

No. 2560

Ex 2560

Translated by
Defense Language Branch

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al.

-Vs-

MAKI, Sadao, et al.

Sworn Deposition

Deponent: OYAMA Fumio

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country, I hereby depose as follows:

- I. I was born on Jan. 2, 1883, at No. 463, Nishi-Ebaracho, Shitsukigun, Okayama Prefecture (my domicile) and am now living at No. 8, Nagata-cho 1-chome, Kojinachi-ku, Tokyo.
- II. As to my career, I held the position of Chief of the Army Judicial Affairs Bureau from Dec. 1933 to Mar. 1945, ranking as Army Judiciary Lieut-general since Apr. 1, 1942.
- III. The War Ministry, regardless of peace or war, always expected Army Courts Martial to be strictly fair in meting out punishments, and at every available opportunity issued notes of instruction to that purport. As regards the prosecution of Courts Martial, the War Ministry never made any unjust or unfair interference, nor did it ever take any steps to exert restriction or pressure on it. In particular, the War Ministry issued instructions over and over again, exhorting

Courts Martial to deal with crimes relating to military discipline or morality with the gravest punishments.

IV. Even after the outbreak of the China Incident, the aforementioned policy was never altered, but in time of war it was feared that crimes relating to military discipline or morality were apt to increase. Therefore, the greatest possible care was taken in this respect, Deeming it necessary to make stricter the Courts Martial of the armies in the field particularly, the War Ministry had issued repeated instructions exhorting the strict enforcement of their functions, and expected thorough accomplishment thereof.

Although the notes communicating such instructions had formerly been preserved in the War Ministry, they were entirely burnt at the close of the War. To our regret, therefore, the original texts thereof are not now in existence, but what I have stated above is a stern reality, with which those who received the notes of instruction in question ought to be well acquainted.

V. The Japanese Army Penal Law had formerly contained no provisions relating to rape and it was treated, in conformity with the general Penal Law, as constituting a crime in case its victim should bring forward a complaint. Such treatment of this offence, however, was insufficient for enforcing military morality and, therefore, with the enactment of Law, No. 3 on Feb. 20, 1942, the Army Penal Law was revised, making rape a non-complaint-based crime and its punishment was also increased. When rape committed at the front was treated as a complaint-based crime, there were many cases where it was difficult to secure complaints from victims thereof. So long as there were no complaints from the victims,

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no punishment was possible and consequently a thorough enforcement of morality could not be expected. It was for this reason that the Law was revised classifying rape as a non-complaint-based crime with a view to a stricter control over it.

VI. General Hata was a man who paid extremely close attention to military discipline and morality. I am aware of the fact that, while Commander of the Central China Expeditionary Army or Supreme Commander of the China Expeditionary Army, General Hata made reports to central quarters on the Official instructions, oral or written, given by him for the strict maintenance of military discipline and morality.

On this 24th day of December, 1946

At Tokyo

/S/ OYAMA Fumio (seal)

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I, KOKUBU Tonoji, hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date, at the same place.

witness: /S/ KOKUBU Tonoji (seal)

Oath

In accordance with my conscience I swear to talk the whole truth withholding nothing and adding nothing.

/S/ OYAMA Fumio (seal)

TRANSLATION CERTIFICATE

I, William E. Clarke, of the Defense Language Branch, hereby certify that the foregoing translation described in the above certificate is, to the best of my knowledge and belief, a correct translation and is as near as possible to the meaning of the original document.

/S/ William E. Clarke

Tokyo, Japan

Date 10 February 1947