

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session**

Resolution No. 72 (EC)

Introduced by:

L.A. Leon Guerrero *L.A.*

**Relative to expressing the unity of the Guam Legislature and
the people of Guam relative to War Claims for all.**

2005 MAY -3 PM 12:30 *JZ*

BE IT RESOLVED BY I LIHESLATURAN GUÅHAN:

WHEREAS, pursuant to the Treaty of Paris in 1898, which ended the war between Spain and the United States, the United States acquired sovereignty over Guam; and

WHEREAS, for 51 years, from the end of the Spanish-American War until the transfer to the United States Department of the Interior in September 1949, Guam was administered by the United States Department of the Navy, and the people of Guam were United States nationals until August 1, 1950, when they became United States citizens upon the enactment of Guam's Organic Act; and

WHEREAS, on December 8, 1941, Japanese armed forces invaded Guam and seized control of the island from the United States, and occupied Guam which then had a population of approximately 22,290, for nearly 3 years; and

WHEREAS, Guam is the only United States territory, possession or State today that was occupied by the Japanese armed forces during World War II; and

WHEREAS, during this period of Japanese occupation, the people of Guam were subjected to death, personal injury, forced labor, forced march, and internment; and

WHEREAS, on July 21, 1944, the United States liberated Guam from Japanese occupation; and

WHEREAS, on June 9, 1945, in a letter from the Honorable H. Strive Hensel, Acting Secretary of the Navy, to the Honorable Sam Rayburn, Speaker of the House of Representatives, Mr. Hensel transmitted proposed legislation to provide relief to the residents of Guam through the settlement of meritorious claims; and

WHEREAS, on November 15, 1945, the Guam Meritorious

Claims Act (Public Law 79-224) authorized the Secretary of the Navy to adjudicate and settle claims, for a period of 1 year, for property damage occurring on Guam during the occupation of Japanese forces. Certification of claims in excess of \$5,000 or any claims for personal injury or death were to be forwarded to Congress; and

WHEREAS, on January 8, 1947, United States Navy Secretary James Forrestal appointed a civilian commission, referred to as the Hopkins Commission, to study and make recommendations on the Naval administration of Guam; and

WHEREAS, on March 25, 1947, the Hopkins Commission submitted a report (hereinafter referred to as the 'Hopkins Report') to Navy Secretary Forrestal, which summarized that settlements and payments for war damaged claims on property, personal injury, and death had proceeded slowly and stated that immediate steps should be taken to hasten this process and to remove unsound and unfair distinctions in the allowance for claims; and

WHEREAS, the Hopkins Report also stated that when many claimants were advised that the local Naval Claims Commission had power to settle and make immediate payments of claims not in excess of \$5,000 but that claims above that amount must go to Washington for further action with an indefinite time required for payment, they offered or agreed to reduce their claim to below \$5,000 and accept the loss above that amount, in order to receive money for much-needed personal rehabilitation; and

WHEREAS, the Hopkins Report recommended that the Guam Meritorious Claims Act be amended to authorize Naval officials to provide immediate 'on the spot' settlement and payment of all claims; and

WHEREAS, the Hopkins Report also stated that officials of the Naval Claims Commission testified to the basic honesty and fairness of the Guamanians in presenting their claims, that review in Washington of claims between \$5,000 and \$10,000 did not seem to serve any useful purpose, and that sufficient reliance and trust should be placed with the Naval authorities in Guam to safeguard the national interest; and

WHEREAS, the War Claims Act of 1948 (Public Law 80-896), was enacted by the Congress to address victims of World War II; and

WHEREAS, the War Claims Act of 1948 authorized the creation of a commission to make inquiries and reports to settle claims of American citizens and military personnel imprisoned during World War II, civilian American citizens captured by the Imperial Japanese Government, United States contractual employees, and religious organizations located in the Philippines; and

WHEREAS, despite the recommendations from the Hopkins Commission to amend the Guam Meritorious Claims Act, the War Claims Act of 1948 did not address the claims arising out of the Japanese occupation of Guam; and

WHEREAS, in 1950, Congress passed the Organic Act of Guam (Public Law 81-630), granting the people of Guam United States citizenship and a measure of self-government; and

WHEREAS, on September 8, 1951, the United States, along with 47 Allied Powers, signed a peace treaty with Japan, in San Francisco, which waived all claims of reparations against Japan by United States citizens; and

WHEREAS, in 1962, Congress passed Public Law 87-846, which amended the War Claims Act of 1948 and addressed the remaining

United States citizens and nationals that had not received reparations from previous enacted laws; and

WHEREAS, the people of Guam were excluded from the 1962 law because Federal policymakers believed that they were included in the War Claims Act of 1948; and

WHEREAS, as a consequence, despite the study and recommendations of the Hopkins Commission, which concluded that reparations for Guam as provided by the Guam Meritorious Claims Act fell short of rehabilitating the island and redressing damages suffered by its people from the occupation of Japan, Congress failed to address the recommendations of the Hopkins Commission under the War Claims Act of 1948; and

WHEREAS, on December 30, 1980, the Government of Guam created a Guam Reparations Commission which, among its other duties, compiled war damage claims for death, forced labor, forced march, internment, or injury, from survivors or descendants who did not receive any or full reparations under the Guam Meritorious Claims Act; and

WHEREAS, since given the authority to be represented in Congress by an elected representative in 1972, each Delegate from Guam to the United States House of Representatives has introduced legislation to correct the historical flaws of the Guam Meritorious Claims Act and the War Claims Act of 1948; and

WHEREAS, on December 16, 2002, the United States Congress established the Guam War Claims Review Commission through Public Law 107-333, which was tasked to “determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act as compared with the awards made to

other similarly affected U.S. citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II"; and

WHEREAS, on June 9, 2004, the Guam War Claims Review Commission submitted to the Secretary of the U.S. Department of the Interior its "Report on the Implementation of the Guam Meritorious Claims Act of 1945, Including Findings and Recommendations" (herein after the "War Claims Report"); and

WHEREAS, the Guam War Claims Review Commission determined that "there was a lack of parity in some aspects of the process and the amounts made available for payment to the residents of Guam"; and

WHEREAS, in addition to its findings, the Guam War Claims Review Commission made a recommendation that the compensation be reopened and that the "Congress enact legislation providing for additional compensation..."; and

WHEREAS, despite its finding that there was not parity in the treatment of Guam's war claims, the Guam War Claims Review Commission in Item (3) of Section VII of the War Claims Report discusses the eligibility of claims for personal injury, including rape and malnutrition; forced labor; forced march; and internment, including hiding to avoid capture (herein after "Category II"):

"Eligibility – The Review Commission has found that it would be most appropriate to limit eligibility in Category II claims to individuals who were alive as of the year 1990. That year represents the last time that the Administration, the leadership of the U.S. Congress, and the leadership of the Guam Legislature were within

reach of achieving agreement on legislation to compensate the claims of the people of Guam arising from World War II. The Review Commission, therefore, recommends that, in the case of individuals who suffered the types of harm described above, who were living in 1990 but who are no longer living, the compensation provided for in Category II claims be limited to the spouse, child or children, or parents, respectively, in this order of priority, who constitute the classes of survivors identified in the War Claims Act of 1948, as amended”,

and with such eligibility requirements, it only grants reparations to those war victims who were living in year 1990 or their survivors, and excludes those who died before 1990 or their survivors; and

WHEREAS, the Commission's Category II recommendation, it creates disparity among the victims of war as all of them, whether they were dead or alive in year 1990, were terribly tormented, both physically and mentally during World War II—a painful scar that remained with them permanently; and

WHEREAS, the Commission's Category II recommendation imposes an additional burden on Guamanian survivors of the War who seek war reparations to have survived an additional forty-five (45) years after the war before being allowed to make a claim; and

WHEREAS, Congresswoman Madeleine Z. Bordallo introduced into Congress on April 13, 2005, the Guam World War II Loyalty Recognition Act (H.R. 1595), which would adopt and enact into law the recommendations of the Commission; and

WHEREAS, on April 20, 2005, the Committee on Resources, United States House of Representatives, held a Congressional hearing on H.R. 1595; and

WHEREAS, the leaders of Guam went on record rejecting the 1990 cutoff date, correctly honoring the stated desires of the people of Guam; and

WHEREAS, Congresswoman Madeleine Z. Bordallo has promised the people of Guam that she will amend the bill at the earliest possible date to remove the 1990 cutoff date for eligibility for reparations; and

WHEREAS, the Governor and the Lieutenant Governor of Guam have represented to the United States Congress that they were against any division of survivors based on a 1990 date, stating in their testimony that “the sentiments at home are that all victims should be recognized and made whole in the war claims process.

The claims process is an emotionally charged issue and this emotion is guided by the Chamorro familial custom of ensuring the proper care of the entire family. Unfortunately, a vast majority of survivors of the war will be left out if H.R. 1595 is passed in its current form"; now therefore be it

RESOLVED, that all provisions of prior Guam Legislature resolutions endorsing the 1990 division of Chamorros, be hereby superseded by provisions of this resolution; and be it further

RESOLVED, that the Guam Legislature does stand united with the people of Guam and the leaders of Guam in requesting reparations for all of the Chamorros who suffered and died during the war, without division based on date of subsequent survival; and be it further

RESOLVED, that the Speaker certify, and the Legislative Secretary attests to, the adoption hereof and that copies of the same be thereafter transmitted to the Honorable Robert Underwood, former Guam Delegate, United States Congress; to the Honorable Ben Blaz, former Guam Delegate, United States Congress; to the Honorable Mauricio Tamargo, Chairman, U.S. Department of Justice Foreign Claims Settlement Commission; to the Honorable Joshua Bolten, Director, Office of Management and Budget; to the Honorable Gale Norton, Secretary, U.S. Department of the Interior; to the Honorable John Ashcroft, Attorney General, U.S. Department of Justice; to the Honorable Colin Powell, Secretary, U.S. Department of State; to the Honorable Richard W. Pombo, Chairman, U.S. House of Representatives Committee on Resources; to the Honorable F. James Sensenbrenner, Jr., Chairman, U.S. House of Representatives Committee on the Judiciary; to the Honorable Pete V. Domenici,

Chairman, U.S. Senate Committee on Energy and Natural Resources; to the Honorable Orrin G. Hatch, Chairman, U.S. Senate Committee on the Judiciary; to the Honorable George W. Bush, President of the United States of America; to the Honorable Madeleine Z. Bordallo, Guam Delegate, United States Congress; and to the Honorable Felix P. Camacho, *I Maga'lahaen Guåhan*.

**DULY AND REGULARLY ADOPTED ON THE ___ DAY OF ___,
2005.**

Mark Forbes
Speaker

Edward Calvo
Senator and Legislative Secretary