997, 205.

pursuits can end up not only *reinforcing* existing relations of subordination but also creating new ones. The result is that while some parties may appear to benefit from their so-called achievement of recognition, others are made to bear a disproportionate burden of such an *impossible* pursuit of sovereign agency. The presence of JLA as possible (un)redressable political subjects and their ongoing (failed) calls for ‘equitable redress’ bring to the fore the exclusivity of this prototypical legislation that worked to strategically recognize select Japanese American citizen-subjects and the state violence they experienced and not others.

In their pursuit of ‘justice’ and concurrent critical assessment of Japanese American redress, JLA former internees, redress activists and supporters organized on a number of fronts. This chapter traces their multifaceted efforts in the years immediately following the Mochizuki lawsuit and settlement—from congressional legislation to litigation (both in the domestic courts as well as international arena) to more “community-based” efforts in the area of what some scholars have deemed “cultural politics.” What is revealed is a dynamic and evolving analysis and strategy toward governmental redress—one which exposes not only the limits of the CLA *per se* but more profoundly the limits of historical redress as a paradigm of racial and social justice. Specifically, as I will show, particularly in the context of post-9/11, JLA redress organizers, by issuing pointed connections across space and time linking the Enemy Alien Program of WWII to the figure of the “enemy” in the ongoing “War on Terror,” demonstrated what critical scholars of history and memory have variously described as “montage-based constructivism” (Avery Gordon), “critical juxtaposition” (Yen Le



Espiritu), and “episodic modality” (Diana Taylor).<sup>5</sup> Such a strategy toward justice consciously moves away from recognition-based models that work to create isolated limit cases of state violence as exceptional anomalies resolved with the performance of governmental redress. To be sure, in their pursuit of justice, JLA activists were indeed strategically maneuvering within and around the very law they stood to critique while at the same time indeed pursuing some form of “proper redress” and acknowledgment from the U.S. government. Still, I am interested precisely in how such maneuvering may reveal both the contours of the U.S. nation and empire which renders them *unredressable* as well as the critical spaces where change is possible. Most scholars have considered the case of JLA redress (usually in relation to JA redress as their main focus of examination) as a matter of exclusionary politics—that is, as an unfortunate example of a nagging flaw in an otherwise sound exemplar of racial justice. This chapter takes such work as a point of departure to re-focus the politics of redress, not on electoral politics and political machinations, but rather on what such *unredressability* may reveal and how *unredressable* subjects, in their ongoing pursuit of *justice*, may point to alternative pathways and ways of being not premised on redress and recognition as justice.

### **A Justice “Unfinished”**

Immediately on the heels of the Mochizuki settlement and subsequent redress payments issued in 1998 and 1999, JLA activists began organizing for further legislative measures calling for “redress equity” for JLAs and select JAs as well as additional funds to “fulfill the educational mandate of the CLA.” On June 23, 2000, Representative Xavier

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<sup>5</sup> See Gordon 1997, Taylor 2004, Espiritu 2014.

Becerra (D-CA, 30) with the support of 23 co-sponsors<sup>6</sup> formally introduced H.R. 4735, the Wartime Parity & Justice Act, which would “(1) authorize \$45 million in public education funding to fulfill the educational mandate of the CLA, (2) provide redress to Japanese Latin Americans who suffered government violations during WWII, and (3) provide redress to Japanese Americans who have been unjustly denied for technical reasons or narrow interpretations of the CLA.” Framing the bill as “comprehensive ‘wrap up’ redress legislation,” *CFJ* wrote the following in their spring 2000 newsletter:

#### Urgent Call To Support Remaining Redress Issues

Redress is not yet a closed chapter for our community. Despite the completion of a commendable ten-year redress program and the approval of the controversial Mochizuki settlement agreement, both the education and compensation purposes of redress *remain unfulfilled*. The struggle for redress for Japanese Americans (JAs) and Japanese Latin Americans (JLAs) continues, both in litigation and in legislation.

We urge our communities to support these efforts to resolve the *unfinished business*. We cannot allow this chapter of American history to close until our government properly acknowledges its civil and human rights violations and resolves the *remaining redress issues*, which include: education, redress equity for JLAs and redress equity for JAs.<sup>7</sup>

Specifically, the bill pointed to the underfunding of the CLA redress program that ultimately resulted in just \$5 million of the proposed \$50 million spent for research and educational programming. It thus called for additional funds of \$45 million “to ensure that our children will know their history and to prevent the reoccurrence of similar

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<sup>6</sup> The original co-sponsors of H.R. 4735 were: Jose Baca (D-CA, 42), Howard Berman (D-CA, 26), David Bonior (D-MI, 10), Anna Eshoo (D-CA, 14), Emi Faleomavaega (D-Samoa), Bob Filner (D-CA, 50), Barney Frank (D-MA, 4), Martin Frost (D-TX, 24), Charles Gonzalez (D-TX, 20), Luis Gutierrez (D-IL, 4), Tom Lantos (D-CA, 12), Barbara Lee (D-CA, 9), Zoe Lofgren (D-CA, 16), Jerrold Nadler (D-NY, 8), Solomon Ortiz (D-TX, 27), Nancy Pelosi (D-CA, 8), Silvestre Reyes (D-TX, 16), Ciro Rodriguez (D-TX, 28), Lucille Roybal-Allard (D-CA, 33), Pete Stark (D-CA, 13), Robert Underwood (D-Guam), Henry Waxman (D-CA, 29), and David Wu (D-OR, 1); from *CFJ* press release entitled, “Campaign for Justice Lobbies for Redress Bill Introduced in Congress by Representative Xavier Becerra” dated July 12, 2000, Grace Shimizu Archive.

<sup>7</sup> *CFJ* newsletter, spring 2000, Grace Shimizu Archive, emphasis added.

violations.” In terms of “redress equity for JAs,” the bill proposed redress and reparations for the following: US citizens born in the Crystal City camp after June 30, 1946 (*Yano, Kato & Ogura v. USA*), Japanese residents who were improperly denied redress (*Yano, Kato & Ogura v. USA*), US citizens born outside of camp after January 20, 1945 whose civil liberties were violated (*Song v. USA*), adult *involuntary* relocates, late applicants subsequently denied redress, and dependent children of railroad and mine workers who were fired from their jobs upon order by the U.S. government. Finally, in terms of “redress equity” for JLAs, the campaign articulated that they sought “redress equity for JLAs which is consistent with international standards for gross human rights violations.” This included: “Proper apology which includes the government’s acknowledgement of and responsibility for its actions; equitable redress compensation for JLAs of no less than \$20,000; expungement of “illegal alien” classification from government records; release of information of JLA claims to their attorneys to ensure proper processing of their cases; expanded notification for JLAs; and full disclosure of the facts including those of disappeared individuals.” These were all provisions which the organization claimed were not provided for by the Mochizuki settlement.

In the years to follow up until 2005, the Wartime Parity & Justice Act was re-introduced in Congress virtually unchanged—as H.R. 619 in February 2001, H.R. 779 in February 2003 and H.R. 893 in February 2005—all by Representative Becerra. On July 25, 2001, Senator Daniel Inouye (D-HI) introduced S. 1237, a Senate companion bill to H.R. 619, in the U.S. Senate. The bill was referred to the Senate’s Judiciary Committee, which was slated to hold a hearing on the legislation in 2002 but it never took place. Eventually, in 2006, Senator Inouye initiated another tactical move, reminiscent of the

1981 commission bill focused on establishing a federal commission study to investigate the “wartime relocation and internment” of Japanese American citizens and resident aliens during WWII. On February 16, 2006, Inouye introduced to the Senate S. 2296, the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act, which would also establish a commission panel to “determine how the actions of the United States affect Latin Americans of Japanese descent” and “recommend appropriate remedies.”<sup>8</sup> As will be explored in the next chapter, this bill (which was granted a House subcommittee hearing in March 2009) ushered in a new era for the JLA redress efforts as organizers grappled with more directly the electoral politics of the legislation within the context of, on the one hand, a reinvigorated U.S. imperialism and, on the other, a dominant legacy of the CWRIC as well as CLA as justice served.

On the surface, such efforts to “resolve remaining redress issues”—the “unfinished business” of the Civil Liberties Act—may appear to be simply a move toward political inclusion, toward getting “their piece of the pie.” However, I posit them in a much different light. I argue that, particularly when taking into account the full range of provisions included in the 2000-2005 legislation (such as the original \$45 million in public education funding *unfulfilled* by the CLA and the reparations due to those JAs denied under the CLA due to “technical reasons”), organizers were doing the important work of leaving the door open for critique of what had become an exemplar of U.S. racial justice. Returning to the work of Derrida, I find his following proposal very useful: that it is the very performativity of ‘justice’ and its “overflowing” that renders it always

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<sup>8</sup> CFJ press release entitled, “Senator Daniel K. Inouye Introduces Legislation to Establish Commission to Investigate the Internment of Latin Americans of Japanese Ancestry During World War II,” dated February 16, 2006, Grace Shimizu Archive.

“perhaps,” a “yet to come, *a venir*.”<sup>9</sup> He writes: “Justice as the experience of absolute alterity is unrepresentable, but it is the chance of the event and the condition of history.”<sup>10</sup> Indeed, I concur to suggest that the possibility of redress *as* justice may lie precisely in its excess, in its deconstruction, and in the politics of its (un)redressability. While JLA former internees and activists were fighting to *achieve* governmental redress and recognition, they were also initiating a different kind of justice—one that lie not in the law itself but in its ongoing critique. As I will show and will become all the more apparent in the following sections, such an alternative justice holds the radical possibility to forge new pathways toward alternative pasts, presents and futures—ones premised not isolated and exceptional cases of racial violence resolved by state sanctioned narratives and reparations, but rather on the very connectedness *among* such episodes *yet* to be recognized by the nation-state.

### **The Limits of “Discretionary” Redress**

Following the *Mochizuki vs. USA* settlement, three major lawsuits were also filed by JLA former internees against the U.S. government: *Shima v. USA 1998*, *Kato, Yano, and Ogura v. USA*, and *Shibayama v. USA*. Koshio Henry Shima, was abducted from his home in Peru at the age of 18, put to forced labor in the Panama Canal Zone, and then imprisoned in the U.S. during WWII, without a hearing, for the duration of the war. In 2000, Judge J. Spencer Letts of the U.S. Central District Court of Los Angeles dismissed Shima’s suit for damages, without allowing oral argument. On April 4, 2001, the Ninth

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<sup>9</sup> Derrida 1992, 27.

<sup>10</sup> Derrida 1992, 27.

Circuit U.S. Court of Appeals considered the case of *Shima v. USA*, again refusing to grant Shima an oral argument before the court (thereby marking the third time that Shima has been denied a court hearing by the U.S. government). On May 2, 2001, the Court dismissed the case of *Shima v. USA* in an unpublished decision. The appellate court ruled that the plaintiff, Koshio Henry Shima, had no grounds to bring claims against the U.S. due to the statute of limitations, and upheld the lower court's dismissal of the case. An appeal was not made to the U.S. Supreme Court. Henry Shima passed away in January, 2005.

In *Kato, Yano, and Ogura v. USA 2000*, six claimants of Japanese descent (one born in the U.S., four from Latin America, and one from Japan) charged they were wrongfully imprisoned in the U.S. during WWII and then refused a governmental apology or redress via a continuing policy of discrimination. All six were found ineligible under the CLA for different reasons. Kay Kato, 91 at the time of the suit, came to the U.S. from Japan in 1937 on a merchant visa. He was put in an internment camp from 1941-1945 but did not become a legal permanent resident until 1958. Thus, he was considered ineligible. Jane Yano was born in the DOJ camp in Crystal City, Texas in early 1947, where along with her family, she remained until August 1947. When she applied for redress under the CLA, she was refused and told that because she was born after August 1946 (the arbitrary cut-off date set in the legislation, which officials claim marks the time when *most* camps were closed), she was ineligible for reparations. The other four plaintiffs, members of the Ogura family and JLA former internees who had been abducted in Peru, interned and then deported to Japan as hostage exchangees, were found ineligible under the CLA due to their illegal alien status at the time of their

internment. The case, after being dismissed on April 3, 2000 by District Court Judge J. Spencer Letts at the Central District trial court in Los Angeles in a one-page unexplained order, was argued on December 11, 2000, before a panel of three judges of the Federal Ninth Circuit Court of Appeals, Chief Judge Schroeder, Judge Noonan, and Judge W. Fletcher, at the federal courthouse in San Francisco. However, on January 3, 2001, the Court upheld the lower court's dismissal, ruling (as in the case of *Shima v. USA*) in an unpublished, unsigned decision that all legal action was barred by the statute of limitations. Pursuant to the court's argument, the internees had one year after release from prison camp to file a lawsuit against the U.S. government.<sup>11</sup> Immediately following, on February 15, 2001, the six former internees filed a petition with the Court requesting a rehearing, which was subsequently denied. The internees then appealed this decision to the U.S. Supreme Court and were again denied in 2002.

Finally, in the case of *Shibayama v. USA*, the plaintiffs in the lawsuit, the Shibayama brothers, Isamu Carlos (Art) Shibayama, Kenichi Javier, and Takeshi Jorge, sought relief for having suffered "violations of their civil and human rights by the U.S. government" during WWII, when they were forcibly deported from their home in Peru, and incarcerated in camp in Crystal City, Texas. The Shibayama brothers were denied an apology and \$20,000 in redress compensation under the CLA due to "illegal alien" status at the time of their internment. The plaintiffs, as with the other litigating JLAs, rejected the *Mochizuki* settlement agreement and sought, not only redress compensation, but other "remedies" as well, including "full disclosure of the facts, an apology which matches the U.S.' crime against humanity, a declaration of the false and improper 'illegal alien'

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<sup>11</sup> CFJ press release dated 11/06, entitled, "Redress Fight Continue in Court," Grace Shimizu Archive.

status, and educational programming so that the American public will know about the crime the U.S. committed against JLAs during WWII.”<sup>12</sup> On September 19, 2000, the plaintiffs filed a brief with the U.S. Federal Court of Appeals after also having their case dismissed in the lower court. The next year, they were granted a hearing and on July 6, 2001, the brothers testified before Judge Marian Blank Horn in Washington, D.C.

According to *CFJ* reports, at the hearing, while Judge Horn seemed sympathetic to their claims, at one point mentioning that her own parents had come to America because they were excluded from their country of origin, she also seemed receptive to the claims of the Justice Department attorney in which he argued that the Shibayama claims were barred because they failed to meet key tests of jurisdiction: they had not exhausted their administrative remedies at the Office of Redress Administration, they were barred by statutes of limitations, and the Court of Appeals had no jurisdiction over the matter. Ultimately, in 2002, Judge Horn ruled according to the Justice Department, officially stating that Japanese Latin Americans are ineligible for redress under the CLA unless they were granted permanent resident status retroactive to the time of their internment and that it did not have jurisdiction to consider their claim for redress equity for civil and human rights violations.<sup>13</sup>

Taken together, these cases point to the political limits of the CLA as well as of domestic legal remedies for such programs as JLA WWII rendition. In all three cases, the rulings essentially fell back on the same arguments put forth in *Mochizuki v. USA* wherein the federal judge suggested that the U.S. had no *legal* obligation to apologize or

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<sup>12</sup> CFJ Press release entitled, “U.S. Government Denies Own Crime Against Humanity During World War II” dated September 19, 2000, Grace Shimizu Archive.

<sup>13</sup> CFJ press release dated 11/06, entitled, “Redress Fight Continue in Court,” Grace Shimizu Archive.



compensate JLAs (or JAs for that matter) under U.S. law. In an important work that critically examines the workings of U.S. government “plenary power” over the course of U.S. history, including the JLA WWII rendition program and subsequent redress efforts, critical legal scholar Natsu Taylor Saito reminds us that the precedents established by the *Hirabayashi*, *Yasui*, and *Korematsu* cases still stand, and no Supreme Court cases ever rendered “the internment” illegal; as such, she explains, “no law required Congress to enact the CLA or to include the Japanese Latin Americans in its terms.”<sup>14</sup> In the case of *Mochizuki v. USA*, the plaintiffs, in pursuing redress under the CLA, thus, were limited to two arguments: 1) they should be unilaterally deemed legal permanent residents retroactive to date of entry because they were forcibly brought to the U.S. by the U.S. government, and 2) that granting redress to Japanese Americans but not JLAs violate the guarantee of equal protection under the Fifth Amendment.<sup>15</sup> As discussed in the previous chapter, while the JLA internees were offered a general apology with no specifics of the violation mentioned and a sum of \$5,000/each in reparations, neither of these arguments establish any sort of legal precedent. Thus, in terms of subsequent litigation, the Court again seems to have avoided the question of the legality of JA and JLA WWII internment and deportation programs. As Saito emphasizes, “Congress provided compensation to Japanese Americans as a matter of discretion. Accordingly, [legally] there need only be a rational basis for the distinctions made in the legislation.”<sup>16</sup>

Hence, in all three cases the question of the Court’s jurisdiction over the matter of “redress equity” worked against the JLA plaintiffs. In *Shima v. USA 1998* and *Kato*,

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<sup>14</sup> Saito 2007, 120.

<sup>15</sup> Saito 2007, 120.

<sup>16</sup> Saito 2007, 121.

*Yano, and Ogura v. USA*, the cases were dismissed on the grounds that the plaintiffs had no rights to bring claims against the U.S. due to the statute of limitations, again because the Court only recognized the rendition program itself as the possible “policy of discrimination”—not the act of redress itself that worked to disqualify JLAs, as the plaintiffs argued.<sup>17</sup> In the case of *Shibayama v. USA*, the grounds of the dismissal was similar—that the JLAs were simply ineligible for redress under the CLA unless they fit the requirement of legal permanent residency at the time of their internment and that the Court did not have jurisdiction to consider their claim for redress equity. Again, these arguments go back to the premise that the redress offered under the CLA was legally *discretionary* not legally required. Moreover, as Saito points out, “the courts have consistently held that the government’s plenary power over immigration gives it the right to exclude almost any individual or citizen from the country.”<sup>18</sup> She further explains: “In addition, considerable precedent authorizes distinguishing between people on the basis of citizenship or immigration status when the benefit at issue is identified as a privilege rather than a right.”<sup>19</sup> In short, the Court thus never addresses the question of the legality of the JLA WWII rendition program in any of these cases and rather, in the words of JLA redress activists, uses “technicalities to fight internees in court and to keep the U.S. from being held accountable for its own wrong doing.”<sup>20</sup> The next section explores the efforts by *Shibayama v. USA* and human rights attorney Karen Parker, the Shibayama brothers and the Japanese Peruvian Oral History Project (JPOHP) to take their claims to the

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<sup>17</sup> Thus, the plaintiffs had missed their one-year window following their internment and deportation to file their grievances.

<sup>18</sup> Saito 2007, 121.

<sup>19</sup> Saito 2007, 121.

<sup>20</sup> CFJ press release dated 11/06, entitled, “Redress Fight Continue in Court” Grace Shimizu Archive.

international arena after having “exhausted domestic remedies.”<sup>21</sup> It is here via the trails of their efforts from domestic to international law that we can begin to outline the very ambiguous legal space in which these JLAs were not only apprehended but continue to occupy in their quest for governmental redress and accountability; it is an imperial space neither domestic nor foreign, neither under the jurisdiction of domestic or international law—and a space where U.S. militarized empire has and continues to thrive and grow.

### **U.S. Empire and the *Question of International Law***

On June 9, 2003, the Shibayama brothers and along with the JPOHP filed a joint petition with the Organization of American States’ (OAS) Inter-American Commission on Human Rights (IACHR) seeking remedies including “proper apology reflecting the severity of the government violations, equitable redress compensation, expungement of the ‘illegal alien’ classification from government records, and full disclosure of the facts, including the fate of disappeared individuals.”<sup>22</sup> Importantly, although the U.S. WWII JLA rendition program predated the OAS charter (which was established in 1948 along with the American Declaration of the Rights and Duties of Man), the petition charged that the “war crimes and crimes against humanity perpetrated against the them [the petitioners] as children during WWII”<sup>23</sup> were ongoing with the U.S. government’s ongoing refusal to acknowledge or compensate those violated. On May 18, 2004, nearly one year later, the IACHR announced that it had accepted the petition and sent ‘pertinent

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<sup>21</sup> Saito 2007, 122.

<sup>22</sup> CFJ press release dated 6/9/03, entitled, “Japanese Latin Americans Petition OAS for Justice,” Grace Shimizu Archive.

<sup>23</sup> CFJ press release dated 6/9/03, entitled, “Japanese Latin Americans Petition OAS for Justice,” Grace Shimizu Archive.

parts' to the U.S. State Department for rebuttal and comment. Attorney Karen Parker commented, "This is a major breakthrough in the redress and human rights struggle of the Japanese Latin Americans and is important because it signifies that the OAS is willing to hear claims that the United States courts have refused to hear. It acknowledges the importance of the application of international human rights law to claims of Latin Americans of Japanese ancestry, some of whom are now United States citizens, for injustices committed against them by the U.S. during World War II."<sup>24</sup> In March 2006, the IACHR declared the petition admissible under the declaration and announced that it would proceed to hear the claims. Over nine years later, however, a hearing has yet to be set.

### ***"Might Makes Right"***

Significantly, the American Declaration of the Rights and Duties of Man is a "nonbinding resolution," though, in the words of Saito, "has come to be regarded as the authoritative interpretation of the 'fundamental rights' referred to in the charter."<sup>25</sup> The OAS's IACHR is to conduct "country studies" and on-site investigations and receive and act on individual petitions and interstate communications. However, as Parker states, "it's only a commission, it's not a court."<sup>26</sup> While there is an American Convention on Human Rights and an associated Inter-American Court, the U.S. has not ratified the convention. The commission alone thus lacks true enforcement powers. Parker describes, "...so technically it's rulings are non-binding in the sense that you can't take them into

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<sup>24</sup> CFJ press release dated June 2, 2004 entitled "Japanese Latin Americans Move Closer to Justice with Nod from International Forum," Grace Shimizu Archive.

<sup>25</sup> Saito 2007, 124.

<sup>26</sup> Parker, author's interview.

the U.S. court for execution and the United States tries to pretend everything is all discretionary anyway—even their willingness to go to the forum.”<sup>27</sup> As a UN member, the U.S. is a party to the Statute of the International Court of Justice (ICJ). The ICJ hears cases arising under international law but only has contentious jurisdiction over states that have accepted that jurisdiction.<sup>28</sup> In 1986, “dissatisfied” with the ICJ’s “handling” of the case brought by Nicaragua against the U.S. for mining its waters, attacking its ports and other facilities, and financing and training the contra forces to overthrow the Nicaraguan government, the U.S. withdrew its consent to ICJ jurisdiction. To the extent that it is a party to the few treaties it has ratified, the U.S. is supposed to still be accountable to the ICJ, and yet, it continues to disregard unfavorable rulings.<sup>29</sup> In the case of the JLA WWII rendition program, there are no ratified treaties that confer jurisdiction and because the ICJ can only hear cases brought by state parties, the Court (according to Saito) “is not an option for the Japanese Latin Americans.”<sup>30</sup>

With regard to the IACHR, Parker, citing the many times the U.S. has also defied previous IACHR rulings against itself (particularly during the Bush administration), reasons that the OAS is likely weighing its position of whether or not it can “afford” the “risk” that the U.S., as a “major superpower,” might defy it once again, thereby weakening the OAS Charter. She states, “*Might makes right*. You see, human rights law, the UN Charter, the OAS Charter were supposed to stop that doctrine of might makes

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<sup>27</sup> Parker, author’s interview.

<sup>28</sup> Saito 2007, 125.

<sup>29</sup> For example, in April 1998, ignoring a stay of execution requested by the ICJ, the U.S. carried out the death penalty against Angel Breard, a Paraguayan national who had been convicted of murder without having access to Paraguayan consular officials in violation of the Vienna Convention on Consular Relations (See Saito 2007, 125).

<sup>30</sup> Saito 2007, 125.

right.... But, we are now in position where *nobody can contain anybody*.”<sup>31</sup> Indeed, where does this leave the JLAs then? Saito writes, “Generally speaking, the U.S. judicial system is relatively effective and well organized but is reluctant to enforce international law when it does not coincide with U.S. policy objectives or interests. 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>32</sup> Yet, just two sections previous, she concludes, “Domestic law, as currently enforced, thus provides no effective avenues for redress.”<sup>33</sup> What these (failed) efforts by JLA former internees, both in the domestic courts and via international commissions, reveal, I argue, is the very crux of how U.S. empire *works*. That is, I read these cases of “failed” justice not as anomalies in a sound U.S. judicial system but rather as paradigmatic and symptomatic of the functional legal intricacies of U.S. empire in its long duree of militarized racial violence, wherein there is ‘no rule of law.’

In an important essay in which she offers a close reading of the 2004 Supreme Court decision in *Rasul v. Bush* against the grain of the deep historical legacy of U.S. imperialism in Guantanamo, Cuba, Amy Kaplan argues that the Court, even as it ruled that the prisoners held in at the U.S. naval base should have access to the federal courts (a move that may be read as a decision against empire), also relied on and perpetuated a particular logic of U.S. imperial rule “by contributing to the development of a two-tiered

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<sup>31</sup> Parker, author’s interview, emphasis added.

<sup>32</sup> Saito 2007, 126.

<sup>33</sup> Saito 2007, 121.

flexible legal system to serve the global reach of a U.S. military penal regime.”<sup>34</sup> She writes:

*Rasul*, read alongside *Hamdi* and *Padilla*, suggests that the Court is not extending the protections of domestic law to the 'four corners of the earth,' but rather that it is legitimating a second-tier legal structure that can extend the government's penal regime, all the while keeping itself immune from accountability and keeping prisoners from the safeguards of any of these systems. This penal regime cuts a wide swathe across national borders, from Guantanamo to detention centers in Iraq and Afghanistan, to undisclosed military prisons around the world, and to immigrant detention centers and prisons within the United States.<sup>35</sup>

In *Rasul*, the Court never specified any procedures or venues for addressing the petitioners' claims, whereas in *Hamdi*, it designated only “an unspecified military tribunal,” and in *Padilla*, the district court implied that detainees “have no constitutional rights to counsel unmonitored by military security.”<sup>36</sup> This ambiguity in the Court's decisions has only aided the Justice Department's consistent argument that the detainees in Guantanamo should have no constitutional rights.<sup>37</sup> Moreover, Kaplan emphasizes the evolving legal figure of the “enemy combatant”—a category of persons, explicitly legitimated in the *Hamdi* case, “who are not defined primarily by citizenship or their relation to national or international law but by their designation by the executive” and “are not entitled to the protections either of the Geneva Conventions on prisoners of war or to full due process rights accorded to criminal defendants in the U.S. courts.”<sup>38</sup>

Indeed, these important points as outlined by Kaplan ring eerily relevant to the ongoing debates about JLA redress informed by questions of the (il)legality of the

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<sup>34</sup> Kaplan 2005, 846.

<sup>35</sup> Kaplan 2005, 851.

<sup>36</sup> Kaplan 2005, 852.

<sup>37</sup> Kaplan 2005, 852.

<sup>38</sup> Kaplan 2005, 851-852.

deportations and detentions of JLAs as well as Japanese resident aliens, the codification of detainees as “enemy aliens” under the guise of “military necessity,” and U.S. (non)compliance with international law—all of which also point to U.S. imperial globalized militarism. Such has not been lost on the JLA internees and activists in their strategies, tactics and formulations of governmental redress—not only on the legislative front as well as in the courts and international judicial realm, but also in the area of ‘culture.’

### **A Note on “Cultural Politics”**

As mentioned in the previous chapter, the community-based organization *Japanese Peruvian Oral History Project* (JPHOP) was founded in 1991 by former Japanese Peruvian internees and their families “to preserve the remembrances of those who were forcibly taken from Peru and interned in concentration camps in Panama and the United States during World War II.” In a handout, they stated, “By documenting these family oral histories, we strive to deepen our understanding of the rich texture of our past—with the hope that such violations of civil and human rights are not repeated by any government during times of peace or war.”<sup>39</sup> In 1996, *Campaign For Justice: Redress Now for Japanese Latin Americans!* (CFJ) was founded with the two-pronged mission to 1) help former Japanese Latin American internees ‘secure proper redress’ and 2) educate the public about the experiences of the JLAs. It was at this point that it was decided by activists that CFJ would be more “politically” focused on governmental redress efforts while JPHOP would be more “history” and “education” focused. While

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<sup>39</sup> Handout entitled, “Japanese Peruvian Oral History Project,” undated, Grace Shimizu Archive.



the two organizations have been remained officially divided along these lines, their divisions remain blurred throughout their innumerable collaborations over the past nearly twenty years. I contend that it should not be surprising the fundamental, unavoidable overlap of culture and politics. As Lisa Lowe has taught us:

The state governs through the political terrain, dictating in that process the forms and sites of contestation. Where the political terrain can neither resolve nor suppress inequality, it erupts in culture. Because culture is the contemporary repository of memory, of history, it is through culture, rather than government, that alternative forms of subjectivity, collectivity, and public life are imagined. This is not to argue that cultural struggle can ever be the exclusive site for practice; it is rather to argue that if the state suppresses dissent by governing subjects through rights, citizenship, and political representation, it is only through culture that we conceive and enact new subjects and practices in antagonism to the regulatory *locus* of the citizen-subject, by way of culture that we can question those modes of government.<sup>40</sup>

Indeed, it is no coincidence that we see that when legislative and litigation routes stalemate, as seemed to have occurred around 2003-2006 for JLA governmental redress, efforts by activists turned more toward the ‘cultural’ realm of ‘community’ and ‘education’ in their pursuit of ‘justice.’ Of course, such strategies, while perhaps calculated, were not so clear cut. Rather, I observe a dynamic, multipronged approach in the efforts toward JLA redress: legislation, litigation *and* ‘community education’ – which I conceptualize in the realm of ‘culture.’ Here, I concur with Lowe that it is only in the terrain of culture that new political imaginings are possible—imaginings that go beyond the trope of the citizen subject as well as the object of human rights and instead hold ever-pregnant possibilities of radical critique that question the very modes and foundations of government and late modern law. However, I add to this consider more

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<sup>40</sup> Lowe 1996, 22.

explicitly the dynamic, back and forth relationship *between* culture and politics and how one continuously influences the other, infusing it with meaning and perhaps pointing to a new ethicality of justice located not in law nor in culture but in the cracks and ruptures and in between spaces where the two meet.

In the sections that follow, I examine the efforts by JLA redress activists to go to the realm of culture via an educational exhibit and a public testimonial event sponsored and organized by over twenty-four community-based organizations. It is here in the contemporary global historical moment of the post-9/11 “war on terror,” that memories of the JLA WWII rendition program take on new meaning, a political urgency that cannot help but spill over into this sphere of ‘cultural politics’ as JLA redress activists fight to make their cause relevant to critiques of ongoing U.S. militarized violence as well as capitalize on those very same critiques to re-invigorate and politicize their own struggles for redress.

### **Post-9/11 and the Figure of the “Enemy”**

As Fujitani *et al* remind us in their introduction to the groundbreaking collection of essays, *Perilous Memories*, experience and memory are “always already mediated” and shaped by relations of power, and specifically “memory work” continually (re)figures the past for present purposes, particularly in the context of contemporary social and cultural struggles. They write, “The possibility of critical re-membling is intimately related to changes in the global and national conditions within which knowledge about the past is currently being reconstituted...” Here, ‘critical re-membling’ is less about the recovery of memories seen as occupying a separate,

alternative space but rather more about capturing “the dialectics between dominant historical knowledge and the subjugated and marginalized”—precisely how the marginality and silence of certain memories are “linked necessarily to the centrality, volume, visibility, and audibility of more dominant stories.”<sup>41</sup>

Certainly, the complex, dynamic politics of history and memory of the ‘internment’ in the U.S. national imaginary as well as the Japanese American community has not been lost on JLA redress activists and supporters. In early 2000, while also pushing forth the JLA redress legislation (outlined above), activist Grace Shimizu, daughter of the oldest surviving Japanese Peruvian former internee at the time and founding coordinator of JPOHP and CFJ, approached the heads of the organizations, the *American Italian Historical Association – Western Regional Chapter* (AIHS/WRC) and the *German American Education Fund* (GAEF), to consider allying themselves based on their shared histories of deportations and internments in the U.S. and from Latin America as “enemy aliens” during WWII. What emerged was a twenty four panel touring exhibit funded by grants from the California Arts Council, the California Council for the Humanities, the California Civil Liberties Public Education Fund and individual donations and entitled, *The Enemy Alien Files: Hidden Stories of World War II* (EAF). The EAF exhibit, thus a collaboration among the National Japanese American Historical Society (NJAHS), JPOHP, AIHA/WRC, and GAEF, marked a clear and conscience departure from dominant narratives of “the internment” predominantly focused on the *civil* rights violations of Japanese American citizens via their incarceration in WRA camps. The EAF exhibit, rather, painted a different picture, focusing on the U.S.

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<sup>41</sup> Fujitani *et al* 2001, 4.

government-operated WWII “enemy alien” program affecting “nearly one million immigrants from the Italian, German and Japanese communities in the U.S. and from Latin America.”<sup>42</sup> The exhibit details how as early as the late 1930s, the U.S. government began a surveillance program of Japanese, German and Italian resident aliens, compiling lists of ‘potentially dangerous persons’ and making plans for their internment and deportation. The exhibit reads, “This was a massive racial and ethnic profiling, not based on action and evidence but rather on who could potentially be dangerous.” It describes how following the Japanese military attack on Pearl Harbor on December 7, 1941, nearly one million persons throughout the U.S. and Latin America were labeled by the U.S. as “enemy aliens.” A total of over 31,000 enemy aliens of German, Italian and Japanese ancestry in the U.S. and from Latin America (over 6,000) were apprehended and thousands were interned for reasons of “national security.” Detainees received a brief hearing during which they were not allowed counsel, were not told of charges against them, and could not confront witnesses. Moreover, over 4,800 persons, including those kidnapped from Latin America as well as the U.S. citizens who were minor children of permanent resident aliens, were forcibly deported to war zones in Japan and well as parts of Europe.<sup>43</sup>

Indeed, the EAF exhibit, by pivoting on the figure of the ‘enemy alien’ and its associated U.S. government operation spanning multiple nations, continents and decades, revealed a much more global and extensive picture of the ‘internment’ than what had come to be delimited by mainstream historical discourses of the time. Importantly, it

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<sup>42</sup> EAF Brochure, Grace Shimizu Archive.

<sup>43</sup> EAF brochure, Grace Shimizu Archive.

offered a critique of what Japanese/American studies historian Eichiro Azuma has called the domestication and reduction of the global aspects of “the internment” to “a single issue of civil liberties,” “locked on to constitutional rights of the America-born Japanese.”<sup>44</sup> Such a move marked a crucial paradigm shift for the evolving analyses and efforts among JLA redress activists, supporters and allies. It not only opened up alliances with constituencies beyond the “Japanese American community” but it helped pave the way for possible analyses of the JLA WWII rendition program beyond conceptualizations positing it as merely a vague supplement or “side note” to the ‘main’ Japanese American internment program.<sup>45</sup>

To say the least, the events of 9/11 and the post-9/11 contemporary moment that began in September 2001—coincidentally the same month the EAF exhibit was set to open—further infused the production and its content with new and urgent meaning. At a press conference, held on September 21, 2001 (ten days after 9/11), critical analyses of this new political moment had already begun among contributors to the exhibit. Grace Shimizu, for example, stated, “People don’t realize how timely [the exhibit] is—how necessary it is that we understand our history, so that hopefully the negative things, such as human rights violations during wartime do not resurface. What happened to [Nikkei] families could happen to other communities today. The arrests and relocation, the internment, the hostage exchange, the stripping away of human rights, they could happen to anyone in this room, in this country, and other part of the world as well.”<sup>46</sup> Rosalyn Toni, Executive Director of NJAHS, also expressed, “Not to equate what happened in

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<sup>44</sup> Azuma 2005, 109.

<sup>45</sup> Conversation with Grace Shimizu on January 25, 2015.

<sup>46</sup> Mark Nishimura, “‘Enemy Alien Files’ Parallels Today’s Anti-Immigrant Backlash,” *Hokubei Mainichi*, Oct. 27, 2001.

World War II to what's happening now, but there are some similarities when it comes to the backlashes. When you take a look at this exhibit, you will see how haunting it is...Some of the terms that were used and the fear that was occurring back then are relevant today.”<sup>47</sup> Indeed, the new political landscape would have a deep and lasting impact on the analysis and positioning of the exhibit. This was evident in its brochure and guide, which read:

While the focus is on the experiences of particular communities during WWII, the exhibit's related programming provides opportunities for public dialogue about parallels to current national and world events in the aftermath of the September 11<sup>th</sup> tragedies and the U.S. “war on terrorism.” The US government's responses to the Pearl Harbor and September 11<sup>th</sup> attacks provide important points for comparison and contrast and bring the lessons of history into the public's immediate consciousness. / This exhibit offers audiences the opportunity to explore how our nation, now and during WWII, reconciles potentially competing national ideals—the promotion of reliance on ethnic diversity, the sanctity of the Bill of Rights and the necessity of national security. / A unique comparative and multicultural presentation, THE ENEMY ALIEN FILES makes accessible to the public an important aspect of World War II that has direct relevance to today's domestic and world events.

The exhibit thus strategically presented itself as somewhat of a conduit into a critical understanding of not only the past but the present. I contend, precisely as Fujitani et al theorize, that organizers and contributors were participating in a “critical re-membling” of the “hidden” WWII operation *not* coincidentally at a crucial global historical moment—capturing both the “dialectics between dominant historical knowledge and the subjugated and marginalized”<sup>48</sup> as well as a “Benjaminian dialectics of memory” in which knowledge about the past remains crucially relevant to present struggles for social

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<sup>47</sup> Nishimura, “‘Enemy Alien Files’ Parallels Today's Anti-Immigrant Backlash.”

<sup>48</sup> Fujitani *et al* 2001, 4.

and cultural transformation.<sup>49</sup> As will be explored further in the next section, over the subsequent years, the EAF exhibit continued to evolve, strengthening these dynamic connections across space and time between the Enemy Alien Control Program of WWII and ongoing violations by the U.S. government in the U.S. and around the globe in the name of the “War on Terrorism.”

Now, certainly (it should be noted), the events of September 11<sup>th</sup> and its aftermath also had a significant impact on the politics of remembering Japanese American internment and its redress more broadly—within the “Japanese American community” as well as in mainstream media outlets, among politicians and within legal circles. A range of responses ensued in the months following the 9/11 attacks as, on the one hand, Japanese American activists and supporters struggled to come to terms with the legacy of the “internment” and its so-called restitution via redress<sup>50</sup> while, on the other, many U.S. politicians, including President George W. Bush himself, took to the podium proclaiming “never again” to the mass detention of Japanese Americans and issuing calls for “tolerance” of Muslim, Arab and South Asian Americans. Among lawyers and legal scholars, the question of the legality of ‘racial profiling’ and ‘mass internment’ during times of ‘war’ that remained intact by the Supreme Court post-legislative redress and

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<sup>49</sup> Yoneyama 1999, 213.

<sup>50</sup> For example, in the months following 9/11, Los Angeles-based, Nikkei for Civil Rights and Redress (NCR) – the grassroots community group (formerly known as National Coalition for Redress and Reparations) that actively lobbied for the CLA throughout the 1980s – organized several such events in the forms of rallies, “peace gatherings,” “candlelight vigils,” and “days of solidarity.” In fact, NCR formed a special “9/11” committee specifically dedicated to building long-term relationships with Arab, Muslim and South Asian communities. Nikkei for Civil Rights and Redress, “NCR – Nikkei for Civil Rights and Redress: Past News and Events,” online at <http://www.ncrr-la.org/news.html> (accessed February 2, 2005).

post-litigative so-called ‘victories’ (as in the *Korematsu*, *Yasui* and *Hirabayashi* cases) became the focus of renewed scrutiny.<sup>51</sup>

Still, as CFJ Coordinator Grace Shimizu among others have pointed out, the overall consensual message among these constituencies was clear: “Never again” to a “repeat” of the mass internment of and intolerance faced by Japanese Americans.<sup>52</sup> That is, while it is to their credit that certain organizations and individuals rallied so quickly to show their support of those targeted in the emerging “war on terror,” the analysis espoused again tended to be exclusively focused on the mass incarceration of Japanese American citizens as the legal limit case to the absence of any mention of the enemy alien program in the U.S. or abroad.<sup>53</sup> This “blindspot” in mainstream narratives and re-memberings of the internment, which re-emerged all the clearer post-9/11, became a catalyst for further action among JLA redress activists and supporters.<sup>54</sup> In early 2004, plans got underway for yet another major education-based event: a public hearing entitled, “Here in America? The Assembly on Wartime Relocation & Internment of Civilians.” The stated purpose of the forum was to add to the “official historical record,” “the little known stories” of Japanese Latin American, German American, and Italian American former internees who were incarcerated during WWII as part of the Enemy Alien Program as well as of certain other groups of Japanese and Japanese Americans –

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<sup>51</sup> See, e.g., Chon and Arzt 2005.

<sup>52</sup> CFJ meeting notes dated March 14, 2004, Grace Shimizu Archive.

<sup>53</sup> To be sure, certain Japanese/American organizations (particularly, Nosei Network and the transnational US-Japan NoWar Network) did offer a more global analysis of the situation protesting what they described as the complicity between the U.S. and Japan to engage in “imperialist globalization and fascist repression at home and abroad” (NOSEI Network and US-Japan NoWar Network, “Japanese & Japanese Americans Say ‘Never Again!’: NOSEI Network and US-Japan NoWar Network Unite Against War,” April 20, 2002.) See also: NOSEI Network, “Remembering Internment, Calling for Peace,” September 20, 2001. Flyer distributed at Japantown Peace Vigil, San Francisco, courtesy of the author.

<sup>54</sup> CFJ meeting notes dated March 14, 2004, Grace Shimizu Archive.



all of whom did not receive an apology nor reparations from the U.S. government under the Civil Liberties Act of 1988. Presented as a grass-roots public education forum aimed to teach about lessons from the past that remain relevant to present day concerns, the Assembly sought to make an explicit connection between the wartime experiences of these groups and the contemporary civil and human rights violations of Arab, Muslim and South Asian American communities as part of America's post-9/11 "war on terror."

This testimonial event, which will be the focus of my next section, marked another turning point in the evolving strategies for redress among JLA activists and supporters. The public forum, while "educational," also had an explicit political agenda; in a press release dated March 14, 2004 announcing the upcoming "landmark" event and soliciting public participation, CFJ also made note that all testimonies taken would "be documented and submitted to legislators to inform them about this little known history as they consider a possible Congressional hearing in 2005 and resolution of the unfinished redress issues."<sup>55</sup> In this next section, I trace the political possibilities that emerge from this event—not just as pragmatic vehicles toward governmental redress and inclusion in state-sanctioned historical narratives of the nation's past per se but as perhaps pathways toward new imaginings of justice—new alliances, new critiques, new connections that cut across national space and linear time, thereby revealing not only a new global network of empire and governmentality but also the gaps, ruptures and in between spaces within it—precisely where new thinking and ways of being are possible.

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<sup>55</sup> CFJ press release entitled, "Organizing Begins for Landmark Event: Public Testimonials on Internment & Hostage Exchange for Japanese Americans & Japanese Latin Americans During WWII" dated March 8, 2004, Grace Shimizu Archive.

### **Politicizing Justice: The Assembly on Wartime Relocation & Internment of Civilians**

On April 8 and 9, 2005, The Assembly on Wartime Relocation & Internment of Civilians (AWRIC) was held at Hastings College of the Law in San Francisco, California. Over these two days, personal testimonies and written statements were presented to “review panels consisting of educators, elected officials, community leaders and representatives of the judiciary and legal profession with expertise in constitutional and human rights law.” As a “grassroots initiative,” the event involved over 24 community-based organizations, more than 64 participants and numerous staff and volunteers. Though officially organized by a “coordinating committee” comprised of various individuals (as opposed to any specific organization), the report (a full-length 80 page booklet) on the assembly produced the following year would be copyrighted by “The Enemy Alien Files” Exhibit Consortium and published by the National Japanese American Historical Society (NJAHS). While organizers asserted that the AWRIC was “inspired” by the Commission on Wartime Relocation and Internment of Civilians (CWRIC) hearings held in 1981 and even had government officials Representatives Xavier Becerra (D-CA-31), Mike Honda (D-CA-15) and Nancy Pelosi (D-CA-8) as “Honorary Co-Chairs,” they also used their recollection of the government-sponsored “landmark” event as an opportunity for critique—again pointing to the 1,200 Japanese Americans and Japanese Latin Americans who had not received “equitable redress” and the thousands of German and Italian Americans and Latin Americans who “were affected by the wartime trauma” but had “not been properly acknowledged nor received formal

redress apology for their treatment.” In the preface of their report documenting the event (which would be presented to U.S. Congress in 2006), they wrote:

On the 25<sup>th</sup> anniversary of the CWRIC hearings, the report of the Assembly on Wartime Relocation and Internment of Civilians builds upon that legacy and addresses these *unresolved issues* of the World War II period. The forum provided an opportunity for the public to bear witness to the testimonies of former World War II internees, evacuees, and excludees whose wartime experiences are *not widely known*... / As national dialogue continues over the balance between national security and civil liberties, the experiences of the past, here in America, can offer important and powerful *lessons for present and future* policies.<sup>56</sup>

With a clear focus on the disenfranchised (particularly those who again were affected by the Enemy Alien Program as well as Japanese and Japanese American “excludees”—all of whom, for various reasons, were deemed ineligible for redress under the CLA), the program leveraged the “legacy” of the CWRIC hearings while at the same time offering an overt critical assessment of that same forum and the “redress” which followed it. Moreover, not only were explicit and specific connections made to ongoing U.S. militarized violence in the U.S. and around the globe, but certain witnesses themselves testified about recent incidences and contemporary conditions in the new post-9/11 context and the “war on terrorism.”

The event, thus, though framed as a sort of extension of the CWRIC hearings of 1981, was actually quite different in its structure, premise, and purpose. For one, as a critique of the CWRIC hearings as well as the CLA, the AWRIC at its premise was at once already unapologetically ‘political’; that is, while the CWRIC, in the spirit of the so-called ‘truth commission,’ portrayed itself as an objective entity, seeking ‘truth’ and an uncovering of the ‘facts’ through research and study, the AWRIC was already a

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<sup>56</sup> “The Enemy Alien Files” Exhibit Consortium 2006, 1, emphasis added.

subjective critique of that very institution, creating a critical opening to reveal the very violence that *it* engendered by calling out the commission's purported objectivity and universal truth. For example, in the introduction to the AWRIC report, the Consortium wrote:

The CWRIC produced a lengthy report highlighting the treatment of persons of Japanese ancestry in the USA and Hawai'i, focusing almost entirely on their mass exclusion and incarceration under Executive Order 9066... / The CWRIC gave little attention, however, to the U.S. government's Enemy Alien Program, particularly as it affected those of German and Italian ancestry taken from Latin America. This limitation in the scope of inquiry and recommendations contributed to the continuing lack of public knowledge about the wartime experiences of these groups. Those denied the right to participate in the CWRIC process continue to suffer unacknowledged trauma from their experiences, as well as bitterness that their suffering has been minimized and ignored.<sup>57</sup>

As Allen Feldman has pointed out through his work on the South African TRC (and as I also discuss in Chapter 2), such narratives produced within the institution of the truth commission “bea[r] traces of the relationality of violence...the traces of the absent, the disappeared, and the dead.”<sup>58</sup> He articulates: “The authoritative and monophonic application of a narrative closure can only instigate further asymmetric subject positions, further tales left untold, further forms of cultural violence, and further inequitable regimes of truth obtained from the condition of those who have been othered by violence.”<sup>59</sup> Indeed, I argue that organizers, in their questioning of the narratives produced by the CWRIC study and report as complete and closed, were also pointing to this very violence that the process of “historical justice” itself produces. That is, they pointed to a different ethicality of truth and justice—one premised not on narrative

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<sup>57</sup> “The Enemy Alien Files” Exhibit Consortium 2006, 3.

<sup>58</sup> Feldman 2004, 195.

<sup>59</sup> Feldman 2004, 194.

closure and historical overcoming but rather on the continual questioning of those narratives and historical truths, the relationality of violence and the violent distributions of ‘justice.’ Moreover, as an “assembly” versus a “commission” mandated by the U.S. government, the AWRIC event took on a different feeling and structure. That is, as an “assembly” (“the action of gathering together as a group for a common purpose”) versus hearings *before* a “commission” (“a group of people officially charged with a particular function”), the event occupied a space which I posit to be in the “*cracks*” of the law, not quite outside and not quite inside but nevertheless crucial to both critical legal theory and more radical thought, *thought* to be found outside the law. In the event program, organizers wrote, “‘Here, In America?—The Assembly on Wartime Relocation and Internment’ is not mandated by the government, as the CWRIC was, but promises to be just as vital for our times, and critical for those surviving internees who never received proper acknowledgement of their stories and may not be with us much longer.”<sup>60</sup> In the sections that follow, I trace the political possibilities that emerge from the AWRIC event, paying close attention to organizers’ conceptualizations, strategies and *practices* of ‘justice’ as they maneuver in this in between space both inside and outside the law.

### ***“Reconsidering Our History”***

The two-day program was organized into eight panels of six to eight speakers according to specific themes. The event opened on Day One with Panel I: “Reconsidering Our History: The WWII Enemy Alien Program, the *Coram Nobis Cases* and the Civil

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<sup>60</sup> “Here, In America?: The Assembly on Wartime Relocation and Internment” Program, page entitled “Why the Assembly on Wartime Relocation & Internment of Civilians?,” courtesy of the author.

Liberties Act of 1988” and closed on Day Two with Panels VII and VIII, respectively entitled, “Civil Liberties & Human Rights, Government Accountability and Redress” and “Legacy of the World War II Experience and the Aftermath of 9/11.” These framing panels, I contend, bookending the event worked to strategically produce it, not just as a stepping stone toward governmental redress per se, but as a critical re-thinking of the CLA *as justice done* and a re-imagining of such a legacy in the present day. The other panels (Panel II: “Restrictions, Evacuation, Individual Exclusion,” Panel III: “Arrest, Detention and Forced Deportation; Panel IV: Detention and Internment,” Panel V: “Release from Camp: Prisoner Exchange and Postwar Deportation,” and Panel VI: “Impact on Individuals, Families and Communities”) were also vital, particularly in their juxtaposition of testifiers speaking to the events of both WWII and the contemporary moment—which I will discuss later.

This idea of “reconsidering our history” thus played an important role in setting the stage for the rest of the forum. To be sure, as mentioned, the event was chaired by three congressional representatives including Representative Xavier Becerra (D-CA-31 and House sponsor of the JLA redress legislation bill) who in fact made opening remarks the first morning of the program. Not surprisingly, in his remarks, Representative Becerra, was focused on the legislation and proffered a more inclusive framework without much critique of the CLA, CWRIC or Japanese American history—except that the JLA internees were left out. He variously stated: “This assembly is a cornerstone where we can close a chapter in our history. Let the sun rise on the facts as we get the truth out. This country does have a way of righting its wrongs. We take awhile, but we do it eventually. When we leave this assembly, we need to be ready to move forward. My

legislation needs you to convince the President of the U.S. and the American people. We will win this. Justice and liberty can be achieved.”<sup>61</sup> For Becerra, it was about completing the redress chapter, uncovering the buried truth and achieving justice through his legislation. For the organizers, however, while they also posited the forum as a significant move toward securing governmental redress, it was also an opportunity to critique dominant narratives of the “internment” and its “redress”—particularly their focus on the WRA internment program to the exclusion of the Enemy Alien Program and the idea of the renowned *coram nobis* cases as well as the CLA as successful models of justice achieved. Three speakers testified in the first panel—each offering their expertise in one of these three areas. Scholar and author of *Enemies: World War II Alien Internment on the Alien Enemies Act* John Chistgau, for instance, described the Enemy Alien Program of WWII and stated:

The shameful relocation and internment of the entire West Coast Japanese community during World War II is relatively well documented. It is one of the most disgraceful episodes of injustice in American history. But in my judgment that sad chapter of American history is not the full story. The full story begins with the registration, removal, relocation, detention, and internment of enemy aliens authorized by provisions of the Alien Enemies Act.... The events in this country since 9/11 have resurrected the nightmares of the Alien Enemies Act. And we are repeating the mistakes of World War II.

Don Tamaki, Esq., one of the attorneys on the *coram nobis* cases, spoke on the Fred Korematsu case and remarked how although Judge Marilyn Holt Patel ruled in Fred’s favor in 1983 overturning his original WWII conviction, she never reversed *Korematsu vs. USA*. As also stated in the report’s introduction to the panel, “Decades later, the original convictions of these three Japanese Americans [the *Korematsu*, *Yasui*, and

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<sup>61</sup> Representative Xavier Becerra (D-CA-31) opening remarks, AWRIC, San Francisco, CA, April 8, 2005.

*Hirabayashi* cases] were vacated or overturned, but the legality of the incarceration itself has not been overturned.” Finally, Julie Harumi Mass, Esq., attorney at the American Civil Liberties Union of Northern California, spoke of the “limitations of the Civil Liberties Act”—both in its “language” and its “implementation.” She detailed how the language of the act defined an eligible individual as “a United States citizen or permanent resident alien [at the time of internment].” She discussed the exclusion of JLAs under the act due to their status as “illegal aliens” as well as those Japanese “immigrants” who were interned but for various reasons (e.g., some had temporary visas) did not have permanent resident status and thus did not qualify for redress. Mass also went on to discuss the “narrow” implementation and application of the CLA by the Office of Redress Administration (ORA), to the exclusion of such individuals as those born after the January 20, 1945 cut-off date or those Japanese railroad and mine workers who were fired from their jobs after Pearl Harbor upon order of the U.S. government. The text of the report also calls out the contradiction that while “Congress’s [stated] intent [in the bill] was to ‘make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations,’” all these aforementioned groups of people of whom “experienced similar violations of their civil and human rights” were “excluded.”

Taken together, I contend, these testimonies comprising the opening panel set the tone for the rest of the forum to be, not about completing the official historical record (a universalist approach to an additive history) per se, but rather on *re-making* history—that is (to recall Fujitani et al), to take part in ‘critical re-membering’ as a *process* which understands that the marginality and silence of certain memories are “linked necessarily



to the centrality, volume, visibility, and audibility of more dominant stories.”<sup>62</sup> By beginning with a critique of what we think we know about the “internment” story, the forum was open to possibilities for more radical thinking beyond linear nationalist histories—for what Diana Taylor describes as the “*ongoingness* and *continual* juxtaposition of elements” in order “to keep the framework open and flexible.”<sup>63</sup> It is here, out of the excesses of figuration, in the cracks of the state-sanctioned history and apology, that activists and community members made clear and explicit connections between memories of the Enemy Alien Program of WWII and current, ongoing violations and disenfranchisement in the U.S.-led “war on terror.” Cutting across space and time, such linkages, I contend, point to an alternative modality—one which stands to radicalize not only Japanese American History per se but late modern liberal humanist paradigms of historical justice, which is where I now turn.

### ***“Then and Now”***

As mentioned, the events of 9/11 and its aftermath worked as a catalyst to infuse memories of Japanese American internment and its redress with new and urgent meaning relevant to present day concerns for justice. For JLA activists and supporters, while the new global historical context also worked to politically re-charge memories of JLA WWII rendition and the Enemy Alien Program of which it was a part, at the same time it brought to the fore the very limitations of the “internment” narrative itself. The AWRIC event was thus conceptualized to address these limitations precisely by wresting

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<sup>62</sup> Fujitani *et al* 2001, 4.

<sup>63</sup> Taylor 2003, 276.

*marginalized* memories out of the homogenizing History of the “mass incarceration of Japanese Americans” and critically juxtaposing them to specific present day episodes of globalized military violence. As mentioned, the forum’s testimonials were organized according to different panel themes from “restrictions” and “evacuation” to “arrest, detention and forced deportation” to “postwar deportation” to “impact on individuals, families and communities.” Within each panel, various speakers (including scholars, former internees/deportees, and lawyers) testified to a cross section of experiences from WWII and the present day. For example, Panel III: Arrest, Detention and Forced Deportation featured eight speakers: Angelica Higashide (Japanese Peruvian interned in a DOJ camp), Doris Berg Nye (daughter of German American citizen interned in Hawai’i), Anita Perata (spouse of Italian John Perata detained in California), Max Paul Friedman (Historian, Florida State University, author of *Nazis and Good Neighbors: The United States Campaign against the Germans of Latin America in World War II*), Randall Sumimoto (U.S.-born son of Japanese Peruvian interned in a DOJ camp), Ted Eckardt (son of German Panamanian interned in DOJ camp), Yaman Hamdan (U.S.-born daughter of permanent resident of Arab ancestry currently detained in San Pedro, CA), and Lawrence DeStasi (past president of American Italian Historical Association (Western Regional Chapter) and author of *Una Storia Segreta: The Secret History of Italian American Evacuation and Internment During World War II*). While only one testifier (Friedman) made explicit links between these present and past episodes of U.S. militarized state violence via his discussion connecting the Enemy Alien Program of WWII in Latin America to the detention of “unlawful combatants” in Guantanamo, I

contend that the connections were there throughout the panel by the very format of the forum grouping these different speakers next to each other.

In a press release issued by NJAHS in 2006 regarding the delivery of the AWRIC report to Congress, the organization stated, “Though separated by sixty years, the stories shared many similar elements: immigrants arrested and detained without charges, trials, or access to attorneys, interned for years or deported into war zones.”<sup>64</sup> Indeed, this critical juxtaposition of elements across time and space within the forum was not coincidental but rather highly organized and strategic on the part of organizers. In fact, we might read such a set-up in relation to Walter Benjamin’s materialist historiography and “montage-based constructivism,” which Avery Gordon describes “an associative path of correspondences” – one that connects things, not in a neat, linear narrative based on conventional notions of cause and effect, but rather in such a way that retains the complexities of histories, the messiness of events and categories, and the contingencies of pasts, presents and futures.<sup>65</sup> For, here, I believe, activists were seeking not to merely draw a direct and literal line of sameness, of identical cause and effect between the experiences of Arabs and Muslims in the post-9/11 context and those affected by the Enemy Alien Program during WWII, but rather to connect such “episodes” within a much broader and looser framework of U.S. militarism, imperialism and racial logics. Diana Taylor’s conceptualization of “episodic modality” is also instructive in this case as a way of seeing and being that recognizes “the loose episodic relationships between events” situated “in a multilayered, concurrent loosely structured arrangement” –

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<sup>64</sup> National Japanese Historical Society, “Delegation to Deliver Report to U.S. Congress: Assembly on Wartime Relocation & Internment of Civilians,” online at [www.campaignforjusticejla.org](http://www.campaignforjusticejla.org) (accessed October 14, 2006).

<sup>65</sup> Gordon 1997, 66.

“extending and overlapping horizontally, in temporal circles that continue to ripple outward.”<sup>66</sup>

The other panels were similarly organized with groupings of diverse speakers along similar themes. The final panel entitled, “Legacy of the World War II Experience and the Aftermath of 9/11” made more explicit connections between the past and the present pointing to what Lisa Yoneyama terms “rememoration”: “a social practice that allows the past to be ‘recognized by the present as one of its own concerns’.”<sup>67</sup> In the report’s introduction to the panel, it reads:

The legality of the mass internment of U.S. citizens during WWII has not been overturned. The Alien Enemies Act of 1798, which authorized internment of ‘enemy aliens’ during WWII remains intact. It permits arrests, evacuation, internment and other actions against ‘enemy aliens’ if the United States becomes involved in a war, or a foreign country threatens invasion. Resident aliens who have not become naturalized citizens are still vulnerable any time their country of birth is perceived to be a threat to U.S. interests.... / ...Especially, after the 9/11 tragedies, Muslims and people of Middle Eastern and South Asian ancestry—both U.S. citizens and immigrants—have often been treated as ‘the enemy’ and subjected to harassment and physical violence. They have also endured government policies and actions which include arrest without charge, access to lawyers, or ability to confront witnesses; indefinite detention; secret deportation. / All the communities affected by the wartime treatment of ‘enemy aliens’ agree that public education about the past is vital to preventing future mistreatment of immigrants.

This passage, I contend, indeed captures what Yoneyama also characterizes as a “Benjaminian dialectics of memory” which allows knowledge about the past to remain crucially relevant to present struggles for social and cultural transformation and thus for a different future. As she explains:

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<sup>66</sup> Taylor 2003, 274-5.

<sup>67</sup> Yoneyama 1999, 30.

...the moment the storyteller desires his or her testimony to be heard as a prophecy, or as a possible future event, the past event is relentlessly made allegorical, undermining faithfulness to the original occasion and the impulse toward mimetic representation. The remembered event is dislodged from the past and transfigured into a future happening in a fictive timespace. Hence, the survivors' testimonial practices traverse and confound the conventional course of time in standard historiography, which extends linearly from the past into the present and future.<sup>68</sup>

Such a *temporal* intervention, I argue,—this connection between *then and now*—worked to transform and radicalize memories of JLA WWII rendition and the Enemy Alien Program as well as the more well-known WRA program. That is, by “encircling the trauma”<sup>69</sup> of marginalized memories of the past and bringing them into the present and future, organizers challenged the sure fire power of so-called historical truths by refusing to isolate, universalize and/or historicize the “internment” and its “redress” as something “done and finished.” Instead, they engaged in what Jenny Edkins has also coined “trauma time”—“the disruptive, back-to-front time that occurs when the smooth time of the imagined or symbolic story is interrupted by the real of ‘events’”; such an alternative temporality has the potential to be a form and mode of resistance, to destabilize the production of narrative linearity and to “haunt the structures of power that instigated the violence in the first place.”<sup>70</sup> She says, “Trauma time is exactly what survivors of trauma want to keep hold of, and to which it seems they want desperately to testify. Their testimony challenges sovereign power at its very roots.”<sup>71</sup> Indeed, this notion of ‘trauma time’ and the *then and now* would play a crucial role for JLA redress activists in their ongoing quest for not only governmental redress but a radical re-imagining of

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<sup>68</sup> Yoneyama 1999, 212-13.

<sup>69</sup> Edkins 2003.

<sup>70</sup> Edkins 2003, 59.

<sup>71</sup> Edkins 2003, 230.

“internment” history. Still, even more, such connections were not just about radicalizing our sense of time but also space—particularly in the context of U.S. nation and empire, which is where I turn next.

**“Here, In America?”**

As mentioned, “Here, in America?” was the official name of the forum from the beginning.<sup>72</sup> As a recurrent and fundamental theme, I contend, it proffered not only an effective critique of U.S. exceptionalism (as I will discuss later) but also of U.S. empire. To explain, the Consortium made clear the pointed argument that the violations of WWII associated with the Enemy Alien Program as well as the global war on terror occur[red] “right *here* in America.”<sup>73</sup> Such is a significant and crucial assertion considering the concerted efforts to paint the picture of the JLA rendition program as “internment *elsewhere*” (as both scholars and politicians alike have attempted to do as discussed in Chapter 2) or even the violations of so-called “enemy combatants” held at the U.S. naval station in Guantanamo as *outside* U.S. jurisdiction.<sup>74</sup> In the report’s introduction to the “Panel III: Arrest, Detention and Forced Deportation,” it reads:

Still hidden from public knowledge today is the fact that the United States went outside its own borders into friendly countries, seized civilians (both residents and citizens of those nations), and imprisoned them in internment camps in the U.S. Motives included economic gain and obtaining prisoners to trade for U.S. citizens stranded in war zones. Washington orchestrated the seizure and internment of 4,058 Germans, 2,264 Japanese (about one third of whom were of Okinawan ancestry) and 288 Italians from fifteen Latin American countries.<sup>75</sup>

<sup>72</sup> The “after colon” (“Immigrants as ‘The Enemy’ During WWII and Today”) was added when the report was published in 2005.

<sup>73</sup> “The Enemy Alien Files” Exhibit Consortium 2006, 3.

<sup>74</sup> Kaplan 2005.

<sup>75</sup> “The Enemy Alien Files” Exhibit Consortium 2006, 18.

Hence, the forum not only brought U.S. WWII military violence that occurred “outside its borders” within the purview of American History but, importantly, argued that it was under the authority of a global U.S. military operation spanning multiple continents. In chapter 2, I showed that, despite evidence pointing to the contrary, the CWRIC report, on the other hand, in its appendix on “Latin Americans,” alluded to the notion that the operation was driven by the “prejudice” of Peru and the other participating Latin American countries.

Even more, I contend, this spatial concept of “Here, in America?” worked to unsettle notions of U.S. exceptionalism, not only as a play on the assumption that the idea that such *human rights* violations could happen “here” in US-America (the exceptional nation thought to be above such atrocities) would be “shocking,” but specifically via an engagement with the politics of historical knowledge that has worked to produce the “internment” as the *limit case* of U.S. racial violence in the national imaginary. In the introduction to the report, it reads: “The testimony provided at the AWRIC hearings by those who have experienced violations *right here in America* is *new* and *unknown* to most Americans. To many, the events described may seem *shocking*, even *unbelievable*. But they happened, and they are presented here as lessons for lawmakers and everyone who cherishes democracy, particularly as issues of national security and civil liberties continue to be debated.”<sup>76</sup> Here, organizers, I contend, were again not only addressing deeply engrained world views of the U.S. as an exceptional nation but also alluding to a perspective of the well-known “internment” story now assimilated into official national

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<sup>76</sup> “The Enemy Alien Files” Exhibit Consortium 2006, 3.

narratives as, in reality, incomplete. Indeed, as I have been discussing, throughout the forum and report, organizers gave much attention to the politics of historical knowledge—particularly the idea that the “internment” *as we know it* does not comprise a complete constellation of critical knowledge. In the report’s introduction, it reads:

*It is not well known* that the ‘War Relocation’ of so-called ‘non-alien’ (euphemism for U.S. citizens) and ‘enemy aliens’ of Japanese ancestry *was part of a larger plan* related to how the U.S. government perceived and dealt with ‘the enemy’ during the war. *Little has been documented or exhibited* about the U.S. government’s Enemy Alien Program, which affected nearly one million non-citizen immigrants and their families from the Italian, German and Japanese communities in the U.S. and Latin America. These individuals were classified as ‘enemy aliens’ or ‘illegal aliens’ before, during and after the war.<sup>77</sup>

I argue that this *temporal* as well as *spatial* move—to issue connections between the Enemy Alien Program and the more well known WRA program as well as with ongoing U.S. militarized violence at home and abroad—worked to not only bring U.S. empire into the “U.S.” but also expand what had been predominantly a nation-based framing of the “internment” toward a more hemispheric and even global approach. As Diana Taylor explains: “A hemispheric perspective stretches the spatial and temporal framework to recognize the interconnectedness of seemingly separate geographical and political areas and the degree to which our past continues to haunt our present. The reassuring slash between past/present cannot, in fact, keep these distinct. Talk of *tragedy*, like references to *limit cases*, gives these events an aesthetic wholeness and a *political insularity* that obfuscates our understanding of them.”<sup>78</sup> As I will discuss in the final section, I argue that the forum at once, by issuing these connections across time and space, both proffered

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<sup>77</sup> “The Enemy Alien Files” Exhibit Consortium 2006, 2.

<sup>78</sup> Taylor 2003, 277, emphasis added.



an indictment on U.S. empire then and now as well as shattered the long-held historical truth in U.S. History of the “internment” as the limit case of U.S. racial violence—one which had been resolved with the act of redress.

***The End of Internment as the Limit Case***

As I argue in chapter three, “the internment” was produced in the redress discourse precisely as a redressable national tragedy—one that could be reconciled by the nation-state in the post-violent present with a token apology and reparations. Diana Taylor has observed that the aesthetic connotation of *tragedy* functions as a strategic, temporal structure of containment whereby the ‘massive potential for destruction’ is ‘contained by the form itself’—‘deliver[ing] the devastation in a miniaturized and ‘complete’ package, neatly organized with a beginning, middle, and end.’ Such an aesthetically whole, teleological construction assures its audience that ‘the crisis will be resolved and balance restored’ ultimately in the final act and the ‘fear and pity we, as spectators, feel will be purified by the action.’<sup>79</sup> Indeed, I understand the staging of ‘the internment’ as a haunting tragedy from the nation’s past to be part and parcel of the performance of its redress as a monumental, even heroic, act of the post-violent present—one to bring proper and final resolution to the national crisis and recuperate the ‘proud history’ of ‘a good nation.’<sup>80</sup> Even more, however, I argue that by narrowly framing ‘the internment’ as fundamentally a *civil* rights violation and, at that, ‘one of the most

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<sup>79</sup> Taylor, 2003, 261.

<sup>80</sup> Congressional Record, 100th Cong., 2nd sess., 1988, Vol. 134, no. 51, S 4325, Senator Pete Wilson (R-CA).

egregious violations of constitutional rights and safeguards’<sup>81</sup>—*the limit case*—congressional members could then call upon the myth of the ‘universalizing force of American norms and institutions’<sup>82</sup> to not only resolve the violation of the internment but, in turn, wipe the slate clean so-to-speak for the U.S.-nation to re-emerge as the world’s just and moral leader. Such would serve as an exemplar of ‘American-style’ justice—not just on the domestic stage, but globally, on the world stage, at the end of the cold war.

The events of September 11<sup>th</sup> and its aftermath, while they did work to re-politicize memories of “the internment” and its redress to a degree (via, e.g., community organized events marking solidarity between Japanese American and Arab and Muslim American communities in the face of ‘wartime hysteria and racism’), in many ways, they once again marked the limits of analysis which produces “the internment” as the limit case of U.S. racial violence. As discussed, post-9/11, much of the focus on the part of Japanese American community activists as well as liberal mainstream media and even politicians was on the mass incarceration of Japanese American citizens in the WRA camps. Such views, not coincidentally echoing the official state-sanctioned narrative of “the internment” as a *civil rights* violation, deployed a primarily domestic framework, covering over U.S. globalized military racial violence *then and now*. At a time when scholars as well were beginning to grapple with the legal legacies of “the internment” and its redress (both legislative and litigation-wise)<sup>83</sup> and the U.S. Supreme Court “enemy combatant” cases had just been ruled upon, the AWRIC event, I contend, offered a critical opening toward imagining otherwise the radical political possibilities of

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<sup>81</sup> Congressional Record, 100th Cong., 1st sess., 1987, Vol. 133, no. 141, 24300, Representative Steny H. Hoyer (D-MD).

<sup>82</sup> Singh, 2004, 4

<sup>83</sup> See, e.g., Chon and Artz 2005.

remembrances of WWII in the present moment. Specifically, by conjuring up memories and histories that did *not* fit into the neatly packaged framing of this hypervisible, made-exceptional moment of U.S. racial violence (“the internment”) during the “good war” and routing them through ongoing struggles against U.S. military violence along the lines of specific elements and themes, the Assembly charted, not only a different internment history per se, but, I argue, a different version of U.S. military history—one which stands crucially relevant to the present.

***“The ‘Enemy’ During WWII and Today”***

In the report’s introduction to “Panel VII: Civil Liberties & Human Rights, Government Accountability and Redress,” the Consortium put forth the following:

The treatment of resident aliens in the United States and those brought from Latin America during World War II remains little known. It is a story that demonstrates flagrant violations of human rights and *international law*. Our own constitutional guarantees against unreasonable search and seizure were ignored. The aliens were denied the right to due process and equal protection under the law. They had no right to trial by jury, including the right to confront witnesses and to be informed of the charges against them. They had no protection against cruel and unusual punishment. The act of using citizens and resident Latin American countries as exchange prisoners for U.S. citizens was such a serious violation of *international law* that Attorney General Francis Biddle urged that the entire program be kept secret.../... The abduction and internment of citizens and residents of Latin American countries by the U.S. in the name of its own security violated existing *international laws* prohibiting forced deportation, forced labor, indefinite detention, hostage-taking, and placement of civilians in war zones.<sup>84</sup>

Of course, such a recounting of the WWII Enemy Alien Program as “flagrant violations of *human rights* and *international law*” on the part of the U.S. should be read as

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<sup>84</sup> “The Enemy Alien Files” Exhibit Consortium 2006, 50, emphasis added.

significant and crucial given that “the internment,” produced as a *civil rights* violation, was thought to have been remedied by U.S. institutions, produced as the universal exemplar of justice on the world stage.

However, even more, I contend, such a move is also critical given, on the one hand, the history of U.S. *unaccountability* under international law and the indefinitely pending *Shibayama* petition with the OAS (as already discussed above) and, on the other, the very currently active “global penal archipelago, where the United States indefinitely detains, secretly transports, and tortures uncounted prisoners from all over the world”<sup>85</sup> (as Amy Kaplan describes it) which has become all the more (in)visible and expansive in the U.S. war on terror. That is, I argue, by at once calling attention to and refusing the ambiguous space to which they had been relegated, both legally and in the national imaginary, JLA and other WWII former internees / deportees were also offering an important and relevant critique to how empire works then and now. As Kaplan among others have pointed out, it is precisely via this designation of ambiguity, to this space outside the rule of law—neither foreign nor domestic, neither under international law nor constitutional authority—that the figure of the “(unlawful) enemy combatant” has evolved and thrived as a crucial cog in the machine that is the global ‘war on terror.’ Defined not “primarily by citizenship or their relation to national or international law but by their designation by the executive,” such ‘enemy combatants’ are not entitled to “the protections either of the Geneva Conventions on prisoners of war or to full due process rights accorded to criminals defendants in the U.S. courts.”<sup>86</sup> The Supreme Court, as

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<sup>85</sup> Kaplan 2005, 831.

<sup>86</sup> Kaplan 2005, 851.

Kaplan explains, has argued that because detainees held at Guantanamo do not have “voluntary connections” to the U.S., they “do not have sufficient connection with the United States to warrant constitutional protection.” That is, the Court uses a tautological argument to say that “the act of imposing arbitrary power—the forced transport to Guantanamo, the lack of criminal charges—tautologically justifies the imposition of arbitrary power immune from constitutional restrictions and international treaties.”<sup>87</sup>

Not coincidentally, these assertions ring eerily familiar to the stories of those forcibly brought to the U.S. and deemed (already illegal) “enemy aliens” during WWII. Historian Max Paul Friedman issued such connections in the opening to his AWRIC testimony, stating, “Missing from the debate over civil liberties and national security in the war on terrorism, such as indefinite detention of U.S. citizens without charge, the designation of ‘unlawful combatants,’ and the U.S. prison in Guantanamo Bay in Cuba, are crucial lessons from the past. Once before, the United States tried to imprison foreign suspected subversives, captured overseas, in special camps beyond the reach of the courts.”<sup>88</sup> As discussed, the AWRIC event itself, entitled “The ‘Enemy’ During WWII and Today,” deployed the figure of the “enemy” throughout the assembly as *the* crucial link between the events of WWII and the war on terror. Grace Shimizu and CFJ, in their other organizing work, had also made explicit connections between the “enemy aliens” of WWII and “enemy combatants” of today. At a press conference on the “Enemy Combatant Cases at the U.S. Supreme Court” on April 20, 2004, Shimizu stated the following: “*Like the prisoners at Guantanamo*, the WWII internees from Latin America

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<sup>87</sup> Kaplan 2005, 852-853.

<sup>88</sup> “The Enemy Alien Files” Exhibit Consortium 2006, 22.

were deliberately placed outside the legal system through a clever trick. They were not issued visas by the US government and their identity papers and passports were confiscated en route to the US. When they arrived on U.S. soil without proper documents, immigration officers informed them that they were entering the US illegally and declared them to be ‘illegal aliens.’ They were then subjected to detention...indefinitely.”<sup>89</sup> Such linkages, I contend, are important, not just for the re-routing, re-telling of JLA WWII rendition history through the events of the current day per se, but precisely for what they may open up in terms of our critical understanding of the long duree of U.S. militarized empire and racialized violence and its effects then and now. Indeed, I propose that perhaps it is because there *is* a connection between the Enemy Alien Program of WWII and the ongoing war on terror that JLAs remains illegible and unredressable subjects by the U.S. nation-state. That is, perhaps this connection via the figure of the “enemy” reveals precisely what threatens to disrupt the idea of the “internment” and its redress as an isolated limit case in the otherwise intact “good war” narrative of WWII. JLAs as *unredressable* subjects call attention to what the CLA *as* “justice” has left unnamed, invisible and intact: U.S. empire and U.S. militarism ‘elsewhere’ *of* which ‘the internment’ was only a part. That the U.S. cannot acknowledge the racialized state violence experienced by the JLAs while making hypervisible “the internment” of Japanese American citizens as a redressable national tragedy, should not be interpreted as merely a symptom of exclusionary politics. Rather, as the former internees themselves, as critical beings, have pointed out, it is precisely their

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<sup>89</sup> Speech by Grace Shimizu at Press Conference: “Enemy Combatant Cases at the U.S. Supreme Court” on 4/20/04, Grace Shimizu Archive.

*unredressability* that signals a crucial, yet hidden, node in a global episodic constellation of U.S. militarized racial violence, one that has only been reinvigorated in the current moment.

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This chapter has traced the various articulations of historical redress for the Japanese Latin American World War II deportation program in the aftermath of the Mochizuki settlement as they emerge both in the law as well as in between spaces where culture and politics meet. In my reading of such articulations, I have sought to glean what they have to reveal in terms of both the limits of the *CLA as justice done* as well as the political possibilities beyond such legislation. What emerges, I argue, is a more critical understanding of how U.S.-law and its legal “remedies” have functioned to maintain as well as obfuscate the workings of U.S.-American empire and its globalized military violence then and now. Specifically, in the case of the ongoing JLA redress efforts, such articulations pointing to the limits of official renderings of “the internment” as incomplete and only a slice of the much broader constellation of U.S. military violations during WWII, open up the door for a more critical reading of the *CLA* (the exemplar of American-style justice). Moreover, as I have shown, former internees, in their simultaneous retelling of their own arrested histories through the events of the ongoing War on Terror, offer not only a crucial link in the history of U.S.-American empire—in the Americas, in Asia and throughout the Arab world—but also reveal how such dominant late-modern paradigms of justice premised on a politics of limit cases and recognition work to suppress more radical coalition-based politics that can serve to indict

broader structures and conditions of violence and *in*justice: in this case, U.S. empire and militarism ‘elsewhere.’ That is, the JLA redress discourse shows how delimited and domesticated versions of “the internment” made official as the limit case of U.S. racial violence with the passage of the CLA worked to not only exclude the JLAs per se from redress but more profoundly to cover over, not coincidentally, the crucial global structures of U.S. militarized violence. Such a revelation, I contend, is important, toward both a critique of U.S. empire as well as a radicalization of “justice”—as that not to be ‘found’ in the law itself but rather revisioned as an always elusive horizon of the global present, *only* possible in the ongoing pursuit, self-critique and deconstruction of juridical justice.



**Chapter 6:**  
**(Un)settling Memories:**  
**The “Unfinished Business” of Redress**

Insofar as nation-states continue to exist as institutional entities, and their apparatuses of knowledge continue to interpellate their subjects, nationalization remains a powerful force in shaping our memories, knowledge, and representations. Residues of Hiroshima’s catastrophe are constantly in danger of being recuperated for the establishment of coherent national narrative and identities. Nevertheless, these shards of memory, as traces, also carry the power to obstruct that same process.

—Lisa Yoneyama<sup>1</sup>

“...remembering is a political and ethical act involving choice.... How we remember will either open or foreclose our paths to our various presents and futures.”

—Thu-Huong Nguyen-Vo<sup>2</sup>

On February 16, 2006, Senator Daniel Inouye (D-HI) introduced to the Senate S. 2296, the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act, which would establish a commission panel to “determine the facts and circumstances related to the relocation, internment, and deportation of Latin Americans of Japanese descent during World War II” and “recommend appropriate remedies.”<sup>3</sup> Shortly thereafter, Representative Xavier Becerra (D-CA-31) followed suit and introduced companion bill H.R. 4901 in the House. These commission bills marked a significant shift in the legislative strategy of the JLA redress campaign as previously, for the past five years, *Campaign For Justice: Redress Now for Japanese Latin Americans!* (CFJ) had been pushing for the passage of the Wartime Parity & Justice Act—a redress bill first introduced by Representative Becerra in June 2000 and subsequently

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<sup>1</sup> Yoneyama 1999, 217.

<sup>2</sup> Nguyen-Vo 2005, 159.

<sup>3</sup> CFJ press release entitled, “Senator Daniel K. Inouye Introduces Legislation to Establish Commission to Investigate the Internment of Latin Americans of Japanese Ancestry During World War II,” dated February 16, 2006, Grace Shimizu Archive.

reintroduced in 2001, 2003 and 2005. Framed as “comprehensive ‘wrap up’ redress legislation,” the redress bill sought to “(1) authorize \$45 million in public education funding to fulfill the educational mandate of the CLA, (2) provide redress to Japanese Latin Americans who suffered government violations during WWII, and (3) provide redress to Japanese Americans who have been unjustly denied for technical reasons or narrow interpretations of the CLA.” While the redress bill (H.R. 893) remained in committee throughout 2006 (in the House Judiciary Committee and the Subcommittee on Immigration, Border Security, and Claims), in July of that year, CFJ made a calculated decision to focus its energies instead on the passage of the commission bill in both the House and Senate.<sup>4</sup>

This chapter traces the efforts by JLA redress activists and supporters to continue their pursuit of legislative redress from the U.S. government via the JLA commission study bill during the years 2006-2010. During this time, the bill was reintroduced twice in two consecutive Congressional sessions (2007 and 2009) by Representative Becerra and Senator Inouye, respectively, in the House and Senate. Also, during this time, the Civil Liberties Act of 1988 (CLA) celebrated its twentieth anniversary and numerous commemorative events across the country marked the occasion. This chapter engages in a close, critical reading of the discourses concerning the JLA redress efforts within these overlapping contexts as advocates and activists maneuver around, negotiate, as well as themselves shape the contours of late modern law and its politics of recognition, restitution and historical justice. As I have done in the previous chapters, I pay close

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<sup>4</sup> Campaign For Justice, Internal Memorandum, “CFJ Legislative Goals and Strategy,” dated July 30, 2006, Grace Shimizu Archive.

attention to what JLA former internees as (im)possible redressable political subjects and thus ‘critical beings’ have to reveal about the relationship between historical memories of WWII, the ongoing war on terror and more broadly the workings, intricacies and forms of U.S. empire. As Lisa Yoneyama reminds us, “the production of knowledge about the past, whether in the form of History or Memory, is always enmeshed in the exercise of power and is always accompanied by elements of repression.” And, while “memory” is thus “understood as deeply embedded in and hopelessly complicitous with history in fashioning an official and authoritative account of the past,”<sup>5</sup> still, we must ask: How can acts of remembrance serve the cause of knowledge without being co-opted and deprived of their unsettling, self-critical qualities? With this important question in mind, I follow the complex, dynamic and yet persistent tension between, on the one hand, the settling of memories of the militarized state violence perpetrated by the U.S. during WWII into the teleological narrative of “the internment” and its landmark “redress” and, on the other, the *unsettling* of those very memories as JLA former internees as *unredressable* subjects offer critiques of official historical accounts while at the same time seemingly vying for a place within them. This constant tension—between the settling and unsettling of memories, between the desire for closure and finality and the aspiration for critique and ongoingness, and between the need to isolate and exceptionalize episodes of state violence versus initiate connections among them across space and time and among seemingly disparate political interests—is precisely what I seek to trace.

Beginning in spring 2009, I became involved with CFJ as a volunteer intern.

During this time and most extensively throughout the summer of 2009, I worked closely

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<sup>5</sup> Yoneyama 1999, 27.

with CFJ Founder and Coordinator Grace Shimizu and Legislative Campaign Manager Christine Oh as well as other volunteers. In this capacity, I assisted with the writing of press releases, campaign newsletters, and oral and written testimonies presented to the House Judiciary Subcommittee on Immigration on March 19, 2009; I participated in strategy meetings and organizing activities; and I represented the organization at various community-based events. This chapter draws upon this ethnographic participant observation fieldwork data along with in-depth interviews I conducted with numerous JLA redress activists and advocates. As with the other chapters, it examines such interviews as well as community campaign materials (such as brochures and speeches), legal and government documents, and mainstream and community-based media pieces *as co-constitutive texts wherein “experience” and “knowledge” is at once already an interpretation and therefore already political—mediated within multiple fields of power.*<sup>6</sup> Such an interdisciplinary approach (utilizing critical tools *across* the fields of literature, history, anthropology, cultural studies and Ethnic and American studies, among others), I argue, is crucially necessary toward capturing, not only the relentless processes by which memories become incorporated into authoritative accounts of History, but, just as, if not more, importantly, how such memories and their traces work to at once *unsettle* such accounts that purport History as something over and done with.

I begin this chapter by examining the discourses concerning the JLA commission study bill, specifically the aforementioned hearing which took place in March 2009 in the House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security

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<sup>6</sup> Yoneyama 1999, 28. Referring to Joan Scott’s discussion of “experience,” Yoneyama explains that she aims to explore the ways in which power operates in the production of historical knowledge; what are the stakes “in remembering and forgetting past events in certain ways and not in others.”

and International Law. This hearing marked a significant milestone in the JLA legislative redress efforts and has much to reveal regarding the politics of national historical memory and redress for the JLA WWII rendition program. Not surprisingly, within the debates, I find many of the same narratives that were present in the 1987 and 1988 congressional debates on the Civil Liberties Act (discussed in chapter 3)—crucial narratives which work to (re)produce the U.S. nation as the exceptional *moral* leader of the free world at a critical global historical moment. The second half of this chapter turns to other spaces besides the halls of Congress in which articulations of JLA redress are also produced and negotiated; these include the annual community-based Day of Remembrance events which take place each February to commemorate the signing of Executive Order 9066 as well as the community-based events and productions of 2008 which commemorated the twentieth anniversary of the passage of the CLA. Ultimately, what is revealed are the contradictory, dynamic and uneven ways in which discourses concerning “JLA redress” emerge within multiple fields of power. Here, we glean both the possibilities and predicaments of “redress” as a paradigm of late-modern justice: the limits of late-capitalism’s recognition-based politics which interpolates citizen-subjects via the conversion of violence into so-called historical justice; the possibilities of renewed critique emergent precisely out of the cracks and fissures—the failures—of such resolution.

### **Toward a Fact Finding Commission**

As mentioned, the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act was first introduced in Congress in 2006 (as S. 2296

in the Senate and H.R. 4901 in the House) and then re-introduced in 2007 (as S. 381 and H.R. 662) and 2009 (as S. 69 and H.R. 42). From its inception, congressional supporters and activists alike strategically framed the bill as one that would “extend the study” of the 1980 Commission on Wartime Relocation and Internment of Civilians (CWRIC). For example, at the various annual Day of Remembrance events commemorating the anniversary of Executive Order 9066 held in February 2006, CFJ described the bill as follows: “In 1980, the Congress authorized a similar fact finding study which examined the treatment of Japanese Americans during WWII. That study led to a presidential apology and a bill for reparations. During the course of that study, information began to be uncovered about the treatment of the Japanese Latin Americans. It was found significant enough to be included in the published study and warranted deeper investigation. The bill Senator Inouye introduced this month would extend that study of the 1980 Commission.”<sup>7</sup> Senator Inouye, in his initial press statement went a step further to emphasize that the earlier commission’s study was, *by circumstance*, unfinished. He explained, “When Commissioners neared the end of their investigations, they stumbled upon this extraordinary effort by the U.S. government to relocate, intern, and deport Japanese-Latin Americans. Because this finding surfaced late in their study, Commissioners were unable to fully uncover the facts, but found them significant enough to include in their published study, and to urge further investigation.”<sup>8</sup>

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<sup>7</sup> University of Connecticut DOR held on February 21, 2006; UC Irvine DOR held on February 22, 2006; Bay Area DOR held in San Francisco, CA on February 26, 2006 ; and Cosunes River College DOR as part of Asian Heritage Week held on April 25, 2006, emphasis in original, Grace Shimizu Archive.

<sup>8</sup> CFJ press release entitled, “Senator Daniel K. Inouye Introduces Legislation to Establish Commission to Investigate the Internment of Latin Americans of Japanese Ancestry During World War II,” dated February 16, 2006, Grace Shimizu Archive.

This “fact finding” commission thus proposed by the bill was structured similarly to that of the CWRIC: To be composed of nine members (three each appointed by the President, the Speaker of the House and the President pro tempore of the Senate) to 1) “Investigate and determine the facts and circumstances related to the relocation, internment, and deportation of Latin Americans of Japanese descent, and the impacts of those actions by the United States,” and 2) “Recommend appropriate remedies, if any, based on preliminary findings by the original commission and new discoveries.” Not later than a year after the date of the first meeting, the commission was then to “submit a written report on its findings and recommendations to Congress.” As part of its “powers,” the Commission was also to “hold public hearings, give testimony, receive evidence, and administer oaths.”<sup>9</sup>

Even more, I find that officials and activists alike positioned the commission as one that would not only extend the work of its predecessor but even more so, *complete* it; that is—complete the official *national* historical account. The final paragraph of the one page form letter penned by CFJ and distributed to constituents to sign and send to their elected congressional officials, reads:

This chapter in our history needs to be *fully and properly investigated*, so that Congress and the American people can understand what happened, and so that we can prevent these grave injustices from every happening again. Although a previous commission in the 1980’s studied the internment of Japanese American during the war, there has never been a *comprehensive study* of the U.S. wartime enemy alien program, and the civil and human rights violations suffered by Japanese Latin Americans... The American people and our future generations deserve to know the *complete history* of our nation’s actions during WWII.<sup>10</sup>

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<sup>9</sup> “Summary of ‘Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act,’” Grace Shimizu Archive.

<sup>10</sup> S.2296 and H.R. 4901 2006 congressional petition letter distributed by CFJ, Grace Shimizu Archive, emphasis added.

Such articulations, deploying an additive view of a depoliticized universalist History, seemed to suggest that the work of the earlier commission was merely incomplete and that this newer commission would simply *add to* the already begun official narrative of “the internment” (but not critique it beyond its apparent lack of wholeness). Any sense of urgency was thus driven by the idea that these stories must get onto the official historical record “before it is too late,” “because soon there will be no survivors able to give testimony.”<sup>11</sup> This showcasing of the bill as holding the promise of a utopian future replete with a *complete* and *comprehensive* national historical account would remain prevalent throughout the bill’s five-year life in Congress—as would the accompanying themes of “finality” and “closure.” For example, in also in his extensive press statement announcing the proposed legislation in February 2006, Senator Inouye stated, “By establishing a new Commission, I believe our great nation will be able *to give finality to, and complete the account* of federal actions to detain and intern civilians of Japanese ancestry.”<sup>12</sup> Indeed, CFJ also echoed these sentiments via the rhetorical device of “closure,” proclaiming for instance (at an educational event held at UCLA on November 19, 2008), “The passage and implementation of the JLA Commission bill is an important and necessary step which this nation must take to bring closure to this shameful chapter of US history.”<sup>13</sup>

To be sure, one could certainly read such discourses as promoting, not to critically *unsettle* official national narratives of “the internment” but rather precisely to *uncritically*

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<sup>11</sup> S.2296 and H.R. 4901 2006 congressional petition letter distributed by CFJ, Grace Shimizu Archive.

<sup>12</sup> CFJ press release entitled, “Senator Daniel K. Inouye Introduces Legislation to Establish Commission to Investigate the Internment of Latin Americans of Japanese Ancestry During World War II,” dated February 16, 2006, Grace Shimizu Archive, emphasis added.

<sup>13</sup> Grace Shimizu speech, UCLA, November 19, 2008, Grace Shimizu Archive.



*settle and solidify them*—sedimenting memories, knowledge and representations into a “coherent national narrative”<sup>14</sup> once and for all, complete with the *additive inclusion* of the stories of Japanese Latin Americans. Still, as I will show more explicitly in the second half of this chapter, alongside and embedded within such discourses, other articulations of JLA redress also emerged along the political symbolic terrain—articulations which worked precisely to *unsettle* official national narratives, to devastate the exceptional quality of “the internment” that had made it the limit case in a U.S. History of racial violence and to burst open that ‘closure’ produced by teleology—that narralogical device which assumed “redress” resolved the historical trauma and violence of “the internment” within a narrative of progress and overcoming. Here, in these instances located primarily in the spaces surrounding and outside the law, History is not something to be accomplished, done and then remain stagnant but rather it is a dynamic process, continuously unfolding for present and future purposes. In sum, I read articulations of JLA redress as complex products of strategic negotiations issued on behalf of multiple actors within multiples and overlapping fields of power. Struggles for governmental redress and recognition, I argue, must be read in this way—as uneven, often self-contradictory, layered processes emergent on a multitude of fronts and within a multitude of contexts. With this in mind, I turn to the hearing that took place in March 2009 in the House Judiciary Subcommittee on Immigration that for the first time addressed the JLA commission bill at the congressional level. Here, I engage in a critical reading of the discourses produced within this setting, paying close attention to the

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<sup>14</sup> Yoneyama 1999, 217.

politics of historical memory and knowledge production as they contend with U.S. nation-building and empire from WWII to the present.

### **A Hearing “To Lay a Historical Foundation”**

“CFJ Goes to Washington—Hearing Scheduled At Last”—this was the headline of the CFJ newsletter emailed out to supporters on March 9, 2009. In it, the organization described how the Senate version of the JLA commission bill (sponsored by Senator Inouye) had passed the Senate Homeland Security and Governmental Affairs Committee on February 11, 2009 and that the House version of the bill was scheduled for a hearing on March 18<sup>th</sup> or 19<sup>th</sup> in the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law under the Judiciary Committee. The hearing would mark a significant milestone for the organization which had been trying to schedule a legislative hearing on each of its bills (first, the Wartime Parity and Justice Act from 2000-2005 and then the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act from 2006-2009) for the previous nine years. In May 2008, a hearing had been scheduled for the commission bill in the House Subcommittee on Constitution, Civil Rights and Civil Liberties for July 31, 2008. However, the hearing was cancelled, interestingly, due to a “referral error,” at which point the bill was redirected to the House Subcommittee on Immigration and never rescheduled for the 2007-2008 congressional session. Such a move, I contend, not coincidentally echoes the discursive strategy of the CWRIC Report (discussed in Chapter 2) to conceptualize the WWII U.S. rendition of the JLAs as *outside* U.S. national

borders—and, importantly, separate from the concurrent violation of *constitutional* rights of Japanese U.S.-American citizens and resident aliens.

In 2009, when the bill was reintroduced in the 111<sup>th</sup> Congress by Senator Inouye and Representative Becerra, the organization expressed high hopes for its imminent passage. With the new Obama Administration in place as well as the new Congress and Senator Inouye and Representative Becerra holding senior level leadership positions in the Senate and House, respectively, CFJ started the year with its “commitment and drive to expand education and mobilization efforts” “high[er] than ever.”<sup>15</sup> Moreover, adding to this “best case scenario”<sup>16</sup>, Representative Zoe Lofgren (CA-D), Chairwoman of the House Subcommittee on Immigration, had also expressed “strong support” of the bill and intent to “push” it through Congress.<sup>17</sup> Finally, Christine Oh (previously the lead staffer for Becerra on the bill) had also been with CFJ as its Legislative Campaign Manager for over a year now, lending her expertise in the area of congressional politics.<sup>18</sup>

The hearing, which ultimately took place on March 19, 2009, was entitled, “Hearing on the Treatment of Latin Americans of Japanese Decent, European Americans, and Jewish Refugees During World War II” and actually covered two bills: the JLA Commission bill as well as the “Wartime Treatment Study Act” (H.R. 1425/S. 564). The latter would establish two fact-finding commissions—one to study the internments and

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<sup>15</sup> CFJ Newsletter article, “Redress Update: Thankful for the past year, and Gearing Up for the 111<sup>th</sup> Congress,” by Christine Oh, Fall/Winter Newsletter 2008-2009.

<sup>16</sup> Taken together, these factors were supposed to have created the “best possible scenario” for the JLA redress efforts—both in terms of moving forth with the Shibayama petition filed with the OAS as well as progress legislatively, according to Grace Shinizu, Christine Oh and Shibayama’s attorney Karen Parker.

<sup>17</sup> CFJ Newsletter article, “Redress Update: Thankful for the past year, and Gearing Up for the 111<sup>th</sup> Congress,” by Christine Oh, Fall/Winter Newsletter 2008-2009.

<sup>18</sup> Christine Oh started working for CFJ in January 2008; she worked full time January-August 2008 and part-time September 2008-March 2010 as the “Legislative Campaign Manager.” She had previously worked in the Office of Representative Becerra in Washington, D.C. as a staff member from 2005-2007.

restrictions imposed by the U.S. government on certain European Americans and European Latin Americans during World War II (i.e., the Enemy Alien Program) and the other to study government policies limiting the ability of Jewish refugees to come to the United States before and during the war. The hearing was thus divided into three panels of witnesses according to each of the proposed commission studies. Those associated with the JLA commission comprised the first panel, consisting of Daniel Masterson (Professor of Latin American History, U.S. Naval Academy (Annapolis) and author of *The Japanese in Latin America*), Grace Shimizu (Director, Japanese Peruvian Oral History Project (JHOHP)) and Libia Yamamoto (former Japanese of Latin American decent internee). The second panel covered the “European Americans and European Latin Americans during World War II” and included John Christgau (author of *Enemies: World War II Alien Internment*), Karen Ebel (President and Co-Founder of German American Internees Coalition) and Heidi Gurcke Donald (former German Costa Rican internee)—all of whom had worked with Shimizu on the Enemy Alien Files project. This panel also included John Fonte (Director for Center for American Common Culture and Senior Fellow, Hudson Institute) as a “hostile witness.”

From the start of the session, Subcommittee Chairwoman Zoe Lofgren made clear that the hearing was “not on any bills, but on the issues of a part of our U.S. history that many of us are unfamiliar with.”<sup>19</sup> She stated:

As I mentioned, although there are two bills that have been referred to the Subcommittee concerning the issues we are examining today, this is not a

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<sup>19</sup> United States Congress, 111<sup>th</sup> Congress, 1<sup>st</sup> session, 2009, House of Representatives. Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law of the Judiciary Committee, *Treatment of Latin Americans of Japanese Descent, European Americans, and Jewish Refugees During World War II: Hearings on H.R. 1425 and H.R. 42*. Washington, D.C.: U.S. Government Printing Office [hereinafter *Hearing on H.R. 1425*], Representative Zoe Lofgren (D-CA), 1.

legislative hearing. Before we consider specific legislation on an issue that many are very unfamiliar with, it is important that we learn the facts and listen to the history to determine whether legislation is the appropriate response. If it is, we will then turn to those referred to this Subcommittee and examine whether the specific language in the bills is appropriate or whether amendments would be needed. / I welcome comments in the bills and will consider them if we decide to move legislation in the area. Today, however, I am particularly interested in learning about the issue and whether another commission is indeed necessary to review history that has not been told in an adequate way.<sup>20</sup>

Thus, the hearing was officially not a “markup” on any specific bills to be voted upon by subcommittee members at the end of the session but rather a sort of preliminary hearing to (in the words of CFJ) “lay a historical foundation for the need for a commission investigation into government wartime violations.”<sup>21</sup> Indeed, I contend, such a move was highly strategic on behalf Representative Lofgren and other congressional supporters—a way to sway the impending discussion away from partisan talk of redress and reparations and rather toward the “noncontroversial” politics of history and the *ethical* idea of completing the “official historical narrative.” As I will discuss in the sections that follow, the discourses which emerge from this congressional hearing not coincidentally ring eerily familiar to those produced in the congressional debates in 1987 and 1988 on the Civil Liberties Act (which I discuss in chapter three)—narratives that work to reproduce the “Good War” narrative of WWII and the U.S. nation as the *exceptional* mighty and moral leader, one “big” enough to acknowledge its mistakes. Still, I read such narratives produced in the official setting of the congressional hearing as not simply the bi-products of the clean rescripting of memories into state sanctioned Histories but rather the result of ongoing negotiations and compromises issued by an array of actors both within and

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<sup>20</sup> *Hearing on H.R. 1425*, Representative Zoe Lofgren (D-CA), 1-2.

<sup>21</sup> JLA Campaign Update, June 2009, “JLAs Move One Step Closer to Congressional Investigation,” Grace Shimizu Archive.

without the law. Thus, I am interested in not only how memories may be “recuperated for the establishment of coherent national narratives and identities” (to recall Yoneyama) but also how such memories carry tensions and “power to obstruct that same process”<sup>22</sup>—tensions which erupt both within legal institutions as well as in the cracks and spaces outside the law.

***“It is Time for History To Be Fully Heard”***

To “one day be able to have their [JLA former internees’] important accounts included in the official narrative” was indeed a central theme in the statements issued by congressional supporters. Here, the juxtaposition of those Japanese Americans who did in fact receive an “official apology” and thus “closure” with the passage of the Civil Liberties Act with those JLAs who did not served as an important rhetorical device for making the case for the JLA commission study bill. Representative Lofgren, for example, stated:

*Much is known about the internment of 120,000 Japanese Americans during World War II, partly due to the enactment of the Commission on Wartime Relocation and Internment of Civilians Act in 1980, the commission’s report in 1983, and the subsequent Civil Liberties Act of 1988, that provided an official apology. / What is not as well-known today is the mistreatment of thousands of Japanese and European Latin Americans, European Americans, and Jewish refugees prior to and during World War II.... / Further, no recommendations were made on these populations; no apology, as was done for the Japanese internment, pursuant of the Civil Liberties Act. And I think it is time for this history to be fully heard and considered.*<sup>23</sup>

Representative Becerra echoed these sentiments in his prepared statement, proclaiming:

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<sup>22</sup> Yoneyama 1999, 217.

<sup>23</sup> *Hearing on H.R. 1425*, Representative Zoe Lofgren (D-CA), 1, emphasis added.

Unfortunately, the Commission [of 1980] did not fully address our government's treatment of Japanese Latin Americans. As a result, Japanese Latin Americans who were unjustly abducted and interned by the U.S. continue to live with the painful memories of those lost years. Many remain hopeful they will one day be able to have their important accounts included in the official narrative.... / ... H.R. 42, the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act, would establish an official record of this tragic incident in American history.<sup>24</sup>

Such a production painting the picture of the summarily incomplete work of the previous commission study was of course not new. As previously discussed, from the introduction of the bill in 2006, congressional supporters as well as activists deployed this familiar tactic. Again, within this narrative, any urgency put forth is thus related to the “advanced age” of surviving internees who need to get their “stories” onto the official historical record “before it is too late.” Representative Becerra, for example, stated: “With the advanced age of many of the remaining internees, there is an urgent need to act expeditiously. I urge this committee to promptly consider and report H.R. 42 so that surviving Japanese Latin American internees can finally have their experiences registered in the official account of our nation’s history. I look forward to working with you and my colleagues to pass the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act.”<sup>25</sup> Still, what is also interesting about the discourses produced within this hearing in particular, are the conscientious efforts by supporting testifiers to not only promote the idea of “establishing a proper historical record” per se (one that is inclusive of the JLAs), but uphold the integrity and power of the institution of the commission precisely as a strategy to affirm the proposed legislation as *not*

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<sup>24</sup> *Hearing on H.R. 1425*, Representative Xavier Becerra (D-CA), 2-3.

<sup>25</sup> *Hearing on H.R. 1425*, Representative Xavier Becerra (D-CA), 3.

*reparations*. Such a move, I contend, must be read as exactly this—a calculated political strategy, executed by congressional members and activists as a result of a series of choices, negotiations and compromises.

***“Establishing a Proper Historical Record”—“Not Reparations”***

The polarizing topic of whether or not the proposed legislation *assumed reparations* was indeed central throughout the hearing. On at least two separate occasions, Ranking Subcommittee Member and Minority Whip Steve King (R-Iowa) questioned witnesses to this end. For instance, with Shimizu, he had the following exchange:

King: And I would ask Ms. Shimizu, is it your position that there should be an apology by the United States?

Ms. SHIMIZU. We are here today to urge that what happened to our parents, our families, really be investigated further. And through that investigation, as more of the information comes out and the background becomes more clear, I think our faith is put in the commissioners to make the appropriate recommendations.

Mr. KING. Then if that investigation—if there is full acknowledgement, then if that investigation concludes, I think, a conclusion that you have drawn, then would you, then, be asking for proper redress?

Ms. SHIMIZU. Well, I would be looking at what the recommendations were, and then at that point, I mean, we would be at a better position to respond to that.

Mr. KING. Okay. Thank you, Ms. Shimizu.<sup>26</sup>

As well, with Masterson, he had a similar conversation:

Mr. KING. Madam Chair, could I just ask unanimous consent that I may just pose a brief yes or no question to the witness? I thank you, Madam Chair, and—do you support or oppose, then, reparations?

Mr. MASTERSON. I am of the opinion that the reparations issue should be resolved by a commission which we are asking to be formed. We are not prejudging any of this until the commission does so.

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<sup>26</sup> *Hearing on H.R. 1425, Grace Shimizu and Representative Steve King (R-IA)*, 23.



Mr. KING. Thank you.<sup>27</sup>

King also went out of his way to express the following in his opening statement:

And I want to add, also, that, you know, *this pattern* of finding another victims group and finding a way to reach into the pocket of the American taxpayer and eventually, through this process, whether it is at not a formal hearing today, but eventually we get to this point where there is a request for reparations and a request for an appropriation. This is the process, this is *the pattern*, and I don't think that America has enough to be guilty about that we ought to be wallowing in self-guilt here today, under the third and fourth generation, and that is biblical. / . . . So let us get on with our future lives and stop wallowing in this thing that we would propose upon our ancestors that would be a request for funding from today's producers."<sup>28</sup>

Indeed, this argument put forth by King opposing reparations and warning of “the pattern” he sees developing in terms of requests by different groups (in a previous statement he cited a slavery reparations bill which had been introduced in Congress the preceding year), is certainly not new and was quite prevalent throughout the CLA debates (as discussed in chapter three). Based on my fieldwork observations and interviews, both Shimizu and Mastersen anticipated King’s argument and responded accordingly, in line with the strategy of positing the legislation strictly as a commission bill and not a redress bill. Shimizu, even as her official title which she had submitted for the congressional record, claimed, “Director, Japanese Peruvian Oral History Project (JPOHP)” without a mention of her other central role as Founding Coordinator of *Campaign For Justice: Redress Now for Japanese Latin Americans!* (CFJ).

Relatedly, from its inception, the bill was strategically positioned as a bi-partisan bill and was even co-sponsored by Representative Dan Lungren—high-ranking Republican from California. Lungren, who came on board in February 2007 as a co-

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<sup>27</sup> *Hearing on H.R. 1425*, 24.

<sup>28</sup> *Hearing on H.R. 1425*, Representative Steve King (R-IA), 5-6, emphasis added.

sponsor of the House version of the JLA commission bill along with Representative Becerra (CA-D) had actually served as one of the commissioners on the 1980 Commission on Wartime Relocation and Internment of Civilians (CWRIC). However, when it came time to debate the CLA, he was firmly, if not passionately, opposed to any redress and reparations.<sup>29</sup> Lungren, in this debate, is also careful to delimit his support to the establishment of a commission but not reparations. It is worth quoting at length his discussion of his past role with the CWRIC and now with the JLA commission bill:

...I supported the effort to establish a commission. / I did so by getting sufficient Republican votes to make sure that we could pass it, but I did so at that time by promising Members that *it was not a simple excuse for granting reparations*; rather, it was a commission—study the record and establish what the history was. But I do recall at the very first meeting that we had of the commission, one of the commissioners turned to us assembled and said, “Okay, how much money are we talking about?” which, frankly, put off alarm bells in my head because I had promised Members that was not the purpose of it. Rather, I had thought it was important for us to investigate that period of time, since it was fairly well unknown about the treatment of fellow citizens and people who were here legally at that time. / I still think it is important for us to have historical records so that we know. I don’t think we know enough about how we—what the decisions were with respect to the Japanese Latin Americans here, and there is a lot of lack of knowledge with respect to Germans and Italians. / But I would say that—and I am a co-sponsor of legislation to look at the question of Japanese Latin American treatment, but I would say this: *I think we ought to be careful about how we handle this*. ...I would hope that if we move on these bills, and the bill in which I have cosponsored, that we would, I hope, look at establishing a proper historical record as being the prime reason we are doing this, not that we are looking at making amends by reparations or something like that.<sup>30</sup>

Indeed, I read JLA activists’ support of such a framing as highly organized and strategic. In numerous prep meetings before the hearing among testifiers and Representative Becerra’s congressional staffers, discussions in terms of “messaging” and

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<sup>29</sup> See Chapter 3, in which I discuss the House debate on the CLA.

<sup>30</sup> *Hearing on H.R. 1425*, 60, emphasis added

“talking points” for the hearing stressed the idea: “This bill is commission bill”—“NOT a REDRESS BILL- it does not provide money or apology to any Japanese Latin Americans. We are simply pushing for a commission bill to study what happened during WWII.”<sup>31</sup> While one could interpret such discussions as well as the “complicity” exhibited by the JLA testifiers Shimizu and Mastersen at the hearing as yet another form of oppression by the state on the JLAs, I argue it could also be analyzed for what it reveals about *how* political subjects—namely those critical beings, those illegible and unacknowledged by the state—maneuver and themselves work to manipulate legal systems in order to achieve their goals. When the campaign solicited Representative Lungren’s support in 2007, it was well aware of his highly publicized opposition to monetary reparations under the CLA. However, as one staffer put it, “He needs us, and we need him.” It has been conjectured that Lungren saw his sponsorship of the JLA Commission Bill as a way to redeem himself of his legacy of being a non-supporter of the CLA. In a more “liberal” and “racially diverse” state like California, apparently such a move, in hindsight, had hurt his political aspirations over the subsequent years, particularly when he had an interest in running for State Governor. For CFJ, they made a strategic choice to garner and accept his support precisely in order to frame the bill as bipartisan and to gain the votes of other Republican congress members. In the next two sections, I explore two other key discourses that emerge from the hearing, again paying close attention to their tensions, nuances and contours and what they may reveal about the politics of historical memory and redress for JLA WWII internment.

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<sup>31</sup> Meeting handout entitled, “Talking Points for Japanese Latin American Commission Bill (H.R. 42 / S. 69), ‘Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act.’”

*The Internment, the U.S. Nation, and the “Good War” Narrative*

As many American studies scholars have argued, postwar national narratives of WWII as “the good war” have been central to the political symbolic production of the U.S. as a moral nation throughout the postwar period to the present.<sup>32</sup> The internment, as a form of remembrance, has the potential to disrupt such narratives which purport that the US not only liberated people from oppressive government regimes (including Asians, and Japanese too, from Japan’s military fanaticism), but also “rehabilitated them into free and prosperous citizens of the democratic world.”<sup>33</sup> As I argue in chapter three, the performative act of Japanese American redress *as* historical justice worked to contain potentially disruptive memories of the internment and rescript them into a linear national narrative of progress and redemption. Here, the Good War narrative was not only left intact but re-invigorated and reinfused with a new sense of the U.S. as a mighty as well as moral nation. It is within this context then that we must read Lungren’s efforts throughout the hearing to contain memories of the JLA WWII rendition program and Enemy Alien Program. Although Lungren claims that he hopes to “have a historical record established” with a new commission study and that “we learn from those experiences, try and adopt some perspective and some policies which prevent us from making some mistakes that were made”<sup>34</sup>—of course, such a “record” for Lungren has its limits.

Throughout the hearing, Lungren expresses concern over the use of “incorrect language” to describe U.S. government actions during WWII. For example, he warns of the use of the term “concentration camps” to denote the U.S. WWII incarceration of

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<sup>32</sup> See Sturken 2001, Simpson 2001 and Espiritu 2006.

<sup>33</sup> Yoneyama 2003, 58.

<sup>34</sup> *Hearing on H.R. 1425*, Representative Dan Lungren (R-CA), 61.

Japanese, German and Italian American resident aliens and citizens, testifying, “The only point I am trying to make is as one who has been through this, who has been through the commission, sat on it, the only sitting Member of Congress who was willing to sit on that commission, I know the emotion that goes into it, and I know the possibilities of utilizing language. For anybody to say that we had concentration camps, and therefore equate what we did with what the Germans did, it is historically incorrect and casts a dispersion upon that generation.”<sup>35</sup> He then goes on to also critique the use of the phrases “war crimes” and “crimes against humanity,” stating: “And to suggest that we engaged in war crimes or crimes against humanity, frankly, I think, is more than exaggeration. It upsets the historical record and frankly, it is not the way to gain support in the Congress of the United States and for a commission to look at any of this. I hope we would understand that——.”<sup>36</sup> In sum and taken together, such passages, I argue, bring to light the politics of historical memory of “the internment” as a form of remembrance (reparations aside) as it contend with U.S. nation-building and particularly the Good War narrative of WWII. That Lungren claims that “[f]urther study of the events surrounding the deportation and incarceration of Japanese Latin Americans is merited and necessary”<sup>37</sup> and yet remains weary about “upset[ting] the historical record” is significantly telling but also should not be surprising. I argue that it shows once again the predominance of the Good War narrative to U.S. national ontology at the current global historical moment—one which produces the U.S. as the morally exceptional leader then *and* now. The terms “concentration camps,” “war crimes,” and “crimes against humanity” disrupt this process

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<sup>35</sup> *Hearing on H.R. 1425*, Representative Dan Lungren (R-CA), 61.

<sup>36</sup> *Hearing on H.R. 1425*, Representative Dan Lungren (R-CA), 61.

<sup>37</sup> Xavier Becerra and Dan Lungren, “Justice for the Forgotten Internees,” *Washington Post*, February 18, 2007, A19, <http://www.washingtonpost.com/wp-dyn/content/article/2007/02/18/AR2007021800906.html>.

to suggest the U.S. as not exceptional but on par with other nations, *subject* to the authority of international law.

Ironically, one of the key strategies for producing the bill as bi-partisan and “non-controversial” was precisely to frame it as “a fundamental civil and human rights violation.” On several occasions from the bill’s inception, JLA redress activists and supporters, including Representative Becerra himself, explicitly named the JLA deportation and internment program of WWII a “human rights” violation. For example, in an article published on April 17, 2006 in the *Honolulu Advertiser*, Representative Becerra was quoted saying, “Japanese Latin Americans not only were subjected to gross violations of civil rights in the United States by being forced into internment camps ... but additionally, they were victims of human rights abuses merely because of their ethnic origin.”<sup>38</sup> CFJ as well at various community-based events and in the media named the endeavor to “secure redress for Japanese Latin Americans” a “priority immigrant rights, civil rights and human rights issue.”<sup>39</sup> Part of the motivation driving such a framing was also to address the issue of the small Japanese Latin America constituency. That is, by framing the bill as one that “not only affects the Japanese Latin American constituency, but all Americans, who care about basic human liberties and civil rights,”<sup>40</sup> advocates believed it could expand its base of support in order to get the bill passed. Still, as the hearing underscores, such a framing which also conjures up notions of the U.S. as a violator of *human rights* when in fact it is supposed to be the human rights champion

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<sup>38</sup> Dennis Camire, “Justice sought anew for internees,” *Honolulu Advertiser*, April 17, 2006, <http://the.honoluluadvertiser.com/article/2006/Apr/17/ln/FP604170334.html>, Grace Shimizu Archive.

<sup>39</sup> DOR 2009 CFJ Redress Update, Grace Shimizu Archive.

<sup>40</sup> Meeting handout: entitled, “Talking Points for Japanese Latin American Commission Bill (H.R. 42 / S. 69), ‘Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act.’”

proved to be not so cleanly executed. It is worth mentioning that Lungren's statement, which warned testifiers that use of the terms "war crimes or crimes against humanity" was "*not* the way to gain support in the Congress of the United States and for a commission to look at any of this," was in part a direct response to Shimizu's testimony in which she names the series of U.S. militarized violence perpetrated against JLAs during WWII as such. She stated, "What is being uncovered is a shocking picture of how the U.S. government initiated and orchestrated a program of massive civil rights violations, crimes against humanity, and war crimes spanning two continents before, during, and after World War II. U.S. government policies and actions and what our former Japanese Latin American and other enemy alien internees endured during World War II warrants deeper investigation."<sup>41</sup> What Shimizu threatened to reveal and what Lungren tried to contain, I contend, was precisely a global picture of U.S. militarized violence and empire in which the U.S. is produced as not the epitome and adjudicator of world justice but exactly its antithesis. This fine line prevalent throughout the hearing between, on the one hand, the production of the JLA commission bill as "human rights" legislation in which the U.S. emerges victorious as the mighty and moral leader and, on the other, the threat of what the bill itself speaks to in terms of U.S. global militarized and racialized state violence during WWII points to the necessary links between governmental redress and nation-building. That is, again, as I argue in chapter three, historical redress for state violence necessarily converts violence into nonviolence via national narratives of progress and redemption. In the case of Japanese American redress, "the internment" was re-membered in such a way that not only left intact the Good War

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<sup>41</sup> *Hearing on H.R. 1425*, Grace Shimizu, 12.

narrative of WWII but reinvigorated it with a newfound sense of the U.S. as a morally exceptional nation. Now, within this hearing, we can see once again the efforts to contain the violence that was the WWII JLA rendition program to not only leave intact the Good War narrative but also the national narrative of “the internment” as it was re-membered and recuperated via the CLA.

During the hearing, Representative Lungren was not the only congress member keen on maintaining such a “historical record.” Minority Whip King also went out of his way to ensure that such *morality* of the U.S. nation be upheld as the following exchange with John Christgau (scholar and descendent of former German American internee who presented on Panel II) illustrates:

Mr. KING. But some of the questions that come to mind to me would be, as I listen to Mr. Christgau, this tone of America. And I am just asking myself as I listen to your testimony, if you were to list the countries in the world and in order of their morality, or their relative morality, where would you put the United States with——

Mr. CHRISTGAU. Number one.

Mr. KING. As the most moral Nation?

Mr. CHRISTGAU. Yes.

Mr. KING. Very good. That really helps me put your testimony on a different perspective, and I just appreciate that.<sup>42</sup>

Here, we see most explicitly, in a sense, the limit of redress as a paradigmatic form of “justice”—the critiques put forth by activists butting up against the persistent processes of nation-building within this official government setting. In short, what these passages reveal are the ultimate stakes of the hearing: the production of the U.S. as *the* moral leader in the global context, a production which has been crucial to U.S. power around

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<sup>42</sup> *Hearing on H.R. 1425, 57-58.*



the world then and now. As I will show in the next section, reminiscent of the CLA, the discourse also reveals how the performance of recognition works to this end.

***“To Acknowledge When Mistakes Were Made--Only a Big Country Can Do That”***

“The virtue of our nation lies in its ability to reconcile the past and come to terms with its mistakes. There is no better way to do so than to complete the historical narrative on this part of our nation’s history.” Such were the words put forth by Representative Becerra in his opening statement presented at the hearing. Chairwoman Lofgren, in her remarks to close the hearing, expressed similar sentiments, stating: “And really the history that we have learned, you are right, is to inform our future. / And that is really what we are talking about with all of this. We can’t undo the past, but we can try to understand our history, to acknowledge when mistakes were made—*only a big country can do that*—and to learn so that we can be a better country going forward.”<sup>43</sup> This discourse which produces the bill and hearing as productive of the “virtue of our nation” now and into the future points to a key strategy deployed by congressional supporters and testifiers. In a meeting with testifiers before the hearing, Representative Becerra himself directly advised the following (and I paraphrase): “The strategy is to applaud that this hearing is taking place. It takes a great country, a functioning democracy, to take a deeper look at its past actions. We need to be an example from which others can learn.” He went on to suggest that, in order to win over other congress members, the JLA panel testifiers focus on “the good that is happening now” (with the hearing taking place)—rather than on “lecturing” about “the wrong,” “the apology” and “achieving justice.”

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<sup>43</sup> *Hearing on H.R. 1425*, Representative Zoe Lofgren (D-CA), 91, emphasis added.

While we can certainly read the execution of such a strategy as merely illustrating the succumbing of the campaign to the overwhelming power of the state to recuperate memories with the sole purpose of reproducing state-sanctioned, nation-building narratives of closure and progress, I argue, we can also seek to glean moments when such memories remain “self-critically *unsettling*” both within such official settings as congressional hearings and without. In her closing remarks, Representative Linda Sanchez (D-CA) stated the following: “I just really want to commend all of you for your testimony and your bravery in coming forth and sharing your stories, and I think that absolutely those that don’t study history are doomed to repeat it, and I think your stories show that, you know, and [an] idealized version of history does nobody any good. We really need to examine the good and the bad in the hopes that in the future the bad won’t be repeated.”<sup>44</sup> While Representative Sanchez herself, too, deployed the temporal frame of “never again” in the name of progress, her narrative is not focused on the nation but rather the violence and is not teleological in the sense that she does not assume that “examining] the good and bad” will automatically lead to such “bad” not being repeated. Moreover, her remarks should also be read within the context of her other comments and queries throughout the hearing in which she seemed to be one of the few, if only, congress member present who was less concerned with the re-production of U.S. moral exceptionalism within the debates and more concerned with the actual stories presented by those affected by and knowledgeable of U.S. military actions during WWII. Earlier in the hearing she asked about the drafting of enemy aliens and non-aliens (euphemism for citizens) to testifier Karen Ebel of Panel II, stating, “Ms. Ebel, you stated that your father,

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<sup>44</sup> *Hearing on H.R. 1425*, Lisa Sanchez (D-CA), 90-91.

while he was being interned, was called up to be drafted by the Army. Don't you find it kind of ironic that they would be drafting a so-called dangerous person to serve in the military for the United States?" Ebel responded that although her father did not end up serving because he failed his physical exam, she was aware that one of the navigators of the famous Jimmy Doolittle Raid was a German-American born man whose father was being interned at the same time he was serving. To this point, Representative Sanchez then remarked sarcastically, "A wonderful way to treat patriots." Sanchez went on to ask about the oath of silence forced upon internees at the end of their internment and the penalty held out by the state for speaking out. Ebel remarked that the penalty, she believed, was possible deportation and internment and that she has heard of many "deathbed confessions" by former internees. She stated, "So the devastation to the individuals who were interned continued long after the internment."<sup>45</sup>

I argue that these exchanges involving Representative Sanchez illustrate critical openings, however slight, in the relentless recuperation of memories of the WWII enemy alien program into national narratives of progress and redemption. That is, amidst the processes at work in such an official testimonial setting converting the violence into nonviolence via a teleological narrative of national redemption, we see here moments where the violence refuses to be converted and instead is withheld, re-enacted and called upon to critique the state and point out its weaknesses and contradictions, *its* very violence. In the second half of this chapter, I focus on the work of the campaign that took place outside the halls of Congress but nevertheless offered significant critiques of not only the U.S. nation-state and empire but also redress itself as a paradigm of historical

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<sup>45</sup> *Hearing on H.R. 1425*, 59.

justice. Here, I will show how JLA redress activists and supporters on a number of fronts inserted themselves and their stories into nationalizing narratives and discourses thereby serving to disrupt the seemingly tightly woven, state-sanctioned story of “the internment” and its redress. Certainly, as we have seen in the first part of this chapter, in the words of Yoneyama, “nationalization remains a powerful force in shaping our memories, knowledge, and representations.”<sup>46</sup> Still, as we have also seen, this process is not a clean one, nor are subjects utterly subjugated. Rather, it is complex and messy and comprised of negotiations, choices and compromises executed by actors within multiple fields of power. The reproduction of the U.S. as a mighty and moral world leader is not inevitable but, as this case reveals, fraught with critique and possibilities to imagine otherwise.

### **Memories Self-Critically *Unsettling***

As discussed in the last chapter, the events of September 11, 2001 and their aftermath marked a crucial turning point in the discourses of not only “Japanese Latin American internment and redress” but “Japanese American internment and redress” as well. Questions concerning the legacy of U.S. militarized racial violence perpetrated against Americans and Latin Americans of Japanese descent during WWII and its connections and relevancy to the War on Terror post 9/11 emerged in many arenas, including mainstream media, electoral politics and among JA and JLA community organizers. As I showed in chapter 5, for JLA redress activists, the new global historical context provided the opportunity for the retelling of historical memories of the JLA World War II rendition program through the lens of the U.S. militarized racial violence

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<sup>46</sup> Yoneyama 1999, 217.

experienced by Arabs and Muslims residing in the U.S. and around the world. That is, infusing the arrested histories of those Japanese Latin American former internees with new and urgent meaning, the contemporary post 9/11 moment and the battles for justice which emerged worked to wrest and “recover critical, dissonant memories”<sup>47</sup> from the official nationalist and homogenizing historical representations of “the internment” and its redress. What emerged was a critical analysis of U.S. globalized, racialized military violence pivoting on the figure of the “enemy alien” “then and now”—during WWII and post-9/11. Traversing linear narratives of progress and redemption, confounding traditional conceptualizations of time and space, JLA redress activists initiated the forging of new alliances and coalitions with political subjects who had also been disenfranchised by the U.S. Government and its so-called “justice.” Such connections, such juxtaposition of elements—I read them in relation to Walter Benjamin’s materialist historiography and “montage-based constructivism,” which Avery Gordon describes “an associative path of correspondences,” one that connects things, not in a neat, linear narrative based on conventional notions of cause and effect, but rather in such a way that retains the complexities of histories, the messiness of events and categories, and the contingencies of pasts, presents and futures.<sup>48</sup> Hence, activists were seeking not to merely draw a direct and literal line of sameness, of identical cause and effect between the experiences of Arabs and Muslims in the post-9/11 context and those affected by the Enemy Alien Program during WWII, but rather to connect such “episodes” within a much broader and looser framework of U.S. militarism, imperialism and racial logics.

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<sup>47</sup> Yoneyama 1999, 185.

<sup>48</sup> Gordon 1997, 66.

In this chapter, I continue to trace the campaign's evolving efforts and strategies concerning "JLA redress" as articulations emerge at such venues as the annual Day of Remembrance events (which observe the issuance of Executive Order 9066), various educational forums hosted by the Japanese American National Museum (JANM), and the publications and events produced and organized by the largest Japanese American organization in the U.S., the Japanese American Citizens League (JACL), among others. As mentioned, 2008 marked the twentieth anniversary of the passage of the Civil Liberties Act in Congress and its signing into law by then President Ronald Reagan. Numerous commemorative events took place that year to mark the occasion. This chapter thus focuses on this dynamic moment in which JLA redress activists grappled with, on the one hand, the ever expanding and intensifying war on terror in which U.S. globalized militarization reached an unprecedented level and, on the other, the unfolding twenty-year legacy of the Japanese American redress bill said to rectify one of the "darkest chapters in U.S. history." Here, I again pay close attention to the ways in which critical remembrances of the JLA WWII rendition program and its (failed) redress may serve to disrupt, unsettle and at times transform dominant linear narratives of "the internment" and its (successful) restitution. Moreover, I am specifically interested in *how* redress activists, in their engagement with such narratives, may reveal new political possibilities for paradigms of social / racial justice *not* premised on redress, recognition and the logic of inclusion.

### **Re-membering Redress Twenty Years Later**

Articulations of Japanese Latin American redress have always been shaped by and against renditions of Japanese American redress as a successful model of justice achieved. As I discuss in the introduction, the Civil Liberties Act has been upheld as a precedent—an ideal piece of late-modern social justice legislation—by not only activists but a range of scholars (within the fields of law, ethnic studies, political theory, among others) as well as politicians on both sides of the aisle. The overwhelming consensus is that though a few select groups of individuals may have been inadvertently excluded from the bill (e.g., Japanese Latin Americans), *overall* the *act* was successful at bringing historical justice to a group of *Americans* who had had their civil rights violated by the U.S. government during WWII. In chapter three, I also argue that, from its inception as it was produced within the congressional debates, “Japanese American redress” was carefully and strategically crafted as not only that which would bring closure to a sad chapter in U.S. history for the nation, but as *emblematic* of the U.S. nation itself—a signifier of ideal, *exceptional* American-style justice and specifically an evidentiary symbol to give America the right to intervene around the world in the name of human rights. These themes, as I have discussed throughout this dissertation, have continued to resonate on numerous fronts since the passage of the bill in 1988.

Still, as I have also tried to show, within and surrounding these dominant discourses there have also been inevitable gaps and fissures which have allowed JLA redress activists to forge spaces for critique. The proliferation of events and productions associated with the twentieth anniversary of the CLA in 2008 proved no different, I contend, marking both the possible settling and unsettling of memories of redress and “the internment.” In her analysis of mainstream media productions on the 25th

anniversary of the fall of Saigon, Yen Le Espiritu reminds us of “the centrality of the *anniversary* in the making and unmaking of war memories.” She writes, “[T]he annual commemoration provides a familiar yet always-fresh terrain to ‘variously sustain, erase, and transform memories of past events’ for present purposes.” As I will show, commemorations marking the 20th anniversary of the passage of the CLA also provided the opportunity to both settle and critically *unsettle* memories of not only redress per se but also the moment of violence itself. That is, the anniversary of the CLA was just as much about the (re)making of “Japanese American redress” as it was about “the internment” and Good War narrative of WWII. Thus, if as Marita Sturken suggests that “the way a nation remembers a war and constructs its history is directly related to how that nation further propagates war,” then when reading these commemorations and their associated narratives, we must also remain attentive to the interrelated processes of U.S. nation-building and war-making for present as well as future purposes. Put differently, I argue that what is at stake in the (re)productions of Japanese American redress and WWII internment memories is precisely *how* the U.S.-nation “further propagates” and justifies its military activity - a stake which, as I will show, was not lost on JLA redress activists.

As mentioned, in 2008, a proliferation of community-based events were organized and held across the country to commemorate the passage of the CLA in 1988. The national organizations the JACL and the JANM, for example, hosted numerous public programs as well as their annual gala dinners along this largely celebratory theme of redress commemoration.<sup>49</sup> The JACL’s Gala Awards Dinner, for instance, was entitled,

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<sup>49</sup> The JACL hosted several events, including panel discussion forums in San Francisco, CA, San Jose, CA and Washington, D.C. to discuss the “impact and legacy” of the CLA; featured speakers included former Secretary of Transportation and Congressional Representative Norman Mineta and former National



“A Salute to Champions of Redress” and was described by the organization as an event which “honored individuals and organizations that fought tirelessly for justice and helped make Redress a reality 20 years ago.”<sup>50</sup> JANM’s inaugural edition of its member magazine and calendar of events, *inspire*, published in late 2007, as well was entitled, “Fulfilling the Promise of America: *Celebrating the 20th Anniversary of the Civil Liberties Act of 1988.*”<sup>51</sup> In it, then President and CEO of JANM Irene Hirano stated, “The campaign for redress is an important chapter in Japanese American history, but it is also a poignant example of American democracy in action.”<sup>52</sup> The publication also featured several articles by high profile redress leaders, including Daniel Inouye, Norman Y. Mineta, and John Y. Tateishi as well as a piece by scholar Mitchell T. Maki, co-author of *Achieving the Impossible Dream: How Japanese Americans Obtained Redress*. The JACL also dedicated its annual December Holiday Issue of its bi-weekly newspaper (*The Pacific Citizen*) to the “20th anniversary of Redress,” entitling it: “My Redress Diary: Thoughts and Reflections About the Redress Movement.” According to the executive editor, the 120-page special edition was meant to provide both “personal accounts” of “the moments that stood out for those involved with the *historic* campaign” as well as the

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Director of the JACL John Tateishi. See: *Nichi Bei Times*, “SF JACL to Observe 20th Anniversary of Civil Liberties Act,” Weekly July 17, 2008; *Nichi Bei Times*, “Redress Forum to Be Held in San Jose,” Weekly July 17, 2008.

<sup>50</sup> *Pacific Citizen*, “JACL Gala Commemorates 20th Anniversary of Redress: The Washington, D.C. event honored individuals and organizations that fought tirelessly for justice,” October 17-Nov. 6, 2008.

<sup>51</sup> Japanese American National Museum (JANM), 2007, *inspire* magazine, courtesy of author, emphasis added.

<sup>52</sup> Like the JACL, the national museum also dedicated its Annual Gala Dinner to the theme of “Celebrating the 20th Anniversary of the Civil Liberties Act of 1988.”

“personal stories” of “the younger generation who may not have been born yet when the Redress bill was signed but are still affected by the *momentous* event.”<sup>53</sup>

Certainly, as the evidence shows, many of these productions indeed seemed to *uncritically* assume a key underlying premise—that the CLA legislation indeed translated to ‘justice’ achieved. Still, I find lodged within the anniversary discourse also that “fresh terrain” (as Yen Le Espiritu describes it) providing the opportunity for not only the re-making and re-production of dominant, nationalist historical memories of “the internment” and its “redress” but also the *unmaking* of such memories and the production of transformative new ones—ones which may stand to offer alternative presents and futures. I should emphasize here that I read the twentieth anniversary of the CLA and the re-membering of redress which took place as not simply *that* which JLA redress activists had to work *against* per se but rather as a dynamic, multifaceted and heterogeneous set of overlapping articulations produced part and parcel by a diverse range of participants, including JLA redress activists and supporters themselves.<sup>54</sup> As Lisa Yoneyama reminds us: “...the production of knowledge about the past, *whether* in the form of History *or* Memory, is always enmeshed in the exercise of power and is always accompanied by elements of repression. In this work, memory is understood as deeply embedded in and hopelessly complicitous with history in fashioning an official and authoritative account of the past.”<sup>55</sup> Drawing upon this framework, the rest of this chapter thus seeks to discern and disentangle, amidst this complex process of knowledge production, precisely the

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<sup>53</sup> Caroline Aoyagi-Stom, “My Redress Diary,” *Pacific Citizen Holiday Issue*, December 2008, 5, emphasis added.

<sup>54</sup> During 2008, CFJ collaborated with JANM and NCRR to produce and / or participate in several public educational events focused on the WWII history and ongoing redress struggles for JLAs.

<sup>55</sup> Yoneyama 1999, 27, emphasis added.

unsettling and transformative qualities *embedded* in the overlapping representations of “JLA redress” and the (successful / failed) CLA. I am interested in how the discourses concerning “redress,” “remembering,” and “justice” put forth by JLA redress activists and supporters may serve to disrupt the relentless “mystifying and naturalizing effects of remembering itself,”<sup>56</sup> the recuperation of memories into commonsensical narratives of “the internment” and its restitution.

***“We Must Not Forget”: On the Politics of Historical Memory***

In the introduction to their seminal collection on the politics of war memories of U.S. wars in Asia, Editors Fujitani *et al* assert:

More important than the brute facts of the hegemony of the Allied war epic is the more subtle observation that the marginalized memories of war with which we concern ourselves do not occupy a separate or alternative space of remembrance. To the contrary, their marginality or silence of certain memories is linked necessarily to the centrality, volume, visibility, and audibility of more dominant stories. And in some cases, the dominant stories obtain the force they do in popular imagination precisely because of their ability to simplify and transform troublesome or dissonant memories.<sup>57</sup>

As I have been arguing throughout this dissertation, the marginality of dissonant memories of the JLA WWII rendition program should be read as indeed intimately and necessarily linked to the production of dominant narratives of “the internment” and its redress. However, at this symbolic moment of the twentieth anniversary of the CLA, I find that this “subtle observation” takes on increased significance, particularly for JLA redress

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<sup>56</sup> Yoneyama 1999, 4.

<sup>57</sup> Fujitani *et al* 2001, 4.

activists themselves. For example, in her presentation delivered at the third national conference held by JANM in July 2008, Grace Shimizu issued the following statement:

On behalf of the former Japanese Latin American internees and our families, I would like to thank the Conference organizers and all of you who have joined us today.... For us, it is very significant because our experiences have never been part of the mainstream historical narrative of this country...nor have our experiences been included as part of our community's historical narrative—both JA and Latino communities. *Our story is a hidden or marginalized part of our Nikkei community's history. It was a suppressed part of US history.*<sup>58</sup>

Such a statement is particularly telling given the context of the event—a major national conference entitled, “Whose America? Who’s American? Diversity, Civil Liberties, and Social Justice” and featuring “several sessions devoted to the history of the redress movement as well as panels of individuals involved in the successful campaign.”

According to Shimizu, her panel (one of approximately sixty), entitled, “Enemy Alien Internment: Human/Civil Rights, WWII Crystal City Camp & Contemporary America,” was the only portion of the entire conference program dedicated to discussing JLA internment history and their ongoing redress struggle.

Now, of course, the idea of “JLA internment” as a “hidden history” is certainly not new. For the previous several years, beginning as far back as 2002 (if not earlier) when redress activists began work on the documentary *Hidden Internment: The Art Shibayama Story* (2004), CFJ and other redress supporters began framing the JLA WWII rendition program as a ‘lesser-known history,’ a ‘hidden internment.’ In the film, for instance, the following statement is issued by Human Rights Attorney Karen Parker and also featured on the back cover of the DVD: “Probably 90 to 95% of Americans *do not*

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<sup>58</sup> Presentation by Grace Shimizu at JANM National Conference on July 5, 2008 in Denver, Colorado, Grace Shimizu Archive, emphasis added.

*even know...* that the United States went hostage shopping in Latin American and took Latin American citizens.”<sup>59</sup> Also in 2004 (as discussed in the previous chapter), the idea of “reconsidering our history” indeed served as a significant framework for the public forum, “The Assembly on Wartime Relocation & Internment of Civilians.” Here, organizers opened the forum with a panel of speakers whose specific purpose was to de-naturalize and de-mystify what we think we know about “the internment,” the CLA and the infamous *coram nobis* cases as justice achieved.<sup>60</sup> Finally, in their op-ed article entitled, “Justice for the *Forgotten* Internees,” published in the *Washington Post* on February 19, 2007, Congress members Xavier Becerra and Dan Lungren themselves, co-sponsors of the JLA Commission Bill, wrote the following: “Further study of the events surrounding the deportation and incarceration of Japanese Latin Americans is merited and necessary. While most Americans are aware of the internment of Japanese Americans, few know about U.S. government activities in other countries that were fueled by prejudice against people of Japanese ancestry.”<sup>61</sup>

Such discourses effectively juxtaposing the ‘more well-known story’ of the ‘internment of Japanese Americans’ with the ‘lesser known,’ ‘forgotten’ or ‘hidden’ ‘internment’ of the JLAs indeed represent a key, long-term strategy of JLA redress activists and supporters—one which continues to be deployed to the present day. Still, this moment of the twentieth anniversary of the CLA, I contend, also marks a significant development in activists’ practices of “critical re-remembering” of “Japanese American redress”—their articulations of the fundamental *relationship* between dominant and

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<sup>59</sup> Peek 2004, emphasis added.

<sup>60</sup> “The Enemy Alien Files” Exhibit Consortium 2006.

<sup>61</sup> “Justice for the *Forgotten* Internees,” Xavier Becerra and Dan Lungren, *Washington Post*, February 19, 2007.

marginalized/suppressed memories in the *politics* of knowledge production concerning “WWII internment.” As Yen Le Espiritu emphasizes, in the context of the historical anniversary, we must remain especially attentive to the “forgetting of forgetfulness”—Yoneyama’s idea that “[t]he ongoing reformulation of knowledge about the nation’s recent past is a process of amnes(t)ic remembering whereby the past is tamed through the reinscription of memories.”<sup>62</sup> As I will show in the remainder of this chapter, activists seemed to embrace such an awareness, particularly as they grappled with the commemorative forces working to settle memories into the teleological narrative of the internment and its redress. For example, in her “redress diary” article, published in December 2008 in the aforementioned special edition of the JACL’s *Pacific Citizen*, Grace Shimzu expressed the following:

I can understand why the US government would want to close the chapter on WWII internment and redress. But passage of the CLA and completion of a 10-year government redress program did not signal a victorious end to the fight for redress.... / To better understand the significance of those accomplishments, we need more discussion and assessment of how the CLA was implemented; who received and who was deprived of redress; and its impact on the Nikkei community and the nation, especially our elected officials.... / And *we must not forget* the hundreds of JAs who have been denied redress....because they were born in camp after an arbitrary cut-off date for eligibility, or they were Issei or Nisei adults when they were coerced to participate in the hostage exchange; or they suffered violations of their constitutional rights other than incarceration. / *We must not forget* the broken promise of \$45 million in public education and research funding that the US government still owes the American people. The educational mandate of the Civil Liberties Act has not been fulfilled. / *We must not forget* the 20,000+ men, women and children of German and Italian ancestry in the US and from Latin America who have not received proper acknowledgment nor apology for the violation of their rights,

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<sup>62</sup> Espiritu 2006. Espiritu cites Yoneyama 1999, 32.

including internment and hostage exchange. They are still waiting for their Wartime Treatment Study Act to be passed by Congress.<sup>63</sup>

In this passage, Shimizu calls attention to precisely the idea of the “forgetting of forgetfulness” in celebratory narratives of the internment and its redress as something done and finished. By emphasizing that the passage and implementation of the CLA “did not signal a victorious end to the fight for redress” and repeatedly narrativizing that “we must not forget,” she draws a direct connection between, on the one hand, official national narratives working to “close the chapter on WWII internment and redress” and, on the other, the forgetting of those dissonant memories threatening to signify the failures of the CLA and its so-called “justice.” Importantly, Shimizu does not mention even once the JLAs in this passage—a move which I read as strategic toward stressing not only the overall failures of the CLA per se (besides its direct impact on the JLAs) but also toward expressing a broader coalitional politics toward justice—one which understands the fundamental limits of recognition-based policies. In what follows, I continue my tracing of articulations concerning “JLA redress” as they appear along the discursive terrain of the twentieth anniversary of the CLA. I argue that such articulations work to not only unsettle and transform uncritically celebratory narratives of Japanese American redress as paradigmatic, exceptional American-style justice, but also point to alternative forms of justice and remembering. These are forms not premised on recognition and closure but rather on the ongoingness of struggle and the utmost importance of practices of critical remembering to opening “our paths to our various presents and futures.”<sup>64</sup>

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<sup>63</sup> Grace Shimizu, “Dear Diary: Redress Isn’t Over Yet,” *Pacific Citizen Holiday Issue*, December 2008.

<sup>64</sup> Nguyen-Vo 2005, 159.

*The Endings that Are Not Over*

“We’re still here”—such were the words put forth by Grace Shimizu in her article, “Dear Diary: Redress Isn’t Over Yet” published in the *Pacific Citizen*. In her article, Shimizu makes her case as to why “redress isn’t over yet”—not only for Japanese Latin Americans but for Japanese Americans as well. Here, her “timeline” as delineated in the article begins rather than ends with the passage of the CLA and the distribution of redress payments. Unlike many other renditions telling the “story” of the CLA which tend to conclude on a celebratory note in 1988 with the signing of the bill by President Ronald Reagan or the signing of HR 2991 by President George H. W. Bush (which established entitlement status for redress funding), Shimizu’s rendition seems to have no closure. Here, Shimizu variously describes “the wound of exclusion from redress” in the early 1990s, “[t]he disgust for the Department of “Justice” as it actively fought the JLAs in the courts,” and the “disappointment when the Judiciary subcommittee hearing on the bill was cancelled” that year in 2008. She writes: “The frustration of unfulfilled expectations. The slaps in the face back to reality. Decades of ups and downs, and we’re still here.”<sup>65</sup>

Indeed, at this moment of the twentieth anniversary, I contend, articulations concerning “JLA redress” put forth by activists emerge precisely to contest the notion of “Japanese American redress” as a pursuit for “justice” that is “over...a closed chapter.” In her presentation given at the aforementioned JANM national conference held in July 2008, Shimizu made the following statement:

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<sup>65</sup> Grace Shimizu, “Dear Diary.”



There are those in US government would like to have you believe that the wartime experience of persons of Japanese ancestry, both US citizens and immigrants, and our struggle for redress *is over...a closed chapter*. Many people have accepted this because of the passage of the historic Civil Liberties Act of 1988 and the completion of a 10-year redress program whereby the majority of former Japanese American internees received an apology letter and their symbolic compensation payment. / For “enemy aliens” of WWII, the struggle for truth, acknowledgment, justice and *redress is not over*.<sup>66</sup>

At the annual San Francisco Bay Area DOR event held five months earlier in February, she also issued a similar call:

As we observe this year’s Day of Remembrance and the 20<sup>th</sup> anniversary of the passage of the Civil Liberties Act of 1988, we must also recognize that *the struggle for redress continues*. / Passage of this historic legislation and the completion of a 10 year government redress program marked stages in our fight for redress, but *not the end of our redress struggle*. Proclaiming successful government accountability is premature when we have *unfinished redress business* and, *especially in the aftermath of 911, when we see similar government violations being repeated against other communities*. / Our Nikkei community and all people of conscience *must not allow this shameful chapter in our country’s history to be closed*.<sup>67</sup>

Taken together, such passages, I argue, begin to illuminate what I conceive of as a critical and, not coincidentally, timely intervention of JLA redress activists: to disrupt the settling of memories of “the internment” and its redress into teleological narratives of progress and redemption. That is, by persistently inserting themselves into the commemorative discourses working to celebrate the CLA, JLA redress activists, via their strategic calls for “unfinished redress business,” effectively demonstrated what Lisa Yoneyama describes as a “Benjaminian dialectics of memory.” She writes, “Rememoration is a social practice that allows the past to be ‘recognized by the present as one of its own concerns.’ At the same time, when past events are thus made urgently relevant to the

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<sup>66</sup> Grace Shimizu, “Dear Diary,” emphasis added.

<sup>67</sup> Grace Shimizu, “Dear Diary,” emphasis added.

present, they in turn question the commanding power that historical truth is assumed to have over the present. By interrupting the evolutionary continuity between past and present, a Benjaminian dialectics of memory allows historical knowledge to remain critically germane to present struggles for social change.”<sup>68</sup> JLA redress activists understood, as such passages reveal, the significance of historical narratives of the CLA to not only their current, ongoing struggle for redress but also a much broader set of concerns for justice. Moreover, by making the past “urgently relevant to the present,” activists indeed questioned “the commanding power” of “the internment” narrative—its inevitability as a “historical truth.” As will be explored in the next section, it is here that the re-remembering of the CLA took on new meaning—not as a commemoration of a dead past but as a “call for action” for the future.

### ***Remembering as “The Call For Action”***

In an article, entitled, “Remembered, Renewed, and Re-Energized” published in the CFJ Newsletter in early 2008 (just before the annual DOR events would take place), members issued the following statement:

Day of Remembrance (DOR) has become an important tradition in the Japanese American community. It is a time when we remember our wartime experience and our loved ones. *But DOR is not just about remembering and paying tribute to our past. An integral component of this community tradition has been and continues to be the call for action in the ongoing redress struggle of our Nikkei community and for truth and justice.*

As we observe this year's DOR and the 20th anniversary of the historic Japanese American redress legislation, our fight for Japanese Latin

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<sup>68</sup> Yoneyama 1999, 30.

American (JLA) internees is gearing up with more energy than ever before.

The U.S. government has yet to acknowledge the WWII rendition of the JLAs: kidnapping, forced labor, internment, deportation and hostage exchange. This *unfinished redress business* is urgent as more JLAs are passing with each year. And failure to hold the U.S. government accountable for these war crimes is critical to all people of conscience as we realize the parallels between this shameful chapter of U.S. history and current government policies and actions.

To ensure that JLA internees receive proper redress, the Campaign For Justice (CFJ), Nikkei for Civil Rights and Redress (NCRR), and the Japanese American Citizens League (JACL) are mobilizing behind this issue. Thanks to our advocates in Congress, we have the JLA Commission bill, which passed the Senate Committee of jurisdiction. Now, our focus is to get a House Judiciary Subcommittee hearing and get it passed by Congress.

You can help by joining the letter writing campaign, securing endorsements from community organizations and key opinion makers, donating your time and financial assistance, and joining the community delegation to DC for the hearing. Whatever you can do to get the word out about JLA redress is much appreciated. NOW is the time!<sup>69</sup>

Indeed, at this moment leading up to the annual DOR events as well as the historical anniversary of the CLA, JLA redress activists made an explicit assertion about the “ongoing[ness]” of the “redress struggle of *our* Nikkei community” and for “truth and justice.” Reminding us that “the call for action” “has been and continues to be” “an integral component of this community tradition,” activists, I contend, were engaging in an important political act: to re-politicize community remembrances of the “internment” and its “redress” at a pivotal historical moment. “DOR,” from its inception in 1978, has always been intimately linked to the idea of governmental redress. Founded by members of the Seattle Evacuation Redress Committee, the event was first planned precisely as an

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<sup>69</sup> CFJ Newsletter dated Winter 2008, Grace Shimizu Archive, emphasis added.

organizing tactic in response to the “stalled redress movement at the time.”<sup>70</sup> In 2008, I argue, JLA redress activists, by re-articulating the DOR tradition as “not just about remembering and paying tribute to our past” but rather also about this “call for action,” were in fact re-activating this transformative collective past, using it to unsettle and possibly transform the present and future.

An important strategy thus deployed by those involved with the JLA redress efforts was to insert themselves into the “Nikkei community”—a move I read as premised not on the desire for inclusion per se but rather on radical transformation and what Avery Gordon has described as an “obligation” “out of a concern for justice.” To explain, a key tactic used by activists was to put forth an analysis of “the redress movement” as “*one* struggle”—one which “*both* Japanese Americans (JAs) and Japanese Latin Americans (JLAs) helped to build.” In her redress diary published at the end of 2008, Shimizu wrote the following: “...2009 is the year to get our JLA Commission study bill passed by Congress. Time is of the essence. At some point there will be no one alive to testify and this sordid episode in history could be successfully ‘disappeared.’ *This must not become part of the legacy of our Nikkei community’s internment and redress history*” (emphasis added). Here, looking forward through time, Shimizu cautions the “Nikkei community” of the precarious present and future for not only JLA History but “our” Nikkei “internment and redress history” as well. Understanding the moment of danger they are facing in the possible “successful disappear[ance]” of memories of the JLA WWII rendition program, Shimizu in effect infuses with urgency the cause of JLA

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<sup>70</sup> Martha Nakagawa, “Days of Remembrance,” *Densho Encyclopedia*, May 23, 2014, <http://encyclopedia.densho.org/Days%20of%20Remembrance/>, accessed April 30, 2015.

redress precisely by leveraging the weight of Japanese American History. That is, by making remembrances of the JLA rendition program relevant to dominant narratives of JA internment and redress, she in turn implicates those political subjects recognized by the CLA and makes JLA redress *their* concern. She goes on to write:

*“This is our chance to expose the WWII enemy alien program and place the JA incarceration in a broader domestic and international context. We can spotlight the Latin American rendition scheme which affected over 6000 men, women and children of German, Italian and Japanese ancestry. Of these, over 2200 were of Japanese ancestry from 13 nations, who were kidnapped, detained and interned for reasons of “national security”—but without charges or legal counsel, incarcerated for indefinite duration, held without trial, and many forcibly deported to war zones of the Far East in the hostage exchange. This is our opportunity to establish the ongoing failure of the US government to provide redress for war crimes and crimes against humanity against our families.”*

Thus, Shimizu is interested not in the mere additive inclusion of JLAs into teleological accounts of JA internment and redress but instead in the transformation of such accounts—in “plac[ing] the JA incarceration in a broader domestic and international context” and “establish[ing] the ongoing failure of the US government to provide redress for war crimes and crimes against humanity against our families.” Moreover, she conceptualizes the occasion of the twentieth anniversary as an opportunity—not only for JLAs but for JAs—to rewrite the WWII “internment” and “redress” history. As will be discussed in the rest of this chapter, these activists, I contend, in their calls for “proper redress” and “government accountability,” serve a crucially important function: to reveal the limits of national redress and recognition *as* justice.

### **A Note on “Rendition”**

As part of this re-writing of “internment,” beginning in 2008, JLA redress activists made a conscious decision to begin using a different term to connote, describe and signify their WWII experience; the term: rendition. According to Shimizu, “rendition,” is appropriate because it captures the totality of the JLAs experience from abduction by the U.S. in 13 Latin American countries to extrajudicial transfer to a third country (Panama) to forced transport to “war zones in the Far East”—primarily Japan. The “internment” simply does not accomplish this and rather subsumes the JLA wartime experience under what has become a domesticated interpretation of the U.S. militarized violence perpetrated against Japanese (Latin) Americans during WWII. In 2008, at the Bay Area DOR event, the campaign included the following passage in their “redress update” presentation:

*Today we hear about extraordinary rendition. For the Japanese Latin Americans, we endured WWII-style rendition. Over 2200 men, women and children of Japanese ancestry were kidnapped from their homes in 13 Latin American countries and transported over international borders. We had our passports and identity papers confiscated and were herded into camps in the US for indefinite internment without charges or trial. Many were detained in a third country and subjected to abuse and hard labor and many were also used in 2 hostage exchanges for US citizens caught in the war zones of the Far East. And after the war ended, we were declared “illegal aliens” and most of us were forcibly deported to war devastated Japan never to return to our homes and businesses in Latin America. This was ethnic cleansing. This was rendition. These are war crimes and crimes against humanity for which the US government has not properly acknowledged, apologized nor redressed.<sup>71</sup>*

Indeed, I argue, such an assertion on behalf of the campaign regarding the use of this term ‘rendition’ marks yet another significant turning point for JLA redress activists in their analysis as well as their intervention into dominant discourses concerning WWII

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<sup>71</sup> Grace Shimizu’s speech delivered at 2008 Bay Area DOR event, Grace Shimizu Archive, emphasis added.

‘internment.’ Now, to be sure, “internment” itself is a term fraught with controversy and a complicated history, and many would argue that there is certainly *not* a consensus among scholars and activists on the term.<sup>72</sup> Still, many would also agree that the term has become, after much negotiation, compromise and strategic maneuvers, *the* overriding signifier to mark the WWII incarceration of Japanese residents and Japanese American citizens in both scholarship and the national imaginary. Such has not been lost on JLA activists as they too have and continue to deploy the term *strategically* when beneficial.<sup>73</sup> It is precisely within this context then that I read the assertion of the term “rendition” at certain moments and in certain spaces as a crucial point of departure for activists in pushing toward a critical understanding of the JLA rendition program as not simply part of what has become a domesticated version of ‘the internment.’ That is, by painting a picture of *globalized* U.S. military violence “WWII-style,” activists were again not simply broadening the existing narrative but rewriting it—radically complicating and globalizing ‘the internment’ narrative. Moreover, it is with this move that these activists were thus able to transform ‘the stakes’ of our critical understandings of the past, making them crucially relevant to an alternative present and future.

### ***“What is at Stake”***

At her presentation at the annual JANM conference, Shimizu stated the following:

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<sup>72</sup> See Herzig-Yoshinaga 2009.

<sup>73</sup> For example, a project funded by the National Endowment for the Humanities (NEH) began in August 2014 by Grace Shimizu and Stephanie Moore is entitled, “Uncovering Hidden History: The World War II Internment of Japanese Latin Americans.”

*...while mass incarceration in the US isn't yet happening today, we do see that history is repeating itself with even more sinister twists and turns....racial profiling, discriminatory immigration policies, detentions without charge or due process, expedited deportations, kidnapping, sexual assault, torture, murder....*

Now in the halls of Congress, in the courts and in all sectors of our society, we are confronting “war on terrorism” abroad and here at home. We are seeing our civil liberties being curtailed in the name of national security, while many in the US and other nations feel that the world is becoming increasingly less safe. There is no end in sight for the occupation of Iraq and even those in the military are questioning the legality and morality of the war. And the conflict in that region continues to intensify in Gaza and has expanded to invasion and destruction of Lebanon. Threats to invade Iran raise the possibility of nuclear war. Billions of dollars are spent each month on foreign wars; budgets are being cut for domestic education, health care and social services; and the profits of war profiteers are soaring. Government corruption, cronyism, incompetence, negligence – need I mention the man-made Katrina disaster...Conflicts of interest in our courts, Congress and the media. Subversion of our electoral system even as we enter into the race for president. We are in the midst of a crisis in our country...a constitutional crisis, a crisis for our democracy, an all-sided political, economic, social, cultural, and moral crisis.

*Now more than ever is underscored the significance and relevance of our WWII internment experience and ongoing struggle for government accountability and redress.*

Shimizu had begun the presentation by pointing out (as other scholars have done) that “mass internment” such as that experienced by Japanese U.S. residents and Japanese American residents “is still legal.” She stated, “The constitutionality of the internment was never ruled upon, so it is still legal for our government to repeat the wholesale incarceration of citizens and non-citizens alike in the name of national security. It still has the Supreme Court’s seal of approval.”<sup>74</sup>

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<sup>74</sup> Grace Shimizu’s presentation entitled, “Enemy Alien Internment: Human/Civil Rights, WWII Crystal City Camp & Contemporary America,” presented at Japanese American National Museum (JANM) 2008 Annual Conference in Denver, Colorado on July 5, 2008, Grace Shimizu Archive.



Take together, these passages, I contend, form the contours of Shimizu's argument for the ongoingness of U.S. militarized state violence *despite* the passage of the 'monumental' CLA. Presented at this national conference espousing the "success" of the legislation and proffering narratives of "Japanese American redress" *as* justice achieved, I read such a move as again decisively bold, even radical—a marked departure from dominant discourses. Moreover, the 'never again' dialectic in her warning that "history is repeating itself with even more sinister twists and turns" reveals the fundamental tension underlying the "JLA redress movement" itself: the back and forth between two seemingly contradictory objectives to, on the one hand, secure 'proper redress' for the surviving JLA former internees and 'close the book' on this 'sad chapter' of U.S. history and, on the other, to forge a critique of U.S. government accountability now and into the future. Shimizu, of course, had her own motivations for connecting this particular present and past, for establishing the "significance and relevance" of the JLA rendition program of WWII to current, ongoing U.S. military violence. One might even interpret her speech as simply strategically and rhetorically leveraging certain present day 'crises' in order to 'achieve' 'proper redress' for the JLAs. Still, I argue, in drawing these connections across time and space, Shimizu in effect is doing much more: she is pointing to a different kind of "historical justice"—one premised not on a logic of inclusion and recognition-based politics per se but rather on, to recall Diana Taylor, "the loose episodic relationships between events" situated in a complex constellation of U.S. militarized racial violence. That is, partaking in an alternative modality that does not rely on closure and redemption (once JLAs get *their* redress) and the isolation of events, Shimizu, I contend, was

pointing to a re-imagining of historical justice as an *ongoing collaborative obligation* which *always* remains unfinished or in the words of Derrida “a venir,” “to come.”

In her final remarks at the conference, Shimizu stated the following:

What is at stake for us is history based on truth and accuracy. What we want is documentation, preservation and interpretation of history, especially the history of those in our society, and in our own communities, who have been consistently marginalized and disempowered. What we don't want is distortion and manipulation which coopts our history, which supports a model minority interpretation of our history or which uses our experience to justify the mistreatment of those vulnerable in our society, especially during times of war. *And what we want is also to draw lessons from our own history and to gain insight into the concerns we face today.*

What is at stake here is being able to know a war crime when we see it. What is at stake is justice for those whose rights have been violated, to get redress.....especially for war crimes. What is at stake is the setting of a precedent of what our government can and cannot get away with and who can and cannot qualify for redress, *when* the US government *again* inflicts such wrongdoing on its own citizens and immigrants inside and outside its borders.

What is at stake is the rule of law, the defense of our Constitution, application of international human rights to the US, fostering democracy, upholding truth, securing justice and a peaceful world for us, our children and our future generations.<sup>75</sup>

Here, Shimizu explicitly outlines what she sees to be the ‘stakes’ of ‘JLA redress’—stakes not delimited to the ‘proper acknowledgement’ and redress of the JLA WWII rendition program and its victims but stakes much more far reaching which allude to the violence of U.S. globalized militarism then and now. It is here that Shimizu again does the important work of wresting the history of the WWII JLA rendition program out of its relegated confines in the margins of U.S. “internment” History and placing it in the global historical context of “the concerns we face today.” I contend that such a move, rather than flattening

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<sup>75</sup> Shimizu (“Enemy Alien Internment”) 2008, emphasis added.

out the geohistoric specificities of the program actually does quite the opposite; it draws on its particularities precisely to reveal the politics of (un)redressability within the overlapping contexts of U.S. militarism, modern law and an international human rights regime. For Shimizu, then, the goal of “history based on truth and accuracy” is defined as much more than “completing the historical record”; rather, it serves as a means to “intervene in the *future* course of history.”<sup>76</sup> In short, Shimizu, I contend, was initiating a radicalization of re-remembering of “the internment.” Such re-remembering worked, not to flatten out History under an empty cliché of “never again” in order to prop up the U.S. as an exceptional nation, but instead to serve as a point of entry toward a critical understanding of late-modern processes of historical knowledge production and so-called “redress” concerning U.S. racialized militarized state violence within the context of nation-building and empire.

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In this chapter, I have sought to show how the various discourses concerning “JLA redress” engage and, at times, unsettle and transform nationalizing narratives of “the internment” and its “redress” by calling into question their teleological trajectories and storybook progress of the U.S. nation. Even more, through my analysis, I have sought to glean both the possibilities and predicaments of “redress” as *the* late-modern paradigm of historical justice within the overlapping contexts of (U.S.) nation and empire building and a global human rights regime. Ultimately, I find that it is the dynamic and ongoing tension between notions of “completing the account” and of transforming

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<sup>76</sup> Shimizu (“Enemy Alien Internment”) 2008.

History for present and future purposes wherein the possibilities of a new paradigm for “justice” lay. In this sense, the unsettling and transformative qualities present in representations of “JLA redress” emerge precisely out of its ongoing failure as a juridical pursuit, in the persistent claims of “unfinished redress business,” which continue to this day. As I have shown throughout this chapter and dissertation, such a *politics* of *unredressability* may signal *both* the limits of redress (and more broadly universal human freedom) as a paradigm of racial/social justice in the global historical present as well as the ever-present possibilities of an alternative political praxis—the remaking of violence, history, justice as we know it.

## Appendix

Countries Participating in the United States Deportation-Internment Program, 1941-1945 <sup>1</sup>			
Country	Germans	Japanese	Italians
Bolivia	221	57	27
British Honduras	12	--	--
Chile	5	--	--
Colombia	646	12	23
Costa Rica	379	27	13
Cuba	13	5	5
Dominican Republic	68	1	7
Ecuador	463	11	24
El Salvador	96	6	29
Guatemala	479	--	10
Haiti	77	--	4
Honduras	144	1	4
Mexico	266	84	8
Nicaragua	177	6	16
Panama	251	247	52
Paraguay	17	--	--
Peru	702	1799	49
Venezuela	42	8	16
Total	4,058	2,264	287

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<sup>1</sup> Mak 2009, Appendix B, 286.

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