

HAKKIMUN

IMTFF

COMMITTEE ADVISOR:

METEHAN YILDIRIM

CO-UNDER SECRETARY GENERAL:

KEREM VEYSEL DÜZGÜN

CO-UNDER SECRETARY GENERAL:

HASAN ARİF EGE BAŞKURT

ACADEMIC ASSISTANT:

DOĞUKAN YORGANCI

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LETTER FROM THE SECRETARY-GENERAL

Official Letter from the Secretaries-General of HAKMUN'26

Honorable participants of HAKMUN'26

As the Secretaries-General of HAKMUN'26, which will take place from July 1st to July 3rd, we would like to extend our warmest welcome to all participants of this distinguished conference.

As this marks HAKMUN's first official edition and its first conference in Antalya, we aim to establish not only a conference, but a lasting tradition built upon vision, discipline, and excellence. HAKMUN'26 stands as a testament to what determined hard work and collective ambition can achieve when united under a single purpose. Our inspiration comes not only from our elders, but also from our younger selves, as we have held onto our ideals since the very beginning of our MUN journeys.

We believe that true greatness is not defined by titles, but by the ability to inspire, to take initiative, and to stand firm in the face of challenges. Throughout this conference, every delegate will be challenged to step beyond their limits, work diligently, and act with both confidence and integrity. HAKMUN'26 is designed to cultivate individuals who are not only participants of today, but also future leaders who will shape the world of tomorrow.

Our vision for HAKMUN'26 goes beyond just a three-day conference. We aspire to build a platform where diplomacy meets innovation, and where diverse perspectives come together to create stronger, more refined solutions. Each committee session, each debate, and each resolution represents a step toward fostering a generation that understands the value of cooperation, resilience, and strategic thinking. With this greater purpose in mind, we aim to contribute meaningfully to society.

As Secretaries-General, we have devoted ourselves to ensuring that every aspect of this conference reflects our commitment to quality and purposeful hard work. From our academic depth to our organizational structure, every aspect has been carefully planned and executed to provide you with an experience that is both intellectually stimulating and personally transformative, while also allowing you to socialize and enjoy the process.

Welcome to HAKMUN'26.

With our best regards,
Yağız Eren BAYBURTLU
Sacit Eren TUNCER
Secretaries-General

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LETTER FROM THE UNDER-SECRETARY-GENERAL

Dear Esteemed Delegates,

My name is Hasan Arif Ege Başkurt, and I am a junior year student at high School. Having navigated the intricate landscapes of numerous Model United Nations conferences, I have developed a profound reverence for the nuances of international justice and the delicate art of diplomacy. These experiences have not only shaped my worldview but have also instilled in me a commitment to the intellectual rigor required to address history's most challenging chapters.

It is my distinct honor to welcome you to the International Military Tribunal for the Far East (IMTFE). This session has been meticulously curated to provide an experience that is as intellectually demanding as it is rewarding. We are not merely revisiting a historical courtroom; we are stepping into the definitive arena where post-WWII transitional justice expanded to a truly global scale, confronting complex questions of state sovereignty, aggressive war, and systemic accountability across the Asia-Pacific theater.

As part of the Academic Secretariat, I cannot stress enough the importance of engaging deeply with the study guide provided; it serves as your primary compass through the complex legal and ethical labyrinths we are about to explore. This committee demands more than just public speaking; it requires a sophisticated understanding of a profound paradigm shift in global justice, where the highest echelons of military and political leadership are held individually accountable under international law.

As we prepare to adjudicate the figures whose decisions reshaped the modern world, let us remember the historical weight and purpose of our task through the words of Chief Prosecutor Joseph B. Keenan during his opening statement at the Tokyo Trials:

"We look upon this trial as a great step forward in the march of civilization... It is an effort to establish the principle that those who initiate aggressive war are criminals in the highest degree."

I look forward to witnessing your dedication, your sharp analytical insights, and your unwavering commitment to the pursuit of justice. Let us make this committee a definitive highlight of your MUN career.

Warm regards,

Hasan Arif Ege Başkurt

CO-Under Secretary-General of the International Military Tribunal for the Far East.

egebaskurt2009@gmail.com

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LETTER FROM THE CO-UNDER-SECRETARY-GENERAL

Dear Esteemed Delegates,

My name is Kerem Veysel Düzgün, and it is my distinct honor to serve as your CO-Under Secretary-General for this conference.

I am thrilled to welcome you to the International Military Tribunal for the Far East (IMTFE). This session has been meticulously curated to address one of the most significant legal and historical chapters of the post-war era: the trial of leaders accused of crimes against peace, conventional war crimes, and crimes against humanity. We are not merely discussing historical events. We are simulating a court of law where the Nuremberg principles meet Asia, and where the classic dictum *“inter arma enim silent leges”* (*in times of war, the laws fall silent*) is directly challenged by international justice.

As your USG, I cannot stress enough the importance of engaging deeply with the academic frameworks provided. The Tokyo Trials remain a foundational crucible where traditional sovereignty was balanced against universal legal accountability. This committee demands more than just eloquent oratory. It requires a sophisticated understanding of legal precedents, evidentiary standards, and the mechanics of command responsibility. You must approach this simulation with the precision of a prosecutor and the depth of a defense counselor, examining the fine line.. As we prepare to untangle these legal knots, let us be guided by the principle that power, when left unchecked by international law, leads only to ruin.

If you have any questions, don't hesitate to reach out to me:

My Most Genuine Regards,

Kerem Veysel DÜZGÜN.

CO-Under Secretary-General of the International Military Tribunal for the Far East.

“Düzgün” Kerem

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LETTER FROM THE ACADEMIC ASSISTANT

Greetings all

I am Doğukan Yorgancı, the Academic Assistant of IMTFE. When Metehan, Ege and I lit the fire of court committees with IMT, the first court of Antalya, I knew that it wouldn't be the last. I would like to thank my Under-Secretaries-General and the Secretariat for inviting me to establish the second International Military Tribunal in the history.

Ege and Kerem are both great people that I love to work with. I would like to thank them for inviting me to join them in making this wonderful committee.

Metehan, my partner in the courts, I am grateful for having the chance to work with you once again.

To all my delegates, read the Study Guide with as much attention as you can give. Every detail you will be needing is in this study guide.

If you have any inquiries, please feel free to contact me via the contact information below.

Most Sincerely,

Doğukan Yorgancı

The Academic Assistant of IMTFE

+90 (541) 813 20 08 dogukanyorganci@gmail.com

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A. THE LEGAL ARCHITECTURE OF THE TRIBUNAL

a. The Evolution of International Justice: From the League of Nations to the Tokyo Trials.

The Tokyo Trials (IMTFE) also had an instrumental impact in developing the modern framework of international responsibility, where the ‘‘Class A’’ charges of the indictment become a lasting

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framework and known as the Evolution of International Justice. It was evident after the proceeding in Tokyo that the failure of the League of Nations in 1931 to respond to Japan's invasion of Manchuria was not simply a diplomatic failure, but a failure of law, it was believed that the law must be consistent, it must be international and the law must endure. It cannot return to the past pre-war era and the peace of the Pacific and the world cannot be anchored on nothing more than words on a page.

These trials and developments evolve into several stages to fill the gap between Aggressive War and state responsibility, on a global level. In the immediate aftermath of World War II, the IMTFE used the Pact of Paris as a vehicle for removing all vestiges of sovereign immunity; the leader at the highest level cannot be insulated from criminal liability for a crime Against Peace. This period also sees an evolution in the concept of responsibility by virtue of the establishment of the doctrine of Command Responsibility; proving the leader's negligence to prevent the perpetuation of atrocity is treated the same as the "systematic attack." Despite a decline in the intensity of these proceedings during the Cold War, the legacy of Tokyo has laid the groundwork for a leader who plans or initiates war to face criminal accountability at an individual level.

Finally, this evolutionary narrative concludes with the founding of the International Criminal Court (ICC) in 2002 in The Hague. Unlike the League of Nations, and unlike the ad hoc tribunal in Tokyo, the ICC has an independent status from the geopolitical needs of victory, and has incorporated the lessons from the Tokyo trials in the Rome Statute, specifically in regards to the Crime of Aggression, and underlying Common plan or conspiracy for the modern atrocities, this finally moves from "victor's justice" to "universal justice" and signifies that a crime begun with an illegal plan will never fail to receive a legal consequence and will live on in the international law of the modern day, from that war torn court house of the 1940's.

b. The Charter of the IMTFE (The Tokyo Charter)

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The International Military Tribunal for the Far East Charter (IMTFE Charter), also known as the Tokyo Charter, was the decree issued by General Douglas MacArthur, Supreme Commander for the Allied Powers in Allied-occupied Japan, on January 19, 1946 that set down the laws and procedures by which the Tokyo Trials were to be conducted. The charter was issued months following the surrender of Japan on September 2, 1945, which brought World War II to an end.

Modeled after the Nuremberg Charter, the Tokyo Charter stipulated that crimes of the Japanese could be tried. Three categories of crimes were defined: crimes against peace, war crimes, and crimes against humanity. Article 6 of the Tokyo Charter also stated that holding an official position or acting pursuant to order of his government or of a superior was no defense to war crimes, but that such circumstances may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

Like the Nuremberg Trials, the criminal procedure used by the Tokyo Trials was closer to civil law than to common law, with a trial before a panel of judges rather than a jury trial and with wide allowance for hearsay evidence. Defendants who were found guilty could appeal the verdict to the Allied Council for Japan. In addition, they would be permitted to present evidence in their defense and to cross-examine witnesses.

Unlike the Nuremberg Charter, the Tokyo Charter was not part of a treaty or agreement among the Allies but it was substantially the same as the Nuremberg Charter. A major exception was that Emperor Hirohito was excluded from being tried for crimes against peace, war crimes, and crimes against humanity.

The Tokyo Charter differs from the Nuremberg Charter in another way. The Tokyo Charter does not make "persecution" subject to "religious" grounds. This is because the Nazi crimes against the Jews did not have a counterpart in the Asian conflict.

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The Nuremberg and Tokyo Charters were applicable only to major criminals, leaving other criminals to be tried by the Allies. In Germany, the Allies acted pursuant to Control Council Law No. 10 (CCL 10) in their respective zones of occupation. But they also relied on their military and national tribunals, where they applied their own laws. There was no counterpart in Japan to CCL 10 because the United States was the sole occupying power of Japan, whereas Germany was occupied by the four major Allies (United States, Great Britain, France, and the Soviet Union). The same legal issues pertaining to Article 6(c) of the Nuremberg Charter also apply to Article 5(c) of the Tokyo Charter.

1. Defining the Three Classes: Class A (Peace), Class B (War), and Class C (Humanity).

The IMTFE employed a modern legal regime to address the difficult Pacific War situation and did more than the Nuremberg tribunal in distinguishing three specific classes of crimes. By focusing on the "major war criminals", who were charged with the "planning, preparation, initiation or waging" of war of aggression, the Class A crimes were considered the most

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important strategically and shifted the focus away from soldiers and onto the framers of state policy.

It suggested that people could be held personally responsible for violations of international law or treaty by a nation (in this case the Kellogg-Briand Pact), that a conspiracy existed among the Japanese leadership in order to obtain hegemony in East Asia through military means. Class B covered conventionally defined War Crimes (violations of the established laws and customs of war) and charged anyone who authorized or permitted maltreatment of POWs and civilians (such as torture, murder, slave labor, starvation of prisoners and denial of medical supplies), under a doctrine of "Command Responsibility" which was expanded from its precedents at Nuremberg to state that commanders would be held liable even if they had not actively ordered atrocities, but failed to prevent them. The purpose of the Class C crimes, the Crimes Against Humanity, was to indict inhumane acts against the civilian populations of countries, whether by large-scale deportation, enslavement or extermination. Often inextricably linked with the Class B crimes, the Class C charges in the Tokyo Trials in particular recorded the widespread use of sexual slavery and mass murder which took place in the occupied territories such as China and the Philippines. In contrast to the Class A trials held in Tokyo, the Class B and C crimes were tried in some over 2,000 individual cases by separate Allied nations across the Asia-Pacific theatre involving more than 5,000 Japanese servicemen and women.

2. Jurisdictional Challenges: The Supreme Commander for the Allied Powers (SCAP) vs. Japanese Sovereignty.

The clash of jurisdiction between the SCAP and the sovereignty of the Japanese state represents one of the most challenging chapters in the history of international law, presenting as it did a confrontation between absolute military occupation and a national governmental system that was allowed to continue to exist. It was unlike the case of the Third Reich's utter destruction which necessarily created an empty field in which a purely domestic regime had to come into being. In the Japanese case, surrender had been made through the existing administrative system,

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comprising of Emperor and Diet, a position that allowed for an irresolvable paradox: General Douglas MacArthur had the 'supreme' power of re-ordering the nation and was nevertheless dealing with what would remain the Japanese state. Jurisdiction issues first and foremost came to the fore as the International Military Tribunal for the Far East (IMTFE) was not established through a formal international treaty but through a 'special proclamation' issued on 19 January 1946 by MacArthur. In the opinion of the defense, this was a form of extra-legal behavior that raised the question of a military commander's authority to institute a judicial body that had the power of life and death over the subjects of a sovereign nation.

The defense contested the jurisdiction of the tribunal under the principle of *nullum crimen sine lege* and cited the issue of whether "Crimes Against Peace" (Class A) constitute a post-hoc development concocted by the Allied powers which pre-empted Japanese sovereign law and preceding international practice. For the Japanese leaders, their actions represented acts of state, executed under the authority of the Emperor, and so punishing their state representatives in an international forum established by an occupying power was an affront to national sovereignty itself. Adding insult to injury, the SCAP's selective exercise of its authority and, by so protecting the Emperor from indictment and preventing testimony from anyone that would implicate him, MacArthur ensured the jurisdictional limits of the tribunal were limited to his political requirements. The exclusion, at his discretion, of the central figure of the Japanese political hierarchy clearly proved the IMTFE as an organ of the SCAP's policy under which the boundary between international law and military imperative often blurred.

These conflicts of jurisdiction extended beyond the purely juridical to the practical implementation of justice; despite the IMTFE being held in Tokyo, thousands of 'minor' war criminals were also being tried by the separate Allied powers throughout Asia in Class B and C trials. Here again the SCAP had to balance individual nations' thirst for vengeance and international law against the maintenance of a state that could support the administration of the Occupation and the implementation of reforms. The tribunal became a theater for the display of sovereignty where the Allies would assert the capacity and desirability for international law to

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trump national sovereignty and internal law within the structure of an aggressive state. However, although it represented a step in breaking down 'sovereign immunity' from aggression, this judicial victory by the SCAP over the Japanese state had still to face the debate of whether 'victor's justice' was legitimate, with the powers of the court derived from the military, and administrative, mandate of one superior general.

B. FACTUAL AND PROCEDURAL BACKGROUND OF IMTFE

a. Introduction to the Case

The International Military Tribunal for the Far East (IMTFE), held on May 3, 1946, remains one of history's most colossal and complicated trials; it marked the first ever attempt to apply the norms of international criminal law to the specific arena of the Pacific theater of operations. Where the International Military Tribunal at Nuremberg, tried the horrors perpetrated in Europe, the Tokyo Trial had the far more daunting task of judging a protracted and multifarious war encompassing nearly four decades of conflict, immense ocean distances, numerous distinct cultures and a host of colonies. Initiated by a special proclamation by Supreme Commander for the Allied Powers (SCAP) General Douglas MacArthur, the indictment against twenty-eight leading Japanese military and political figures sought to hold the defendants criminally liable for their conspiracy to achieve regional domination by force. This trial was more than a simple

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response to local barbarities; it represented a push towards the global creation of a moral and legal framework that rendered initiating war a criminal act.

The indictment laid out a sprawling, all-encompassing narrative that dated Japanese militarism back to the Mukden Incident of 1931, and declared the following fifteen years of conflict to be a single, continuous, criminal conspiracy against world peace. Charged included former prime minister Hideki Tojo, powerful diplomats, and high-ranking military officials among others; the tribunal charged the defendants with various offenses contained within three classifications, each ranging from the strategic planning of wars of aggression to mistreatment of prisoners and civilians. However, from its inception, the trial suffered from profound internal contradictions and unforeseen challenges. In a stark contrast to the German leadership tried at Nuremberg, the defendants at Tokyo comprised a nation that surrendered under the command of a fully functional government and did not fall completely beneath its enemies, while the Allied decision to grant Emperor Hirohito-the titular embodiment of all Japanese authority-immunity from prosecution left "a void at the center" of the entire process, compelling the prosecution to walk a precarious tightrope between criminal accountability and maintaining stability in the occupied nation.

Furthermore, the tribunal was, from its inception, truly international in nature, composed of eleven nations each offering a judge and prosecution representative, from the Soviet Union and China to the Philippines. Each nation came with a unique history of colonial subjugation, and brought differing traditions and interests into the trial, creating, for a majority of its duration, intense debate among the bench, if not total dissension. The resulting voluminous trial transcript and evidence eventually chronicled each atrocity with painstaking detail, to the likes of which the world had never seen before-from the Nanking Massacre to the Bataan Death March. While an introduction of international criminal law, the case sought to prove no leader was above the law, but the trial was nonetheless met with charges of "victor's justice" and procedural inequality.

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By attempting to prosecute the "crimes of a nation" through the punishment of individuals, the Tokyo Trial established a landmark, although deeply contested, precedent upon which the modern international criminal justice system has been built, changing the very definition of state sovereignty for all time to come.

b. Chronology of Events and Legal Framework:

1. The Foundation of the International Military Tribunal for the Far East (IMTFE)

The International Military Tribunal for the Far East was in many respects, a paradigm shift in the history of military law. The creation of the tribunal, instead of stemming from a multilateral treaty arrangement, was based solely on the unilateral executive decree of Supreme Commander for the Allied Powers (SCAP). On 19 January 1946, General Douglas MacArthur issued a Special Proclamation and Order creating the IMTFE and promulgating the Charter for the trial of Japanese war criminals. Such an institution was not without precedent; the Potsdam Proclamation of July 1945 declared that "the stern justice shall be rendered."

While it pretended to reflect the vast coalition of Allied nations at war with Japan, the tribunal's structure was, in a sense, not truly international but in effect a unified command. Eleven countries that had signed the Instrument of Surrender—the United States, China, the Soviet Union, Great Britain, Australia, Canada, France, the Netherlands, New Zealand, India, and the

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Philippines-were asked to nominate one judge each. The tribunal thereby boasted of legal traditions spanning the globe: The civil law of Soviet Russia; the common law tradition of most Western nations; and the post-colonial ideals and attitudes of the members of Asian and African nations. But as stated by one defendant, in terms of the legal "bones" of the tribunal, its structure was fundamentally American in its reliance on rules of evidence and procedure common in the United States; much to the chagrin of its international participants. In essence, it sought to grant to itself a semblance of international recognition, while acting, as some defence attorneys had so vigorously argued, as a 'victor's court.'

Essentially, the foundational basis for the IMTFE was the codification of a new understanding of morality and law in the world: that sovereignty does not provide leaders with a blanket of impunity when engaged in aggressive war. In Tokyo, the epicenter of the Japanese imperial structure, the tribunal was established in an attempt to demonstrate, and to enforce the dismantlement of the 'Greater East Asia Co-Prosperity Sphere' not only in the military sense, but also, at an ideological level. The bedrock of such an initiative was the new principle of "Crime against Peace"; a novel legal notion, which was at best legally tenuous at the time; that even the planning of a war itself was a punishable offense. In spite of the obvious and often insuperable difficulties encountered by its organisers, the IMTFE was the first such multilateral institution convened in Asia for judging the conduct of a sovereign nation's leaders. The IMTFE is therefore seen as having acted as a bridge between the past era of unchecked warfare by sovereign states and the present of a newly internationalised legal order and was conclusive evidence that winners could use a gavel instead of a firing squad.

1.1. Establishment Purpose: Justice in the Far East and the Tokyo Charter.

As the dust settled after WWII, the Allied nations struggled to contend with the systematic brutality and territorial conquest inflicted on the Pacific theatre and throughout Asia. The founding of the International Military Tribunal for the Far East (IMTFE) and drafting of the Tokyo Charter marked a key turning point in the development of international criminal law,

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which was modelled on the trials held at Nuremberg in Europe but adapted to the East. Its aim was less about enacting " victor's justice" and more about creating a legally defined regime, which would be accountable for crimes committed. Leaders could be put on trial rather than simply the state, and for planning and launching aggressive war. This was an immense leap in judicial reasoning and from viewing war as an accepted aspect of state sovereignty to a punishable act.

The Tokyo Charter was issued by Douglas MacArthur, the Supreme Commander of Allied Powers (SCAP) on 19th January 1946, defining the tribunal's constitution and jurisdiction, laying down three classes of crimes-Class A (Crimes against Peace), Class B (War crimes) and Class C (Crimes against Humanity). Classes B and C were conventional and derived from existing international agreements. Class A was novel and of great significance to the Charter as the intent was to make accountable, the senior political and military officials of Japan, who were deemed to have been responsible for launching Japan's ambitious policies, and thus its violent expansion. It was hoped, that by staging these trials, they could expose the reality of the circumstances and war's origins so that not only the people of Japan but the world would see the devastation that totalitarianism and unfettered nationalism can produce.

The court was consciously internationalist in character, with judges and prosecutors drawn from eleven different countries; several of which had experienced either occupation or colonisation during the war, including China, the Philippines and India. The idea behind the diverse body of judges was to lend an international aura to the proceedings but in doing so legal problems arose concerning the retroactivity of law. One criticism directed at the tribunal, was that the Tokyo Charter was an executive order and not a treaty, and further, some leaders, notably Emperor Hirohito were exempt from prosecution for political reasons associated with the occupation. Nevertheless, these issues were largely secondary to the purpose, which aimed to impose the rule of law, to reshape the post-war Japanese landscape from a militaristic empire into a pacifistic democracy and ultimately set the foundations for a more modern justice system in the world that would eventually culminate in the founding of the International Criminal Court and a desire to protect the world from acts of aggressive warfare.

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1.2. The Choice of Venue: Ichigaya Court (The War Ministry Building).

The trials were held in the former building of the Japanese Ministry of War in Ichigaya, Tokyo. Before World War II, the building housed the Japanese Army Academy where the Japanese advanced the country's military ideologies. During the war, the Imperial General Headquarters made up the Ministry of War, the Army General Staff Office, and the Ministry of the Navy—acting as a center for the direction of war tactics. Over three quarters of Tokyo's buildings were demolished by fires and bombing, but this building was left standing.

The trial was held on the first floor, the second floor was for judges and deliberating, and the third was for the prosecution teams. The office of the Tribunal President, Sir William Flood Webb of Australia, was used by Imperial Japanese Army general and Prime Minister of Japan, Hideki Tojo, during the war.

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International Military Tribunal for the Far East, Ichigaya Court (formally Imperial Japanese Army HQ building), Tokyo.

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1.3. Composition of the Bench

The composition of the bench at the International Military Tribunal for the Far East (IMTFE) was an act of deliberate international representation which mirrored the global nature of the war in the Pacific and Asia. Unlike the Nuremberg tribunal that only involved the 'Big Four', the Tokyo Tribunal comprised 11 judges who represented those who signed the Japanese Instrument of Surrender, or who possessed significant interests in the region, such as Australia, Canada, China, France, India, the Netherlands, New Zealand, the Philippines, the Soviet Union, the United Kingdom, and the United States. Judges were appointed to the bench following nomination by their respective governments, and were formally commissioned by General Douglas MacArthur as Supreme Commander for the Allied Powers (SCAP). This comprehensive composition was intended to lend the tribunal legitimacy on a global scale and to include representatives from formerly colonized territories, and from the powers within the region, within the judicial process.

The Tribunal was presided over by Australian jurist Sir William Webb, a noted judge who had conducted a number of inquiries into Japanese war crimes in the region. Other judges at the tribunal included Edward Stuart McDougall (Canada), Mei Ju-ao (Republic of China), Henri Bernard (France), Radhabinod Pal (India), Bert Rling (the Netherlands), William Donald Patrick (United Kingdom), Erima Harvey Northcroft (New Zealand), Delfin Jaranilla (the Philippines) and Ivan Michyevich Zaryanov (the Soviet Union) and John P. Higgins, the latter whom was later replaced by Myron C. Cramer (United States). The tribunal was composed of a range of legal traditions including Common Law, Civil Law, and the burgeoning theory of socialist law within the USSR. The court experienced significant dissensions amongst the bench members; many differing opinions were expressed about law and jurisdiction of the tribunal.

Despite a majority of the bench ultimately agreeing to a final judgment, many substantial and separate opinions were presented that illustrated the divergence in ideologies of the bench at the time. The most well known of these were those presented by judge Radhabinod Pal who presented the longest and most damning dissent, arguing that charges of "crimes against peace" constituted retroactive law, and that justice would not be served in the absence of judges

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appointed by the accused as well as those appointed by the victors. President Webb and judge Rling both separately delivered opinions detailing their disagreement with various aspects of the sentence imposed and the definitions given for the charges being brought to court.

2. Historical Context and Pre-Trial Posture:

The Tribunal was established to implement the Cairo Declaration, the Potsdam Declaration, the Instrument of Surrender, and the Moscow Conference. The Potsdam Declaration (July 1945) had stated, "stern justice shall be meted out to all war criminals, including those who have visited cruelties upon our prisoners," though it did not specifically foreshadow trials.[5] The terms of reference for the Tribunal were set out in the IMTFE Charter, issued on January 19, 1946. There was major disagreement, both among the Allies and within their administrations, about whom to try and how to try them. Despite the lack of consensus, General Douglas MacArthur, the Supreme Commander of the Allied Powers, decided to initiate arrests. On September 11, a week after the surrender, he ordered the arrest of 39 suspects—most of them members of Hideki Tojo's war cabinet. Tojo tried to commit suicide but was resuscitated with the help of U.S. physicians.

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2.1. The Historical Reasons for the case

The historical context for the IMTFE can be traced back over half a century of Japanese expansion and the subsequent systematic demolition of the existing international legal order in East Asia. The seeds of the Japanese "case" can really be found in the 1931 Manchurian Incident in which a staged railway explosion led to an invasion and occupation of Northeast China. This was the point where the Japanese imperial government definitively moved beyond the framework of post WWI international relations; primarily the League of Nations and the Nine Power Treaty and explicitly demonstrated the disregard for the territorial integrity of China. Through the 1930s, the narrative of skirmishes escalated into an all out, though undeclared war following the Marco Polo Bridge Incident in 1937. The resulting atrocities, culminating in the Nanking Massacre, horrified the international community and subsequently gave it the moral and humanitarian grounds to seek retribution. The Allied powers saw the events not as isolated incidents but rather as part of a long standing and calculated conspiracy, under which the nation planned to dominate all of Asia and the Pacific under a sphere of co-prosperity.

The historical necessity of the trials was further reinforced when in 1940 the Japanese entered the Tripartite Pact with Nazi Germany and Fascist Italy, linking the war in Europe with one in Asia. This tied the fate of the two major theaters of war into one overarching global struggle against fascism. Following the surprise attack on Pearl Harbor in 1941 and the subsequent war crimes against the prisoners of war captured by the Japanese, particularly the Bataan Death March and the forced construction of the Burma-Siam railway, the conventional war crimes charge was added to the overarching argument of an aggressive war initiated in the first place. By July 1945, when the Potsdam Declaration was announced, "stern justice" was a condition that the Allied powers refused to compromise. The intention of the Allies here, in contrast to after WWI when the lack of effective prosecution against German leaders is seen as being an underlying cause of the "stab-in-the-back" myth, was to construct a clearly defined historical account of Japanese militarism. The Tokyo trials intended to publicly expose the machinations and internal workings of the Shōwa government, as a prerequisite for the subsequent

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democratization and demilitarization of the country under Allied occupation. Individualizing guilt helped to prevent a broader condemnation of the Japanese people. Rather, the burden fell on the particular individuals in positions of leadership that facilitated the nation's transformation from a constitutional monarchy into a state run by a military machine. In effect the trials formed the historical bridge, from a state hell bent on revisionism to a stable pacifist democracy, an ally in the new United Nations.

3. Overview of the Defendants:

3.1. Hideki Tojo: (High Command and the Face of the Prosecution).

Hideaki Tojo was a Japan military commander, also known as a significant position of the Japanese politics. He was served as a Prime Minister of Japan from 1941 to 1944 during World War II. His leadership was marked by widespread state violence and mass killings perpetrated in the name of Japanese nationalism.

Born into a military family of samurai descent in Kōjimachi, Tokyo, Tojo followed in his father's footsteps by pursuing a military career, graduating from the Imperial Japanese Army Academy in 1905. After serving as a military attaché in Germany, he rose to prominence in the 1930s as a member of the Tōseiha (lit. 'Control Faction') within the Imperial Japanese Army (IJA). In 1937, as chief of staff of the Kwantung Army, he led operations during the Japanese invasion of China. By 1940, he was appointed Minister of the Army, where he advocated a tripartite alliance with Nazi Germany and Fascist Italy. In October 1941, he was appointed Prime Minister of Japan by Emperor Hirohito.

Upon taking office as Prime Minister, Tojo prioritized the total mobilization of the Empire of Japan for "total war". He enforced strict censorship and utilized the Kempeitai (military police) to suppress dissent while promoting an ideology of absolute loyalty to the Emperor. His foreign policy was defined by the pursuit of the Greater East Asia Co-Prosperty Sphere, a concept used

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to justify aggressive expansion into Southeast Asia and the Pacific in order to secure natural resources. On 7 December 1941, Tojo's cabinet oversaw the Japanese attack on Pearl Harbor which resulted in his country's entry into World War II on the side of the Axis powers. Despite achieving significant territorial gains in Asia and the Pacific during the opening months of the conflict, the tide decisively turned against Japan following its defeat at the Battle of Midway in June 1942. In the capacity of his nation's head of government throughout most of the war, Tojo presided over numerous war crimes, including the massacre and starvation of thousands of POWs and millions of civilians.

As Allied forces closed in on the Japanese home islands, Tojo's hold on power steadily declined before he was ultimately forced to resign on 18 July 1944 upon the fall of Saipan. After his nation's surrender to the Allied powers in September 1945, he was arrested, convicted by the International Military Tribunal for the Far East in the Tokyo Trials, sentenced to death, and hanged on 23 December 1948. To this day, Tojo's complicity in the July 1937 invasion of China, the surprise attack on Pearl Harbor in December 1941 and numerous acts of mass murder have firmly intertwined his legacy with the Empire of Japan's warmongering brutality during the early Shōwa era.

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4. Overview of the Prosecution:

4.1. The 11-Nation Prosecution Team: Led by Chief Prosecutor Joseph B. Keenan (USA).

Joseph B. Keenan, a veteran American prosecutor, held the title of Chief Prosecutor for the International Military Tribunal for the Far East (IMTFE) where he directed the International Prosecution Section (IPS) between 1945 and 1948. His 1930s tenure as Assistant to the U.S. Attorney General earned him a formidable reputation, as Keenan had aggressively prosecuted organized crime and gangsters during the Roosevelt administration. Selected directly by President Harry S. Truman for the Tokyo Trials, Keenan's aggressive and accusatory, trial-tested, courtroom style was central to the narrative and direction of the prosecution case against Japan's wartime leaders.

With the establishment of the IPS, Keenan led an unparalleled, eleven-nation alliance of nations that had battled Japanese expansionism. Although Keenan dictated the over-all strategy, the Charter of the IMTFE called for each prosecuting nation to provide one associate prosecutor to represent national grievances and war crimes, territorial atrocities and to secure the conviction of each alleged offender of war crimes, crimes against peace, and crimes against humanity. The list of associate prosecutors included Arthur Comyns Carr (United Kingdom), Hsiang Che-chun (China), Sergei Golunsky (Soviet Union), Alan Mansfield (Australia), Henry Nolan (Canada), Robert L. Oneto (France), Govinda Menon (India), W. G. Frederick Borgerhoff-Mulder (Netherlands), Ronald Quilliam (New Zealand) and Pedro Lopez (Philippines). Maintaining this international coalition was fraught with bureaucratic challenges. It required Keenan to navigate both U.S. Foreign policy goals in occupied Japan and the varied legal norms and political interests of his fellow prosecutors.

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In order to deal with the thousands of acts of state violence over decades, the eleven-nation prosecution team divided its duties, both organizationally and geographically over the course of the proceedings. While the core of Keenan's American prosecution team pursued the charges of Crimes Against Peace on the theory of a global conspiracy by the Japanese defendants to maintain military and economic dominance in Asia beginning with the 1931 Mukden Incident, the associate prosecutors collected evidence on and prosecuted localized B and C crimes with the Chinese prosecuting the Rape of Nanking and the Filipinos presenting evidence of the systematic torture in the Bataan Death March. Logistically, running this coalition was a monumental task for the prosecuting team: attorneys had to overcome differing legal traditions with Anglo-American common law and continental civil law affecting matters like cross-examination and admissibility of evidence, and as the Cold War ramped up mid-trial, animosity flared between the Westerners and the Soviets. Despite the discord within the prosecution team, collectively they took 192 days, introduced thousands of exhibits and witness testimonies and secured the conviction of 25 defendants, in the process etching themselves into the bedrock of modern international criminal law.

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5. Overview of the Defense:

5.1. The Defence Counsel: American and Japanese lawyers' collaboration.

The defense at the IMTFE was an anomalous, fused legal coalition comprising over a hundred lawyers – half of whom were Japanese attorneys familiar with domestic laws, and half were assigned from among American civilian and military lawyers with the purpose of assuring that proceedings met Western constitutional notions of due process. Under the supervision of prominent Japanese jurists such as Dr. Ichir Kiyose and assisted by American attorneys such as Ben Bruce Blakeney, John Brannon, and Owen Cunningham, this group faced the difficult task of defending 28 of the most important Japanese war criminals before an overwhelmingly prosecution-oriented tribunal. The defense section was architected as a melding of two separate legal traditions, thus forging a difficult, though eventually workable, working partnership between the Japanese attorneys who approached the trials from their background in the civil law tradition (based upon the continental legal system) and the American defense attorneys trained in the combative common law adversarial approach.

The partnership between these two groups of attorneys required the surmounting of linguistic, cultural, and procedural obstacles in order to present an effective, collective defense. While there was a certain mutual distrust initially between the two groups, it quickly transformed into a highly efficient partnership in which the American attorneys initiated the strong cross-examinations, formal objections and challenges to the evidence which were novel to Japanese courts and in which the Japanese attorneys, for their part, provided historical expertise, translation of sensitive imperial documents and direct access to the defendants, while the American attorneys penned many of the key constitutional arguments and fought fiercely for suppression of prosecution evidence. They worked together, assigning individual responsibilities - Blakeney, for example, was in charge of the defense of Generals Yoshijir Umezumi and Foreign Minister Shigenori Tg while Kiyose defended Prime Minister Hideki Tojo directly- and together

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turned the trials from a quick political "summary execution" into a strong, well-fought legal contest under international eyes.

5.2. Strategy of "Victor's Justice" and Jurisdiction Objections.

The fundamental basis of the defense's overall strategy was the assertion of fundamental and immediate objections to the jurisdiction of the tribunal, a strategic effort which sought to establish a frame work which rendered the entire trial a product of "victor's justice". Since the initial sessions in May 1946, the defense systematically attacked the legality of the IMTFE Charter itself, claiming that the tribunal possessed no authority under international law to try individuals on the novel concept of Class A "Crimes against Peace". Spearheaded by the intellectual and controversial arguments of the American defense attorney Ben Bruce Blakeney, the defense attempted to apply the fundamental legal doctrine of *nullum crimen sine lege*, claiming that wars of aggression had not been outlawed as crimes against individuals prior to the end of World War Two, rendering the IMTFE a post-hoc, vindictive reprisal by the Allied victors.

In their efforts to debunk the overarching narrative of a "common plan or conspiracy," the defense actively employed a geopolitical defense strategy, weaponizing the idea of necessity and self-defense to attack the moral and legal standing of the victors. It argued that Japan's conquest of South East Asia and the Pacific was not a malignant conspiracy, but an act of sheer survival by a desperate nation under blockade, forced by the economic warfare of the Western world and what was later known as the ABCD encirclement. Moreover, in their efforts to highlight the massive duplicity of the tribunal, the defense attempted to introduce evidence of Allied criminal behavior, such as the Soviet Union's violation of the Soviet-Japanese Neutrality Pact, and the sheer horror of the American atomic bombing of Japan, which wiped out hundreds of thousands of civilians in Hiroshima and Nagasaki. Although the court routinely rejected these jurisdictional

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objections, and disallowed the introduction of evidence of Allied crimes, the constant refrain of "victor's justice" created and sustained intense and protracted debate by the court concerning its own validity.

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C. APPLICABLE LAW

The Charter of the IMTFE (Special Proclamation by SCAP):

Part I. Constitution of the International Military Tribunal for the Far East:

Article 1. The Multi-National Composition (11 Judges).

- **ARTICLE 1. Tribunal Established.** The International Military Tribunal for the Far East is hereby established for the just and prompt trial and punishment of the major war criminals in the Far East. The permanent seat of the Tribunal is in Tokyo.
- **ARTICLE 2. Members.** The Tribunal shall consist of not less than six members nor more than eleven members, appointed by the Supreme Commander for the Allied Powers from the names submitted by the Signatories to the Instrument of Surrender, India, and the Commonwealth of the Philippines.

Part II. Jurisdiction and General Principles:

Article 5. Jurisdiction over Persons and Offenses (Class A, B, and C).

ARTICLE 5. Jurisdiction Over Persons and Offenses. The Tribunal shall have the power to try and punish Far Eastern war criminals who as individuals or as members of organizations are charged with offenses which include Crimes against Peace. The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

a. Crimes against Peace: Namely, the planning, preparation, initiation or waging of a declared or undeclared war of aggression, or a war in violation of international law, treaties, agreements or

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assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

b. Conventional War Crimes: Namely, violations of the laws or customs of war;

c. Crimes against Humanity: Namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political or racial grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated. Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any person in execution of such plan.

Article 6. Responsibility of Government Officials.

ARTICLE 6. Responsibility of Accused. Neither the official position, at any time, of an accused, nor the fact that an accused acted pursuant to order of his government or of a superior shall, of itself, be sufficient to free such accused from responsibility for any crime with which he is charged, but such circumstances may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

Article 7. Responsibility of Superiors.

ARTICLE 6 (Applicable Provision). Neither the official position, at any time, of an accused, nor the fact that an accused acted pursuant to order of his government or of a superior shall, of itself, be sufficient to free such accused from responsibility for any crime with which he is charged, but such circumstances may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

Note from Academy: In the official text of the IMTFE Charter, Article 7 governs "Rules of Procedure." The legal standard for the responsibility of superiors/command responsibility is evaluated under Article 6 and the conspiracy provisions of Article 5.

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The Laws and Customs of War (International Treaties):

The 1907 Hague Convention (IV): Land warfare and occupied territories in Asia.

The 1907 Hague Convention (IV): Regulations governing land warfare and the administration of occupied territories in Asia.

The 1928 Kellogg-Briand Pact: The international agreement establishing the renunciation of war as an instrument of national policy.

The 1929 Geneva Convention (POW): Statutes regulating the humane treatment of prisoners of war, directly relevant to violations such as the Bataan Death March.

The 1928 Kellogg-Briand Pact: The renunciation of war as national policy.

The 1929 Geneva Convention (POW): The Bataan Death March and treatment of prisoners.

International Common Law (Judicial Precedent & Principles):

Individual Criminal Responsibility: The legal precedent establishing personal accountability for war crimes, notably adapted from the Ex parte Quirin application in the Pacific theater.

The Principle of Legality (Nullum Crimen Sine Lege): The legal framework dictating that no one can be punished for an act that was not a crime at the time it was committed, analyzed within the Asian context.

The Doctrine of Retroactivity: The legal debate surrounding retroactive prosecution, fundamentally highlighted by Justice Radhabinod Pal's Dissident Judgment regarding the charge of "Crimes Against Peace."

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D. MERITS OF THE CASE: LEGAL ARGUMENTS

a. Prosecution Theory: The Master Plan for East Asia:

The overall trial strategy of the defense team was primarily anchored in these fundamental, early objections to the tribunal's legal jurisdiction; thereby positioning the trial from the outset as an example of 'victor's justice.' Beginning during the first proceedings in May 1946, the defense mounted a fundamental legal attack against the legitimacy of the IMTFE Charter on the grounds that it did not have the jurisdiction under contemporary international law to try persons for newly invented categories of Class A 'Crimes Against Peace'. Spearheaded by the incisive and controversial legal arguments of the American defense attorney Ben Bruce Blakeney, the defense team upheld the core legal concept of *nullum crimen sine lege*-meaning 'no crime without law', stating that prior to the end of World War Two, the "wars of aggression", had not been written as crimes of individuals. Therefore the tribunal was the product of "retrospective and purely punitive justice administered by the victors".

The theory of the prosecution in the IMTFE's trial was premised upon a single, pervasive and narrative hypothesis: that there was a "Master Plan for East Asia", which the Japanese political and military elites put into operation. Spearheaded by chief prosecutor Joseph B. Keenan, the prosecution theory held that the foreign policies and aggressive expansionist drives and wars waged by Japan were neither spontaneous nor defensive responses to circumstances, but rather the deliberate culmination of a long-term conspiracy dated from 1931. This single overarching trial hypothesis held that all twenty-eight accused worked together as one criminal conspiracy which waged illegal wars of aggression in pursuit of global Japanese domination in the Asia Pacific and systematically violated state sovereignty and international law. It was the prosecution theory that by conceptualizing the empire's operations and territorial claims as a singular criminal enterprise, individual criminal responsibility for class A "Crimes Against Peace" could be assigned to each of the defendants who had played a role in carrying out the plan of war.

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1. The Greater East Asia Co-Prosperity Sphere.

The strategy on the whole, for the defense team was founded on direct and basic objections to the legal authority of the tribunal to hold this proceeding. In this way they began the argument, that this whole proceeding was a process of 'victor's justice.' Starting from the May 1946 session the prosecution proceeded to dismantle the legal foundation of the IMTFE Charter by arguing that there was no legal precedent under international law to try individuals for the new classifications of Class A "Crimes against Peace." Guided by the very eloquent and daring logic of the American attorney Ben Bruce Blakeney, the defense began to establish the central legal principle that of *nullum crimen sine lege*- no crime without law, stating that, warfare, the act of waging an aggressive war, had never been established as an individual criminal offense before the conclusion of World War II. As such, they reasoned the tribunal was a retroactive, retaliatory act, carried out by the victorious Allied powers due to political motivations.

The Greater East Asia Co-Prosperity Sphere was a program established by the Japanese state in 1940 which according to the prosecution, presented itself as both the ideological front and the economic design to the illegal plan. Propaganda presented the Sphere as a benevolent association of Asian nations working together for the liberation from western domination, however, it is clearer in the prosecution's evidence and argument that it was merely a tool for total military domination and the exploitation of colonized resources. The Sphere was primarily the plan to mobilize the natural resources of all conquered territories for the war effort against the west, such as, rubber and oil in Malaya and the Dutch East Indies, and then enslave local peoples through a combination of puppet governments and forced labor. The prosecution proved through the presentation of secret cabinet decisions and military documents at the Tokyo Trials that the Sphere was a tool used to further Japanese aggressive expansion as well as a replacement for western imperialism.

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Geographic scope of the East Asian expansionist policies. Kaynak: Artindo

2. War Crimes and Atrocities: The Rape of Nanking.

The Rape of Nanking, commencing in December 1937 following the fall of the Chinese Nationalist capital, served as the prosecution's most harrowing and foundational case study proving the horrific human cost of Japan's expansionist master plan. Over a brutal six-week period, the Imperial Japanese Army perpetrated widespread, systematic atrocities against civilian populations and disarmed prisoners of war, resulting in mass executions, rampant sexual violence, and the widespread destruction of the city. At the Tokyo Trials, the prosecution presented overwhelming documentation, diary entries from foreign nationals inside the Nanking Safety Zone, and gut-wrenching eyewitness testimonies to establish that these acts were not random, isolated incidents of battlefield misconduct, but rather the direct consequence of a military culture that sanctioned unchecked brutality to terrorize a nation into submission.

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Ultimately, the prosecution utilized the catastrophic scale of the Nanking massacre to secure the conviction of General Iwane Matsui under the doctrine of command responsibility, proving that high-ranking military leaders who knew or should have known of such widespread atrocities bore full legal accountability for failing to prevent or halt them.



Imperial forces during the occupation of Nanking in December 1937.

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b. Defense Theory: "Befehl ist Befehl" and "State Necessity":

The defense theory presented at the IMTFE was the direct counterpart to the prosecution's grand design thesis. It provided an alternate legal framework for wartime behavior centered around legal concepts of superior orders (Befehl ist Befehl) and state necessity. The prosecution's narrative of a complex, coordinated, and premeditated criminal plot was substituted for a defense of isolated, ad-hoc decision-making motivated by a perceived national crisis of survival. The defense plan led by Japanese and their American attorneys sought to undermine individual criminal liability for state acts. It argued that, according to classical international law, state acts could not be retroactively criminalized or attributed to individuals acting either in obedience to the sovereign will of empire, or in response to pressing external threats. Through the strategic recontextualization of the conflict, the defense sought to absolve individuals of criminal intent and to portray the defendants' actions as an ordinary, state-sanctioned duty performed within the context of total global war.

1. The Validity of the "Just Following Orders" Defense.

The defense against the superior orders plea (known under the German maxim *Befehl ist Befehl*, an order is an order) was arguably the most decisive struggle during the Tokyo Trials to determine the boundaries of individual culpability. Military defendants maintained that unquestioning obedience to authority constituted the very essence of military discipline and a legal requirement under the Japanese Military Code; defying the command of a superior or the imperial decree represented the crime of high treason and placed the defendant between two legal impossibilities. The IMTFE Charter (following the Nuremberg Nuremberg principles) itself rejected this plea in its strongest form under Article 6, ruling that an order from a superior shall not relieve an accused from responsibility but may be considered in mitigation of punishment. Even in the face of this procedural hurdle, the defense continued to invoke this argument, especially when it came to attacking the Class B and C charges, claiming that lower to mid level commanders simply lacked the practical power or the legal alternative to defy orders emanating from the imperial general headquarters and therefore held no personal responsibility for institutional policies.

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2. The "ABCD Encirclement": Economic sanctions as an act of war and self-defense.

This state necessity theory was most obviously shown by the defense's "ABCD Encirclement" argument; basically Japan attacked the USA in the Second World War to defend itself in a geopolitical context. The defense brought forward a lot of evidence from the past to prove that by 1941, a conglomeration of countries, the Americans, the British, the Chinese and the Dutch, (the ABCD Powers) were imposing terrible and crushing economic sanctions, import bans and totally freezing the liquid assets of the state. As the Americans had implemented oil sanctions against the Japanese as soon as they had occupied French Indochina, Japan's oil imports dropped by 90 per cent, and the Japanese economy would be crippled in a matter of months and its defense forces similarly incapacitated. Equipped with such statistics the defense then concluded that economic blockades of such scope were not peaceful diplomatic tactics, but a kind of undeclared aggressive economic warfare which placed the existence of the state in danger. The attack on Pearl Harbor and further operations in Southeast Asia, therefore, could not be described as part of a criminal conspiracy to gain dominance in Asia, but rather an acceptable resort to force as the only possible means for acquiring necessary resources.

E. CLOSING POSTURE AND PRECEDENT

a. Final Statements of the Defendants.

The final declarations of the defendants at the IMTFE are one of the most potent, eye-opening documents to come from the trial. Delivered at the end of 1947 and the beginning of 1948, the final declarations were, on the whole, a denial of the main charges against the defendants for personal criminal responsibility in war and profound remorse for the catastrophic destruction of the war. One of the few statements that will be dealt with in some detail is that by Hideki Tojo, whose final declaration serves to further his historical image as taking personal responsibility for the course that led to war to divert the blame to him instead of Emperor Hirohito. Tojo always denied that he committed "war crimes" in a legal sense, rather he portrayed the war as a legitimate act of self-preservation against external forces. Foreign Minister Shigenori Tōgō was one of those who spoke in defense by saying he was working on diplomatic fronts in attempts to

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limit or even avoid the war. The shared defenses focused on the idea of personal honor, complete subservience to the Emperor, and collective defense against accusations of a conspiracy.

b. The Judgment: Death sentences, life imprisonment, and the Pal Dissent.

Over several days in November 1948, the final judgment of the IMTFE was delivered, seeing the conviction of all twenty-five of the remaining defendants, and an official validation of the common conspiracy framework proposed by the prosecution. While seven death sentences, by hanging, were issued for Class A war crimes in combination with egregious Class B and C charges, (most notably for Hideki Tojo, Kiki Hirota, and Iwane Matsui—who was only found responsible under the command principle for not having stopped the Rape of Nanking), sixteen defendants received life sentences, and shorter prison terms were passed down to Shigenori Togo and Mamoru Shigemitsu. The apparent cohesiveness of the final judgment was undermined and compromised, however, by the publication of dissenting opinions, not least the colossal, 1,235-page dissenting judgment of Indian judge, Radhabinod Pal. Pal himself found all twenty-five defendants not guilty of all crimes, strongly asserting that the tribunal was founded upon ex post facto laws, and that the Western Allies had a severe conflict of interest, having engaged in over a century of colonization, conquest, and empire-building across Asia, never brought to international trial or held accountable for their actions.

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c. Legacy of the Tokyo Trials: Comparison with Nuremberg and impact on Modern Asian Relations.

The long-term legacy of the Tokyo Trials remains deeply polarized, presenting a stark contrast when compared directly with the European International Military Tribunal at Nuremberg. Structurally, while Nuremberg was established via a multilateral international treaty (the London Agreement) and prosecuted a Nazi regime whose top leadership had largely committed suicide, the IMTFE was established via an executive military decree by General Douglas MacArthur and deliberately insulated Emperor Hirohito from all legal prosecution. This political decision to protect the imperial throne created a fractured sense of historical accountability in Japan, unlike the comprehensive denazification process that transformed post-war Germany. In modern East Asian relations, the unresolved legal and moral questions of the Tokyo Trials continue to serve as a major source of diplomatic friction and nationalist rhetoric. The controversial enshrinement of fourteen executed and convicted Class A war criminals at Tokyo's Yasukuni Shrine in 1978, combined with ongoing debates over Japanese textbook revisions and official government apologies, frequently triggers severe geopolitical tensions between Japan, China, and South Korea, proving that the legal verdicts of 1948 failed to establish a universally accepted historical consensus across the region.

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