



ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND

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Statement by the Asian American Legal Defense and Education Fund (AALDEF)

In support of Isamu Carlos Shibayama and other Japanese Latin Americans

Shibayama, et al. vs USA, Case 12.545

Inter-American Commission on Human Rights (IACHR)
Organization of American States (OAS)

March 21, 2017

1. Founded in 1974, the Asian American Legal Defense and Education Fund (AALDEF) is a national organization based in New York City that protects and promotes the civil rights of Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all.
2. AALDEF participated in the Japanese American redress movement throughout the 1970s and 1980s. AALDEF attorneys testified before the Commission on Wartime Relocation and Internment of Civilians (CWRIC), participated in redress litigation, conducted research in the National Archives, and provided extensive public education through writings, speeches, and testimonies in public forums across the nation.
3. AALDEF views the current proceedings before the IACHR as the final stage of the Japanese American redress movement, which achieved partial victory with the Civil Liberties Act of 1988 (CLA). That Act resulted in redress for United States citizens and Legal Permanent Residents of Japanese ancestry, but was interpreted to exclude the many Japanese Latin Americans (such as Petitioner Isamu Carlos "Art" Shibayama and his brothers) because they were considered "illegal immigrants." The United States claimed that the JLAs entered the United States illegally without proper documents, when in fact it was the United States authorities who confiscated their passports and identity papers during their forced transport to the United States.
4. The wording of the CLA, and implementation of the United States redress payments process that lasted from 1988 to 1998, created an inequality between the redress granted to Japanese Americans and Japanese Latin Americans. As the IACHR noted in its March 16, 2006 Report No. 26/06 on page 1, these actions rose to the level of potential violations of Article II (equality before the law) of the American Declaration of the Rights and Duties of Man. Other governmental actions by the United States rose to the level of potential violations of Article XVIII (right to brief, simple procedures in national courts) and XXVI (right to due process) of the same American Declaration.
5. Based on the foregoing, AALDEF supports the Petitioners in this proceeding. Their demands are reasonable, given the egregious nature of the suffering they endured

during World War II and which continues, unabated, due to the unequal treatment they suffered in the CLA process. They deserve any remedies this Commission finds just and equitable, which should include, *inter alia*, the following:

(1) DISCLOSURE: Full disclosure of the United States governmental actions committed against Petitioners and the more than 2,200 JLAs during and after World War II.

As the Truth and Reconciliation process in post-Apartheid South Africa demonstrated, determining the truth of what happened is the first step in healing after an egregious violation of human rights. There are Japanese Latin Americans (JLAs) today who do not know the exact details of what happened to family members who were deported to Japan or who were separated from other family members during the war. All government records related to the JLAs (as well as Germans, Italians, Jews, and others subject to the wartime rendition process) should be declassified and made available to researchers and family members.

(2) APOLOGY: A proper apology, reflecting the severity of these government-sponsored violations.

The apologies made by President Reagan, President George H.W. Bush, and others were not directed at Petitioners and other JLAs whose claims against the government are included in the proceedings before this Commission.

(3) COMPENSATION: Equitable compensation for the losses suffered.

As with the redress offered the Japanese Americans in the CLA, redress offered to JLAs should not be token but substantial. The amount should be high enough to serve as a check on future administrations considering similar actions, and not a slap on the wrist or an amount so low as to be viewed as simply a cost of doing business while rights are being violated. It might include compensation for loss of property and businesses, payments for current medical expenses, and public education campaigns to deter a recurrence of this injustice.

(4) EXPUNGEMENT: Removal of the word “illegal alien” from the records of JLAs.

The United States claimed both in the 1940s and in later proceedings that the JLAs entered the United States illegally, without proper documents. That lack of documents, however, was due to forced confiscation of those documents while the JLAs were in United States custody while en route to the United States. As a result of this “illegal alien” status, many JLAs suffered employment and other life compromises for years after their forced confinement ended. And, given the current political climate in the United States, the term still carries a pejorative connotation that creates an even more problematic set of issues. Therefore, expunging the term from the records of each JLA should be a priority for the United States government.

(5) NON-RECURRENCE: Assurance that comparable violations will never again be perpetrated against the JLAs, their families, and all others.

Given the unquantifiable suffering that JLAs have endured since the 1940s, it is appropriate that the United States government combine its disclosure, apology, compensation and expungement with a commitment to not making the same mistake against the JLAs, their future family members, and any other group. The verbal and physical attacks being directed today against Muslims, Sikhs, Jews, and others in the United States make this commitment especially important.

6. In conclusion, AALDEF supports the Petitioners in this proceeding, and urges the Commission to redress the Respondent United States government's World War II human rights violations in an appropriate manner. Given the scope and severity of the original abuses, the government's strategy to evade and resist accountability, and the ongoing nature of the abuses suffered by JLAs, this Commission can send an important message that human rights cannot and will not be compromised in the name of "military necessity" or "national security."

Respectfully submitted,

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