

No. 1541

Ex 1541

Evidentiary Document # 5336.

THE REPORT OF LIEUTENANT COLONEL A.M. STURROCK, PRESIDENT,
NO. 4 WAR CRIMES COURT, RANGOON, ON THE WAR CRIMES TRIALS
COMPLETED AT RANGOON.

1. KALAGON CASE:

- Major ICHIKAWA Seigi
- Capt. SAHAMAKI Saburo
- Capt. OKUBO Yoze
- Capt. YAMAGISAWA Izumi
- Capt. MIDORIKAWA Hisashi
- Med. 2/Lt. USUI Kiyohiro
- Lieut. TASHIMA Ichiro
- Lieut. TAKEI Shoze

all of the 3rd Bn., 215 Regt., 33 Div., I.J.A.

- Capt. HIGASHI Noburo
- P.O. FUJIMURA Ryoze
- S/Maj. KOBAYASHI Akira
- Sgt. NAGATA Teshiyuki
- Sgt. NOMOTO Kimi
- Cpl. MORIMOTO Seiichi

all members of Kempetai.

CHARGES:

All accused were charged in the first place with committing a war crime in that they were concerned in the unlawful killing of men and women and children, civilian inhabitants of KALAGON, and in the second place with committing a war crime in that they were concerned in the unlawful beating, torture, wounding and other maltreatment of the said civilian inhabitants of KALAGON.

The first named accused Major ICHIKAWA Seigi was further charged with the unlawful abduction of women from the said village of KALAGON.)

PROSECUTION:

Prosecution case consisted of the evidence of several villagers from KALAGON, a Karen by name SAW KAY KU who had served as an Interpreter with the Kempetai and statements by several of the accused.

The evidence was to the effect that the 3rd battalion along with a number of Kempetai personnel went on an expedition to KALAGON; the villagers were rounded up; some of them were interrogated by the Kempetai and later the villagers were massacred by the Japanese soldiers on the orders of accused ICHIKAWA, the operation being superintended by his junior officers.

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During the interrogations it was alleged that persons interrogated were beaten and tortured.

DEFENCE:

The defending officer asked the court to dismiss the charges against certain of the accused on the ground that there was no case to answer. The court held (1) that there was no case against Sgt. NAGATA and accordingly found him not guilty (2) all the members of the 3rd battalion must make their defence on all charges and (3) that the remaining members of the Kempetai must answer the second charge but that there was no case against them with the exception of accused NOMOTO on the first charge in respect of which a verdict of "not guilty" was entered. Accused NOMOTO had to make his defence on both charges.

All accused elected to give evidence.

The defence on the first charge by the members of the 3rd battalion was that the operation had been carried out under superior orders, as a measure of reprisals, and that it was not obviously illegal.

In addition it was submitted that the accused OKUBO, S. KAMAKI, USUI and TAKEI had not been concerned in the operation and should therefore be found "not guilty". These accused, although present, were, it was submitted, engaged only on work which was legitimate.

On the second charge the defence was a denial that there was any unnecessary ill-treatment.

The defence of Major ICHIKAWA on the 3rd charge was that the women were taken of their own free will.

The defence of the members of the Kempetai on the second charge was denial of the allegations with the further defence by Capt. HIGASHI that as he was not present at KILLAGON and had given no order for the use of ill-treatment, he should not be held responsible.

The defence of NOMOTO on first charge was a denial.

FINDINGS AND SENTENCES.

<u>Name</u>	<u>Finding</u>	<u>Sentence</u>
Major ICHIKAWA Seigi	Guilty of all 3 charges with certain minor exceptions.	<u>Death</u> by hanging
Capt. SAKAMAKI Saburo	Guilty.	10 years imprisonment.
Capt. OKUBO Yoza	"	10 years imprisonment
Capt. MIDORIKAWA Hisashi	"	<u>Death</u> by shooting.
Lieut. TASHIMA Ichiro	"	<u>Death</u> by shooting.
Med. 2/Lt. USUI Kiyohiro	Not Guilty	
Lieut. TAKEI Shoza	Guilty	10 years imprisonment
Capt. YANAGISAWA Izumi	"	<u>Death</u> by shooting.
Capt. HIGASHI Noburo	Not Guilty	
W.O. FUJIWARA Ryoza	2nd Charge Guilty	5 years imprisonment
Sgt/Maj. KOBAYASHI Akira	" " "	5 years imprisonment
Sgt. NOMOTO Finni	" " " 1st Charge Not Guilty	7 years imprisonment
Cpl. MORIMOTO Seiichi	Not Guilty.	

Findings and sentences have now been confirmed.

NOTE ON EVIDENCE:

The prosecution witnesses related how on the arrival of the Japanese at the village of Kalagon, the villagers had been gathered together and the men put in the mosque and women and children in the neighbouring Zayet. Thereafter a few of the villagers were taken for interrogation by the Kempetai. The most reliable witness on the method of interrogation was the Interpreter SAW KAN KU. He testified that some of the villagers had been beaten, that their hands had been tied behind

their backs, a rope fixed to the cord binding their hands passed over a beam on the roof and the victim pulled off the ground. While hanging in this exceedingly painful position the interrogation had gone on and the victim frequently beaten.

The actual massacre was carried out by taking the villagers in groups of about 25 to the nearby wells where they were bayoneted and then thrown into the wells.

The defence called as witnesses Col. TSUKADA, the commander of 213 Regt. and Capt. KATAYAMA, his operational staff officer. In evidence both these officers stated that the operation of KALAGON was carried out on orders from the division.

Col. TSUKADA however in answer to the questions by the court suggested that ICHIKAWA had certain discretion as to whether or not he would kill all the villagers. The witness stated that what was done by ICHIKAWA and his battalion was in conformity with their orders and that ICHIKAWA had in no way exceeded his orders.

Col. TSUKADA expressed the view that lack of time and shortage of manpower were ample justification for dispensing with any trial in the case of the inhabitants of KALAGON and that as the Japanese were satisfied the villagers were acting in a manner hostile to the occupying power the circumstances were sufficiently grave to force the Japanese to carry out the mass execution.

Major ICHIKAWA when asked the following questions:

- Q. Do you really think that women and children were acting against the Japanese army.
- A. Yes.
- Q. How do you justify the killing of the infant children.
- A. There was no other alternative way of dealing with the children
- Q. Explain that a little further.
- A. First, within the orders I received, the killing of the children was also included. If I spared the children they would be orphans, and as such they could not have a living. In order to save time and carry out my duties, I could not help killing them.

Accused MIDORIKAWA gave the following answers to questions:

- Q. Do you not think then since you consider the order you have received unlawful it was your duty to make comments to your senior officer ICHIKAWA.
- A. I do not think it unlawful.
- Q. Do you think the killing of women and children in KALAGON a lawful order.
- A. I cannot say whether it was a lawful order, but due to the military necessity and force of circumstances the higher

command had issued the order after considering the circumstances.
So I believe it to be right.

- Q. You believe that any order issued to you by superiors is lawful order.
- A. Up to now we have always considered an order from higher command to be correct.
- Q. To be lawful.
- A. Irrespective of anything an order given in the army should be executed so that the final object of the war shall be a success.
- Q. Therefore you are prepared to do any order given by a superior irrespective of whatever you yourself may think about that order.
- A. If it is an order of a superior officer I must obey the order against anything, fire or water.

Col. TSUKUDA in answer to the question;

- Q. As a senior officer of the Japanese Army how do you justify the measures which were taken in KALAGON.
- A. The people of KALAGON village were hostile towards the Japanese, therefore they could be killed. It was pitiful to kill the children but as they could not be taken care of by the Japanese army they had to be killed.
- Q. Do you consider that in all cases where people are hostile to you you are entitled to kill them.
- A. I am of the opinion that proper investigation should be made before such hostile people were killed, but in consideration of lack of time and manpower they had to do the killing.

On the question of use of force during interrogations, witness KATAYAMA in answer to the question.

- Q. I presume that there are circumstances in which it is lawful.
- A. Yes.
- Q. In what circumstances was it lawful.
- A. Circumstances are that if the people interrogated refuse or refuse to confess their guilt of their doings and if it affects victory of the nation or if it is very important that the information must be exact.
- Q. Is that the general principle accepted in the Japanese army in its interrogations.
- A. I do not know whether it is a principle of Japanese army to use force during interrogation. It is just my opinion.

According to the evidence of the Headman of the village who had escaped, approximately 600 villagers were collected by the Japanese, about 195 women, 175 men and 260 children. Only very few of those persons escaped massacre.

2. NEW LAW COURTS ANNEXE:

The accused:-

Capt. UYENO Masaharu
Capt. YAMAZAKI Kaname

Members of or attached to the Kempetai.

CHARGE:

Both the accused were charged with committing a war crime in that they were concerned in brutality towards and ill-treatment of certain prisoners of war resulting in the deaths of five of the said prisoners.

PROSECUTION:

The prosecution case consisted of a number of affidavits by ex-prisoners of war who had been held at one time in New Law Courts Annexe Jail and statements made by the accused. In this evidence it was alleged that, following an attempted escape the prisoners of war were beaten mercilessly by guards on the orders of Capt. UYENO; it was further alleged that no medical attention was given to any of the sick or injured prisoners of war, and that the deaths resulted from the severe beatings and complete lack of medical attention.

DEFENCE:

Both the accused elected to give evidence.

They also called Major AKIYAMA Hideo on their behalf. The defence pleaded denial of prosecution allegations. Accused UYENO, in particular, denied that prisoners of war were beaten after the attempted escape and also that he refused to allow medical attention to be given to prisoners of war.

The Medical Officer claimed that he had never refused to give medical attention when requested; that his duties in connection with the Annexe were only part of a very large number of duties which he was expected to perform and that he was seriously handicapped by lack of medical supplies.

FINDINGS AND SENTENCES.

<u>N a m e.</u>	<u>F i n d i n g.</u>	<u>S e n t e n c e.</u>
Capt. UYENO Masaharu	Guilty	Death by hanging.
Capt. YAMAZAKI Kaname	Not Guilty.	

Finding and sentence have been confirmed.

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NOTE ON EVIDENCE:

The affidavits produced by the prosecution contained considerable corroboration of the fact that the prisoners of war were seriously beaten immediately after the attempted escape and at intervals thereafter during the time they remained in the New Law Courts Annexe jail.

From the testimony of accused it appears that under an order from very high authority the Airmen were to be treated differently from other prisoners of war and were in fact to be regarded as criminal suspects; the intention seems to have been that they should be charged as war criminals on account of having carried out indiscriminate bombing.

The accused contended that in their view the prisoners of war should not have been lodged in this jail and that they made representations to that effect.

(3. NEW LAW COURTS CASE.

The accused:-

Capt. NAGAHARA Kenzo
Capt. YAMAZAKI Kaname
2/Lieut. YONOTA Masao
Cpl. NODA Masami

All members or attached to the Kempetai.

CHARGES:

All accused were charged with committing a war crime in that they were concerned in the ill-treatment causing physical suffering to the prisoners of war interned at New Law Courts jail.

The first three accused were further charged with ill-treatment resulting in the death of four prisoners of war.

The first named accused and the third and the fourth named accused were further charged with ill-treatment resulting in the death of another prisoner of war.

And the second named accused was further charged with ill-treatment resulting in the death of two additional prisoners of war.

PROSECUTION:

The prosecution case consisted of a number of affidavits by former prisoners of war, statements by all the accused and the testimony of two civilian witnesses who had been prisoners in the jail and of a Japanese corporal. |

DEFENCE:

The accused NAGAHARA and YAMAZAKI elected to give evidence on oath.

The accused YOKOTA and NODA on the advice of the defending officer declined to give evidence.

The defence was a denial of the allegation together with a claim that in so far as the conditions were unsatisfactory in the jail it was not the fault of any of the accused as they were not responsible for the nature of the building, number of prisoners to be housed, the quantity of food available, the quantity of medical supplies and of the fact that there were also common criminals in the jail.

In respect of accused NODA a further point was made regarding the method of identification which it was claimed, was improperly carried out and could not therefore be accepted by the court.

FINDINGS AND SENTENCES.

<u>Name.</u>	<u>Findings.</u>	<u>Sentence.</u>
Capt. NAGAHARA Kenzo	Guilty of 1st charge. Not Guilty of the remaining charges.	4 years imprisonment
Capt. YAMAZAKI Kaname	Not Guilty.	
2/Lt. YOKOTA Masao	Guilty of the 1st charge. Not Guilty of the remaining charges.	2 years imprisonment
Cpl. NODA Masami	Not Guilty.	

The findings and sentences have been confirmed.)

NOTE ON EVIDENCE:

This case was similar to the previous one in that it concerns the treatment of Airmen prisoners of war. As in the Annexe case it was claimed that these airmen were lodged in this jail on orders from high command because they were regarded as criminal suspects. The O.C. of the jail stated that in his view it was wrong that prisoners of war should be put into this jail but that he had no alternative but to accept them when they were sent.

He said he made representation to have them removed to a POW camp.

4. YEDWINGON CASE.

The accused:

Cpl. IDETA Nado
Capt. HIGASHI Noboro
2/Lt. NAKAYAMA Isaku
2/1st Lt. KOBAYASHI Akira
Sgt. NAKASHIMA Tokyoshi
Sgt. SHIOTA Toshihiro
Sgt. TOYAMA Ryosaku
Cpl. BABA Mitsuru
S/1st Lt. OGATA Masaku

all members of or attached to the Kempetai.

CHARGE:

All accused were charged with committing a war crime in that they were concerned in the ill treatment of civilian residents of the villages of YEDWINGON and NAUNGLON.

PROSECUTION:

The prosecution case consisted of evidence of nine witnesses from the village of YEDWINGON who alleged that they had been arrested by the Kempetai and incarcerated in Moulmein jail for a period of approximately 19 days.

They alleged torture by water torture, electric torture and beatings during interrogations.

All accused were identified by several of the witnesses as having been present either at the time of the arrest or in the jail during the interrogations.

The accused Cpl. BABA Mitsuru tendered plea of guilty.

All the other accused pleaded not guilty.

DEFENCE:

The general defence was a denial of any ill-treatment. The accused Col. IMA and Capt. HIGASHI denied that they had any knowledge of the arrest or ill-treatment of any of the witnesses.

The accused KOBAYASHI, SHIOTA and TOYAMA while admitting presence at the time of the arrest, claimed that they had never been in Moulmein jail during the period when the witnesses had been imprisoned.

The accused OGAMI maintained that he was only a driver and had nothing to do with the interrogations or ill-treatment nor did he act at any time as a guard.

All accused elected to give evidence.

In evidence accused MAKAYAMA admitted that he had ordered use of torture.

The defence also called as witness St. Maj. FUKUDA who stated that MAKAYAMA, W.O. IDEGOMORI and himself had been responsible for the ill-treatment of some of the witnesses for the prosecution.

The defence also produced an admission by W.O. IDEGOMORI of the ill-treatment.

(Note: W.O. IDEGOMORI was one of the accused on the original charge sheet and the charge was withdrawn as he was unfit to stand trial owing to illness.)

FINDINGS AND SENTENCES.

<u>N a m e.</u>	<u>F i n d i n g.</u>	<u>S e n t e n c e.</u>
Col. IDETA Nado	Guilty	8 years imprisonment.
Capt. HIGASHI Noburo	Guilty	8 years imprisonment.
2/Lt. MAKAYAMA Isaku	Guilty	8 years imprisonment.
S/Maj. KOBAYASHI Akira	Guilty	6 years imprisonment.
Sgt. MAKASHIMA Takyoshi	Guilty	3 years imprisonment.
Sgt. TOYAMA Ryosaku	Guilty	6 years imprisonment.
Cpl. EABI Mitsuru	Guilty	1 month's imprisonment.
Sgt. SHIOTA Toshihiro	Not Guilty	
S/Dte. OGAMI Migaku	Not Guilty	

(Note: The accused S/Maj. KOBAYASHI Akira was also one of the accused, found guilty, in the KILAGON case.)

The findings and sentences have not yet been confirmed.

NOTE ON EVIDENCE:

This case is of interest because it was the first one in which an accused had admitted in the witness box that the Kempetai did on occasion use force to extract information.

The accused MAKAYAMA confessed to having used the water torture and Sgt. Major FUKUDA who was called as witness admitted use of electric torture.

Capt. HIGASHI who was one of the accused in the KALAGON case and at that time denied that force was ever used by the Kempetai now admitted that on occasion it might be used. But he was somewhat vague as to what he meant by use of force during interrogations.

In this case tortures used were:

- (1) Water torture.
- (2) Electric torture.
- (3) Hanging a person from a beam with his hands tied behind his back, while in this position the man would either be beaten or given electric torture.

It would appear from this case that the use of force by the Kempetai to obtain information was a common occurrence.

5. RANGOON CENTRAL JAIL CASE (TAZUMI and others).

The accused:

Capt. TAZUMI Motozo.
1st Lt. ONISHI Akio
Sgt. Maj. UENO Kiyoshi
S/Pte. UENO Koietsu.
members of the Imperial Japanese Army.

CHARGES:

All accused were charged with committing a war crime in that they were concerned as parties to illtreatment resulting in the death of 17 named prisoners of war and physical suffering to other prisoners of war.

PROSECUTION:

The prosecution case consisted of a very large number of affidavits by former prisoners of war and was to the effect that the Airman prisoners of war were treated differently from the other POWs and were incarcerated for a long period in solitary confinement where they received insufficient rations and practically no medical attention whatsoever and that beatings by the guards were a frequent occurrence.

The accused S/Pte UENO was identified by his nickname 'limpy' as a notorious beater.

It was alleged that in the case of Lt. DRUMMEY he was deprived of the care of a companion because the medical officer ONISHI stated that he would die in any case and this prisoner was left to die quite unattended.

Prosecution also called as a witness Mr. FULLARTON who had been a prisoner in the Rangoon Central Jail from 1942 to the termination of the hostilities. He has testified that conditions as regards the Airmen were worse than as regard ordinary POWs.

He identified all the accused.

It was stated in several of the affidavits that the accused TAZUMI was a better prison commandant than any of his predecessors.)

DEFENCE:

The accused with the exception of S/Pte UENO, elected to give evidence but subsequently Lt. ONISHI on the advice of the defending officer declined to give evidence.

The defence consisted of a denial of the allegations of ill-treatment.

The accused TAZUMI claimed that he had done what he could to improve conditions. On behalf of accused ONISHI, it was claimed that he was very badly trained and had little experience of medical matters and in addition to his work at the jail he had duties in connection with transit camp and that he was exceedingly short of medical supplies.

Accused Sgt. Maj. UENO denied the allegation against him of ill-treatment although he admitted having on occasions slapped the POWs.

FINDINGS AND SENTENCES.

<u>N a m e.</u>	<u>F i n d i n g s.</u>	<u>S e n t e n c e.</u>
Capt. TAZUMI Motozo	Guilty of ill-treatment of prisoners of war.	7 years imprisonment.
Lt. ONISHI Akio	Guilty of ill-treatment resulting in the death of Lt. DRUMIEY and contributing to the death of 10 other prisoners of war.	death by hanging
Sgt. Maj. UENO Kiyoshi	Guilty of ill-treatment.	3 years imprisonment.
S/Pte. UENO Keigetsu	Guilty of ill-treatment.	15 years imprisonment.

The findings and sentences have not yet been confirmed.

NOTE ON EVIDENCE:

This case like the New Law Courts Annexe and New Law Courts jail cases deals particularly with the ill-treatment of Airmen who were prisoners of war. It appeared from the evidence that these men were treated in a different fashion from ordinary prisoners of war on instructions from high authority because they were regarded as criminal suspects.

The accused TAZUMI maintained that apart from keeping them segregated from other prisoners they were no worse off than ordinary prisoners of war. He maintained that they got the same ration of food as ordinary non-working prisoners and that medical attention was not withheld from them.

In this case as in all the jail cases it appears that the guards were for the most part a thoroughly bad type who made a practice of beating and striking the prisoners of war on the slightest provocation.

The statement by the accused S/Plt UENO made to the Investigating Officer, in answer to the question;

- Q. Is there any other reason for your beating these prisoners in cell block 5 so frequently.
- A. In September 1944 I was told by a Kempetai enlisted man, whose name I do not remember, that it would be all right to beat these prisoners.

shows the attitude of mind of the guards.

There is such a mass of testimony in all the jail cases relating to beatings that it seems impossible to come to any conclusion other than that such treatment if not actively encouraged was at least permitted and regarded as quite normal.

6. RANGOON CENTRAL JAIL CASE (IKEDA).

The accused;

Sgt. Maj. IKEDA Kunejiro.
a member of the Imperial Japanese Army.

CHARGE:

The accused was charged with committing a war crime in that he was concerned in ill-treatment resulting in the death of 5 American prisoners of war.

PROSECUTION:

The prosecution case consisted of a number of affidavits by former prisoners of war, which alleged that the prisoners of war had died through lack of medical treatment and in particular that the persons named in the charge sheet who were brought in suffering from severe burns when their aircraft crashed, received no medical treatment.

DEFENCE:

The defence consisted of a denial of the allegations. The accused elected to give evidence and on oath stated that he had given such treatment as he could to the American airmen who were very severely burnt and in a critical condition when they were brought in to the jail. He claimed to have carried out the instructions given to him by the medical officer.

The defence called as witness Cpl. NOTANI who had been an assistant to the accused and who corroborated his story.

The defence further called Major SHIMZU a Japanese medical officer who gave evidence as to what might be expected in the case of patients suffering from burns of the nature described to the court.

FINDINGS AND SENTENCES:

The court found the accused not guilty.

In announcing finding the court stated that although they were satisfied that at some stage after they crashed there had been a criminal neglect in the treatment of those airmen, yet they were quite satisfied that there was nothing in the evidence to show that the accused could be held responsible in any way for what had occurred.

NOTE ON EVIDENCE:

In view of the fact that the accused in this case was acquitted it is undesirable to draw any definite conclusion from the evidence, but it does appear that the Japanese took little trouble to ensure that wounded or injured prisoners of war were properly treated at an early stage.

(Signed) A.M. STURROCK
Lieut.Colonel R.A.
President, No. 4 War Crimes Court,
Rangoon, M.A., LL.B.(Edin.),
Writer to the Signet.