

CONFIDENTIAL.

No. 65026 JAG  
HQ Allied Land Forces,  
South East Asia Command.  
28th May, 1946.

GOC-in-C,  
Burma Command.  
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Subject: War Crimes Courts.

Reference the proceedings of the trial by Military  
Court of

(1)	Major	Ichikawa	Seigi	)	
(2)	Capt	Sakamaki	Saburo	)	
(3)	Capt	Okubo	Yozo	)	
(4)	Capt	Yanagisawa	Izumi	)	All of the
(5)	Capt	Midorikawa	Hisashi	)	3rd Bn 215 Regt
(6)	2 Lt	Usui	Kiyohiro	)	33 Div. J.A.
(7)	Lt.	Tajima	Ichiro	)	
(8)	Lt	Takei	Shozo	)	
(9)	Capt	Higashi	Noburo	)	
(10)	W.O.	Fujiwara	Ryozo	)	
(11)	Sjt Maj	Kobayashi	Akira	)	All of the
(12)	Sjt	Nagata	Teshiyuki	)	Kempeitai.
(13)	Sjt	Nomoto	Kinni	)	
(14)	Cpl	Morimoto	Seichi	)	

1. The accused were tried by Military Court at Rangoon on 22 Mar-10 April 46 on charges for committing war crimes as follows:-

(a) On and about 8 July 45 at Kalagon, Burma, being together concerned in the unlawful killing of men, women and children, civilian inhabitants of Kalagon

(b) On and about 8 July 45 at Kalagon, Burma, being together concerned in the unlawful beating, torture, wounding and other maltreatment of civilian inhabitants of Kalagon.

2. Accused 1 was tried on a third charge for committing a war crime by unlawfully abducting or causing the abduction of the wife of the headman of Kalagon and of 9 other women, civilian inhabitants of Kalagon, on or after 8 July 45.

3. All the accused pleaded "Not Guilty" to the charges and the findings of the court were as follows:-

1st charge. Accused 1,2,3,4,5,7 and 8 - Guilty  
Accused 6,9,10,11,12,13 and 14 - Not Guilty.

2nd charge. Accused 1,2,3,4,5,7 and 8  
Guilty of being concerned in wounding and other maltreatment but not guilty of being concerned in beating and torture.

Accused 10,11 and 13 - Guilty  
Accused 6, 9, 12, 14 - Not Guilty.

3rd charge Accused 1 - Guilty of abducting certain women but not the Headman's wife.

4. Sentences awarded by the Court were :-

Accused 1	Death by hanging
" 4,5 and 7	Death by shooting
" 2,3 and 8	10 yrs imprisonment
" 13	7 yrs imprisonment
" 10 and 11	5 yrs imprisonment

5. The facts of the case were briefly as follows :-

In June 1945 the position of the Japanese forces in Burma was precarious and for some months British paratroops had been operating with guerillas behind the Japanese lines at Tenasserim in the area between Moulmein and Dali forest. HQ of the Japanese 33 Division decided to despatch an expedition to the area. A preliminary sweep was made by the 3rd Bn of 215 Regt under the command of accused 1 in the Kalagon area. Very little information was obtained and the Regimental Commander gave a written order to accused 1 to carry out an operation against Kalagon and wipe out the paratroops and dacoits in that area, who seemed to be receiving assistance from the Kalagon villagers. In conference he told accused 1 that the expedition should be thoroughly conducted even if the villagers were to be killed.

On the 2nd or 3rd July accused 9, who was O.C. Moulmein Kempeitai detachment, having been ordered by Major Hirazawa of HQ 33 Div to provide Kempeitai assistance for the expedition to Kalagon went to Chaunganakwa with accused 11 and 13. At Chaunganakwa they were joined by accused 10 and 14. After giving his subordinates the necessary instructions accused 9 returned to Moulmein. The 3rd Bn 215 Regt assembled at Chaunganakwa under the command of accused 1 with accused 2 as Liaison Officer, accused 3 the Adjutant, accused 4,5,7 and 8 Company Commanders, accused 6 the MO and accused 10,11,13 and 14 members of the Kempeitai detachment. Accused 12 was a member of the Kempeitai but he was attached to another Bn and there was no evidence to connect him with the Kalagon incident. The Bn moved off to Kalagon, arrived there on the 7th July and occupied the village. No.11 Coy under command of accused 8 took up a defensive position 1 kilometre East of the village and Nos. 10, 12 and a Machine Gun Company under the command of accused 7, 5 and 4, respectively, entered Kalagon.

At about 1600 hrs on 7th July the villagers were rounded up. The men were confined in a mosque and the women and children were placed in an adjoining building. Several of the villagers were then subjected to various forms of interrogation by the Kempeitai detachment. This interrogation went on throughout the night and the villagers were beaten and brutally illtreated. About 8 villagers were removed to the Kempeitai HQ and there interrogated, tortured and beaten by accused 10, 11 and 13. There was evidence that accused 2 was present during some of these interrogations. Under these tortures some of the villagers admitted that others were helping the guerillas.

The following morning at a conference accused 1 ordered that the village should be destroyed and the inhabitants, men women and children massacred. The same afternoon they were tied up in batches of from 4 to 10 and taken out to nearby wells. There they were tied individually, blindfolded, bayoneted and thrown into the wells irrespective of whether they were still alive or dead. The Japanese pounded the bodies in the wells with bamboo poles and thus disposed of over 600 villagers of Kalagon. Two of the witnesses at the trial had been actual victims of the bayonetting but had escaped from one of the wells and gave evidence of the details of the interrogations by the Kempeitai and the subsequent slaughter.

On the 9th July the Japanese left Kalagon to search the Dali forest area. They returned on the 11th, pillaged and burned down the village and departed finally on the 12th July taking with them 10 of the village women who had been spared in order that they might work for the Japanese as spies. These women with the exception of 2 who escaped were not seen again.

6. The following is a summary of the defence put forward on behalf of the accused collectively:-

(a) The villagers of Kalagon were, according to Japanese Intelligence reports, actively assisting British paratroops and guerillas. The Japanese were therefore entitled to take reprisals against them. The annihilation of Kalagon was both a justifiable reprisal and a military necessity as part of the Japanese operations to clear the area of forces hostile to the Japanese. It was suggested that there was no difference in the killing of the women and children from the bombing of Japanese and other cities by Allied Air Forces and that in all operations of military necessity it was inevitable that the deaths of women and children should ensue. It was argued that Kalagon as a village was hostile to the Japanese in its entirety and therefore the whole of the village should be wiped out.

(b) In the event of the defence of reprisals and military necessity being rejected, the alternative defence of superior orders was put forward. It was alleged that the orders for the destruction of Kalagon came from the Regimental or Divisional Commander and that those orders had to be obeyed by accused 1 and his subordinates. Furthermore the orders, being orders for justifiable reprisals or given on account of extreme military urgency, were not unlawful and therefore the accused should be relieved of all responsibility.

7. Each of the accused, except accused 12 who was acquitted without being called upon for his defence, gave evidence on oath and sought to explain the part played by him in the incident as follows:

Accused 1.

He received orders from his superiors and had no option but to carry them out. The massacre was not denied but it was carried out quickly and humanely. No villager had been tortured and it was necessary to kill the children to save them from being left as orphans without anyone to care for them. He admitted the taking away of the 10 women but said that the headman's wife was killed in the massacre. The women came of their own free will to act as spies for the Japanese.

Accused 2.

He admitted knowledge of the purpose of the expedition and his own participation in arranging the transport of the Japanese to Kalagon. He also acted as an intelligence and liaison officer attending some of the interrogations but denied that he had taken part in any killing or ill-treatment.

Accused 3.

As Battalion Adjutant he was present at the conference relating to the operation and transmitted the final order for the massacre to the Company Commanders. He killed no one nor did he supervise the killing.

Accused 6.

This accused was the M.O. and admitted being at Kalagon but denied that he took part in any killing or ill-treatment. One of the Burmese witnesses suggested that he had raped her but this was strongly denied by the accused and by others on his behalf.

Accused 4, 5 and 7.

These were the Company Commanders who carried out the actual massacre. They admitted having collected the villagers and supervising the bayonetting. They said that it was done in accordance with the orders they had received, that they were bound to obey and that what was done was done quickly and humanely. They denied having ill-treated the villagers in any way prior to the killing and said that those villagers who had escaped had given garbled and exaggerated stories of the whole affair.

Accused 8.

He denied that he was actually in Kalagon or that he had taken part in the killing. He was Commander of a company which was posted 1 kilometre East of the village and his role was to protect the Japanese forces in the village. He denied that his company was intended to prevent the villagers from escaping and the most that could be ascribed to him was knowledge of the purpose of the operation.

Accused 9.

He had detailed the Kempeitai detachment to accompany the 3rd Bn to Kalagon but denied that he had gone there himself. He admitted that he knew of the purpose of the expedition but denied that he had instructed his Kempeitai subordinates to use force in their interrogations.

Accused 10, 11, 13 and 14.

These accused were the Kempeitai detachment on the expedition. They denied having taken any part in the massacre. They said that their activities were confined solely to the business of interrogation and that during the interrogations no villagers had been tortured or ill-treated. They said that the evidence of ill-treatment and torture given by the villagers was exaggerated and unreliable.

8. Accused 6, 9, 12 and 14 were acquitted. Accused 6 though present was not proved to have taken part in any ill-treatment, torture or killing. It could not be said that he abetted in any way the crimes perpetrated by the other accused and the evidence against him on the 3rd charge was unreliable and uncorroborated. Accused 9, though he knew the purpose of the expedition, was not at Kalagon and could not properly be held responsible for acts committed by his subordinates without his orders or permission. Accused 12 was not concerned with the expedition in any way. Accused 14 performed a very minor role in the Kempeitai detachment, being a cook or orderly, and he was not proved to have taken part in the interrogations or ill-treatment.

9. Accused 10, 11 and 13 were acquitted of the 1st charge but properly convicted of the second charge relating to the torture and ill-treatment of the villagers during the interrogations.

10. Petitions against the findings and sentences of the court have been submitted by accused 1, 2, 3, 4, 5, 7 and 8. They are all based on the same general grounds as those raised in defence and outlined above. The massacre was a just reprisal and a military necessity (this amounts to two separate pleas but they are combined in the petitions) and was therefore not a crime; alternatively, it was carried out under superior orders not manifestly illegal and the accused were not actuated by any motive of cruelty or brutality nor did they exceed their orders. Accused 2, 3 and 8 contend that they had no responsibility for or knowledge of the offences alleged in the second charge. Accused 1 further petitions against his conviction on the third charge on the ground that the prosecution has not shown that the women were abducted for an illegal purpose.

The petitions of the accused are supported by a petition from Col. Misao Tsukada, Commander 215 Regt who gave evidence at the trial. In this petition he accepts full responsibility for issuing the orders for the Kalagon massacre and states that accused 1 merely carried out his orders. He also accepts responsibility for the abduction of the women and states that he himself expects to be brought to trial. He pleads for some remission of the sentence passed on accused 1 and the other subordinate officers in view of the fact that they were merely carrying out the orders given by him.

11. It is clear that the massacre of the Kalagon villagers cannot be justified. Taken at its best, the evidence in the hands of the Japanese showed that some 10% of the village population had rendered assistance to the British, not by arms but by occasional manual labour and some provisions. It cannot reasonably be said that the murder of 600 unarmed men, women and children was either a just reprisal for such meagre opposition or a military necessity for the protection of the Japanese forces. So far at least, as the women and children were concerned, the order for the massacre was manifestly illegal and the plea of obedience to superior orders cannot be accepted. It is not therefore necessary to consider who issued the order, although it can be said that the equivocations of Col. TSUKADA when giving evidence contrast unfavourably with the definite statements in his petition. The court found that accused 1 was in fact given a certain discretion in carrying out the general order, and was himself responsible for the decision to kill all the inhabitants of Kalagon and the evidence before them justifies this finding. The plea of accused 4, 5 and 7, who carried out the massacre, that they did so without cruelty and brutality and within the scope of their orders is decisively negatived by the fact that they did not even ensure that their victims were killed: some were bayoneted and thrown into the wells alive and have survived to give evidence. Accused 2 and 3 were administratively concerned in organising the massacre; they knew and approved of it, as did accused 8 whose company's duties clearly included that of preventing the escape of the villagers as well as that of preventing outside interference.

The court were right in finding that these accused were also guilty of the second charge, since they were all either directly concerned in or abetted the wounding and maltreatment of such of the villagers as escaped death. On the third charge there was again some conflict of evidence as to whether accused 1 had a discretion in giving the order; on balance it seems that he had, in fact TSUKADA said at the trial that he (TSUKADA) did not give much attention to the question though he has changed

his attitude in his petition. It is clear that the women did not go with the Japanese willingly and that the order itself was contrary to the laws and customs of war. I advise that the petitions be dismissed and that all the findings and sentences be confirmed.

12. With reference to para 4 of your No. 2156/4/A3 dated 16 Apr 46, none of the findings or sentences require confirmation by the C-in-C. You are the confirming authority in this case.

*F. J. Davis*

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Brigadier,  
D.J.A.G. Allied Land Forces, S.E.A.

FGTD/RAP