

Special Feature — Issues of the Iraq War

The Iraq War from the Viewpoint of International Law

By Hisakazu Fujita

When we view the recent Iraq War in the light of international law, there are three broad problems: 1) the legality of starting such a war, 2) wartime violations of humanitarian law and their punishment, and 3) the legal status of Iraq after the collapse of the Hussein regime. In this article I would like to discuss the main points of each of these problems.

1. The Legality of Starting the Iraq War

First, we need to consider the preemptive attacks against Iraq by the U.S. and U.K. within the present legal framework of international order—that is, within a framework which prohibits war in principle, but which permits the use of military force in exceptional circumstances when it is either authorized by the U.N. Security Council or intended for self-defense purposes. In this framework, if a war or other international use of force takes place, then at least one of the parties concerned must be acting against the principle that prohibits war. (Furthermore, such action may constitute *prima facie* evidence of an act of aggression as defined in the U.N. General Assembly Resolution 3314 [XXIX], i.e. as “the first use of armed force by a State in contravention of the Charter” or “the invasion or attack by the armed forces of a State of the territory of another State.”)

Inasmuch as the U.S. and U.K. evidently launched a joint military attack against Iraqi territory on March 20, 2003 without a U.N. Security Council resolution, their action must be seen as a violation of the principle against war. Is it possible for the U.S. and U.K. to invoke the right of self-defense to justify their action? It is not possible for them to invoke the right of self-defense as defined in Article 51 of the U.N. Charter in the absence of an armed attack by Iraq against the U.S. and U.K. President Bush deliberately failed to mention the legal basis for starting the war in his “ultimatum” speech of March 17 and his declaration of war on March 19. Instead, he stated that the U.S. had the sovereign right to use force for its national security in light of the obvious threat posed by Iraq. However, a general threat posed by the use by terrorists of weapons of mass destruction (i.e. chemical weapons) allegedly in Iraq’s possession cannot be used as the basis for the exercise of the right of self-defense.

2. Violations of Humanitarian Law and Punishment of

Responsible Officials

Regardless of whether the military attack by the U.S. and U.K. was legal or illegal, the war was an international armed conflict between states, to which international humanitarian law (consisting of customary laws and treaties) that regulates actions of belligerent states must apply. The U.S., U.K. and Iraq were all signatories to the Geneva Conventions of 1949, which are the core documents of humanitarian law, but only the U.K. was party to the protocols of 1977, which supplemented the Geneva Conventions. In any event, the fact that the U.S. contended that a TV broadcast showing American prisoners of war held by Iraq was in violation of international treaties testifies to its acceptance of the

applicability of humanitarian law in this war.

The almost totally one-sided military campaign in Iraqi territory by the U.S. and U.K. ended in no more than 20 days. During that period, however, thousands of Iraqi civilians as well as a number of soldiers, especially on the Iraqi side, were killed or wounded and there was also massive damage to Iraqi property. The killing or wounding of soldiers and destruction of human lives and goods that can be regarded as military targets during warfare are not banned even under humanitarian law. Nevertheless, the large number of high-tech weapons, such as precision-guided cluster bombs and depleted uranium bombs, which U.S. and U.K. forces used in Iraq as if to show off their power, were inhumane in that they caused indiscriminate damage and unnecessary suffering not only to Iraqi soldiers, but also to civilians, including women and children. While there are no treaty provisions explicitly forbidding the use of such weapons, the general principles and customary rules of humanitarian law, which forbid the indiscriminate destruction of civilians’ lives and property and such means as to cause unnecessary sufferings to enemies, make the use of such weapons illegal under certain circumstances. The same reasoning was employed in the Shimoda Case, that is, the judgment on the legality of the atomic bombings passed by the Tokyo District Court on December 7, 1963. Excuses such as “collateral damage” and “bombing by mistake” inadvertently resulting from attacks against military targets cannot absolve the perpetrators of their responsibility for the consequences. In a war of information, in which both sides mobilize the mass media, it is difficult to obtain promptly accurate information about destructive and damage-causing actions taken by either side. Investigations into relevant cases of destruction and damage ought to be undertaken by an organization like the U.N.

Under the terms of existing international criminal law, serious violations of humanitarian law are subject to criminal punishment, whether they are committed by ordinary soldiers or officers (or even by a president as the state’s commander in chief). Even if the International Criminal Court, recently established in The Hague, has jurisdiction over such cases, neither the U.S. nor Iraq is party to the international statute that established the court. In all probability, only Iraqi “war criminals” will be tried in U.S. military courts after the war, and that will almost surely amount to a case of widely criticized “victor’s justice.”

3. Legal Status of Iraq after the Collapse of the Hussein Regime

What is Iraq’s legal status following the fall of Baghdad and the collapse of the Hussein regime? There are an endless number of legal questions about this issue, such as whether the Iraqi “state” has ceased to exist or Iraq is simply “in a state of anarchy,” whether the U.S. and U.K. forces are “occupation” forces or “liberation” forces, etc. However, there is no way to consider Iraq as anything other than a state under wartime (belligerent) occupation, as defined in Article 42 of the Hague Convention, Laws and Customs of War on Land, because Iraq has come de facto under the power of U.S. and U.K. forces. The authorities of those occupying forces have obligations to respect existing laws of Iraq, restore public order and civil life, safeguard individual citizens’ lives and private property, and prevent looting. President Bush finally issued a declaration of the end of the battle on May 1, but the declaration, he said, did not signify the legal conclusion of the war. Nevertheless, the declaration may be regarded as a signal for the transition from a “wartime,” or military, to a “postwar,” or mixed, occupation of Iraq. In these circumstances, the source of the Office of Reconstruction and Humanitarian Assistance’s (ORHA) power to take action is likely to be questioned. The establishment of an interim government in Iraq must be decided by the Iraqi people themselves. The Iraqi people have also permanent rights over their natural resources, such as oil, which must not be treated as a bargaining chip by foreign companies in their pursuit of selfish interests.

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The Invasion of Iraq, the U.N., the Threat of U.S. Unilateralism and the Spirit of Hiroshima

By Christian P. Scherrer

Nuclear warfare is not a thing of the past. In 1991, after 46 years of shame, it was employed again by the USA in Iraq, despite the compelling forensic and documentary evidence of the horrendous impact uranium has on humans. On March 2, 2003, some 6,000 people from Hiroshima and other prefectures gathered in downtown Hiroshima, about a kilometer from where the first nuclear weapon fell in August 1945, killing hundreds of thousands and devastating the city, to write with their bodies the message, “NO WAR, NO DU!”

Over six weeks in 1991, U.S. aircraft and missiles systematically destroyed lives and life-support systems in Iraq. An equally ferocious assault by the U.S. air force in March-May 2003 was followed by the deployment of ground troops by the world’s mightiest nations against a country that had been thoroughly disarmed of its weapons of mass destruction by U.N. inspectors over the years! For no plausible military reason, U.K. and U.S. forces used massive amounts of highly toxic uranium in the heart of Iraqi cities, threatening the lives and health of millions of Iraqi citizens. Since 1991 the death toll has climbed exponentially and, it is feared, will climb even faster. Uranium kills over generations.

Abuse of Terrorist Threats and Spreading Fear of Foreign WMD

Since September 11 (2001) war-mongering by U.S. leaders against Afghanistan, and later against Iraq and a so-called “Axis of Evil,” has been the most disturbing aspect of a wholesale policy change engineered by George W. Bush Jr. and his extremist neo-conservative advisers. The initial bogeys of “Islamic” terrorism and the Taliban quickly gave way to the threat by Iraqi weapons of mass destruction (WMD)!

The resurgent neoconservative project rejects the policies of deterrence, containment, and collective security, which had served as the main pillars of world peace and order since 1945. Instead, the new strategy aims to achieve U.S. supremacy by resorting to aggressive military interventionism, first strikes, and counter-proliferation measures against “rogue” states, encircling Russia and China, and building permanent military bases throughout the world.

Fabricated “Threats” as Catalyst for an Unprecedented Arms Race

The threat of terrorism, and Iraq’s WMD, have been used to further an aggressive agenda dating back to 1992, reformulated in a report entitled “Rebuilding America’s Defenses” in fall 2000. Six of its authors now occupy key posts in the Pentagon. Since September 11, 2001, U.S. military spending has been increased to a staggering US\$400 billion, plus US\$80 billion for operations against Iraq, or more than the total amount spent by the “rest of the world”! Without doubt, the USA has now become the main threat to world peace.

Today Bush Jr. is seen as the “new global monster.” We see growing anti-Americanism around the world, threatening to isolate the USA from the global community, but helping ultimately to defeat U.S. suprematism.

U.S.-U.K. War for Oil was Illegal, Illegitimate and Immoral—

Compounding the Impact of Genocidal Sanctions

The pretext for war, i.e. claims of Iraq’s possession of WMD and links to international terrorism, will boomerang. The U.S. and U.K. governments used calculated lies. WMD were neither used by Iraq, nor have any been found! Nor is there a shred of evidence of Iraq’s alleged links to al-Qaeda. The secularist Baath party traditionally sought to uproot Islamist tendencies.

U.S.-U.K. committed massive war crimes in Iraq in 2003, waging terror-bombing with WMD, as it did in 1991, again without harming the top leaders, who all seem to have escaped. For the third time since the USA supported Iraq’s aggression against Iran in 1980-1988, the people of Iraq have been victimized. As in 1991, the systematic U.S. attacks on civilian facilities created hell on earth. In addition to the estimated 400,000 victims of the U.S.-led coalition’s war against Iraq in 1991,

approximately 5,000 Iraqi children have died each month from water-borne diseases and malnutrition, according to the World Health Organization (WHO), due to genocidal sanctions, bringing the death toll to 1.5 million!

The new aggression in March 2003 compounded an already appalling situation with the use of an even larger amount—estimated between 1,000 and 2,000 tons—of extremely toxic uranium. Dropped on densely populated areas, the weapon’s long-term impact will be horrific. Without a thorough clean-up operation, the affected areas will be unfit for human habitation for millions of years!

U.S. Neo-Conservative Agenda Excludes the United Nations

The U.S.’s real aims were the removal of Hussein from power, the military occupation of Iraq, and the establishment of permanent U.S. bases and a client regime under U.S. control in the midst of the world’s most important oil region.

U.S. neo-conservative hawks are fiercely opposed to allowing the United Nations any role at all. The world order, as we knew it, with global institutions centering on the U.N., has been severely damaged. The entire code of international law as the normative guide for acceptable state behavior has been massively violated. Bush Jr. and his team have made clear that they are ready to tear up all multilateral institutions and violate rules which were previously sacrosanct.

These aims can be accomplished only at a cost to the world’s leading economic power, the European Union, as well as to other great powers in our multi-polar world—Russia, China, India and Japan. In asserting its narrow interests the USA has always been ruthless, but the invasion of Iraq has broken all taboos, and shattered the trans-Atlantic system of cooperation. The splits caused by the 1999 NATO war against Yugoslavia have grown deeper—indeed beyond repair. NATO, as the only remaining Cold War-era military alliance, is finally ready for the rubbish bin of history. Its demise may open the way for a future defensive alliance against U.S. hegemony.

In polls taken before the Iraq war, close to 80% of Americans wanted the U.N. to be involved. The Bush team wanted to use the U.N. as the handmaiden of U.S. interests. This gimmick did not work: France, Russia and China remained opposed.

In order to sell their war to the U.S. public, the U.S. hawks set up a “Coalition of the Bullied and Bribe.” However, this could not cover up the overwhelming opposition to aggressive U.S. unilateralism. Even in states that supported Bush’s global cowboy policy, such as Britain or Spain, large majorities rejected war; anti-war demonstrations in the U. K. and the U.S. were among the largest.

No war in recent history was ever so categorically rejected long before it even started. However, millions of demonstrators rallying under the slogan “No Blood for Oil!” were unable to defeat a tiny group of war-mongers. Might triumphed over right.

U.S. Big Oil Had No Role in Iraq

Why did the USA have to attack a country it had had fully under its military control since 1991 by means of slicing the country into three sections with Northern and Southern no-fly-zones? Iraq had been a rare contemporary case of restricted sovereignty in military affairs and economic development, with sanctions imposed for an indefinite period without a re-evaluation. The answer is that the real U.S. aim was not what its leaders claimed: they wanted to control the second largest oil reserves in the world. The Hussein regime had signed oil development contracts with Russia, China and France to be effective after sanctions were lifted, cutting out the U.S. Big Oil companies. The USA could thus play a dominant role in the development of Iraq’s huge oil reserves only after a regime change.

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The Inhumanity of Depleted Uranium Weapons

By Kazumi Mizumoto

1. What is Depleted Uranium?

Depleted uranium (DU) is a byproduct of the process that produces enriched uranium for use in nuclear weapons and nuclear power plants. Natural uranium is a heavy metal that normally contains only about 0.7% of the fissionable U-235 isotope. Separating this isotope leaves the remaining “depleted” uranium with 99.8% or more of the U-238 isotope, which is non-fissionable, and 0.2% or less of the U-235 isotope. Depleted uranium is roughly 60% as radioactive as natural uranium. The half-life of U-238, which makes up most of DU’s content, is as long as 4.5 billion years. Because its high specific gravity and density make it suitable for use as a kinetic energy penetrator, depleted uranium has been widely used for military purposes since the 1990s.

2. Depleted Uranium Used for Munitions

Depleted uranium is most widely used to make shells that can easily penetrate the hard steel body of tanks and armored vehicles. Depleted uranium is contained in the 30mm rounds used by the U.S. Air Force’s A-10 “tank-killer” aircraft and the 105-120mm rounds used by the U.S. Army’s M1A1 Abrams tanks. The material is also used in some U.K. and Russian tank shells, and in the armor of the M1A1 Abrams tanks. Some scholars believe that depleted uranium is also used in the earth-penetrating bombs called “Bunker Busters,” which destroyed concrete buildings during the Afghan and Iraqi wars. It is also speculated that depleted uranium is used in “Cluster Bombs” and 200-pound bombs.

3. Dangerous Effects of DU

Although DU is less radioactive than natural uranium, it is still a toxic radioactive substance that emits alpha and gamma rays. DU exposure may cause serious damage to the human body, including triggering cancer and leukemia. In addition to contamination of the immediate areas where DU is used, the shock and heat produced when DU shells hit targets such as tanks easily aerosolize DU into particles less than five microns in diameter. These particles can be carried downwind 25 miles or more, polluting air, soil and water in their path. According to one estimate, up to 70% of the depleted uranium used on a battlefield may be scattered over a wide area as small particles. The aerosolized particles are easily taken into the human body through the respiratory system, mucous membrane or wounds, contaminating the whole body radioactively and chemically.

4. Military Use of DU

DU was reportedly first used by Israeli tanks during the 1973 Arab-Israeli War, but the first significant use of DU weapons was in the Gulf War of 1991. More than 300 tons of DU shells were used by the U.S. and the U.K. in 940,000 rounds fired by aircraft and 14,000 rounds by tanks. The U.S. Air Force used 10,000 DU gun shells (2,750 kilograms) during the Bosnia conflict in 1995 and 31,000 gun shells (8,500 kilograms) in the Kosovo conflict in 1999.

Following the 1991 Gulf War, 186,000 of the approximately 700,000 U.S. troops who served in the battlefields were reported to have medical problems, most with symptoms known as the “Gulf War Syndrome.” In Iraq, there have been reports of a dramatic increase in the incidence of cancer and leukemia among former soldiers, birth defects among children born in the 1990s, and an estimated 250,000 Iraqi citizens afflicted with symptoms caused by DU. Among veterans who served in Bosnia and Kosovo, there was a similar increase in illnesses such as leukemia, which have come to be known as the “Balkan Syndrome.”

The U.S. government has maintained the position that DU had no negative effects on soldiers’ health. However, in the U.S., suspicions grew among veterans who served in the Gulf that DU weapons were the cause of the “Syndrome,” and many veteran associations and nongovernmental organizations (NGOs) started taking a variety of actions to expose the effects of DU weapons and seek relief for their victims. Internationally, there have been increasingly vocal calls for a ban on DU weapons, relief for victims, and detoxification of contaminated areas. In 1996, a resolution banning DU and other similar weapons was passed by the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities by a vote of 15 “yes” against 1 “no” (cast by the U.S.), and 8 abstentions. Also, a number of international conferences on DU weapons have been held in the last several years in Europe and other regions of the world.

5. Non-Military Use of Depleted Uranium

The accumulation of depleted uranium as a byproduct of enriched uranium started with U.S. development of atomic bombs during World War II. As a result of the nuclear rivalry between the U.S. and the Soviet Union, the U.S. now has a stockpile of 760,000 tons of depleted uranium; Russia’s stockpile is 500,000 tons. The U.S. started research, development and experiments on the military application of depleted uranium in the 1950s as a cheap method of disposing of its huge stockpile of the material. Depleted uranium is also stockpiled in the U.K., France, Germany, China, and other nations. As Japan depends upon nuclear energy for approximately one third of its electric power generation, it also has developed a stockpile of 9,600 tons.

Besides its military use, depleted uranium is also used for civilian purposes, such as counterweights in the wings of aircraft. The Japan Airlines jumbo jetliner that crashed into a mountain in 1985 was equipped with 240 tons of counterweights made of depleted uranium. The aviation industry is gradually switching to the use of tungsten in place of depleted uranium for counterweights, but many aircraft are still flying with DU counterweights.

6. Hiroshima and Depleted Uranium

Although the U.S. government has officially admitted that its armed forces used depleted uranium weapons during the recent Iraq War, it has not yet provided detailed information. Depleted uranium weapons differ from conventional nuclear weapons in that they do not destroy their targets by a nuclear explosion. However, depleted uranium weapons are just as morally objectionable as nuclear weapons, since they cause serious radioactive damage indiscriminately to civilians and combatants alike, as well as to the natural environment. DU’s toxic effects spread over a wide area and continue for many years after the end of a war. The U.S. and U.K. governments do not officially admit any negative effects of depleted uranium weapons on human health, and stick to the position that the use of such weapons does not violate international law. However, in international civil society, the view that DU weapons clearly violate international law is gaining increasing support. Some maintain that DU use violates the Protocol Additional to the Geneva Conventions of 1949 (Protocol 1), which prohibits employment of such means of war as may cause unnecessary suffering to people or damage to the natural environment. It is incumbent on the citizens of Hiroshima, with their unique historical experience as victims of atomic bombing, to demand inquiries into the damage caused by depleted uranium, relief for DU victims, and a legal ban on DU weapons.

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Countdown in Korea

By Wade L. Huntley

North Korea's surprise admission last October to a secret nuclear weapons program based on uranium enrichment triggered a cascading breakdown of the 1994 Agreed Framework structure that had kept North Korea's more advanced plutonium-based nuclear program in check. By year's end North Korea had expelled United Nations inspectors, removed monitoring equipment at its Yongbyon nuclear complex, and moved to restart Yongbyon's 5 megawatt (MW) nuclear reactor.

The situation poses a more serious threat to global nuclear nonproliferation than Iraq ever did. The immediate danger is that North Korea will restart its plutonium reprocessing facility at Yongbyon. Under the Agreed Framework, spent nuclear fuel from the 5MW reactor was verifiably stored and set to leave the country eventually. By reprocessing the spent fuel, within a few months North Korea could extract enough plutonium for a half dozen nuclear weapons (in addition to the one or two weapons worth of plutonium North Korea probably already extracted a decade ago). Once extracted, the plutonium could be dispersed to multiple hidden locations. North Korea would then be unimpeded in producing nuclear weapons for its own use or exporting the plutonium worldwide.

Following this course, North Korea would become the first state ever to withdraw from the Non-Proliferation Treaty (NPT) and become a nuclear power. This would be a tremendous blow to the NPT — a treaty that has successfully prevented proliferation around the world and provides the strongest legal mechanism to compel disarmament by its five nuclear weapons signatories. In the words of International Atomic Energy Agency (IAEA) Director General Mohamed El Baradei, North Korea's actions could "open the door for countries to walk away from nonproliferation and arms control agreements."

The international community must act decisively to achieve a nonproliferation outcome in Korea. Because Pyongyang insists on negotiation directly with Washington, the United States must play a central role in forging a solution. Unfortunately, the Bush administration's *de facto* policy of "hostile neglect" toward North Korea has instead contributed to the crisis. Determined to reverse the Clinton administration's attempts to engage North Korea, the Bush team eschewed any direct contacts for nearly two years, routinely characterized North Korea as a threat to U.S. interests, and made clear that pre-emptive strikes and other strategic policy innovations had North Korea in mind. In this way, the Bush administration fostered the fragile conditions within which revelation of the uranium program quickly precipitated a complete breakdown of U.S. -North Korea relations.

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Against this backdrop, the Bush administration's response to the "October surprise" was astonishingly passive — more passive than the Clinton administration's reaction in 1993-94. Administration supporters defended this passive response as pragmatic and sensible in light of the tremendous vulnerability of South Korea should the crisis escalate to war. In fact, the real source of the administration's timorousness was its preoccupation with Iraq. Having spent the previous summer heating up that confrontation, unnamed high Bush officials candidly admitted that they were in no mood to take on a second crisis.

Bush officials probably assumed that the aggressive policy to disarm Iraq would also intimidate North Korea. But Kim Jong-il also noticed that with the U.S. preparing for a major war in the Middle East, U.S. threats to resort to the same kind of coercion of North Korea *simultaneously* were far less credible. Kim seems to have judged that North Korea could afford to make its nuclear gambit overt — and could not afford to wait.

This explains Pyongyang's decision, during the now infamous October meeting, to acknowledge — even flaunt — its uranium program. The Bush team appeared unprepared for the constraints its Iraq policy placed on its capacity to back up its threats. Yet, the administration also continued to rule out "Clinton-style" direct negotiations with North Korea. Thus, the administration simply

continued its policy of intentional hostile neglect. The result: North Korea escaped the Agreed Framework's constraints on its nuclear program without serious adverse consequences.

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Trapped in its own policy, the Bush administration now has few good options remaining.

The current Bush strategy seems to be to hope that intensive coercive pressure will restrain North Korea from crossing the reprocessing "red line." The recent three-way talks in Beijing show why this approach will probably fail. U.S. conservatives at first hailed North Korea's agreement to meet in a multilateral forum as a concession proving the merits of the administration's position (North Korea had previously insisted on bilateral talks). However, North Korea quickly termed Chinese participation as "mediation" and came to the meetings emboldened and unapologetic. Administration hard-liners were so incensed that prospects for further talks may be dimmer now than before. For long-time watchers of North Korea, the episode was just one more addition to the long list of failed U.S. attempts to coerce "better behavior" from North Korea.

If North Korea begins full-scale plutonium reprocessing, a U.S. military strike to destroy the Yongbyon complex is possible. This would risk a North Korean counter-attack that could devastate South Korea, potentially subject Japan to missile attacks, and possibly trigger a broader regional conflict involving China. Even if escalation was avoided, a strike on Yongbyon could easily rupture the U.S.-South Korea alliance; the Bush administration has handled its relationships with South Korea and Japan so poorly that these allies currently will not support even threats of military action.

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So, a peaceful nonproliferation outcome depends on some kind of negotiated settlement; that in turn depends on the Bush team getting serious about its diplomacy. The issue is not whether to *engage* or *confront* North Korea — although that debate dominates U.S. policy-making, in fact North Korea does not reciprocate accommodation any more readily than it cowers to intimidation. Rather, U.S. policy must involve a nuanced and flexible blending of genuine incentives and credible sanctions, which, at its core, prioritizes *interaction* over *neglect*.

With the Iraq war ended and reprocessing looming, the Bush administration now seems ready to intensify its confrontation of North Korea; however, it has yet to exhibit equal fervor in diplomatic outreach. Unfortunately, recent U.S. military buildups will be ineffectual unless U.S. diplomacy opens a credible positive path for Pyongyang to abandon its nuclear programs. In particular, only a genuine U.S. willingness to negotiate will reassure Japan and (especially) South Korea that the U.S. takes seriously these allies' concerns and truly desires to solve the Korean crisis peacefully.

North Korea's motivations to develop nuclear weapons are complex, but by its own statements the long history of U.S. nuclear threats against North Korea plays a prominent role. More recently, the contrast between the U.S. counterproliferation attack on Iraq and its deference to existing nuclear powers (including Israel, India and Pakistan) reinforces global perceptions that nuclear arms remain a valuable source of power and prestige — and perhaps the only means of deterring U.S. attack. These circumstances underpin North Korea's demand for U.S. non-aggression guarantees as a condition for forsaking its nuclear program. A negotiated nonproliferation outcome in Korea must accommodate this condition.

Iraq demonstrated how easily the Bush administration will go to war. But North Korea does not lend itself to a forced solution. A peaceful nonproliferation outcome in Korea depends upon the Bush team finding a way to do the thing that is hardest for it to do: sit down and talk.

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Humanitarian crisis and international
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The direst threat to international security, a potential conflict between the Soviet Union and the United States, disappeared with the end of the Cold War. Since that time, humanitarian crises resulting from domestic conflicts have come to pose the greatest threat to people's livelihood and security. Inaugurated in July 2000, the Research Project on the Legitimacy and Rationality of New-interventionism (Project Leader: Toshiya Hoshino, Associate Professor, Osaka School of International Public Policy, Osaka University), set out to explore issues raised by domestic conflicts, including those in Kosovo and East Timor, and to examine how the international community should involve itself in resolving such crises. The findings of the research conducted over the next two years were published by a Tokyo-based publisher in February 2003.

Excluding Preface and Afterword, the book comprises 11 chapters divided roughly into two parts. The first four chapters chiefly discuss theoretical issues in international politics and law. Chapter 1 deals with the different ways the international community has intervened in conflicts, and summarizes the *modus operandi* that should be adopted when moral impulse, legal system and political dynamics come into play. Chapter 2, taking NATO's bombing of Yugoslavia as its focal issue, considers the justifiability of intervention from both legal and political perspectives while making distinction between the legitimacy of resorting to the use of force (*jus ad bellum*) and the legitimacy of the method (*jus in bello*). Chapter 3 views the causes of post-Cold War domestic conflicts from the perspective of globalization — the global-level technological, economic and social re-structuralization that are taking place — and analyzes the current status of the "globalization of civil strife." Chapter 4 looks at the new role of nation-building assigned to U.N. peacekeeping operations, introduces the concept of "international territorial administration" and examines the issue from the standpoint of international law and precepts.

The second half of the book presents actual case studies of the roles of various agents involved in interventions. Chapter 5 compares the activities of Italy's humanitarian aid agencies in the Kosovo conflict with those of the United Nations High Commissioner for Refugees (UNHCR). It examines the conflict between humanitarianism and national interests that continues to affect humanitarian activities, and considers how the deleterious effects of the pursuit of national interests might be overcome. Chapter 6 explores the role of NGOs in humanitarian assistance and provides first-hand accounts of the experiences of front line workers. The chapter looks objectively at the limitations of NGOs, while elucidating their huge potential. Chapter 7 deals with issues confronting journalists when reporting on conflicts, especially the difficulty of achieving fair and impartial "objective reporting," and draws on the author's own experience of the problem of verifying facts. Chapter 8 points out the potential significance of regional organizations providing a model for intervention and acting as a link between "universal logic" and regional circumstances. Chapter 9 analyzes the situation in Cambodia 10 years after U.N. peacekeeping operations. It evaluates the achievements of the United Nations Transitional Authority in Cambodia (UNTAC), and examines the issues that remain unresolved. Chapter 10 outlines tasks that need to be undertaken in East Timor, where the author was involved in U.N. peacekeeping operations, and looks at the difficulties facing the United Nations Transitional Administration in East Timor (UNTAET) in creating a governmental institution.

Finally, in Chapter 11, on the basis of the findings of this project, two main requirements are singled out for successful international

interventions. The first is justice on the part of the intervening party. The second is a legitimate form of intervention guided by a deep concern for human security rather than just national security.

By Nobumasa Akiyama, assistant professor at HPI

**Humanitarian Crisis and International Intervention:
Formulae for Restoring Peace**

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<Chapter 7> Shuichi Habu, Deputy International Editor, International
News Department, the Yomiuri Shimibun
<Chapter 8> Jun Tsubouchi, Associate Professor, Faculty of Education
and Human Sciences, Yamanashi University
<Chapter 9> Kazumi Mizumoto, Associate Professor, HPI
<Chapter 10> Yoshifumi Azuma, former Unit Chief, Economic
Statistics Unit, Department of Economic Development, UNTAET
(Arranged in chapter order; positions listed are those held at the time of writing.)

"Hiroshima" and "Lucky Dragon"

By Hiroko Takahashi

In the first years following the bombing of Hiroshima and Nagasaki, the United States government sought to deny the widespread radiation effects of these weapons. Only after the clear evidence provided by the Lucky Dragon incident following an atomic test in the Pacific nine years later did the United States grudgingly begin conceding this far-reaching danger of the use of nuclear weapons.

On September 5, 1945, Wilfred Burchett, a correspondent for the *Daily Express*, reported from Hiroshima: "People are still dying, mysteriously and horribly — people who were uninjured in the cataclysm — from an unknown something which I can only describe as the atomic plague." Concerned about this report, Brigadier General Thomas F. Farrell, chief of the War Department's atomic bomb mission (Manhattan Project), issued a statement the following day denying that the damage was from radiation. The statement claimed that the atomic bombs dropped on Hiroshima and Nagasaki were detonated at such a high altitude that no radiation remained, and that even if some people died later, it was because of injuries sustained at the time of the explosion.

On August 31, 1946, *The New Yorker*, a weekly magazine, published a report titled "Hiroshima" by John Hersey, who had interviewed atomic bomb survivors in Hiroshima. Three hundred thousand copies of *The New Yorker* were sold out from newsstands in New York within the day. "Hiroshima" later appeared in serial form in more than 100 newspapers and, in December of that year, was published in book form, again entitled *Hiroshima*, which immediately hit the best-seller list. Before Hersey's article, the typical image of atomic bombs in American society was only a sanitized image from the photos of the United States Air Force. The appearance of "Hiroshima" began drawing attention *under* the mushroom clouds.

In this way, concern over Hiroshima and voices questioning the legitimacy of the atomic bombings heightened enormously from the fall to winter of 1946. In its February issue in 1947, *Harper's Magazine* carried an article by Henry L. Stimson, ex-Secretary of War, which argued that "we estimated that if we should be forced to carry this plan (the invasion of the main island of Honshu) to its conclusion, the major fighting would not end until the latter part of 1946, at the earliest. I was informed that such operations might be expected to cost over a million casualties, to American forces alone." This article was reprinted in all kinds of magazines and newspapers, and was read by many Americans. With the publication of the so-called "myth of one million," the image of the atomic bombings as symbolizing the conclusion of World War II became imprinted in the minds of most Americans.

Later in America, a signature-collecting campaign was conducted for the Stockholm Appeal issued by the World Peace Council in March, 1950. However, in the setting of the intensifying Cold War and McCarthyism (at its peak in the early '50s), the antinuclear movement was attacked as "communistic." Thus, the discussion about the inhumanity of the use of nuclear weapons and the peace movement generally stalled. In its information campaign on measures against atomic bombs, the Federal Civil Defense Administration claimed, in the early '50s, that U.S. citizens could survive an atomic bombing and rebuild the nation as long as they could avoid the heat emission and blast of the atomic explosion. There was no mention of the horrors of radiation and its serious effects on the human body long after an atomic explosion.

The Lucky Dragon radiation exposure incident took place in the context of this denial of the radiation threat of atomic weapons. On March 1, 1954, the United States conducted the thermonuclear test code named "Bravo Shot" at the Bikini Atoll in the Marshall Islands. The crewmembers of the Japanese fishing vessel, the Lucky Dragon (Fukuryu Maru in Japanese), which was 130 kilometers away from the hypocenter of the explosion, and residents of Rongelap Island, 190 kilometers away, were exposed to radiation, not due to direct heat or blast of the explosion, but due to radioactive fallout, or "the ashes of death." Soon after the test, the Lucky Dragon crewmembers were all hospitalized with very distinct symptoms of radiation exposure.

The tragic fate of the "Lucky Dragon," namely, the clear evidence of widespread radiation effects from the test soon gained wide attention.

A research vessel dispatched by the Japanese government reported that contamination by radioactive materials had spread across a wide area of the Pacific Ocean. In September 1954, Aikichi Kuboyama, the chief radio operator of the Lucky Dragon, died. However, the United States Atomic Energy Commission (AEC) did not issue a statement about the effects of the nuclear test for nearly a year.

On the other hand, Ralph Lapp, who was engaged in the Manhattan Project and had once worked as a scientist in the Department of Defense, contributed an essay to the *Bulletin of the Atomic Scientists* in which he pointed out, for the first time among American scientists, the hazardous nature of radioactive fallout, based on data collected by Japanese scientists. According to the historian, Allan Winkler, the controversy over radioactive fallout in the wake of "Bravo Shot" turned into a public debate, which polarized the scientific world and began to spread throughout American society.

On February 15, 1955, the AEC issued for the first time a statement concerning "Bravo Shot." The statement made no reference to the disaster of the Lucky Dragon, but acknowledged in a very limited way the effects of the "ashes of death," or radioactive fallout, from the nuclear test in the Bikini Atoll, which had involved a surface or near-surface explosion of a thermonuclear weapon. This was followed by an erroneous declaration: "In an in-the air explosion where the fireball does not touch the earth's surface, by the time they have reached the earth's surface, the major part of their radioactivity has been dissipated harmlessly in the atmosphere, and the residual contamination is widely dispersed." In other words, there was no need to worry about contamination by radioactive materials if the explosion took place in mid-air, as in the cases of Hiroshima and Nagasaki. The disaster of the Lucky Dragon was thus accounted for not as a repeat of Hiroshima and Nagasaki, but as a "new atomic peril." In addition, the statement gave the reassurance that people would be able to avoid injury by simply following government instructions.

Despite the AEC's statement, the tone of the debate about radioactive fallout became increasingly apprehensive. Nuclear weapons that caused "ashes of death" were now dubbed "dirty weapons." In response to mounting public concern, advocates of nuclear tests turned to the development of "clean weapons," which, according to Edward Teller, a leading advocate, were weapons whose radioactive fallout had been reduced by more than 95%.

In June 1957, hearings on "The Nature of Radioactive Fallout and Its Effects on Man" were held by the Special Subcommittee on Radiation of the Joint Committee on Atomic Energy, Congress of the United States. Lapp interviewed former crewmembers of the Lucky Dragon and Japanese scientists before the hearings, and testified on the danger of radioactive fallout using the data and verbal evidence he had obtained during the interviews. Asked by a member of the subcommittee if "it is possible to fabricate a weapon which is clean," Lapp insisted that the question was inappropriate and that, though one could use the term "relatively clean," it was impossible to fabricate "clean weapons" that did not cause radioactive fallout at all.

In 1958, Lapp published the first book on the disaster of the Lucky Dragon, titled *The Voyage of the Lucky Dragon*. There he again discussed "clean weapons," pointing out that, if 95% of a bomb is clean, the remaining 5% is still dirty, and maintaining that the small atomic bombs, which completely destroyed Hiroshima and Nagasaki, were 100% dirty all the same.

Year 2004 marks the 50th anniversary of the disaster of the Lucky Dragon which began to open the world eyes to the danger of radioactive fallout and gave rise to the "controversy dividing the scientific world." Still, the United States government continues to try to downplay or deny the importance of radiation effects. This resistance is especially evident in recent denials by the U.S. government of any radioactive consequences from the use of depleted uranium weapons. Fifty years later, the voices of the victims of radiation exposure ("Hibakusha" in Japanese) are still crying to be heard.

Takahashi is research associate at HPI

HPI Research Forum

February 28, 2003



Title: Anti-Personnel Land Mines — a Model of Modern Military Practice, and a Challenge for Peace Activists

Speaker: Dr. Ian Maddocks, Emeritus Professor, Flinders University of South Australia, and Chairman, Board of Directors, International Physicians for the Prevention of Nuclear War (IPPNW)

It is reported that between 1985 and 1996 the U.S. produced more than four million anti-personnel mines. By 1992 the number of anti-personnel mines that the U.S. exported to Cambodia reached 600,000. During the 1980s and early 1990s the former Soviet Union, China and Italy were responsible for most of the remaining 5 - 10 million mines produced annually. Currently, the major producers of anti-personnel mines are Russia, China and the U.S.

There were thousands of landmine deaths and injuries reported in 70 countries in 2001-02. Among them Afghanistan and Chechnya produced the largest number of casualties — well over one thousand in each region. It is estimated that the total casualties of land mines in the world hitherto could be several million.

Professor Maddocks' paper takes the viewpoint that the use of a large number of anti-personnel mines in almost all regions in arms-conflict is similar to a terrorist attack, as these weapons were scattered not only on the battlefields, but in areas not associated with formal conflict. Hidden as they are, they suddenly and unexpectedly attack civilians and are a threat that persists for decades. Increasingly, modern military practice causes far more death and injury to civilians than it does to combatants. Because of the numerous numbers of casualties due to land mines, it is not surprising that anti-personnel mines have been called "weapons of mass destruction in slow motion."

In his presentation, Professor Maddocks graphically illustrated the impact of landmine explosions on the human body with detailed images and medical descriptions, demonstrating just how inhumane these weapons are. He made clear why IPPNW includes the prevention of manufacture, export, deployment and use of land mines as part of its peace advocacy, along with the prevention of nuclear war and the elimination of nuclear, biological and chemical weapons.

In 1997, the so-called Ottawa Treaty — Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti - Personnel Mines and on their Destruction — was adopted and signed by 100 nations. This was the result achieved by the strong coalition movement of veterans' group, various peace groups and governments of some middle power nations such as Canada, Belgium, Norway and Austria. It was an epoch-making event in terms of getting a majority of members of the United Nations to agree and cut through established U.N. processes.

The point made by Professor Maddocks, is that such a process, operating outside the usual U.N. mechanisms, could serve as a model for achieving the elimination of nuclear weapons. That suggestion is a potential source of inspiration and encouragement for the people in Hiroshima who have been tirelessly calling for the abolition of such weapons ever since August 1945. However, Professor Maddocks also pointed out the problem that the refusal by key powers, particularly the U.S., to adhere to such a political process or outcome remains a major obstacle. When we consider the fact that the U.S. recently waged war against Iraq, ignoring the established decision-making process of the United Nations, it is clearly urgent for us to confront such unjustifiable behavior, and to develop an effective means to change reliance on nuclear weapons by working both outside and inside the U.N. mechanisms.

By Yuki Tanaka, professor at HPI



HPI-TAPRI Workshop



On February 24 and 25, 2003, the Hiroshima Peace Institute (HPI), in conjunction with the Tampere Peace Research Institute (TAPRI) of Finland, held a workshop in Hiroshima entitled "Resolution and Prevention of Conflicts and the Role of Civil Society." The workshop was part of a research project conducted by HPI with funds provided by the Science Research Funding Subsidy Program, Basic Research B, of the Ministry of Education, Culture, Sports, Science and Technology. The on-going project is entitled "Theoretical Investigation of Conflict Resolution/Prevention and Process of Civil Society Formation: Examples from Asian Nations." Its aims are to investigate, from the perspective of comparative politics and political development theory, the role of civil society in the resolution of conflicts and the prevention of their recurrence in Asia and to contribute to the construction of a theory of civil society in the region. By comparing the Asia-focused research conducted by HPI with research conducted by TAPRI on European examples, the workshop aimed to identify the historical and geographical factors that could contribute to formulating a model of civil society in its role as an agent in conflict resolution. The workshop also discussed the universality of the role of civil society in the transition from an authoritarian to a democratic regime and in post-conflict nation-building.

The workshop was divided into four sessions. Session 1 addressed the theme of "Understanding 'Civil Society' in the Context of Peace Building and Political Development." It analyzed the significance of various concepts of civil society and their implications for democracy and peace in Asia, and the role of civil society in security-building in Europe. Session 2 was entitled "The Roles of Civil Society in Post-Conflict Peace Building." It drew on East Timor as an Asian model, examining the process of its achievement of independence and development and the role of its local civil society. The European example came from Macedonia, and the discussion centered on the complexities of conflict resolution and the role of civil society. A comparative exploration was attempted into the

relationships between the process of post - conflict peace - building and - establishment and the process of the development of civil society. Session 3 looked at civil society from the aid-donor's perspective. The Japan Platform, comprising NGOs, business circles



and the Ministry of Foreign Affairs, is an umbrella organization in Japan for emergency humanitarian aid. The session focused on the development of the Japan Platform and the role of civil society, along with the role of international organizations in facilitating the building of a model for civil society in the Balkans. Session 4 cited as examples of the role played by civil society in the prevention of conflicts the development of civil society in multi-ethnic Malaysia and the process of the achievement of independence by Baltic countries.

The focus of discussion throughout the workshop was on the elements and conditions conducive to the creation of civil society and the way actors and organizations involved might conduct themselves more effectively. The ideal form of civil society and its role in prevention and resolution of conflict were discussed from many angles, including regional characteristics, stages of political development, what political system need be adopted to guarantee the presence of civil society, and the functional status of such a system. The workshop was a pilot project of HPI and TAPRI. The two institutes plan jointly to publish a report based on the discussions at the workshop.

By Nobumasa Akiyama, assistant professor at HPI

“Terror from the Sky: Indiscriminate Bombing from Hiroshima to Today”

The bombing of Hiroshima is a typical example of indiscriminate bombing of civilians, which is clearly a crime against humanity. Yet indiscriminate bombing is not a phenomenon unique to Hiroshima, but a common feature of modern and contemporary warfare. Large scale aerial bombing targeting civilians became a major strategy during World War II, resulting in a large number of victims both in Europe and the Asia-Pacific region. With each new war since World War II, the strategic importance of aerial bombing has increased, and, it featured, for example, in the Korean, Vietnam, Gulf and Kosovo-Serbian Wars. In the more recent wars in Afghanistan and Iraq many civilians, in particular children, women and older people, were victims of indiscriminate bombing. This symposium examines the history and present situation of indiscriminate bombing from the viewpoint of Hiroshima, and explores possible ways of preventing the future occurrence of mass-killing from the sky.

Panelists:

Ronald Schaffer	Professor, California State University at Northridge
Tetsuo Maeda	Professor, Tokyo International University
Marilyn Young	Professor, New York University
Eric Markusen	Professor, Danish Center for Holocaust and Genocide Studies
Yuki Tanaka	Professor, Hiroshima Peace Institute

Date and Time: August 2 (Sat.), 2003 1:30 p.m.-5:00 p.m.

Venue: Himawari Room, second basement floor (B2)
International Conference Center
(Hiroshima Peace Memorial Park)
1-5 Nakajima-cho, Naka-ku, Hiroshima

Host: Hiroshima Peace Institute

Collaboration: Hiroshima Peace Culture Foundation

How to Attend

Send a postcard to reach Hiroshima Peace Institute by July 30. Write your name, address, and telephone and fax numbers. Reservations can also be made by phone, fax or email. Up to 200 people can be accommodated on a first-come, first-served basis.

Address: Hiroshima Peace Institute, Hiroshima Mitsui Building 12th floor,
2-7-10, Otemachi, Naka-ku, Hiroshima 730-0051, Japan

Tel: +81-82-544-7570 **Fax:** +81-82-544-7573

Email: office-peace@peace.hiroshima-cu.ac.jp

D I A R Y

February 28, 2003 - June 30, 2003

◆**Feb. 28-March 17** Christian P. Scherrer visits East Timor to review, among other things, the activities of the Truth and Reconciliation Commission and the serious crimes unit.

◆**March 3-13** Nobumasa Akiyama conducts research in East Timor for “Theoretical Investigation of Conflict Resolution/Prevention and Process of Civil Society Formation : Examples from Asian Nations” project.

◆**March 24-28** Workshop of HPI Research Project on “Comparative Research into Genocide and Mass Violence” is held at HPI.

◆**March 26** Kazumi Mizumoto delivers report on “Cambodia, ten years after UNTAC: Tasks for Peace Building” to Research Group on Conflict Prevention, sponsored by Japan Institute of International Affairs (JIIA).

◆**March 28-29** Akiyama attends Track II Meeting of U.S. - Japan Commission on Arms Control, Disarmament, Non-proliferation and Verification in Washington D.C.

◆**April 2-4** Mizumoto delivers report on “The Role of Hiroshima in the 21st Century: From Destruction to Reconstruction and Reconciliation” at international conference commemorating the 55th anniversary of the April 3rd uprising in Jeju, titled “Genocide, Memory, and Peace: Beyond the Memory of the April 3rd Uprising,” sponsored by the Research Institute on the April 3rd Jeju Uprising, held in Jeju City, Republic of Korea.

◆**April 7** HPI President Haruhiro Fukui and all other researchers at HPI attend “Hiroshima and Nagasaki Seminar” organized by the cities of Hiroshima and Nagasaki to discuss topics of mutual interest with Rotary Peace Scholars from International Christian University (ICU) and local college students.

◆**April 16** Fukui gives lecture entitled “Women’s Culture to Nurture the 21st Century World” at meeting held by International Service Project Hiroshima (ISP).

◆**April 29** Mizumoto gives lecture on “The Atomic Bomb Experience of Hiroshima and Its Role in the 21st Century” and Wade L. Huntley on “Seven Lessons from the Iraq War” at a seminar organized by Meiji Gakuin University and the University of California at Hiroshima Aster Plaza.

◆**May 8** Yuki Tanaka gives lecture on “History and the Present Situation of Indiscriminate Bombing” at meeting of the Economics Association of Keio University.

◆**May 10-11** Third workshop of HPI Research Project on “Military Violence against Civilians — A Comparative and Historical Analysis” is held at HPI.

◆**May 17** Fukui gives lecture titled “On Human Beings” at Mental Care Association meeting at Kyushu Sangyo University.

◆**May 22** Jacques Hymans, assistant professor at Smith College, gives lecture on “The Bush Doctrine of Preventive War: A Case of Foreign Policy *Jujitsu*” at HPI Research Forum.

◆**May 22-23** Akiyama attends meeting on “Southern Caucasus in the Context of New Geostrategic Relationships” organized by and held at Western University in Azerbaijan and gives report on “Geopolitics in the Caucasus and

Energy Security in East Asia: From a Japanese Perspective.”

◆**May 24-25** Second workshop of HPI Research Project on “Confidence-Building Mechanism in East Asia” is held at Toshi Center Hotel in Tokyo.

◆**June 3-4** Akiyama attends steering committee meeting for project on “Protecting Against the Spread of Nuclear, Biological, and Chemical Weapons” sponsored by U.S. International Strategy Research Project and held in Geneva, Switzerland.

◆**June 7-10** Scherrer gives two presentations on Rwandan genocide and chairs two panels at 5th International Biennial Conference of the International Association of Genocide Scholars in Galway, Ireland.

◆**June 13** Public meeting on “HPI Research Project on Legitimacy and Rationality of New-interventionism” is held at Hiroshima City Plaza for Town Development through Citizen Exchange.

◆**June 24-27** Fukui, Tanaka and Mizumoto attend “Reconsidering Hiroshima/Nagasaki” conference in Hiroshima, held by the Japan Studies Association of the United States. Fukui speaks on “Atomic Bombing in Hiroshima in Historical Perspective” on 24th, Mizumoto on “The Atomic Bomb Experience of Hiroshima, Its Reconstruction and Reconciliation” on 25th, and Tanaka on “Japan’s Comfort Women” on 26th.

◆**June 26-27** Scherrer presents paper on “Perspectives for Accountability for the Use of Weapons of Mass Destruction, Genocidal Sanctions and Other Crimes against Humanity Committed in Iraq” at 2nd meeting of the European Network for Peace and Human Rights in Brussels, organized by the Bertrand Russell Peace Foundation.

◆**June 30** Fukui gives opening speech on behalf of Mayor Tadatosh Akiba at meeting of preparatory commission for Comprehensive Nuclear Test Ban Treaty Organization at Hiroshima International Conference Center.

— Visitors to HPI —

◆**April 9** Datuk Wira Abu Seman Yusop and 14 delegates from Malaysia.

◆**May 19** Kinuko Laskey, member of the Canadian Society of Atomic Bomb Survivors.

◆**May 21** Dr. Otto Hieronymi, Geneva Head of International Relations Program at Webster University in Switzerland, and 18 students.

◆**May 22** Dr. Berit Ås, Professor Emeritus of Oslo University.

◆**June 2** Dr. Linda Thomas and another professor of Randolph-Macon Woman’s College, Dr. Margaret Roman and another professor of College of Saint Elizabeth, Dr. Yasuhide Kobayashi and two other professors of Hiroshima Jogakuin University, three students from Randolph-Macon Woman’s College, and one student from College of Saint Elizabeth, 10 students from Hiroshima Jogakuin University.

◆**June 9** Dr. Daniel Mato, Department of Social Economics, Universidad Central de Venezuela, and Mrs. Mato.

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