

## Korean Hibakusha, Japan's Supreme Court and the International Community: Can the U.S. and Japan Confront Forced Labor and Atomic Bombing?

David Palmer

### Summary:

*The Japanese Supreme Court's fall 2007 ruling in favor of Korean hibakusha medical compensation rights represents an important, though only partial, victory. The decision denied these Korean atomic victims, who were forced laborers at Mitsubishi's Hiroshima Shipyard, compensation for unpaid wages. Resolving outstanding forced labor cases, as well as fully recognizing, apologizing and compensating all hibakusha, requires a broader international solution of "mutual apology and mutual compensation" by both Japan and the United States.*

On November 1, 2007, the Japanese Supreme Court ruled that the Japanese government's denial of health care benefits to Korean hibakusha who were employed as forced conscripts at Mitsubishi's shipyard in Hiroshima was illegal. The decision, which upheld a 2005 High Court ruling for the plaintiffs, has historic significance and broad international implications.[1] These Koreans were not only hibakusha – atomic bomb survivors – they also were forced conscripts, in essence slave laborers whose pay was withheld by their employer and government of the time and to this day. The case raises two still unresolved issues that the Japanese and U.S. governments have yet to face: responsibility for America's atomic bombing of Hiroshima and Nagasaki, and Japan's use of and profiteering from forced labor during World War II in the Pacific.



These Korean workers waited 12 years for the final decision, but of the 40 who began the lawsuit, only 28 are still living. The Japanese government has been ordered to pay 1.2 million yen in damages to each of the plaintiffs, but the compensation is for lost medical benefits only. The Supreme Court refused the plaintiffs' demand to also receive compensation for unpaid wages from Mitsubishi. While viewed by many as a victory for Korean hibakusha, and atomic bomb survivors generally, the ruling is at best a very partial victory that fails to address larger issues of the atomic bomb and forced labor compensation.



**Outside the Japan Supreme Court on November 1, 2007, supporters of Mitsubishi Korean forced laborers celebrate the plaintiffs' success in winning belated compensation for exposure to the Hiroshima atomic bomb. Chugoku Shinbun, Nov. 2, 2007.**

What is astounding about the decision of November 1 is that it has taken so long to be finalized. The Health and Welfare Ministry's instruction in 1974 to local governments that benefits be restricted solely to hibakusha living in Japan in fact had no basis in the original 1957 "A-bomb Survivors Medical Care Law," which defined those eligible solely as "atomic bomb survivors," without any further stipulations of residence or nationality.[2]

The denial of back wages in the Supreme Court decision presents a paradox. Evidence for the earlier hearings in the case, based in Hiroshima, involved detailed submission of work history documentation on the plaintiffs. This included verifying the fact that they were in Hiroshima on August 6, 1945, at the time the atomic bombing occurred. It included evidence of their having been brought to Hiroshima from Korea against their will as conscripts. There is evidence from published sources independent of what was presented to the court that the Koreans would have been restrained from movement beyond their workplace and company dormitories by police guards within Mitsubishi and the Kempeitai outside company premises. Their work experience, documented by their legal team and supporting researchers, included the length of time they worked at Mitsubishi Shipyard, how much pay they should have received, and where they worked and lived on company property.[3]

### **Injustice of the "treaty claims waiver" argument**

The standard defense argument, also common in cases heard before Japanese and U.S. courts involving female Korean sex slaves ("comfort women") and Allied POWs used as slave labor in Japanese wartime enterprises, has been that bilateral peace treaties include waiver clauses on such claims. For Koreans making claims against Japanese employers and the Japanese government, the 1965 Japan-South Korea treaty is cited. For U.S. cases, Article 14 of the 1951 Treaty of Peace between Japan and the Allied Powers has been cited.

In the *Hwang Geum Joo v Japan* decision handed down by the U.S. DC Circuit Court of Appeals on June 28, 2005, the presiding judge noted that this article "expressly waives 'all claims of the Allied Powers and their nationals arising out of any actions taken by Japan and its nationals in the course of the prosecution of the war.'" Chinese, Taiwanese, and Korean plaintiffs in this case, who were women used as sex slaves by Japanese troops, objected that their countries were not party to the 1951 treaty. They also argued that subsequent treaties between their nations and Japan should not prevent private tort suits. But this argument was rejected on the standard, and rigidly mechanical, reasoning that claims waiver stipulations applied in these subsequent treaties.[4] For Chinese forced labor cases heard in Japanese courts, the claims waiver article in the Japan-China peace treaty of 1972 has been cited.[5]

The traditional state-centric view of international law holds that individuals lack any independent standing and only states possess claims rights. Therefore, only governments can advance (or waive) claims on behalf of their injured nationals. However, an increasing number of international jurists are questioning this view. The major objective of the International Criminal Court (ICC), in fact, has been to empower individuals to bring claims when their governments cannot or will not. The reparations movement for Korean hibakusha might benefit by utilizing this evolution of international law.



## **“Transitional justice” as an alternative to “claims waivers”**

The legal concept of “transitional justice” articulated by Ruti Teitel can provide an alternative to the narrow interpretation of the claims waiver clause in the 1965 Japan-South Korea Treaty. Teitel views “transitional justice” as contingent, based on specific historical circumstances where a previous regime claimed legal authority but has been recognized as illegitimate due to its undemocratic and oppressive nature. Law and judicial decisions under the previous regime therefore cannot mechanically apply as precedents for legitimating post-regime law.

According to Teitel, “what is deemed just is contingent and informed by prior injustice. Responses to repressive rule inform the meaning of adherence to the rule of law. As a state undergoes political change, legacies of injustice have a bearing on what is deemed transformative. To some extent, the emergence of these legal responses instantiates transition.”[6]

Continuing to use the claims waiver clause in the 1965 Japan–South Korea Treaty as the rationale for waiving the rights of Korean forced laborers ignores the historical reality of two “legacies of injustice.” The first legacy is former Japanese colonial occupation and control over those Koreans who were taken to work in Japan against their will. The second legacy is the repressive rule of Park Chung-hee in 1960s South Korea. The 1965 treaty failed as a form of transitional justice, even though the intent – for international consumption at least – was to portray Japan and South Korea as peaceful neighbors. In reality, the treaty solidified the U.S.-led Cold War bloc in East Asia.

An important example of the application of “transitional justice” in terms of reparations and compensation, rather than prosecution of wartime wrongdoing, is the “Remembrance, Responsibility and the Future” Foundation, established in 2000 to compensate forced labor victims of the Third Reich. It led to the establishment of a trust fund of \$6 billion by the German federal government and more than 6,500 industrial enterprises. By late 2005, 1.6 million former forced laborers and their heirs had received individual apologies and symbolic compensation of up to \$10,000 each.[7]

Minami Norio and others have argued that this European model of settling forced labor claims is an appropriate way to break “the logjam of postwar compensation court cases.”[8] It provides an example of transitional justice in practice. However, it is in fact a corrective for the failure of the Nuremberg War Crimes Trials to deal adequately with the “slave labor” charge made against Third Reich defendants.

First, the recent European forced labor settlement was based on recognition of the importance of open and transparent information related to the cases. This required disclosure of relevant government and corporate documents, as well as disclosure of all names of those subjected to forced labor. Without the participation and cooperation of companies that used wartime forced labor, including transparency regarding what actually happened, the final settlement would not likely have been successful. Second, the provision of monetary compensation, not simply recognition of the injustice, lent weight to the settlement. Third, the objective was to bring compensatory justice and recognition to the victims, rather than to prosecute and convict individuals responsible for the criminal policy and use of forced labor. This last aspect allows for closure with justice but without revenge, something that was possible due to the historical distance of events and the fact that all leading figures involved in designing or utilizing forced labor are now dead.

The European settlement does have specifics that may not be applicable to the Japanese case. It

involved only one government, Germany, and it was not complicated by a problem often involved in litigation by Korean forced laborers in Japanese courts: atomic bomb survivor recognition and medical compensation. Forced laborers victimized by the Third Reich received compensation through a joint trust established by the German government and companies that had used forced labor, but the settlement did not have the broader international implications that Korean forced laborer exposure to American dropped atomic bombs has in Japan.

Another crucial difference is that the U.S. pressed hard to force the reluctant German government and corporations to admit their role, make a public apology to the aggrieved, and provide compensation. Toward the Japanese government, by contrast, the U.S. position was precisely the opposite, protecting it against claims at every step, even before the San Francisco Treaty. The San Francisco Treaty, which ended the occupation, became the keystone of the argument that Japan had fulfilled all responsibility toward foreign forced laborers.

### **Company complicity in using forced labor – historical transparency needed**

In one area, however, the German and Japanese cases have a very important connection: company use of substantial foreign forced labor. The reality is that major companies that used forced labor under the Third Reich made substantial profits. This has been well documented by economic historians.[9] German companies that contributed to the trust fund have not hidden this past but have come to terms with it. There is even the remarkable case of Degussa, the company that manufactured Zyklon B for use in the death camp gas chambers, opening its archives without limitation to an historian and allowing his work to be published without censorship.[10]

Major Japanese companies also profited from war with China in the 1930s and the Pacific War of the 1940s. In contrast to the large number of published histories in English on Third Reich-era companies, and far more in German, there has been a paucity of works in English and Japanese on the role of zaibatsu in Japan's wartime economy. Jerome Cohen used data collected by the Allied Occupation authorities to document the key role of zaibatsu and the profits they secured, but there has been no substantial successor in English to his 1949 book.[11] Over forty years later, Morikawa Hidemasa's *Zaibatsu* was hailed by prominent business historian Alfred D. Chandler, Jr., as "the first detailed, carefully organized history of this significant institution." However, Morikawa devotes only 15 pages to the period 1930-1945 and makes no mention of the extensive use of forced labor in zaibatsu mining and manufacturing.[12] Critical histories of major Japanese companies operating during the Pacific War that use a range of company, government, and community archival sources and that go beyond management-oriented studies without reference to labor systems have yet to be written.



**Korean forced laborers from the Mitsubishi Shipyard in Hiroshima, ca. 1944, on a supervised visit to Miyajima Shrine. These workers left Hiroshima after the atomic bombing, but perished in the typhoon of September 1945 trying to return to Korea. No investigation was done by Mitsubishi or the Japanese government in the decades that followed.**

**In the early 1970s, when Fukagawa Munetoshi, the former dormitory supervisor of these workers at Mitsubishi, undertook his own investigation, he discovered a company coverup of their employment and unpaid wages. Source: Fukagawa Munetoshi photo, copy presented to David Palmer.**

There are as yet no critical Japanese company histories like those on German enterprises to document business involvement and profits from war production using forced labor. Such histories can impact on public opinion internationally, as was the case with Edwin Black's IBM and the Holocaust, which exposed the role of a major American corporation in helping Nazi Germany track Jews for deportation to the concentration camps.[13] The extermination of millions of Jews by the Nazis has been a major reason why there has been greater awareness of business complicity with European fascist regimes. This difference may help to explain why there has been far less scholarly investigation into Japanese business involvement in the system of forced and outright slave labor. While there has been an increasing awareness of sexual slavery ("comfort women") under Japanese fascism, there has been no corresponding international concern with the historical injustices of Korean and Chinese forced labor and the role of Japanese companies in underpinning this system.

The exclusion of Japanese companies from payment of indemnity with regard to use of and profiteering from forced labor in wartime contradicts the historical record. It is ironic that community historians and associations publishing solely in Japanese, not academic business historians from Japan or internationally, are the ones establishing this record by presenting abundant empirical evidence from local records.[14]

### **The U.S. government – not just Japan – bears responsibility**

While Japan bears responsibility for the use of foreign forced labor during World War II, the United States also needs to come to terms with the fact that it did not fully prosecute this particular war crime during the Tokyo war crimes trials. "Enslavement" was listed as one of a number of "Crimes against Humanity" that were within the jurisdiction of the Tokyo War Crimes Tribunal, under Article 5 of the Tokyo charter.[15] However, the Tribunal's later specific indictment in this area focused on "prisoners of war [and] civilian internees", and these encompassed "camps and labour units...in territories of or occupied by Japan and the military and civil police of Japan." This charge covered only those who were connected to countries or, in the case of the Philippines and India, colonies, that were among the

Allied powers. There was no specific mention of “foreign forced labour” used within Japan, as was the case in the Nuremburg trials (in testimony), but the general principle of “enslavement” and “labour units” could apply, in retrospect, to the coerced use of Chinese and well as Korean laborers.[16]

While Japan’s annexation of Korea was recognized by those nations who later joined as Allies against the Axis powers, the December 1, 1943, Cairo Declaration made by the United States, the Republic of China, and Great Britain explicitly noted “the enslavement of the people of Korea” and their determination “in due course [that] Korea shall become free and independent.” This principle was quoted in the Tokyo Tribunal’s judgment which reiterated the centrality of “implement[ing] the Cairo Declaration” and the Declaration of Potsdam and the Instrument of Surrender that confirmed the Cairo Declaration’s points, including the ones on Koreans and Korea.[17]

The basis for prosecuting Japanese use of Korean and Chinese forced labor therefore existed under the Tokyo War Crimes Trials. But the U.S. and its allies did not make charges specific to this area, conduct a proper investigation through documentation and testimony, or pass judgment against these acts. They did occur in the Nuremburg trials, in large part because of the initiative of the Soviet prosecutor who identified extensive use of Russian, Polish, and other Eastern European forced laborers by the Nazis in their war industries. The United States endorsed this approach at Nuremburg, but in Tokyo the subject was virtually never raised except for POWs, or civilians who were citizens or colonial subjects of Allied nations, conscripted as forced laborers. The U.S. failed to conduct a thorough investigation of the situation of Koreans and Chinese who were forcibly taken to Japan, still less to prosecute those responsible in Tokyo. Chief of Counsel for the prosecution was Joseph Keenan, an American, who overshadowed counsels for the prosecution from other countries, in a pattern parallel to General Douglas MacArthur’s direction of the Allied Occupation.

The entire issue of the responsibility of “industrialists” within Japan’s military production complex, including its labor force, was deliberately ignored, and no industrialist was ever tried although a few were initially charged. As John Dower has noted,

“no heads of the dreaded Kempeitai (the military police) were indicted; no leaders of ultranationalistic secret societies; no industrialists who had profited from aggression and had been intimately involved in paving the ‘road to war.’ The forced mobilization of Korean and Formosan colonial subjects was not pursued as a crime against humanity, nor was the rounding up of many tens of thousands of young non-Japanese who were forced to serve as ‘comfort women’ providing sexual services to the imperial forces.”[18]



**Gen. Ishii Shiro led Unit 731, Japan's chemical warfare operation in China during World War II. Ishii and those associated with him provided the U.S. with information about their experiments in exchange for immunity.**

The failure of “transitional justice” at the Tokyo trials was further exposed in 2007 with the release of thousands of CIA documents by the National Archives that prove that some of the worst offenders in the Japanese military system were never tried, but in fact worked for U.S. military intelligence directed by the Supreme Allied Commander General Douglas MacArthur’s immediate aide and chief of counterintelligence, General Charles Willoughby. This use of former Japanese military officers not brought to trial was part of the American Cold War campaign to contain “communism” in Asia. These ex-officers had ties to Japan’s organized crime network and – according to documents of CIA agents who secretly observed U.S. military intelligence – diverted American government money into a range of fraudulent activities while in the pay of Willoughby’s group.[19]

Finally, the full impact of the atomic bombings of Hiroshima and Nagasaki by the U.S. – from 1945 to the present – must be addressed. The massive incendiary bombing of Japanese cities, causing the deaths of hundreds of thousands of civilians, was a “crime against humanity” as was the massacre of thousands of Chinese by Japanese forces in places like Nanjing. However, a legacy unique to the atomic bombings is the persistence of radiation sickness, that is visible even today among surviving hibakusha. The U.S. not only claimed that Hiroshima was a “military base” (President Truman’s radio address), but subsequently denied that there was a persistent danger of radiation beyond the immediate gamma radiation released at the time of the blast. The damage that the U.S. did to so many people – Japanese, Koreans, Chinese, Allied POWs – who were in these cities at the time of the bombings and immediately afterward must be acknowledged. These were two unique events in history that serve as a warning of the full catastrophe of nuclear war. An apology by the U.S. is long overdue.





Hiroshima's atomic dome and vicinity after the atomic bombing

### **“Mutual apology and mutual compensation” by both the U.S. and Japan?**

One can only conclude that responsibility for an apology to the Korean hibakusha rests not only with Japan, but also with the United States. In this respect, the Japanese case differs from that of Europe. Both Japan and the United States have responsibility toward the Korean victims of the atomic bomb. This settlement should encompass all hibakusha, regardless of nationality, and foreign forced laborers within Japan. In terms of monetary compensation, Japan should assume full responsibility for compensating foreign forced laborers, while the United States should contribute to compensating the hibakusha, in the first instance the Korean hibakusha who bear no responsibility for a war in which they were forced to serve on the industrial front.

Furthermore, the experiences of the plaintiffs in the November 1 Supreme Court brings together the movements of the hibakusha and the forced laborers. These Koreans are hibakusha and they are former forced laborers. They seek recognition of what they have suffered, both as atomic bomb survivors and as forced laborers who were denied wages. They were victimized by both the U.S. government, which dropped the atomic bomb on Hiroshima, and by the Japanese government and private corporations, which both coerced their denied them their wages. They have a common cause with Japanese hibakusha as well as with forced laborers of many nationalities including Chinese and American.

The move toward compensation gained momentum as a result of the November 2007 South Korean National Assembly passage of a law granting monetary payments to labor conscripts (both civilian and military) who worked for Japan outside of Korea. Japan and South Korea have an opportunity to work together to expand such a compensation fund. The United States, too, has an opportunity to contribute for the first time to the health care and maintenance fund for hibakusha now administered by the Japanese government. It would be particularly appropriate to contribute to such a fund whose recipients were Korean victims of the bomb.

### **A new international approach – the “four-track strategy”**

“Mutual apology and mutual compensation” cannot be accomplished through a single legal arrangement, forum, or system. A “four-track strategy” may best advance this goal: court litigation; action by government legislators and heads of state; government-to-government consultations and

actions; and social movements.

Litigation is in progress in both the Japanese and the American, court systems. Continued lawsuits can further clarify the historical record and could lead judges to accept a broader interpretation of cases and recognition of the justice of the claims.

Government-to-government consultations are currently under way between the Japanese and South Korean governments. These include jointly inspecting sites in Japan where Korean conscript remains reside and extending the systematic return of remains to South Korea that began in January 2008; convening conferences concerning the Financial Deposits Names List of Korean conscripts' unpaid wages and national pension contributions, currently held by the Bank of Japan; and Japanese government partial funding of pilgrimage-style visits by Korean family members to former South Pacific battlefields where conscripted relatives were killed, which continues previous Japanese government cooperation with returning remains.[20]



**The annual August 6 ceremony in memory of those who died and have suffered from the 1945 atomic bombing of Hiroshima. Source: Hiroshima City website.**

Above all, however, it will require large scale citizens' movements in Japan and the United States, but also in other countries. The international campaign around "comfort women" had a groundswell of transnational support over the past year alone, with national legislatures in North America and Europe as well as the European Parliament passing resolutions calling on Japan to do more to repair the injustice, due directly to bottom-up pressure from their respective citizenries. These actions put political pressure on the Japanese and American governments. It was Japanese citizens' social movements in the 1950s that led to the enactment of the A-bomb Survivors Medical Care Law.

It was American citizens' social movements in the 1980s that led the Ronald Reagan administration to apologize and provide compensation of \$20,000 each for Japanese-American internees during the Pacific War. Is it too much to imagine the possibility of a common citizens' social movement spanning Japan, Korea and the United States to provide justice and compensation for the Korean hibakusha victims of Japanese forced labor and the U.S. atomic bombing?

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*He also is translating the poetry of Hiroshima hibakusha poet Fukagawa Munetoshi. He is the author of [Organizing the Shipyards: Union Strategy in Three Northeast Ports, 1933-1945](#) (Cornell University Press). He can be contacted at [david.palmer@flinders.edu.au](mailto:david.palmer@flinders.edu.au)*

*He wrote this article for Japan Focus. Posted on February 20, 2008.*

## Notes

[1] “Korean hibakusha benefit snub illegal,” The Japan Times, Nov. 2, 2007; “Shinsha shyouso ni eminaku,” Chugoku Shinbun, Nov. 2, 2007.

[2] For the definition of eligibility, see the 1995 law, which contains the same definition as the first 1957 law (reprinted in Keiko Ogura, ed., Hiroshima Handbook (Japanese-English) (Hiroshima: The Hiroshima Interpreters for Peace (HIP), 1995), pp. 179, 198. In early 2007? the Supreme Court affirmed a lower court ruling against the Hiroshima prefectural government’s denial of allowances to three hibakusha living in Brazil. This case provided a precedent for the November 1 ruling on behalf of the Korean hibakusha, and in practice it reaffirmed the original eligibility language in the law (“Top court sides with hibakusha in Brazil,” The Japan Times, Feb. 7, 2007.)

[3] Background on the Korean hibakusha workers at Mitsubishi Shipyard is from Yamada Tadafumi interview, Hiroshima, Sept. 28, 2004, Hiroshima, Dec. 21, 2005, with David Palmer; conference between Zaima Hidekazu and other lawyers representing the Korean plaintiffs and community supporters, Hiroshima, Dec. 22, 2005 (the author was in attendance but not interviewing); Fukagawa Munetoshi, *Umi ni kieta ni hibaku Chyousenjin chouyoukou – Chinkon no kaikyou* (Tokyo: Akashi Shoten, 1992 – originally published 1974); Palmer, David, “‘The Straits of Dead Souls’: One Man’s Investigation into the Disappearance of Mitsubishi Hiroshima’s Korean Forced Labourers,” *Japanese Studies*, vol. 26, no. 3, Dec. 2006, pp. 335-351.

[4] “Contemporary Practice of the United States,” *The American Journal of International Law*, (vol. 99), 2005, pp. 902-904; U.S. Court of Appeals for the District of Columbia Circuit, Hwang Geum Joo, et al. v. Japan, Minister Yohei Kono, Minister of Foreign Affairs, No. 01-7169, decision June 28, 2005.

[5] William Underwood, “[The Japanese Court, Mitsubishi and Corporate Resistance to Chinese Forced Labor Redress](#),” *Japan Focus*, Feb. 8, 2006.

[6] Ruti Teitel, “Transitional Jurisprudence: The role of law in political transformation,” *The Yale Law Journal*, vol. 106, issue 7, May 1997, p. 2014.

[7] Underwood, “The Japanese Court, Mitsubishi and Corporate Responsibility”; Michael Marek, “[Final compensation pending for former Nazi forced laborers](#),” Deutsche Welle online, Oct. 27, 2005.

[8] Minami Norio, “[Resolving the Wartime Forced Labor Compensation Question](#),” *Shukan Kinyobi*, May 21, 2004, translated by Ben Middleton and published in *Japan Focus*.

[9] See Adam Tooze, *The Wages of Destruction: The Making and Breaking of the Nazi Economy* (London: Allan Lane, 2006), pp. 99-134, and works cited in endnotes.

[10] See Peter Hayes, *From Competition to Complicity: Degussa in the Third Reich* (Cambridge: Cambridge University Press, 2004).

[11] Jerome B. Cohen, *Japan's Economy in War and Reconstruction* (Minneapolis: University of Minnesota Press, 1949). See in particular chart 2, "Growth of 'Big Four' Zaibatsu, 1930-45" (p. 508), and chart 3, "Financial Position of 17 Holding Companies, 1930-45" (p. 509). John G. Roberts, *Mitsui: Three Centuries of Japanese Business* (New York: Weatherhill, 1973) has some excellent chapters on this zaibatsu during the rise of militarism and Pacific War years, but it stands alone. No comparable works in English exist for Mitsubishi, Sumitomo, or other zaibatsu. Nakamura Naofumi's survey article, "The Present State of Research on Zaibatsu: The Case of Mitsubishi," *Social Science Japan Journal*, vol. 5, no. 2, Oct. 1, 2002, pp. 233-242 further illustrates how zaibatsu history has generally glossed over the connection to Japan's wartime political economy.

[12] Hidemasa Morikawa, *Zaibatsu: The Rise and Fall of Family Enterprise Groups in Japan* (Tokyo: University of Tokyo Press, 1992), pp. ix, 223-237.

[13] Edwin Black, *IBM and the Holocaust: The Strategic Alliance between Nazi Germany and America's Most Powerful Corporation* (London: Time Warner, 2002).

[14] See, for example, *Chyousenjin kyousei renkou chinso chyousadan, Chyousenjin kyousei renkou chinso chyousa no kiroku – Chugoku hen* (Tokyo, 2001) (The Investigation Team on the Truth about Forced Korean Laborers in Japan, Records of the Investigation of Forcibly Transported Koreans: Chugoku Edition); and *Hiroshima no kyousei renkou o chyousa suru kai, Chikago no umareta Chyousenjin kyousei roudou* (Tokyo, 1992) (Hiroshima Association for the Investigation of Forcibly Transported Prisoners (editors), Korean forced laborers buried in the underground air raid shelters).

[15] John Dower, *Embracing Defeat: Japan in the Aftermath of World War II* (London: Allan Lane, 1999), p. 456.

[16] R. John Pritchard and Sonia Magbanua Zaide, eds., *The Tokyo War Crimes Trial* (New York: Garland, 1981), "Explanatory Military Tribunal of the Far East – Indictment; Count 53; Count 54," vol. 1; "Judgment..." vol. 20, pp. 48,415-417. Non-Allied power nations Portugal (with its colonies of Timor and Macao) and Thailand (technically neutral) were also included among those countries bringing charges of war crimes against Japan.

[17] *The Tokyo War Crimes Trial*, "Judgment..." vol. 20, pp. 48,415-417.

[18] Dower, *Embracing Defeat*, pp. 464, 465.

[19] Michael Petersen, "The Intelligence that Wasn't: CIA Name Files, the U.S. Army, and Intelligence Gathering in Occupied Japan," *Nazi War Crimes and Japanese Imperial Government Records Interagency Working Group, Researching Japanese War Crimes Records: Introductory Essays* (Washington, D.C.: National Archives and Records Administration, 2006), pp. 197-230.

[20] William Underwood email to David Palmer, Oct. 19, 2007.

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