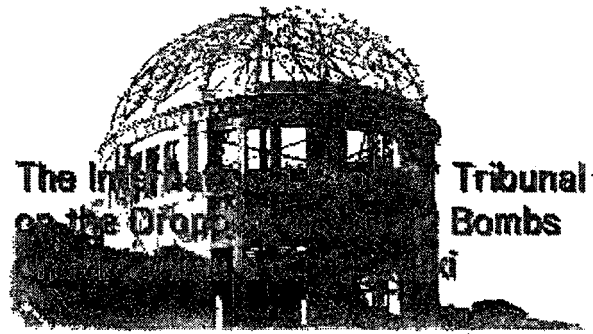


The International Peoples' Tribunal on the Dropping of Atomic Bombs on Hiroshima and Nagasaki



Memorial Hall, Peace Memorial Museum Basement

Hiroshima City, JAPAN

July 15 (Sat.) – 16 (Sun.) , 2006

**Organizer::Executive Committee of the International Peoples' Tribunal
on the Dropping of Atomic Bombs on Hiroshima and Nagasaki**

【Index】

1 Programme of the Tribunal

2 Structure of the Tribunal

3 Charter

4 Indictment

5 Related laws

6 Petition

7 Executive Committee Members and Staff

【Programme】

Day 1 July 15 (Sat.) 13:00~17:00

12:30~13:00	Registration	30
13:00~13:03	Opening Remarks	3
13:03~13:15	Introduction and explanation of the Tribunal and Charter	12
13:15~13:17	Introduction of Panel of Judges	2
13:17~13:20	Opening of Trial (hereafter presided on by the Judges)	3
13:20~13:50	Reading of the Indictment by Prosecutors	30
13:50~14:00	Opinions of Amicus Curiae	10
14:00~14:05	Clarification of points at issue by Judges	5
14:05~14:10	Planning of Verification by Prosecutors	5
14:10~14:15	Administration of the oath to witnesses	5
14:15~15:15	Verification of the effects of Radiation on Human Bodies by Dr.KAMATA Nanao	60
15:15~15:30	(break)	15
15:30~16:00	Testimony by A-Bomb survivor Mr. TAKAHASHI Akihiro (Hiroshima)	30
16:00~16:30	" Ms. SHIMOHIRA Sakue (Nagasaki)	30
16:30~17:00	" Mr. KAK Kifung (Korea)	30
17:00~	Closing of Trial	5

Day 2 July 16 (Sun.) 10:00~17:00

9:30~10:00	Registration	30
10:00~10:10	Opening of Trial	10
10:10~11:00	Verification or the Discussion and Execution of the Order to Drop A-Bombs on Hiroshima and Nagasaki by Prof. ARAI Shin'ichi	50
11:00~11:50	Verification of Illegality of the Use of A-Bomb in International Law Prof. MAEDA Akira	50
11:50~12:00	(spare time)	10
12:00~13:30	(lunch break)	90
13:30~14:15	Final Pleading by Prosecutors	45
14:15~14:30	Opinions of Amicus Curiae	15
14:30~16:30	Consultation by Judges	120
《Special Programme》		
14:30~15:00	Special Testimony 'Japan's War Responsibility' by Mr. LEE Sil Gun	30
15:00~15:25	(break)	25
15:25~15:30	Introductory remark on the film	5
15:30~16:30	Screening of the documentary film 'Original Child Bomb'	60
16:30~16:50	Announcement of the Summary of the Decision of the Tribunal	20
16:50~16:55	Closing of Trial	5
16:55~17:00	Closing Remarks	5

Structure of the Tribunal

【Panel of Judges】

Lennox Hinds

Professor of International Law at Rutgers University, USA

the permanent representative of the International Association of Democratic Lawyers (IADL) at the U.N.

Carlos Vargas

Professor of International Law at Costa Rica University

Vice President of the International Association of Lawyers against Nuclear Arms

IE Masaji

Professor of International Law at Himeji Dokkyo University

Vice President of Japanese Lawyers International Solidarity Association

【Prosecutors】

Mr. ADACHI Shuichi (Hiroshima Bar Association)

Mr. INOUE Masahobu (Hiroshima Bar Association)

Ms. SHIMONAKA Nami (Hiroshima Bar Association)

Mr. AKIMOTO Masahiro (Chiba Bar Association)

Mr. CHE Bong Tae (Tegu Local Bar Association, Korea)

【Amicus Curiae】

Mr. OHKUBO Kenichi (Saitama Bar Association)

【Plaintiffs】

A-Bomb Survivors

Citizens of Hiroshima

Citizens of Nagasaki

Any Other Supporters of A-Bomb Survivors

【Defendants】

U.S. President, Franklin D. Roosevelt

U.S. President, Harry S. Truman

James F. Byrnes, Secretary of State

Henry L. Stimson, Secretary of War

George C. Marshall, Army Chief of Staff

Thomas T. Handy, Army Acting Chief of Staff

Henry H. Arnold, Commander of the Army Air Forces

Carl A. Spaatz, Commander of the US Strategic Air Force

Curtis E. LeMay, Commander of the 20th Bomber Command

Paul W. Tibbets, Pilot of B-29 "Enola Gay"

William S. Parsons, Weaponeer of B-29 "Enola Gay"

Charles W. Sweeny, Pilot of B-29 "Bock's Car"

Frederick L. Ashworth, Weaponeer of B-29 "Bock's Car"

Leslie R. Groves, Head of the Manhattan Project

J. Robert Oppenheimer, Director of the Los Alamos Laboratory

【Registry】

TSUBOI Sunao SASAKI Takeya TANAKA Yuki FUNAHASHI Yoshie YOKOHARA Yukio

TOSHIMOTO Katsumi OKUHARA Hirosmi KUNO Naruaki HINADA Seishi

Charter of the International Peoples' Tribunal on the Dropping of Atomic Bombs on Hiroshima and Nagasaki

Preamble

"Give me back my husband.

"Give me back my children.

"Give me back my youth that was burnt and destroyed.

Throw all the A-bombs possessed by America and Russia

right to the bottom of the sea."

This is excerpted from the poem that Sadako Kurihara, an A-bomb survivor from Hiroshima, wrote in 1952.

Shortly after, an intense competition in nuclear arms development began, involving, not only the U.S. and the Soviet Union, but also Britain, France and China. As a result, in 1986, the number of nuclear missiles reached a peak of more than 69,000. However, by the end of the cold war in the early 1990s, the number of nuclear warheads had rapidly decreased. Yet today it is said that there are still about 30,000 nuclear warheads on the earth.

The number of nations that possess nuclear missiles has been increasing as Israel, India and Pakistan joined the nuclear club, and more recently it is suspected that North Korea and Iran are also keen to develop their own nuclear arms. It is undeniable that this current situation is closely inter-linked with U.S. policies, which are indeed accelerating nuclear proliferation.

During the period of nuclear arms expansion, nuclear tests were conducted in various places around the world. Nevada in the U.S.; Semipalatinsk in Kazakhstan, Central Asia; the Bikini and Marshal Islands and, Moruroa Atoll in the South Pacific and Maralinga in Australia are among the areas that suffered from these experiments. By the end of 1996, the total number of nuclear tests conducted throughout the world reached 2,051. The test sites were contaminated with radiation and many local people as well as military personnel who participated in the tests were irradiated, resulting in serious health damage and many deaths. In addition, many other people have been irradiated from the environmental contamination caused by radiation at and around the uranium mining sites in Australia, America, Namibia, Canada and India.

Furthermore, the so-called 'depleted uranium bombs' have recently been used on a large scale during the Gulf, Kosovo, Afghanistan and Iraq wars. This too has produced radioactive pollution that is resulting in

massive casualties among local residents and combatants. Meanwhile, nuclear weapons are now being developed in smaller in sizes and are rapidly becoming more and more difficult to distinguish from other commonly used weapons.

Nuclear arms have killed many people, not only in Hiroshima and Nagasaki, but also in a number of other places throughout the world. They have also killed various animals, creatures and plants through the destruction of the environment. In a broader sense, the secrecy that shrouds nuclear arms has been destroying democracy itself and has become one of the main causes of conflict and violence which is now seen in various parts of the world. Needless to say, the origin was the A-bombs dropped on Hiroshima and Nagasaki 60 years ago.

The bombing of Hiroshima and Nagasaki typifies two kinds of crimes against humanity, indiscriminate bombing and mass killing. Both of which are common phenomena in contemporary warfare.

Despite this, it is a sad reality that some Japanese cabinet members openly claim the necessity for nuclear arms as well as the need for Japan's right to preemptive strikes against foreign countries if required. It is extremely disappointing that these people do not understand that Article 9 of Japan's Constitution was established as a result of 3,100,000 Japanese deaths incurred in the Asia-Pacific War. These included an estimated 210,000 victims (i.e., the estimated death toll by the end of 1945) of the A-bombs dropped on Hiroshima and Nagasaki. Article 9 was also created in recognition of the deaths of tens of millions of Asian people as well as the Allied soldiers who died due to the war. Clearly, we Japanese bear the responsibility not simply to maintain the spirit of our own Constitution, but to act positively in order to contribute to creating world peace by promoting Article 9.

Thus as citizens of Hiroshima and Nagasaki we bear a moral responsibility to represent the voices of the Hibakusha, i.e., all the victims of irradiation, as well as the voices of all the victims of indiscriminate bombing throughout the world. We need to inform the world of the serious criminal nature of nuclear arms and their threat against humanity and the environment, and the criminal nature of indiscriminate bombing and mass killing.

On March 3, 1947, at the International Military Tribunal of the Far East (the so-called Tokyo Tribunal), one of the defending lawyers, an American, Ben Bruce Blakeny, argued that the atomic bomb was a weapon banned by the Hague Convention, thereby attempting to point out the criminality of bombing Hiroshima and

Nagasaki. Since then, some efforts have been made, both in Japan and overseas, to appeal to the court to plead the criminal nature of nuclear arms, but so far none have been successful.

In recent years, the "weathering of the Hiroshima/Nagasaki experience" has become a serious concern for many citizens of these two cities, due to the rapidly diminishing number of Hibakusha there. Therefore there is an urgent need for us to closely examine the criminality of the use of nuclear arms against the people of Hiroshima and Nagasaki. By doing so, this would also serve to effectively warn the world of various problems caused by the development and tests of nuclear arms during the past 60 years as well as to alert people to the current ever-worsening world situation. In other words, a thorough examination of the criminal nature of the use of atomic bombs is one way to revitalize the Hiroshima/Nagasaki spirit of aspiring to eternal peace, and to send a message to the world demanding absolute denial of violence for any reason whatsoever.

For this purpose, in autumn 2005 - 60 years after first use of nuclear arms in the history of mankind - we will hold the Peoples' Tribunal on the Dropping of Atomic Bombs on Hiroshima and Nagasaki. This tribunal will be conducted with the assistance of the citizens of Hiroshima and Nagasaki, and therefore it will be a "tribunal based upon the peoples' sovereign power" rather than a "tribunal based upon the nation's sovereign power," although it will have no legal force. No national government has ever tried to fulfill its responsibility by pursuing justice on this matter. Therefore our aim is to conduct a fair and just tribunal, free from any national interest, and void of any political ideology.

We call for a fair trial of the following people: President Harry Truman and other key members of the White House who made the decision to use the A-bombs; major scientists who were closely involved in developing the atomic bombs; and military personnel who actually carried out the order given by President Truman to drop the bombs. The trial will be conducted in accordance with the same rules applied to the International Military Tribunal of the Far East, by which Japanese war criminals were judged. As the statute of limitations is not applicable to war crimes, the responsibility should lie with the present U.S. government, too.

For 15 long years, Japan embarked on a war of aggression in Asia and even though it was clear that defeat was inevitable, Japan was reluctant to issue a complete surrender. In our opinion, the then-Japanese Government and Emperor both share a part of the responsibility to the Hibakusha for the enormous disaster.

caused by the dropping of the atomic bombs. Forced laborers sent from Japanese colonies such as Korea and Taiwan and people from occupied China and South East Asia also became victims. We believe the Japanese Government bears a degree of responsibility to these people too.

The committee members of the Hiroshima Peoples' Tribunal on the Dropping of Atomic Bombs create this Charter and establish this International Peoples' Tribunal in the hope of making the 60th anniversary of the dropping of the atomic bombs a turning point for the elimination of nuclear weapons and the creation of a world without war.

Article 1 Establishment of the International Peoples' Tribunal on the Dropping of Atomic Bomb on Hiroshima

The International Peoples' Tribunal on the Dropping of Atomic Bomb on Hiroshima ("the Tribunal") is hereby established. It shall have power to exercise jurisdiction over individuals and States pursuant to the provisions of the present Charter. It shall conduct a public trial on such dates and places as may be determined by the Organizing Committee.

Article 2 Jurisdiction of the Tribunal

1. The Tribunal shall have jurisdiction over crimes committed against the victims of the atomic bombs dropped in Hiroshima on August 6, and in Nagasaki on August 9, 1945, as war crimes, crimes against humanity and other crimes under international law. It shall cover not only victims with Japanese nationality who suffered in the cities of Hiroshima and Nagasaki but those sufferers from Korea and Taiwan under Japanese colonial rule, and those from China (including Manchuria) and other Asian countries under the Japanese military occupation, and shall extend to the victims of all races and nationalities who suffered in Hiroshima and Nagasaki, including those who suffered in respective cities while they were imprisoned as POWs. These crimes include, but are not limited to, the following acts: indiscriminate bombings, genocide, and unduly destruction of mental as well as physical health.

3. The Tribunal shall also have jurisdiction over claims involving state responsibility under international law as referred to in Article 4.

4. The jurisdiction of the Tribunal shall extend to the present day.

Article 3 Individual criminal responsibility

Any person who planned, co-conspired, prepared, ordered the crimes in Article 2 of the present Charter or executed the order shall be individually held responsible for the crime. This article is in accordance with Article 5 of the International Military Tribunal of the Far East.

Article 4 State responsibility

State responsibility arises from the following:

- (A) Planning, preparation, and execution of crimes as referred to in Article 2 by state ministers, governmental officials and those scientists employed by the government.
- (B) acts or omissions by States such as

- (i) concealment and distortion of facts or in any other manner its negligence or failure to meet its responsibility to find and disclose the truth concerning crimes referred to in Article 2;
- (ii) failure to prosecute and punish those responsible for said crimes;
- (iii) failure to provide reparations to those victimized;
- (iv) failure to take measures to protect the integrity, wellbeing and dignity of the human person;

Article 5 Official Capacity and Superior Orders

1. The official position of any accused person, whether as the President, the Head of Ministries of the Government, a military commander or a responsible government official or scientist, shall not relieve such a person of criminal responsibility, nor mitigate punishment.
2. The fact that the crimes are committed in pursuant to an order of a superior or of a government alone shall not relieve a person of criminal responsibility.

Article 6 Non-applicability of the statute of limitations

The crimes within the jurisdiction of the Tribunal shall not be subject to any statute of limitations.

Article 7 Organization of the Tribunal

The Tribunal shall consist of the following organs:

- (a) Judges;
- (b) Prosecutors, and;
- (c) Defense or Amicus Curie and
- (d) A Registry.

Article 8 Qualifications and election of judges, prosecutors amicus curie and freedom to defend

1. The judges, the prosecutors and amicus curie shall be appointed by the Organizing Committee among internationally renowned persons in the field of human rights, taking due consideration of the following:
 - (A) regional balance
 - (B) contribution in advocacy, protection and promotion of war victims
 - (C) expertise in international humanitarian law, international human rights law and international criminal law
2. The Tribunal shall acknowledge the duly defense of the accused.

Article 9 The Registry

The Organizing Committee establishes a Registry to the Tribunal. The Registry shall be responsible for the administration and servicing of the Tribunal.

Article 10 Rules of procedure and evidence

The judges of the Tribunal shall decide matters concerning the rules of procedure and evidence for the conduct of the trial, the protection of victims and witnesses and other appropriate matters of the Tribunal as they deem necessary. The following shall be admitted as evidence:

- (A) documentation: written evidence such as official documents, affidavits/depositions, signed statements, diaries, letters/notes or other documents, experts' views, photos and other visual documents;
- (B) personal evidence: Written or oral testimonies of survivors and witnesses, statements of expert witnesses; and
- (C) material evidence: other relevant physical and material evidence.

Article 11 Prosecutors: Investigation and Indictments

1. The prosecutors shall be responsible for the investigation and prosecution of the crimes referred to in Article 2 of the present Charter, taking into account physical and mental issues faced with the victimized.

2. The prosecutors shall initiate investigation on the basis of information received from survivors, non-governmental organizations such as Atomic Bomb Sufferers' Associations, or medical experts, and shall have the power to question suspects, those victimized and witnesses, to collect evidence and to conduct on-site investigations in order to establish the truth.
3. The prosecutors shall submit indictments to the Tribunal if, upon investigation, there is a reasonable basis for a prosecution.

Article 12 Trial Proceedings

1. The prosecutors shall read the indictments at the commencement of the trial, and the Tribunal shall ensure a fair and expeditious trial.
2. The hearings shall be held in public.
3. The language of the Tribunal shall be in Japanese and it will be translated and interpreted into English. It will also be translated and interpreted into Korean, Chinese, and other languages, if necessary.

Article 13 Participation and protection of those victimized and witnesses

The Tribunal shall take appropriate measures to protect dignity and privacy of those victimized and witnesses, having regard to the nature of crimes being dealt with and taking trauma into account.

Article 14 Judgments

1. The judgment shall be delivered in public and rendered by a majority of the judges of the Tribunal. The judges may issue a separate opinion, concurring in or dissenting to the judgment.
2. The judgement shall state clearly whether the accused has been found guilty or not guilty of the alleged crime or whether there is insufficient evidence available to the prosecutors to which such a determination, according to a majority of the judges based on evidence before the tribunal, and shall give reasons for the particular judgment.
3. The judgment may make a recommendation to a person or State held responsible to offer redress to those victimized, including apology, restitution, compensation and rehabilitation.
4. Copies of the judgment shall be sent to the survivors, the accused or their attorneys, the government of the United States of America, the government of Japan, the governments of the States concerned, and international agencies including the United Nations High commissioner of Human Rights, and shall be widely distributed throughout the world as historical documents.

Article 15 Cooperation

1. The Tribunal may ask every individual, non-governmental organization, governments of the states concerned, intergovernmental organization, United Nations organs and other international bodies to cooperate fully with the Tribunal in the investigation and prosecution of persons and states responsible for crimes referred to in Article 2 of the present Charter.
2. The Tribunal may ask every individual, non-governmental organization, governments of the states concerned, intergovernmental organization, United Nations organs and other international body to respect the judgment by the Tribunal and to cooperate in distributing it widely to the international community.

Indictment

Plaintiffs: Victims of the atomic bombs, the people of Hiroshima and Nagasaki Cities,
and any other people who support victims of the atomic bombs

Prosecutors: Shuichi Adachi, Bong Tae Che, Masanobu Inoue, Nami Shimonaka,
Akimoto Masahiro

Defendants: U.S. President, Franklin D. Roosevelt
U.S. President, Harry S. Truman
James F. Byrnes, Secretary of State
Henry L. Stimson, Secretary of War
George C. Marshall, Army Chief of Staff
Thomas T. Handy, Army Acting Chief of Staff
Henry H. Arnold, Commander of the Army Air Forces
Carl A. Spaatz, Commander of the US Strategic Air Force
Curtis E. LeMay, Commander of the 20th Bomber Command
Paul W. Tibbets, Pilot of B-29 "Enola Gay"
William S. Parsons, Weaponeer of B-29 "Enola Gay"
Charles W. Sweeny, Pilot of B-29 "Bock's Car"
Frederick L. Ashworth, Weaponeer of B-29 "Bock's Car"
Leslie R. Groves, Head of the Manhattan Project
J. Robert Oppenheimer, Director of the Los Alamos Laboratory

Article 1 Forward: The use of the atomic bombs - a breach of international law

On the 6th of August 1945 an atomic bomb was dropped on Hiroshima and on the 9th of the same month another was dropped on Nagasaki. The blast, heat rays and radiation caused by the explosion devastated both cities. Residents, including the elderly and children living in the affected areas were killed instantly. However, the victims of the bombs were not only Japanese nationals, but also Koreans and Chinese who were forced to live in Japan, and prisoners of war from the Allied forces captured by the Japanese military. Tens of thousands also died soon after the bombs were dropped. By the end of 1945, it was estimated that one hundred and forty thousand ($\pm$ ten thousand) died in Hiroshima and seventy thousand in Nagasaki ($\pm$ ten thousand). In this way, a great massacre had taken place.

Even today, many victims of the atomic bombs (the number of current survivors that have received a Hibakusha Health Book being approximately twenty seven thousand) are still suffering from the effects of radiation and are living in constant pain.

The damage caused by the atomic bombs produced the largest man made disaster the world has ever seen and as we now approach the 61st anniversary, we the prosecution, are profoundly perturbed that this clear breach of international law has not resulted in the perpetrators being brought to justice. Many citizens of the United States of America still believe the use of atomic bombs was justified and the United States government has not issued any apology. We are of the opinion that this situation is totally unacceptable.

Following Japan's defeat at the end of World War II, Japanese war leaders and war criminals were prosecuted before the International Military Tribunal of the Far East (the so-called 'Tokyo Tribunal'). Although the guilty verdicts handed down on these leaders and war criminals at the Tokyo Tribunal were not proportionate to their crimes, we believe it was the right course of

action. It was also appropriate that Japan accepted these facts at the signing of the San Francisco Peace Treaty.

We believe that the rules used at the Tokyo Tribunal should have also been applied to the war crimes committed by the Allied nations.

Although the atomic bombs were used as a strategy of war between Japan and the United States, it was a crime against humanity that is yet to be legally accounted for. The use of the atomic bombs created a race to develop nuclear weapons that in turn created a situation that continues to threaten the world. This too is a great crime towards all humanity.

In the name of those sacrificed in Hiroshima and Nagasaki and all people who desire the elimination of nuclear weapons, we indict all those responsible for the crime of dropping the atomic bombs.

Article 2 Effect of the atomic bombs

1. Impact

(1) At 8:15 am on the 6th of August the first time an atomic bomb ever to be used on mankind dropped from the sky above Hiroshima and at 11:02 am on the 9th of August a second atomic bomb was dropped on Nagasaki.

The bomb used on Hiroshima was a uranium type atomic bomb referred to as 'Little Boy'. It exploded 580 (± 15) meters above ground and is said to have been equivalent to 12.5 (± 1) kilo tons of TNT. On the other hand, the bomb used on Nagasaki was a plutonium type atomic bomb referred to as 'Fat Man'. It exploded 503 (± 10) meters above ground and was equivalent to 22 (± 2) kilo tons of TNT. Of the total amount of energy that rained down to the ground, 35% was heat rays, 50% was the blast and the remaining 15% was radiation.

(2) Heat rays

Estimates suggest that after the atomic bomb was detonated, powerful heat rays were released for a period of approximately 0.2 to 0.3 seconds, heating the ground to temperatures ranging from 3,000 to 4,000°C. These heat rays burnt people in the areas surrounding the hypocenter to ashes and melted bricks and rocks. It is said that people suffered burns up to 3.5 kilometres from the hypocenter in Hiroshima and up to 4 kilometres in Nagasaki. In addition, the heat rays burnt buildings, triggered large-scale fires and started an enormous firestorm.

(3) The Blast

The blast from the atomic bomb completely destroyed all surrounding structures. In the areas surrounding the hypocenter, people were slammed into walls and crushed to death by collapsing houses. Injuries were sustained from flying glass and other debris even in areas a long distance from the hypocenter.

(4) Radiation

The most characteristic devastating feature of the atomic bomb was radiation. Of the total amount of energy released by the explosion, 5% comprised of initial radiation and 10% residual radiation. The initial radiation was caused by the nuclear fission of uranium or plutonium.

Gamma and neutron rays were emitted at this time and these rays penetrated through people on the ground. Neutron rays caused soil and above ground structures to become radioactive. Neutron rays caused induced radiation to soil and above ground structures. Fission products were picked up and carried in the atmosphere by upward wind currents turning into 'Black Soot' and when in the atmosphere tiny particles became moist and fell to the ground in the form of 'Black Rain'. These radioactive particles caused both internal and external exposure. Many of those killed after the bomb, died displaying acute symptoms such as hair loss, diarrhoea, purpuric skin lesions, bleeding gums and fever. Cancer, leukaemia and various other after-effects also became apparent.

(5) Compound effects

The compound effects of the heat rays, blast and radiation had a far greater effect than any of these would have had individually. Firstly, heat rays caused the outbreak of fires. The blast destroyed buildings causing secondary fires and the ensuing firestorm created upward wind currents that spread radioactive matter along the ground and through the atmosphere. The exposure to radiation seriously damaged the health of many people.

2. The effect the atomic bombs had on humanity

The nature of damage caused by atomic bombs can be described as surprise, indiscrimination, extermination and continuous expansion.

(1) Destruction of human beings

The atomic bomb wiped out the lives of people in an instant. The victims of the bombs were not only Japanese nationals, but also Koreans and Chinese who were forced to live in Japan and prisoners of war from the Allied forces captured by the Japanese military. Tens of thousands also died soon after the bombs were dropped. By the end of 1945, it is estimated that one hundred and forty thousand ($\pm$ ten thousand) died in Hiroshima and seventy thousand in Nagasaki ($\pm$ ten thousand). Since 1945, countless more have died as a result of various after-effects. In Hiroshima and Nagasaki, dying was common place and living became the exception. People's eyes fell out of their sockets and pealed skin hung off their bodies. Many flocked to the rivers looking for water. People no longer looked human. Parents had to abandon their children, children could not rescue their parents and family members could not recognize each other.

(2) Destruction of society

The destruction of human beings meant the destruction of society. Family, friends and colleagues were lost in an instant. Nobody knew what had happened. People injured beyond recognition walked around dazed. Some did not know where they were and others were taken to relief stations. Lifelines were lost and large numbers of people died through lack of medical supplies. Many of those who experienced this 'hell on earth' suffered serious psychological damage.

(3) A mark left on mankind (Scars that will last forever)

Radiation from the atomic bombs damaged genes which later became a cause of cancer and also left various other physical impediments that scientists still do not fully understand. Today, now over 60 years after the end of the war, new after-effects are still appearing and the survivors are constantly living in fear of dying. It is further thought that damage to health has been passed on

to the children and grand-children. Just examining the health issues alone, it seems the legacy of damage caused by the atomic bombs is so large that it still cannot be fully comprehended. Disfigurement also brought about many forms of discrimination. Marriage and employment became difficult and life became cut off from the 'healthy' society. The atomic bomb has made it impossible for these people to live a normal life in every way.

Article 3 The Conspiracy

1. The Manhattan Project

Background

World War II saw an escalation of killing and indiscriminate bombings of non-combatants. The atomic bomb was developed in order to counter the possibility of Nazi-controlled Germany building an atomic bomb before the United States. However, it later became apparent that no progress had been made. This bears a resemblance to the justification used to invade Iraq, on the pretext that Iraq was developing weapons of mass destruction.

From suggestions made by scientists to the formulation of policy.

The decision on the policy for President Roosevelt to order scientists to examine the possibility of developing a uranium bomb began with a memo dated the 2nd of August 1939 and signed by Albert Einstein. Soon after, the 'Presidential Special Advisory Committee on Uranium' (The Uranium Committee) was established and research began on the manufacture of atomic bomb to use in the war.

In response to the Maud Report received from the United Kingdom, in October 1941, President Roosevelt decided on Vice President Henry Wallace, Vannevar Bush (Scientist, Director of the Office of Scientific Research and Development), James B. Conant (Scientist, Chairman of the National Defence Research Committee), Secretary of War Henry Stimson, Army Chief of Staff George Marshall and the President himself, the so-called 'Top Policy Group', to carry out secret examinations on the Top Policy - a uranium research plan for the manufacture of an atomic bomb.

In February 1941, the 'Third Report' to the President of the National Academy of Science by the Academy Committee on Uranium came to the conclusion that 'a fission bomb of superlatively destructive power will result from bringing quickly together a sufficient mass of element U235.' Furthermore, the report stated that it was possible that large atomic fission bombs could be available within 3 or 4 years. With this report, President Roosevelt approved the manufacturing plan of the atomic bomb to progress from a research stage to a pilot plant stage.

The United States then embarked on developing an atomic bomb to be used in the war and President Roosevelt approved, on the condition of confidentiality, Bush's suggestion that the manufacturing stage of the plan be handed to the Department of War.

Commencement of the Manhattan Project

In June 1943, within the Manhattan Military District, the Manhattan Project was first referred to as the 'Development of Substitute Metals' (DSM), an official military code name. In August the same year, the project was officially renamed 'The Manhattan District' and the Manhattan

Project commenced under the direction of Brigadier General Leslie Groves at a huge cost and number of scientists and engineers.

Large-scale facilities were set up in various places including Los Alamos New Mexico, Hanford Washington and Oakridge Tennessee in order to manufacture the atomic bomb. Groves was put in charge of the main scientific research centre located in Los Alamos and the Physicist Robert Oppenheimer, as director, was granted wide ranging authority and administrative responsibility by Groves and Conant.

On the 23rd of September 1942, the Top Policy Group established the Military Policy Committee in order to examine and formulate military policies relating to the Manhattan Project; and Groves was appointed the chief executive military officer responsible for implementing finalized policies.

The first ever atomic bomb test

Basic research and development planning continued under the Manhattan Project and on the 16th of July 1945 the first ever atomic bomb test was carried out in Alamogordo, Los Alamos. This brought the use of the weapon against Japan one step closer.

2. The Hyde Park Declaration

On the 5th of May 1943 the Military Policy Committee examined the issue of using the atomic bomb on Japan. On the 18th of September 1944, President Roosevelt and the British Prime Minister Winston Churchill agreed that "after careful consideration, the atomic bomb should be used on Japan" On the following day, this agreement was put in writing (The Hyde Park Declaration), and was signed by Roosevelt and Churchill. Later that month, Bush and his team of advisors suggested that an atomic bomb could be made and used on Japan within a year. He then informed Stimson of the need to begin advance preparations (i.e. management of atomic energy both during and after the war, control of atomic energy and relevant regulations, announcements to be made following the use of the atomic bomb, and maintaining the post-war international management system).

3. The use of the atomic bomb on Japan and the selection of target cities

The acts outlined below were conducted with the approval of President Roosevelt and later, on the 12th of April 1945, following the death of President Roosevelt, with the approval of President Truman.

(1) On the 17th of December 1944 the 509th Composite Group was formed and deployed under the command of General Henry Arnold in order to implement the atomic bomb strategy.

(2) A memo from General L.R. Groves to Army Chief of Staff George Marshall dated the 30th of December 1944 directed that necessary information be provided to the staff and commanders of the Army, the 20th Bomber Command and the Navy (Fleet Admiral Chester Nimitz) and vital support systems for the armed forces be put in place in order to carry out the strategy on the assumption that the atomic bomb would be used on Japan around the 1st of August 1945. This note was approved by Stimson and the President.

(3) In December 1944, William S. Parsons of the 20th Bomber Command proposed to send an engineering officer to the Joint Intelligence Committee of the Pacific Operations Analysts at

Pearl Harbour in order to obtain information regarding the possible targets, and as a result Colonel Frederick L. Ashworth was dispatched in January the following year. Later in spring 1945, the Military Policy Committee held numerous meetings over the criteria for selecting targets and following thorough debate a final conclusion was reached by Dr. Oppenheimer and other senior advisors.

The criteria for selecting targets were as follows:

- Select a location that would destroy Japanese morale
- Select a location with a large military significance
- Select a location that had not suffered any damage so that the impact of the atomic bombs could be accurately assessed.
- Select a primary target large enough to accurately judge the impact of the atomic bomb

Around the same time, on the 5th of March, Stimson held discussions with his assistant, Harvey Bundy, in regard to the establishment of an advisory committee to examine legal frameworks and the content of the announcement to be made after the atomic bombs are dropped. Later, on the 15th of March, members of the advisory committee called the Interim Committee were selected after discussions were held between Stimson and Roosevelt (8 members selected to the Interim Committee - Stimson as Chairman, George L. Harrison as Acting Chairman, James F. Byrnes, Ralph A. Bird, William L. Clayton, Vannevar Bush, James B. Conant and Karl Compton)

(4) On the 27th of April 1945, Groves set up the Target Selection Committee in Washington in order to closely examine the targets that were being discussed by the Military Policy Committee. This Committee was attended by people involved with the Manhattan Project, the 20th Bomber Command Chief of Staff, Lauris Norstad, and Colonel Russel Fisher. At this meeting the members discussed and became aware of the full ramifications of the atomic bomb.

The committee convened for a second time on the 10th and 11th of May and agreed to recommend four out of the five targets suggested by Dr. Robert L. Stearns. These were Kyoto, Hiroshima, Yokohama and the Kokura Arsenal. Niigata was not selected. Agreeing that physiological considerations were of particular importance when selecting targets, the committee also unanimously agreed that 'Hiroshima has the advantage of being such a size and with possible focusing from nearby mountains that a large fraction of the city may be destroyed.' They went on to say that 'for the initial use of the weapon any small and strictly military objective should be located in a much larger area subject to blast damage in order to avoid undue risks of the weapon being lost due to bad placing of the bomb.'

Dr. Oppenheimer sufficiently understood the medical effects of radiation. During this second meeting, he submitted a memo detailing these effects and recommended that the plane that was to drop the bomb must avoid the radioactive mushroom cloud and not fly any closer than 2.5 miles from the point of impact. Furthermore, he acknowledged that in addition to examining a safe altitude in which to avoid the 100,000 ton of TNT equivalent energy and the 64,000 ton equivalent blast released from the atomic explosion, an overseas practice run of the complete strategy, the deployment of an observation aircraft and backup fighter planes over the selected target and a practice run for the use of radars in response to emergency situations would be become absolutely vital from July that year.

On the 28th of May the committee convened for a third time. This time Kyoto and Hiroshima were retained as possible targets, Niigata was put back on the list, and Yokohama and Kokura

were excluded. However, a final decision was not reached. It was decided that the headquarters located on Tinian Island should ultimately decide which city should be targeted based on weather conditions. The position of industrial areas as a target would be ignored and efforts would be made to drop the first bomb on the centre of the selected city. The findings of the Target Selection Committee were reported to Groves and on the 30th of May, he met with Stimson and Marshall to pass on the selection results. Following this, they then met with Arnold and other senior personnel of the 20th Bomber Command in order to continue discussions.

(5) Having reservations about the development of the atomic bomb, the scientist Leo Szilard attempted to meet President Roosevelt. However, due to the President's sudden death, no meeting ever eventuated. He then tried to arrange a meeting with the new President, Harry Truman, although, upon Truman's directions, it was arranged that Szilard meet Byrnes, an Interim Committee member, on the 28th of April. Szilard expressed his opposition to the United States' use of atomic bombs on Japan and also stated his fear that Russia might become a nuclear state should the bombs be used. However, Byrnes reiterated Groves' position that this would be impossible since Russia "did not possess any uranium". Byrnes totally rejected the views of Szilard and insisted that the very use of an atomic bomb would in fact curb the actions of Russia. Yet, on the 11th of June, the Committee on Social and Political Implications (Chairman James Frank), one of the six committees Arthur Compton's scientific advisors group set-up in order to examine the meaning and future implications of the development of new weapons, came to the view that the destructive power of nuclear weapons was so great that it would change the face of war and not only was the exclusive possession of nuclear weapons unachievable, it would also make the world an unstable place. Therefore, the members of this committee also believed that the United States should direct its foreign policy to ensure nuclear weapons be effectively managed by the international community.

Reinforcing their opposition to the use of such a indiscriminately destructive weapon, the committee went on to say that 'if the atomic bomb is used on Japan without any warning, the United States will not only go down in international public opinion as a nation that used a new weapon capable of indiscriminate destruction, but the arms race will gain momentum and any chance of creating an international treaty governing the management of these types of weapons will be lost.'

(6) Meanwhile, the Interim Committee held two unofficial meetings, one on the 9th of May and the other on the 14th of May. It was decided that four scientists with a deep understanding of the plan be selected to form a group of advisors (Robert Oppenheimer, Ernest Lawrence, Arthur Compton and Enrico Fermi). Then on the 18th of May, a third unofficial meeting was held and on the 31st of May, the Interim Committee held its first official meeting. The group of advisors were invited and as the meeting progressed, the group were sincerely thanked for their contribution and called upon to create a structural plan for conducting research and management of future atomic energy. Stimson concluded the meeting by announcing that 'a concentrated attack on a (Japanese) civilian population should not be carried out. However, a great psychological effect should be inflicted on as many civilians as possible. An ideal target would be key military factory surrounded by a large number of workers and their homes.' The Committee unanimously agreed.

On the 1st of June the Interim Committee held another official meeting. This time they asked the advisory group for their opinion in regard to the possibility and period of time that another country might reach the same nuclear capacity as the United States. The Committee also examined the text of the announcement to be made following the successful atomic test. Stimson then repropounded the idea that he put forward the previous day of inflicting a great

psychological effect on as many Japanese civilians as possible; and once again the Committee unanimously agreed. On the 6th of June, Stimson informed President Truman and on the 21st of June the Interim Committee reconfirmed the proposal.

On the 15th and 16th of June, however, the advisory group held a meeting in Los Alamos in order to discuss the issue brought up at the 1st Interim Committee. The group criticized the proposal made at the previous Committee meetings. They were of the opinion that it was unthinkable that nuclear weapons be used directly on non-military targets. They then drafted some alternative suggestions to examine at the 4th (21st of June) and 5th (19th of July) Committee meetings.

(7) In September 1944, some scientists initially proposed that an international body should be established to inspect nuclear weapons and similar comments were made during the first Interim Committee meeting. Furthermore, on the 18th of July 1944, Bush and Conant submitted a memo to the Interim Committee proposing the establishment of a scientific agency within the League of Nations that would be authorized to make public the findings of nuclear physics and conduct inspections of research facilities. This suggests that these people were quite aware of the enormous destructive nature of nuclear weapons. However, at the 5th Interim Committee meeting held on the 19th of July, the committee members resisted these proposals and postponed deliberations until after the conclusion of the Potsdam talks. Even so, they went on to express the view that the atomic bomb should be effective in both a military and psychological sense and decided to proceed with the plan in secret. Consequently, on the 25th of July, Groves wrote a letter to George Harrison, Acting Chairman of the Interim Committee, criticizing Bush's proposal as being over-optimistic.

The persistent opposing actions of these relatively conscientious scientists resulted in a letter signed by 68 people to be sent to the President requesting that the atomic bomb not be used on Japan without warning. The Interim Committee all agreed that these scientists should be dealt with after the bombs were dropped.

On the 24th of July a draft directive to drop the atomic bomb was sent by Thomas T. Handy, Army Acting Chief of Staff, in Washington, to Army Chief of Staff George Marshall who was accompanying President Truman in Potsdam at that time. This draft was approved by the President and was sent back to Washington. On the following day, the directive was issued in Thomas Handy's name. It stated that either 'Hiroshima, Kokura, Niigata or Nagasaki will be selected as a primary target.'

In response to this directive, on the 2nd of August, Carl Spaatz, Commander of the US Strategic Air Force, issued the Strategic Order No.13. This designated the industrial area of Hiroshima City as the first choice, Kokura Military Arsenal and Kokura City as the second and Nagasaki City as the third.

Article 4 Implementation

1. Events leading up to the dropping of the atomic bomb

On the 1st of September 1944, after being appointed to the position of Chief of the 393rd Bombardment Squadron, Lieutenant Colonel Paul Tibbets (later Colonel Tibbets) commenced training in the dropping of the atomic bomb and began conducting conversions on the plane to be used.

On the 17th of December 1944, Tibbets was made Commander of the 509th Composite Group, a combination of the 393rd Bombardment Squadron, the 390th Base Services Squadron, the 320th Troop Carrier Squadron, and the 1395th Military Police Company.

From January 1945, the Composite Group commenced training and on the 6th of June the crew were sent to Tinian Island. From the 20th of July, the Composite Group commenced bombing Japan using test bombs known as Pumpkin Bombs. These bombs come in a similar form to plutonium bombs and contained 5,500 pounds (approximately 2.7 tons) of high-grade explosives.

On the 27th of January 1945, E.J King, Head of the Navy Strategic Department (note: The head of this department was the highest rank in the Navy. It was equal to the Army Chief of Staff) issued a request to C.W. Nimitz, Commander of the US Pacific Fleet, to provide necessary support from August for the 20th Bomber Command (the air division that carried out the attack on Japan) to drop the atomic bomb.

The 20th Bomber Command joined Groves in the selection of the target cities. They were given the important role of resolving technical military problems, selecting effective targets from a military standpoint and deciding methods of attack (whether or not to conduct a visual attack (an attack without using radar), altitude, height of the blast, weather issues, methods of escape following the dropping of the bomb, bombing training, etc). In order to examine methods of attack, a strategic analysis group was formed within the 20th Bomber Command. Since both Lauris Norstad, the 20th Bomber Command Chief of Staff, and Colonel Russel Fisher had participated in the Target Selection Committee, the 20th Bomber Command knew exactly how powerful the bomb was.

In March 1945, Norstad held discussions with Curtis LeMay, the Commander of the 20th Bomber Command on strategies relating to the dropping of the atomic bombs, especially the strategies to be used by the 509th Composite Group, and supplied LeMay with detailed information on the atomic bomb. It is thus apparent that LeMay was also sufficiently aware of the damage the atomic bomb would cause. Although LeMay was in charge of the 20th Bomber Command, from May that year, all important orders were issued from Washington.

At the beginning of June 1945, Arnold issued orders to the 20th Bomber Command not to attack Hiroshima, Kokura, Niigata or Kyoto, cities which were selected as possible targets of the atomic bombing. Later at the end of that month, the Joint Chiefs of Staff issued the same orders, to General Douglas MacArthur (Far East Air Force was under his command) and Admiral Chester Nimitz, and by the end of July the atomic bombs had been completely assembled on Tinian Island.

2. From orders to action

Since Chief of Staff Marshall was in Potsdam, on the 25th of July 1945, Acting Chief of Staff Thomas T. Handy, with the approval of President Truman, issued Carl Spaatz, the Commander of the U.S Strategic Air Forces, with orders to drop the atomic bomb. With these orders, on the 1st of August Spaatz went to Guam to meet Thomas Farrell (Groves' deputy), and three officers from the 509th Composite Group, i.e., William Parsons, Paul Tibbets and Frederick Ashworth, and formulate detailed plans.

On the 2nd of August, the Strategic Order No.13 was issued identifying Hiroshima as the primary target. In this order that Spaatz issued clearly stated that Hiroshima City centre and its industrial area would be targeted on the 6th of August.

At 2:24am on the 6th of August *Enola Gay* took off from Tinian Island. Amongst those on board were Lieutenant Colonel Tibbets (Captain of the plane) and Bomb Commander Captain Parsons.

At 8:15am that day, the atomic bomb was dropped from the sky above Hiroshima.

On 8th of August 1945, Strategic Order No.17 ordered another atomic bomb to be dropped on either Kokura or Nagasaki. Kokura City and the Arsenal were specified as the first target and Nagasaki City as the second.

At 2:47 am on the 9th of August, *Bock's Car* took off from Tinian Island. Amongst those on board were Major Charles Sweeney (Captain of the plane) and Chief Bombardier Frederick Ashworth.

The atomic bomb was dropped on Nagasaki at 11:02am the same day.

3. Failure to prevent the dropping of the atomic bombs

Event though President Roosevelt possessed the power to stop the Manhattan Project, he did not exercise this power or prevent the atomic bombs to be used on Japan.

Article 5 Facts of the crime

1. Defendants (Co-conspirators).

U.S. President, Franklin D. Roosevelt
U.S. President, Harry S. Truman
James F. Byrnes, Secretary of State
Henry L. Stimson, Secretary of War
George C. Marshall, Army Chief of Staff
Thomas T. Handy, Army Acting Chief of Staff
Henry H. Arnold, Commander of the Army Air Force
Leslie R. Groves, Head of the Manhattan Project
J. Robert Oppenheimer, Director of the Los Alamos Laboratory.

2. Defendants (responsible for carrying out the use of the atomic bombs)

U.S. President, Harry S. Truman
Henry L. Stimson, Secretary of War
George C. Marshall, Army Chief of Staff
Thomas T. Handy, Army Acting Chief of Staff
Henry H. Arnold, Commander of the Army Air Forces
Carl A. Spaatz, Commander of the US Strategic Air Force
Curtis E. LeMay, Commander of the 20th Bomber Command
Paul W. Tibbets, Pilot of B-29 "Enola Gay"
William S. Parsons, Chief Bombardier of B-29 "Enola Gay"
Charles W. Sweeney, Pilot of B-29 "Bock's Car"

Frederick L. Ashworth, Chief Bombardier of B-29 "Bock's Car"

3. Co-conspirators

President Roosevelt (Died on the 12th of April 1944)

President Roosevelt promoted the Manhattan Project's aim of using the atomic bombs on Japan, the establishment of the Top Policy Group and the encouragement of the actual use of the bombs. In 1944, he met with British Prime Minister, Winston Churchill, in Hyde Park who agreed to the use of the atomic bombs on Japan. Following this, he encouraged preparations and in December 1944 he ordered military training to begin. On the 15th of March 1945 he set up a committee to begin examining the impact the bombs would have on Japan after their use and he continued to support the use of the atomic bombs on Japan until his death on the 12th of April 1945.

President Harry S. Truman

Truman became the President of the United States following the death of President Roosevelt on the 12th of April 1944. Upon taking up this position he became fully aware of the content of the Manhattan Project, continued with President Roosevelt's policy to use the atomic bombs on Japan and carried out the relevant preparations. On the 25th of July 1945, Truman discussed the content of the order to use the atomic bombs with Byrnes, Stimson, Arnold, Marshall who were staying in Potsdam at the time of the Potsdam Conference. On the 25th of July 1945, he approved the order to be issued in Thomas T. Handy's name. This order finally resulted in the actual use of the atomic bombs.

James F. Byrnes, Secretary of State

In February 1945 Byrnes accompanied President Roosevelt to the Yalta Conference in order to discuss strategies to be used in the war with Japan. From the 3rd of July he was appointed Secretary of State by President Truman. Byrnes went to Potsdam at the time of the Potsdam Conference and on the 25th of that month he participated in the formulation of the Presidential order to use the atomic bombs.

Henry L. Stimson, Secretary of War

In October 1941, President Roosevelt appointed Stimson as Chairman of the Top Policy Group. This group was established for the purpose of examining the "Top Policy" - a plan for the manufacture of the atomic bomb. Secretary of War Stimson as one of the senior advisors of the Manhattan Project, encouraged the plan to use the atomic bomb, advised President Truman to use the bomb and held a key position on the Interim Committee - a committee set up to select targets suitable for the use of the atomic bomb. In addition, he went to Potsdam at the time of the Potsdam Conference and on the 25th of that month he participated in the formulation of the Presidential order to use the atomic bomb.

George C. Marshall, Army Chief of Staff

George Marshall secretly conducted development of the atomic bomb as a part of the Top Policy Group. He also participated in the selection of targets with Stimson and Arnold. On the 25th of July 1945, while staying in Potsdam at the time of the Potsdam Conference, Marshall helped formulate the presidential order to use the atomic bomb on Japan.

Thomas T. Handy, Army Acting Chief of Staff

On the 24th of July 1944, Thomas Handy communicated the order to drop the atomic bomb to Marshall in Potsdam, and acting on behalf of Marshall and with the approval of the President, on the 25th of July Handy issued the order to drop the atomic bomb to Carl Spaatz, Commander of the US Strategic Air Force.

Henry H. Arnold, Commander of the Army Air Forces

On the 17th of December 1944, Arnold established the 509th Composite Group in order to implement the strategy to use the atomic bomb. In addition, at the beginning of June 1945, Arnold ordered the 20th Bomber Command not to conduct firebombing on Hiroshima, Kokura, Niigata and Kyoto. On the 25th of July 1945, while staying in Potsdam at the time of the Potsdam Conference, Arnold helped formulate the presidential order to use the atomic bomb on Japan. Arnold also recommended Nagasaki be added to the list of target cities. Handy agreed with the recommendation and added Nagasaki to the Order on that day.

Leslie R. Groves, Head of the Manhattan Project

Groves, as the head of the Manhattan Project and member of the Top Policy Group, was responsible for the plan to manufacture the atomic bomb for use in the war (S-1 Plan) and became the Chief Military Executive Officer of the Military Policy Committee. He also participated in the Target Selection Committee to examine some Japanese cities as possible targets in conjunction with his deputy, Thomas Farrell, and the 20th Bomber Command.

J. Robert Oppenheimer, Director of the Los Alamos Laboratory

Robert Oppenheimer, as Director of the Los Alamos Laboratory, was granted wide-ranging authority and administrative responsibility and was put in charge of researching the manufacture of the atomic bomb and the operation of the manufacturing plant. He also gathered opinions in relation to the requirements of target selection and was closely involved in the actual process of selecting targets.

4. Facts relevant to people directly involved

President Truman, Secretary of War Henry L. Stimson, Secretary of State James F. Byrnes, Commander of the Army Air Forces Henry Arnold and Army Chief of Staff George Marshall first received news of the successful atomic bomb test conducted on the 16th of July 1945 while attending the Potsdam Conference. Upon receiving this information, they embarked on formulating plans for the use of the atomic bomb on Japan. Originally, the Presidential order to drop the atomic bomb was to be issued to Marshall, however, since he was not in Washington at the time, it was decided that it be issued to Handy on the 25th of July 1945. Following this, Handy, acting on behalf of Marshall, issued the order to Spaatz for the use of the atomic bomb. Spaatz then communicated the order to the 20th Bomber Command and on the 1st of August 1945, LeMay met with Farrell, Parsons, Tibbets and Ashworth in Guam in order to discuss in detail the plan of attack.

At 2:45 am on the 6th of August 1945, Paul Tibbets, Pilot of B-29 "Enola Gay", took off from Tinian Island and at 8:15 am, and following the order given by Weapons Engineer William Parsons, Bombardier Thomas Ferebee dropped the atomic bomb on the city of Hiroshima.

At 2:27am on the 9th of August 1945, Charles Sweeny, Pilot of B-29 "Bock's Car", took off from Tinian Island and at 11:02 am, and following the order given by Weponer Frederick Ashworth, Bombardier Kermit Beahan dropped the atomic bomb on the city of Nagasaki.

As stated in the beginning of Article 1 of this Indictment, the blast, heat rays and radiation caused by the atomic bomb explosion devastated both cities of Hiroshima and Nagasaki. Many civilians including Koreans and Chinese were killed instantly. Many more continued to die thereafter and by the end of 1945 one hundred and forty thousand ($\pm$ ten thousand) died in Hiroshima and seventy thousand in Nagasaki ($\pm$ ten thousand). This was nothing less than a great massacre. Even today, many victims of the atomic bombs are still suffering from the effects of radiation and are living in constant pain. Clearly, the atomic bombing of Hiroshima and Nagasaki was a clear violation of the rules or customary rules of war, and constitutes mass murder, extermination and other inhumane activities.

5. Applicable laws

War Crimes

Infringement of the Charter of the International Military Tribunal for the Far East Article 5 (b)

International Law

Infringement of the Convention Respecting the Laws and Customs of War on Land and its Annex: Regulation concerning the Laws and Customs of War on Land, Article 23(a) and (e), Article 25

Infringement of Protocol For The Prohibition Of The Use In War Of Asphyxiating, Poisonous or Other Gases, And Of Bacteriological Methods Of Warfare (1925)

Infringement of Customary Law based on Rules concerning the Control of Air Warfare. Drafted by a Commission of Jurists at Hague, December 1922 - February 1923.

Crimes against Humanity

Infringement of the Charter of the International Military Tribunal for the Far East Article 5(c)

July 4, 2006

Appendix:

*** Charter of the International Military Tribunal for the Far East**

CONSTITUTION OF TRIBUNAL

II JURISDICTION AND GENERAL PROVISIONS

Article 5. Jurisdiction Over Persons and Offenses. The Tribunal shall have the power to try and punish Far Eastern war criminals who as individuals or as members of organizations are charged with offenses which include Crimes against Peace.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

(a) *Crimes against Peace:* Namely, the planning, preparation, initiation or waging of a declared or undeclared war of aggression, or a war in violation of international law, treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

✓ (b) *Conventional War Crimes:* Namely, violations of the laws or customs of war;

✓ (c) *Crimes against Humanity:* Namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political or racial grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated. Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any person in execution of such plan.

Article 6. Responsibility of Accused. Neither the official position, at any time, of an accused, nor the fact that an accused acted pursuant to order of his government or of a superior shall, of itself, be sufficient to free such accused from responsibility for any crime with which he is charged, but such circumstances may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

*** Convention Respecting the Laws and Customs of War on Land and its Annex:
Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October
1907.**

(List of Contracting Parties)

Seeing that while seeking means to preserve peace and prevent armed conflicts between nations, it is likewise necessary to bear in mind the case where the appeal to arms has been brought about by events which their care was unable to avert;

Animated by the desire to serve, even in this extreme case, the interests of humanity and the ever progressive needs of civilization;

Thinking it important, with this object, to revise the general laws and customs of war, either with a view to defining them with greater precision or to confining them within such limits as would mitigate their severity as far as possible;

Have deemed it necessary to complete and explain in certain particulars the work of the First Peace Conference, which, following on the Brussels Conference of 1874, and inspired by the ideas dictated by a wise and generous forethought, adopted provisions intended to define and govern the usages of war on land.

According to the views of the High Contracting Parties, these provisions, the wording of which has been inspired by the desire to diminish the evils of war, as far as military requirements permit, are intended to serve as a general rule of conduct for the belligerents in their mutual relations and in their relations with the inhabitants.

It has not, however, been found possible at present to concert regulations covering all the circumstances which arise in practice;

On the other hand, the High Contracting Parties clearly do not intend that unforeseen cases should, in the absence of a written undertaking, be left to the arbitrary judgment of military commanders.

Until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.

They declare that it is in this sense especially that Articles I and 2 of the Regulations adopted must be understood.

The High Contracting Parties, wishing to conclude a fresh Convention to this effect, have

appointed the following as their Plenipotentiaries:

(Here follow the names of Plenipotentiaries)

Who, after having deposited their full powers, found in good and due form, have agreed upon the following:

Article 1.

The Contracting Powers shall issue instructions to their armed land forces which shall be in conformity with the Regulations respecting the laws and customs of war on land, annexed to the present Convention.

Art. 2.

The provisions contained in the Regulations referred to in Article 1, as well as in the present Convention, do not apply except between Contracting powers, and then only if all the belligerents are parties to the Convention.

Art. 3.

A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.

Annex: Regulations concerning the Laws and Customs of War on Land

Art. 23. In addition to the prohibitions provided by special Conventions, it is especially forbidden -

- (a) To employ poison or poisoned weapons;
- (e) To employ arms, projectiles, or material calculated to cause unnecessary suffering;

Art. 25. The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited.

*** PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING,
POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF
WARFARE:**

ENTRY INTO FORCE: 8 February 1928:

The undersigned Plenipotentiaries, in the name of their respective governments:

Whereas the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilised world; and

Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties; and

To the end that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations;

Declare:

That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration.

The High Contracting Parties will exert every effort to induce other States to accede to the present Protocol. Such accession will be notified to the Government of the French Republic, and by the latter to all signatories and acceding Powers, and will take effect on the date of the notification by the Government of the French Republic.

The present Protocol, of which the English and French texts are both authentic, shall be ratified as soon as possible. It shall bear to-day's date.

The ratifications of the present Protocol shall be addressed to the Government of the French Republic, which will at once notify the deposit of such ratification to each of the signatory and acceding Powers.

The instruments of ratification of and accession to the present Protocol will remain deposited in the archives of the Government of the French Republic.

The present Protocol will come into force for each signatory Power as from the date of deposit of its ratification, and, from that moment, each Power will be bound as regards other Powers which have already deposited their ratifications.

In witness whereof the Plenipotentiaries have signed the present Protocol.

Done at Geneva in a single copy, the seventeenth day of June, One Thousand Nine Hundred and

Twenty-Five.

*** Rules Concerning the Control of Wireless Telegraphy in Time of War and Air Warfare:
Drafted by a Commission of Jurists at The Hague, December 1922 - February 1923:**

Art. 24. 1. An air bombardment is legitimate only when is directed against a military objective, i.e. an objective whereof the total or partial destruction would constitute an obvious military advantage for the belligerent;

2. Such bombardment is legitimate only when directed exclusively against the following objectives: military forces, military works, military establishments or depots, manufacturing plants constituting important and well-known centres for the production of arms, ammunition or characterized military supplies, lines of communication or of transport which are used for military purposes.

3. Any bombardment of cities, towns, villages, habitations and building which are not situated in the immediate vicinity of the operations of the land forces, is forbidden. Should the objectives specified in paragraph 2 be so situated that they could not be bombed but that an indiscriminating bombardment of the civil population would result therefrom, the aircraft must abstain from bombing;

4. In the immediate vicinity of the operations of the land forces, the bombardment of cities, towns, villages, habitations and buildings is legitimate, provided there is a reasonable presumption that the military concentration is important enough to justify the bombardment, taking into account the danger to which the civil population will thus be exposed;

5. The belligerent State is bound to pay compensation for damage caused to persons or property, in violation of the provisions of this Article, by any one of his agents or any one of its military forces.

Petition

**Plaintiffs: Victims of the atomic bombs, the people of Hiroshima and Nagasaki Cities,
and any other people who support victims of the atomic bombs**

**Prosecutors: Shuichi Adachi, Bong Tae Che, Masanobu Inoue, Nami Shimonaka,
Akimoto Masahiro**

Defendant: The Government of the United States of America

Article 1 The Points of the Claim (Request for Judgment)

We demand that the government of the United States of America offer formal apologies to all the victim-survivors of the atomic-bombings of Hiroshima and Nagasaki. Further, we request the Tribunal to deliver a judgment ordering the government of the United States of America to pay appropriate reparations to all the victim-survivors of the atomic-bombings of Hiroshima and Nagasaki.

Article 2 The Reasons for the Claim (Reasons for the Request of Judgment)

We victim-survivors appeal to this Tribunal that the atomic bombings of Hiroshima and Nagasaki were a clear violation of international laws, and they were also a crime against humanity.

As is elaborated upon in a separate Indictment of 15 individuals who were responsible for the atomic-bombings of Hiroshima and Nagasaki, it is the then federal government of the United States of America which bears the final responsibility for the mass killing of civilians, including Koreans and Chinese in both cities. The U.S. government also bears the responsibility for the sufferings of the survivors who have been forced to live in constant fear of death due to various aftereffects of radiation caused by the atomic bombings.

The atomic bombings are one of the most heinous crimes in the history of mankind. Yet, as only Japanese war crimes, committed against the Chinese and other Asian people as well as Allied soldiers, were condemned at the International Military Tribunal for the Far East, responsibility of war crimes committed by the U.S. has never been questioned and pursued.

On September 8, 1951, Japan signed the San Francisco Peace Treaty with the Allied nations, thereby relinquishing its right to claim reparations from the U.S. Entering into this treaty was a necessary step for Japan to be accepted into the international community again. Yet, this treaty rendered Japan unable to demand the U.S. pay appropriate reparations for the damage inflicted upon the survivor-victims of atomic bombings.

However, international treaties are simply an arrangement between different nations, and therefore the individual right of A-bomb victim-survivors for reparations cannot be invalidated by the San Francisco Treaty.

In accordance with Article 4 of the Charter of this Tribunal, any victim-survivor who has suffered damages caused by atomic bombs dropped by the U.S. government is entitled to demand reparations from the U.S. This claim is fully supported by Article 3 of the Convention Respecting the Laws and Customs of War on Land and its Annex as well as by other relevant international laws concerning war reparations.

The well-founded reasons for this claim against the criminal deeds committed by 15 people, including President Truman, is detailed in a separate Indictment submitted to this Tribunal.

Therefore we the victim-survivors of the atomic-bombings of Hiroshima and Nagasaki duly request the Tribunal to pass judgment to fulfill our claim.

July 4, 2006.

The International Peoples' Tribunal on the Dropping of Atomic Bombs on Hiroshima and Nagasaki

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