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The Asia-Pacific War and the Failed Second Anglo-Japanese Civilian Exchange, 1942-45 アジア太平洋戦争と実現しなかった第二次英日残留民間人の交換

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The proposed 2nd Anglo-Japanese civilian exchange, originally planned for October 1942, never eventuated partly due to differences in the interpretations of what constitutes a merchant seaman and views on whether the Hague Convention should apply. The failure of the exchange meant that over 3,000 Japanese and British civilian internees as well as another 2,000 or so Japanese and American civilian internees remained in internment camps until at least August 1945. At the heart of the negotiations were 331 Japanese pilots and pearl divers who had been employed in the pearling industry until the outbreak of war. The impasse would impact attempts at civilian exchange involving multiple powers throughout the Asia-Pacific War.

Keywords: civilian internment; Japanese; Australia; exchange

The outbreak of military conflict inevitably finds civilians living in what has become enemy territory. During both world wars, civilians were detained by the enemy and held in internment camps. During the Second World War, Japanese civilians were interned in camps in, among other countries, New Zealand, Australia, India, Canada, and the United States, and Allied civilians were interned in camps in Indonesia (the then Dutch East Indies), Hong Kong and the Philippines.[1] During the course of the war, the Allied and Axis powers undertook a small number of civilian exchanges which enabled the repatriation of civilians. In each case, civilians were exchanged for civilians, often on a one-for-one basis. This contrasts with post-1945 exchanges which sometimes involve the exchange of civilians for combatants (e.g. exchanges between Israel and Syria and Egypt in the 1960s and Iran and Syria in 2013) and frequently on a basis other than a one-to-one exchange.

In September 1942, the first of what was hoped to be a series of exchanges of Japanese and British civilian citizens was held in Lourenco Marques in Portuguese East Africa (now Mozambique). Officially known as the "Anglo-Japan Civilian Exchange", the exchange involved the repatriation of around 1,800 Japanese citizens resident across the British Empire, including Australia, India and Singapore and a similar number of British citizens who were in territory under Japanese control. Shortly after this exchange was completed, negotiations for a second exchange began. However, due to a combination of stubbornness by the Australian, British and Japanese governments and differences in the interpretation of what classified persons as merchant seamen, the second exchange never eventuated. At the heart of the failure of the negotiations were 331 boat pilots and pearl divers who had worked in the pearling industry until they were interned in Australia upon the outbreak of hostilities. These men were nominated by the Japanese government to be repatriated as part of the exchange but the Australian government insisted that they were merchant seamen and therefore considered prisoners of war and so ineligible to be included in a civilian exchange.

This paper looks at the negotiations between

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the United Kingdom - as the chief negotiator of the exchange - Australia and Japan over Australia's decision to classify the boat pilots and pearl divers as merchant seamen and the consequences of that decision. It shows that Australia's position was initially supported – if not encouraged - by the British government though London later pressured Australia to change its mind when the Japanese government nominated the men to be included in the exchange and refused to participate unless they were included. The Australian government's position was steadfastly supported by General MacArthur, Commander-in-Chief, South West Pacific Area, and it was only after he withdrew his opposition to the repatriation of the men that Australia agreed to allow them to be repatriated. By that time however, Japan no longer had the shipping available to carry out the exchange and consequently it did not go ahead. The failure of the exchange meant that 1,600 Allied civilians interned in Japan and Hong Kong among other places remained in detention until at least August 1945 as did a similar number of Japanese residents across the British Empire.

Whilst there have been a number of studies into the internment of enemy civilians in Australia during World War II, including that of Japanese civilians,[2] no research to date has specifically considered Australia's role in the negotiation of the Anglo-Japanese civilian exchanges. In fact, the Anglo-Japanese civilian exchanges have virtually escaped attention from any researchers. The one major exception is Kent Fedorowich who comprehensively analysed the failed exchange in terms of the competing national self-interests of the British and Dominion governments as well as the different positions of the War, Colonial, Dominion and Foreign Offices.[3] Jonathan Vance also highlights national self-interest in his analysis of Canada's changing position during the negotiations for both prisoner of war and civilian exchanges.[4] In contrast, research on the American-Japanese exchanges includes monographs by Scott Corbett[5] and Bruce Elleman.[6] In keeping with the paucity of research on the Anglo-Japanese exchanges, to date no research has been undertaken specifically on the impact of the definition of merchant seamen on the failure of the second exchange. Fedorowich, who refers to the second exchange as "doomed from the outset" acknowledges the role of the boat pilots and pearl divers but does not consider the specifics of the issue.[7] Corbett also acknowledges their role but only in terms of the failure of the third American-Japanese exchange.[8] In contrast to these studies, this paper focuses specifically on the definition of a merchant seaman and the consequences that it had for the failed exchange. The analysis shows that whilst Japan was responsible for the conditions in the camps, the failure of the exchange was partly due to the British and Australian governments' inability to recognise each other's position. In order to show how the negotiations for the second exchange progressed, stalled and subsequently failed due to a change in the status of the boat pilots and pearl divers from civilians to merchant seamen, the analysis is undertaken chronologically. The analysis is based on archival material held in the United Kingdom and Australia. Importantly, in order to focus on the definition of merchant seamen and its impact on the second exchange, this paper does not question the humanitarian motive of the British government. Nevertheless, it is clear that national self-interests of all and a lack of understanding of the Australian position by the United Kingdom played a part in the failure of the exchange.

Internment of Japanese in Australia

On 8 December 1941, the police and representatives of the Australian Army began detaining Australia's small number of Japanese residents. In total, more than 1,100 local Japanese were detained and interned. Unlike the internment of people of other enemy nationalities, the War Cabinet decided in May

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1941 that both female and male Japanese would be detained and interned in event of war with Japan. Section 20 of the National Security (Aliens Control) Act of 1939[9] excluded the internment of men over 60 years and women but the War Cabinet decision was that "all Japanese males over 16 years" and "all Japanese women" would be interned.[10] The War Cabinet adopted the more comprehensive internment policy due to a lack of Japanese organisations that might indicate members' political leanings; a belief that Japanese people's 'strong national sentiment would probably lead to attempts at sabotage' and concerns that if they were free they 'would probably be the object of demonstrations'.[11] Whilst a subsequent decision saw Japanese males 60 years and over excluded because they were "considered to be harmless",[12] the internment of Japanese nationals remained more comprehensive than Section 20 of the National Security (Aliens Control) Act had permitted. Some of the Japanese individuals detained by the authorities were business people and their families, including some who were Australian born.[13] The majority though were crews – pilots, divers and luggers – of pearling and fishing vessels that operated in the waters to Australia's north. All Japanese were initially detained as civilians and held in civilian internment camps in locations such as Loveday, South Australia and Tatura, Victoria. Throughout the war, responsibility for both civilian internment and prisoner of war camps lay with the Army. Initially, the Army was responsible for all civil security matters but in July 1942, the Security Service was made responsible, among other matters, for the apprehension and release of local internees.[14]

Crew of the Sedney, a pearling lugger operating off Thursday Island, off the coast of the Cape York Peninsula, Far North Queensland, Australia, 1936. The captain and most of the crew were likely from Ukui in Wakayama Prefecture, Japan. John Oxley Library, State Library of Queensland Neg: 204317.

In addition to the locally detained Japanese, civilian internment camps also came to hold Japanese who had been captured by the Dutch in the Dutch East Indies and the British and Free French governments in their colonies across the South Pacific. As the interning power, these governments had residual control over the administration of the civilian internees they had detained. This meant that the interning powers, and not Australia where the Japanese were interned, decided whether or not the internees could be repatriated.[15]

Civilian Exchanges

Whilst the Geneva Convention of 1929 set out the terms for the detention and exchange of prisoners of war, it did not include any reference to the exchange of civilians.[16]

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Nevertheless, within days of the attack on Pearl Harbour, the Japanese government – which was not a signatory to the Convention – gave in-principle support to a request from the United States government for an exchange of non-officials or civilians.[17] Reciprocity in funding, the right of each state to nominate those to be repatriated, and the voluntary participation of the repatriates became the centrepieces of the agreement.[18] Shortly after the Japanese government agreed to the United States' proposal, it also agreed to a similar request from the British government. This latter agreement covered Britain, its colonies, India and the Dominions. Britain advised the Australian government of its hopes for a 'mutual scheme for repatriation' of civilians in late December 1941.[19] The terms of the Anglo-Japanese exchange agreement were based on those of the American-Japanese agreement. The United States and Japan successfully negotiated two civilian exchanges but plans for a third were thwarted by the failure of the negotiations for the second Anglo-Japanese exchange. The first United States-Japan exchange was held in Lourenço Marques in Portuguese East Africa in July 1942 and the second in Goa, then also a Portuguese colony, in September 1943.

The first – and what became the only – Anglo-Japanese civilian exchange was held at Lourenço Marques in September 1942. On this occasion, around 1,800 Japanese were exchanged for a similar number of Allied government officials and civilians.[20] Among those exchanged were 833 Japanese officials and civilians, including men, women and children, transferred from Australia.[21] The overwhelming majority of the repatriates from Australia had been interned in Australia on behalf of other governments.

As noted above, the notion of reciprocity was central to the negotiations for both the United States-Japan and Anglo-Japanese exchanges. Initially, the Americans considered reciprocity only in terms of the funding of the exchange but over time, reciprocity came to mean the exchange of an equal number of civilian repatriates from both sides.[22] Consequently, an exact number of internees from both sides needed to be identified and each potential repatriate had to be interviewed to ascertain their interest in participating. In the case of the United States where there was a substantial population of Japanese residents, balancing reciprocity in numbers from among those nominated by the Japanese government for repatriation and those willing to be repatriated proved cumbersome.[23] In the case of the Anglo-Japanese exchange, the terms were even more problematic as few Japanese were interned in Britain proper with most held in Canada, India or Australia.[24] This made Britain highly dependent on the co-operation of India, the Dominions and its colonies to attain the equity in numbers.

Under the exchange agreement, each government would nominate the participants in an exchange. This rather innocuous point became one of the primary causes of the failure of the negotiations for the second exchange as it was Japan's nomination of the 331 pilots and pearl divers who Australia would not allow to be included in the exchange that caused the stalemate. Importantly, whilst the participating Allied governments allowed the Japanese government to nominate all the civilians to be repatriated, they were happy for representatives of the Swiss Government – as the Protecting Power for the interests of Great Britain – to select, over and above the initial nominees from each of the Allied participants, the remainder of those to be repatriated. This was presumably to prevent disagreements among the Allies over the precise national make-up of the repatriates.

The Hague Convention and the status of Merchant Seamen

Whilst the Geneva Convention of 1929

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established the terms for the protection of prisoners of war, its lack of references to civilians, or more specifically the status of merchant seamen, meant that the 'Convention Relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Maritime War' otherwise known as 'The Hague Convention XI' of 1907 (hereafter 'Hague Convention') still stood. There were three main differences in the application of the two conventions. First, whilst the Hague Convention did not require the names of captive enemy merchant seamen to be notified to their government, the Geneva Convention of course failed to address civilians, or merchant seamen at all. It did require notification of names of prisoners of war as one of its main terms. The second major difference was that the Geneva Convention prohibited the employment of prisoners of war in war related operations and allowed for them to be paid for any work undertaken. Britain considered these terms to be 'privileges' and whilst it treated merchant seamen as much as possible according to the terms of the Geneva Convention, it saw the application of all provisions to be impractical.[25] Issues of pay and working hours were not addressed in the Hague Convention.

The third difference, and our main concern here, was that the Hague Convention allowed for merchant seamen, under certain conditions, to be held as civilians. Article 6 of the Hague Convention reads "[t]he captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war, on condition that they make a formal promise in writing, not to undertake while hostilities last, any service connected with the operations of the war".[26] Depending on whether the merchant seamen signed such an undertaking, they could be released, interned as civilians or held as prisoners of war. When held as civilians, the merchant seamen could only be repatriated as part of a civilian exchange but if interned as prisoners of war, they could only be repatriated as members of a prisoners of war exchange. It was the policy of all British Commonwealth governments that no merchant seamen be given the opportunity to sign such an undertaking.[27]

Although the Hague Convention was signed prior to the outbreak of World War I, it was largely ignored during that conflict and the belligerents usually held merchant seamen as prisoners of war. During World War II, the status of merchant seamen was more varied with reciprocity in the terms of internment playing an important role. Initially, Britain held enemy merchant seamen as civilians partly because it did not consider the Hague Convention to be "binding upon them"[28] but changed its policies as issues surrounding reciprocity came into play. As Moore explains, central to the British government's concerns were difficulties in assessing comparable terms of internment, including pay rates and the number of working hours per week.[29] For the sake of uniformity, the Australian government adopted the same policy as the British government.

However, it was not always clear who should be considered a merchant seaman. In an attempt to clarify this point, in August 1941 the British Imperial Prisoners of War Committee decided that an enemy merchant seamen would be defined as:

> An enemy national who, at the time of his capture, either is a member of the crew of any ship or is proceeding abroad in accordance with an agreement to join in service in any ships or who has been at any time since 1 September 1939, a member of any ship. In the above context 'ship' should include a ship employed in sea-fighting or the sea-fishing service, a pilotage, a lighthouse tender, a light vessel tender or a

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> light vessel.[30]

A "member of crew" was further described as "a person who has been employed or engaged as a member of the crew of a ship in any capacity, and includes a person employed or engaged as a Master, Pilot or Apprentice".[31] The definition of merchant seamen therefore covered all enemy nationals employed on vessels of any size. Yet, the definition was not without its problems as is indicated by the following 'Intergovernmental Committee on Prisoners of War' explanation, also written in August 1941, of the distinction between merchant seamen held as civilians and those held as prisoners of war.[32] According to the Committee:

> crews of enemy merchant seamen detained by Civil authorities in British or Allied ports are treated as civilian internees. German and Italians captured on the high seas or in a hostile port when acting as a members of the crew of an enemy merchant ship are classified as merchant seamen and treated as far as possible as prisoners of war. It is also recognised by the Protecting Power that the crew of a German or Italian merchant vessel captured on the high seas shall be treated as merchant seamen whatever their vocations in civilian life may be.[33]

This distinction makes clear that merchant seamen detained by civil authorities are civilians whilst those detained by non-civil authorities (e.g. the Navy) are Prisoners of War. Importantly, only this explanation of the distinction between civilians and prisoners of war makes any reference to 'an enemy merchant ship'. Under Australian law, all luggers had to be registered to Australians and therefore most of the Japanese working in the pearl industry, at least on paper, worked on local ships rather than 'enemy ships'.[34] That is, the Japanese pilots and pearl divers did not work on 'enemy ships'. According to the above definitions, all merchant seamen detained in Australian ports should have been – and in fact were – interned as civilians. These definitions were in effect at the time of Japan's entry into the war.

Sedney pearling lugger returning to Thursday Island, 1936. John Oxley Library, State Library of Queensland. Neg: 204312.

On 5 December 1941, Dominion Affairs notified the Australian Prime Minister's Department that in event of war, Hungarian, Finn and Romanian merchant seamen were to be automatically interned.[35] Just over three weeks later, this advice was extended to Japanese merchant seamen.[36] Two months later, Stanley Bruce, the Australian High Commissioner in London, advised the Australian Prime Minister's Department that the status of all enemy merchant seamen who had been interned as civilians was to be changed to

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prisoners of war.[37] In line with this notification, Australia changed the status of Axis power merchant seamen, including Finns and Bulgarians, to prisoners of war. At this point, the War Office in London expressly stated that the change of status did not apply to German merchant seamen, as reciprocity had not been received. Just over a month later, the status of German merchant seamen was also changed to prisoners of war, although the terms relating to pay for work were specifically excluded.[38] The change in the status of German merchant seamen was explained as being "in conformity with the treatment of British seamen in German hands".[39] A few months later, Bruce notified the Australian Government that Germany and Britain had agreed to terms and German merchant seamen would now be considered to be prisoners of war. [40] In the same cable, Bruce also expressly stated that Japanese merchant seamen were excluded for reciprocity reasons. That is, in May 1942 the status of the Japanese pilots and pearl divers was clearly stated to be that of civilians and they therefore remained interned as such.

On 2 January 1943, Bruce advised the Army that the United Kingdom had now decided that Japanese merchant seamen should also be treated as prisoners of war.[41] It is unclear what led to this change in policy and the Dominions Office itself noted later that the reasons behind the decision were not clear.[42] In response to the notification of the change in policy, the Australian Prime Minister's Department requested clarification as to whether the "372 Japanese previously engaged pearling industry around the Australian coast" should be classified as prisoners of war.[43] This clarification was sought due to the Army's concerns that the Japanese merchant seamen could come into contact with Japanese prisoners of war captured in New Guinea and might be able to take vital information back to Japan if they were repatriated. The War Office's decision was that "crews of Japanese ships employed in fishing at date of Japan's entry into war should be regarded as prisoners of war".[44] It also confirmed that the men would "not be eligible for repatriation".[45] As Fedorowich notes, this "seemingly innocuous request for clarification" had severe consequences for the negotiations of the second civilian exchange.[46] Following receipt of clarification from London, the Army advised the Department of General Security that it is "proposed to alter the status of all Japanese known to have been members of crews of luggers. At an early date such persons will be classified as PW (merchant seamen) and not as internees."[47] The status of all Japanese men employed in the pearling and fishing industries at the time of their capture was subsequently changed from civilian to merchant seamen and therefore prisoner of war. Shortly after this change was enacted, the Australian government sought, and was provided with confirmation that enemy governments, including the Japanese government, had been advised of the change.48

The change in the status of the pilots and pearl divers saw them moved from civilian internment camps to prisoner of war camps, such as that in Hay, New South Wales. As prisoners of war the men could be interrogated and accordingly interrogations were held in September 1943.[49] As a result of the interrogations and associated investigations, the status of four prisoners of war was changed back to civilian internee as it was found that they were not involved in offshore work and therefore could not be considered to be merchant seamen. The status of Shiwoda Gisaku for instance, was changed back to civilian internee when he was found to be a gardener and fisherman living in the Mossman River area who had not been employed on a seafaring vessel.[50] Similarly, Tabata Naoyomu, an internee captured on Thursday Island had his status reverted to civilian internee after he was identified as a carpenter and not involved in the fishing industry.[51] Tabata was on the Japanese government's nominated list for the second exchange and his change of status

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therefore made him eligible for repatriation.

Negotiating the Second Anglo-Japanese Civilian Exchange

The original plan was that negotiations for the second Anglo-Japanese exchange would begin immediately the ships from the first exchange were at sea. However, to quote one of the negotiators in the British Foreign Office, "the atmosphere is still rather highly charged ... and I think there should be a few weeks breather to allow everybody to cool down".[52] Despite this view, the Dominions Office wrote to the Dominions the very next day advising them that it was time to commence negotiations for another exchange.[53] Australia's response to this approach gives an indication of how tense the negotiations for the first exchange had become. The Australian government's reply was that it considered the exchange to have been 'overwhelmingly in Japan's favour' and in light of the difference in the number of Australians repatriated (31) compared to the number of Japanese Australia had released (63), it would place some restrictions on Australia's participation in any further exchanges.[54] The British Government's response was that reciprocity in numbers applied to all British citizens and not just to the residents of individual countries.[55] Understandably this response did not impress the Australian Government. Despite Australia's negativity, the Dominions Office had no choice but to continue negotiations with the Australian government as it considered the Japanese held in Australia to be more valuable to the Japanese government than those held elsewhere.[56] The higher value of the Japanese in Australia was presumably due to a belief that many of the more valuable people held elsewhere had been repatriated in the first exchange.

Due to Australia's stance, it was December 1942 before the British government felt confident enough to approach the various Allied governments about the possibility of starting negotiations for the second exchange. The Japanese government was also approached about its interest and gave its in-principle support. The British government's plan was that the exchange would take place in July 1943. It agreed with the Japanese government's proposal that the exchange take place in Goa. From the outset, the British Foreign Office portrayed the exchange as a humanitarian exercise with an emphasis on the repatriation of the sick and elderly and civilian women and children interned in Hong Kong.[57] The exchange ships were also to be used to transport relief supplies, including food and medicines, to British and American prisoners of war in the region.[58]

The negotiations on the precise terms of the exchange among the British, India, the Dominions and the various participating Allied governments were complex and time consuming but by June 1943 - only weeks before what had been the planned date for the exchange - all governments had agreed to terms, although Australia's participation was subject to some restrictions. Australia's chief restriction was that Quinn, Bowden and Wooton (sic), Australian officials excluded from the original exchange, be included.[59] The Japanese government was notified of the Allies' terms and Australia's restrictions on the same day, but in separate telegrams.[60]

In late July 1943, the Australian government received a copy of the Japanese government's nominated list of people to be included in the exchange. Of the nominees, 322 (later revised upwards to 331[61] were found to be boat pilots and pearl divers formerly employed in the pearling industry and now held as prisoners of war. The Australian government replied that as prisoners of war are ineligible for repatriation, the Japanese government be asked to nominate other people to replace the pilots and pearl divers.[62] The Japanese government refused on the basis that the nominated men had been "domiciled in Australia and nearby territories

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before the war" and none of the nominees were sailors or merchant seamen.[63] The Japanese government also suggested that under the circumstances, Article 3 of the Hague Convention should apply. The Australia and Britain governments agreed that domicile had no bearing on whether a person was a merchant seaman or not and that this argument had no validity. Both governments also agreed that the Hague Convention did not apply albeit for different reasons and motivations. The British government was not convinced that the pilots and pearl divers had been "members of crews" and was therefore hesitant to use the term.[64] It also wanted to avoid any reference to the Hague Convention in the reply as it was concerned that it may lead to the Japanese government arguing that the pilots and pearl divers should have been released immediately after being given the opportunity to sign the undertaking provided for in the convention.[65] As noted above, it was Commonwealth policy not to provide merchant seamen with such an opportunity. According to the Australian government, as Articles 5 to 7 of the Hague Convention applied only to "crews of enemy merchant ships" and the Japanese had been employed on vessels registered in Australia, Article 6 did not apply.[66] Furthermore, Australia argued that since the men had been 'habitually' involved in their vocation as seamen, it could legitimately consider them to be merchant seamen.[67] Article 3 reads that "vessels used exclusively for fishing along the coast or small boats employed in local trade are exempt from capture".[68] Whilst the basis for the Japanese government's argument that Article 3 should apply is not clear, it is presumably based on the notion that vessels used in the pearling and fishing industries were small and therefore crew members should be exempt from internment. Whilst there is some validity to the Japanese argument, the Australian response was that "[b]y no topographical stretch can the provisions of Article 3 be made to apply to the case of Japanese seamen who earn their livelihood by serving on vessels operating in or near Australian territorial waters".[69] That is, the Australian government believed that as the pilots and pearl divers' work saw them working in and around Australia's northern waters and their work did not involve them visiting in Japan, then their work could not be considered 'local', and therefore Article 3 could not apply. The Hague Convention did not define the meaning of 'local' so Australia's definition is questionable.

In early October 1943, in a long cable to Prime Minister Curtin which appears to have been sent on the encouragement of the British, High Commissioner Bruce wrote that there was a strong feeling in the Prisoners of War Department that the negotiations for the exchange were at risk of completely breaking down. The consequences of such a situation, Bruce noted, would be the loss of a means to transport supplies to Allied prisoners of war and would "condemn 1,600 civilians including women and children and sick to indefinite incarceration under gradually worsening conditions".[70] That is, he emphasised the humanitarian impact of the failure of the negotiations. Bruce also urged the Australian government to allow the repatriation of the Japanese merchant seamen, noting that among the people nominated by the Allies to be included in the exchange were 44 merchant seamen whose repatriation the Japanese government had made no attempt to prevent.[71] In a strongly worded retort, the Australian Government advised Bruce that its exclusion of the merchant seamen was primarily on security grounds and that the Army and Military Intelligence were "emphatic that these men should on no account be released".[72] Australia also referred to correspondence it had received from MacArthur who described the situation as "a typical example of conflicting claims of local as compared to general interests" and his advice that the Australian government not "yield" to the pressures to allow the men to be repatriated.[73] Interestingly, in his reply Bruce

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wrote that he had been unaware of the security implications of the situation.[74] The Australian Government had obviously not communicated the complete story to its representative in London.

In November, the British representatives in Switzerland advised the British Foreign Office that Japanese representatives had unofficially raised the issue of it having "never agreed that merchant seamen should be regarded as prisoners of war".[75] That is, the Japanese government had never agreed to reciprocity in terms of merchant seamen and therefore there was no reason for Britain to have changed the status of any Japanese merchant seamen to prisoners of war. As noted earlier, the justification for this change in policy is unclear. There is no record of the Berne Legation's message being sent to Australia, and the Prisoners of War Office admitted in a letter that its decision to change the status of the Japanese merchant seamen had been a unilateral one.[76]

Negotiations between the Australian and British governments over how to reply to the Japanese government continued through to early December 1943 when a compromise wording of a reply appears to have been agreed to and sent by the Office of Dominion Affairs to the Swiss Legation. Whilst no copy of this cable has been found, it presumably outlined the reasons why the Hague Convention did not apply.[77] In a cable to the Australian Government in late December, the Secretary of State for Dominion Affairs in London notes that the Japanese Ministry of Foreign Affairs had suggested that communication regarding the exchange be halted as the exchange probably would not occur.[78]

Over the ensuing months, Britain periodically pressured the Australian government to change its mind about the exclusion of the pilots and pearl divers, usually by emphasising the humanitarian nature of the exchange. For example, in a major attempt to break the impasse, in March 1944 the British War Cabinet endorsed a proposal to offer the Japanese government an exchange of 1,270 persons (1,600 minus 330 merchant seamen and later revised to 1,699).[79] The Japanese government replied that it was unable to accept the new proposal.[80]

The Involvement of the United States

In late 1943, the United States government began pressuring the British government over the progress of the exchange negotiations. The involvement of the United States was driven by the Japanese government's refusal to proceed with the proposed third American-Japanese exchange until negotiations for the second Anglo-Japanese exchange had been finalised.[81] In early 1944, after discussions between the British Embassy in Washington and the United States' State Department, the Special Division whose job it was to organise the American exchanges, sought to have MacArthur change his views so that the second Anglo-Japanese exchange could proceed. However, MacArthur stood firm and refused to change his recommendation. According to Corbett, one explanation for MacArthur's refusal to budge was that many of the prisoners of war held captive by the Japanese were his own men and this direct involvement overrode his "military judgement".[82] In mid-1944, with the negotiations still gridlocked and information coming out of Hong Kong, China and Japan indicating worsening conditions, President Roosevelt became involved. In a personal communication to Churchill, Roosevelt suggested that he would recommend that the repatriation of the pilots and divers go ahead if Churchill could intervene in a problem that United States officials in Argentina were experiencing.[83] Churchill's response sent later the same day noted that the pilots and divers were held in Australia and he had sent a copy of the President's correspondence to Curtin.84

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It is unclear what followed, but it appears that Roosevelt requested his Chief of Staff, Lieutenant-General Sutherland, discuss the matter directly with MacArthur. Subsequently, MacArthur wrote in a cable that his opposition to the repatriation of the pilots and pearl divers had been based "entirely [on] military grounds ... [but] ... Higher Governmental authority might feel that there were other considerations which outweighed his views".[85] Whilst MacArthur did not specifically withdraw his opposition to the repatriation of the pilots and pearl divers, his more nuanced announcement allowed others to ignore his earlier recommendation. On learning of the outcome of the Sutherland-MacArthur discussions, the Australian War Cabinet agreed to withdraw its refusal to allow the men to be included in the exchange.[86] In the interim, however, the war situation had changed quite substantially. When advised that the exchange could now proceed, the Japanese government advised that, as it had warned in late 1943 might happen, it no longer had access to the ships required to undertake the exchange. Whilst the British and United States governments jointly continued to negotiate for an exchange up until as late as June 1945 – including the possibility of an exchange of prisoners of war – the second Anglo-Japanese civilian exchange never eventuated. This was despite attempts in 1944 and 1945 by the American and British governments to organise an exchange using crew members from among the Japanese internees held in camps in the United States, Canada and Australia. In this instance, Australia was criticised by the United States for not being able to supply any merchant seamen to crew the ships, when it had been Australia's argument that the pearl divers and pilots were merchant seamen properly classified as prisoners of war that had led to the stalemate in negotiations for the second exchange.[87]

The boat pilots and pearl divers not only continued to be interned throughout the war but also after the end of hostilities with most Japanese internees not repatriated until at least 1946. In most cases, irrespective of their own personal wishes and how long they had lived in Australia prior to the outbreak of war, most of the Japanese were repatriated to Japan.[88]

In reality, even if the 331 Japanese boat pilots and pearl divers had been repatriated to Japan as early as mid-1943 as had been the original plan, their knowledge of Australian waters would probably not have been of any significant value. This is not to discount, however, that as the Australian government pointed out, all the Japanese government nominees were of military age and it was in this regard that they were potentially of value to Japan.[89] It is hard to judge whether Australia's view, that as merchant seamen the pilots and pearl divers should be considered prisoners of war and therefore excluded from the exchange, resulted in the deaths of Allied civilians who could have been repatriated. However, it is probably safe to conclude that many of them would have preferred to have been repatriated to relative freedom than endure the conditions in the internment camps.

Merchant Seamen are not Civilians

In short, the lack of agreement in what constituted who was a merchant seamen combined with the United Kingdom's decision to unilaterally decide that all Japanese merchant seamen should be interned as prisoners of war, saw the negotiations for a second Anglo-Japanese civilian exchange collapse. The failure of the negotiations had implications far beyond the 331 Japanese pilots and pearl divers at the centre of the negotiations as the collapse of the negotiations not only prevented the repatriation of over 3000 Japanese and Allied civilians who would have been participants in the exchange but also those who would been repatriated under the third United States-Japanese exchange.

This paper has shown that the change in the status of Japanese boat pilots and pearl divers

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interned in Australia from civilian internee to prisoners of war was undertaken in accordance with British policies. Moreover, the change was at the heart of the failure of the negotiations for a second Anglo-Japanese civilian exchange. Australia contended, in accordance with the instructions it received from the United Kingdom, that the boat pilots and pearl divers were merchant seamen and therefore could legitimately be excluded from a civilian exchange. The Japanese government on the other hand, refused to participate in the exchange unless the men were included. Whilst it is not clear what the real value to Japan of the boat pilots and pearl divers would have been, it is possible that as the Australian government suggested, it was their age rather than their skills and knowledge that would have made them valuable. The stalemate that resulted not only saw the direct involvement of President Roosevelt in the matter but ensured that the exchange never eventuated. Civilian internees on both sides suffered the consequences of the failed negotiations. The consequences of the failure of the negotiations were felt most keenly by civilians held in internment camps on both sides who would have been repatriated should the negotiations have succeeded. The subsequent adoption of the Geneva Convention of 1949 which has given greater recognition to the rights of civilians and removed the discrepancies between what constitutes a merchant seaman versus a civilian makes it less likely that a similar definitional problem will occur.

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Notes

[1] For details on the internment camps in Hong Kong see Geoffrey Charles Emerson, *Hong Kong Internment, 1942-1945* (Hong Kong, 2011), Bernice Archer, *The Internment of Western Civilians under the Japanese 1941-4*5, (Hong Kong, 2008).

[2] See Margaret Bevege, *Behind Barbed Wire: Internment in Australia during World War II* (St Lucia QLD, 1993); Yuriko Nagata, *Unwanted Aliens: Japanese Internment in Australia* (St Lucia QLD, 1996); Kay Saunders, "The Stranger in our gates': Internment policies in the United Kingdom and Australia during the two world wars, 1914-1939', *Immigrants & Minorities*, Vol. 22 No. 1 pp. 22-43; Cate Elkner, I. O'Brien, G. Rando & A. Cappello (eds) *Enemy Aliens: The internment of Italian*

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migrants in Australia during the Second World War, (Bacchus Marsh, Vic, 2005). Christina Twomey, *Australia's Forgotten Prisoners: Civilians Interned by the Japanese in World War Two* (Cambridge, 2007) Christine Winter "The Long Arm of the Third Reich", *Journal of Pacific History* Vol 38, No 1 2003 (pp 85-108).

[3] Kent Fedorowich, "Doomed from the Outset? Internment and Civilian Exchange in the Far East: The British Failure over Hong Kong, 1941-45", *The Journal of Imperial and Commonwealth History*, Vol. 25 No 1 January 1997, pp. 113-140.

[4] Jonathan F. Vance "The Trouble with Allies: Canada and the Negotiation of Prisoner of War Exchanges' in Bob Moore and Kent Fedorowich (eds), *Prisoners of War and Their Captors in World War II* (Oxford and Washington DC, 1996), pp. 69-85.

[5] P. Scott Corbett, *Quiet Passages: The Exchange of Civilians between the United States and Japan during the Second World War* (Kent, Ohio, 1987).

[6] Bruce Elleman, *Japanese-American Civilian Prisoner Exchanges and Detention Camps, 1941-45* (London and New York, 2006).

[7] Fedorowich, "Doomed from the Outset?", pp. 123-124.

[8] Corbett, "Quiet Passages", pp. 99-102. Corbett mistakenly alleges that the names of the divers were on the Japanese priority list for the third Japanese-American exchange rather than the second Anglo-Japanese exchange.

[9] Section 20 of the National Security (Aliens Control) Act of 1939 established the terms for the treatment of enemy aliens in the event of war. Internment was allowed in the most extreme cases and women were to be interned only if they were considered to be a security risk. Statutory Rules 1939 in Peter Hasluck *Government and the People 1939-1941 Vol. 1* Appendix 4: The Wartime Treatment of Aliens, (Australian War Memorial, 1952).

[10] National Archives of Australia (hereafter NAA), MP729/6 65/401/135, War Cabinet Minute No. 1639, 9 May 1941

[11] NAA, MP729/6 65/401/135, Department of the Army Minute Papers for 17 February 1941 and 14 October 1941. See also Nagata, *Unwanted Aliens*, p. 228.

[12] NAA, MP729/6 65/401/135 Department of the Army Minute Paper, 14 October 1941.

[13] For discussions of some of the families who were interned see Pam Oliver "A matter of perspective: two Australian-Japanese families' encounters with white Australia, 1888-1946" in Michael Ackland and Pam Oliver, *Unexpected Encounters: Neglected histories behind the Australia-Japan relationship* (Monash Asia Institute, Clayton, 2007) pp. 113-134; Graham Eccles "The Hirodo story: A three generational family case study of bi-cultural living" in Michael Ackland and Pam Oliver, *Unexpected Encounters: Neglected histories behind the Australia-Japan relationship* (Monash Asia Institute, Clayton, 2007) pp. 135-154.

[14] "Chapter 6: Security Service – Functions", *Report on the Directorate of Prisoners of War and Internees at Army Headquarters Melbourne 1939-1951* available online (accessed 26 August 2014).

[15] Prisoner of war camps held Japanese soldiers captured by the United States and Australian forces in New Guinea and other locations across the Pacific.

[16] The full text of the Geneva Convention of 1929 is available online (accessed8 January 2015). The Draft International Convention on the Condition and Protection of Civilians of enemy national who are on territory belong to or occupied by a belligerent. Tokyo, 1934 (available online; accessed 8 January 2015)

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included provisions for the exchange of civilians but was not ratified.

[17] Elleman, *Japanese-American Civilian Prisoner Exchanges and Detention Camps,* p. 14.

[18] Elleman, *Japanese-American Civilian Prisoner Exchanges and Detention Camps,* p. 5.

[19] NAA, A1608 L20/1/1 Part 2, Circular G.100, Office of Dominion Affairs (hereafter DO) to Prime Minister of Australia, 27 December 1941.

[20] In addition to members of the British Empire, the Free French, Polish, Greek, Dutch, Czech, Belgian and Norwegian governments participated in the Anglo-Japanese exchange.

[21] NAA, MP508/1 255/702/2102, Cable No. 405 to DO, 25 August 1942.

[22] Elleman, *Japanese-American Civilian Prisoner Exchanges and Detention Camps,* p. 11.

[23] Elleman, *Japanese-American Civilian Exchanges*, pp. 75-78 discusses the complicated choices faced by the Japanese in America and the interview process undertaken to ensure that their repatriation was voluntary.

[24] Many of the Japanese residents of Malaya were transferred to India for internment prior to the Japanese take over.

[25] NAA, MP508/1 255/2/282, letter from FO to Charles Corbin, French Embassy, 11 May 1940 and Extract from War Office Memo (summary No 3 of 9 September 19/41) relating to Prisoner of War taken by Intergovernmental Committee of Prisoner of War in August 1941.

[26] A full copy of the Hague Convention XI from 1907 is included in FO916/723.

[27] National Archives, Kew (hereafter NA), WO32/10718, Cable No. 354, 20 November 1943.

[28] NAA, MP742/1 255/2/282, letter from FO to Charles Corbin, French Embassy, 11 May 1940. This decision was justified on the basis of a combination of the treatment of the crew of the British trawler "Caldew", which was sunk by the Germans on 24 September 1939 and who were held as prisoners of war, and a belief that the German government had "no right to expect for their merchant seamen special privileges when German submarines consistently sunk British and French merchant vessels without warning".

[29] Bob Moore, "Turning Liabilities into assets: British Government Policy towards German and Italian prisoners of war during the Second World War" *Journal of Contemporary History* Vol. 32 No 1 (Jan 1997) pp. 117-136, 122.

[30] NAA, MP508/1 255/702/2155, Department of Prisoners of War to Security Service, CBR, 22 December 1942.

[31] NAA, MP508/1 255/702/2155, Department of Prisoners of War to Security Service, CBR, 22 December 1942.

[32]

The 'Intergovernmental Committee on Prisoners of War' was comprised of representatives of the Allied governments.

[33] Extract of War Office Memo (summary No. 3 of 9 September 1941) referring to Intergovernmental Committee of Prisoners of War of August 1941 in MP508/1 255/2/282.

[34] Regina Ganter discusses the use of 'dummying' or the ownership of boats 'on behalf of Japanese for a fixed rent or share in the profits' (p.130) in Chapter 4 of her book, *The Pearl-Shellers of Torres Strait* (Carlton, VIC, 1994).

[35] NAA, A1608 L20/1/1 Part 2, Circular G 75 Secretary of State, DO to Prime Minister's Department, 5 December 1941.

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[36] NAA, A1608 L20/1/1 Part 2, Circular G 100 Secretary of State, DO to Prime Minister's Department, 27 December 1941.

[37] NAA, A1608 L20/1/1 Part 2, Cable No. 72 High Commissioner to Prime Minister's Department, 2 January 1942.

[38] NAA, A1608 L20/1/1 Part 2, Cable No. 1232 High Commissioner, London to Prime Minister's Department, 11 February 1942.

[39] NAA, A1608 L20/1/1 Part 2, Cable No. 1232 High Commissioner, London to Prime Minister's Department, 11 February 1942.

[40] NAA, MP742/1 255/2/282, High Commissioner, London to Prime Minister's Department, 31 May 1942.

[41] NAA, A1608 L20/1/1 Part 2, Cable No. 72 High Commissioner to Prime Minister's Department, 2 January 1942.

[42] NA, WO32/10718, Telegram No. 354 DO to Australian Government dated 20 November 1943.

[43] NAA, A1608 L20/1/1 Part 2, Cable No. 524 Prime Minister to High Commissioner in London, 15 January 1943.

[44] NAA, A1608 L20/1/1 Part 2, Cable No. 1911 High Commissioner, London to Prime Minister's Department, 1 March 1943.

[45] NAA, A1608 L20/1/1 Part 2, Cable No. 1911 High Commissioner, London to Prime Minister's Department, 1 March 1943.

[46] Fedorowich, "Doomed from the Outset", p. 124.

[47] NAA, MP742/1 255/2/283, Memo from Sinclair, Department of the Army to Department of General Security, 23 March 1943.

[48] NAA, MT885/1 255/18/308, Cable No. 5316, High Commissioner, London to Prime Minister's Department, 2 June 1943.

[49] A report on the interrogations is in MT885/1 255/18/308, 26 September 1943.

[50] NAA, MP742/1 255/2/283, Shiwoda, sometimes written as Shimoda. Letter to Director of General Security, 4 March 1944. The report of the interrogations held at Hay Camp dated 26 September 1943 is included in NAA, MT885/1 255/18/308.

[51] See NAA, MP742/1 255/2/283, Letter to Director of General Security, 4 March 1944.

[52] NA, FO 916/439, handwritten memo initialled by KW (Wheeler), 18 September 1942.

[53] NA, War Office (hereafter WO) 32/10718, Telegram No. 393 DO to Australian Government, 19 September 1942.

[54] NA, WO32/10718, Telegram No. 429 Australian Government to DO, 23 September 1942.

[55] There was no separate Australian citizenship at the time. Australian citizenship came into effect with the enactment of the 'Australian Citizenship Act' in 1948.

[56] NA, FO916/439. In a Letter from Eden to Lord Cranborne dated 6 October 1942, Eden states that the Japanese held in Australia are probably the most valuable to the Japanese government of any Japanese held in the Empire. He also suggests that Australia could probably use the value of the men to organise its own separate exchange. Eden does not elaborate further.

[57] Hong Kong was expressly excluded from the first exchange.

[58] In late 1943, the British and American Red Cross organisations agreed to pool their

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transport of supplies. This agreement is referred to in the British War Cabinet Minutes for 29 February 1944, see CAB66/47/37.

[59] NAA, A518 EQ16/2/1, Cable No. 162 Prime Minister's Department to DO, 30 June 1943. John Paul Quinn was Bowden's Political Secretary in Singapore. A. Norman Wootton was the Australian Trade Commissioner in Malaya. According to NAA, MT885/1 255/18/308 Cable No. 12237 from Bruce to the Prime Minister, 2 December 1943, Quinn and Wootton had been found in Sumatra and would be included in the second exchange.

[60] NAA, MT885/1 255/18/308, Cable Nos. 161 and 162 DO to Prime Minister's Department, 30 June 1943 (copy of cables to the Berne Legation).

[61] No specific reason for this change has been found. It is possible that it was either a misprint or a miscalculation in numbers.

[62] NA, WO32/10718 Cable No. 108 Prime Minister to High Commissioner, London, 31 July 1943.

[63] NA, Foreign Office (hereafter FO) 916/718, Cable No 217 DO to New Zealand and No 81 to South Africa, 2 September 1943.

[64] NAA, MT885/1 255/18/308, Cable No. 354 from DO to Prime Minister's Department, 20 November 1943.

[65] NA, WO32/10718, Telegram No.354 DO to Australia, 20 November 1943.

[66] NAA, MT885/1 255/18/308, Cable No. 305 from Department of the Army to Dominion Affairs, 1 December, 1943. Underline in the original. Australian policy restricted ownership of ships to Australian or British subjects. For details on how this policy applied to the pearling industry see Ganter, *The Pearl-Shellers of Torres Strait,* pp. 105-107 and 130-133.

[67] NAA, MT885/1 255/18/308, Telegram No. 305 from Australia to DO, 1 December 1943.

[68] A full copy of the Hague Convention is included in FO916/723.

[69] NA, WO32/10718, Cable No. 156 from Prime Minister to High Commissioner, London, 29 October 1943.

[70] NA, WO32/10718 Cable No. 180A High Commissioner, London to the Prime Minister, 8 October 1943.

[71] NA, WO31/10718, Telegram No. 180S High Commissioner London to Prime Minister Australia, 8 October 1943.

[72] NAA, MT885/1 255/18/308, Cable No. 9563 Prime Minister Australia to Bruce 12 October 1943.

[73] NA, WO32/10718, Cable No. 156 Prime Minister to High Commissioner, London, 29 October 1943.

[74] NAA, MT885/1 255/18/308, Cable No. 10101, High Commissioner, London to Curtin, 12 October 1943.

[75] NA, FO916/723, Telegram No. 5552 from Berne to FO, 19 November 1943.

[76] NA, WO32/10718, letter from Roberts to Gepp, 2 December 1943.

[77] NAA, MP1049/5 1951/2/61, Cable No. 485, Australian Accredited Representative to Curtin, dated 13 January 1944, refers to Cable No. 368 having been sent on 7 December 1943.

[78] NAA, MP1049/5 1951/2/61, Cable No. 393, Secretary of State, Dominion Affairs to Australian Government, 24 December, 1943.

[79] NA, CAB65/41/29 War Cabinet Minute WM (44) 29, 6 March 1944. In NAA, MT Cablegram DO to the Department of External Affairs, 17

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April 1944, the number is given as 1,269 (1,600 minus 331). The change to 330 is presumably due to Tabata Naoyomu's change in status from prisoner of war to civilian internee.

[80] NAA, A816 19/304/340 ATTACHMENT, The Japanese Government's response was relayed to the Australian Government in DO Cable No. 135 of 12 June 1944.

[81] Corbett, "Quiet Passages", p. 99.

[82] Corbett, "Quiet Passages", p. 100.

[83] NA, FO916/1012, Cable No. 6342 FO to WO, 14 July 1944. The problem was that the British representatives in Argentina were inspecting Japanese officials' luggage. Corbett (p. 101) states that the British deliberately started inspecting the luggage in order to prevent the United States using the Japanese officials in Argentina to organise a third American-Japanese exchange.

[84] Cable No. 222 Churchill to Curtin, 14 July 1944 is available online (accessed 26 August 2014).

[85] NAA, A2671, 373/1944, War Cabinet Agenda No. 373/1944.

[86] NAA, A2671 373/1944 War Cabinet Minute No. 3656 of 22 July 1944.

[87] NA, WO32/10718, Washington to FO No. 1811, 23 March 1945 and Washington to FO No. 3621, 25 May 1945.

[88] Nagata, *Unwanted Aliens*, pp. 193-212.

[89] NA, WO32/10718, Cable No. 156, Prime Minister to High Commissioner, London, 29 October 1943.

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