

## **A JAPANESE WAR CRIME: HUMAN EXPERIMENTATION WITH POISON IN TAIPING, MALAYA DURING WORLD WAR II**

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**Abstract:** *A human experimentation by the Japanese army with Ipoh poison was conducted on Mr. Chan Pak in Taiping jail, Perak, Malaya, as revealed by a war crime's trial carried out by British forces in 1948. This study's objective is to ascertain any violation of international law and human rights by the Japanese army through torture and poisoning of the said victim. This study is qualitative. A textual analysis has been utilized to illicit meaning from judgments of war crime trials and relevant international agreements on the conduct of war. A socio-legal approach is also applied as it is by nature multidisciplinary so as to combine history, security studies, and law. This study's findings indicate a violation of Article 23 (a) of the 1899 and 1907 Hague Conventions on the laws and customs of war which forbid the use of poison despite Japan having signed and ratified these agreements. The prohibition of both poison and torture would have incriminated Japan because these have been accepted as customary international law. This study is significant as it highlights an obscure case of Japanese human experimentation with poison in Malaya.*

**Keywords:** *Japanese Army, Malaya, Human Experimentation, Torture, Poison, Prior Informed Consent (PIC)*

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### **Introduction**

In the early part of 1945, the Japanese 29th Army in Taiping, Perak (of what was then Malaya) decided to test the effect of a poison known locally as “Ipoh” because its sap was extracted from the Ipoh tree (Judge Advocate General's Office, 1948, p. 1). The Ipoh poison was tested on a man named Chan Pak within the confines of the Taiping jail (Judge Advocate General's

Office, 1948, p. 1). The above case came to light in a war crimes trial conducted by British forces in 1948 (Judge Advocate General's Office, 1948, p. 1). This case is highly significant as it marks a turning point — for the first time, the Japanese conducted human experimentation with poison in its occupied territory of Malaya, not to mention that it is the first case of a war crimes trial on the misuse of poison carried out by the British in Malaya after World War II.

Based on the above, this study is aimed at ascertaining any violation of international law and human rights by the Japanese army through torture and poisoning of the said victim during human experimentation. This will involve a consideration of international agreements on the laws of war and customary international law to which Japan was a party before and during World War II. References to the Khabarovsk trial in the late 1940s (which put on trial the Japanese army) and the Brandt et al. case (medical case) in Nazi Germany who experimented with biological weapons on humans, together with the Malayan case under consideration, will showcase similar violent patterns in the Japanese modus operandi during wartime.

## **Literature Review**

The testing and usage of biological weapons as well as human experimentation by the Japanese in China during World War II have been extensively documented (Fong, 2000; Galvin, 2003; Gold, 1997; Harris, 2002, 2003; Li, 1999, 2003; Tschuiya, 2005). Studies that have specifically referred to Japanese biological and human experimentation in Southeast Asia (especially Unit 9420 in Singapore) include Fong (2000), Gold (1997, pp. 50-51), Ng (1995), Sidhu (1991, pp. 160-164), and Tschuiya (2005, p. 4). Harris (2003, p. 481), in his discussion of Japanese biological and human experimentation, indicated that this was extended to Rangoon in Myanmar and Bangkok in Thailand. Baird (2016, p. 3) has also indicated that the Japanese gave vaccinations containing purified tetanus toxin against typhus, cholera and dysentery which also caused labourers at a transit camp to die in the outskirts of Jakarta, Indonesia in August of 1944. McCurry (2005, p.1) focused on Akira Makino, a Japanese doctor in the Philippines during World War II who had conducted vivisections on Filipino prisoners. Only Kouitsu (1991), Majid (2017), and Ng (1995) have referred to the old Tampoi mental hospital in Johor (in what was then Malaya) which was used by the Japanese as a biological weapons facility even though whether any human experimentation ever occurred at this location is disputed. Majid (2017) also emphasized that the Tuanku Muhammad School in Kuala Pilah, Negeri Sembilan was once utilized by the Japanese army to breed rats and rabbits meant for plague experimentation. However, the Khabarovsk Trial in Russia in the late 1940s is about the only known trial which specifically implicated the Japanese for experimentation with biological weapons in China. Lesser known in relation to Southeast Asia and specifically in Malaya is that the British had put the Japanese army on trial for experimenting with Ipoh poison, from the sap of a tree by the same name, on a Chinese victim at the Taiping jail in Perak, Malaya.

Therefore, this present study will illustrate the extent of Japanese experimentation with Ipoh poison at the Taiping jail in Perak, Malaya during World War II. It also suggests that the Tampoi mental hospital and the Tuanku Muhammad School in Kuala Pilah, Negeri Sembilan, as indicated by Kouitsu (1991), Majid (2017), and Ng (1995), are not the sole locations during World War II where the Japanese were looking into poisons. Indeed, this present study will make a significant contribution to the limited literature on Japanese biological and human

experimentation in Southeast Asia during World War II simply because cases specifically related to Malaya are few and far between.

## **Methodology**

This study is qualitative. A socio-legal approach has been used because this study is multidisciplinary, combining history, security studies, and law. The socio-legal approach is also relevant for the fact that it makes use of the social science methods of analysis such as textual and content analysis. A doctrinal research approach is also applicable to this study because the judgements of war crimes trials (e.g. Khabarovsk, Brandt et al., Otsubo Minoru, Honjo Hiroshi, Utsunomiya Daiten and Hakamada Toshihiko in Taiping, Perak by the British and the Tokyo District Court case of 2002) are referred to and are still being interpreted to illicit meaning. Likewise, a doctrinal research approach is also applied because interpretivism is used to interpret which provisions are relevant (through a textual analysis) to the case of the Japanese using poison and human experimentation among international treaties and documents such as the 1899 Convention (II) with Respect to the Laws and Customs of War on Land (Hague Convention 1899), the 1907 Convention (IV) Respecting the Laws and Customs of War on Land (Hague Convention 1907), and the 1925 Protocol to The Hague Convention for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacterial Methods of Warfare (1925 Geneva Protocol), the Lieber Code (“The war of the rebellion”, 1899), and the 1874 Brussels Declaration (Brussels Committee, 1874). A comparative approach towards identifying similar and contrasting patterns of war crimes committed, such as the use of biological weapons and human experimentation by the Japanese and German armies as reflected by trials in the former Soviet Union, Germany and Malaya, is also being conducted in this study.

Besides, a content analysis is also relevant in terms of analysing previous scholarly works published in books, journals, newspaper articles, and other relevant information obtained from the internet, all of which are of course secondary resources.

## **The 1947 War Crimes Trial in Taiping, Perak**

The trial of alleged Japanese war criminals, namely Colonel Otsubo Minoru, Major Honjo Hiroshi, Captain Utsunomiya Daiten and Captain Hakamada Toshihiko, got underway in 1947 in Taiping, Perak of what was then Malaya (“Guinea pig”, 1947, p. 4). These alleged Japanese war criminals were charged before a British military court for the unlawful killing of Mr. Chan Pak, a Chinese civilian resident of Malaya, by administering poison as human experimentation (Judge Advocate General’s Office, 1948, p. 1).

Chan Pak had been condemned to death on 16 March, 1945 for breaking Japanese Regulations by the Japanese High Court Judge of Perak, and was subsequently sent to Taiping Jail to be executed (Judge Advocate General’s Office, 1948, p. 1). In early 1945, the Japanese army medical authorities wanted to test the effect of Ipoh poison, a sap from the Ipoh tree, and so they chose Chan Pak, the fittest among the 20 prisoners in Taiping Jail, for their experimentation (“Guinea pig”, 1947, p. 4; Judge Advocate General’s Office, 1948, p. 1). Ipoh poison was widely used by the aboriginal group known as the Sakai’s to paint the tip of their blown-pipe arrows (“Guinea pig”, 1947). One witness who testified before the trial, Dr. A.C. Kathigesu, saw the Japanese army carrying a wooden cross and medical apparatus into the

execution chamber at Taiping Jail (“Guinea pig”, 1947, p. 4). Dr. A.C. Kathigesu was the husband of Sybil Kathigesu who famously defied the Japanese army and provided medicine and medical assistance to the Malayan Anti-Japanese Army (MPAJA) in Papan, Perak (Arumugam, 2012, p. 1). Dr. A.C. Kathigesu was also incarcerated by the Japanese army in April, 1944 for supplying medical aid to the MPAJA and spreading Allied news (“Guinea pig”, 1947). When World War II ended in 1945, Dr. A.C. Kathigesu, while being interviewed in Canberra, Australia in 1951, admitted to being held at the Taiping prison in Malaya (“Malayan doctor”, 1951, p. 2). Dr. A.C. Kathigesu was released from the Taiping jail on September 15, 1945 by two British officers (“Malayan doctor”, 1951, p. 2).

During the experimentation on Chan Pak, a table and microscope were also being erected in the execution chamber (“Japs in”, 1947, p. 5). Chan Pak was subsequently brought into the execution chamber, and about three to four hours later, groans were heard from the execution chamber (“Japs in”, 1947, p. 5). Indeed, Chan Pak was not being killed like others before him, as witnesses who testified did not hear the trap door of the gallows open as would have been the case with those before him (Judge Advocate General’s Office, 1948, p. 4). Another witness, William Pillay, also indicated that Chan Pak was the only one to be prosecuted on 23 March, 1945, as his record book showed that Chan Pak was the only victim (Judge Advocate General’s Office, 1948, p. 4). For his part, William Pillay was the adopted son of Dr. A.C. Kathigesu and Sybil Kathigesu who was also imprisoned then at the Taiping jail (Ipoh World, 2007). The record book kept by William Pillay on Chan Pak’s death corrects the perception made by the Malaysian Prison Department that during the Japanese era all prison records and records of prisoners were destroyed (Malaysian Prison Department, 2012). Obviously, William Pillay could not have produced the record book for the said British trial if the Japanese had destroyed all prisoners’ records.

In the course of this gruesome experimentation, Japanese army officers were at intervals seen entering and exiting the execution chamber with test tubes containing blood (“Guinea pig”, 1947, p. 4). Indeed, the gruesome experiment conducted on Chan Pak was “to study the effect of ‘Ipoh’ poison on the skin and blood of a human being” (“Guinea pig”, 1947, p. 4).

After the experiment, the Japanese brought Chan Pak’s dead body to the mortuary in the Taiping Jail. Two witnesses, Dr. Arasaradnam (the prison doctor) and Dr. Kathigesu who assisted him, testified that “there were no markings on the deceased neck to suggest that he had been hanged” (Judge Advocate General’s Office, 1948, p. 4). Instead, there was a contusion and chafing at the wrists and ankles of Chan Pak’s body (“Guinea pig”, 1947, p. 4). There were also small punctures in the skin and the region of the pit of the elbow (“Guinea pig”, 1947, p. 4). This led the two witnesses to believe that Chan Pak did not die of hanging but of excessive blood being drained from his body (“Guinea pig”, 1947, p. 4).

As to the Japanese war criminals themselves, Captain Hakamada Toshihiko admitted that Ipoh poison was indeed injected into Chan Pak’s body (Judge Advocate General’s Office, 1948, p. 4). Both the accused, Captain Utsunomiya Daiten and Captain Hakamada Toshihiko, who were responsible for conducting the experiment, indicated that Chan Pak died within 20 minutes after being injected (Judge Advocate General’s Office, 1948, p. 4).

At the end of the trial, Major Honjo Hiroshi, Captain Utsunomiya Daiten, and Captain Hakamada Toshihiko were all sentenced to life imprisonment on 27 November, 1947, while Colonel Otsubo Minoru was acquitted (Judge Advocate General’s Office, 1948, p. 2). The

British were left in no doubt that “[t]he method used in killing Chan Pak was illegal and he appeared to have been in great pain while the experiment was being carried out” (Judge Advocate General’s Office, 1948, p. 4). Although these Japanese war criminals received their deserved punishment, the judgment itself did not indicate which international law treaties or customary international laws were violated. Only the charge sheet indicated that these Japanese war criminals had committed “a war crime in that they at Taiping Gaol, Taiping, on the 23<sup>rd</sup> March 1945, were, in Violation of the Laws and Usages of War, concerned in the unlawful killing of Chan Pak [...]” (Judge Advocate General’s Office, 1948, p. 3). In another section of this study, the form of violations that the Japanese committed based on war treaties and customary international law as mentioned in the methodology section will be examined.

### **The Khabarovsk Trial: Similar Human Experimentation with Poison**

The Khabarovsk trial of 1949 in the then Soviet Union concerned the Japanese Detachment 100 of the Kwantung Army (Yamada, 1950, p. 84). Detachment 100 was staffed with researchers (bacteriologists, chemists, and veterinarians) who developed different types of germs and strong poisons that were tested on humans and animals (Yamada, 1950, p. 84). Indeed, this is not unlike the 29<sup>th</sup> Japanese Army deployed in Taiping, Perak where there was a surgeon and veterinarian (“All Japs”, 1946). There seems to be a pattern whenever the Japanese experimented with biological agents for the sake of making biological weapons and poisons; the clue to detecting their illicit activities is the presence of these medical and scientific researchers. Detachment 100 carried out their experimentation under the guidance of Lieutenant General Takahashi Takaatsu, Chief of the Veterinary Service of the Kwantung Army (Yamada, 1950, p. 84). Detachment 100 and its branches were formed to prepare for bacteriological warfare and sabotage against the Soviet Union with its factory producing various germs and strong poisons on a very large scale (Yamada, 1950, pp. 84-85).

Japanese experimentation with poison under Detachment 100 varied. In the Khabarovsk trial, it was revealed that experiments were performed on prisoners “for the purpose of studying the effects of the poisons that were injected into their bodies” (Yamada, 1950, p. 371). Indeed, this is similar to the case of Chan Pak who was injected with Ipoh poison at the Taiping Jail, Perak, Malaya in 1945 (Judge Advocate General’s Office, 1948).

During the Khabarovsk trial, it became clear that the Japanese war criminals poisoned Russian and Chinese prisoners’ food with bindweed, heroin and castor oil seed (Yamada, 1950, p. 253). In the Khabarovsk trial of 6 December, 1949, Mitomo Kazuo testified that in August-September of 1944, he had performed experiments on living people, namely 7-8 arrested Russian and Chinese citizens to test the effect of the poisonous substance he had put in their food (Yamada, 1950, p. 56). Korean bindweed was put in soups, heroin in porridge, while tobacco was mixed with heroin and bactal and put into the prisoner’s food five to six times for the duration of two weeks (Yamada, 1950, p. 253). After a duration of two weeks, the prisoners were too weak to be of use and were disposed of (Yamada, 1950, p. 253). These prisoners were killed and their bodies buried in a cattle cemetery (Yamada, 1950, p. 351). Just like the case of Chan Pak who was experimented upon with Ipoh poison, the Japanese army’s Detachment 100 resorted to these gruesome methods “to ascertain the effectiveness of these poisons” on humans and animals (Yamada, 1950, p. 14). At the end of the Khabarovsk trial, those Japanese who were found guilty received sentences between 25, 20, 15, 12, 10, 3 and 2 years to be carried out at corrective labour camps (Romanova, 2015, p. 67).

Thus, the actions of these Japanese medical and scientific researchers, as highlighted in the Khabarovsk trial as well as that of Chan Pak in Taiping, Perak, indeed show that Japanese experimentation with contagious biological agents and poisons extended beyond China even to Malaya. It also shows that the Khabarovsk trial is not the only war crimes trial which convicted the Japanese military for their heinous policy of experimenting with poisons, biological weapons and human experimentation. That said, the Khabarovsk trial was not fully acknowledged by the Western allies and has not been given sufficient attention. William J. Sebald, the United States (US) representative on the Allied control council, dismissed the Soviet's report on the Khabarovsk trial as "a propaganda 'smoke screen'" ('Emperor Hirohito', 1949, p.1). As the Taiping war crimes trial in the then Malaya has shown, it underlines that the British, an ally of the US, had indeed brought to justice those Japanese guilty of experimenting with poisons.

## **International Law Addressing the Use of Poison, Torture and Human Experimentation**

### ***Mid-19th Century – 1900***

The prohibition of the use of poison during warfare traces its history to the Lieber Code that was signed by President Abraham Lincoln on 24 April, 1863 during the American Civil War ("The war of the rebellion", 1899). Article 16 of the Lieber Code states that "it does not admit to the use of poison in any way", indicating the prohibition of using poison ("The war of the rebellion", 1899). Article 70 of the Lieber Code also mentions that "[t]he use of poison in any manner, be it to poison wells, or food, or arms is wholly excluded from modern warfare. He that uses it puts himself beyond the pale of the law and the usage of war" ("The war of the rebellion", 1899). As for unethical medical experimentation carried out on prisoners during the war, the Lieber Code in Article 56 asserts that "[a] prisoner of war is subject to no punishment for being a public enemy, nor is any revenge wreaked upon him by the intentional infliction of any suffering, or disgrace by cruel imprisonment, want of food, by mutilation, death, or any other barbarity" ("The war of the rebellion", 1899). In the 1874 Brussels International Declaration concerning the Laws and Customs of War, Article 13 (a) forbids the use of poison or poisoned weapons (Brussels Committee, 1874).

Moreover, the Convention (II) with Respect to the Laws and Customs of War on Land (1899) in Article 23 (a) prohibits the use of poison or poisoned arms (Hague Convention, 1899). Article 23 (e) of the 1899 Hague Convention (II) also prohibits the use of "arms, projectiles, or material of a nature to cause superfluous injury" (Hague Convention, 1899). That is to say, toxic chemicals and biological agents for diseases constituted poison. This would have outlawed the Japanese experimentation with Ipoh poison at the Taiping jail, Perak, Malaya.

### ***The Period 1900 – 1950***

The prohibition of poison was also reflected among international treaties drafted in the 20th century. For instance, Article 23 (a) of The Hague Convention IV (1907) forbids the use of poison or poisoned weapons. In the judgment concerning compensation claims by Chinese citizens who had suffered under Japan's biological weapon's testing during World War II in Manchuria, the judge Koji Iwate reiterated "there can be no argument with the statement that even at the time of the aforementioned Brussels Conference [of 1874,] germ warfare against countries involved in the fighting was to be prohibited" (Tokyo District Court, 2002, p. 5). This indicated that the prohibition of biological weapons has been the norm for a long enough time

so as to be accepted as customary international law. On the Chinese plaintiffs citing Article 23 of the Hague Convention for War on Land that prohibits poison and poisoned weapons, the Japanese judge concluded that “Article 23 Section [II] – prohibiting the employment of ‘poison or poisoned weapons’- applies to biological weapons” since long before it, the Brussels Conference of 1874 had already affirmed this matter (Tokyo District Court, 2002, p. 5). Moreover, the judgment also recognized “that the Hague Convention for War on Land had been established at the latest by 1911 as international customary law” (Tokyo District Court, 2002, p. 5). Article 23 (e) of The Hague Convention IV (1907) forbids the use of arms, projectiles, or material that were calculated to cause unnecessary suffering. As Japan had signed and ratified both The Hague Conventions of 1899 and 1907, it was certainly bound by the provisions already highlighted. Even before The Hague Conventions of 1899 and 1907, the prohibition of using poison dates back to ancient times such as those covering the Manu Laws of India (prior to 500 BCE) and ancient laws of the Chinese, Greeks, Romans, as well as by the Koran (Mathews, 2015, p. 2). The 1925 Geneva Protocol (1925) banned the use of asphyxiating, poisonous or other gases, which was extended to the prohibition and use of bacteriological methods of warfare. Indeed, the same Tokyo District Court’s judgment of 2002 as indicated above reaffirmed that since “the [Geneva] protocol went into effect in 1928, by that time at the very latest the legal certainty regarding the protocol had been established among most nations of the world and that therefore that international customary law had been established based on the articles of the protocol” (Tokyo District Court, 2002, p. 5). While the 1899 and 1907 Hague Conventions and the 1925 Geneva Protocol were treaties in writing that codified the ban of using poison and biological weapons, it has long been established through customary international law that such practice is barred as implied by the judgment of the Tokyo District Court. This was bolstered by the United Kingdom (UK) Military Manual of 1958 which states that “the prohibition [...] in the [1925 Geneva] Gas Protocol was declaratory of the view generally accepted by the civilized world” (The War Office, 1958, p. 41). The UK Military Manual 1958 in Section 111, footnote 1(b), further adds:

*As Japan was not a party to the [1925 Geneva Protocol], the Russian military tribunal at Khabarovsk [...] would therefore seem to have assumed that the prohibition of bacteriological warfare derived from the customary law of war prevailing among civilized nations and it was declaratory of such customary law (The War Office, 1958).*

As to the prohibition of the use of poison today, the dissenting opinion of Justice Weeramantry in *Legality of the Threat or Use of Nuclear Weapons* (1996, p. 103) indicated that its prohibition was one of the oldest rules of the laws of war, as it was considered part of customary international law. Still, the development, production and stockpiling of biological weapons were not banned by the 1925 Geneva Protocol.

Indeed, Japan’s unethical human experimentation with Ipoh poison could be regarded as a form of torture. The 1919 Report of the Commission on Responsibility also indicated that the torture of civilians and ill treatment of prisoners of war in violation of the laws and customs of war would have been subjected to criminal prosecution (International Committee of the Red Cross (ICRC), 2005, p. 2109). Additionally, Article II (I) of the 1945 Allied Control Council Law No. 10 indicates that ill treatment of civilians in an occupied territory constitutes a war crime and that “[...] torture or other inhumane acts committed against any civilian population falls as a crime against humanity” (ICRC, 2005, p. 2109). Article 5(c) of the 1946 International Military Tribunal (IMT) Charter of Tokyo indicated that individuals will be held responsible

for their own actions in committing crimes against humanity such as “inhumane acts committed against any civilian population, before or during the war” (ICRC, 2005, p. 2110). The judgment in the Brandt et al. (medical case) 1947 trial in Germany of sixteen persons for medically experimenting on prisoners of war and civilians highlighted the “brutalities, tortures, disabling injury, and death [that] were performed in complete disregard of international conventions, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, and Control Council Law No. 10” (National Archives and Record Service, 1947, p. 183). The same atrocities condemned in the Brandt et al. (medical case) trial would have applied to the Chan Pak trial in Taiping, Perak of Malaya, given that the Japanese military’s actions were very much of a similar nature. The prohibition of torture during detention of prisoners has now been regarded as customary international law, as highlighted in the case of *Filartiga v. Pena-Irala* (1980, p. 884) whereby the judgment noted that after “[h]aving examined the sources from which customary international law is derived [from] the usage of nations, judicial opinions and the work of jurists [,] we conclude that official torture is now prohibited by the law of nations”.

During the Brandt et al. (medical case) trial, the US military tribunal emphasized that voluntary consent of the human subject to participate in such medical experiments is essential (National Archives and Record Service, 1947, p. 181). This included making sure that the participant is well aware of the following:

*Nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment* (National Archives and Record Service, 1947, p. 182).

Prior Informed Consent (PIC) became the first principle of the Nuremberg Code of 1947 as the outcome of the Brandt et al. (medical case) (National Archives and Record Service, 1947). Unfortunately, in both Brandt et al. (medical case) of 1947 and that of the Chan Pak trial in Malaya, PIC was never obtained from the victims as coercion was used. At present, the case of *Abdallahi v. Pfizer* (2009, p. 168) in the US also confirms that prohibition of non-consensual medical experimentation has become the norm of customary international law.

In discussing the prohibition of torture, other principles of the Nuremberg Code with respect to human experimentation may be of relevance. Principle 4 mentions that “[t]he experiment should be so conducted as to avoid all necessary physical and mental suffering and injury” (National Archives and Record Service, 1947, p. 182). Chan Pak’s case would have already violated principle 4 of the Nuremberg Code as he certainly suffered physically when blood was drained from him during his torture ordeal. Also relevant is principle 9 of the Nuremberg Code which emphasizes that “the human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible” (National Archives and Record Service, 1947, p. 182). Unfortunately for Chan Pak, the Japanese army never bothered to seek his opinion concerning how much he could endure or given the chance to halt it if it became unbearable. Moreover, principle 5 of the Nuremberg Code concerning “[n]o experiment should be conducted where there is an *a priori* reason to believe that death or disability injury will occur” is closely related to principle 10 which stresses that “the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of good faith, [...] that the continuation of the experiment is likely to result in injury, disability,



or death to the experimental subject” (National Archives and Record Service, 1947, p. 182). It is apparent that the Japanese were in clear violation of principles 5 and 10 of the Nuremberg Code because they clearly knew that experimentation on Chan Pak, whom they regarded as a degrading *marutta* (human log), would ultimately result in serious bodily injury and death which they blatantly ignored.

Notably, the Brandt et al. (medical case) was conducted a year earlier than the Chan Pak trial in Malaya in 1948. The distinction between the two is that the Brandt et al. (medical case) produced a code of medical ethics to guide human medical experimentation which is widely referred to even to this day although regarded as non-binding in the form of a soft law document. Unfortunately in the International Military Tribunal of the Far East (IMTFE), the Japanese doctors led by Ishii Shiro and his team were spared from prosecution by the US for developing and experimenting with biological weapons on Chinese citizens in Manchuria (Jing, 2002, p. 5). This was because US officials offered these Japanese doctors immunity in exchange for Japanese data on their experiments to help the US develop their own biological warfare programme (Jing, 2002, p. 5). Additionally, the US did not want such valuable information to get into the hands of what was then the Soviet Union. As a result, the IMTFE never produced an equivalent of the Nuremberg Code, and the same can be said of the Chan Pak trial.

Since the end of World War II, it has been observed that a number of prohibitions in relation to medical experimentation with poison, torture and the need for PIC have crystallized into customary international law. This shows that progress is being made in the evolution of international law for the betterment of humankind in terms of upholding justice.

## **Conclusion**

From the outset, this study set itself the lofty task of examining any violation of international law by the Japanese army in the specific case of administering poison to a victim named Chan Pak in the Taiping Jail of Perak in what was then Malaya towards the end of World War II. As the study has shown, the Japanese violated The Hague Conventions of both 1899 and 1907 by blatantly administering poison even though the use of poison was clearly prohibited in customary international law. Since the victimisation of Chan Pak involved torture, this would amount to the act of barbarity in the Lieber Code, the Allied Control Council Law No. 10, and most importantly its prohibition has crystallized as customary international law. The Brandt et al. (medical case) also emphasized the need for PIC which has since been accepted as customary international law since the days of the Nuremberg Code (National Archives and Record Service, 1947). This study has made a significant contribution to existing knowledge because it has highlighted an unknown case of a military trial of the Japanese army by the British in Malaya for the use of clearly prohibited poison and human experimentation. It runs in the face of previous assumption that the Khabarovsk trial was the only one that brought the Japanese army to justice for human experimentation, use of biological weapons and poison. This study has also brought to light a rare case in what was then Malaya of the Japanese army conducting medical experimentation on a human being, especially as such cases have to date remained far and few between with respect to Southeast Asia. A possible future direction for this study would be to look at other British military trials in Malaya, and especially to identify where the Japanese had placed surgeons and veterinarians as this would seem to be the best lead so far in detecting the Japanese army’s experimentation with biological weapons and poison during World War II.

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