

108TH CONGRESS
1ST SESSION

H. R. 1703

To preserve certain actions in Federal court brought by members of the United States Armed Forces held as prisoners of war by Japan during World War II against Japanese nationals seeking compensation for mistreatment or failure to pay wages in connection with labor performed in Japan to the benefit of the Japanese nationals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2003

Mr. ROHRABACHER introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on International Relations and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To preserve certain actions in Federal court brought by members of the United States Armed Forces held as prisoners of war by Japan during World War II against Japanese nationals seeking compensation for mistreatment or failure to pay wages in connection with labor performed in Japan to the benefit of the Japanese nationals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Justice for United
3 States Prisoners of War Act of 2003”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) During World War II, members of the
7 United States Armed Forces war by Japan were
8 forced to provide labor for Japanese privately owned
9 corporations in functions unrelated to the prosecu-
10 tion of the war.

11 (2) These Japanese corporations violated inter-
12 national law, including the standards required under
13 international conventions relating to protection of
14 prisoners of war, by failing to pay wages for that
15 labor, by allowing and promoting torture and mis-
16 treatment of the United States prisoners of war at
17 the hand of their private employees, and by with-
18 holding food and medical treatment.

19 (3) In the Treaty of Peace with Japan, signed
20 at San Francisco in 1951, Japan admitted liability
21 for its illegal and inhumane conduct toward the Al-
22 lied Powers and, in particular, liability for such con-
23 duct toward members of the armed forces of the Al-
24 lied Powers held as prisoners of war.

25 (4) Despite this admission of liability, article
26 14(b) of the Treaty has been construed to waive all

1 claims of nationals of the United States, including
2 claims of members of the United States Armed
3 Forces held as prisoners of war by Japan during
4 World War II.

5 (5) Under article 26 of the Treaty, the Govern-
6 ment of Japan agreed that, if it entered into a war
7 claims settlement agreement with any other country
8 that provided terms more beneficial than those
9 terms extended to the parties to the Treaty, then
10 those more favorable terms would be extended to
11 each of the parties to the Treaty, including the
12 United States.

13 (6) Since the entry into force of the Treaty in
14 1952, the Government of Japan has entered into
15 war claims settlement agreements with other coun-
16 tries that provide terms more beneficial than those
17 terms extended to the parties to the Treaty with re-
18 spect to claims by nationals of those countries
19 against Japanese nationals, allowing such claims to
20 be pursued without limitation, restriction, or waiver
21 or any type.

22 (7) In accordance with article 26 of the Treaty,
23 Japan is obligated to extend the same more bene-
24 ficial terms under the subsequent war claims settle-
25 ment agreements with other countries described in

1 paragraph (6) to the United States, including to na-
2 tionals of the United States who as members of the
3 United States Armed Forces were held as prisoners
4 of war by Japan during World War II and were
5 forced to provide labor without compensation and
6 under inhumane conditions.

7 (8) The people of the United States owe a deep
8 and eternal debt to members of the United States
9 Armed Forces held as prisoners of war by Japan
10 during World War II for their heroism and sacrifice
11 on the nation's behalf in the first days after Japan's
12 ignominious aggression against the United States at
13 Pearl Harbor, Bataan, and Corregidor.

14 (9) The pursuit of justice by members of the
15 United States Armed Forces held as prisoners of
16 war by Japan during World War II who were forced
17 to provide labor without compensation and under in-
18 humane conditions through lawsuits filed in the
19 courts of the United States, where otherwise sup-
20 ported by applicable standards established by Fed-
21 eral, State, or international law, is consistent with
22 the interests of the United States and should not be
23 deemed preempted by any other provision of law or
24 the Treaty.

1 (10) Japanese records relating to chemical and
2 biological experiments conducted on members of the
3 United States Armed Forces held as prisoners of
4 war by Japan during World War II that were turned
5 over to the United States Government after the war
6 have been withheld from such United States pris-
7 oners of war and their physicians, despite repeated
8 requests for disclosure of such records by the pris-
9 oners of war themselves, the Department of Vet-
10 erans Affairs, and the Congress.

11 **SEC. 3. SUITS AGAINST JAPANESE NATIONALS.**

12 (a) IN GENERAL.—In any action in a Federal court
13 brought by one or more members of the United States
14 Armed Forces held as a prisoner of war by Japan during
15 World War II against one or more Japanese nationals (in-
16 cluding entities organized or incorporated under Japanese
17 law or any affiliates of such entities organized or incor-
18 porated under the laws of any State) seeking compensa-
19 tion for mistreatment or failure to pay wages in connection
20 with labor performed in Japan by such United States pris-
21 oners of war to the benefit of such Japanese nationals (or
22 their predecessors) during World War II, the court—

23 (1) shall apply the applicable statute of limita-
24 tions of the State in which the action is pending;
25 and

1 (2) shall not construe section 14(b) of the Trea-
2 ty of Peace with Japan as constituting a waiver by
3 the United States of claims by nationals of the
4 United States, including claims by members of the
5 United States Armed Forces, so as to preclude the
6 pending action.

7 (b) RULE OF CONSTRUCTION.—Subsection (a) pro-
8 vides for the facilitation of actions against Japanese na-
9 tionals described in such subsection and shall not be con-
10 strued as providing for the facilitation of actions against
11 the present Government of Japan or the people of Japan.

12 (c) SUNSET.—Paragraph (1) of subsection (a) shall
13 cease to apply at the end of the 10-year period beginning
14 on the date of the enactment of this Act.

15 **SEC. 4. APPLICABILITY OF RIGHTS UNDER ARTICLE 26 OF**
16 **THE TREATY OF PEACE WITH JAPAN.**

17 It is the policy of the United States Government to
18 ensure that all terms under any war claims settlement
19 agreement between Japan and any other country that are
20 more beneficial than those terms extended to the United
21 States under the Treaty of Peace with Japan are extended
22 to the United States in accordance with article 26 of the
23 Treaty with respect to claims by nationals of the United
24 States who as members of the United States Armed
25 Forces were held as prisoners of war by Japan during

1 World War II and were forced to provide labor without
2 compensation and under inhumane conditions.

3 **SEC. 5. AVAILABILITY OF INFORMATION RELATING TO CER-**
4 **TAIN CHEMICAL AND BIOLOGICAL TESTS**
5 **CONDUCTED BY JAPAN DURING WORLD WAR**
6 **II.**

7 (a) AVAILABILITY OF INFORMATION TO THE SEC-
8 RETARY OF VETERANS AFFAIRS.—Notwithstanding any
9 other provision of law, the Secretary of Veterans Affairs
10 may secure directly from any department or agency of the
11 United States information relating to chemical or biologi-
12 cal tests conducted by Japan on members of the United
13 States Armed Forces held as prisoners of war by Japan
14 during World War II, including any such information pro-
15 vided to the United States Government by Japan. Upon
16 request of the Secretary of Veterans Affairs, the head of
17 that department or agency shall furnish that information
18 to the Secretary.

19 (b) AVAILABILITY OF INFORMATION TO INTERESTED
20 MEMBERS OF THE ARMED FORCES.—Any information re-
21 ceived by the Secretary of Veterans Affairs under sub-
22 section (a) with respect to an individual member of the
23 United States Armed Forces held as a prisoner of war
24 by Japan during World War II may be made available to
25 such individual to the extent otherwise provided by law.

1 **SEC. 6. DEFINITIONS.**

2 In this Act:

3 (1) TREATY OF PEACE WITH JAPAN; TREATY.—

4 The terms “Treaty of Peace with Japan” and
5 “Treaty” mean the Treaty of Peace with Japan,
6 signed at San Francisco on September 8, 1951 (3
7 UST 3169).

8 (2) STATE.—The term “State” means the sev-
9 eral States, the District of Columbia, and any com-
10 monwealth, territory or possession of the United
11 States.

12 (3) APPLICABLE STATUTE OF LIMITATIONS.—

13 The “applicable statute of limitations” of a State
14 means, with respect to a court action, the law of
15 that State which establishes the time within which
16 such an action may be brought.

○