

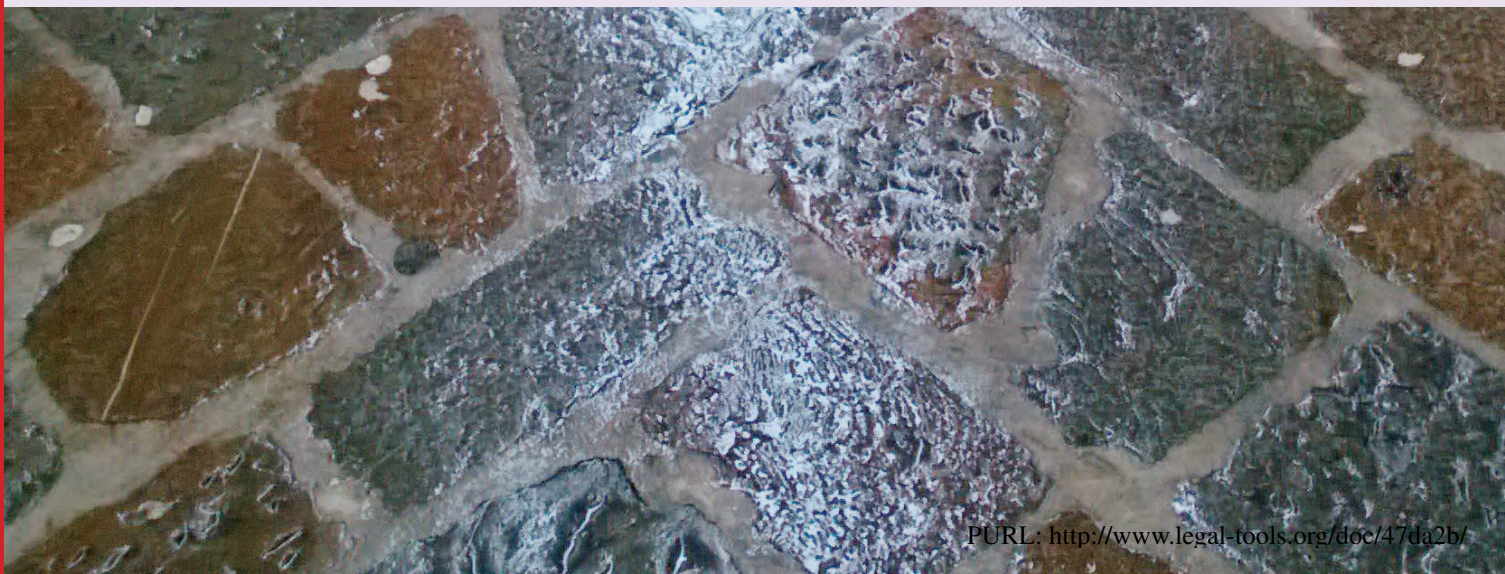
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## **Soviet War Crimes Policy in the Far East: The Bacteriological Warfare Trial at Khabarovsk, 1949**

**Valentyna Polunina\***

### **37.1. Introduction**

In late December 1949 the Soviet Union conducted a somewhat unexpected war crimes tribunal in the Russian Far East city of Khabarovsk ('Khabarovsk Trial'). It was the only Allied trial entirely dedicated to the Japanese bacteriological weapons programme and human experiments related to it. Twelve Japanese war criminals had to finally stand trial before a Military Tribunal after they had been held captive by the Soviets for four years. They were sentenced to a forced labour camp for between two and 25 years, but all those convicted returned to Japan by 1956. The unusually light sentences seem to have been handed down in exchange for "valuable" data on bacteriological warfare.

A question remains about why the Soviet government decided to establish a Military Tribunal so late, at a time when the global wave of prosecuting wartime atrocities was largely over. It seems that justice for the victims was not among the primary goals of the Khabarovsk Trial. After the fiasco of the Soviet performance at the Nuremberg and Tokyo Trials, Moscow needed to reassert itself during an internationally recognised war crimes trial. The Tribunal in Khabarovsk presented an ideal opportunity to promote the Soviet vision of war crimes policy after the Second World War. Nevertheless, even more important for the conduct of the trial were geopolitical considerations in the emerging bipolar world – to establish good relations with the newly born People's Republic of China ('PRC') and to oppose the growing influence of the United States ('US') in the Far East during the early days of the Cold War. By prosecuting Japanese war criminals responsible for the suffering of numerous Chinese victims, Soviet leaders hoped to gain the support of the PRC in the changing geopolitical climate when Japan was no longer seen as an opponent by the US but rather as a new ally. Furthermore, the Khabarovsk Trial had a more practical meaning for Sino–Soviet relations:

in the eyes of the Soviet leaders it could facilitate the signing of the Treaty of Friendship, Alliance and Mutual Assistance between the two states in 1950.

Although the Soviet government had nurtured high hopes for the trial as a beacon of the Soviet version of justice for the atrocities committed in Asia during the Second World War, the Military Tribunal in Khabarovsk did not achieve the objectives assigned to it. The findings of the trial were ignored in the West and the Khabarovsk Trial itself was dismissed as mere communist propaganda.<sup>1</sup> Changing foreign policy goals of the Soviet Union and the Sino–Soviet split in 1956 led to a situation in which the trial was largely forgotten even within the Soviet bloc. Nevertheless, despite all the drawbacks of the trial, it would be too shortsighted to reduce the Soviet tribunal to a simple “show trial”.

This chapter seeks to analyse the Soviet bacteriological trial as a case study that shows how post-Second World War prosecutions were influenced by a mix of propaganda and political considerations, which resulted in an “ambivalent” attitude towards prosecuting war criminals. The chapter discusses the main problems associated with the Khabarovsk Trial that later led to its dismissal: its vague legal basis, the rushed nature of the trial, lenient sentences and a strong sentiment of propaganda. The analysis is located in the political context of the early Cold War, which heavily influenced the decision to initiate the prosecution of Japanese war criminals at such a late stage and offers one of the first comprehensive introductions to the Soviets’ war crime trials policy in the Far East.

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<sup>1</sup> Jing-Bao Nie, “The West’s Dismissal of the Khabarovsk Trial as ‘Communist Propaganda’: Ideology, Evidence and International Bioethics”, in *Journal of Bioethical Inquiry*, 2004, vol. 1, no. 1, p. 38.

### 37.2. Run-up to the Trial

During the years leading up to the Second World War, and throughout the war itself, Japanese military and civilian medical personnel conducted organised, structured and systematic experiments on humans without their consent. One of the most infamous of these medical death camps has become known by the name Unit 731 and was located in Harbin, Manchuria.<sup>2</sup> The crimes committed in these facilities “caused the death of several hundred thousand individuals and were part of the official Japanese government policy covering biomedical experimentation on humans, beginning as early as 1930 and lasting until the Japanese surrender in August 1945”.<sup>3</sup> Atrocities performed by Japanese doctors can be classified in three categories: research comprising experimentation on humans and the mass production of lethal micro-organisms; the training of army surgeons; and biological warfare field tests that were carried out mainly in China and on a smaller scale in the Soviet Union.

One of the most dreadful features of the Japanese bacteriological weapons programme was the vivisection of humans that occurred not only under the auspices of this programme but was also widely practised in hospitals and clinics to train army surgeons. The leader of Japan’s network of human experimentation laboratories was the microbiologist Lieutenant General Ishii Shirō, an ultranationalist, who was convinced that bacteriological warfare represented the weapon of the future.<sup>4</sup>

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<sup>2</sup> Unit 731 – the biggest biological weapons research facility – was officially established by an Imperial Decree on 1 August 1936 as the Anti-Epidemic Water Supply and Purification Bureau. The laboratories would engage in legitimate water purification work, but they would also be the disguise for secret bacteriological weapons research with humans. In 1938 Unit 731 moved to the new base in Ping Fan (a village located 24 kilometres south of Harbin). The facility covered an area of approximately 6 square kilometres. It was a complex of more than 150 buildings. It was the most complete and modern bacteriological weapons research facility of its time.

<sup>3</sup> Sheldon H. Harris, “Japanese Biomedical Experimentation during the World-War-II Era”, in *Military Medical Ethics*, 2003, vol. 2, p. 466.

<sup>4</sup> More on the Japanese biological warfare programme and Unit 731 can be found in Peter Williams and David Wallace, *Unit 731: The Japanese Army’s Secret of Secrets*, Hodder and Stoughton, London, 1989; Sheldon H. Harris, *Factories of Death: Japanese Biological Warfare and the American Cover-up*, Routledge, London, 1994; Jing-Bao Nie, Nanyan Guo, Mark Selden and Arthur Kleinman (eds.), *Japan’s Wartime Medical Atrocities: Comparative Inquiries in Science, History, and Ethics*, Routledge, New York, 2010; Yuki Tanaka, *Hidden Horrors: Japanese War Crimes in World War II*, Westview Press,

The majority of high-ranking members of the medical research units within the Kwantung Army, including Ishii, managed to escape to Japan. The headquarters of Unit 731 in Ping Fan had been completely destroyed during the rushed withdrawal of the Kwantung Army from Manchuria, so the Soviet troops did not even consider it necessary to secure first-hand evidence or take pictures of the ruins.<sup>5</sup> After the war, the Soviets obtained only a small part of the research findings from the few captured members of Unit 731. The Americans were more successful in getting access to the key documents. Directly after the war, the US authorities secretly granted Ishii and some other leading researchers immunity from war crimes prosecution in exchange for data gained from human experimentation.<sup>6</sup>

While it is obvious that the American authorities were trying to prevent the disclosure of Japanese medical atrocities in order to cover up their own co-operation with Japanese war criminals, the question arises as to why the Soviets did not raise the issue during the International Military Tribunal for the Far East ('IMTFE') in Tokyo. The facts indicate that the Soviet authorities learned, with certainty, about Unit 731's medical crimes in early 1946, after interrogating the prisoner of war ('POW') Surgeon Major Karasawa Tomio, who would be brought to trial in Khabarovsk three years later.<sup>7</sup> Despite Soviet accusations of not allowing Soviet evidence on biological warfare to be further investigated in Tokyo due to pressure from the American prosecutor Joseph Keenan,<sup>8</sup> the Soviet prosecution team in Tokyo in fact appeared to be reluctant to mention the bacteriological weapons issue in the courtroom. Such irrational behaviour can be explained by the growing interest in bacteriological warfare in the Soviet Union since the end of the Second World War. The Soviets were obviously dissatisfied with the amount of information they had received. Moreover, being aware of the fact that the US authorities had captured the

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Boulder, CO, 1996; and Daniel Barenblatt, *A Plague Upon Humanity: The Secret Genocide of Axis Japan's Germ Warfare Operation*, HarperCollins, New York, 2004.

<sup>5</sup> Williams and Wallace, 1989, p. 180, see *supra* note 4.

<sup>6</sup> Jing-Bao Nie, "On the Altar of Nationalism and the Nation-state: Japan's Wartime Medical Atrocities, the American Cover-up, and Postwar Chinese Responses", in Nie *et al.*, 2010, p. 126, see *supra* note 4.

<sup>7</sup> Williams and Wallace, 1989, p. 181, see *supra* note 4.

<sup>8</sup> M.I. Raginskii and S.I. Rosenblit, *Mezhdunarodnyi protsess glavnykh iaponskikh voennykh prestupnikov*, Izdatelstvo akademii nauk SSSR, Moscow, 1950, p. 38.

most important Japanese researchers, the Soviet leaders counted upon exchange of valuable data with the Americans. Nevertheless, the latter “certainly had no wish to give the Soviets any opportunity to enlarge on what they had already learned”.<sup>9</sup>

In light of this, the later dismissal of the Khabarovsk Trial as an “exercise in communist propaganda” seems to be explicable not only through the shortcomings of the trial itself but also by “the most direct political factor”,<sup>10</sup> namely the leading role of the US in East Asian war crimes prosecution and its rejection of indicting the sensitive bacteriological warfare issue as an attempt to prevent this “valuable” information from spreading throughout the world.

In 1946 the Soviet Committee for State Security (Komitet gosudarstvennoy bezopasnosti, KGB) started to purposefully seek out persons involved in the Japanese bacteriological weapons programme among about 600,000 Japanese POWs captured by the Red Army during and after the Second World War.<sup>11</sup> Apparently the Soviets managed to identify more than a dozen officers involved in Japanese medical crimes; the victims were mostly Chinese nationals. It is known that the investigators spoke with more than 10,000 prisoners to obtain evidence for the trial.<sup>12</sup> Twelve captured ex-members of Unit 731 and another research and development detachment, Unit 100 of the Japanese Kwantung Army, had been identified in 1949 by the Soviet prosecution to be mostly responsible for implementation of the bacteriological weapons programme. They were:

1. General Yamada Otozō, former commander-in-chief of the Kwantung Army;
2. Lieutenant General Kajitsuka Ryuiji, a bacteriologist and former chief of the Medical Administration in the Kwantung Army;
3. Lieutenant General Takahashi Takaatsu, head of the Veterinary Division of the Kwantung Army from 1941 to 1945;

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<sup>9</sup> Williams and Wallace, 1989, p. 187, see *supra* note 4.

<sup>10</sup> Nie, 2004, p. 38, see *supra* note 1.

<sup>11</sup> Suzy Wang, “Medical-related War Crimes Trials and Post-war Politics and Ethics”, in Nie *et al.*, 2010, p. 126, see *supra* note 4.

<sup>12</sup> Boris G. Iudin, “Research on Humans at the Khabarovsk War Crimes Trial: A Historical and Ethical Examination”, in Nie *et al.*, 2010, p. 62, see *supra* note 4.

4. Major General Kawashima Kiyoshi, chief of the Production Division in Unit 731 from 1941 to 1943, whose responsibility was the organisation of the mass production of bacteriological weapons;
5. Lieutenant Colonel Nishi Toshihide, chief of Branch 673 of Detachment 731, who was in charge of supplying Unit 731 with material needed for production of bacteriological weapons (breeding fleas and animals to grow bacteria);
6. Major Karasawa Tomio, head of a section in the Production Division of Unit 731 from 1943 to 1945, who was in charge for production of germs on a large scale and took part in human experiments of biological weapons;
7. Major Onoue Masao, chief of Branch 643 of Unit 731, who was involved in research work on bacteriological weapons and in training of special personnel, bred rodents and plague-carrying fleas for Unit 731;
8. Major General Satō Shunji, chief of Unit 731's divisions, Detachment Nami based in Canton and Detachment Ei (or Tama) based in Nanking, directed the devising and production of bacteriological weapons and training of bacteriologists;
9. Lieutenant Hirazakura Zensaku, veterinary surgeon, a researcher in Unit 100, who was involved in research and mass production of bacteriological weapons, headed reconnoitring groups that were active on Soviet territory;
10. Senior Sergeant Mitomo Kazuo, who participated in breeding of lethal bacteria and testing of bacteriological weapons on humans in Unit 100;
11. Corporal Kikuchi Norimitsu, served in Branch 643 of Unit 731 where he was involved in cultivation of typhoid and dysentery germs;
12. Private Kurushima Yuji, served as a laboratory orderly in Branch 162 of Unit 731, and took part in cultivating cholera, typhoid and other germs.<sup>13</sup>

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<sup>13</sup> *Materials on the Trial of Former Service Men of the Japanese Army Charged with Manufacturing and Employing Bacteriological Weapons*, Foreign Languages Publishing House, Moscow, 1950, p. 34 ("Materials on the Trial").



It remains unclear why exactly these 12 persons were chosen to stand trial, whereas some other POWs connected to the bacteriological weapons programme (for example, Captain of the Medical Service Kanazawa Kazuhisa, chief of the First Division of Branch 673 of Unit 731; Sub-Lieutenant of the Quartermaster Service Hotta Ryoichiro, member of the Hailar Branch of Detachment 731; or Sub-Lieutenant of the Veterinary Service Fuzukumi Mitsuyoshi, physician in Unit 100) were only called as witnesses.

It is obvious that the group of the defendants was very heterogeneous; it ranged from a general, who had been commander-in-chief of the Kwantung Army, to a corporal. This can be explained by the fact that the staff of Unit 731 was almost entirely evacuated to Japan and the Soviets captured only a few military personnel directly involved in the preparation and carrying out of the biological war.<sup>14</sup> Moreover, there are reasons to believe that for the Soviets it was more important to have selected a representative group that would indicate the overall involvement of Japanese officers in the bacteriological weapons programme and crimes associated with it rather than to prosecute according to the rank and involvement in Japanese medical crimes.<sup>15</sup>

The charges brought against them were as follows: formation of special units for the preparation and implementation of bacteriological warfare; criminal experiments on human beings; employment of bacteriological weapons in the war against China; and preparations for bacteriological warfare against the Soviet Union. Thereby the prosecution team built on the legacy of the International Military Tribunal at Nuremberg ('IMT') and IMTFE at Tokyo. For example, they adopted the principle of individual responsibility, according to which the execution of an order of a superior did not free defendants from responsibility: "No pleading with reference to orders from superiors or to the status of servicemen can serve as justification for the heinous crimes they committed, and which have been fully proved in Court".<sup>16</sup>

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<sup>14</sup> Vladimir Baryshev, "Khabarovskii sudebnyi protsess nad iaponskimi voennymi prestupnikami (k 60-letiiu sobytiia)", in *Zhurnal mezhdunarodnogo prava i mezhdunarodnikh otnoshenii*, 2009, no. 3.

<sup>15</sup> Williams and Wallace, 1989, p. 221, see *supra* note 4.

<sup>16</sup> Materials on the Trial, 1950, p. 447, see *supra* note 13.

It was important to legitimise the Khabarovsk Trial by referring to the findings of the internationally recognised IMTFE, namely that the Japanese ruling clique had, in conjunction with Hitler's Germany, planned, launched and waged aggressive wars, and had for many years engaged in active preparations for a large-scale aggressive war against the Soviet Union [...] The Tribunal also attested to the fact that Japan had entered into a criminal conspiracy with Hitler's Germany and fascist Italy against peace and humanity.<sup>17</sup>

The unusually lenient verdict, announced on the evening of 30 December 1949, also contained a hidden message – the humanism of the Soviet judicial system and the generosity of the Soviet people (apart from the intention to keep the defendants alive in order to exploit their knowledge further in developing biological weapons). Indeed, despite the fact that all the accused were found guilty, they received unusually lenient sentences, not very typical of Soviet practice. Even more surprising was the fact that the sentences handed down in Khabarovsk did not correspond to the demands of the prosecution, which was a violation of an unwritten law at that time. Only four of the accused – Yamada, Kajitsuka, Takahashi and Kawashima received the highest possible imprisonment term – 25 years' forced labour. Satō and Karasawa were sentenced to 20 years, Nishi to 18 years, Onoue to 12 years, Mitomo got 15 years in labour camp, Hirazakura 10 years, Kurushima three years and Kikuchi two years.<sup>18</sup> When analysing the trial proceedings, several aspects deserve consideration, namely the legal basis, the preparation and the propaganda aspect of the whole trial.

### **37.3. Legal Basis of the Proceedings**

One of the most controversial aspects of the trial that affected its international recognition was certainly its legal basis. All defendants were charged following the Decree of the Presidium of the Supreme Soviet of the USSR of 19 April 1943 entitled “On Measures of Punishment for German-Fascist Criminals Who Are Guilty of the Murder and Torture of Soviet Citizens and Red Army Prisoners of War and for Soviet Citizens Who Are Spies and Traitors to the Motherland and for Their

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<sup>17</sup> Materials on the Trial, 1950, p. 9, see *supra* note 13.

<sup>18</sup> *Ibid.*, pp. 534–35, see *supra* note 13.

Accomplices”. The Decree had been released with a view to punishing Nazi perpetrators in the European part of the Soviet Union. It was classified and its provisions remained unknown to the accused and their defence counsel. The provisions of paragraph 1 of the Decree were quoted neither in the indictment nor in the sentence. Nevertheless, this fact did not prevent its obligatory use, which resulted in the sentencing of not fewer than 40,000 persons (among them at least 25,209 foreigners) under the Decree from 1943 to 1952.<sup>19</sup>

The defendants at Khabarovsk were also charged under paragraph 1 of the Decree. It states: “To establish that German, Italian, Romanian, Hungarian, Finnish fascist villains convicted of murder and torture of civilians and Red Army prisoners of war as well as spies and traitors among Soviet citizens are punishable by death through hanging”. As is evident from this, Japanese defendants were not listed in the Decree. In this case, the Decree was applied to the Japanese military by analogy, which constituted a grave shortcoming in the preparation of the trial. The Soviets were well aware of this inconsistency. In a report sent to Stalin on 22 November 1949 – “On the results of the investigation into criminal activities of nine persons among accused Japanese generals and officers serving in the anti-epidemic Detachment 731” – the following procedure was adopted: the former Minister of Foreign Affairs Viacheslav Molotov, Deputy Chairman of the Council of Ministers Georgii Malenkov, members of the Presidium of the Central Committee of the Communist Party Lavrentii Beria, Lazar Kaganovich and Nikolai Bulganin, and a working group consisting of the Minister of Internal Affairs Sergei Kruglov, Prosecutor General Gregory Safonov and Minister of Justice Konstantin Gorshenin offered Stalin to put all accused Japanese war criminals on trial according to the Decree, while at the same time acknowledging that “although Japanese military are not mentioned in this Decree, their criminal activities are analogous to the crimes of the fascist German army”.<sup>20</sup>

After analysing the published materials of the trial as well as the correspondence between the working commission and Stalin held at the

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<sup>19</sup> Iudin, 2010, p. 63, see *supra* note 12.

<sup>20</sup> “Results of the Investigation into Criminal Activities of Nine Persons among Accused Japanese Generals and Officers Serving in the Anti-epidemic Detachment 731”, Report No. 5270/k, 22 November 1949, p. 16 (“Results of Investigation”), R 9492, Op 1a, D 596, State Archive of the Russian Federation (“GARF”).

State Archive of the Russian Federation in Moscow, it seems apparent that the Soviets did not consider there to be a big difference between the Japanese and Nazi regimes. They considered “the alliance between Hitler’s Germany and imperialist Japan” a “criminal conspiracy against peace”.<sup>21</sup> In a speech made on behalf of the accused Satō, the defence counsel P.Y. Bogachov asserted:

The evil deeds which have been the objects of your investigation have something in common with the atrocities committed by the German fascists in the territory of the Soviet Union and of other European countries [...] They have the same ideological basis. The crimes investigated were the direct result of the alliance between imperialist Japan and fascist Germany.<sup>22</sup>

In his speech, the Soviet State Prosecutor Lev Smirnov, who had already served as Chief Prosecutor at the IMT in Nuremberg, went further and compared Japanese biological warfare experiments with human experiments conducted in German Nazi concentration camps: “One’s attention cannot help being drawn to the similarity in the methods of destroying human beings on a mass scale employed by the Hitlerite war criminals and by the Japanese imperialists”.<sup>23</sup> Smirnov justified the need for the prosecution of the Japanese medical crimes by referring to the legacy of the Nuremberg Trial and the notorious crimes at Dachau concentration camp:

Thus, the experimenters in the Ishii Detachment performed the same experiments as those performed by that sinister S.S. experimenter Dr. Rascher, which the Nuremberg International Tribunal quite justly classified among the cruellest and most inhuman of the experiments on human beings performed by the vile Hitlerites.<sup>24</sup>

Some researchers argue that the Decree of 19 April 1943 was wrongly used as a legal basis for the Khabarovsk Trial, not only because it could not be applied to Japanese war criminals but also because there were no Soviet civilians and Red Army POWs among the victims.<sup>25</sup>

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<sup>21</sup> Materials on the Trial, p. 409, see *supra* note 13.

<sup>22</sup> *Ibid.*, p. 496.

<sup>23</sup> *Ibid.*, p. 410.

<sup>24</sup> Materials on the Trial, 1950, p. 432, see *supra* note 13.

<sup>25</sup> Baryshev, 2009, see *supra* note 14.

Despite the fact that Chinese citizens constituted the biggest group among the victims of the Japanese bacteriological weapons programme, there is evidence that Soviet citizens were also killed as a result of Japanese human experiments. The Soviet investigation commission came to the conclusion that “Chinese patriots and Soviet citizens who for various reasons found themselves detained on the territory of Manchuria by authorities of the Kwantung Gendarmerie and Japanese Military Mission were used in order to conduct experiments on the effect of bacteriological means manufactured in Unit 731”.<sup>26</sup> Therefore, it came in handy that some witnesses confirmed the presence of Russian victims. For example, the accused Yamada testified that he “sanctioned the violent killing of Chinese, Russians and Manchurians, who were sent for experimental purposes by the Kwantung Gendarmerie”.<sup>27</sup> Questioned about the activities of Unit 731, Kawashima said that “imprisoned Chinese patriots and Russians whom the Japanese counter-espionage service had condemned to execution” were used for the purposes of experiments with lethal bacteria.<sup>28</sup> The former deputy chief of the Japanese Hogoin camp who participated in the court proceedings as a witness remembered a case of a Soviet soldier, Demchenko, who was sent to Unit 731 for “physical extermination”, which meant murder through experimentation.<sup>29</sup> Another witness Iijima confirmed sending Soviet citizens from the Hogoin camp to Unit 731: “In all, I on various occasions sent about 40 Soviet citizens from the Hogoin camp to certain death; they all died under the experiments”.<sup>30</sup> The accused Mitomo testified about “a case of a Russian on whom, in August 1944, various experiments were performed for two weeks”.<sup>31</sup> A witness Furuichi stated in his testimony that “a group of Russians, Manchurians, Chinese and Mongolians” were objects of frostbite experiments which were carried out in connection with preparation of military operations against the Soviet Union.<sup>32</sup>

But after assessing this evidence, the question remains as to how many victims had been Soviet citizens and not just Russians permanently

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<sup>26</sup> Results of Investigation, p. 14, see *supra* note 20.

<sup>27</sup> Materials on the Trial, 1950, p. 16, see *supra* note 13.

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*, p. 21.

<sup>32</sup> *Ibid.*, pp. 21–22.

living in Manchuria under Chinese citizenship. It seems that the investigation team did not clearly distinguish between these two groups in order to exaggerate the number of Soviet victims and justify the trial against Japanese war criminals who had committed their crimes mostly on Chinese soil. Moreover, the Decree was obviously created with the aim of prosecuting crimes against Soviet citizens committed within the territory of the Soviet Union. Apparently, the blurred distinction between the Russian and Soviet people should have helped make the application of the Decree look more convincing.

The Decree itself deserves special analysis. The fact is that this document had little in common with the legal foundation for war crimes trials in the West. The text of the Decree contains no clear juridical definitions of war crimes. Instead, such vague and subjective terms as “brutality” and “atrocities” are repeatedly used. However, it must also be underlined that the Decree was the first of the Second World War proclamations covering war criminals and reflected the political aims of the wartime Soviet Union. It was already released in 1943 and could therefore not rely on later models such as the IMT or IMTFE Charters or draft definitions from there. It is also important to mention the severity of the document. Paragraph 1 introduced the death penalty by hanging which was to be carried out publicly:

Enforcement of military courts’ sentences – hanging of convicted to death – to be carried out publicly in front of people; the bodies of hanged persons should be left on the gallows for several days for everyone to realise what punishment and retribution will come upon anyone who commits violence and reprisals against civilians and who betrays their homeland.<sup>33</sup>

It should be noted that such criminal sanction as hanging was not listed in Article 13 of the Basic Principles of Criminal Law of 1924, and Articles 20 and 21 of the Criminal Code of the Russian Soviet Federative Socialist

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<sup>33</sup> Ukaz Prezidiuma Verkhovnogo Soveta SSSR, “O merakh nakazaniia dlia nemetsko-fashistskikh zlodeev, vinovnykh v ubiistvakh i istiazaniiaikh sovetского grazhdanskogo naseleniia i plennykh krasnoarmeitsev, dlia shpionov, izmennikov rodiny iz chisla sovetских grazhdan i ikh posobnikov” [Decree of the Presidium of the Supreme Soviet of the USSR, “On Measures of Punishment for German Fascist Criminals Guilty of the Murder and Torture of Soviet Civilians and Red Army Prisoners of War; also for Spies and Traitors to the Motherland among Soviet Citizens and their Accomplices”], 19 April 1943.

Republic of 1926. However, after the Presidium of the Supreme Soviet of the USSR adopted a new Decree entitled “On the Abolition of the Death Penalty” (*Ob otmene smertnoi kazni*) on 26 May 1947,<sup>34</sup> the death penalty in the Soviet Union was replaced by imprisonment in labour camps for up to 25 years. Nevertheless, capital punishment was to be restored on 12 January 1950, which leads us to another shortcoming of the Khabarovsk Trial, namely its rushed conduct.

#### **37.4. Preparations and Timing of the Trial**

The rushed preparations for the Khabarovsk Trial, without any prior announcement, contributed further to its image as a “show trial”: the 12 former servicemen of the Japanese Army were tried for the manufacture and use of bacteriological weapons within only six days, from 25 to 30 December 1949. Ironic as it may sound, it appears that this haste was based on the intention to assure lenient sentences for the accused. Apparently, it was decided long before the start of the proceedings that the Japanese defendants would not receive severe punishment. Timing was crucial for the Soviet investigators who were forced to end the trial by the end of 1949 before the restoration of the death penalty by the Decree of the Presidium of the Supreme Soviet of the USSR “On the Use of the Death Penalty for Traitors to the Motherland, Spies and Subversive Saboteurs” issued on 12 January 1950. This Decree re-established the death penalty for “grave crimes against the Soviet state”.<sup>35</sup> It is likely that the prosecution team was deliberately trying to avoid the death penalty for the defendants by any means and was looking for a plausible excuse in the public eyes. However, the argument is not entirely convincing, because in other Soviet trials of that era, the abolition of the death penalty did not prevent the accused from being executed.<sup>36</sup> In this instance,

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<sup>34</sup> Ukaz Prezidiuma Verkhovnogo Soveta SSSR, “Ob otmene smertnoi kazni” [Decree of the Presidium of the Supreme Soviet of the USSR, “On the Abolition of the Death Penalty”], 26 May 1947.

<sup>35</sup> Ukaz Prezidiuma Verkhovnogo Soveta SSSR, “O primenenii smertnoi kazni k izmennikam rodiny, shpionam, podryvnikam-diversantam” [Decree of the Presidium of the Supreme Soviet of the USSR, “On the Use of the Death Penalty for Traitors to the Motherland, Spies and Subversive Saboteurs”], 12 January 1950.

<sup>36</sup> A series of fabricated criminal cases in the late 1940s and early 1950s initiated by Joseph Stalin in order to eliminate some prominent members of the Communist Party of the Soviet Union. They were accused of treason and of planning to create an anti-Soviet organisation based in Leningrad.

capital punishment was applied to the accused retroactively. It thus underlines the fact that apparently the Japanese defendants enjoyed special protection due to their still unexploited insider knowledge.

The official decision to organise the Tribunal was made on 8 October 1949 by the Resolution of the Soviet of the Ministers of the USSR<sup>37</sup> under Stalin's chairmanship, "About the organisation in Khabarovsk of a trial of the so-called Japanese 'Anti-epidemic unit number 731' senior officials preparing bacteriological means for the war with the Soviet Union and China".<sup>38</sup> By 22 November 1949 the working group of Kruglov, Safonov and Gorshenin had already proposed to Stalin and his Deputy Chairmen in the Council of Ministers to start legal proceedings in Khabarovsk on 7 December and finish "no later than 14 December".<sup>39</sup> They proposed sentences of 10 to 25 years in prison depending on the degree of each defendant's guilt.

In his speech, State Prosecutor Smirnov did not give a detailed explanation of what criteria he used to determine penalties for each defendant (from 25 to three years in prison), stating only that "all the accused committed heinous crimes" and deserved "severe punishment".<sup>40</sup> Nevertheless he urged the judges to adhere to a differentiated approach while delivering their verdict. The early versions of the Prosecutor's speech help us to shed light on this aspect of the Khabarovsk Trial. The draft of Smirnov's speech from 21 November 1949 deals with the question of which punishment would match the severity of the atrocities committed by the defendants. In this case, he stated, the severity and the scope of the crimes were so big that all the defendants "would deserve capital punishment". However, the absence of the death penalty should also serve as a sign of the "humanism" of the Soviet state:

Driven by the great ideas of socialist humanism, the Soviet Union abolished death penalty in times of peace. Soviet people [...] gave vivid examples of generosity to defeated

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<sup>37</sup> Resolution No. 4284-1783s of the Soviet of the Ministers of the USSR.

<sup>38</sup> Report to Stalin, Molotov, Malenkov, Beria, Kaganovich and Bulganin from Minister of Internal Affairs of the USSR Kruglov, Prosecutor General of the USSR Safonov and Minister of Justice of the USSR Gorshenin, p. 13 ("Report to Stalin *et al.*"), Report No. 5270/k, 22 November 1949, p. 16, R 9492, Op 1a, D 596 (GARF).

<sup>39</sup> *Ibid.*

<sup>40</sup> Materials on the Trial, 1950, p. 465, see *supra* note 13.



enemies and by fulfilling [...] socialist justice the Soviet court never acts out of revenge.<sup>41</sup>

Nevertheless, during the preparations for the trial there emerged the idea of demanding the maximum possible punishment of 25 years in prison for each of the accused. Smirnov argued that even Mitomo, the least guilty and most junior in rank in the list of the defendants, deserved 25 years' imprisonment for his deeds, so it would be obviously wrong to ask for a more lenient punishment for the other defendants who committed more serious crimes.<sup>42</sup>

The awareness that even the maximum sentence was lower than what the defendants deserved most likely led to omission of this controversial topic in the final version of the State Prosecutor's speech. Archival documents confirm this suggestion. In his comments on the draft speech made on behalf of, the legal adviser Colonel of Justice Dorman recommended not mentioning the issue of capital punishment. "Can we talk about the fact that the defendants deserve the death penalty? The penalties required by the Prosecutor are lower than those deserved by the defendants. Therefore it would be more correct if the Prosecutor demanded harsh penalties, without specifying them in relation to each defendant"<sup>43</sup>.

But why was it so important for the Soviets not to impose capital punishment? It seems that "the unusually light sentences handed down at Khabarovsk were a form of barter"<sup>44</sup> for valuable information on bacteriological weapons that could be obtained from them. Another crucial question is why the Soviet authorities waited till 1949 to initiate the trial if, as some sources suggest, they were aware of the Japanese activities regarding development of biological weapons even before the war had ended.<sup>45</sup> Although this topic still needs some deeper analysis, it is likely that the decision to wait for more than four years from the capture of Japanese military involved in the bacteriological weapons programme until their prosecution seems to stem from the waiting game of the Soviets

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<sup>41</sup> A Draft of the State Prosecutor's Speech, 21 November 1949, p. 71, R 9492, Op 1a, D 596 (GARF).

<sup>42</sup> *Ibid.*, p. 118.

<sup>43</sup> Recommendations of the Legal Adviser Colonel of Justice Dorman concerning the Prosecutor's speech, 27 December 1949, p. 122, R 9492, Op 1a, D 596 (GARF).

<sup>44</sup> Iudin, 2010, p. 69, see *supra* note 12.

<sup>45</sup> Williams and Wallace, 1989, p. 181, see *supra* note 4.

who were engaged in a competition with the US over capturing the Japanese research data after Japan's surrender. Political interests in the re-use of the bacteriological weapons programme from both new superpowers can also partially explain the omission of the Japanese medical-related crimes at the IMTFE.<sup>46</sup> Their expectations were unrealistic and the US was not eager to share the information on bacteriological weapons, so they decided to use the captive Japanese for ideological and geopolitical purposes.

### **37.5. Propaganda Elements in the Trial Proceedings and Beyond**

The propaganda element was another problem associated with the trial. The central message of the propaganda was to praise the leading role of the Soviet Union in defeating Japan and rescuing the world from an inevitable bacteriological war. It was especially evident in the final speech of Smirnov who claimed that "it was only the swift crushing blow of the Armed Forces of the Soviet Union that paralysed the enemy, saved the world from the horrors of bacteriological warfare".<sup>47</sup> He continued using the common propagandistic rhetoric:

Peace in the Soviet Far East was maintained only as a result of the genius of Stalin's policy, as a result of the victorious consummation of the Stalin five-year plans, as a result of the vigilant concern displayed by the Bolshevik Party and the Soviet Government for the strengthening of the Soviet Armed Forces.<sup>48</sup>

Even the speeches of the defence lawyers and the defendants themselves were not free from propaganda connotations, as they hastened to praise

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<sup>46</sup> Ken Alibek claims that the Japanese documents on bacteriological weapons research that were captured in 1945 were sent to Moscow and thoroughly studied. Thereafter, Stalin ordered the establishment of a Soviet bacteriological weapons facility that should achieve or even exceed the accomplishments of the Japanese. A year after a new Army biological research complex was established at Sverdlovsk (now Ekaterinburg); see Ken Alibek, *Biohazard*, 2008, Random House, New York, p. 37. This opinion is shared by the authors of *The Soviet Biological Weapons Program*. Although it is difficult to identify what exactly Soviet scientists learned from the Japanese programme, it is a fact that the Soviet bacteriological weapons programme benefited from the Japanese experience; see Milton Leitenberg and Raymond A Zilinskas with Jens H Kuhn, *The Soviet Biological Weapons Program: A History*, Harvard University Press, Cambridge, MA, 2010, p. 36.

<sup>47</sup> Materials on the Trial, p. 466, see *supra* note 13.

<sup>48</sup> *Ibid.*, p. 407.

Stalin who had finally arrested the evil wrongdoers. Counsel Borovik, who defended Kawashima, expressed “the profoundest gratitude and love to the man whose wisdom foresaw and warned the Soviet people [...] of the deadly danger that hung over our Motherland in the Far East; to the man whose bright genius turned aside the raised hand of the enemy and saved us from frightful calamity and suffering”.<sup>49</sup>

The question of fair trial has always strongly been connected with the propaganda claim. It is difficult to say if the defendants acted under pressure, when some of the accused also mentioned in their last pleas gratitude for “the human treatment”, for being provided with defence counsel and for the generosity of the Soviet Court. For example, defendant Kawashima asserted that “the Soviet Union is a democratic country which cares for the welfare of the people and stands on guard for peace”.<sup>50</sup> Mitsomo went on to add that for the first time he learned “the truth about the Soviet Union, I came to know the Soviet people; I saw that they are humane and noble”.<sup>51</sup> Moreover, all the accused repented, and 11 of them fully confessed their guilt with only one exception: Kajitsuka pleaded partially guilty.

It is most likely that the accused did not have any other choice than to confess their guilt. Although they were provided with highly qualified and experienced defence lawyers from the Moscow Bar Association,<sup>52</sup> the strategy of the defence lawyers was not aimed at proving the innocence of the accused but merely mitigating their guilt. In contrast to the practice at the Nuremberg and Tokyo Trials, the defendants in Khabarovsk had been presumed guilty already before the start of the trial (even if it had also already been decided they should be spared the death penalty). The Court’s role was ultimately limited only to the determination of each defendant’s degree of guilt. This fact facilitated the image of the Khabarovsk Trial as an exercise in communist propaganda, even while we consider that the IMT and the IMTFE were not completely free from propaganda either. For example, Counsel Belov considered the guilt of his defendant Yamada as proved:

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<sup>49</sup> *Ibid.*, p. 479.

<sup>50</sup> *Ibid.*, p. 515.

<sup>51</sup> *Ibid.*, p. 520.

<sup>52</sup> Report to Stalin *et al.*, p. 14, see *supra* note 38.

there is no room for debate concerning the facts and proofs as such. The evidence of the witnesses, the original documents at hand in the case which were collected during the stage of preliminary investigation, and the detailed explanations given by the accused themselves, have confirmed in their sum total the factual side of the indictment.<sup>53</sup>

The Soviet offensive in Manchuria of 1945 was presented as a preventive military measure that “put a stop to the criminal preparations for aggressive war against the Soviet Union and other peaceful nations with the object of creating ‘Greater East Asia’”.<sup>54</sup> This rhetoric was aimed at justifying the legitimacy of the Soviet Union to prosecute crimes committed on the territory of another country by foreign nationals. At the same time, the message of the court proceedings would help to deter such crimes in the future and serve as a warning to the new ideological enemies who might have been “contemplating new crimes against mankind, and preparing new means for the wholesale extermination of human beings”.<sup>55</sup> Otherwise they would confront “the mighty front of democratic forces headed by the great Soviet Union”.<sup>56</sup>

The Court as an ideological stage was quite evident in other statements of the lawyers. They concentrated their efforts on persuading the judges that the accused were not only brutal criminals but also a product of the Japanese imperialist system who were “not only to be condemned but also to be pitied”.<sup>57</sup> Belov stated that Soviet science of criminal law had “never made common cause with the so-called anthropological school of criminal law and its doctrine of the born criminal”.<sup>58</sup> The official narrative was to give the defendants another chance; they were not hopeless criminals but persons who still could be re-educated under the right auspices. This is not so surprising an

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<sup>53</sup> Materials on the Trial, 1950, p. 467–68, see *supra* note 13.

<sup>54</sup> *Ibid.*, p. 409.

<sup>55</sup> *Ibid.*, p. 466.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*, p. 478.

<sup>58</sup> *Ibid.*, p. 468.

approach, as “the Soviets [...] had initially hoped to ‘indoctrinate’ the POWs and to convert them to communism before releasing them”.<sup>59</sup>

Immediately after the proclamation of the verdict, the Soviets started to spread information about the Khabarovsk Trial and its findings. As early as 1950, the materials of the trial – including testimonies of the accused, documentary evidence and the findings of the experts – were published in a book and translated into Chinese, Japanese and English. Since that time, this publication has been used as a leading source of information on the Japanese bacteriological weapons development programme as access to archival material is still restricted. The centralised Soviet press intensively reported from the courtroom and the biggest Soviet newspapers such as *Pravda* and *Izvestiia* published the most important documents, including the verdict that appeared on their front pages on 1 January 1950 together with propagandistic caricatures and excerpts from the Chinese newspaper the *People’s Daily* (*Renmin Ribao*).

### 37.6. International Response

It was also not accidental that the voices of gratitude from the young People’s Republic of China were forthcoming soon after the verdict appeared in the Soviet press. The verdict was important in anticipation of the signing of a Sino-Soviet Treaty of Friendship, Alliance and Mutual Assistance scheduled for February 1950 and to create an image of the Soviet Union as the closest ally of the PRC.

The PRC enthusiastically supported the propaganda campaign started by the Soviets. The full indictment was translated and published in the *People’s Daily*. The Khabarovsk Trial was depicted as “an expression of friendship of the Soviet people towards the Chinese people” and “a warning to Anglo-American warmongers trying to use biological weapons and endanger peace in the Far East and throughout the world”.<sup>60</sup> The information about the American collaboration with Japanese war criminals and the demands for Emperor Hirohito of Japan’s liability as a

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<sup>59</sup> Philip R. Piccigallo, *The Japanese on Trial: Allied War Crimes Operations in the East, 1945–1951*, University of Texas Press, Austin, 1979, p. 150.

<sup>60</sup> “Chinese Newspapers on the Trial of Former Military of the Japanese Army”, in *Pravda*, 1 January 1950, no. 1, p. 4.

war criminal featured in the headlines of the Chinese press.<sup>61</sup> The propaganda campaign in the Chinese media emphasised the suffering of the Soviet people side by side with Chinese victims of the Japanese bacteriological weapons experiments, promoting at the same time the idea of a natural alliance between the two communist states in the face of a threat coming from the US and Japan.<sup>62</sup> Moreover, the Soviet Union was depicted as a defender who could protect China from further bacteriological attacks from Japan:

Finally and yet most importantly, we need more and ever-increasingly to let the Soviet Union lead the peaceful democratic people of the world in unity and cooperation. Soviet power will protect us from those who love war [...] Proof of this idea can be seen in the first-ever decision of a court to try the Japanese scientists [in Khabarovsk] who are the bacteriological warfare war criminals for their especially big crimes dating from years back.<sup>63</sup>

The Soviet message emanating from the trial was heard in China where the Soviet propaganda campaign was used to reinforce anti-Japanese and anti-American sentiment as a justification for more intense friendship between the Soviet Union and the PRC.<sup>64</sup> Moreover, the Khabarovsk Trial encouraged the first widespread education and propaganda campaigns throughout the country that were accompanied by collecting further evidence of Japanese medical crimes.

This message was intended not only for the new Chinese partners but also for the rest of the world, especially the opposing Western bloc led by the new US superpower. The Soviets made efforts to spread the information about the Khabarovsk Trial and its findings through both media and diplomatic channels.<sup>65</sup> On 1 February 1950 the Soviet

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<sup>61</sup> Justin Jacobs, “Preparing the People for Mass Clemency: The 1956 Japanese War Crimes Trials in Seihyan and Taiyuan”, in *The China Quarterly*, 2011, vol. 205, p. 160.

<sup>62</sup> Adam Cathcart, “‘Against Invisible Enemies’: Japanese Bacteriological Weapons and China’s Cold War, 1949–1950”, in *Chinese Historical Review*, vol. 16, no. 1, 2009, p. 67.

<sup>63</sup> Li Shiliang, “Imperialism is itself an Atrocity”, in *Lüshun-Dalian Daily*, 8 January, 1950, cited in *Ibid.*, p. 69.

<sup>64</sup> Adam Cathcart and Patricia Nash, “‘To Serve Revenge for the Dead’: Chinese Communist Responses to Japanese War Crimes in the PRC Foreign Ministry Archive, 1949–1956”, in *The China Quarterly*, 2009, vol. 200, p. 1057.

<sup>65</sup> Information about the media reaction to the trial in foreign countries was thoroughly collected by the Foreign Reference Editorial Office of the Telegraph Agency of the Soviet

ambassadors in Washington, London and Beijing, on behalf of the Soviet Government, handed in a diplomatic note on the trial to the Governments of the US, Britain and China. Two days later, the note was published in the Soviet press. This document set out the basic facts established during the trial. In connection with the note, the Soviet Government proposed to try Emperor Hirohito, Generals Ishii, Kitano Masaji, Wakamatsu Yujirō and Kasahara Yukio in the near future before a special International Military Court for committing war crimes.<sup>66</sup> However, this diplomatic démarche of the Soviet government was unsuccessful.

The media response more generally was not successful either. By and large, the message was ignored outside Japan and the socialist states. The Khabarovsk Trial was briefly mentioned in a couple of British newspapers, but only the communist *Daily Worker* published an extensive article on the trial that criticised the US for defending those “who have admitted the most atrocious war crimes”.<sup>67</sup> Short messages about the Soviet trial were broadcast in France, Spain, Denmark, West Germany and East Germany.<sup>68</sup>

The Khabarovsk Trial provoked even less reaction in the American media. The very few mentions of the tribunal referred to it as an attempt to distract the international community from the fate of Japanese POWs in the Soviet Union.<sup>69</sup> A secret US District Field Intelligence Report contains probably the best summary of the public perception of the findings presented in Khabarovsk in Allied countries. The report points to all the drawbacks of the Khabarovsk Trial that consequently led to its dismissal: no previous announcement, “no means for determining the authenticity of [...] official writs”, dependency on the confessions of the accused who “willingly expanded upon their guilt and described at length their participation in a diabolic plan for mass slaughter with bacterial weapons”, “Communist technique of justice” and finally the “legalistic

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Union (TASS) and analysed in secret reports. This indicates much interest in the trial’s perception abroad.

<sup>66</sup> “Note of the Soviet Government to the Governments of the USA, Great Britain and China”, in *Pravda*, 3 February 1950.

<sup>67</sup> Williams and Wallace, 1989, p. 228, see *supra* note 4.

<sup>68</sup> Response to the Trial of Former Servicemen of the Japanese Army in Japan, R 4459, Op 27, D 10518, D 12331; Op 38, D 229 (“Response to the Trial”) (GARF).

<sup>69</sup> *Ibid.*, p. 68.

burlesque”.<sup>70</sup> The new geopolitical situation had its impact on public reactions in the countries that once sailed in the same boat under the veil of bringing justice for war crimes. The Cold War was a reality of the post-war world, and Allied unity that had existed in the face of a common enemy was already a thing of the past.

### **37.7. Conclusion**

Despite all the efforts of the Soviets to spread its version of the Khabarovsk Trial through diplomatic and media channels, the facts about the Japanese bacteriological weapons programme verified at the trial were dismissed as communist propaganda and largely forgotten. This was a direct result of the growing Cold War conflict between the Soviet Union and the US. A representative of General Douglas MacArthur’s headquarters even stated that after a “full investigation” they could not find any evidence of the use of biological weapons by Japan.<sup>71</sup> The time had come when national, political and ideological interests gained priority over justice.

The shortcomings associated with the Khabarovsk Trial helped to strengthen the opinion in the West that the Soviet tribunal was nothing but a trick. No previous announcement of the proceedings (the trial was a complete surprise even for the PRC), deliberate exclusion of international observers, efforts to control all the aspects of the trial all made it easy to portray it as a mere show trial. Strong propaganda sentiment and a vague legal basis did not promote its worldwide recognition even if efforts to adhere to the standards of a fair trial are discernible. Each defendant had a defence counsel. Defendants enjoyed the “right during the Court proceedings to put questions to witnesses, experts, and to each other, and to make explanatory statements on the substance of the case”. They could also call further witnesses and experts or call for other “proofs and documents”.<sup>72</sup> Despite all the efforts and the attributes of a fair democratic trial, it has to be underlined that they were applied through rules which were valid in the Soviet Union and which did not have much in common with Western legal practice.

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<sup>70</sup> Williams and Wallace, 1989, p. 229, see *supra* note 4.

<sup>71</sup> Response to the Trial, p. 67.

<sup>72</sup> Materials of the Trial, 1950, p. 244, see *supra* note 13.



Nevertheless, it would be unjust to dismiss all the findings of the trial as, unlike in the case of the Stalin show trials of the 1930s, evidence was not likely to be fabricated and has been proven to be accurate. The point of view advanced by some scholars can be agreed with – that it is important to distinguish between the flaws in the legal proceedings and great quantity and quality of the evidence presented in Khabarovsk, between the basic facts and propaganda.<sup>73</sup> Boris Iudin, for example, argues that it would have been impossible to fake such a huge amount of evidence. He points out the different nature of the evidence presented at show trials: “The materials presented at these trials [1930s show trials] contained many more unfounded invectives and much less factual material than was the case at Khabarovsk. Moreover, many of the alleged crimes of these ‘enemies of people’ simply defied credibility and common sense”.<sup>74</sup>

The most reasonable explanation of why the Soviets opted for “belated justice” and decided to organise the Khabarovsk Trial long after the end of the war, and even after the IMTFE, seems to be that they had “finally given up hope of persuading the West to allow them access to Ishii and the other Japanese scientists”.<sup>75</sup> There was no chance that they would receive the missing parts of the experimental data on bacteriological warfare, so there was no need to keep silent about the agreement between the Americans and Japanese medical war criminals. Moreover, the Soviet propaganda machine could even benefit from bringing justice to “Chinese patriots” and “Soviet citizens”,<sup>76</sup> thereby establishing close contacts with the newly-born PRC and at the same time embarrassing the Americans. The trial further served as a means to stage a Soviet version of coming to terms with Japanese war atrocities, given the fact that the Soviet performance at the Tokyo Trial had been experienced as a true disaster from the Soviet point of view.

Ultimately, the prosecution at Khabarovsk was trying to prove that the IMTFE failed to address Japan’s biological weapons. From the Soviet perspective, the Japanese had committed exceptional crimes comparable to the Nazi atrocities that required special legal treatment, especially with

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<sup>73</sup> Nie, 2004, p. 39, see *supra* note 1; Iudin, 2010, p. 69, see *supra* note 12.

<sup>74</sup> Iudin, 2010, p. 69, see *supra* note 12.

<sup>75</sup> Williams and Wallace, 1989, p. 230, see *supra* note 4.

<sup>76</sup> Materials of the Trial, 1950, pp. 15–16, see *supra* note 13.

regard to bacteriological weapons. Khabarovsk was set up to show that the accused Japanese had conceived even worse crimes than those raised at Tokyo: they had planned biological warfare as a form of aggressive war; their actions had already led to aggression against China and the Soviet Union; and their actions might have led to a global bacteriological war. The Khabarovsk Trial, designed as an alternative to Tokyo, presented an ideal opportunity to promote the Soviet version of the events of the Second World War in the Far East. Moreover, the captive Japanese were useful for Soviet ideological and geopolitical purposes during the onset of the Cold War – not only blaming the Americans for the omission of the Japanese biological weapons programme in Tokyo but also embarrassing them through the fact of co-operation with Japanese war criminals and protection of Emperor Hirohito from war crimes charges.

Despite all its drawbacks and the fact that the process did not enjoy an international character, the Khabarovsk Trial should be recognised as an attempt to present and prove the evidence of Japanese medical crimes during the war. The Khabarovsk Trial is thus a telling example not only of the Soviet war crimes trials policy during the early Cold War period with regard to its geopolitical interests in Asia but also of the entanglement of political context, propaganda and an ambivalent attitude towards prosecuting war crimes on the part of one of the major Allies of the Second World War.

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## **Historical Origins of International Criminal Law: Volume 2**

Morten Bergsmo, CHEAH Wui Ling and YI Ping (editors)

The historical origins of international criminal law go beyond the key trials of Nuremberg and Tokyo but remain a topic that has not received comprehensive and systematic treatment. This anthology aims to address this lacuna by examining trials, proceedings, legal instruments and publications that may be said to be the building blocks of contemporary international criminal law. It aspires to generate new knowledge, broaden the common hinterland to international criminal law, and further develop this relatively young discipline of international law.

The anthology and research project also seek to question our fundamental assumptions of international criminal law by going beyond the geographical, cultural, and temporal limits set by the traditional narratives of its history, and by questioning the roots of its substance, process, and institutions. Ultimately, the editors hope to raise awareness and generate further discussion about the historical and intellectual origins of international criminal law and its social function.

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