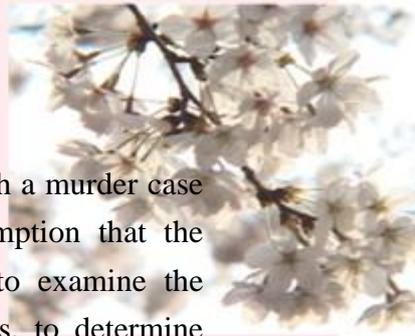


Chapter II

EXAMINATION OF THE PROOFS OF THE PROSECUTION





In this chapter, we try to compare the so-called 'Nanking Massacre' with a murder case (including the looting and rape associated to it). Under the assumption that the Prosecution is responsible for the burden of proof, we are going to examine the evidences from various aspects through procedures of criminal codes, to determine whether the Prosecution has been able to prove the 'Nanking Massacre' as a crime.

We think that History of the War against Japan can be comparable to the indictment. This book claims that the Japanese Army killed more than 300,000 Chinese captives and civilians from December 1937 through February 1938 with a variety of arguments. Although we can argue against each point, here in this chapter, we will categorize them into the following 'four points of advocacy' and 'ten points of argument.'

The whole view of the indictment

1. The number of casualties, 300,000

- 1) *After the Japanese occupation, did the population of Nanking decrease by more than 300,000?*
- 2) *Did the 'Chinese postwar investigation' have probative value and admissibility?*
 - a) *Chinese testimonies of eleven cases to verify the murder of 190,000 people.*
 - b) *Burial records of 150,000 corpses by the Advance Benevolence Society and the Red Swastika Society.*
- 3) *Did westerners witness the massacre?*
- 4) *Were Japanese high officials aware of the massacre?*

2. Systematic massacre

- 5) *Did the Japanese Army plan a systematic murder?*
- 6) *Was the mopping-up operation a systematic murder?*
- 7) *Did the Japanese Army have a policy of killing POWs?*

3. Systematic large scale looting and rape

- 8) *Did the Japanese Army practice systematic looting?*
- 9) *Did the Japanese Army commit systematic rape?*

4. Cruel Atrocities

10) Did Japanese officers perform the 'Murder Race'?

The most significant point of argument on this case is the 'whether the number of casualties has been more than 300,000' and 'whether the Japanese Army has planned a systematic murder.'

Then, we, as the Defense, will put an emphasis on these two points, and will inspect the evidences submitted by the Prosecution.

1. The number of casualties, 300,000

Argument 1

After the Japanese occupation, did the population of Nanking decrease by more than 300,000?

The most significant point of debate was certainly the number of casualties. The Prosecution paid attention to the fluctuation of population of Nanking between pre-battle and post-battle, and made a strong statement as follows:

The population statistics of Nanking showed 1,700,000 in the whole city when the battle started. Half of them were supposed to have escaped out of the walled city and more than 500,000 remained inside the city or in the suburbs. Among them, in the Safety Zone (about 4 square kilometers) were more than 250,000 accommodated. According to the early statistic published by the Nanking puppet government established by Japanese at the beginning of 1938, there remained no more than 170,000 residents inside the city. It assumed that the Japanese Army slaughtered 300,000 or more Chinese at least.

In surveying the population of Nanking, we needed to carefully pay attention to the following three points:

1. On November 16, 1937, Chiang Kai-Shek decided to abandon Nanking and ordered that the KMT agency should complete preparation of withdrawal



within three days. Therefore the government officials escaped from Nanking, following the wealthy who had been escaping since the beginning of August. There remained only Chinese soldiers and those too poor to flee.



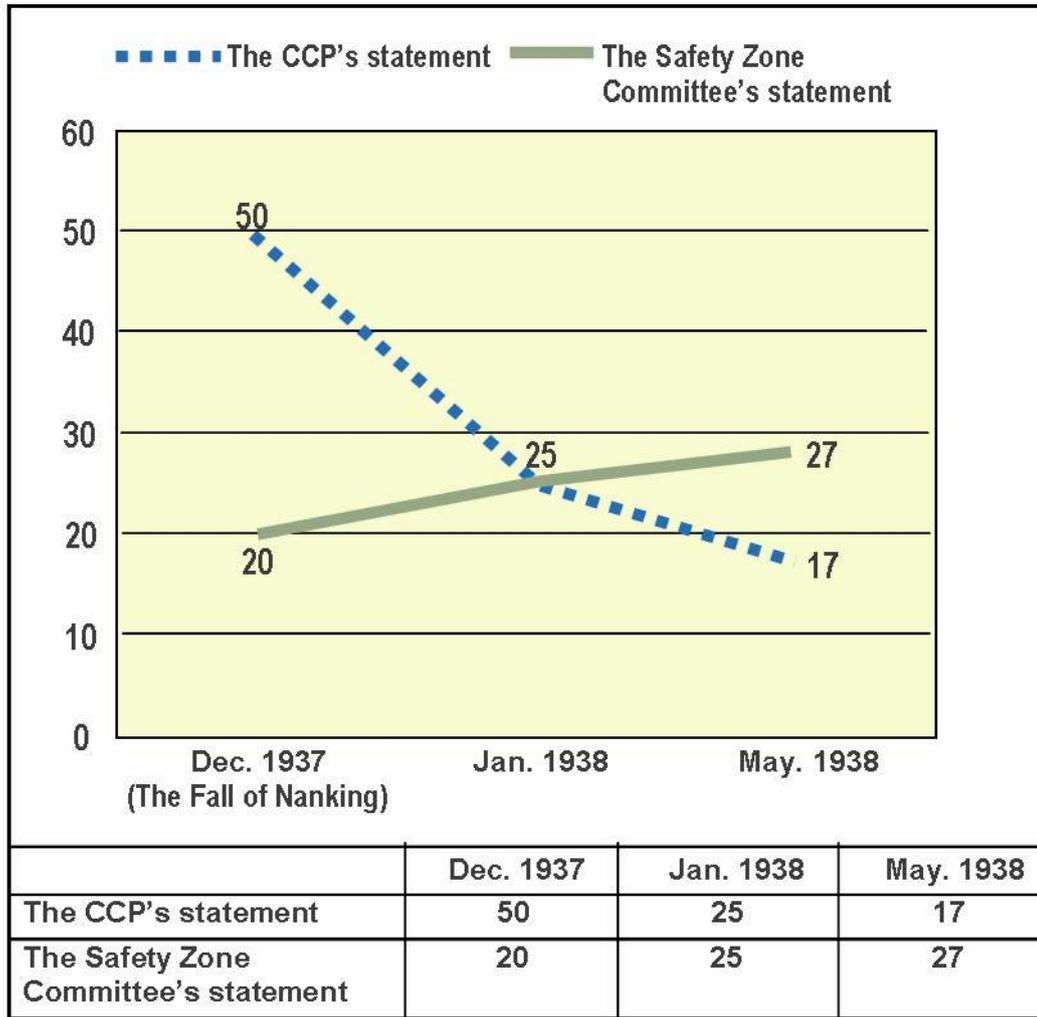
2. On December 7, the Chinese Army started the so-called 'Scorched-earth policy' and burned down hundreds of villages and buildings in a 16 kilometer radius outside the city of Nanking in order to prevent the Japanese Army from making use of them for their maneuver positions or quartering. Neighboring inhabitants had their houses burned down by the Chinese Army and were driven away.
3. On December 8, Tang Sheng-zhi warned that all the non-combatants should assemble in the 'Refugee Zone', and the citizens rushed into the 'Refugee Zone' for the safety. As the result, there were no people within the castle except in the 'Safety Zone'. The Safety Zone Committee described in the Document No.9 dated on December 17, "On the 13th when your troops [the Japanese Army] entered the city, we had nearly all the civilian population gathered in a zone."¹⁷

Then what was the population in the Safety Zone?

John Rabe, the chairman of the Safety Zone Committee wrote in his diary on December 10, that when the Nanking battle began, the population was 200,000. After the Japanese victory and occupation took place, the Safety Zone Committee in its document dated on December 17, and in subsequent documents, consistently recognized this number. For the Safety Zone Committee, it was absolutely necessary to know the accurate number of people in order to distribute food to those refugees.

¹⁷ Shuhsi Hsu (ed.), Documents of the Nanking Safety Zone (Shanghai: Kelly & Walsh, Limited, 1939) pp.14-15.

Table 3 Fluctuation of the population of Nanking



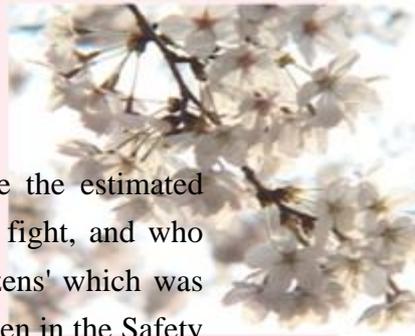
(in units of ten thousand)

In Nanking, there were also Chinese soldiers (including their families). About its number, the written judgment in the IMTFE¹⁸ stated "All Chinese troops withdrew, but 50,000 remained in the city to defend it."

Considering the above statements, the population in the walled city was 200,000 plus 50,000, or not more than 250,000 when the battle started.

Afterwards how did the population of Nanking change? The Safety Zone Committee documents read that in January 1938 the population was 250,000. It

¹⁸ The IMTFE was established on April 29, 1946 until November 13, 1948. As to the IMTFE, see Antonio Cassese and B. V. A. Roling (Contributor), *The Tokyo Trial and Beyond* (Polity Press, 1995).



meant the increase of the population by 50,000, which might be the estimated number of citizens and Chinese soldiers who were not willing to fight, and who were registered as a result of the 'separation of soldiers from citizens' which was carried out by the military authorities towards Chinese soldiers hidden in the Safety Zone and the citizens of the wall city including the soldiers' families who lived there.¹⁹

The population continued subsequent increase.

After the Safety Zone was dissolved at the beginning of February 1938, Lewis S. C. Smythe, professor of Nanking University investigated the population with the help of many Chinese staffs. He assumed the population of Nanking to be 250,000 or 270,000 as of the end of March 1938. The Nanking City Administrative Office of the Nanking Restoration Government, which was established on March 28, 1938, registered 277,000 inhabitants.²⁰

By the way, the 'Nanking puppet government', that the Prosecution criticized was the Nanking Restoration Government itself. In other words, the Prosecution lied in the indictment about the population of Nanking as of the beginning of 1938 by decreasing more than 100,000, because, as aforementioned, the indictment said that there remained no more than 170,000 residents inside the city according to the early statistic published by the Nanking puppet government.

From the above authentic documents when the Nanking battle ceased, the

¹⁹ According to the Document No.17 issued by the Safety Zone Committee, dated on December 17, the number of refugees whom the Safety Zone Committee managed to accommodate in eighteen places of refugee camps in the Safety Zone were only about 50,000 Chinese people among 250,000. Another 200,000 were living in the 'new residential district' where Japanese troops managed.

²⁰ Dr. Lewis S. C. Smythe was recording the survey result with regard to the population of Nanking in the following manner in his book War Damage in the Nanking Area (Shanghai: Mercury Press, 1938).

Table 1 Families studied and estimated population

* On the basis of incomplete registrations carried out by the military authorities between the end of December and the end of January, members of the International Committee estimated the population of Nanking at that time to approach 250,000, a figure decidedly above their deliberately cautious guesses of earlier weeks... We venture an estimate of 250,000 to 270,000 in late March, some of whom were inaccessible to the investigators, and some of whom passed by; 221,150 are represented in the survey. On May 31, the residents registered in the five district offices of the municipal government (including Hsiakwan, but apparently no other sections outside the gates), numbered 277,000.

population of Nanking proved to have been 250,000 and was gaining in population. The indictment, which said the city had lost population by 300,000, could therefore have no ground.



Argument 2

Did the 'Chinese postwar investigation' have probative value and admissibility?

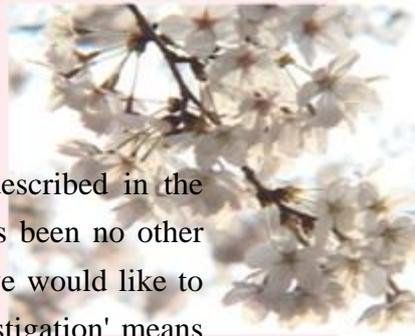
With what evidence will the Prosecution prove 'the murder of 300,000 people'? The indictment reads as follows:

According to the Chinese postwar investigation, when the massacre was over, the number of corpses that charitable organizations had gathered from place to place and buried reached 190,000 and the estimated victims' ashes which were excavated at places where atrocities took place, were 150,000, but these figures excluded a large number of corpses that were thrown into the Yangtze River. Some of them were fallen soldiers, but most of them were killed after the fight.

No doubt the advocacy of 'murder of 300,000 people' has been based on the 'Chinese postwar investigation.' Details of this investigation were published in *The Testimony of the Survivors of the Nanking Massacre*, vol.4 compiled by the Institute of Studies of Nanking City Historical Records in 1983. In the preface of this research data, it describes "In massacre, the number of unidentified corpses burnt to nothing left reached 190,000 and others individually killed and buried by charitable organizations were more than 150,000 in number," and there appear two groups of evidences to verify these two figures.

According to *The Testimony of the Survivors of the Nanking Massacre*, the 'Chinese postwar investigation' has presented the following two groups of evidences to prove the victims of more than 300,000:

- a) Chinese testimonies of the eleven cases to verify the murder of 190,000 people.
- b) Burial records of 150,000 corpses by the Advance Benevolence Society and the Red Swastika Society.



These figures of 190,000 and 150,000 coincide with ones described in the indictment except the above part underlined. Since there has been no other 'Chinese postwar investigation' reported officially, hereafter, we would like to argue the issue in the premise that the 'Chinese postwar investigation' means The Testimony of the Survivors of the Nanking Massacre.

Almost few testimonies were collected.

First of all, we will examine Chinese testimonies of the eleven cases to verify the murder of 190,000 people. We, however, can point out an interesting fact when we look into the process of collecting those testimonies.

According to Summary report on the Investigation of Japanese war crimes committed in Nanking, prepared by the Procurator of the District Court in Nanking,²¹ to prepare for the IMTFE, the KMT set up the 'Nanking Investigation

²¹ Summary report on the Investigations of Japanese war crimes committed in Nanking, prepared by the Procurator of the District Court, Nanking

1. The Progress of the Investigations.

As soon as the orders for the Investigation of Japanese war crimes were received, the people were notified by means of printed documents of the official proclamations, and the following 14 organizations in Nanking were notified of them; Nanking Municipal Government; the Military Affairs Committee; Nanking Central Bureau of Investigative Statistics; Metropolitan Police; Branch Headquarters of the Kuomintang; Branch Headquarters of the Military Police; Nanking Chapter of the Three People's Rights Youth Organization; Merchant's Association; Agricultural Association; Industrial Worker's Association; Lawyer's Association; Medical Doctor's Association; Nanking Chapter of the Red Swastika Society (Translator's note, a religious organization); and the Procurator of the District Court. The Procurator of the District Court asked the representative of respective organizations to gather in the conference room of the District Court at 2:00 p.m. on Nov. 7, 34 of the republic year and held the 1st meeting. In the meeting the organization of the Nanking investigation committee of Japanese War Crimes was decided and established.

The meeting also confirmed to prevent from duplicated investigations by means of deciding objects of investigations each organization would make, taking consideration of characteristics of each organization.

During investigations, as the enemy's deception and disturbance were severe the mind of the people was dispirited. Not only there existed very few people who voluntarily stated about the crimes of murders, but also there existed many people who did not speak like a cicada in winter, denied the facts and did not state for the sake of appearances even if the member of committee visited them. Besides such a situation, the committee could not contact some people because of house moving or disappearance.

For the reasons mentioned so far, since these over 500 cases were to be investigated with extreme difficulty, the cautious investigation was made paying particular attention, by means of various interviews and inquiries. Whenever obtained vitally important evidence on the mass murders executed over several times, each evidence was examined thoroughly. As the result of the investigations over 300,000 victims were reported, and it is believed that over 200,000 more are not yet to be confirmed besides.

2. Classification of Japanese War Crimes



Committee for Antagonists' Crime' on November 7, 1945, and appealed to the Chinese public to report Japanese Army's crimes. It was reported, however, that few responded to the crimes committed by the Japanese Army and some refused to testify or to deny the massacre occurred when they were asked for details. Then, the KMT reluctantly submitted the tentative report to the IMTFE on January 20, 1946. Except for one 'testimony' made by a man named Lu Su, no other evidence of 'massacres by the Japanese Army' was available, besides burial records.

Afterwards surveys were conducted and they managed to get '500 facts' investigated. 'One after another case was examined,' but they found only four new cases reliable. Based on 'Lu Su's testimony' and the burial records by the 'Advance Benevolence Society' and the 'Red Swastika Society', and then the four newly discovered evidences, that is, based on seven evidences in total, the number of casualties was concluded to be 340,000, and it was submitted to the IMTFE in February 1946. The simple summation of casualties in seven cases, however, reached only to an amount less than 228,000, still far less than 340,000.

The International Prosecution Section of the IMTFE²² might have pointed the

(6) Particulars Regarding Other Atrocities

The materials investigated up to this time discloses more than 340,000 persons killed, more than 4,000 houses burnt or destroyed, 20-30 persons raped or killed for refusing intercourse, and 184 persons missing.

3. War Crimes and associated materials

(2) Evidence of mass murders

The number of victim killed totaled 279,586.

2,873 were killed in the HSIN-HO District. (This evidence furnished by SHENG Shih-Cheng and CH'ANG K'ai -sing, who buried the bodies.)

More than 7,000 were killed in the neighborhood of the Army Arsenal and in HUA-SHEN-MIAO just outside the South Gate of NANKING. (This evidence submitted by JUI Fang-yuan, CH'ANG Hung-ju, and YANG Tu-t'sai, who buried the bodies.)

Approximately 57,418 persons were killed in the TS'AO HSIEH-HSIA District [Straw Shoes Gorge]. (This evidence submitted by a victim, LU Su).

More than 2,000 were killed in the HAN-CHUNG-MEN [Hanchung Gate], (this evidence submitted by two victims who later recovered, WU Chang-te and CH'EN Yung-ts'ing.)

More than 3,000 were killed in LING-KU-SZU [Ling Gu Monastery]. (This evidence submitted by KAO Kuan-wu, a traitor, and also obtained from an epitaph, WU-CHU-KU-SI-PEI, meaning, 'a tombstone extolled by nobody.')

Furthermore, the total number of bodies buried by the CH'UNG-SHAN-T'ANG [Advance Benevolence Society]. (Translator's note; a charity institution.) and the HUNG-WAN-TZU-HUI[Red Swastika Society]. (Translator's note; a religious organization) totaled more than 155,300. (The Tokyo War Crimes Trial , pp.4540-4548.)

²² It was set in GHQ on December 8, 1945 to prosecute A class suspect of war criminals. Chief procurator Joseph B.Keenan was a chief of the Section.



discrepancy. In spite of two months after the opening the IMTFE, the KMT conducted another five months' investigation from July 1, 1946 to November 11 of the same year to remedy the discrepancy, according to *The Testimony of the Survivors of the Nanking Massacre*. It concluded, "2,784 cases were testified based on reliable evidence, and among them eleven cases were about those who were seriously victimized." (Three cases of them had already been submitted to the IMTFE). As a result, by two burial reports and these eleven cases, the KMT finally made up the total number of 340,000 for the victims.

From this procedure, two facts were disclosed.

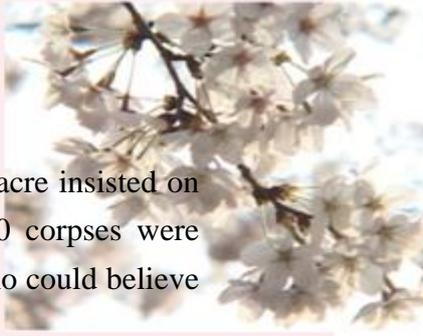
1. Although there lived more than 200,000 Chinese in Nanking eight years before, those Chinese were unwilling or negative in prosecuting the already defeated Japanese for their crimes, or very few could give reliable testimonies.
2. The testimonies presented to the IMTFE could not prove the murder of 340,000. Therefore, the KMT was absorbed in collecting proofs even during the IMTFE. In other words, the KMT had already fixed the number of casualties into more than 300,000 before they began to collect the evidence.

In the Chinese dictionary, there are some expressions such as '30,000 feet of long white hair', wherein '3,000' means 'many or huge' in this context. The figure '300,000' may have been decided politically, derived from Chinese unique linguistic sense, in addition to being convinced that there have existed a hundred times casualties to 3,000.

Irrelevant evidences to cross-examinations

The CCP was assured that 190,000 had been massacred, based on the eleven testimonies that the KMT barely collected with great efforts.

But the figures were arbitrarily calculated, in such a way that a certain Chinese witnessed at a certain place that Japanese soldiers were committing mass murders to tens of thousands of Chinese.



Furthermore, The Testimony of the Survivors of the Nanking Massacre insisted on saying that mass murders took place and that more than 190,000 corpses were completely burnt. It was asserting 'murders without corpses'. Who could believe such incredible testimonies that 190,000 corpses left no traces?

In fact these eleven testimonies were collected eight years after the incident without carrying out any cross-examinations. They were extremely unreasonable.

According to these testimonies, we should have admitted to unrealistic facts that for only five days right after Nanking fell, from December 14 to December 18, an average of 38,000 Chinese a day were killed in or near the Safety Zone by only 1,600 of soldiers belonging to the 7th Infantry Regiment of the Japanese Army. (Many of them were engaged in maintaining public order or guard), and 190,000 corpses were burned to nothing by means of kerosene.

Even the concentration camp in Auschwitz, well known for the holocaust, could barely kill 710 a day. In order to kill 38,000 a day, 53 facilities like ones in Auschwitz would have been needed. Of course no such facilities were to be seen. How did eleven testimonies explain it? The indictment read as follows based on the testimony of Lu Su, which was one of eleven testimonies.²³

On December 18, at Hsiakwan and Straw Shoes Gorge in the north of Nanking City, more than 57,000 persons consisting of POWs and refugees regardless of age or sex were gathered into a place and shot. Those who remained alive were bayoneted, doused with kerosene and burnt. A large scale of massacre like this was carried out several times in the week immediately after the Nanking Fall.

²³ Statement made by Lu Su to the procurator of the Nanking District Court was as follows:

Upon entry of the enemy troops into Nanking, refugees of Chinese civilians of both sexes and all ages, as well as retreating soldiers, totaling 57,418, were interned by Japanese troops in four to five villages at Mu-Fu Hill. Many died since neither water nor food was given.

Many were frozen to death. In the evening of Dec. 16th, 1937, those who were still alive were marched off to Tsao-Hshie-Hsia [Straw Shoes Gorge], at Shia-Kuen [Hsiakwan], in a column of four, while each two were bound together by lead wire.

There they were machine-gunned, followed by repeated bayonet thrusts. Corpses were burnt by kerosene and, at last, the remains of the burnt corpses were thrown into the Yangtze River...

I was then working in the Police Office. During street fighting, an enemy shell wounded my thigh. As I was then hiding at Ta-Mao-Tung, at Shang-Yuen Gate, very near the scene of massacre, I was therefore able to witness this tragedy. (The Tokyo War Crimes Trial, pp.4538-4539.)

Chart 4 The whole view of 'the murder of 300,000'



<Group 2> Details of 150,000 casualties

Burial organizations	Number of burials	Term
The Advance Benevolence Society	112,226	Dec. 16, 1937—May 1, 1938
The Red Swastika Society	43,071	Dec. 22, 1937—Oct. 30, 1938

*Source: The Tokyo War Crimes Trial

According to *Summary report on the investigation of Japanese war crimes committed in Nanking, prepared by Procurator of the District Court, Nanking*, the figure of casualties was 2,873. One digit is different from the figure in this table.

<Group 1> Details of 190,000 casualties

Date	Sites	Casualties	Witnesses
Dec. 18 night	Straw Shoes Gorge	57,418	Lu Su
Dec.?	Shangxinhe	28,730	Sheng Shi-zheng and Chang Yun-kai
Dec.15	Ministry of Justice → Outside Hanchung Gate	2,000	Wu Chang-te and Ch'en Yung-ts
Dec.16 night	Safety Zone → Hsiakwan Coal Wharfs	Tens of thousands	Xu jialu
Dec.15 night	Yuleiying	9,000	Yin yuyou
Dec. 17	Longjiangkou → Shang-Yuen Gate	3,000	Lu de
Dec. 14 evening	Supreme Court → Outside Hanhsi Gate	1,400	Zhong ke
Dec.16 Evening-night	Overseas Building → Chungshan Wharfs	5,000	Liang Ying-fang
Dec.16 evening	Sitao Line	200	Xie baoquan Lu liu Zhang decai
Dec.17	Three Forks River	500	Bi zhengqing
Dec.?	Swallow Rocks	50,000	Chen wanlu

*Source: *The testimony of the survivors of the Nanking Massacre (1984)*



According to the testimony of Lu Su submitted to the IMTFE, on the night of December 16, the Japanese Army took 57,418 refugees and soldiers into custody in a neighboring village, bound them to one another with wires, ordered them to form four columns and walk as far as Straw Shoes Gorge, and then swept them with machine-gun fire. Moreover, the Japanese Army poured kerosene onto the bodies after bayoneting them at random and setting them a fire. Finally they threw all the burnt corpses into the Yangtze River. A man who got injured in the 'thigh' by a 'shell' in the 'street fighting' of Nanking and who made a narrow escape to Shang-Yuen Gate, witnessed everything that happened 'before his eyes.'

If this witness had been present in the court, he would have received the following cross-examinations naturally.

1. How could he count the exact number of 57,418 victims in the dark night?
2. How could he reach the spot where the murders took place from inside the city to Hsiakwan, where the Japanese Army had had a solid guard?
3. How many Japanese soldiers were needed to bind nearly 60,000 Chinese with wires and how long would it have taken, and didn't the Chinese show any resistance?
4. How many Japanese soldiers were available to send no less than 60,000 Chinese to the place of murder?
5. How long did it take for 60,000 corpses to be burnt to ashes? To throw 60,000 corpses into the river, how many hours did it take and how many soldiers had to work on that?

Moreover, if the firing of machine-guns had continued for several hours during nighttime in Hsiakwan, the committee members in the Safety Zone or somebody else might have noticed it. The Prosecution, which called him as a witness, should answer this question, "Was there any other evidence?" (The records of the Safety Zone Committee proved that fourteen Chinese were killed by the Japanese Army at that time.)



Supposing such cross-examinations, it will be very difficult to admit that it is able to substantiate the testimony of the witness. Even testimonies collected by the KMT with an enormous effort are all but unreliable and groundless, still less the others are dependable. The 'murder of 190,000', which the KMT claimed, can never be proved, nor have probative value.

Was the Advance Benevolence Society engaged in burial?

The Testimony of the Survivors of the Nanking Massacre read "Out of 340,000, 150,000 were slaughtered individually and separately, and were buried by charitable organizations."

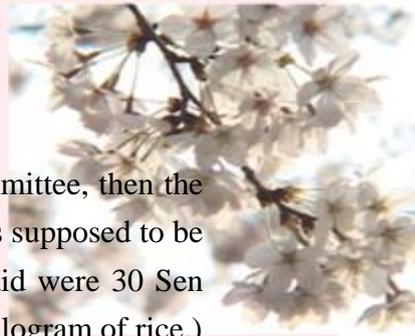
The evidences for 150,000 buried corpses were on two 'burial lists' submitted to the DVITFE as documentary evidences. According to the burial lists, from December 1937 to autumn of 1938, the Advance Benevolence Society had buried 112,226 and the Red Swastika Society had buried 43,071, respectively. Could burial of no less than 155,297 corpses have been done realistically?

As a burial job needed expenses and labor, it was certain that the Japanese Army had something to do with this job. MARUYAMA Susumu (still alive), who was a member of the Nanking Secret Service in charge of stabilizing the mind of people, described the following.

In the battle of Nanking, both sides, Japan and China, had a large number of the war dead. Japanese corpses were soon cremated, but Chinese ones remained untouched on the battlefield outside the walled city. The cold weather in midwinter kept the corpses frozen.

But when spring came, the corpses would become corrupt and badly affect sanitary condition.

In the middle of January, therefore, the Japanese Army decided to 'put them away by spring.' The Nanking Secret Service discussed the problem with the Self-government Committee, in charge of city administration. The chairman of the committee was Tao Xishan. As a result, the burial job was assigned to the Red Swastika Society, where Tao Xishan was head of the branch office. First, the



Nanking Secret Service paid expenses to the Self-government Committee, then the committee handed them to the Red Swastika Society. So the job was supposed to be voluntary work by the Self-government Committee. Expenses paid were 30 Sen per each corpse. (It was comparable to the then amount to buy 1 kilogram of rice.)

The Red Swastika Society was an actual undertaker of the burial job. The fact could be confirmed by the record of the Nanking Secret Service or Japanese press reports, but as to the Advance Benevolence Society, which was supposed to have dealt with twice as many burials as the Red Swastika Society did, its name was never seen in any other records. Report of the Nanking International Relief Committee (1939) written by Miner Searle Bates, covered only the activity of the Red Swastika Society.

All the activities that the Advance Benevolence Society was involved were provision of clothes, relief of widows, and nurture. Burial was not included. According to Nanking compiled by ICHIKI Yoshimichi (published by Japan Business and Industry Institution, Nanking Office, 1941), the Advance Benevolence Society suspended its activities from December 1937 to August 1938. There existed no proof showing that the Advance Benevolence Society was engaged in the burial jobs. Above all, the burial list of the Advance Benevolence Society was written in 1946, nine years after the incident.

There existed no record to substantiate that the Advance Benevolence Society worked on burial activities.

For these reasons, we couldn't accept the 'figures 112,226 as the number of buried corpses' which the Advance Benevolence Society claimed.

The number of the buried padded by the Red Swastika Society

What did the Red Swastika Society report?

To the IMTFE, a record was submitted that 'from December 22, 1937 to October 30, 1938,' the Red Swastika Society spent 52 actual working days on burial of 'about 42,000 corpses.' The Red Swastika Society's involvement in burial was true, but the accuracy of its record could be doubtful.



First of all, concerning the 'period', in the documentary evidence submitted to the IMTFE entitled State of burial of corpses, the Red Swastika Society stated "Corpses were left piled up in Nanking and its neighborhood. The Red Swastika Society expressed its intention for organizing an institution to bury those corpses, but it was not organized until one month later that Japan permitted their offer," and its statement also implied that burial started the end of January. This statement coincided with what J. Rabe wrote as well in his diary, "Burial started on February 1." The actual full-scale burial didn't start until the end of January, therefore any record would be doubtful if it had described that burial started on an earlier date than the end of January 1938.

Concerning the number of burials, J. Rabe wrote in his diary dated on February 15, "Until now, 200 bodies were buried a day."²⁴ MARUYAMA also testified, "The number of burials per day was at most 200. The Red Swastika Society was capable of burying an average of 180 a day. And by the end of February, about 5,000 were buried."

Those corpses were carried as far as each designated burial place. (Available places were limited because of problems of ownership.) It was absolutely hard labor to dig frozen ground more than 2 meters deep by hand in the severe Nanking winter, and to bury bad-smelling corpses. They had to dig more than 2 meters deep lest hungry wild dogs could dig them out.

In March, burials per day increased in number. 'Wondering whether burial would have completed before it got warm,' the Nanking Secret Service provided them with five trucks and made them work day and night with an increase in the number of laborers under the terms of 30 Sen per corpse of extra charge. As a result, 'the number of burials per day increased by from 600 to 800,' according to MARUYAMA. The same number could be found in the report dated on March 4, addressed to the Foreign Office in Germany by Georg Rosen, secretary of German Embassy to Nanking. The report stated "The Red Swastika Society was burying 500 to 600 corpses a day."

At this time, however, a serious issue happened. Having padding the number of

²⁴ The Good Man of Nanking, p.197



buried corpses in order to gain more wages, the Red Swastika Society reported on their activities.

MARUYAMA testified, "We received a report saying the Red Swastika Society had buried 31,791 by March 15. But we recognized the report as having empty figures. As of the end of February, 5,000 was reported, and on March 15, the figure mounted to 31,791. It was calculated that they had buried 26,000 in fifteen days. In other words, 1,700 a day had to be disposed. However, as far as I knew, the number of burials in the list was estimated to be not more than from 600 to 800 a day, which was supposed to be the maximum number. So there must have been considerable amount of padded figures. We were aware of the empty figures from the beginning, but we had to accept the list as it was, in order for the future job not to be suspended." (Showa History Institution)

What was the actual figure of burials?

According to the number of working days submitted to the IMTFE, the actual working days were 22 days from the end of January to the end of February and ten days in the middle of March. The actual working days and the number of corpses buried per day from the MARUYAMA's assumption would be counted to 4,400 (multiply 200 burials by 22 days) by the end of February, and about 6,000 to 8,000 (multiply 600 to 800 burials by ten days) in the middle of March. The total number would be from 10,400 to 12,400. This figure could almost coincide with that appeared in The Nanking City government general condition (edited by the Nanking Secret Service) which read that 9,364 were buried in the period of from January 1938 to April.

Based on the facts stated so far, the actual burials made by the Red Swastika Society were around 10,000, so that the identity of corpses could be assumed to be the war dead of the Chinese Army.²⁵

The Prosecution was quoting two burial lists of the Advance Benevolence Society and the Red Swastika Society to verify the massacre as the strong evidence, but it

²⁵ The Battle of Nanking, p.351. Battle of Nanking Editorial Committee estimates that Chinese soldiers were killed in action with 12,366 from December 4 to 12 evening, based on the Nanking Garrison Battle Report.

was all but impossible for these two lists to prove 155,297 murders committed by the Japanese Army.

Now, the CCP is so confident of and insistent on 'massacre of more than 300,000 in Nanking' that most of people have misunderstood as if there must be many definitive proofs. But, the Chinese postwar investigations are not able to prove even 10,000 of murders, much less 300,000.

Argument 3

Did westerners witness the massacre?

The indictment pointed out that westerners who remained in Nanking during the period of the fall of Nanking and the Japanese occupation, also had eye-witnessed the massacre, as follows:

Most of a hundred westerners, who consisted of diplomats, journalists and missionaries from Europe and the U.S., witnessed and reported the massacre on an international scale.

For example, H. J. Timperley, China correspondent of Manchester Guardian wrote an article titled What War Means; The Japanese terror in China (London: Victor Gollancz, Ltd., 1938), which resulted in world-shaking information. The most reliable evidences were those collected by the German diplomatic organization.

In those days, Germany and Japan were allied with each other, and German people could walk freely around the city as long as they wore their swastika armband and party badge. Therefore, they were in the best position to be able to obtain information relative to the Japanese Army. According to German diplomatic documents which the allied powers seized during the war, the reports from the German Embassy at Nanking to the home government ran as follows: "The Japanese Imperial Army itself committed a crime, it was not owing to Japanese individuals... They were just like brutal machines."

This indictment could be read as if the westerners, as well, had testified to the massacre of 300,000. But, some decisive facts were missing. The fact was that



not only was the number of casualties the westerners declared at most 60,000 as J. Rabe assured, but also no one among them asserted 300,000.

In fact, only some 20 westerners in all remained in Nanking during the period from the fall of Nanking to the Japanese occupation, and most of them belonged to the Safety Zone Committee. Diplomats and journalists had already left Nanking. Therefore, a large amount of reports and articles they wrote were based on the same source of information.

For example, the contents of H. J. Timperley's *What War Means: The Japanese terror in China* were written based on M. S. Bates' and George A. Fitch's letters and the documents addressed to Japanese authorities from the Safety Zone Committee. Timperley was an adviser of the Central Propaganda Agency of the KMT, but he himself was not in Nanking.

The documents of German Embassy at Nanking referred to in the indictment seemed to mean two documents. One was "The copy of a secret report of a German witness concerning the happenings in Nanking during the period from December 8, 1937 to January 13, 1938" which was sent from Trautmann at Hankow to the Ministry of Foreign Affairs in Berlin. This report was submitted to the IMTFE and ran as follows:

Although no shot was ever fired on the Japanese by the Chinese in the city, the Japanese shot dead at least 5,000 men, mostly at the river, so that one could forgo the burial.²⁶

Another was "The letter from John. H. D. Rabe, at Nanking dated on January 14, 1938, to German consul general to Shanghai" which wrote about casualties as follows:

The Japanese military authorities [seemed] apparently [to have] lost [the command system] over their troops, who for weeks plundered the city after its capture, violated about 20,000 women and girls, slew thousands of innocent civilians (among them 43 workers of the power plant [were included]) in a

²⁶ The Tokyo War Crimes Trial, p.4601

brutal manner (mass murder by machine gun fire was among the humanitarian methods of execution) and did not shy away from also entering into foreign homes.²⁷



There were only five western correspondents who remained in Nanking after the fall. One of them, whose name was F. Tillman Durdin, correspondent to Nanking of the New York Times, wrote on December 18 as follows:

The killing of civilians was widespread. Foreigners who traveled widely through the city Wednesday [15th] found civilians dead on every street. Some of the victims were aged men, women and children.

This article was based on hearsay as it specified 'foreigners' who traveled widely through the city. Who were these 'foreigners'? They were Rabe, Bates, and other members of the Safety Zone Committee. Especially Bates drove Durdin to the harbor and saw him off. Durdin got on board a ship and left Nanking at 2:00 p.m. on December 15. Bates, as a member of the Safety Zone Committee, wrote a memo and handed it over to Durdin and Archibald T. Steele, correspondent of the Chicago Daily News, and then they wrote articles based on the memo.²⁸

Both reports by the westerners and the U.S. and German official documents originated in the information given by particular westerners who stayed in Nanking during the period from the Nanking fall to January next year, namely who were some 15 members of the Safety Zone Committee.

Then how many murders did the committee members eyewitness?

The Safety Zone Committee recorded each one of 'brutal acts committed by the Japanese Army', whenever they knew right before the Nanking fall on December 12,

²⁷ The Tokyo War Crimes Trial, pp.4593-4594.

²⁸ Clarence E. Gauss, U.S. total consulate to Shanghai, sent the Secretary of State in Washington the letter of confidential report, on January 5, 1938 (Record of U.S. Embassy to China, Correspondence American Embassy Nanking), and it ran as follows:
Enclosed is the memo regarding the situation of Nanking after Japanese troops occupation that Dr. S. Bates (professor of sociology and history in the Nanking University) wrote. The copy of this memo is the one that A. Steele of the Chicago Daily News handed the total consulate personnel of Shanghai.

1937 through February 7, 1938. These records were compiled in Documents of the Nanking Safety Zone edited by Shuhsi Hsu, sometime adviser to the Ministry of Foreign Affairs, under the auspices of the Council of International Affairs, Chungking. (It was regarded as an outer organization of the KMT.) And they were described as the notification on 405 cases of casualties submitted to Japanese authorities in Nanking. As for murder cases, there were 25 cases in all (49 casualties). Furthermore, the committee members witnessed only two cases among them.

One of two cases was testified by J. Magee at the IMTFE.²⁹ The incident happened on December 17. It was said that no sooner had two Japanese soldiers challenged a Chinese walking along the street, he ran away. So he was shot behind. In the battlefield, such a case could not be avoidable.

Table 4 Japanese violence recorded by the Safety Zone Committee

(Dec.12,1937~Feb.7,1938)

Date	Murders	Injuries	Taken away	Rapes	Looting, Others	Note
Dec.12~18	26	9	334 A	112 AAAB	30	
Dec.19~Jan.10	6	11	25 B	115 BB	30	NO.114-136 NO.155~164
Jan.11~Feb.7	17	24	31 B	84 BBB	119	NO.204-209
Total	49	44	390 ABB	311 AAA BBBBBB	179	NO.1-444 405 full cases

*Source: Documents of the Nanking Safety Zone, edited by Shuhsi Hsu.

1: NO means a document number. Number means number of victims.

2: The number of victims is ambiguous, therefore. A, B are used as plus something.

²⁹ As to this case, Rev. John G. Magee testified in the IMTFE as follows:

Rev. John G. Magee... We, foreigners were looking outside from the balcony of the house and actually witnessed a Chinese was killed. The Chinese was walking along the street before this house with a long silk gown, two Japanese soldiers challenged him from behind, and he was so frightened, he was trying to get away. He hastened his pace, and was trying to get around a corner in a bamboo fence, hoping there was an opening, but there was no opening. The soldiers walked in front of him and couldn't have stood more than five yards in front of him, and both of them shot him in the face. (The Tokyo War Crimes Trial, pp.3900-3901.)



Another case was witnessed by C. Rroeger and Hatz. It was said 'that on the morning of January 9, they witnessed a Japanese officer and a soldier executing a poor man in civilian clothes in the pond inside the Safety Zone.'³⁰ For this case, the Safety Zone Committee investigated and concluded in the 'Note' in Documents of the Nanking Safety Zone that they had no right to protest about legitimate executions by the Japanese Army. The Safety Zone Committee also regarded the 'man in civilian clothes' as one of the Chinese Plain-clothes soldiers, and accepted that the execution was 'legal'. Both of two cases that the westerners witnessed were legal actions.

It was clearly proved by their testimonies at the IMTFE that no committee members had witnessed 'illegal murders by Japanese soldiers' at all. O.Wilson, who made many testimonies as to atrocities, did admit that all of his testimonies were hearsay.³¹ Magee, who lived with Bates and worked for the Safety Zone Committee, testified that he had just eye-witnessed only one case.³²

As a matter of fact, neither Rabe nor other westerners of the Safety Zone Committee members, who might have been able to walk around freely in the city with Nazi Swastika armband on, had ever witnessed illegal murders by Japanese soldiers during six weeks.

³⁰ Documents of the Nanking Safety Zone, p.78. as follows:

185. On the morning of January 9, Mr. Kroeger and Mr. Hatz saw a Japanese officer and soldier executing a poor man in civilian clothes in a pond inside the Safety Zone on Shansi Road, just east of the Sino-British Boxer Indemnity Building.

Note: We have no right to protest about legitimate executions by the Japanese army...

³¹ Robert O. Wilson, associate in Surgery at the University Hospital in Nanking testified following the cross-examination in the IMTFE as follows:

Counsel OKAMOTO: About how many patients did you turn away, do you remember the ballpark figure?

Wilson: I would have no way of telling that, principally because my work was in the operating room and I was there busy most of the time day and night for a few weeks after the occupation. The others outside the operating room handled the outpatients and had to turn away patients when there were no beds. (The Tokyo War Crimes Trial, p.2552.)

³² John G. Magee testified following the cross-examination in the IMTFE as follows:

Counsel: Now, how many of these acts of murder did you personally witness, Mr. Magee - approximately?

Magee: I thought I made that clear in my testimony. I only personally witnessed the killing of one man. (The Tokyo War Crimes Trial, pp.3929-3930.)



A trick that Rabe made on his assurance of 50,000 to 60,000 casualties

Rabe, who had never witnessed even one case of murder, sent a report to Hitler by saying the number of victims were '50,000 to 60,000,' while to the German Embassy in Shanghai, by saying 'thousands'. On the other hand, in the letter to Prideaux-Brune, the British ambassador at Nanking dated on January 28, he wrote as follows:

Of the 250,000 refugees in Nanking, a large proportion is homeless due to the extensive burning that has taken place in the city and its vicinity. Also there are many hundreds, if not thousands, of cases where the wage earner has either been taken away or killed, and where the family is in acute distress.³³

In 1997, Rabe's diary was published worldwide and in 2000 it would be made to a movie. It would be next to impossible to judge Rabe's testimonies to be due evidence, because he varied widely in the number of victims by report depending on his intended audience.

By the way, what was the Rabe's figure of 50,000 to 60,000 based on?

In the official report to Hitler, Rabe described "According to the Chinese claims, 100,000 civilians have been killed, however, this is probably somewhat of an overstatement. We, foreigners assume there have been about 50,000 to 60,000 victims." His figure of victims derived from the idea of comparison with the Chinese claims.

Whom did 'the Chinese who claimed the figure' mean?

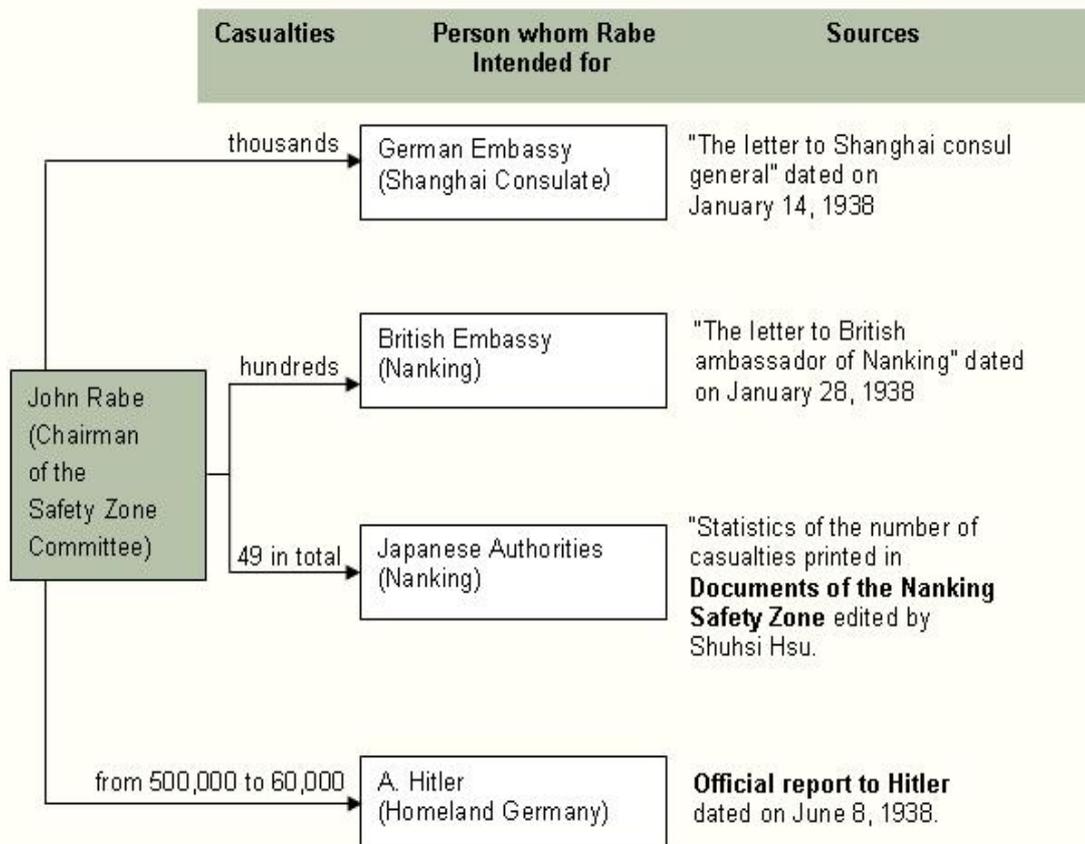
According to Rabe's diary, at that time those Chinese in the Safety Zone, were limited to persons who could communicate with Rabe in the Safety Zone. Only those who could speak in either English or German were the Chinese staff who helped work in the Safety Zone Committee and Chinese officers, Colonel Lung and

³³ Documents of the Nanking Safety Zone, p.112.

Chow.³⁴ Particularly two career officers stayed hidden in Rabe's residence, having with them several trunks full of money, by Tang Sheng-zhi's order. What did they do with the money while they lay hidden? It would be quite natural to guess that they maneuvered to preclude Japanese occupation by spreading a false rumor. It was known that General Sun Yuan-liang, the commander of the 88th Division was conducting the disturbance maneuvering against the Japanese Army with Ma Poushang, the former adjutant of the 88th Division who hid himself in the Safety Zone.

Rabe might have known that what the Chinese had given as an account of the number of casualties were nothing but rumor, because the committee members did know very well by themselves that the population in the Safety Zone never decreased but increased. Furthermore, in no less than 69 letters to the Japanese authorities, nothing was written against Japanese massacre to civilians.

Chart 5 Number of casualties report by Rabe



In short, it might be pertinent that Rabe intentionally manipulated the information.³⁵

For fear of counter objections, he reported to the Japanese authorities in Nanking the number of casualties to be 49 based on some extent of reliable information. But on the other hand, to journalists, German diplomats and A. Hitler who were all absent in Nanking, he reported figures with an enormous difference, as if no less than tens of thousands civilians had been killed by Japanese troops.

Why did Rabe make a false report of the massacre to Hitler?

According to German historian Gerhard Krebs, the reason was based on power politics in his German homeland.³⁶

Defeated and depressed in World War I, Germany knew that China was a significant trade partner. Particularly Chiang Kai-shek, who was fighting against the CCP, needed a large number of weapons, while Germany was able to import raw materials that were indispensable for the postwar reconstruction.

The China Incident (Sino-Japanese War) forced Germany to reconsider its foreign policy toward China. The Japanese government repeatedly demanded that Germany stop the export of weapons to Japan's enemy Chiang Kai-shek. As the

³⁵ The Safety Zone Committee frequently requested the Chinese Troops (Nanking Garrison) to leave from the Safety Zone to defend its neutrality. However, Commander Tan refused the demand. If the Japanese Army had known this fact, they would attack the Safety Zone. Thereon, Rabe and other members of the Safety Zone Committee made the memo for a press release lying that 'there were no Chinese soldiers in the Safety Zone.'

Rabe was writing in his diary dated on December 5 regarding the details as follows:
"Together with Dr. Bates and Sperling I pay a call on General Tang, who is in charge of the city's defense, in order to get his consent to have all military personnel and establishments removed from the Zone at once. Imagine our amazement when General Tang tells us that this is quite impossible, that at best it will be another two weeks before the military can vacate the Zone. A nasty blow. It means that the Japanese condition that no Chinese soldiers are to be allowed in the Zone will not be fulfilled. For now at least we cannot even think of claiming to have a 'Safety Zone', at most it's a 'refugee zone.' The matter is discussed at a long committee meeting and a text prepared for release to the press, because if we don't want to see our work destroyed, we dare not let the press learn the whole truth yet..." (The Good Man of Nanking , p.50.)

³⁶ Gerhard Krebs, "German Military Advisers Reconsidered," Gunji Shigaku vol.33 (Tokyo : The Military History Society of Japan, 1997)



result, Hitler decided to take advantage of containment against the Soviet Union by promoting strong relationship with Japan. Germany refrained from exporting weapons to the Chiang Kai-shek. (In fact, it was in 1940 when Germany reached an agreement with Japan.)

There were someone strongly resisted the change of policy taken by Hitler. They were Von Falkenhausen, the head of the military advisory group in China, and Rabe, who represented an interest of Siemens in the Chinese munitions industry as a pro-Chinese group. Rabe exaggerated the Japanese Army's atrocities and requested Hitler to reconsider the alliance with Japan.

Rabe's anti-Japanese reports had been thought suspicious since then. P. Scharffenberg, the secretary general of the German Embassy to China, who returned to Nanking on January 9, tried to investigate the fact about 'Japanese Army's atrocities Rabe reported' by himself, and wrote to the German Embassy at Hankow on February 10:

... He [Rabe] is still actively trying to counter the bloody excesses of Japanese looters, which have unfortunately increased of late. To my mind, this should not concern us Germans, particularly since one can clearly see that the Chinese, once left to depend solely on the Japanese, immediately fraternize. And as for all these excesses, one hears only one side of it, after all.³⁷

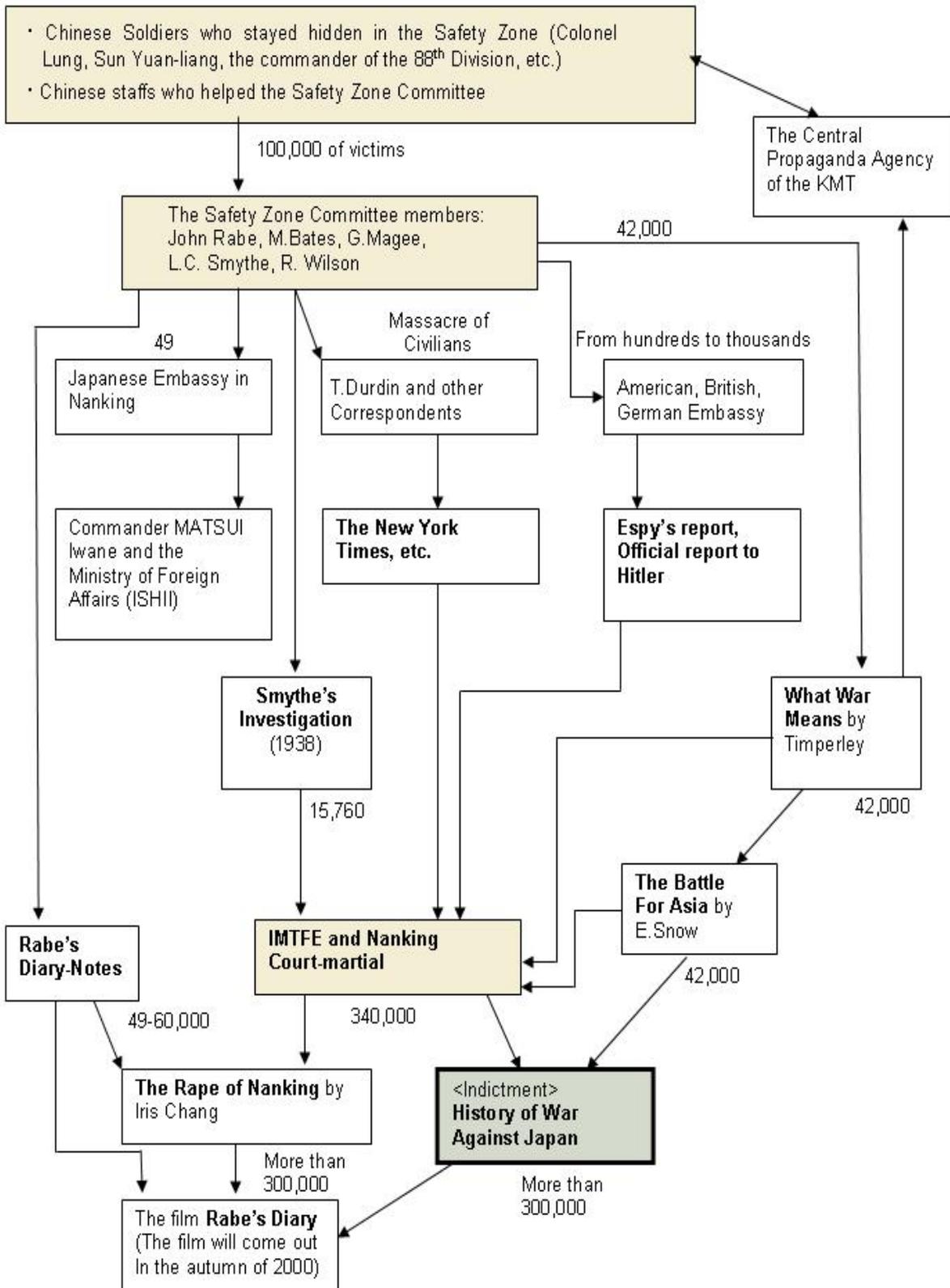
In the U.K., the Nanking battle became public criticism, too. Referring it, Sir Charles Addis mentioned at Chatham House on November 10, 1938, as follows:

Between two countries at war there was always a danger that one or other of the combatants would seek to turn public opinion in his favour by resort to a propaganda in which incidents, inseparable alas (!) from all hostilities, were magnified and distorted for the express purpose of inflaming prejudice and passion and obscuring the real issues of the conflict.³⁸

³⁷ The Goodman of Nanking, p.190.

³⁸ Radhabinod Pal, Dissentient Judgment of Justice Pal, (Tokyo: Kokusho-Kankoukai, 1999) p.606.

Chart 6 Process of the information of 'Massacre'



17 different causes of the death

Some would say, "It was true that westerners did not eyewitness the scene of the murder, but they saw many dead bodies in the city of Nanking." For example, Durdin wrote in the New York Times dated on December 18, 1937:

The capture of Hsiakwan [Yijiang] Gate by the Japanese was accompanied by the mass killing of the defenders, who were piled up among the sandbags, forming a mound 6 feet high. Late Wednesday the Japanese had not removed the dead, and two days of heavy military traffic had been passing through, grinding over the remains of men, dogs and horses.

This appalling sight was described in Japanese history textbooks as one of the scenes to symbolize the 'Nanking Massacre'. Durdin seemed to have believed that the Chinese dead bodies left behind near Yijiang Gate were those killed by Japanese troops. But that was far from the fact.

Tan Dao-ping, the commander of the 261st brigade, the Chinese 87th Division wrote in his book, entitled *The Battle of Nanking* (published in 1987, China Sentence History Publishing company) about the scene on late afternoon of December 12, 1937:

The 36th Division 212th Troops under the command of Song Xilian was ordered to obstruct withdrawal of dissolved troops. But even after the order of the retreat they set up a barricade of barbed wire on the road near Yijiang Gate, and machine guns placed on the street, refusing their withdrawal. At night, therefore, they got into panic with shooting battles between the troops running away from Yijiang Gate and the 36th Division 212th Troops, which would preclude by force soldiers in full retreat. As a result the inside of Yijiang Gate became out of order.

The Chinese Army had a unique fighting organization, called the 'Supervising unit'. This unit urged soldiers to advance against the front line and watch over them. If any soldiers tried to escape, they would be shot by this unit. Chinese dead bodies near Yijiang Gate were those killed by the 'Supervising unit'.

In fact, before the Japanese Army entered Nanking, there had been many corpses in



the city. German correspondent Lily Abegg wrote an account entitled *Escape from Nanking: Our Last Days in China's Capital*, as to the aspect on November 29, 1937:

Wherever we went, we could see that order was given way to chaos. A train carrying 2,000 wounded soldiers arrived at Nanking Station, but no one paid it any heed. There were no medical soldiers. The wounded soldiers were left there for two days, and during the time, dragged out of the train with corpses. The corpses emitted a horrible stench, polluting the air.³⁹

On December 7, 1937 the Nanking Garrison thoroughly burnt down the area around the Nanking city. Citizens were burned out, and the refugees dashed into the city. Commodity circulation and food distribution was suspended, so that food shortage became serious at an increasing tempo. In some areas, even riots flared up.

In order to maintain public order, the Nanking Garrison shot to kill all of those who seemed suspicious, at random.⁴⁰

Around December 10, the city completely fell into a state of anarchy. The Chinese soldiers came to be out of control and began looting. James Espy, the vice American Council at Nanking, reported to the American Embassy at Hankow concerning the aspect of the city right before the fall of Nanking as follows:

Monition should be made here, however, that the Chinese themselves are not altogether exonerated of depredations, at least to some extent, before the entry of the Japanese. During the last few days some violations of people and property were undoubtedly committed by them. Chinese soldiers in their mad

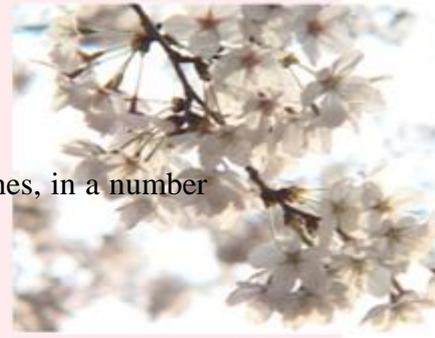
³⁹ J. Rabe described a similar sight in his diary as follows:

23 November... A steady stream of wounded men are arriving at Hsiakwan station. Dr. Smythe sends some student volunteers to the station to receive them. (*The Good man of Nanking*, p.29.)

13 December... Three of us committee members drive out to military hospitals that have been opened in the Foreign Ministry, the War Ministry, and the Railway Ministry, and are quickly convinced of the miserable conditions in these hospitals, whose doctors and nurses simply ran away when the shelling got too heavy, leaving the sick behind with nobody to care for them... The dead and wounded lie side by side in the driveway leading up to the Foreign Ministry. (*The Good man of Nanking*, pp.65-66.)

⁴⁰ The Tokyo *NichiNichi* carried a special dispatch sent from Shanghai on December 8, 1937 as follows: Since the morning of December 7, Tang Sheng-zhi, commander-in-chief of the Nanking Garrison has further bolstered security in the city, fearing those residents will become violent amid the turmoil. Anyone who seems the least bit suspicious is gunned down. Chinese newspapers report that 100 persons have been shot dead so far.

rush to discard their military uniforms and put on civilian clothes, in a number of incidents, killed civilians to obtain their clothing.⁴¹



In Nanking, there were many corpses, and those corpses wore civilian clothes.

Logically, the cause of their death could be broken down into 17 different causes at the maximum. Those corpses did not necessarily prove that there existed illegal murders on a large scale by Japanese soldiers.

Argument 4

Were Japanese high officials aware of the massacre?

The indictment claimed that the then Japanese Army's high officials had been aware of the massacre committed by the Japanese Army.

In 1948 after World War II, the IMTFE in Tokyo gave the death penalty to MATSUI Iwane for the crimes of 'Nanking Massacre'. After receiving the sentence, he expressed sorrow for the consequence of the Nanking Incident and said: "Immediately after our entry to the city of Nanking on December 17, I was informed about the brutal acts committed by the soldiers everywhere, and showed the concern in front of my subordinates. Though we had been behaving with glorious dignity of the Imperial Army, we had ruined our reputation once for all by these brutal acts." While his statement was an excuse in order to reduce his crime as much as possible, it admitted the crime committed by the Japanese Army.

Also, ISHII Itaro, the then chief Of the East Asia Bureau of the Ministry of Foreign Affairs, wrote in his diary dated on January 6, 1938, concerning what had happened in Nanking. "The reports came from Shanghai, telling about the miserable conditions due to the atrocities in Nanking where our troops had been committing looting and rape. Ah, how shameful! How corrupted the hearts of those people who committed the crimes! It is a big social problem." (The Life of a diplomat)

⁴¹ The Tokyo War Crimes Trial, p.21413.

Table 5 Type of Chinese Corpses in Nanking

Offender	Types of Corpses
Japanese and Chinese Armies	1: War dead
	2: Chinese corpses, who were sent back to Nanking after died in Shanghai Battles. (including plain clothes)
Chinese Army	3: Victims of spy hunting by Chinese Army (plain clothes)
	4: Chinese civilians, who looted, then were killed by security police of china. (plain clothes)
	5: Victims who were killed by Chinese rioters in a chaotic condition.
	6: Soldiers who were killed by Supervising unit around Hsiakwan or others.
	7: Soldiers who were crushed to death in running away or drowned in the Yangtze River. (including plain clothes)
Japanese Army	8: Soldiers who were shot in the mopping-up operation. (including plain clothes)
	9: Soldiers who were extracted and executed due to their resistance. (plain clothes)
	10: Civilians who cooperated with the Chinese Army and were killed in battles (plain clothes)
	11: Soldiers who died due to accidents and disease after surrendering.
	12: Soldiers and civilians who were killed of suspicious behavior by the Japanese Army.
	13: Civilians who were taken for plain clothes soldiers and killed. (plain clothes) ※
	14: Soldiers who were killed after surrendering. (including plain clothes) ※
15: Civilians who were killed without offering any resistance. (plain clothes) ※	
Others	16: Death due to decease and death from exposure on the street (The season was midwinter.)
	17: Bodily injuries resulting in death among Chinese civilians.

1: Among the above 17 cases, victims who have been killed by the Japanese soldiers illegally (breach of the international law) are only three cases (※13-15). However, Case 13 has happened because Chinese soldiers camouflaged civilians, therefore, the illegality will be reduced. Moreover, Case 15 has never been verified with the official document.

2: Reasonable sources of the above cases are as follows: (Except cases in the text)

◎*Rabe's Diary* "23 November ... A steady stream of wounded men are arriving at Hsiakwan station. Dr. Smythe sends some student volunteers to the station to receive them." (*The Good Man of Nanking*, p.28.)
 "13 December Three of us committee members drive out to military hospitals that have been opened in the Foreign Ministry, the War Ministry, and the Railway Ministry, and are quickly convinced of the miserable conditions in these hospitals, whose doctors and nurses simply ran away when the shelling got too heavy, leaving the sick behind with nobody to care for them.... The dead and wounded lie side by side in the driveway leading up to the Foreign Ministry. (The Good Man of Nanking, p.65)

◎*Yomiuri Shanghai* dated on December 1, " The condition in the walls was so chaotic that numerable people were shot under the Spy Hunting every days, their gibbet heads covered with fresh blood were seen everywhere of telegraph poles or the street corners, and the number of people who starved to death was increasing." (*The Battle of Nanking*, p.272.)

3: Besides taking advantage of plain-clothes soldiers, the Chinese Army has included soldiers who couldn't afford wearing military uniforms and couldn't afford not to fight with plain-clothes on. Therefore, corpses having plain-clothes on don't always mean civilians

4: Japanese corpses aren't included in the above cases. Japanese corpses, who died in the battle (Most of them were left outside the walls), have cleared away by December 18, when the memorial ceremony sponsored by the Japanese Army was held.



Furthermore, there was a memoir, written by OKAMURA Yasuji, the then commander of the 11th Army. He finally became the Supreme commander of China Expeditionary Army following the North China Area Army commander. "In a couple of days after arriving at Shanghai, I obtained information as to the situation in Nanking from MIYAZAKI Shuichi, staff officer dispatched in advance, HARADA, the director of the Central China Area Army's Secret Service, and HAGIWARA, the chief of the Hangchow's Secret Service. They informed me of the following:

There existed a large scale of violence accompanied with incidents of looting and rape against tens of thousands of citizens during attack of Nanking. Also, among the front-line troops, the killing of POWs occurred due to the shortage of food-supplies. [INABA Masao's book, called General OKAMURA Yasuji Historical Source, published by Hara Shobo]

According to the 'War Diary' of MATSUI, he entered the city of Nanking on December 17, the day of the entrance ceremony, and left Nanking for Shanghai by boat on the 22nd. On the 20th, he wrote:

"I heard that there was a fear expressed for a while by the residents of Nanking, including the foreign residents within the city, but they gradually became tranquilized along with the slowdown of our troop activities. There were some unavoidable looting (mainly the stealing of furniture) and rape incidents by our soldiers for a while."⁴²

As he said, "according to what I heard," he must have heard it from someone who had read the documents (complaints) submitted by the Safety Zone Committee. Aware of this, MATSUI emphasized the importance of thoroughly obeying military discipline during his speech made in the presence of chiefs of staffs of various divisions under his command, at the memorial service held on December 18. Even though the crimes committed were small in number, it must have been unbearable for him to hear of the crimes committed by Japanese soldiers, as he always spoke of stern military discipline. The court-marshal was held and more than ten soldiers were punished according to the policy of MATSUI who always said, "The looting and the rapes should be punished."

⁴² Source Material Relating to the Battle of Nanking, vol.1, p.22.



What MATSUI said, "It was really a shameful incident" after receiving the death penalty by the IMTFE, meant that he expressed his regret at the existence of ten and several soldiers, in spite of the small number, who committed the shameful crimes like looting and rapes as soldiers of the Japanese Army. Furthermore, he kept denying it in the IMTFE to the last moment that the Japanese Army committed the systematic massacre in Nanking.

What about the memoir written by ISHII Itaro? He wrote "According to the reports received from Shanghai, the brutal acts, including rapes, arsons and looting committed by our troops were horrible spectacles." However, 'the reports received from Shanghai', meant 'the local reports' and 'the documents made by the Safety Zone Committee', which the Japanese Embassy in Nanking sent via Shanghai. The contents of reported atrocities were rapes, arsons and looting, and there were no reports of planned massacre. ISHII, after receiving such reports of atrocities one after another, judged without verifying the facts of them that the Japanese soldiers had committed those atrocities, because he had had ill feeling to the army in those days.

OKAMURA wrote in his memoir: "It was a fact that there occurred the atrocities of looting and rapes against tens of thousands of citizens at the time of Japanese Army's seizure of Nanking."

However, this 'memoir', was written in 1963, 'recalling his memories', and he was not in Nanking during that period. He only heard in Shanghai of the Japanese Army's atrocity in June 1938 from his staff who must have read the documents made by the Safety Zone Committee. Also, the contents of the memoir did not say any word about the massacre, but only the looting and rapes.

In other words, no Japanese high officials had ever become aware of the 'Nanking Massacre'.

2. Systematic massacre

Argument 5

Did the Japanese Army plan a systematic murder?

In a murder case, what makes a great difference is whether it was intended or not. The Prosecution accused the Japanese Army of an intentionally planned massacre as follows:

The 'Nanking Massacre' was not mere disobedience against military discipline by a group of soldiers as had been partly the postwar Japanese interpretation. When terrible murders took place in Nanking, westerners staying inside the city demanded that the Japanese Embassy and the occupational authority stop the violence. In reply to the demand, the Japanese Embassy said, "The Imperial Army had already decided to attack Nanking." After the outbreak of Sino-Japanese war, the Japanese authority not only consistently denied an entry into belligerency with China, but also regarded it as an 'incident' for the purpose of 'giving punishment'. Therefore, no rules of engagement nor the international humanitarian law in regard to the treatment of inhabitants and the POWs could be applied for this incident. Japanese violence just after the capture of the then capital city of Nanking was intended for the Japanese military clique to frighten Chinese people and to diminish their will to fight.

If the massacre of 300,000 persons had been planned, systematic planning procedures would have been necessary. If so, there must have been many official documents regarding mobilization plans through operation plans. However, no such documents were presented as evidence. The Prosecution alleged that "the Japanese government did not declare war against China so as not to apply the international humanitarian law." This was one-sided speculation developed by the CCP.

It is true that Japan did not declare war, but it was because of an avoidance of an embargo on munitions of war. Once Japan officially declared war both in name and in reality, it would become forbidden to import munitions of war from neutral nations such as the U.S. Neither did the KMT for the same reason, and the U.S.



government did not consider this incident as war, either.⁴³

The then Japanese government was nervous about how to apply the international humanitarian law in the 'incident', because interpretation and application of the international humanitarian law were quite different depending on whether the nation was at war or not. After the consultation made with the scholar of international humanitarian law, on capturing of Nanking on December 7, the Japanese Army (the Central China Area Army) notified the whole troops of the instruction entitled All the Orders and Words of Advice Concerning the Capture of and Entry into the Walled City of Nanking. It included, with the recognition of a 'state of war', 'strict prohibition of illegal actions', 'protection of foreign rights and interests', 'caution to an accidental fire' and so on. It was an official principle of Japanese Army to have to abide by the international humanitarian laws: even this conflict was an incident. It was unfair for the Prosecution not to pay attention to the existing order.

All the Orders and Words of Advice Concerning the Capture of and Entry into the Walled City of Nanking⁴⁴

The substance thereof was as follows:

1. The entire world has been paying sharp attention with the realization that the capture and entry into a foreign capital by the Japanese Army is an event, which is quite unprecedented in the history of our country and will remain permanently as a model case in the future. In view of the above fact, all troops should absolutely refrain from forcing their way violently into the city, from fighting among themselves, and from making any illegal acts.
2. Military discipline and morale of each unit should be most strictly

⁴³ The Justice, Radhabinod Pal in his dissenting judgment at the IMTFE asserted that "China also did not want to give the name of 'war' to this hostility before Japan became involved in war with the United States of America by her attack on Pearl Harbor. China did not give it the name of "war" perhaps because she needed the assistance of the so-called neutral countries who were anxious to avoid being openly at war. America also did not give it that name: perhaps she desired to escape the disabilities of her neutrality legislation whereby the shipments of arms and munitions of war to belligerents were automatically forbidden. America certainly could have openly acknowledged a state of war." (Radhabinod Pal, Dissentient Judgment of Justice Pal, Tokyo: Kokusho-Kankoukai, 1999, p.581.)

⁴⁴ The Tokyo War Crimes Trial, pp.21895-21897.



maintained so that both Chinese soldiers and civilians may respect the dignified manner of the Japanese troops and may also pledge allegiance to them. Thus, any such acts as would dishonor the Japanese Army should never be taken under any circumstances.

3. You are never permitted to approach any places for foreign rights and interests particularly diplomatic organs that are illustrated in an annexed sketched map. You should never enter any neutral zones where diplomatic corps have been established unless it is absolutely necessary to do so. (At that time, the Japanese Army has perceived that the Safety Zone was established by diplomatic corps, but in fact, by the Safety Zone Committee.) Sentries should be posted in all necessary points. Moreover, you are prohibited to enter Sun Yat-sen Mausoleum and the mausoleum of the Emperor Hsiao of the Ming Chao Era and other resting places of patriotic revolutionists that are situated outside of the walled city of Nanking.
4. Units to enter the walled city should be especially selected by the divisional commanders. The words of advice for the capture of the walled city of Nanking especially all the places of foreign rights and interests inside the wall, should be thoroughly given beforehand to all in order that no mistakes may be made for any reason whatever. If necessary, sentries should be posted.
5. Severe punishment is to be given to those who loot or who cause a fire to break out, even because of their carelessness. A great number of military policemen should be made to enter the walled city at the same time as troops in order to prevent all unlawful acts.

In those days Japan had no motive for conducting the mass killing of the Chinese citizens. In Germany, the holocaust, which might be frequently compared with the so-called 'Nanking Massacre' recently, was driven from a 'dominant motive' under the 'policy for extermination of Jewish people'. If the 'Nanking Massacre' had actually existed, there might have been some motivation. Indeed it was an argument of motivation that the Prosecution never tried to dispute so far. The Japanese had no 'policy to exterminate the Chinese'. The Prosecution explained that the motive was to threaten Chinese people. But no evidences were shown to prove it.

On the contrary, Japan had a motive to avoid illegal actions.

In those days Japan, running short in natural resources, entirely relied on the U.S. and Europe for the import of munitions and fuel, actually 65% of the import was from the U.S. and Europe. The embargo from the U.S. was barely avoided at the close of the Manchurian Incident, but at the start of the China Incident, the U.S. government began to think of drastic economic sanctions against Japan. In this situation, if the Japanese Army had constituted an infringement of international humanitarian laws in the manner of repeatedly committing atrocities to citizens and POWs, westerners would have been critical and the U.S. and Europe would have started economic sanctions against Japan accordingly. The fatal damage to Japan would have been inevitable. Having been well aware of these circumstances, the Japanese government had to absolutely avoid unnecessary and unlawful acts.

Argument 6

Was the mopping-up operation a systematic murder?

For four days, from December 13 through 16, the Japanese troops had the systematic mopping-up operation and found many Chinese soldiers hiding disguised as citizens. And some of them were put to death. In the operation, the Japanese troops had no intention of killing non-combatants. But arresting the hiding soldiers disguised as non-combatants created a great deal of misunderstanding among the westerners, giving the impression the Japanese troops had systematically committed the murder of civilians.

The Prosecution asserted as follows:

On the morning of December 13, the Japanese Army entered the city. Even after the Chinese Army had already ceased resistance, the Japanese Army repeated atrocities, rapes, and looting in the name of 'mopping-up' operation. Inside the city, four divisions of Japanese troops continued such horrific activities in the large scale until December 21. And then the 16th Division remained inside the city and continued subsequently systematic massacres and looting for six weeks.



As the Japanese Army entered the city and threw hand grenades at inhabitants taking shelter, the streets were filled with dead bodies. Following this thrust, the Japanese troops made a search for stragglers from door to door and entered in the defenseless Safety Zone. Many young people suspected to be soldiers, refugees, and disarmed soldiers, were all chained one to another with the ropes and taken out of the city of Nanking and killed.

Why did the Japanese Army dare to practice the mopping-up operation, which would easily cause misunderstanding, even though it was legal under the international humanitarian law? Three reasons would be explained.

First, the KMT refused to cease fire and dared to make Nanking a battlefield. On December 9, at noon, the Japanese Army scattered 'Bills advising surrender of the Chinese Army' from the plane in order to avoid unnecessary victims.⁴⁵

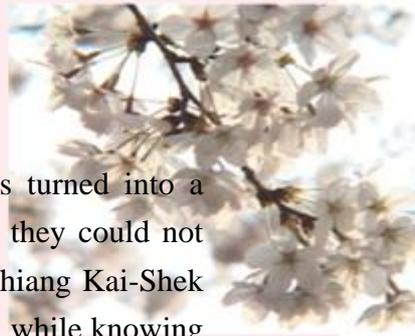
Bills advising surrender of the Chinese Army

The Japanese Army, one million strong, has already conquered Chiangnan. We have surrounded the city of Nanking... The Japanese Army shall show no mercy toward those who offer resistance, treating them with extreme severity, but shall harm neither innocent civilians nor Chinese military personal who manifest no hostility. It is our earnest desire to preserve the East Asian culture. If your troops continue to fight, war in Nanking is inevitable. The culture that has endured for a millennium will be reduced to ashes, and the government that has lasted for a decade will vanish into thin air. This commander-in-chief issues Bills to your troops on behalf of the Japanese Army. Open the gates to Nanking in a peaceful manner, and obey the following instructions.

If the KMT had accepted the Japanese summons and opened the fort, there would have been able to avoid the battle in Nanking, but the KMT ignored them. When

⁴⁵ T. Durdin wrote in the New York Times dated on January 9, 1937, as follows :

It may be that Tang made some efforts to save the situation on Sunday by arranging for a general withdrawal under protection of small units left to hold up Japanese penetration far into the city. Appearances indicate otherwise, and in any case the situation was not saved and Tang's departure, unknown even to many members of his own staff, left the army leaderless and was the signal for complete collapse.



the defense force entrenched themselves in the city, the city was turned into a 'Defense City' in term of the international humanitarian laws, and they could not make any complaint as to an indiscriminate attack. First of all, Chiang Kai-Shek should have assumed the responsibility for refusing to open the city, while knowing that the citizens would become victims.

The second reason was that Tang Sheng-zhi, the commander-in-chief of the Nanking Garrison, made the irresponsible order toward each unit on December 12, at 8:00 p.m. just before the fall of Nanking, saying "each unit must break through the surrounding army by itself and then re-assemble at the target point," and he, himself, fled with his staff officers from Nanking. Without the commander-in-chief, the Nanking Garrison was left behind in the city surrounded by the Japanese Army, then some Chinese troops continued systematic battles, and others ran away in panic into looting.

As long as the enemy did not announce formal surrender, the Japanese Army had to continue the battle. As of December 13, the Chinese Army was keeping a state of war. Actually at Tang-chui-chen in the suburbs of Nanking on the 13th, the headquarters of the Shanghai Expeditionary Force was attacked by Chinese troops.

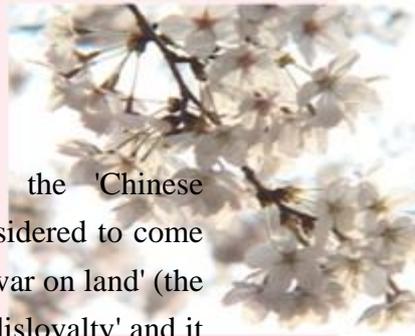
If Tang Sheng-zhi had clearly shown the intention of surrender to the Japanese Army, and the cease-fire agreement had been made, and the remaining soldiers in the city had accepted orderly disarmament, the mopping-up operation would not have been practiced.

Third, many of 'Chinese soldiers who had not surrendered,' were hiding disguised in civilian garments, and lay hidden in the Safety Zone in which no less than 200,000 of civilians had been seeking refuge. Some of them were still armed by the order of their commander.⁴⁶ The Chinese troops were apparently making

⁴⁶ For example, the China Press in Shanghai, January 25, 1938 wrote as follows :

Claiming that many Chinese army officers and other ranks were seeking refuge in the International Safety Zone established in Nanking following the evacuation of the capital by Chinese troops, Colonel Nagai, army spokesman, announced the report of the Nipponese gendarmerie in Nanking at yesterday's press conference...

It was ascertained, the report claimed, that high officers of the Chinese army were hiding in buildings, foreign embassies and legations after these buildings were evacuated by their staffs. Up to December 28, it said, 23 Chinese officers, 54 non-commissioned officers, and 1,498 privates were seized by the Japanese in the various buildings in the zone. Among them, it is claimed, was the commander of the Nanking peace preservation corps, Wang Hsing-lau, "who masqueraded as Chen Mi" and was in command of the fourth branch detachment of the international refugee zone, Lieutenant-General Ma



preparation for the guerrilla warfare. This attitude, having the 'Chinese Plain-clothes soldiers' pretend to be non-combatants would be considered to come under Article 23 in 'Regulation respecting the laws and customs of war on land' (the 4th Hague Convention) concluded in 1907 that specifies an 'act of disloyalty' and it infringed on the international humanitarian law. Therefore, it was legal activity that the Japanese Army conducted the mopping-up operation to arrest and to intern the Chinese Plain-clothes soldiers.

How was the mopping-up operation practiced? As the indictment pointed out, did the Japanese Army instruct or authorize massacre and looting?

On the 13th prior to practice of the operation in the whole Nanking city, the 6th Infantry Brigade under the 9th Division of the Shanghai Expeditionary Force ordered 'protection of foreign privilege', 'prohibition of unduly behavior', 'protection of non-antagonistic civilians', 'prohibition of looting', and so on.

Rules of Engagement as to mopping-up (issued by Major General AKIYAMA Yoshimichi, the commander of the 6th Infantry Brigade prior to an entry into the city at 10:00 a.m. dated on Dec. 13th.⁴⁷)

1. Execute mopping-up after seeing to it that the precautions per the brigade commander are thoroughly enforced to all ranks.
2. Entry into any buildings belonging to foreign interests is strictly forbidden, unless said building is being used by the enemy. Post soldiers on sentry at important places.

Pou-shang, former adjutant of the 88th Division, and a high official of the Nanking Police, Mi Shin-shi. General Ma, it is claimed, was active in instigating anti-Japanese disorders within the zone, which also sheltered Captain Hwan An and 17 men with a machine-gun and 17 rifles, while the report states that Wang Hsing-lau and three former subordinates were engaged in looting, intimidating and raping. In dugouts adjoining foreign embassy and legation quarters evacuated by their foreign staffs, the report continued, were found caches of arms. A search in one particular dugout disclosed :

One light artillery gun
21 machine guns of Czechoslovakian manufacture with 60 rounds of ammunition
three other machine-guns
10 water-cooled machine guns with 3,000 rounds
50 rifles with 420,000 rounds of ammunition
7,000 hand grenades
2,000 trench mortars shells
500 artillery shells.

⁴⁷ As to the original, refer to page 186 and 187 in *The Battle of Nanking*.

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3. Mopping-up units are in charge of wiping out enemy stragglers and are to be commanded by officers at all times. Anyone ranking in non-commissioned officer or below is absolutely forbidden to act independently.
 4. Regard young people and adult males as stragglers or Plain-clothes soldiers, and place them under arrest. With that exception, Chinese civilians other than young people and adult men who do not behave in a hostile manner, especially the elderly, women and children are to be treated kindly and open-mindedly, so as to have them respect for the dignity of the Japanese Army.
 5. Post sentries at public or private banks, but do not enter such establishments.
 6. Take precautions against entering private houses and taking actions similar to looting, and prohibit from abusing and abandoning unnecessary amount of articles.
 7. Anyone who commits arson or cause an accidental fire shall be severely punished.
10. In case of fire, the mopping-up units, as well as any other units in the vicinity of the fire, shall endeavor to extinguish it.

It was 10:00 p.m. of Dec.13 when the headquarters of the Shanghai Expeditionary Force issued the official statement on the 'fall of Nanking'. At that time, the Chinese Army still continued the resistance outside and inside the castle. That is, the 'mopping-up operation' was a military action ordinarily taken place in wartime. As indicated in paragraph 3, every mopping-up unit was always commanded by officers, so that anyone could not open fire thoughtlessly. The reason why paragraph 7 and 10 referred to a 'fire' was to prevent from increasing damage on occupation and to secure military installations for the Japanese Army.

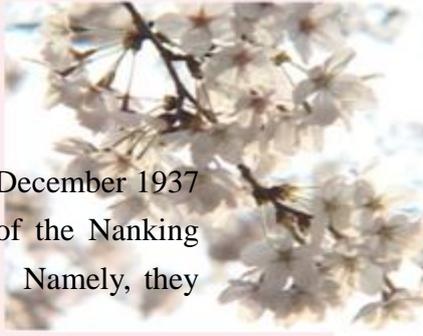
What was more remarkable in the rules of engagement was not to kill Chinese soldiers immediately, but 'arrest and intern'. But the rules of engagement included 'arrest and internment of all the youth looked upon as stragglers.' This meant, as stated above, the Japanese Army might as well suspect all the youth even in civilian clothes, because Chinese soldiers disguised as civilians lay hidden.

Considering the above situation, it should be able to point out the following misunderstandings in the indictment.



1. It was not until on the late afternoon of December 13, 1937, that Chinese troops inside the walled city gave up their resistance. On early morning of the 13th when Japanese troops successfully approached the city, severe battles were expected in the streets.
2. The mopping-up operation was a military action in the enemy's territory where many soldiers were hidden. Under the strain and with fright at unexpected sniping, Japanese soldiers searched about among main buildings. They could not have had time for looting or rape, nor could they mentally afford to, and furthermore looting and rape was prohibited by the order.
3. When Japanese troops (about 10,000 soldiers) entered the walled city, most of the Chinese citizens had already assembled in the Safety Zone, and it was absolutely impossible for Japanese soldiers to throw hand grenades into the crowd of people who were seeking refuge. Dead bodies had already been on the street before the Japanese Army entered the city. They were victimized among themselves.
4. The Safety Zone Committee declared "there is no Chinese soldier in the Safety Zone" and refused to let the Japanese troops search the Safety Zone. But actually the committee had been harboring a great number of Chinese soldiers. Therefore, the Japanese troops (about 1,600 soldiers) earned out a search. As a result, a large amount of arms and bombs: 960 rifles, 390,000 bullets, 55,000 hand grenades and so on were found. At the same time, 7,000 stragglers were identified and arrested.⁴⁸ Following the search, continuous arsons occurred. Therefore, the Japanese Army distinguished soldiers from inhabitants from December 24, 1937, through January 5, 1938, and found and arrested 2,000 of Chinese soldiers led by officers, along with a large amount of weapons and munitions. The Safety Zone had to be a neutral zone without defense, but it was not a disarmed area, but a dangerous zone where Chinese armed soldiers were lying hidden with a great deal of arms.
5. Through the mopping-up operation, many arrested Chinese soldiers were put into prisons and the interned POWs were about 10,000 in number. A

⁴⁸ The Battle of Nanking, p.329.



half of them were sent to Shanghai as laborers at the end of December 1937 and most of the remainder were admitted into the Army of the Nanking Government led by Wang Ching-wei, established in 1940. Namely, they were by no means given immediate execution.

On one hand, the Japanese Army intended to follow the policy to protect civilians, and on the other hand, it was true that the Japanese Army arrested and confined the youth suspected as combatants. As to these affairs, the Safety Zone Committee and the KMT had to mainly assume responsibilities. Because the committee had harbored a great number of Chinese soldiers while it kept saying "The Safety Zone is a neutral zone" and the KMT dared to involve into war the city of Nanking where no less than 200,000 inhabitants were living in addition to having intentionally used Plain-clothes soldiers against the international humanitarian law.

Argument 7

Did the Japanese Army have a policy of killing POWs?

The Prosecution asserted "Japanese troops primarily had an intention of killing the POWs," and said as follows:

At the time of Japan's surrender in World War II, as military authorities were ordered to burn all the documents which were supposed to be used in the courts against the war criminals, it was, therefore, difficult to locate documents concerning the 'Nanking Massacre'.

But according to prosecution by the person concerned, before the Nanking occupation, Prince ASAKANOMIYA Yasuhiko, the commander of the Shanghai Expeditionary Force ordered that all POWs should be killed, and at the end of the document, put a note that 'documents should be burnt after being read.'

NAKAJIMA Kesago, the divisional commander of the 16th Division wrote in his diary on December 13, 1937: "Our general policy is not to take the POWs... All POWs should be dealt in the appropriate way in accordance with the circumstance." Furthermore his diary read, 'dealing' of many engineers and laborers in the city resulted in hours' suspension of power and water supply, and the Japanese Army was forced, as well, to lead an inconvenient life. (The Diary



of General NAKAJIMA) Also, there were battle reports of the different Japanese unit found after the war, revealed 'dealing of POWs'.

Prince ASAKANOMIYA's 'order for killing POWs' was referred to in Japan's Imperial Conspiracy (New York, William Morrow and Company, Inc., 1971) by David Bergamini. However, American historians pointed out that the contents of this book were greatly suspicious.

For example, Richard Finn, Emeritus Professor of American University, criticized Iris Chang's *The Rape of Nanking* saying, "She referred to that notorious order for Prince ASAKANOMIYA and his staff to 'kill all POWs', but her statement was of no reliable evidence."⁴⁹

For another example, David M. Kennedy, the chief of history department of Stanford University, contributed to the *Atlantic Monthly* (April 1998), and demonstrated his opinion as follows:

She [Iris Chang] is clearly tempted to argue that the Rape of Nanking resulted from formal political decisions taken at the highest levels, an argument whose virtually lone proponent is the historian David Bergamini, whom Chang repeatedly cites. In a decidedly eccentric book, *Japan's Imperial Conspiracy* (1971), Bergamini tried to lay the blame for Nanjing and much else squarely at the feet of Emperor Hirohito. Chang is obliged to concede that "unfortunately, Bergamini's book was seriously criticized by reputable historians." That's putting it mildly. One reviewer observed that Bergamini was "believable only by violating every canon of acceptable documentation." The historian Barbara Tuchman said that Bergamini's thesis "appears to be almost entirely a product of the author's inference and of his predilection for the sinister explanation."

Certainly there was a passage: "All POWs should be dealt in the appropriate way in accordance with the circumstance" in NAKAJIMA's diary, but the passage didn't necessary mean 'murder of the POWs'.

The Vice-Minister of war ordered in his notification dated on August 5, 1937, four months before the battle in Nanking, entitled 'Application of Rules of Engagement'

⁴⁹ This is *Yomiuri*, August 1998



that in order to reduce the ravages of war "endeavor to respect the international humanitarian law and do not kill enemy soldiers who apply for surrender."

Based on 'Application of Rules of Engagement, Rules of Engagement Concerning Warfare' was anew issued on October 9,1937, by the 13th Division Headquarters, the Shanghai Expeditionary Force. The Section 11 of that new notice, entitled 'Treatment of POWs', read as follows:

When capturing a great many POWs, do not shoot them dead, but have to have them disarmed, assembled in one location and kept a watch on, and report their presence to division headquarters. As to small number of POWs, however, appropriately deal with them after designated interrogation.

The same day when this notice was issued, IINUMA, the chief of staff of the Shanghai Expeditionary Force gathered all the chiefs of staffs of respective divisions and said "the KMT is carrying out spreading a rumor that POWs will be killed once captured, therefore, in order to eliminate their propaganda, it is necessary to let the Chinese soldiers know that they will never be put to death."⁵⁰ Namely the purpose of this 'notice' was to alter the rumor through the Chinese propaganda that 'POWs would be killed once captured.'

Considering such context, an expression of 'proper dealing with POWs' should be taken not so much a 'execution of POWs' as a 'discretionary release of POWs'. In fact, YAMADA, the brigadier of 103rd Brigade belonging to the 13th Division tried to set the POWs free. (But, he had to hold off the plan until the riot was calmed down.)⁵¹

'The policy for treatment of POWs' described in the Japanese formal documents directed that if there were many, not to kill but confine, and to appropriately release in case of a small number, based on the international humanitarian laws in the effort of reducing the ravages of war, except particular cases against orders. This policy was carried out in the Nanking battle and thousands of stragglers were interned as POWs.

⁵⁰ Source Material Relating to the Battle of Nanking, vol.1, p.142.

⁵¹ The Battle of Nanking, p.325-327.



In addition that there did not exist the formal documents 'ordering to kill all POWs,' the existing formal documents had been saying clearly contrary to the accusation. Therefore, there was absolutely no ground for such criticism that 'the Japanese Army's policy was to kill all POWs from the beginning.'

3. Systematic large scale looting and rape

Argument 8

Did the Japanese Army practice systematic looting?

Relative to the looting, the indictment accused the Japanese Army of committing the looting as a part of the systematic massacre. What was the policy of the Japanese Army against the looting?

MATSUI, at the time of the offensive entry into Nanking, strictly ordered all the troops that 'the whole world would pay attention to Japan's entry to the capital of a foreign country, which had never been experienced ever since,' so that looting or accidental fire would be severely punished. Based on this policy, on December 13, about 10:00 a.m., the 6th Infantry Brigade engaged in the mopping-up operation of the whole Nanking city, issued the 'notification in practice of the operation', 'prohibition of entry to the foreign rights and interests', 'prohibition of looting', and 'rigid maintenance of the military discipline '.

On the 14th the next day, the commander of the 7th Regiment under the 6th Infantry Brigade which took in charge of the mopping-up operation of the Safety Zone, also ordered his soldiers 'Rules of Engagement as to POWs and foreign rights and interests.'⁵² He gave the detailed order by saying 'prohibition of other troops' entry to the Safety Zone' and 'avoidance of misunderstanding between the foreigners' prior to starting the first mopping-up of the Safety Zone:

Rules of Engagement as to POWs and foreign rights and interests

1. Strictly prohibit an entry of soldiers, except those on duty, into the Safety Zone, and furthermore absolutely prohibit any arbitrary activities by corps

⁵² The Battle of Nanking, p.193.



other than the 7th Infantry Regiment

2. Intern POWs whom each unit captured into a camp of a place in the Safety Zone, and request their provisions to the Division.⁵³
3. The 7th Infantry Regiment has not come to stay in the walled city, but entered as a mopping-up unit. Therefore do not forget to get out of the walled city upon completion of the mopping-up.
4. It is anticipated that there exist a large number of stragglers in the area of foreign rights and interests. As for them, I will select and assign interpreters who are proficient in foreign languages, each unit has to keep watch on the foreign rights and interests from outside.⁵⁴
5. Be careful to avoid being misunderstood and conflicts with foreign people due to language differences.⁵⁵

How drastically did these principles prevail? WAKISAKA Jiro, the commander of the 36th Regiment, the 9th Division stated in his affidavit presented to the IMTFE that such was rigidity of orders that a certain paymaster lieutenant was given penalty at the military court only for carrying woman's shoe of this pair found on the street back to his unit.⁵⁶ The Japanese Army was greatly concerned about soldiers' illegal actions in Nanking in order to avoid friction with key trade partners such as the U.S. and the U.K. As a result even pocketing of a pair of shoes could be a case which had to be tried by the court-martial.

⁵³ As shown in paragraph 2, it is understood that his principle was not to 'immediately execute' stragglers picked out of 'the Safety Zone' but to 'intern' them into a camp first of all.

⁵⁴ As described in paragraph 4, any unit except the selected 'mopping-up unit' has been forbidden to enter the 'Safety Zone'.

⁵⁵ As understood if read paragraph 4 and 5, the Japanese Army has been extremely sensitive over that the language issue will result in unnecessary friction with the westerners who live in Nanking, that is, the member of the Safety Zone Committee.

⁵⁶ As to how thoroughly enforced the principle that intended to prevent looting, WAKISAKA Jiro, testified by means of the affidavit in the IMTFE as follows:
Immediately after my units entered Nanking, a certain paymaster lieutenant found a Chinese ladies' shoes left off on the way while he was out to discharge an official business. He brought that shoes back to his quarters in order to show its wonderful fashion to his comrades. A military police, however, found out this fact and submitted a document to the court-martial on suspicion of plunderage. The lieutenant, shedding tears in my presence, asserted his innocence, and as I admitted him to be innocent, I respected to my superior official to that effect.
I remember that this case was finally found to be a minor offense not liable to prosecution. The supervision of the Japanese military police in Nanking was extremely strict, and an exposure without mercy was shown even to any minor offenses. (The Tokyo War Crimes Trial, p.32607.)



How often did looting take place?

We must pay attention to the fact that before Japanese soldiers entered the city, Chinese government authorities and the wealthy had already taken their property away, and just before the fall, Chinese soldiers had already looted, and considerable damage was caused.

Concerning the looting, however, T. Durdin wrote in the New York Times dated on December 18:

The Japanese looting amounted almost to plundering of the entire city. Nearly every building was entered by Japanese soldiers, often under the eyes of their officers, and the men took whatever they wanted... Even the home of the United States Ambassador was invaded.

This article was written, as mentioned before, based on the Safety Zone Committee Memorandum which had been handed over from Bates to Durdin, though.

Then, how much was the Safety Zone Committee aware of looting? According to documents, so far referred to in this paper, those demonstrated the total number of looting by Japanese soldiers was 179 including those in rumor. Although Magee, member of the Safety Zone Committee, testified in the IMTFE by saying 'the Japanese soldiers took everything away from the Chinese residents', he confessed in the cross-examination, what he himself witnessed was nothing but one case that 'a Japanese soldier deprived of some electric ice boxes.'⁵⁷

In fact, how bad was the damage?

It was on the morning of January 6, 1938 when foreigners entered the walled city of Nanking under the Japanese occupation for the first time. They were James Espy,

⁵⁷ As to this case, John G. Magee testified following the cross-examination in the IMTFE as follows:
o A counsel: And how many acts of robbery did you personally witness, whether you actually knew it was robbery or yourself were robbed, that you can remember?
o Rev. Magee: I remember, as I said before, that I actually witnessed of the robbing of those electric iceboxes. (The Tokyo War Crimes Trial, pp.3929-3930)



the vice consul at the American Embassy to Nanking and the third Secretary John M. Allison. Allison immediately investigated the damage made against the U.S. interests. In spite that the correspondent reported the residence of American Embassy was one of the targets of looting, Allison sent a telegram on January 8 to the Secretary of State in Washington that 'American property in the so-called Safety Zone received relatively small damage, except for occasional looting or thefts.'⁵⁸

The record written by the Safety Zone Committee endorsed this report, and it detailed the 'damage due to looting committed by the Japanese soldiers', from December 12 through 18 when a massive looting was supposed to have occurred, as follows:

Five automobiles, six bicycles, several motorbikes, two cows, one pig, several ponies, three sack's of rice, 500 futon mats, two gloves, a bottle of milk, a handful of sugar, one pan, one trash box, six fountain pens, a half can of kerosene, and a few candles.

From this list, would anyone be able to say that a large scale looting had taken place?

The truth of the looting

As for 179 cases of looting recorded in the documents of damage, all of them were not necessarily due to Japanese soldiers. They must have been categorized in the following three cases.

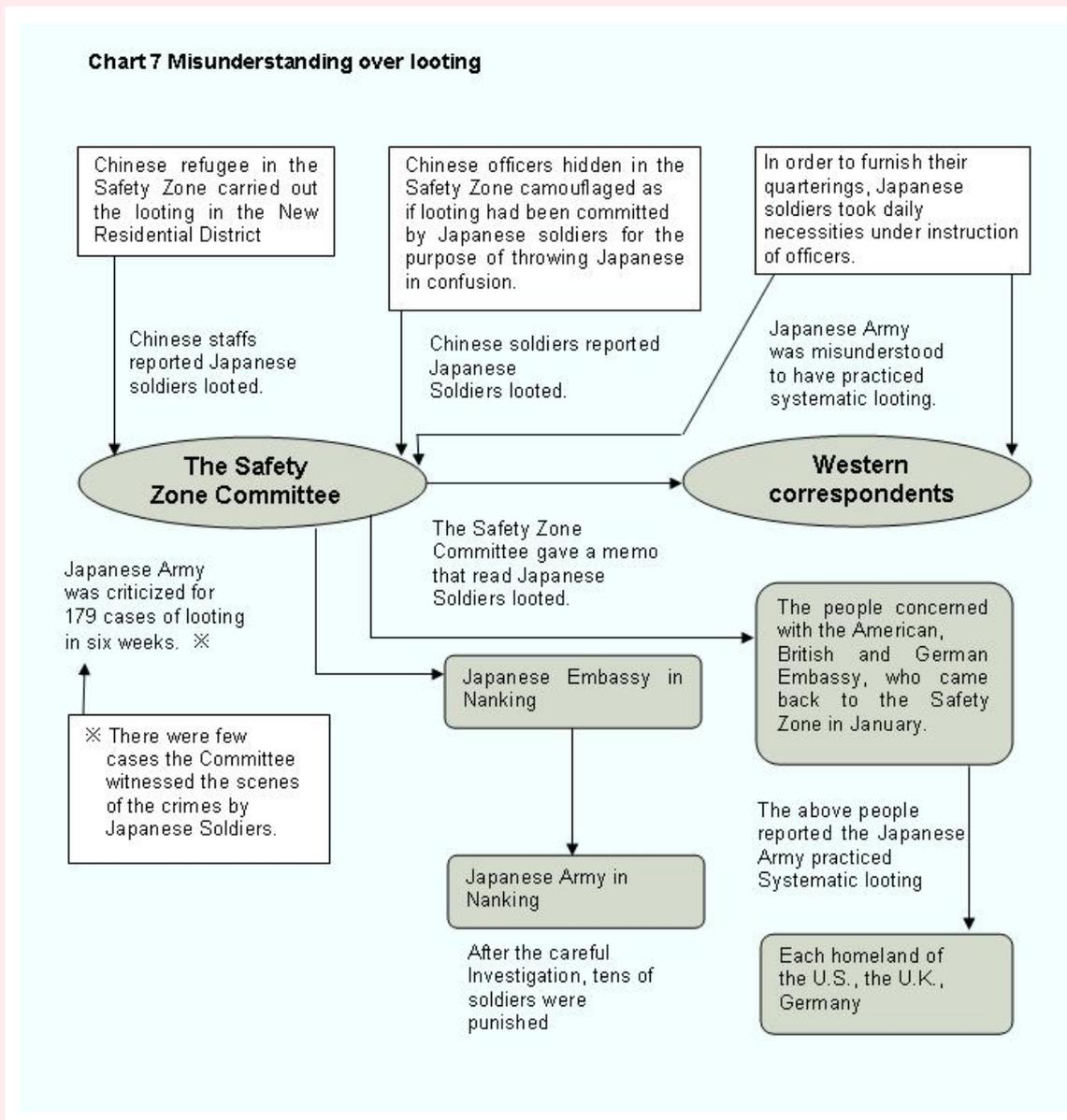
The first case was that the looting committed by the Chinese refugees who came into the Safety Zone was misunderstood as the acts of Japanese. After the fall of Nanking, Guo Qi, commander of one of Chinese battalions, stayed hidden in the Italian Embassy, wrote about the reality of looting by the Chinese refugees:

Refugees, who were generally badly-off but courageous, hid themselves during the day and moved around during the night just like so many rats. The night was the good opportunities for refugees to take actions, since wild soldiers

⁵⁸ Nanking Incident Source Material, vol.1, p.107.

[Japanese soldiers] became inactive and only the Japanese guards were posted to watch over the area where soldiers slept. The refugees went outside their area and ransacked large firms, shops, and houses of whatever they wanted. In those days, food was in store in food companies, daily provisions in consumer goods companies, and silk products in silk textile wholesales. One day's work, therefore, enabled them to get everything, and anything they want became available and at their disposal.⁵⁹

Rabe also wrote in his diary on January 2 about how busy the 'stolen goods market'



⁵⁹ Guo Qi, *The Nanking Massacre*, Zhongwai Magazine Publishing, Taipei, 1979.



was in the Safety Zone. All the Chinese refugees in the Safety Zone were 'poor and needy.' It was doubtful why they could obtain these goods in Nanking where any commercial circulation was suspended. As Guo Qi testified, those commercial goods were stolen goods.

The second case was that the Chinese Plain-clothes soldiers hidden in the Safety Zone tried to make it appear that the looting and rapes had been committed by Japanese soldiers, as part of their propaganda activities. The New York Times dated on January 4, 1938 carried the following article, entitled "Ex-Chinese Officers Among U.S. Refugees: Colonel and His Aides Admit Blaming the Japanese for Crimes in Nanking."

American professors remaining in Nanking as foreign members of the Refugee Welfare Committee were seriously embarrassed to discover that they had been harboring a deserted Chinese Army colonel and six of his subordinate officers. The professors had, in fact, made the colonel second in authority at the refugee camp.

The officers, who had doffed their uniforms during the Chinese retreat from Nanking, were discovered living in one of the college buildings. They confessed their identity after Japanese Army searchers found they had hidden six rifles, five revolvers, a dismantled machine-gun and ammunitions in the building.

The ex-Chinese officers in the presence of Americans and other foreigners confessed looting in Nanking and also that one night they dragged girls from the refugee camp into the darkness and the next day blamed Japanese soldiers for the attacks.

The ex-officers were arrested and will be punished under martial law and probably executed.

The third case was that westerners misunderstood what Japanese troops did.

On entering the walled city what Japanese troops had to do was to get buildings for quartering. In order to furnish and equip them with daily necessities, officers instructed soldiers to take furniture and futon mats out of the empty houses. When

they were put under requisition, certificates for compensation to be made later on were attached.⁶⁰ However, the westerners and Chinese, watching what happened in the distance, possibly misunderstood interpreting the activities as the planned looting by Japanese soldiers.



As stated above, there were existed three types of occasions as to the looting, all 179 cases of looting reported from the Safety Zone Committee were not necessarily caused by Japanese troops.

Argument 9

Did the Japanese Army commit systematic rape?

The Prosecution asserted that the Japanese Army committed systematic rape during the occupation.

Another crime of the Japanese Army was the rapes on a great number of women. According to the source confirmed at the IMTFE, it was reported that the number of rapes after Japanese occupation came to 20,000, and most of the women, regardless of young or old, in the whole area were raped. Even if young women could run into the Safety Zone set up by the westerners or foreign consulates for safety, most of them were taken to be raped and killed by Japanese troops who broke into the premises. According to Summary report on the Investigations of Japanese war crimes committed in Nanking, prepared by the Procurator of the District Court, Nanking, which was publicized by the KMT after World War II, stated "There were no less than 80,000 women who received such cruel treatment in the city at that time, and many of them were torn on the breast or cut stomach off." 'Nanking Massacre', therefore, has been referred to the Rape of Nanking.

⁶⁰ IINUMA Mamoru, ex-Lieutenant-General, the chief of staff under MATSUI, the Shanghai Expeditionary Force testified in the IMTFE as follows:

I was told that some troops removed articles of furniture but they said that they did so to facilitate quartering for troops. They said that when in requisition they compensated for the loss, but in most cases managers of those houses fled, so they put an evidence note of requisition at respective houses to guarantee the compensation.

A few soldiers removed articles of furniture privately and some removed articles of furniture belonging to foreigners, but the matter was settled by returning the articles in the question to the owners or by compensating for the loss, and the offenders were punished. Of course Army Headquarters did never order to commit unlawful acts nor admitted them. (The Tokyo War Crimes Trial, pp.32651-32652.)



Among evidences submitted to the IMTFE, there was nothing described as to 20,000 cases of rape. On 20,000 victims of rape, Rabe mentioned in the telegram dated on January 14, 1938, to the Shanghai consul as if "the Japanese military authorities apparently lost control of their troops, and they looted the city for weeks and raped about 20,000 women and little girls."⁶¹

But, Bates who took the witness stand at the IMTFE denied Rabe's statement, as follows, while he testified that he himself had not witnessed any case of rape:

One month after the occupation, Mr. Rabe, the chairman of the International Committee, reported to the German authorities that he and his colleagues believed that not less than twenty thousand cases of rape had occurred. A little earlier I estimated, very much more cautiously and on the basis of the safety zone reports alone, some eight thousand cases.⁶²

The basis of 'some eight thousand cases of rape' Bates pointed out was depending on the 'reports issued from the Safety Zone Committee'.

Then, how many cases of rape were (including attempted) reported in the documents by the Safety Zone Committee? The total number was 361. And among them, there were only 61 cases, which definitely clarified who witnessed the cases, who heard and reported. Among these cases, only seven cases were clarified to be crimes committed by Japanese soldiers and notified the Japanese Army of the crime in order to disclose the fact and to capture the suspects. Out of these records, how could Bates have calculated the number 8,000 on rapes?

Furthermore, as reported in the article of the Chicago Daily News dated on February 9, 1938, the Japanese Army investigated criminals about seven cases and severely punished them. The punishment was so severe that some complaints were expressed among the soldiers.⁶³

⁶¹ The Tokyo War Crimes Trial, pp.4593-4594.

⁶² The Tokyo War Crimes Trial, pp.2633-2634.

⁶³ TSUKAMOTO Hirotsugu, judge advocate of the Shanghai Expeditionary Force from August 30, 1937 to February 8, 1938, testified in the IMTFE as follows:

I am convinced that I was strict enough to punish those who violated the military discipline, being charged with the Commander MATSUI's orders and in conformity with the Field Service Legislation.



What about the second item of evidence, Summary report on the Investigations of Japanese war crimes committed in Nanking, prepared by the Procurator of the District Court, Nanking, which the Prosecution indicated? The exact number of victims was not clarified, but the number of those who were raped and then killed was reported to be 'twenty or thirty persons'. The indictment said, "Most of the raped women were killed by Japanese soldiers, which means the casualties were only twenty or thirty persons." Therefore, the 'view of 80,000 victims of rape' should be likely to be denied by the Chinese sources themselves.

To begin with, the Safety Zone was the only place where women stayed in the city of Nanking. And in order to protect foreign rights and interests which were concentrated in the Safety Zone and avoid unnecessary conflicts with members of the Safety Zone Committee, the headquarters of the Japanese Army prohibited their soldiers' entry to the Safety Zone and posted guards at every important points, judging from the danger of being attacked by many hidden Chinese soldiers as well.⁶⁴ For these reasons, Japanese soldiers were unable to enter the Safety Zone at will, or no one dared to enter there at the risk of being attacked.

Actually, the Japanese soldiers were very busy carrying out their duties such as guarding the gates and walls, taking up their position at anti-aircraft observation posts and other various duties. Therefore, there were no Japanese soldiers who could have time to go out of their quarters. Those who only got admittance to the Safety Zone were all in all about 1,600 soldiers of the 7th Regiment, the 9th Division, that were in charge of the garrison for the Safety Zone. In this situation

So strict was the attitude of the Judicial Department of the Shanghai Expeditionary Force even to trifling crimes as well as excessively severe punishment to crimes that each unit often criticized it with sharp comments. (The Tokyo War Crimes Trial, p.21562.)

⁶⁴ Artillery Second Lieutenant OSUGI Hiroshi, the leader of an observation section of the 1st Battalion, the 3rd Artillery Regiment, the 3rd Division testified in the IMTFE as follows:
In the evening on the 13th of December 1937 I went within the walls (Chungshan Gate) only a kilometer from the city gate but I saw military police already posted at the banks and government offices with signs of off limits to Japanese soldiers...
On the 13th of December, I joined my unit at Tang-chui-chen and led them to Tushanchen in the south of Nanking. At this time, according to the instructions of the higher commandant, I strictly forbade my soldiers to go out on passes. Even going out on official business, the soldiers were ordered not to enter the southwest corner quarters of the city of Nanking as they were set aside as refugee's quarters. At that time, I heard from my colleagues that this prohibition was due to the danger of the armed defeated enemy soldiers wearing civilian clothes who pretended to be refugee in these quarters. (The Tokyo War Crimes Trial, pp.32590-32591.)



a large-scale rape could not have happened. It must be further pointed out that there existed a significant reason why soldiers were restrained from committing rapes, because if crimes had been disclosed, more than seven years' penal servitude would have been inevitable by the army penal code. They were fully aware of the severe penalties.

Among the Japanese Army, the optimistic expectation prevailed that they could be able to return home soon after winning battles in Nanking. They also knew that due to Japan's economic prosperity nice jobs would be open to them. There were no motives to run the risk of illegal actions.

The truth of the rapes

By whom were 361 cases of rape committed that the Safety Zone Committee recorded? In fact so many things were misunderstood on rapes as well.

The first instance of misunderstandings was for the committee to take recruitment for prostitutes for rapes. Documents of the Nanking Safety Zone, for example, described a following case of rape.

On the morning of the 17th, about 8, they came again with two trucks, two cars with two officers and got some men and seven women from the Sericulture Building. Dr. Bates was there and observed the whole process and found it was completely voluntary on the part of the men and women going. One woman was young but went willingly, (p.89.)

Was this considered as a case of rape? It would be rather interpreted as a scene where Chinese went to recruit prostitutes to a refugee camp set up at Ginling College in the Safety Zone under Japanese consent, and the women applied for the recruit 'willingly'⁶⁵. Bates and his colleagues misidentified the recruit of

⁶⁵ J.Rabe was writing to his diary as follows:

26 December, later

And now the Japanese authorities have come up with the fabulous idea of erecting a military bordello, and with hands clenched in horror, Minnie [Vautrin] is forced to watch as authorized underling force their way into her Girls Assembly Hall filled with hundreds of gungyangs [=Virgins]. She is not going to hand over even one of them willingly. She would rather die on the spot; but then something unexpected happens. A respectable member of the Red Swastika Society, someone whom we all know, but would never have suspected had any knowledge of the underworld, calls out a few friendly words into the

prostitutes by common consent as if it was a systematic rape by Japanese troops. (In fact, the Chinese traders concerned recruited prostitutes and managed comfort houses on a commercial basis, and the Japanese Army admitted to support their business.)



The second instance was the confusion of taking Chinese soldiers for Japanese soldiers. Bates wrote a letter of January 14, to Allison in the American Embassy as follows:

Last night four Japanese went into a classroom of Nanking University Middle School. Details of their behaviors were unknown because due witnesses were frightened. It was certain they took a girl with them. The Japanese were military polices, and some of them were guards served at the gate of the middle school. They had Chinese cloth shoes on, and some were in Chinese garments.⁶⁶

How could Bates conclude that the criminals were Japanese military polices disguised as Chinese without seeing them? He merely accepted without the slightest suspicion the testimony given by a Chinese who called himself an eyewitness. But why did Japanese soldiers have to disguise themselves as Chinese? It does not make any sense.

Furthermore, the representatives of the refugee camps of nineteen places established in the Safety Zone were all the Chinese, except Miss Minnie Vautrin.⁶⁷ Though those Chinese took charge of the maintenance of public order in these camps, there were some Chinese officers who camouflaged themselves as if they were citizens. And many cases of rape occurred in the 'refugee camps' set up by the Safety Zone Committee. After February 1938 when the 'camps' were dissolved, rape was rare. Therefore, we are not able to trust the 'crimes of

hall-and lo and behold! A considerable number of young refugee girls step forward. Evidently former prostitutes, who are not at all sad to find work in a new bordello. Minnie is speechless! (The Good Man of Nanking, p.99.)

⁶⁶ Nanking Incident Source Material, vol.1, pp.155-156.

⁶⁷ Miss Minnie Vautrin was assigned to the representative of the refugee reception centers located in Ginling College of Humanities and Sciences in which 4,000 of only women and children refugees were accommodated.

Japanese soldiers' just as the Chinese representatives of the refugee camps claimed.

The third instance was that Chinese, who lay hidden in the Safety Zone, camouflaged themselves to create the impression that looting and rapes had been committed by Japanese soldiers, to practice one of a series of Chinese strategies for the purpose of throwing Japanese soldiers into confusion.

There were three different groupings as to the 'cases of rape' some Chinese asserted, and even 361 cases recorded in the documents of the Safety Zone Committee couldn't necessarily be concluded as Japanese crimes at all events.⁶⁸

4. Cruel Atrocities

Argument 10

Did Japanese officers perform the Murder Race'?

In the Memorial Hall of Victims in Nanjing Massacre built in the city of Nanking, a photo panel of two Japanese officers with military swords is displayed at a conspicuous corner. The exhibition demonstrates the so-called 'Murder Race' in which two Japanese officers were said to have competed to see which one of them could kill 100 Chinese soldiers with a Japanese sword sooner than the other, in the battle from Shanghai to Nanking. The indictment explained this problem as follows:

Besides the systematic murders of young men, many Japanese soldiers here and there, with mental madness, committed atrocities for their amusement against inhabitants living a peaceful life. Two Second Lieutenants, MUKAI and NODA,

⁶⁸ There were a few rapes by Japanese soldiers. As to the rape cases, OGAWA Sekijiro, the chief of Judicial Affairs Department of the 10th Army, testified in his 'affidavit' in the IMTFE as follows: During my moving to Nanking from November 5, 1937 to December 14, 1937, I dealt with about twenty cases of offenses against military discipline and public morals. In the course of my dealing with crimes or public morals, I found it very difficult to decide whether the cases were fornication with female consent or violation.

The reason was that on the part of the Chinese women some of them were not so rare to take a suggestive attitude towards Japanese soldiers, and once found as having committed adultery with Japanese soldiers by their husbands or other people, they suddenly changed their attitude and asserted exaggeratedly that they had been raped. Whether adultery or rape, however, I punished indicted in accordance with the law, weighing the relative importance of the facts. (The Tokyo War Crimes Trial, pp.32675-32676.)



held a murder race in competition with each other for the number of murders by means of a military sword. In December 1937, the Tokyo NichiNichi (Tokyo Daily Times) covered shocking news of 'Katagiri corps' (the 16th Division) entitled "Competition for killing 100 enemies".

An article appeared on the Tokyo NichiNichi dated on December 13, 1937, was as follows:

At an interview dated on December 12, with Correspondent ASAMI Kazuo at the foot of Purple Mountain, MUKAI Toshiaki talked about a competition with NODA Iwao in a battle field through Nanking, regarding how many Chinese soldiers they could kill with a Japanese sword in a hand-to-hand combat.

This article was translated into English and reprinted in an English newspaper the Japan Advertiser, issued in Japan on December 14. In Shanghai, Harold J. Timperley found this article and had it reprinted again in his book, What War Means. That made the problem more complicated, for Timperley gave the article the title, "the Nanking 'Murder Race'". According to Random House Webster's College Dictionary, a murder meant "illegal killing, particularly accompanied with murderous and planned intent, or homicide happened during crime of great importance." Because of Timperley's title, the article of interview as to 'actions taken in a combat against Chinese soldiers in a war' was misinterpreted as 'intentionally illegal murder race'. Informed of the 'Murder Race' in the article in English, the KMT consequently prosecuted MUKAI and NODA on December 18, 1947, sentenced a death penalty to them at the Nanking Court-martial in the afternoon, and immediately executed them.

Was the article of the Tokyo NichiNichi true? The illusion of a great Nanking Massacre; New version by SUZUKI Akira disclosed that a Chinese counselor for the defense clarified that ASAMI's article was proved to be nothing but a fiction in the Nanking Court-martial as follows:⁶⁹

1. The certificate sent on December 10, 1947, from ASAMI clarified that 'the article was by no means what he had witnessed'.

⁶⁹ SUZUKI Akira, The illusion of a great Nanking Massacre; New version (Tokyo: Asuka Shinsha, 1999) pp.306-313.

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2. The units to which the accused MUKAI and NODA belonged had never been nor had a combat near at Purple Mountain (where the article covered). In other words, NODA had never been Purple Mountain.

Furthermore, the Chinese counselor advocated in the 'Statement of appeal' as follows:

1. The only evidence provided was a Japanese newspaper. However, judicial precedents at the Chinese Supreme Court had declared that 'newspapers were not to be regarded as proof.
2. Not a single direct or indirect proof was submitted to show that the accused had committed the 'Murder Race'.
3. The written judgment said that many dried bones were excavated from burial sites near Purple Mountain as proof. Even if thousands of pieces of bone were found at the place, as long as the accused had never been there, that must not be concluded as the result of the 'Murder Race'.

In short, no Chinese ever witnessed the 'Murder Race', so that the Court-martial sentenced to death with only the newspaper article accepted as proof. Should such nonsensical judgment be allowed in the light of the world judicial system, based on the evidence trial principle?

Anybody who is familiar with military organizations, should easily understand that MUKAI and NODA, who were a commander of artillery and an adjutant of a battalion respectively, could not have taken part in a hand-to-hand combat in the front line. In Japanese samurai films, killing scenes with Japanese swords are frequently seen. But the known facts clarifies that a Japanese sword doesn't work well after killing one man, due to the attached grease of blood or a nicked or curved edge of the blade, while the Chinese blue dragon sword becomes more efficient in cutting with help of the weight of a sword itself added.

The 'Murder Race' has been looked upon as a representative of cruel atrocities committed by the Japanese Army in the battle of Nanking. As a result, two Japanese officers have been put to death. The judgment, however, proves to be an execution for the almost clear innocent.