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**The Exclusion and Incarceration of Japanese Americans, 1942-1945:
Civil Liberty and National Security in the United States**

Történelemtudományi Doktori Iskola

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I. Brief Introduction of the Topic:

The surprise air assault on Pearl Harbor opened a window of vulnerability in America, which resulted in immense fear as the nation prepared for a possible Japanese invasion, which eventually never took place. President Franklin D. Roosevelt delivered his *Day of Infamy* speech to a joint session of Congress on December 8, 1941. On that historic day Congress declared war on the Empire of Japan within only three hours of President Roosevelt's momentous address. The apprehension of persons of Japanese ancestry began within hours of the attack on the Hawaiian Islands and the Continental United States. These individuals had been monitored and listed by the Office of Naval Intelligence and the Federal Bureau of Investigation as the intelligence authorities believed they presented a threat to national security. The Japanese had been subjected to racial and selective discrimination since the late 19th century – a repercussion of the exclusion of the Chinese laborers in 1882 and the subsequent increase in Japanese immigration –, and following Pearl Harbor this latent prejudice gained renewed momentum, taking the form of scapegoating and calls for retaliatory measures to counter the Japanese 'Fifth Column' threat. The shock of Pearl Harbor was the catalyst for the forced removal and incarceration of the West Coast Japanese, it induced war hysteria and an environment of fear that fostered anti-Japanese sentiments amongst the American political leadership and the public.

The Roosevelt Administration faced considerable pressure from the West Coast Congressional delegates, 'patriotic' anti-Japanese organizations, and from the American public for the mass 'evacuation' and 'internment' of persons of Japanese lineage from the Pacific Coast. This climate of war hysteria created the image of the 'enemy alien' and the 'non-alien', Japanese aliens and American citizens of Japanese parentage respectively. On December 11, 1941, the Pacific Coast was declared a "theatre of war" and the Western Defense Command (W.D.C.) was established with Lt. General John L. DeWitt appointed as the Military Commander. The "theatre of war" designation foreshadowed the establishment of the military zones within the limits of the W.D.C. across the West Coast.

The Japanese American population was seen as a community of 'Fifth Columnists' engaged in espionage and sabotage to aid the Empire. The military necessity argument was raised by the United States Military and the Federal Government in urging for the collective exclusion and incarceration of the Japanese community, the Japanese aliens (Issei) and American citizens of Japanese parentage (Nisei) alike. On February 19, 1942, President Roosevelt issued

Executive Order No. 9066 authorizing the Secretary War and the appointed Military Commander to designate military areas and to exclude any or all persons. In his *Final Report*, published in 1943, the Commanding General justified the indiscriminate removal of the Japanese population by calling attention to the concentration and distribution of approximately 120,000 Japanese residents along the coastal states, and to their racial characteristics and affiliation, which predisposed them according to the Military Commander to un-American activities. Executive Order No. 9066 provided the groundwork for the military regulations – curfew and exclusion orders, and the incarceration – that followed, issued by Lt. General DeWitt after he was appointed Military Commander by Secretary of War Henry L. Stimson.

By the Summer of 1942 all Japanese persons were excluded from Military Area No. 1 and were held in some form of confinement. They were placed in one of fifteen temporary detention camps that operated between March and October of 1942. By the end of October the Japanese aliens and ‘non-aliens’, a euphemism for American citizens of Japanese ancestry, were transferred to incarceration camps where they were detained for the duration of the war. These camps were operated by the War Relocation Authority (W.R.A.), established in accordance with Executive Order No. 9102 issued by the President on March 18, 1942. The W.R.A. was a federal agency responsible for the management of the detention camps and their residents. The camps were in operation between March of 1942 and March of 1946. The exclusion orders were revoked by the War Department on December 17, 1944, and the Japanese detainees were permitted to leave the camps on January 2, 1945.

In order to enforce the military regulations and the exclusion and incarceration of Japanese Americans the United States Congress issued Public Law No. 503 on March 21, 1942. Public Law No. 503 essentially made it a federal crime to violate the military restrictions issued by the designated Military Commander under the authority of Executive Order No. 9066. Congress thus provided the legal means, the enforcement machinery, to remove and detain persons of Japanese ancestry. During the war four Japanese American cases challenged the curfew regulation and the exclusion orders, all of which reached the highest court of the Judiciary and were argued before the Supreme Court. In the *Hirabayashi v. United States*, 320 U.S. 81 (1943), *Yasui v. United States*, 320 U.S. 115 (1943), and *Korematsu v. United States*, 323 U.S. 214 (1944) cases the Justices of the Supreme Court found the curfew order, and the

exclusion and incarceration constitutional. In their opinions the Justices cited the paramount importance of national defense and the war effort of the Roosevelt Administration.

II. Research Focus:

In 1983 the Commission on Wartime Relocation and Internment of Civilians, established by Congress to investigate the incarceration of Japanese Americans, published its official report *Personal Justice Denied*. The Commission's findings centered on three main historical causes: race prejudice, war hysteria, and the failure of political leadership. Nevertheless, the exclusion and incarceration was not solely the result of these factors. We have to consider that Executive Order No. 9066 signed by President Roosevelt was drafted by the War Department with the approval of the Department of Justice. Furthermore, the military regulations and the exclusion orders were enforced by Public Law No. 503, once again drafted by the War Department and ratified by Congress in support of the war effort, suggesting a symbiosis of the Executive and Legislative branches in time of war due to the national security implications of the military measures. On the other hand, the *Final Report* of the War Department contained numerous misstatements and misleading 'facts' to justify the exclusion of the Japanese American community. The interdepartmental conflict between the War and Justice Department over the *Final Report* and the misstatements further complicated the management of the Japanese 'problem' by the Roosevelt Administration. The plight of the Japanese and the restriction of their civil liberties was influenced by more than just racial prejudice, military necessity, and the failure of political leadership. In light of these factors the dissertation endeavors to examine the decision making process and the politics of the exclusion and incarceration program by the Roosevelt Administration from a historical perspective within the framework of the Checks and Balances, the three branches of the Federal Government.

III. Thesis Statements:

During my research the following six hypotheses were drawn up.

- 1) The exclusion and incarceration of Japanese Americans was a 'Perfect Storm', a combination of factors which led to the infringement of the Checks and Balances principle at each branch and level of the Federal Government, and the restriction of**

the civil liberties and constitutional rights of a particular minority – based on racial prejudice, collective guilt, and military necessity – at a time of national security threat in the interest of the Roosevelt Administration’s war effort.

The forced removal and detention of the Japanese American community was the result of the breakdown of the Checks and Balances following the Pearl Harbor debacle and the ensuing war hysteria. All three branches of the Federal Government of the United States – the Executive, Legislative, and Judicial Branch – were fearful of hindering the ability of the Roosevelt Administration to wage war successfully and disregarded their fundamental role in the system of separation of powers. Despite of the principle of the Checks and Balances neither the Legislative, nor the Judicial branch made any attempt to limit the power of the Executive and to uphold the constitutional rights of the Japanese Americans. The United States was at war with the Empire of Japan and according to the Supreme Court it was within the “war powers” of the Executive and the Legislative to exclude and incarcerate Japanese aliens and American citizens of Japanese lineage, justifying their selective treatment by citing military necessity. The “war powers” of the Federal Government reigned supreme at a time of national emergency and Executive power was allowed to run amok at the expense of the civil liberties of a selected minority as it was in the perceived interest of the majority of Americans.

- 2) The Roosevelt Administration sealed the fate of the Japanese American community with the contentious *Final Report* of Lt. General John L. DeWitt, which accentuated the role of racial prejudice under the guise of military necessity, while the War Department failed to address the inconsistencies and misstatements made in the report, and was in an interdepartmental conflict with the Justice Department. The Roosevelt Administration failed to acknowledge the lack of military necessity.**

The War Department used hostile rhetoric which created war hysteria and fear, scapegoating the Japanese American populace for Pearl Harbor. The *Final Report* of Lt. General John L. DeWitt reinforced the military necessity argumentation and placed blame on the Japanese residents based on their racial affiliation to the Empire of Japan,

racial profiling. The *Final Report* contained numerous misstatements and misleading ‘facts’, and was released without the knowledge or consent of the Department of Justice. The Roosevelt Administration did not acknowledge the lack of military necessity despite of the reports and memorandums at its disposal, all of which discredited the War Department, Lt. General DeWitt, and his *Final Report*. The Supreme Court was not made aware of these reports in spite of the pending Japanese American cases, raising the issue of suppression of evidence.

- 3) **The United State Congress abdicated its role – congressional oversight – to check the power of the Executive by approving the military regulations imposed on the Japanese American population and their forced exclusion from the West Coast with Public Law No. 503. The Legislative Branch rubber stamped the actions of the Roosevelt Administration by providing the means of enforcement as a result of which any violation of the military restrictions was henceforth considered a federal crime.**

The disaster of Pearl Harbor brought about the end of party politics as the United States Congress closed its ranks and called for unity under the shared burden of supporting the war effort of the Roosevelt Administration in the interest of national defense, although at the expense of civil liberty. The political discourse in Congress was shaped by the issue of the Japanese ‘menace’, scapegoating persons of Japanese ancestry based on such racial stereotypification as the image of the ‘Fifth Column’. Congress did not question the military necessity premise of the Executive and approved Public Law No. 503 to enforce President Franklin D. Roosevelt’s Executive Order and the military regulations drafted by the Commanding General of the Western Defense Command.

- 4) **The Supreme Court failed to apply judicial review to investigate the military necessity justification of the Roosevelt Administration and thus approved the exclusion and incarceration of persons of Japanese parentage by accepting the arguments made by the War Department despite of their racial connotations.**

The Supreme Court found the curfew and exclusion orders constitutional, recognizing the war powers of the Executive and Congress in the *Hirabayashi v. United States*, 320 U.S. 81 (1943), *Yasui v. United States*, 320 U.S. 115 (1943), and the *Korematsu v. United States*, 323 U.S. 214 (1944) decisions. The Justices of the Supreme Court did not pursue the doctrine of judicial scrutiny to test the legitimacy of the military necessity arguments, as in the case of the *Final Report* in the *Korematsu* opinion. According to the judgment of the Justices national defense was paramount, meaning that in the opinion of the Supreme Court even the *Bill of Rights* has to bow to military necessity at times of national crisis, in wartime. The anti-Japanese prejudice of the period was reflected in the decisions of the Supreme Court as the Judiciary joined the war effort of the United States Government. The exclusion of persons of Japanese ancestry was authorized by Executive Order No. 9066, which was post factum ratified by Public Law No. 503, and the ruling of the Supreme Court in the Japanese American cases closed the circle. The Supreme Court did not employ judicial activism, the Justice of the Court avoided a constitutional crisis by not engaging in a legal dispute with the War Department in time of war.

- 5) The exclusion and incarceration was not justified by military necessity with regards to the loyalty of the Japanese American community, which was corroborated by the *Munson and Ringle Report*, and the mission of the Japanese American Citizens League that advocated the assimilation and Americanization of the Nisei generation, the image of the ‘exemplary citizens’.**

The Japanese American Citizens League represented the Nisei generation and pledged its support to the Roosevelt Administration, endorsing the war effort of the Federal Government to prove the loyalty of the Japanese Community. The efforts of the J.A.C.L. to portray persons of Japanese ancestry as ‘exemplary citizens’ is supported by intelligence reports of significant importance, such as the *Japanese On The West Coast* of November 7 and the *Report On Hawaiian Islands* of December 8, 1941, by Curtis B. Munson, and *The Japanese in America: The Problem and the Solution* by Lt. Commander Kenneth D. Ringle in the Autumn of 1942. These official government

documents greatly undermine the ‘Fifth Column’ threat and discredit the military necessity argument advocated by the Roosevelt Administration.

- 6) The standpoint of the War Department that there was no time or means to determine the loyalty of the West Coast Japanese – so as to justify their collective treatment – does not correspond to the facts, as illustrated by the individual treatment of the Hawaiian Japanese.**

During the war the fate of the Japanese Americans, the Issei and Nisei, was decided by either the collective or the case by case principle, on the Continental United States and on the Hawaiian Islands respectively. In the Territory of Hawaii the “American way” prevailed and the Japanese inhabitants were treated on an individual basis, which serves as a counterexample to the collective guilt and exclusion that persons of Japanese lineage had to endure on the Pacific Coast.

IV. Research Methodology and Sources:

During my research I focused on the policy of the Roosevelt Administration, on how it tackled the Japanese ‘problem’ following Pearl Harbor and on the decision making process to exclude the Japanese population with the active participation of the three branches of the Federal Government. I also studied the wartime experience of the Japanese American community, with special consideration to the Japanese American Citizens League and the Japanese American cases that challenged the constitutionality of the wartime exclusion. As a consequence of the lack of sources in Hungary – the topic has not been widely covered by domestic researchers of American history and there have been limited scientific studies published on the topic – during my research I placed emphasis on collecting archival primary sources in the previously mentioned areas of focus. My research was made possible by several scholarships that enabled me to conduct on-site research at various libraries and research institutes in the Netherlands, the United Kingdom, and the United States.

I conducted research at the Roosevelt Study Center, Middelburg, the Netherlands, for two weeks (February 2-15, 2014) on a research grant awarded by the Roosevelt Study Center. During the Summer of 2014 I spent one month (July 1-28, 2014) in London, the United Kingdom, and

carried out research at the British Library. The British Library contains a collection of government publication on the operation of the War Relocation Authority, highlighting the work of the agency in administrating the incarceration camps and caring for the Japanese residents. My research progressed further with the Visiting Student Researcher post-graduate Fulbright Grant awarded by the Hungarian Fulbright Commission in 2015. I was able to conduct on-site research in California, the United States, for four months (January 15 – May 14, 2016). During those four months spent in the San Francisco Bay Area I visited and explored the collections of the Japanese American National Library (San Francisco), National Japanese American Historical Society (San Francisco), and the National Archives and Records Administration (San Bruno). Furthermore, I was able to conduct interviews with former incarcerated: Sara S. Ishikawa, Jimi Yamaichi, Joseph Y. Yasutake, Roy Y. Matsuzaki, and Paul M. Okimoto. As part of my investigation I also visited the Manzanar National Historic Site at Independence, California, on May 24, 2016, to document the former site of the Manzanar Incarceration Camp.

The core of the dissertation is based on the primary sources gathered at numerous research institutions and archives, and is supplemented by secondary sources. The archival material can be grouped into four essential collections. The microfilm collections of the Roosevelt Study Center contains the official files of President Franklin D. Roosevelt and the papers of Henry L. Stimson. These sources encompass essential correspondences, memorandums, and reports on the Japanese ‘problem’. The documents provide an insight into the decision making process of the Roosevelt Administration to collectively exclude the Japanese from the Pacific Coast. The second collection is the bound edition of the *Congressional Records* (1st and 2nd session of the 77th Congress, 1941-1943) held at the Library of the Hungarian Parliament. The records of the United States Congress were studied to examine the debates in the House and Senate on the Japanese ‘menace’ and their exclusion from the Pacific Coast. The National Archives at San Francisco holds a compilation of documents from the *Korematsu v. United States* (1944) legal proceedings. The collection of legal documents details the case between 1942 and 1984, from the charges filed against the defendant, the decision of the court, the appeal process, and the coram nobis petition to vacate Fred Korematsu’s conviction. The compiled sources enable the analysis of the legal proceedings, the arguments raised for and against the exclusion of Japanese Americans. The primary sources examined provide evidence of government misconduct by the Roosevelt Administration. The Japanese American Citizens

League represented the Nisei during World War II and cooperated with the Federal Government during their incarceration. The documents of the J.A.C.L. are held at the Japanese American National Library and constitutes the fourth collection of primary sources. The archival material contains official documents on the wartime policy and mission of the League, on Japanese American loyalty.

V. Structure of the Dissertation:

The dissertation is divided into three main sections – studying the prelude to the exclusion and incarceration of Japanese Americans, the ‘evacuation’ program as part of the war effort of the Roosevelt Administration, and its ramifications with regards to the Japanese American legal challenges – in a thematic and chronological order, subdivided into seven chapters supplemented with the Conclusion and the Epilogue. The dissertation includes an elaborate Appendix which provides supplementary information to aid the readers in exploring the topic, such as a list of terminology and a table of preferred vocabulary advocated by the Japanese American Citizens League, a list of abbreviations, a chronology of events, primary documents, an oral history section with excerpts from the interview with Roy Y. Matsuzaki, and a list of figures documenting the attack on Pearl Harbor and the Manzanar National Historic Site.

Section I of the dissertation focuses on the Japanese ‘problem’ and the ‘Fifth Column’ threat with Chapter 1 dealing with the events of Pearl Harbor, the ‘Day of Infamy’, and Chapter 2 examining the status of the Hawaiian Japanese. Chapter 1 discusses the events of December 7, 1941, and the chain of reactions it unleashed. The issue of responsibility gripped the Roosevelt Administration, questioning the state of preparedness on the Island of Oahu with concerns over suspected Japanese subversive activity, the role of the Japanese ‘Fifth Column’. The chapter examines the issue of responsibility in light of Secretary of Navy Frank Knox’s assessment that Pearl Harbor was the most effective ‘Fifth Column’ operation of the war. In the context of the Pearl Harbor Inquiry the chapter will address the role and responsibility of the United States Army and Navy, and the Federal Bureau of Investigation, to examine if there was a Japanese ‘problem’ in the Territory of Hawaii on that infamous day. Chapter 2 elaborates on the significance of the Hawaiian Japanese population during World War II, briefly introducing their history and comparing their cultural and social status with their West Coast counterparts. The chapter intends to highlight the main difference between the Hawaiian and West Coast Japanese

by detailing the individual treatment of the Japanese on the Island of Oahu. It serves as a counter example to the collective principle implemented on the Continental United States. In the aftermath of the attack the loyalty of the Japanese residents was questioned by the Federal Government, the issue of disloyalty is examined by reflecting on Curtis B. Munson's *Report On Hawaiian Islands* from December 8, 1941. The chapter will address how the "American way" prevailed, as requested by Lieutenant General Delos C. Emmons, despite of the Japanese paranoia, and how the Japanese inhabitants were treated on a case by case principle.

Section II of the dissertation places the Executive and Legislative Branch of the Federal Government in the center of attention by examining the role of the Roosevelt Administration and Congress, along with the influence of racial prejudice and scapegoating in the decision making process to exclude and incarcerate the West Coast Japanese. Chapter 3 deals with the judgment of the Roosevelt Administration to initiate the 'evacuation' program by citing military necessity and the role of partisan politics in delaying the revocation of the exclusion orders. The relation between the War Department and Justice Department will be studied with consideration to the interdepartmental conflict over the *Final Report* of Lt. General John L. DeWitt, the issue of misstatements and misleading 'facts' on Japanese subversive activity. The chapter will review the official reports, correspondences, and memorandums between officials of the War and Justice Department, and the intelligence authorities, to investigate the Government's misconduct in handling the Japanese 'question'.

The role of the United States Congress is discussed in Chapter 4 by examining the remarks of members of the House of Representatives and the Senate between December 8, 1941, and December 16, 1942, in the Congressional Records. The chapter scrutinizes the debates about and passage of Public Law No. 503 following the requests of the War Department to provide the enforcement machinery needed for the 'evacuation' program. The importance of the statute and the influence of racial prejudice is underlined by reviewing the anti-Japanese regulations of the Roosevelt Administration and the consecutive Public Proclamations issued by Lt. General DeWitt, which established the military areas and military provisions. The chapter closes with a brief study of the exclusion and incarceration of the Pacific Coast Japanese and the operation of the War Relocation Authority. The exclusion process is studied through the example of Civilian Exclusion Order No. 1 and the instructions issued for the removal of Japanese families from Bainbridge Island.

Chapter 5 examines the image of the ‘exemplary citizens’, as portrayed by the Japanese American Citizens League in order to stimulate the assimilation and Americanization of Japanese persons. By investigating the policy and mission of the J.A.C.L. we are able to discuss how the League intended to secure the loyalty and patriotism of the Japanese community in order to cooperate with the Roosevelt Administration, going as far as encouraging the military service of the Nisei. The J.A.C.L.’s *The Japanese American Creed* (1941) and the *A Declaration Of Policy* (1942), analyzed in the chapter, reflected the endeavor of the organization to assume the moral and political leadership of the Japanese community. This expression of loyalty by the Nisei is confirmed by studying the correspondences of members of the J.A.C.L. and the misconception over the Japanese ‘problem’ in light of the official intelligence reports. The ‘Fifth Column’ threat is examined through the findings of Lt. Commander Kenneth D. Ringle’s Office of Naval Intelligence report and Curtis B. Munson’s *Japanese On The West Coast Report*.

Section III introduces the last branch of the Federal Government, the Judiciary, and its role in the wartime history of the Japanese American community. Chapter 6 examines the landmark Japanese American cases argued by the Supreme Court on the issue of citizenship and the subsequent military regulations during World War II, such as the *Gordon Kiyoshi Hirabayashi v. United States*, 320 U.S. 81 (1943) and the *Minoru Yasui v. United States*, 320 U.S. 115 (1943) cases on the constitutionality of the curfew regulations targeting citizens and the Japanese minority. The case of Mitsuye Endo, *Ex parte Mitsuye Endo*, 323 U.S. 283 (1944), is discussed in the closing sub-chapter to provide a counterexample to the challenges of Gordon Hirabayashi and Minoru Yasui in light of the fact that the Supreme Court conceded the inability of the Federal Government to detain loyal citizens. The constitutional challenge of Fred T. Korematsu is studied in-depth in Chapter 7, reviewing the *Korematsu v. United States*, 323 U.S. 214 (1944) case from the charges raised against Mr. Korematsu for violating Civilian Exclusion Order No. 34 through the court case, the appeal procedure, and the opinion of the Supreme Court on the constitutionality of the exclusion orders and the incarceration of persons of Japanese descent. The chapter is a thorough overview of the legal challenge on the exclusion program, and on the debate over the civil liberties and constitutional rights violated by the U.S. Government. The Section does not neglect to address the legacy of the Japanese American cases, the writ of error coram nobis petitions for the reversal of the conviction of Gordon Hirabayashi, Minoru Yasui, and Fred Korematsu.

The Conclusion briefly summarizes the topic of the scholarly thesis and analyzes the findings of the research, reflecting on the hypotheses and the questions raised in the Introduction. The closing section of the dissertation is the Epilogue which goes beyond the timeframe of the wartime exclusion and provides an outlook on its legacy and contemporary interpretation, briefly elaborating on the question whether such violation of civil liberties could occur again in the United States. The Epilogue discusses the redress and reparations movement leading to the establishment of the Commission on Wartime Relocation and Internment of Civilians and President Ronald Reagan signing the Civil Liberties Act of 1988, which prescribed individual reparations amounting to \$20,000 and a formal presidential apology to the remaining survivors. The section also intends to tackle the present-day perception of the Japanese American incarceration, focusing on the Trump Administration and its nativist rhetoric in light of the Muslim registration proposal, the travel ban, and the plans to detain migrants in a former incarceration camp.

VI. The Author's Publications Relevant to the Subject of the Dissertation:

CSEH, DÁNIEL: *The 'Exemplary Citizens': The Mission of the Japanese American Citizens League*. In: *Az Emberi Sors és a Történelem Kereszteződésében: Tanulmánykötet Frank Tibor 70. Születésnapjára / At The Crossroads of Human Fate and History: Studies In Honour of Tibor Frank on His 70th Birthday*. Szerk.: KENYERES János, LOJKÓ Miklós, MAGYARICS Tamás, SZABÓ Éva Eszter. Budapest, ELTE BTK, Angol-Amerikai Intézet [2018]. 72-82.

CSEH, DÁNIEL: *The 'American Way': The Forced Removal and Internment of the Hawaiian Japanese*. In: *Öt Kontinens*, (2018) 2015/1. sz. 39-57.

CSEH, DÁNIEL: *The Politics of Racial Prejudice in the United States: The Road to the Internment Camps*. In: *KÚT*, 10-12. (2014) 2011-2013. sz. 158-168.

CSEH, DÁNIEL: *A japán-amerikaiak internálása: amerikaiak, vagy ellenséges idegenek?* In: *Öt Kontinens*, (2013) 2012/2. sz. 427-445.

CSEH, DÁNIEL: *A japán-amerikaiak kitelepítése, 1942-1946: Az ellenséges idegenek integrálása az amerikai demokráciába?* In: *Egyén és Politikai Gyakorlat: Konferenciakötet*. Szerk.: GÓZSY Zoltán, VITÁRI Zsolt, LENGYEL Gábor. Pécs, Pécsi Tudományegyetem, [2013]. 159-173.