

1/10/00 (Mon).
LA Times

Los Angeles Times

MONDAY, JANUARY 10, 2000

COPYRIGHT 2000 / THE TIMES MIRROR COMPANY / CC / 84 PAGES

Pursuit of WWII Redress Hits Japanese Boardrooms

■ **Courts:** As lawsuits begin to mount, anxiety and resentment grow in Tokyo over alleged victims' 'extortion.'

By SONNI EFRON
TIMES STAFF WRITER

TOKYO—Justice or extortion? The transpacific perception gap is widening as stunned Japanese corporations confront a tsunami of lawsuits filed in U.S. courts by Allied prisoners of war and others who say they were used as forced laborers during World War II.

And the hostilities over history are likely to bring more bad blood in the coming months as some of the attorneys who represented former slave laborers in Nazi Germany in the historic \$5.2-billion settlement reached last month turn their legal guns on Japanese corporations that allegedly profited from the crimes of the imperial war machine.

Surprisingly few Japanese are aware of the growing redress movement in the United States, where at least 14 lawsuits have been filed on behalf of victims and perhaps two dozen more are expected soon. Two members of parliament and several top international scholars recently acknowledged that they were unaware of the issue.

But among those in the political establishment who have followed the sparse Japanese media coverage of the suits, there is growing anxiety and barely concealed resentment.

Some see greedy U.S. lawyers plotting to mug "deep-pocket" Japanese companies, which are vulnerable because they do business in the United States, over a repara-

Please see JAPAN, A6

JAPAN: Suits Seen as Form of U.S. Opportunism

Continued from A1

tions issue that Japan believes was settled by the 1951 San Francisco Peace Treaty.

Even if the companies prevail in court, as the Japanese government insists they will, they face horrific publicity and punitive legal fees.

"This is really a form of extortion," said a source close to the Japanese government, which, like the beleaguered corporations, has been tight-lipped about the issue. Managers and employees of the blue-chip corporations being sued who were born in the postwar period—and often have never heard of any alleged abuses committed by the wartime *zaibatsu* conglomerates—may well view the lawsuits as a business opportunity for U.S. litigators and defense attorneys, the source said.

Others here fear that the excavation in U.S. courts and media of the ugliest chapter in Japanese history will create a backlash here that could strengthen this nation's ultraconservatives, increase suspicions of the U.S. Jews who some perceive as masterminding the legal attack, and potentially strain U.S.-Japanese relations.

"Anti-American sentiment will increase in a visible way," predicted Takashi Inoguchi, a political scientist at Tokyo University. Whatever the legal merits of the cases, Inoguchi said the Japanese government will have difficulty stonewalling the mounting pressure abroad by insisting that all issues were settled by the U.S.-Japan peace treaty.

Only Japanese peace activists have seemed to welcome the U.S. initiatives as offering hope for the justice they say this nation's pro-government courts have long denied victims of atrocities.

Plaintiffs Face Uphill Battle

At two international conferences held in Tokyo and Osaka last month, Japanese attorneys who have been waging a mostly symbolic political and legal battle on behalf of alleged victims of wartime atrocities swapped notes and strategies with U.S. litigators who worked on the Holocaust-linked suits against German corporations.

At least 46 war redress suits have been filed in Japanese courts, most of them by Japanese attorneys working pro bono in an attempt to promote reconciliation between their nation and its Asian neighbors.

Plaintiffs include survivors of the 1937 Nanking massacre; relatives of men who perished as human guinea pigs in Japan's biological and chemical warfare programs; former "comfort women" who worked as military sex slaves; Chinese injured after the war by chemical weapons and other ordnance left behind by the Japanese; and former Allied POW and other alleged slave laborers.

Not one case has been won. According to attorney Yoshitaka Takagi, three cases have been settled out of court, including a forced labor case against steel giant NKK Corp. In two cases, the courts ruled that the plaintiffs had been wronged, though they declined to order restitution, saying it is up to parliament to decide whether and how to compensate victims.

Right-wing activists picketed the redress conference in Tokyo, holding signs that read, "The Nanking Massacre Never Happened," and calling on the U.S. to repent for the atomic bombings of Hiroshima and Nagasaki.

Nevertheless, a delegation of activists and human rights lawyers from California that attended expressed confidence that the Japanese government will soon be forced by pressure on its corporations to seek a political settlement with the victims.

Assemblyman Mike Honda (D-San Jose), author of a successful resolution calling on Japan to

apologize, said Tokyo should consider the example of the 1988 U.S. legislation compensating Japanese Americans who were interned during the war.

"The issue is not whether Japan can, on technical grounds, elude responsibility," Honda told the conference. "The question is whether justice has been done."

Los Angeles attorney Barry A. Fisher said the legal assault on Japanese corporations has only begun. Future targets could include banks that financed wartime activities, private companies whose employees procured or made use of the sex slaves, insurance companies, and any shipping firms that transported slave laborers.

"The Japanese were running no less than the biggest slave shipping operation since the middle passage, the African slave trade," Fisher said.

Some of the plaintiffs' attorneys recently launched a Web site—<http://www.japanesewwiclaims.com>—to provide information to anyone who claims to be a victim of a Japanese war crime.

The Japanese companies will probably claim they are not the legal successors to the *zaibatsu* conglomerates, some of which were disbanded by the American occupation after World War II. But "these issues were faced in all the Holocaust cases, and we were ready for them," Fisher said. "There were private companies that were in league with and benefited from the war effort, that made profits from the use of forced labor, and they were unjustly enriched."

"Who shipped the 'comfort women' to the front lines? Of course they are accomplices," said Ignatius Y. Ding of the Global Alliance for Preserving the History of World War II in Asia. The Northern California-based organization, which seeks an apology and compensation from Japan, alleges that 10 million Asians were used as forced laborers during Japanese rule. Only 5,000 or so survivors may still be alive, Ding said, but what is important is that the perpetrators admit wrongdoing.

International human rights advocates and legal scholars argue that responsibility for wartime atrocities should not be subject to any statute of limitations and that peace treaties between nations do not extinguish the rights of individuals who were victims of war crimes—whether committed by governments or their corporate cronies.

This line of argument was used in the suits concerning Nazi-era abuses by German corporations and Swiss banks. However, the Japanese government and at least one Japanese court have explicitly rejected it.

And so far, the government appears adamant that its position is legally and morally justified.

According to a study by parliament, Japan has paid more than \$27 billion in war reparations to 27 countries. After huge battles, Japanese textbooks now include brief descriptions of its invasions and wartime atrocities. And in 1995, then-Prime Minister Tomiichi Murayama issued an apology, expressing "deep remorse" for the "tremendous damage" inflicted by Japanese "aggression." Critics note that the parliament has refused to adopt a similar apology.

In a recent interview, Foreign Ministry spokesman Sadaaki Numata noted that under Article 16 of the San Francisco Peace Treaty, Japan's overseas holdings were liquidated by

the International Committee of the Red Cross and that the proceeds were used for reparations.

Britain distributed some of the money to former POWs. But the U.S., which was then fighting the Korean War and saw Japan as an Asian bulwark against communism, waived payment of the reparation funds to American POWs.

The treaty states that the Allies "waive all reparations claims arising from any actions taken by Japan and its nationals in the course of the prosecution of the war."

Treaty Could Be Open to Interpretation

Numata said "Japan and its nationals" clearly includes corporations. But a U.S. legal expert said that is a matter of interpretation.

"It is impossible to give a definitive answer by looking just at that language," said Whittier Law School professor Michael J. Bazylar. He said the treaty and its context will have to be interpreted by the courts, as were four treaties that German companies cited during Holocaust cases.

It is also not yet clear whether a new California law extending until 2010 the statute of limitations for suits by World War II forced labor victims will be ruled constitutional,

or whether New Jersey federal court rulings in favor of the German companies will be upheld on appeal, Bazylar said.

The Japanese right wing is outraged. One of its leaders, Tokyo University professor Nobukatsu Fujioka, warned in an opinion piece in the conservative Sankei daily newspaper that, should the litigation continue, Japanese victims of the atomic bombing or the firebombing of Tokyo might attempt to countersue. "Sensible Americans should consider how meaningless, foolish and dangerous it is to create this kind of vicious circle which inflames enmity between the two nations," Fujioka wrote.

The defendant companies have yet to articulate a public relations strategy. Spokesmen for eight firms, in brief telephone interviews, said little more than "no comment."

Mitsubishi Corp. spokesman Yasuhito Hirota said the company does not own coal mines where forced laborers could have worked and that Mitsubishi was disbanded by U.S. authorities after the war. The current Mitsubishi was not founded until 1954, he said.

"I think there must be a misunderstanding," Hirota said. "However, the lawsuits do exist, so we will respond sincerely."

Times Tokyo Bureau researcher Chiaki Kitada contributed to this report.