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Testimony
Before the Committee on Resources
United States House of Representatives

Hearing on H.R. 1595,
The Guam World War II Loyalty Recognition Act
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Chairman Pombo and members of this august Committee on Resources of the U.S. House of Representatives, I am Benjamin J.F. Cruz. Though I am currently a Senator in the Twenty-Eighth Guam Legislature, I believe that my invitation to testify stems from my former position as a Commissioner, appointed by Secretary of the Interior Gale Norton, to the Guam War Claims Review Commission (the Commission).

Pursuant to the Guam War Claims Review Commission Act (Public Law 107-333, 116 Stat. 2873), the Commission officially submitted its "Report on the Implementation of the Guam Meritorious Claims Act of 1945" (the Report) to this Committee on June 10, 2004. The Report contains our Findings and Recommendations and an Appendix containing all the documents and transcripts of hearings conducted to fulfill our mandated responsibilities.

I noted that your letter inviting me to testify stated that this "hearing will focus on the need for H.R. 1595 and on the impacts of enacting the bill." I will endeavor to abide by that instruction. Before I begin with the substance of my testimony, I would be remiss in not acknowledging and commending the scrivener of H.R. 1595 for capturing the essence and import of the Report's Findings and Recommendations.

The Guam War Claims Review Commission was mandated to "determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act as compared with awards made to other similarly affected U. S. citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II." The Commission found more instances where there was lack of parity and recommended that legislation be introduced and enacted to address those areas where there was inequity. H.R. 1595 would fulfill that recommendation.

Though the Report only contains the transcripts of the December 8 and 9, 2003 hearings conducted on Guam, and a Legal Experts Conference conducted in Washington D.C. on February 20, 2004, I should inform this Committee that the Commission authorized me to conduct hearings in San Diego, California; Hayward, California; Sacramento, California; Las Vegas, Nevada and Seattle, Washington during the month of March 2004. I can tell this Committee that though compensation or lack of same was mentioned everywhere, the overriding concern of those who testified was that they yearned and some even demanded that the United States Government and the People of the United States recognize and "acknowledge both the suffering of the Guamanians during the Japanese occupation of Guam in World War II and the loyalty shown by the Guamanians to the United States during the war." This is the No. 1 Recommendation in our Report.

The Short Title of H.R. 1595 "The Guam World War II Loyalty Recognition Act" encapsulates that desire. Sec. 3 expressly and explicitly recognizes the suffering and loyalty of the residents of Guam when it states:

(a) ...-The United States of America recognizes that, as described by the Guam War Claims Review Commission, the residents of Guam, on account of their United States nationality, suffered unspeakable harm as a result of the occupation of Guam by Imperial Japanese military forces during World War II, by being subjected to death, personal injury (including rape and malnutrition), forced labor, forced march or internment.

(b) ...-The United States of America forever will be grateful to the residents of Guam for their steadfast loyalty to the United States of America, as demonstrated by the countless acts of courage they performed despite the threat of death or great bodily harm they faced at the hands of the Imperial Japanese military forces that occupied Guam during World War II.

Section 6 of H.R. 1595 addresses Recommendation No. 2 of the Commission:

"that Congress provide funding in an amount sufficient to pay compensation in a single lump-sum total amount of \$25,000 to the eligible survivor(s) ...of each resident of Guam who died or was killed, and whose death would have been compensable under the Guam [Meritorious Claims] Act and its regulations during the Japanese attack and the occupation of the island, or incident to the liberation of the island."

The impact of this section would be that the descendants of the almost 1,000 residents of Guam who were executed by the Imperial Japanese military forces during the occupation or were killed during the invasion or liberation of Guam would receive compensation equal to the largest death compensation provided by the War Claims Act of 1948 and its subsequent amendments.

Section 7 of H.R. 1595 fulfills the Commission's No. 3 Recommendation:

"that Congress provide funding in an amount sufficient to pay compensation in a single lump-sum amount of \$12,000 to each person who was a resident of Guam during the Japanese occupation and who personally suffered one or more of the types of harm in question, or to the eligible survivor(s) of such individual, subject to the conditions set forth..."

The single lump-sum payment of \$12,000 is equal to the per person awards provided in the "Aleutian and Pribilof Islands Restitution Act (1988)". The impact of this section would be to provide parity in the restitution given to two groups of United States Citizens who were United States Nationals during World War II and whose islands were occupied by Imperial Japanese military forces.

Sections 4, 5 and 8 provide the framework and infrastructure needed to implement H.R. 1595.

As a former Commissioner of the Guam War Claims Review Commission, I personally believe that the most important provisions of H.R. 1595 are contained in Section 9 which mandates the Secretary of the Interior to establish a non-profit corporation to be known as the "Guam World War II Remembrance Trust Fund".

Subsection (b) (2) states that the Trust Fund shall be used to:

"sponsor research, educational, and media activities, so that the events surrounding the World War II occupation of Guam by Imperial Japanese military forces and liberation of Guam by United States military forces, as well as the loyalty of the people of Guam, will be remembered, and so that the causes and circumstances of this and other wartime events may be illuminated and understood."

I would venture to bet that except for the Members of this Committee and those Members of Congress who have endured the exhortations of Delegate Madeleine Bordallo, and the former Delegates from Guam, Mr. Robert Underwood, Mr. Ben Blaz, and Mr. Antonio Won Pat, a majority of the Members of Congress are probably unaware that any American community was ever occupied by enemy forces and that their residents subjected to unspeakable suffering and atrocities.

Subsection (b) (2) addresses the last recommendation in the Commission's Report. Many of those who testified before the Commission wanted to have a Fund to make sure that the U.S. Congress and the Department of the Interior are not the only parts of the United States of America who recognize the suffering and loyalty of the residents of Guam during World War II. We wanted to have funds to ensure that all the history books used in schools throughout the nation have a chapter or at least a few paragraphs recognizing the suffering and loyalty of the residents of Guam. We also wanted sufficient funds to assure that the major media outlets in the United States publish articles documenting the suffering and loyalty of the residents of Guam during World War II.

In a prior incarnation, I served as a Juvenile and Family Court Judge for ten (10) years, a Criminal Court Judge for three (3) years, and a Justice and Chief Justice of the Guam Supreme Court for four (4) years. During those seventeen (17) years on the Bench, I was constantly amazed and appalled by the dysfunction within the families and the individuals that appeared before me. I had several hypotheses as to the cause of this dysfunction. I was unable to prove any of them because I had no empirical data to support my theories.

As a Commissioner, I listened to hundreds of individuals testify about the suffering they endured and the atrocities they witnessed. I also assisted hundreds more fill out the Commission's questionnaire about their experiences during the war. I listened to dozens of women testify and describe the rapes they endured. I listened to an equal number of women describe how they or their parents smeared feces on their bodies, or mud and soot on their faces to make themselves unattractive to the soldiers so that they could be spared sexual assaults. I was shocked by the number of men who cried in my presence as they spoke about witnessing their mothers or sisters being raped before their very eyes and the guilt they have been carrying in their psyche for the last 60 years because they were either too young or prevented by enemy soldiers from protecting their mothers or sisters. I also listened to hundreds of individuals provide eyewitness accounts of beheadings and other forms of executions and the fact that they could not even flinch or cry under threat of being beaten or killed themselves.

There were many, like my mother who were unable and unwilling to recount their recollections of the occupation because it

was too painful to recall, or the thought of the war resulted in them smelling the stench of death and rotting bodies.

After the first hundred accounts of atrocities, I stopped tearing and feeling. I became almost robotic in listening and filling out the questionnaires. Halfway through the second month of questionnaires and testimonials, I experienced an epiphany. I decided to walk a gentleman who was very emotionally distraught outside of the confines of the Commission's small office space. As we walked and he finished relating the guilt he had been suffering as a result of the fact that he was only 6 years old and too small to protect his mother and sister, he stunned me by stating the obvious that I was too blind to see. He said "Judge, I don't want or need money. I served in Vietnam. Why can't the U.S. Government provide us with the same services my buddies got who are suffering from post traumatic stress disorder?"

I felt like the last ignoramus. How could I be so naïve to believe that PTSD – Post Traumatic Stress Disorder - only started during the first war that I was conscious of, the Vietnam Conflict. By definition, PTSD is a disorder resulting from the stress caused by a traumatic event. Could there be any more traumatic event in anybody's life than suffering thirty six (36) months of enemy occupation, during which you witnessed unspeakable atrocities, experienced a myriad of personal injuries including rape, malnutrition, forced labor, forced march, internment in prisons or concentration camps, or hiding to avoid internment?

After this epiphany, I informed my fellow Commissioners that I was going to be making a recommendation that might not fit within the letter of the law but was undoubtedly envisioned by the Commission's mandate:

(4) make findings and recommendations as to the further compensation to which the people of Guam may be entitled on account of their suffering/treatment; and

The only way the Commission figured we could fund the mental health requirements to treat the PTSD that permeated all segments of the society was to have a fund much like that created in the Aleutian Act.

I want to once again, thank the scrivener for recognizing the essence of the Commission's recommendations and so skillfully scribing it into H.R. 1595.

The residents of Guam who endured the atrocities of the occupation by Imperial Japanese military forces during World War II have waited over sixty (60) years for the United States to acknowledge their suffering and recognize their steadfast loyalty to the United States of America. H.R.1595, "The Guam World War II Loyalty Recognition Act", will serve that purpose.

The Guam World War II Loyalty Recognition Fund established by H.R. 1595 will provide parity in the amount of compensation received by other similarly affected U.S. citizens or nationals in territory occupied by the Imperial Japanese military forced during World War II.

The Guam World War II Loyalty Recognition Commission with two members appointed from a list of ten nominees submitted by the Governor of Guam will provide parity in the composition of the Commission that will adjudicate the claims of those who suffered during the Japanese Occupation.

The Guam World War II Remembrance Trust Fund will receive the funds needed to underwrite efforts to make all Americans aware of the suffering and steadfast loyalty of the residents of Guam during the occupation and provide the medical facilities to treat the medical and mental health needs of the survivors.

Mr. Chairman, I am disappointed – NO, DISMAYED, that the Administration is withholding its support for H.R. 1595.

Our Commission's first finding was that:

(1)...The Review Commission affirms that there is a moral obligation on the part of our national government to pay compensation for war damages, in order to ensure to the extent possible that no single individual or group of individuals bears more than a just part of the overall burden of war ..."

To the Administration and to the Leadership in the Congress, let me remind you of the wise words of a great American President:

"A monetary sum and words alone cannot restore lost years or erase painful memories; neither can they fully convey our Nation's resolve to rectify injustice and to uphold the rights of individuals. We can never fully right the wrongs of the past. But we can take a clear stand for justice and recognize that serious injustices were done to Japanese Americans during World War II.

In enacting a law calling for restitution and offering a sincere apology, your fellow Americans have, in a very real sense, renewed their traditional commitment to the ideals of freedom, equality, and justice.”

These were the words penned by President George H.W. Bush in his letters to the Japanese Americans receiving restitution pursuant to the Civil Liberties Act of 1988.

My hope is that the Republican leadership in Congress and the Republican Administration will emulate President George H. W. Bush and pass and enact the Guam World War II Loyalty Recognition Act before there are no more survivors to personally receive their just reparations.

Mr. Chairman and members of this august Committee on Resources, I implore you to expedite the deliberation and passage of H.R. 1595. Almost sixty-one (61) years have passed since the end of the Japanese occupation of Guam. With every passing day several survivors pass away. Dozens of those who testified at previous Congressional Hearings have since died. Most notable amongst them is Mrs. Beatrice Emsley, who while testifying pulled down the back of her dress to expose the scars she received as a result of an attempted beheading.

Many of those who testified before the Guam War Claims Review Commission have also gone to their maker. Most notable is a witness who threatened our Chairman when told to keep his testimony to five (5) minutes. Former Senator John Lujan Anderson passed away on March 31st of this year and was laid to rest after a State Funeral two weeks ago on April 9th. He devoted his lifework to fighting for reparations. He did not live long enough to see H.R. 1595 introduced and will not reap or experience its benefits.

The survivors of the World War II occupation of Guam by the Imperial Japanese military forces are clamoring for closure. Please pass The Guam World War II Loyalty Recognition Act soon so that the survivors can experience the acknowledgement and recognition of their suffering and steadfast loyalty to the flag and be granted reparation contemplated by H.R. 1595.

Si Yu'os Maase. Thank you.