

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
APO 500

AG 015 (6 Oct 50)LS-L
SCAPIN 2127

18 October 1950

MEMORANDUM FOR: JAPANESE GOVERNMENT

SUBJECT: Exercise of Civil and Criminal Jurisdiction

1. Criminal Jurisdiction over Persons in Japan. Japanese courts will henceforth exercise criminal jurisdiction over all nationals of members of the United Nations, (hereinafter referred to as United Nations nationals), in Japan except for the following, designated as occupation personnel:

- a. Members of the armed forces of any member of the United Nations;
- b. United Nations nationals officially attached to or accompanying and in the service of the occupation forces;
- c. United Nations nationals on official business in Japan;
- d. Members of the immediate families and dependents accompanying the above.

2. Arrest. a. All persons in Japan not within the category of occupation personnel as designated in paragraph 1 (hereinafter referred to as nonoccupation personnel) are subject to arrest by the Japanese law-enforcement authorities.

b. Occupation personnel shall be subject to arrest by the Japanese law-enforcement authorities only if both of the following circumstances exist at the same time:

- (1) Where occupation police are not physically present to perform the arrest, and,
- (2) Where the offense or threatened offense involves bodily harm or serious damage to property.

c. Occupation personnel arrested by the Japanese police under the circumstances set forth in paragraph 2 b. shall be turned over immediately to the nearest occupation authorities.

3. Pre-Trial Confinement. a. When any United Nations national is confined to prison, is awaiting trial, or is otherwise detained in custody by Japanese authorities, the Japanese Government will:

- (1) Forward to the Supreme Commander for the Allied Powers immediately a brief statement of the

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circumstances involved for transmission to the Head of the Mission charged with the protection of the interests of said national;

- (2) Give written advice to the United Nations national concerned, in a language he understands, of his right to inform the Mission charged with the protection of his interests of the circumstances of his detention. Said United Nations national will be given reasonable facilities to communicate with the interested Mission. Any such communication will be forwarded without delay;
- (3) Upon due presentation of credentials, permit a representative of the Mission charged with the protection of the said United Nations national's interest, to visit without delay, to confer privately with, and to arrange legal representation for, the United Nations national concerned.

b. Nothing contained in this paragraph shall be construed to delay the orderly progress of the proceedings against the person detained, nor shall noncompliance therewith be deemed to affect the jurisdiction of the court.

4. Post-Trial Confinement. a. Where a United Nations national has been convicted by a Japanese court and is serving a sentence of imprisonment, a representative of the Mission charged with the protection of his interests, upon due presentation of credentials, will be permitted to visit said United Nations national in prison, upon notice, that need not exceed twenty-four hours, to the official in charge of the institution having custody of such national. There will be no limit to the number of such visits within reasonable hours and said representative will be allowed to converse privately with the United Nations national concerned.

b. Subject to the appropriate prison or institutional regulations, said representative may transmit written communications between the prisoner and other persons.

c. Any person heretofore or hereinafter sentenced to imprisonment by a military occupation court will be received for confinement by the Japanese authorities upon direction of the occupation court appointing authority exercising jurisdiction over the prisoner. Except on expiration of sentence, no prisoner will be released without approval of the said occupation authority.

5. Sentences. a. Any sentence imposed by a Japanese court on a United Nations national will be reported immediately to this headquarters for transmission to the Head of the Mission concerned. Said report will include a brief statement of the circumstances involved.

b. A sentence to death or life imprisonment imposed on a United Nations national by a Japanese court shall not be carried into execution until the same shall have been confirmed by the Supreme Commander for the Allied Powers. A complete and final record of such case shall be submitted to this headquarters for review and appropriate action.

6. Exclusive Occupation Court Offenses. a. It shall be unlawful for any person in Japan to:

- (1) Commit an act prejudicial to the security of the occupation forces or occupation personnel;
- (2) Kill or assault occupation personnel;
- (3) Interfere with or hinder the arrest of any person sought, or assist in, or further the escape of any person detained by the occupation forces, or by others pursuant to the direction of the Supreme Commander for the Allied Powers, or his authorized subordinates;
- (4) Interfere with, refuse information required by, make any false or misleading statement orally or in writing to, or defraud in any manner, any of the occupation personnel in a matter of official concern.
- (5) Commit an act in behalf or in support of any organization dissolved or declared illegal by the Supreme Commander for the Allied Powers, or dissolved or declared illegal at the order of the Supreme Commander for the Allied Powers;
- (6) Conspire to commit any of the foregoing offenses or commit any act which aids or abets the commission of such offenses.

b. Japanese courts will exercise no criminal jurisdiction over the offenses enumerated in paragraph 6 a.

c. It shall be unlawful for any person in Japan to commit any act prejudicial to the objectives of the occupation. Japanese courts will continue to exercise criminal jurisdiction over such acts in so far as they constitute violations of Japanese law.

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7. Jurisdiction over Vessels. Japanese courts and government agencies may exercise jurisdiction over vessels within its territorial waters if, in the case in which the vessel is involved, said courts and agencies would be authorized to exercise jurisdiction over both the owner and the charterer or other authorized user or possessor of the vessel, and, also, would be authorized to exercise jurisdiction over the particular criminal or civil proceeding involving the vessel.

8. Civil Jurisdiction. Japanese courts will exercise no civil jurisdiction of any sort with respect to any case in which any of the parties is a person within the category designated as occupation personnel in paragraph 1.

9. Review of Decisions. All decisions of the Japanese courts with respect to United Nations nationals, may be reviewed by the Supreme Commander for the Allied Powers or his designated representatives, who may take such further action as is considered necessary in respect thereto.

10. Protection of United Nationals' Rights. The Supreme Commander for the Allied Powers, or his designated representatives, will take such steps as are deemed necessary to insure that the rights of the United Nations nationals subject to Japanese jurisdiction are protected.

11. Military Occupation Courts. a. Military occupation courts may assume criminal jurisdiction, as authorized by the Supreme Commander for the Allied Powers, over any or all nonoccupation personnel in Japan for any and all offenses committed by them.

b. Military occupation courts are authorized to impose sentences which may include death, imprisonment, or revocation of privileges or licenses.

c. Any case pending in a military occupation court, which has been referred for trial, will be concluded by said court in accordance with the rules and regulations in effect at the time such case was first referred.

12. Expedite Trials. The Japanese Government is directed to take immediate action to expedite the trial of criminal and civil cases.

13. Definition. The term "United Nations national" as used herein includes, wherever applicable, organizations and corporations of present or future members of the United Nations as well as natural persons.

14. Dissemination. The Japanese people and all other persons concerned in Japan will be informed of this directive.

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15. Prior Actions. Nothing contained herein shall be construed to invalidate or otherwise affect any action, pending or concluded, taken pursuant to any law, directive, order, or regulation hereby superseded.

16. Liaison. Direct communication between Legal Section, General Headquarters, Supreme Commander for the Allied Powers, and Japanese Government agencies concerned, is authorized on matters within the scope of this memorandum.


17. Supersession. a. This memorandum shall supersede the following:

- ✓ (1) SCAPIN 756, 19 Feb 46, subject: Exercise of Criminal Jurisdiction;
- ✓ (2) SCAPIN 777, 26 Feb 46, subject: Exercise of Civil Jurisdiction;
- ✓ (3) SCAPIN 853, 25 Mar 46, subject: Exercise of Criminal Jurisdiction;
- ✓ (4) SCAPIN 1218, 19 Sep 46, subject: Amendment of Memorandums on Civil and Criminal Jurisdiction;
- ✓ (5) SCAPIN 1740, 27 Jun 47, subject: Amendment to Exercise of Criminal Jurisdiction, paragraph 1;
- ✓ (6) SCAPIN 1758, 5 Aug 47, subject: Exercise of Jurisdiction over Vessels;
- ✓ (7) SCAPIN 1921, 17 Jul 48, subject: Exercise of Criminal Jurisdiction;
- ✓ (8) SCAPIN 1937, 9 Oct 48, subject: Amendment to Exercise of Criminal Jurisdiction;
- ✓ (9) SCAPIN 1941, 9 Nov 48, subject: Exercise of Criminal Jurisdiction.

b. Any provision of law or regulation in conflict with the contents of this memorandum is hereby superseded, or shall be deemed amended to conform hereto.

18. Effective Date. This memorandum is effective 1 November 1950.

FOR THE SUPREME COMMANDER:


K. B. BUSH
Brigadier General, USA
Adjutant General