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INTERNATIONAL LEGAL THEORY: SYMPOSIUM ON GLOBAL SOUTH PERSPECTIVES  
ON METHODOLOGY AND CRITIQUE IN INTERNATIONAL LAW

# Reconsidering ‘Sook Ching’ victimhood: A microhistory of Singapore’s Nishimura trial

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## Abstract

This article highlights the cross-disciplinary methodological potential of Third World approaches to international law (TWAIL) and microhistory by studying the active and complex exercise of agency by victims in an understudied historical instance of post-war justice, namely, the Singapore ‘Sook Ching’ trial or Nishimura trial. This trial dealt with the arbitrary massacre of Chinese residents by the Japanese military during the Second World War. Using TWAIL and microhistory methods, this article analyses trial transcripts and archival material on the Nishimura trial, with a focus on the trial experiences of witnesses, survivors, and community representatives. By studying the Nishimura trial as mobilization and meaning-making opportunity, this microhistory draws attention to the exercise of social and political agency by the Chinese community under difficult post-war conditions and British colonial rule. Chinese community leaders represented the community as collectively victimized and united in the pursuit of post-war justice. However, a close analysis of trial transcripts reveals tensions within the community and the need for a more complex understanding of victimhood.

**Keywords:** Chinese Massacre; Nishimura trial; Second World War; ‘Sook Ching’; victims

## 1. Introduction

Legal scholars usually narrate international law’s histories through a macro lens,<sup>1</sup> while among legal historians, there is preference for a global history approach that emphasizes ‘connectedness’ and ‘integration’ over ‘place-based knowledge and expertise’.<sup>2</sup> This over-emphasis on macro-history is present even among TWAIL scholars engaging in historical research.<sup>3</sup> This article argues for more attention to be given to microhistorical approaches – to the using of a ‘microscope’

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<sup>1</sup>M. Koskenniemi, ‘Histories of International Law: Significance and Problems for a Critical View’, (2013) 27 *Temple International and Comparative Law Journal* 235.

<sup>2</sup>J. A. Ghobrial, ‘Introduction: Seeing the World like a Microhistorian’, (2019) 242 *Past & Present* 6.

<sup>3</sup>As Bendel observes, one of the ‘main methodological tools’ employed in TWAIL is ‘historical analysis’. J. Bendel, ‘Third World Approaches to International Law: Between Theory and Method’, in R. Deplano and N. Tsagourias (eds.), *Research Methods in International Law* (2021), 402.

instead of ‘telescope’ – when studying international law’s histories.<sup>4</sup> Such microhistorical approaches should be of particular interest to TWAIL scholars as TWAIL and microhistory share much in common, though not much attention has been given to their cross-disciplinary potential. For example, many microhistories focus on ‘ordinary’ people or less powerful actors.<sup>5</sup> By narrowing the scale of analysis when studying discrete events and individuals, particularly the marginalized, microhistory shares much with TWAIL’s focus on international law’s impact on the under-represented and disempowered. TWAIL-ers and microhistorians also generally aim to answer larger structural questions through the doing of history. One of the ‘cardinal features’ of *microhistoria* is its interest in ‘great historical questions’ or ‘structures’,<sup>6</sup> while one of the key objectives of TWAIL researchers is to ‘understand’, ‘unpack’, and ‘deconstruct’ the structural asymmetries underlying international law.<sup>7</sup> As stated by Anghie and Chimni, TWAIL scholars aim to assess the impact of ‘positivist rules through the lens of lived experience of Third World peoples’.<sup>8</sup>

This synergy is particularly evident in microhistory and TWAIL’s treatment of actor agency. Both TWAIL-ers and microhistorians take the agency of historical actors seriously. As Magnússon and Szijártó explain, microhistorians treat their subjects as ‘active individuals’ and ‘conscious actors’ instead of as ‘merely puppets on the hands of great underlying forces of history’.<sup>9</sup> TWAIL researchers generally prioritize the voice and ‘lived history’ of marginalized individuals and groups.<sup>10</sup> Indeed, one of TWAIL’s commonly stated goals is to ‘empower and emancipate voices that have not been heard before’.<sup>11</sup> Apart from shared goals and assumptions, TWAIL-inspired historical research may benefit from the methods of reading and analysis developed by microhistorians. It is rare for formal historical records to directly capture the stories and perspectives of the disempowered.<sup>12</sup> Microhistorians have developed reading and analytical techniques aimed at extracting evidence and broader theories from ‘slender records’.<sup>13</sup> As Trivellato explains, the microhistorian’s approach to reading and analysis focuses on ‘the encounter with primary sources that at first sight contain details that are incongruent with standard narratives’.<sup>14</sup> By reading ‘banal details’ and ‘documentary fragments’ against the grain, microhistorians have analysed ‘larger historical issues’ and identified ‘more general socioeconomic and cultural patterns’.<sup>15</sup>

<sup>4</sup>V. Vadi, ‘The Power of Scale: International Law and Its Microhistories’, (2018) 46(4) *Denver Journal of International Law and Policy* 315, at 321. While Vadi cites ‘impactful works’ of microhistory in ‘the past decade’, microhistory continues to be a relatively less known methodologically among international law scholars and its synergies with other international law methodologies, like TWAIL, have yet to be fully explored.

<sup>5</sup>As Trivellato observes, with respect Italian microhistory, while the actors have been ‘for the most part European white men’ these have been ‘often from the rural poor and middling sorts’. F. Trivellato, ‘Is There a Future for Italian Microhistory in the Age of Global History?’, (2011) 2 *California Italian Studies*. As observed by Lepore, it should be noted however that many microhistories focus on the lives of ‘rather famous’ or ‘notorious individuals’. J. Lepore, ‘Historians Who Love Too Much: Reflections on Microhistory and Biography’, (2001) *Journal of American History* 131.

<sup>6</sup>I. M. Szijártó and S. Gylfi, *What Is Microhistory? Theory and Practice* (2013), 25.

<sup>7</sup>A. Kiyani, J. Reynolds and S. Xavier, ‘Third World Approaches to International Criminal Law: Foreword’, (2016) 14 *Journal of International Criminal Justice* 916.

<sup>8</sup>A. Anghie and B. S. Chimni, ‘Third World Approaches to International Law and Individual Responsibility in Internal Conflict’, (2004) 36 *Studies in Transnational Legal Policy* 186.

<sup>9</sup>See Szijártó and Gylfi, *supra* note 6, at 5. This focus on agency of microhistory distinguishes it from other smaller-scale approaches to history, such as the case studies approach. See Szijártó and Gylfi, *ibid.*, at 21.

<sup>10</sup>See Anghie and Chimni, *supra* note 8, at 186.

<sup>11</sup>See Bendel, *supra* note 3, at 402.

<sup>12</sup>This is a challenge commonly encountered by historians studying the lives of the marginalized.

<sup>13</sup>See Lepore, *supra* note 5, at 133.

<sup>14</sup>As Trivellato explains, this method of reading and analysis focuses on ‘the encounter with primary sources that at first sight contain details that are incongruent with standard narratives’. See Trivellato, *supra* note 5, at 5.

<sup>15</sup>A. I. Port, ‘History from Below, the History of Everyday Life, and Microhistory’, in J. D. Wright (ed.), *International Encyclopedia of the Social & Behavioural Sciences* (2015), 108, at 110.

This article highlights the cross-disciplinary potential of these sub-fields by studying the active and complex exercise of agency by victims in an understudied historical instance of post-war justice, namely, the Singapore ‘Sook Ching’ trial or Nishimura trial which dealt with the arbitrary massacre of Chinese residents by the Japanese military during the war.<sup>16</sup> It challenges representations of disempowered victimhood by using TWAIL and microhistory methods to analyse the Nishimura trial’s transcripts and related archival material, with a focus on the trial experiences of trial witnesses, survivors, and community representatives. By studying the Nishimura trial as mobilization and meaning-making opportunity, this microhistory draws attention to the exercise of social and political agency by the Chinese community under difficult post-war conditions and British colonial rule. Chinese community leaders represented the community as collectively victimized and firmly united in seeking post-war justice. However, a close analysis of trial transcripts reveals tensions within the Chinese community and the need for a more complex understanding of victimhood, with many Chinese civilians anxious over being labelled as collaborators due to their wartime co-operation with the Japanese occupation authorities.

## 2. TWAIL, microhistory, and the Nishimura trial: A note on methods

While there are comparative or country-based studies of post-Second World War trials, there have yet to be microhistories of these trials.<sup>17</sup> This reflects microhistory’s marginal position within international law’s turn to history.<sup>18</sup> By focusing on the Nishimura trial and select trial participants, this article takes a microhistorical approach defined as ‘the intensive historical investigation of a relatively well defined smaller object’.<sup>19</sup> This article also spotlights the experience of non-Western trial participants and survivors, unlike most studies of post-war trials that emphasize Allied perspectives.<sup>20</sup> It does so by studying the Nishimura trial through the experiences of three trial participants: Richard Lim Chuan Hoe, Chua Choon Guan, and Shinozaki Mamoru. Lim and Chua were members of the local Chinese community that was specifically targeted by the Japanese military during the war. Shinozaki, a Japanese official, has been credited for saving many Chinese from ‘Sook Ching’ operations though his role was subject to scrutiny and criticism after the war. By undertaking a fine-grained and contextual analysis of how these individuals navigated the post-war justice process, this microhistory aims to make visible the social and political agency of ‘Sook Ching’ victims.

Like all microhistories, this article explores ‘big questions in small spaces’. Through the stories of Lim, Chua, and Shinozaki, this article analyses broader political and social changes impacting the local Chinese community in post-war Singapore.<sup>21</sup> It sheds light on how Chinese community leaders used the issue of post-war justice to mobilize the community while depicting the Chinese as unvindicated wartime victims. Post-war trials were organized by the British in a largely top-down manner, but this did not prevent the Chinese community leaders from trying to influence

<sup>16</sup>In the immediate aftermath of the Second World War, the British military conducted hundreds of war crimes trials across Southeast Asia. Altogether 306 trials involving 920 defendants were held in Singapore, Malaya, Hong Kong, Burma, and Borneo. S. Wilson et al., *Japanese War Criminals: The Politics of Justice After the Second World War* (2017), 77.

<sup>17</sup>Examples of comparative or national approaches taken to these trials include, Y. Totani, *Justice in Asia and the Pacific Region, 1945–1952: Allied War Crimes Prosecutions* (2015); B. Kushner, *Mens to Devils, Devils to Men: Japanese War Crimes and Chinese Justice* (2015).

<sup>18</sup>V. Vadi, ‘The Power of Scale: International Law and Microhistories’, (2018) *Denver Journal of International Law and Policy* 317.

<sup>19</sup>See Szijártó and Gylfi, *supra* note 6, at 4.

<sup>20</sup>Studies of post-Second World War trials in Asia focusing on the perspective of trial organizers and key trial actors rather than witnesses or victims include: D. Cohen and Y. Totani, *The Tokyo War Crimes Tribunal: Law, History, and Jurisprudence* (2020); Wilson et al., *supra* note 16; Kushner, *supra* note 17; Totani, *supra* note 17; S. Linton, *Hong Kong’s War Crimes Trials* (2013).

<sup>21</sup>See Vadi, *supra* note 18, at 317.

the course of ‘Sook Ching’ investigations by petitioning the British authorities, seeking trial witnesses, and having a Chinese prosecutor on the prosecution team. Nevertheless, while Chinese community leaders represented the community as unified in their push for trials and justice, a close analysis of trial records demonstrates tensions within the community due to allegations of wartime collaboration and disloyalty, many of which remain contested till today. Some trial participants experienced the Nishimura trial as an opportunity to contest and re-construct their individual, group, and community identities and align themselves with victors of the changing post-war order.

This microhistory’s exploration of victim agency also contributes to, and engages with, international criminal law scholarship critical of the depiction of victims in dependant and vulnerable terms.<sup>22</sup> Today, victims are generally viewed as the ‘central actors’ and ‘drivers’ of post-conflict justice.<sup>23</sup> However, as argued by Schwöbel-Patel, official international criminal law actors like the International Criminal Court (ICC) frequently invoke an ‘infantalized’, ‘feminized’, and ‘racialized’ idea of victimhood.<sup>24</sup> Researchers have drawn attention to the political and social agency of victims in post-conflict settings and the need for a more nuanced understanding of victimhood.<sup>25</sup> As Moffett observes, victim identities in post-conflict situations are seldom ‘clear-cut’ or ‘black and white’.<sup>26</sup> Those identifying as victims may have been involved in atrocities while those labelled as perpetrators may have experienced some form of victimization.<sup>27</sup> As this article demonstrates, witnesses in the Nishimura trial pointed to the clear involvement of Chinese civilians in ‘Sook Ching’ operations while qualifying their own involvement as coerced or ineffectual. By approaching the Nishimura trial as a platform for victim mobilization and identity contestation, this microhistory contributes a more complex understanding of war victimhood.

### 3. Situating the Nishimura trial in post-war Singapore

In the early months of Japan’s occupation of Singapore during the Second World War, the Japanese military massacred thousands of Chinese residents in an attempt to eradicate ‘anti-Japanese elements’.<sup>28</sup> Similar massacres of Chinese civilians were committed by the Japanese military across present-day Malaysia and in other parts of Southeast Asia.<sup>29</sup> As Gunn observes, it is ‘surprising’ that these Southeast Asia massacres have attracted less attention, despite surpassing the more notorious Nanjing massacre in terms of the ‘actual number of victims’ and ‘overall degree of planning’.<sup>30</sup> These massacres are locally referred to as ‘Sook Ching’, which means ‘purge

<sup>22</sup>As Schwöbel-Patel observes, powerful actors and institutions have mobilized a particular ‘ideal’ victim in efforts to legitimize the international criminal law discipline and in their competition for limited attention and resources. C. Schwöbel-Patel, ‘The “Ideal” Victim of International Criminal Law’, (2018) 29 *European Journal of International Law* 703, at 704–5. The tendency to treat victims as passive objects is not specific to international criminal law. For a discussion of this tendency in the human rights field see R. Kapur, ‘The Tragedy of Victimization Rhetoric: Resurrecting the “Native” Subject in International/Post-Colonial Feminist Legal Politics’, (2002) 15 *Harvard Human Rights Journal* 1.

<sup>23</sup>See Schwöbel-Patel, *ibid.*, at 703; L. Moffett, ‘Victims, Victimology and Transitional Justice’, in H. O. Yusuf and H. van der Merwe (eds.), *Transitional Justice: Theories, Mechanisms and Debates* (2022), 30.

<sup>24</sup>See Schwöbel-Patel, *ibid.*, at 704.

<sup>25</sup>See, for example, Borer’s critique of the South Africa Truth and Reconciliation Commission’s binary approach to victims and perpetrators and her description of the different types of victims, perpetrators, and victim-perpetrators in her study of South Africa. T. Borer, ‘A Taxonomy of Victims and Perpetrators: Human Rights and Reconciliation in South Africa’, (2003) 25 *Human Rights Quarterly* 1088.

<sup>26</sup>See Moffett, *supra* note 23, at 32.

<sup>27</sup>See Borer’s analysis of Winnie Mandela as both victim and perpetrator in the context of South Africa under apartheid rule. See Borer, *supra* note 25, at 1098–9.

<sup>28</sup>H. Hayashi, ‘The Battle of Singapore. the Massacre of the Chinese and Understanding of the Issue in Postwar Japan’, (2009) 7 *Asia Pacific Journal* 2.

<sup>29</sup>G. C. Gunn, ‘Remembering the Southeast Asian Chinese Massacres of 1941–45’, (2007) 37 *Journal of Contemporary Asia* 274.

<sup>30</sup>*Ibid.*, at 273.

through cleansing'.<sup>31</sup> The most 'extreme' of these massacres took place in Singapore through February and March of 1942. Here, Chinese residents were ordered to gather at certain locations where Japanese military personnel registered and picked out those to be exterminated. Japanese military personnel adopted inconsistent and often casual screening methods. Overly broad and irrelevant factors were used. For example, at Singapore's Jalan Besar, some Japanese personnel targeted Chinese civilians wearing spectacles were targeted as these civilians were presumably educated and therefore anti-Japanese.<sup>32</sup> At Telok Kurau English School, Japanese personnel simply called on those who had been educated in the Chinese school system to put up their hands.<sup>33</sup> Those identified through such screening measures were then taken away and killed. The precise number of Chinese civilians killed remains unknown. The Japanese admit to killing 6,000 Chinese while the Chinese Chamber of Commerce puts the number of those killed between 50,000 and 100,000.<sup>34</sup> As Lam points out, given the fact that the Singapore population stood at 795,000 in 1942, these massacres were indeed 'very severe on a per capita basis'.<sup>35</sup> These atrocities were prosecuted by the British in post-war Singapore and continue to feature in Singapore's present-day war memories.

### 3.1 War crimes trials in Singapore: Context and law

On 12 September 1945, the Supreme Allied Commander of South East Asia Command (SACSEA) Lord Louis Mountbatten formally accepted the surrender of the Japanese at a grand ceremony organized at Singapore's Municipal Building.<sup>36</sup> British war crimes prosecutions in Singapore proceeded not long after, in line with Allied policy.<sup>37</sup> Like all war crimes trials conducted by the British in Asia and Europe at the end of the war, the trials in Singapore – including the Nishimura trial – were organized pursuant to a 1945 Royal Warrant (Warrant) adopted by the British executive on 18 June 1945.<sup>38</sup> These trials applied a mixture of international law and British military law, and trial proceedings roughly followed common law rules. These rules were unevenly applied, and exceptions were made for efficiency reasons. Under this framework, each court comprised at the minimum of three judges who were usually from the British military, though the Warrant also permitted the appointment of judges from an Allied Force.<sup>39</sup> The Nishimura trial was heard by a panel of five judges from the British military, probably due to the scale of atrocities and public interest in the case.<sup>40</sup>

<sup>31</sup>*Reflections & Memories of War Volume 2: Syonan Years (1942 - 1945)* (National Archives of Singapore, 2009), 15.

<sup>32</sup>*Ibid.*, at 21.

<sup>33</sup>*Ibid.*

<sup>34</sup>*Ibid.*, at 28. As observed by Blackburn, due to the absence of records, 'no one will ever know for certain' how many perished in the 'Sook Ching' massacre. K. Blackburn, 'The Collective Memory of the Sook Ching Massacre and the Creation of the Civilian War Memorial of Singapore', (2000) 73 *Journal of the Malaysian Branch of the Royal Asiatic Society* 74.

<sup>35</sup>P. E. Lam, 'Japan's Postwar Reconciliation with Southeast Asia', (2015) 3 *Asian Journal of Peacebuilding* 52.

<sup>36</sup>'This Is No Negotiated Surrender', *The Straits Times*, 13 September 1945, 3.

<sup>37</sup>For an overview of other trials held in Singapore see W. L. Cheah, 'An Overview of the Singapore War Crimes Trials (1946–1948): Prosecuting Lower-Level Accused', (2016) 34 *Singapore Law Review*; W. L. Cheah, 'The Curious Case of Singapore's BIA Desertion Trials: War Crimes, Projects of Empire, and the Rule of Law', (2017) 28 *European Journal of International Law* 1217; W. L. Cheah, 'Culture and Understanding in the Singapore War Crimes Trials (1946–1948): Interpreting Arguments of the Defence', (2018) 14 *International Journal of Law in Context* 87.

<sup>38</sup>Great Britain War Office, Regulations for the Trial of War Criminals, attached to 1945 Royal Warrant 0160/2498, 18 June 1945, promulgated by the War Office, Army Order 81 of 1945 (1945 Royal Warrant and 1945 Royal Warrant Regulations when referring to attached regulations).

<sup>39</sup>Reg. 5, 1945 Royal Warrant Regulations.

<sup>40</sup>The names of the judges were as follows: Lieutenant Colonel P. A. Forsythe (Kings Royal Rifle Corps); Major F. Clague (Royal Artillery); Major A. A. Fatcher (Royal Artillery); Major A. E. Dennis (Royal Engineers); Captain R. H. Tyson (Intelligence Corps). I use the pagination system entered by the TNA (The National Archives, United Kingdom) staff as reference, placing 'SP' before the number. Names here appear as they are represented in the British records. See 'Military Court for the Trial of War Criminals', *Nishimura Takuma and others, infra* note 53, at SP 12.

These British military trials were intended by British leaders to be expeditious. ALFSEA Instruction No 1, one of several army instructions issued to facilitate trial implementation, emphasized the ‘summary nature of trials’ and that ‘justice be administered promptly and efficiently’ by these courts.<sup>41</sup> In Singapore, the British organized more than a hundred trials from 1946 to 1948 at different locations across the island.<sup>42</sup> For example, the first war crimes trial was held in the Supreme Court Building.<sup>43</sup> Among other administrative challenges, the British faced a shortage of appropriate trial venues. In May 1946, the case of *Sugihara Hikaru and another* had to be held ‘under a tent pitched in the grounds of the Goodwood Park Hotel’, though the *Straits Times* emphasized that this arrangement was only ‘temporary’ and an ‘emergency measure’.<sup>44</sup> The Warrant authorized these British military courts to pass sentences of death, imprisonment, confiscation, or a fine.<sup>45</sup> Some courts would give brief explanations of the factors considered when pronouncing their finding or sentence. However, these courts did not issue written judgments with detailed reasoning. All acquittals handed down by these courts were considered final, but convictions had to be confirmed in post-trial proceedings by a confirming officer.<sup>46</sup> Petitions could be submitted by the defence at this post-trial stage which also benefited from post-trial reviews of the case prepared by the deputy judge advocate general. This procedure enabled cases to be tried and concluded expeditiously.<sup>47</sup> In Singapore, the shortest trial lasted one day while the longest trial lasted 31 days.<sup>48</sup>

In terms of substantive law, the 1945 Royal Warrant and its regulations were relatively brief. These trials took place at a time when the scope and content of applicable legal concepts remained fluid.<sup>49</sup> For example, the most common defence put forward in these post-war trials, including the Nishimura trial, was the defence of superior orders. Defendants argued that they had acted pursuant to superior orders and should not be held liable or punished for the crimes concerned. The charters of the Nuremberg and Tokyo Tribunals prohibited superior orders from automatically exculpating an accused though these ‘may be considered in mitigation of punishment if the Tribunal determines that justice so requires’.<sup>50</sup> However, the 1945 Royal Warrant and its regulations did not expressly address the applicability of this defence. The British military had in fact amended its position on the defence of superior orders during the war, which raises retrospectivity and fairness concerns. Prior to 1944, the British Manual of Military Law (MML) recognized that superior orders could exonerate an individual.<sup>51</sup> In 1944, the British MML was amended to state that just because a ‘rule of warfare’ was ‘violated in pursuance of an order’, this did not ‘deprive the act in question of its character as a war crime’ or ‘in principle, confer upon

<sup>41</sup>Allied Land Forces South-East Asia, *War Crimes Instruction No 1*, 4 May 1946, No. WO 203/6092, UK National Archives (ALFSEA Instruction No. 1), para. 40.

<sup>42</sup>Note that one of the 131 trials (WO 235/855) is listed by the TNA as ‘Missing at Transfer’.

<sup>43</sup>South-East Asia’s First War Crimes Trial Opens’, *The Straits Times*, 22 January 1946, 3. This trial, *Gozawa Sadaichi and others*, saw ten accused tried for ill-treating Indian POWs on Babelthuap Palau, an island of the Republic of Palau.

<sup>44</sup>‘War Crimes Court Held under Tent’, *The Straits Times*, 16 May 1946, 1.

<sup>45</sup>Reg. 9, 1945 Royal Warrant Regulations.

<sup>46</sup>Regs. 8(f)(iv) and 11, 1945 Royal Warrant Regulations.

<sup>47</sup>The trials were later scaled down and limited to enable the conclusion of the war crimes prosecution project, in response to Cold War dynamics and the Western Allies desire to rehabilitate West Germany and Japan as allies.

<sup>48</sup>This was the *Trial of Otsuka Misao and others*, File No. WO 235/975 (*Trial of Otsuka Misao and others*).

<sup>49</sup>For example, defences were only comprehensively codified by the ICC Statute. These defences are found in Part III of the ICC Statute.

<sup>50</sup>1945 Charter of the International Military Tribunal at Nuremberg, Art. 8; 1946 Charter of the International Military Tribunal for the Far East, Art. 6.

<sup>51</sup>The pre-1944 paragraph on superior orders read: ‘members of the armed forces who commit such violations of the recognized rules of warfare as are ordered by their Government, or by their commander, are not war criminals and cannot therefore be punished by the enemy. He may punish the officials or commanders responsible for such orders if they fall into his hands, but otherwise he may only resort to other means of obtaining redress’. *British Manual on Military Law 1929*, Ch. XIV, para. 443.

the perpetrator immunity from punishment by the injured belligerent'.<sup>52</sup> At the Nishimura trial, as discussed below, all defendants argued they had acted according to superior orders. While the Nishimura court did not acquit the accused on this basis, the defendants' superior orders argument appears to have been considered during sentence mitigation and post-trial proceedings.

### 3.2 The Nishimura trial: A human portrait

The British organized two trials addressing 'Sook Ching' killings in Singapore.<sup>53</sup> The first trial, *Nishimura Takuma and others* (Nishimura trial), ran from 10 March 1947 to 2 April 1947.<sup>54</sup> The second trial, *Mizuno Keiji* (Mizuno trial), was held a year later and ran from 8 March 1948 to 12 March 1948.<sup>55</sup> This article focuses on the Nishimura trial which dealt with a larger number of accused and attracted much public attention and criticism.<sup>56</sup> For the British, these trials came with high political stakes. Upon returning to the region at the end of the Second World War, the British encountered increased resistance to their colonial rule. Calls for independence and acts of political defiance, which had been largely restricted to the local elite before the war, now took on a 'youthful, militaristic face'.<sup>57</sup> The British were eager to obtain the support of less radical community leaders. Give the Chinese community's push for prosecutions in Singapore, it was important for the British that 'Sook Ching' prosecutions delivered a fair and just result in the eyes of the Chinese community and their leaders. For Chinese community leaders, these prosecutions were viewed as vindication of their community's suffering and status. However, trial proceedings also destabilized the collective image and unity of the Chinese community as wartime victim by revealing instances of local collaboration. Trial testimonies show a more complex picture of victimhood, where those identifying as victims may have been involved in the perpetration of atrocities.

Seven defendants were tried in the Nishimura trial: Nishimura Takuma (lieutenant general), Kawamura Saburo (lieutenant general), Oishi Masayuki (lieutenant colonel), Yokota Yoshitaka (lieutenant colonel), Jyo Tomotatsu (major), Onishi Satorou (major), and Hisamatsu Haruji (captain).<sup>58</sup> As mentioned above, five judges presided over the Nishimura Trial, instead of the usual three.<sup>59</sup> Making up the prosecution team was Major F. W. Ward and Richard Lim Chuan Hoe.<sup>60</sup> The defence was conducted by three Japanese defence counsel – K. Kakuda, S. Kurose, and M. Fujiwa – who were barristers of the Tokyo Supreme Court.<sup>61</sup> Defence counsel in this trial was

<sup>52</sup>*Ibid.*

<sup>53</sup>The full citation information of these two trials at TNA are as follows: 'WO 235/1004 – Defendant Nishimura Takuma [Takuma], Place of Trial Singapore' and 'WO 235/1110 – Defendant Mizuno Keiji, Place of Trial Singapore'. The two cases will be referred to as '*Nishimura Takuma and others*' and '*Mizuno Keiji*'.

<sup>54</sup>See *Nishimura Takuma and others*, *ibid.*

<sup>55</sup>The second trial, *Mizuno Keiji*, was held about a year later and was more low-key.

<sup>56</sup>Not all trials organized by the British attracted public attention or criticism. As Smith observes, most trials conducted by the British across, then, Malaya caused 'relative lack of controversy' as they were largely seen to be fair, they were not 'exploited' by most political actors, and due to other 'major issues' occurring at that time. S. Smith, 'Crimes and Punishment: Local Responses to the Trial of Japanese War Criminals in Malaya and Singapore, 1946–48', (1997) 5 *South East Asia Research* 41.

<sup>57</sup>C. Bayly and T. Harper, *Forgotten Wars: The End of Britain's Asian Empire* (2008), 16.

<sup>58</sup>The defendants were tried for 'committing a war crime in that at Singapore Island between 18<sup>th</sup> February and 3<sup>rd</sup> March 1942, the accused Lieut-General Nishimura Takuma, as Commander of the Imperial Guards Division, the accused Lieutenant-General Kawamura Saburo as Commander of the Keibetaitai and the other named accused as officers of the Kempeitai, being all responsible for the lives and safety of civilian inhabitants were, in violation of the laws and usages of war, together concerned in the massacre of Chinese residents of Singapore Island aforesaid and particularly at Ponggol, Changi Road, Amber Road, Singapore Docks, Mata Ikan, Changi and Tanah Merah'.

<sup>59</sup>The names of judges were as follows: Lieutenant Colonel P. A. Forsythe (Kings Royal Rifle Corps); Major F. Clague (Royal Artillery); Major A. A. Fletcher (Royal Artillery); Major A. E. Dennis (Royal Engineers); Captain R. H. Tyson (Intelligence Corps); see 'Military Court for the Trial of War Criminals', *Nishimura Takuma and others*, *supra* note 53, at SP 12.

<sup>60</sup>'Proceedings of a Military Court', *Nishimura Takuma and others*, *supra* note 53, at SP 40.

<sup>61</sup>*Ibid.*

assisted by one British defence advisory officer, Captain R. T. Wait.<sup>62</sup> Wait's role, as an advisory officer, was to advise Japanese defence counsel on the British law that applied in these trials. The Nishimura trial featured numerous local witnesses; many were 'Sook Ching' survivors.

The Nishimura trial began at 10am on 10 March 1947 and was attended by a 'crowd estimated at 1,200'.<sup>63</sup> The 'majority' of attendees were from the Chinese community, including Wu Paak Shing, Chinese Consul-General, and A. C. T. Kwong, Chinese Consul. Press representatives took up 'two whole blocks of seats' and the size of the crowd attending was such that it 'was practically impossible to get seats'.<sup>64</sup> All were standing and some 'even stood on chairs to get a good view'.<sup>65</sup> The trial was recorded for broadcast purposes, and the media carried detailed reports about how Kawamura 'kept blinking as he sat in the dock' with his face 'screwed up in a nervous twitch all the time' while Yokota was 'tight-lipped' and 'shouted a defiant "Not Guilty" in answer to the charge'.<sup>66</sup> The media carried vivid descriptions of the defendants. For example, when Kawamura, the second defendant, took the oath, media reports described Kawamura as having a 'wicked and vicious-looking' face and a 'moustache like a rat's whiskers'.<sup>67</sup> Kawamura's breathing and expression was such that those attending the trial reportedly laughed.<sup>68</sup> Defence counsel explained Kawamura was ill and asked if he could use a handkerchief to cover his 'unsightly expression'.<sup>69</sup> The court agreed and also offered Kawamura a glass of water.<sup>70</sup> Media attention to such details demonstrate that the Nishimura trial was closely followed by the public. This was to be expected given the Chinese community's mobilization around the issue of justice for 'Sook Ching' atrocities.

#### 4. Victims as agents for justice: Richard Lim Chuan Hoe and other Chinese community leaders

After the war, Chinese community leaders made persistent demands to the British for the arrest and punishment of those responsible for 'Sook Ching' atrocities. These community leaders sought to mobilize their community to seek justice for 'Sook Ching' atrocities, encouraging Chinese civilians to come forward with evidence or serve as witnesses. Chinese newspapers of the time repeatedly described the Chinese as unjustly targeted by the Japanese military and as justified in their demands for justice and retribution. The idea of collective 'Sook Ching' victimhood, as deployed by Chinese community leaders and the press, insisted that the Chinese had a rightful interest in ensuring that justice was done and aimed to press the community into action. As this section demonstrates, while the trials were under British control, Chinese community leaders put consistent pressure on the British and sought to influence the shape of investigations and prosecutions.

##### 4.1 Mobilizing for justice: The 'blood debt' and Chinese community as collective victim

Chinese media reports and publications arguing for the prosecution of 'Sook Ching' atrocities made constant reference to the idea of 'blood debt' or *xue zhai*, which expressed the idea that the Chinese community was 'duty bound' to seek retribution from the Japanese for 'Sook Ching'

<sup>62</sup>Ibid.

<sup>63</sup>'1200 Crowd S'pore War Trial', *The Singapore Free Press*, 10 March 1947.

<sup>64</sup>Ibid.

<sup>65</sup>Ibid.

<sup>66</sup>Ibid.

<sup>67</sup>'面部恶肉横生之河村供残暴屠杀华侨经过' ('Vicious-Looking Kawamura Testifies How the Sook Ching Operation Took Place'), *Nanyang Siang Pau*, 21 March 1947, 5.

<sup>68</sup>Ibid.

<sup>69</sup>Ibid.

<sup>70</sup>Ibid.



atrocities.<sup>71</sup> For example, on 1 June 1946, the Chinese press carried a notice about a grievance conference to be held the next day at the Chinese Chamber of Commerce in Singapore, inviting the public to attend and participate to arrive at a ‘common strategy’ to seeking justice.<sup>72</sup> This notice describes the ‘Sook Ching’ as the ‘most brutal atrocity’, even worse than the Nanjing massacre or Nazi atrocities, resulting in a ‘blood debt’ that was ‘as deep as the sea’.<sup>73</sup> An editorial, published by *Nanyang Siang Pau* on 7 February 1947, argued that those responsible for the ‘Sook Ching’ had to be prosecuted ‘not only for the sake of clearing the blood debt, but also to restore justice to the world and to protect the civilised progression of humankind’.<sup>74</sup> The ‘blood debt’ phrase evokes the idea of revenge, in its demand of ‘blood’ for ‘blood’ and may explain the disappointment and anger expressed by many Chinese when the trial resulted, as further explained below, in only two death sentences. Today, officials and media from China continue to invoke this ‘blood debt’ idea when demanding justice for unprovoked wrongs.<sup>75</sup>

The Chinese community had set up several associations in Singapore to address the suffering of victims in the war’s aftermath. For example, the Chinese Massacred Victims Dependant Association was established to provide aid to families whose male members had been killed during the ‘Sook Ching’.<sup>76</sup> The Singapore Women’s Mutual Aid Victim Association (Women’s Mutual Aid Victim Association) was another organization set up for this purpose, composed of 1,000 widows and female dependants of Chinese ‘Sook Ching’ victims.<sup>77</sup> To ensure the prosecution and punishment of those responsible for ‘Sook Ching’, the Chinese community established the Overseas Chinese Appeal Committee (Appeal Committee).<sup>78</sup> This Committee was chaired by Tay Koh Yat from the Chinese Chamber of Commerce and comprised 37 notable figures from the Chinese community.<sup>79</sup> When the trial finally commenced, Tay publicly expressed his hopes that the trial would ‘shed light on the truth’ and ‘mete out the punishment’ deserved to the accused.<sup>80</sup> Tay’s hopes would turn into disappointment at the trial’s end, when five of seven accused escaped the death penalty.

Chinese community leaders were thus heavily invested in the fight for justice in the aftermath of ‘Sook Ching’. This fight for retribution and justice was especially transformative for women, who were ‘most vocal about blood debt’ and who took on social and political roles in post-war Singapore.<sup>81</sup> There was much local support for the work of the Women’s Mutual Aid Association. For example, on 23 February 1947, the association organized a remembrance ceremony for ‘Sook Ching’ victims at Edward Garden.<sup>82</sup> This ceremony was attended by 200 to 300 relatives of ‘Sook Ching’ victims.<sup>83</sup> The wartime loss and deaths of male family members resulted in much suffering to the women left behind, who became responsible for protecting and providing for their children and other dependants. When interviewed by the English press, Li Poay Keng, the 29-year-old

<sup>71</sup>K. Blackburn and K. Hack, *War Memory and the Making of Modern Malaysia and Singapore* (2012), 148.

<sup>72</sup>‘明日在總商會舉行集體鳴冤大會伍總領事將出席本坡國民黨支部願協助辦理’ (‘The Grievance Conference will be held tomorrow at the Chinese Chamber of Commerce. Consul Wu will be in attendance. The Kuomintang branch in Singapore is willing to offer assistance.’), *Nanyang Siang Pau*, 1 June 1946, 2.

<sup>73</sup>*Ibid.*

<sup>74</sup>‘大檢証案審判期近’ (‘The Date of the Hearing for the Sook Ching Massacre Draws Near’), *Nanyang Siang Pau*, 7 February 1947, 2.

<sup>75</sup>‘US-Led NATO Still Owes Blood Debt to Chinese People: FM’, *Global Times*, 26 March 2021, available at [www.globaltimes.cn/page/202103/1219540.shtml](http://www.globaltimes.cn/page/202103/1219540.shtml).

<sup>76</sup>See Blackburn and Hack, *supra* note 71, at 146.

<sup>77</sup>*Ibid.*, at 146.

<sup>78</sup>*Ibid.*, at 149.

<sup>79</sup>*Ibid.*, at 149–50.

<sup>80</sup>‘新加坡檢証血案鳴冤特刊’ (‘Special Issue on the Singapore Sook Ching Massacre’), *Nanyang Siang Pau*, 10 March 1947, 9.

<sup>81</sup>See Blackburn and Hack, *supra* note 71, at 150.

<sup>82</sup>*Ibid.*, at 146–7.

<sup>83</sup>*Ibid.*, at 147.

chairwoman of the Women's Mutual Aid Victim Association, declared that 'women have changed after the war' and that they had become 'fearless through their travails'.<sup>84</sup> While this cannot be taken as representative of all Chinese female survivors in post-war Singapore, the pursuit of justice for 'Sook Ching' atrocities did result in some Chinese women taking on more visible public roles.

#### 4.2 Prosecuting the 'Sook Ching': Richard Lim Chuan Hoe as prosecutor

The Nishimura trial was also the only war crime trial in Singapore where a Chinese prosecutor served on the prosecution team. Richard Lim Chuan Hoe's prosecutorial appointment and participation in the Nishimura trial demonstrates that the Chinese community's activism had some substantive impact on the British post-war justice process. Presenting themselves as 'an aggrieved clan demanding retribution', the Chinese community actively demanded that those responsible for 'Sook Ching' killings face justice.<sup>85</sup> These intense calls for justice and retribution from the Chinese community reflected the large number of Chinese summarily killed during 'Sook Ching' operations. Survivors and family members pinned their hopes on the organization of war crimes trials that would lead to the execution of those responsible.<sup>86</sup> Lim was already a prominent leader of the Chinese community in Singapore prior to the war. Apart from being a successful lawyer, Lim was elected by the British as a member of the Municipality and served as legal advisor to the Chinese Consul-General.<sup>87</sup> The latter authorized Lim to represent his office in assisting the Chinese community in the prosecution of Japanese war criminals.<sup>88</sup> Lim's inclusion on the prosecution team in the Nishimura trial reflects the importance placed on this trial by the Chinese community in Singapore. Trial records and media reports show Lim taking an active part in the questioning of witnesses and the accused.

Lim's prosecutorial approach in the Nishimura trial was consistent with the prosecution's overall strategy of showing that the defendants had much discretion over the screening operation's implementation even if were following superior orders. The prosecution also sought to show that the defendants had failed to give their subordinates proper instructions. Lim was involved in the questioning of Sugita Ichiji, the prosecution's first witness who had been a colonel in the Japanese Army and who had worked in intelligence.<sup>89</sup> In his re-examination of Sugita, Lim focused on establishing that the screening order handed down to the various accused was of 'a very general nature', with 'details to be worked out' either by Kawamura or his 'subordinate officers'.<sup>90</sup> Lim's questioning was relatively effective, though some of Sugita's answers appear deliberately vague. For example, when Lim asked Sugita if one of the accused Kawamura had left the 'manner' of the screening to his subordinate officers, Sugita confirmed that 'concrete measures' were indeed 'left to the subordinates' while also insisting that 'they were carried out according to the orders of the superiors'.<sup>91</sup> Lim also sought to establish that 'no method of screening' had been adopted by the accused, resulting in victims being 'chosen at random'.<sup>92</sup> In response, Sugita stated that those

<sup>84</sup>In an interview to the *Straits Times*, she said that all widows in the Association would have attended the hangings of those sentenced to death in the Nishimura trial without hesitation. 'War Has Changed S'pore Women', *Straits Budget*, 26 June 1947, 17.

<sup>85</sup>See Blackburn and Hack, *supra* note 71, at 148.

<sup>86</sup>*Ibid.*

<sup>87</sup>Before becoming a lawyer, Lim was a teacher at St Andrew's School and then the Anglo-Chinese School. Lim then received a Straits Settlements Government Scholarship to further his studies in the University of Hong Kong where he qualified as a teacher. He subsequently pursued his legal studies in London, after which he was called to the bar at the Middle Temple. When he returned to Singapore, he joined the law firm Mallal & Namazie. He left the firm in 1942 to start his own law firm, R.C.H. Lim and Co. Portrait of Richard Lim Chuan Hoe (by Melvin Wang), available at [www.singaporewarcrimetrials.com/portraits/richard-lim-chuan-hoe](http://www.singaporewarcrimetrials.com/portraits/richard-lim-chuan-hoe).

<sup>88</sup>S'pore Massacre Round U: Search for Japs', *The Straits Times*, 26 May 1946, 3.

<sup>89</sup>See *Nishimura Takuma and others*, *supra* note 53, at SP 45.

<sup>90</sup>*Ibid.*, at SP 55.

<sup>91</sup>*Ibid.*, at SP 56.

<sup>92</sup>*Ibid.*

implementing these orders ‘made the investigations as much as possible’ and ‘then carried them out’.<sup>93</sup>

When questioning Oishi Masayuki, one of the accused, Lim sought to establish that Oishi had failed to exercise care in implementing the screening order and had given his subordinates an overly wide discretion. Upon Oishi’s failure to give satisfactory answers, Lim would press him to answer the question.<sup>94</sup> During his questioning of Hisamatsu Haruji, another accused, Lim referred to a speech given by Hisamatsu to the police at Tanjong Pagar Police Station. In his speech, Hisamatsu had stated that anyone who ‘obstructs’ Japanese military operations would be acting against the liberation of Asia. Lim pointed out that by giving this speech to the police, Hisamatsu had the ‘purpose of frightening the police so that they might do exactly’ what they were instructed to do, specifically to assist in the screening of civilians.<sup>95</sup> Hisamatsu denied this, stating that those listening to his speech had been ‘much moved’ and ‘swore allegiance to the Japanese’.<sup>96</sup> Lim nevertheless persisted in his line of questioning.<sup>97</sup> For this, Lim was applauded in the local Chinese press. Lim’s ‘sharp words’ were praised and he was described as ‘righteous and steadfast’.<sup>98</sup> When Lim was later recognized by the Chinese community for his role in the Sook Ching trial, alongside the British prosecutor F. W. Ward and war crimes investigator M. G. A. Watson, Lim sought to give recognition to his ‘superiors’ or the community leaders who had appointed him for this prosecutorial task.<sup>99</sup> For many, Lim represented the Chinese community rather than the British prosecutorial authorities in the Nishimura trial. Lim’s inclusion on the prosecution team shows that though the British authorities were not obligated to consider the view of victims in designing and implementing the justice process, they nevertheless could not ignore the activism and demands of the Chinese community.

## 5. Victims as witnesses: Chua Choon Guan and surviving the ‘Sook Ching’

The Nishimura trial included many prosecution witnesses who had been targeted during the ‘Sook Ching’ screening process but who had miraculously escaped. Their testimonies contained vivid details of the massacre and its aftermath. The content and form of these witness testimonies were shaped and limited by the questioning of counsel and trial proceedings. Nevertheless, a close reading of these testimonies reveal different dimensions of the victimhood experienced by witnesses. As this section demonstrates through its analysis of Chua Choon Guan’s testimony, the arbitrariness of the ‘Sook Ching’ screening left its mark on the memories of victims. Further, witnesses did not act as mere transmitters of information when testifying at trial but exercised care in representing their own roles when describing their ‘Sook Ching’ experience. Though Chinese community leaders persistently depicted the community as collectively victimized by the Japanese, witness testimonies in the Nishimura trial mentioned the involvement of locals in ‘Sook Ching’ operations and there was much anxiety among civilians of being accused of wartime collaboration.<sup>100</sup>

<sup>93</sup>Ibid.

<sup>94</sup>Ibid., at SP 220.

<sup>95</sup>Ibid., at SP 297.

<sup>96</sup>Ibid., at SP 298.

<sup>97</sup>Ibid.

<sup>98</sup>‘被迫協力日寇檢證者因不願指認遭擊’ (‘Forced to Cooperate with Japanese Army, Those Who Were Unwilling to Identify “Anti-Japanese Elements” Were Attacked’), *Nanyang Siang Pau*, 28 March 1947, 5.

<sup>99</sup>‘檢証元凶軍判有罪显示主控方面尽了最大努力’ (‘The Fact that the Seven Defendants Were Found Guilty Shows that Prosecution Had Done Their Best’), *Nanyang Siang Pau*, 16 April 1947, 5.

<sup>100</sup>See Blackburn and Hack, *supra* note 71, at 150.

### 5.1 The arbitrariness of 'Sook Ching': Making sense of the senseless

Chua Choon Guan, a survivor who testified, had been a taxi driver prior to Japan's occupation of Singapore.<sup>101</sup> His trial testimony demonstrates the random nature of the killings and the bewilderment of those caught up in the screening process as well as those who survived. Chua was third of five sons and had emigrated with his parents from China to Singapore.<sup>102</sup> Shortly after Singapore fell to Japan, Chua was brought to the Jalan Besar football field. He was picked out during the screening process and among '400 to 600' people transported in 11 lorries to the beach at Changi.<sup>103</sup> There, Japanese military personnel tied Chua and other detainees '11 in a row'.<sup>104</sup> Chua recalled: 'All of us moaned and cried because we knew it would be the last of us.' The Japanese soldiers then brought the men onto the beach and 'machine gunned' them.

During the trial, Chua showed the court the gunshot wounds on his body and legs.<sup>105</sup> Upon being shot at the beach, Chua had fallen down with others falling on top of him. He was then knocked unconscious by 'a hard knock' on his head.<sup>106</sup> He woke up 'late in the night' when the incoming tide 'washed' against his face. Chua then freed himself by rubbing his cords against a rock on the beach and crawling away.<sup>107</sup> Other witnesses who were 'Sook Ching' survivors offered similarly chance-like descriptions of their escape. Two prosecution witnesses, Low Sze Thang and Ng Kim Song, described how their group was separated and brought into the forest by a Japanese soldier who then proclaimed himself as their 'saviour' before letting them go free.<sup>108</sup> Another witness, Hong Peck Lee, explained that he had managed to free himself by begging a Chinese civilian accompanying a Japanese soldier to get the latter to allow him to return home.<sup>109</sup>

When asked why he had been targeted by the Japanese, Chua answered that he had 'no idea'.<sup>110</sup> Other survivors and victims who were ordinary civilians must have similarly bewildered, particularly when picked out through haphazard screening processes. Chua testified at trial that all 'big sized people' were picked out at his detention area.<sup>111</sup> He believed that he had been picked out because he 'showed [his] identity card'.<sup>112</sup> Instead of going into hiding, most Chinese civilians had presented themselves for registration as instructed by the Japanese military, unaware that they would be subject to such arbitrary screening and execution. This screening process was to identify security threats, but prosecution witnesses repeatedly testified about the vague and irrelevant criteria used to identify such threats. Japanese personnel conducting such screening targeted those worked with the government, those who were educated, and property-owners. Some picked out those who had tattoos, presumably as triad members would be tattooed. Among prosecution witnesses were two members of the Straits Settlement Volunteer Force (SSVF), Wong Sin Joon and Augustus Joseph Vas.<sup>113</sup> Wong had been detained and brought to Tanah Merah beach for execution. Miraculously, he survived the mass shooting and managed to escape. He confirmed that he was a member of the SSVF and had not surrendered as a POW as they were told to 'come back later on'.<sup>114</sup> In contrast, Vas had surrendered as a POW and had been ordered by the

<sup>101</sup>See *Nishimura Takuma and others, supra* note 53, at SP 120.

<sup>102</sup>Portrait of Chua Choon Guan (by Shirin Chua), available at [www.singaporewarcrimetrials.com/portraits/chua-choon-guan](http://www.singaporewarcrimetrials.com/portraits/chua-choon-guan).

<sup>103</sup>See *Nishimura Takuma and others, supra* note 53, at SP 120.

<sup>104</sup>*Ibid.*

<sup>105</sup>*Ibid.*, at SP 121.

<sup>106</sup>*Ibid.*

<sup>107</sup>*Ibid.*

<sup>108</sup>For Low's testimony see *ibid.*, at SP 73. For Ng's testimony see *ibid.*, at SP 77.

<sup>109</sup>For Hong's testimony see *ibid.*, at SP 107.

<sup>110</sup>*Ibid.*, at SP 122.

<sup>111</sup>*Ibid.*, at SP 120.

<sup>112</sup>*Ibid.*

<sup>113</sup>For Wong's testimony see *ibid.*, at SP 126. For Vas's testimony see *ibid.*, at SP 132.

<sup>114</sup>*Ibid.*, at SP 120.

Japanese to clear the dead bodies of those killed.<sup>115</sup> This random and senseless nature of the ‘Sook Ching’ screening experience clearly contributed to the sense of injustice and victimhood experienced by the Chinese community.

## 5.2 The involvement of civilians in ‘Sook Ching’ operations

Witness testimony in the Nishimura trial also revealed uncomfortable details about the ‘Sook Ching’. The Japanese military had involved locals in the ‘Sook Ching’ screening operations in seeking to identify ‘anti-Japanese elements’. While these individuals were not on trial, the Nishimura court showed interest in learning more about those assisting the Japanese military in ‘Sook Ching’ operations. In his examination-in-chief, Chua described ‘a crowd that came and picked’ him during the screening process.<sup>116</sup> The court specifically questioned Chua about the nationality of those who did the selection. Chua stated that they were ‘Japanese’.<sup>117</sup> Other prosecution witnesses who had survived the massacre testified that locals had been involved in the screening. Cheng Kwang Yu, who had been detained at Jalan Besar, stated that he saw ‘3 Japanese officers and one Chinese detective and several Japanese guards’ at the exit where individuals were picked out.<sup>118</sup> Wong Sin Joon, who had also been detained at Jalan Besar, stated that he had been ‘picked’ out as a member of the SSVF by ‘[o]ne of the officers’ in his company and an ‘NCO’.<sup>119</sup> Kang Thian Huet explained that he saw ‘Japanese guards sitting at the exit with Chinese detectives’ who were picking out individuals as they walked past. Kang had tried to give a false name but was accused of doing so by ‘a Malay and a Japanese’ and subsequently beaten.<sup>120</sup>

The testimonies of some witnesses showed that the Japanese military had coerced civilians into assisting ‘Sook Ching’ screening operations. Thomas Isaac, a prosecution witness, described how at ‘a Chinese detective or a bad hat was placed together with a Japanese military personnel’ to pick out criminals and anti-Japanese elements.<sup>121</sup> He saw a Japanese Kempeitai officer ‘hit one of these men’, a Chinese, ‘on the head’ to force him to pick out individuals.<sup>122</sup> Those witnesses whose testimonies included their own role in ‘Sook Ching’ operations were careful to emphasize their reluctant and coerced involvement. Yip Peng Yew, who had worked with the Special Branch Police, testified that after the surrender, a ‘Japanese in uniform’ had come to his home and brought him to screening areas where he was ‘told to pick out bad hats and communists’.<sup>123</sup> When questioned by the court, Yip stated that he ‘was very worried about [his] personal safety’ and insisted that he ‘did not point out anybody’.<sup>124</sup> Civilians describing their own involvement in any ‘Sook Ching’ screening represented this as coerced and minimal, portraying themselves as also victims of the Japanese military.

## 6. Victims as collaborators: Shinozaki Mamoru and the Nishimura trial’s subtext

There was a real fear among locals in post-war Singapore of being accused of collaborating with the Japanese. When the Japanese surrendered, anti-Japanese resistance fighters and private individuals meted out acts of vengeance against those viewed as collaborators across Malaya.<sup>125</sup>

<sup>115</sup>For Vas’s testimony see *ibid.*, at SP 132.

<sup>116</sup>*Ibid.*, at SP 120.

<sup>117</sup>*Ibid.*, at SP 122.

<sup>118</sup>*Ibid.*, at SP 123.

<sup>119</sup>*Ibid.*, at SP 127.

<sup>120</sup>*Ibid.*, at SP 131.

<sup>121</sup>*Ibid.*, at SP 142.

<sup>122</sup>*Ibid.*, at SP 146.

<sup>123</sup>*Ibid.*, at SP 147.

<sup>124</sup>*Ibid.*, at SP 148.

<sup>125</sup>B. K. Cheah, *Red Star Over Malaya: Resistance and Social Conflict During and After the Japanese Occupation of Malaya, 1941–46* (2012), 133.

Many accused of collaboration were executed without proper trial or subject to acts of cruelty and mob violence.<sup>126</sup> Those who had suffered under the Japanese occupation demanded the punishment of not only Japanese war criminals but also those who had worked for the Japanese and facilitated their wartime occupation. Apart from prosecuting Japanese nationals for war crimes like the ‘Sook Ching’ massacre, the British authorities also prosecuted locals for treason and other collaborationist crimes.<sup>127</sup> Such collaboration, even when unwilling or coerced, demonstrates the need for a more nuanced understanding of victimhood that accounts for the diverse wartime experiences of a subjugated community.

### 6.1 Interrogating the role of collaborators: Shinozaki Mamoru as prosecution witness

Shinozaki Mamoru served as the prosecution’s second witness in the Nishimura trial. In his trial testimony, Shinozaki sought to affirm not only his own wartime role but also that of several local leaders. Though he is at times popularly referred to as the Japanese ‘Schindler’, Shinozaki’s wartime role remains controversial.<sup>128</sup> Before the war, Shinozaki had been convicted by the British authorities for espionage and was still in prison when Singapore fell to the Japanese. He was released and worked for the Japanese military as an advisor, chief education officer, and chief welfare officer in occupied Singapore. During the Nishimura trial, when cross-examined by the defence, Shinozaki explained that he had issued two types of passes to Chinese civilians – transport and protection passes – which enabled their holders to avoid detention.<sup>129</sup> He estimated that he had issued about 20, 000 to 30, 000 passes at the start of the Japanese occupation.<sup>130</sup> He stated that when these passes did not work, he would personally go to where the individual concerned was detained to obtain his release.<sup>131</sup> If the sector commanders concerned did not permit the release of civilians, Shinozaki said he would seek the intervention of two accused persons, Yokota Toshitaka and Jyo Tomotasu.<sup>132</sup> He estimated that he had secured the release of 2,000 people in this manner, ‘[t]hrough Yokota and through Jyo’.<sup>133</sup> Apart from painting Yokota and Jyo in a positive light, Shinozaki also described the accused Kawamura Saburo as ‘a very quiet person’ who ‘could not fulfil his work’.<sup>134</sup> When questioned by the defence through the court, he insisted that Yokota and Jyo had merely ‘forwarded on the order’ to the other accused who ‘did the actual work’.<sup>135</sup>

In his trial testimony, Shinozaki referred to the role played by locals in the screening process. Shinozaki confirmed that ‘influential civilians’ and ‘local police’ were involved in the screening process but explained that they had done so because ‘they were afraid of the Kempeitai’. He further claimed that these individuals ‘didn’t know that the result’ or consequences of the screening.<sup>136</sup> Shinozaki did not hesitate to emphasize his protection of the Chinese community, observing during his testimony that ‘if Shinozaki [that is myself] were not in Singapore’ and if he did not have Yokota’s help ‘what would have been the fate of the Chinese’.<sup>137</sup> Defence counsel asked Shinozaki to explain how he managed to issue so many passes, hinting that this could not have

<sup>126</sup>*Ibid.*

<sup>127</sup>There do not appear to be official records of these trials, where locals were tried on treason and other criminal charges. They were, however, reported in the press. Some had the charges withdrawn. See, for example, ‘Cases Against Doctor, Lawyer & Journalist Withdrawn’, *Sunday Tribune (Singapore)*, 24 March 1946, 4.

<sup>128</sup>Shinozaki has been criticized for minimizing the number of those killed during Sook Ching operations and misrepresenting his own wartime role as well as that of the OCA.

<sup>129</sup>See *Nishimura Takuma and others*, *supra* note 53, at SP 62.

<sup>130</sup>*Ibid.*

<sup>131</sup>*Ibid.*, at SP 63.

<sup>132</sup>*Ibid.*

<sup>133</sup>*Ibid.*

<sup>134</sup>*Ibid.*, at SP 66.

<sup>135</sup>*Ibid.*, at SP 71.

<sup>136</sup>*Ibid.*, at SP 65.

<sup>137</sup>*Ibid.*, at SP 68.

been done ‘without the Army’s help’. In response, Shinozaki gave the following explanation as to why he had helped Chinese civilians:

I wish to state the meaning of my name first. My name is Shinozaki. Shine means China and Kaki means Cape. So my name would mean cape of China. My name Mamoru in Japanese means protection in English. This I have heard from my father when I was a child.<sup>138</sup>

Shinozaki was also called to give testimony at the sentence mitigation stage. During this stage, he made some strong and lengthy statements about atonement and reparations. The court observed that these statements were probably irrelevant to sentence mitigation but allowed Shinozaki to elaborate on them.<sup>139</sup> Shinozaki claimed that for this ‘great mistake’ ‘all Japanese express the deepest apologies’.<sup>140</sup> He proposed to ‘ask the Japanese Government for a large sum excluding general reparations’.<sup>141</sup> As a ‘member of the Japanese Foreign Office’, Shinozaki said he would ‘take the responsibility’ to ‘amend’ Japan’s mistakes ‘in the bill of humanity’.<sup>142</sup> He went on to specify he would ask ‘20 thousand dollars’ for each victim. He further declared that he intended to dedicate ‘the rest’ of his life ‘to do something for the families in Singapore’.<sup>143</sup>

## 6.2 The Overseas Chinese Association and allegations of treason

When testifying at the Nishimura trial, Shinozaki also explained how he and Lim Boon Keng had set up the Overseas Chinese Association (OCA). Lim was a prominent Chinese leader who had been arrested during ‘Sook Ching’ screenings and then released. Shinozaki explained that the role of OCA was to ‘co-operate’ with the Japanese military and ‘protect the Chinese Community’, and that the organization was formed with the ‘permission and understanding’ of senior Japanese officials.<sup>144</sup> Shinozaki tried to paint the defendant Yokota in a positive light, describing him as ‘a man of understanding’ and ‘sympathy’.<sup>145</sup> According to Shinozaki, Yokota had asked him to ‘look after’ Lim Boon Keng and establish the OCA. Shinozaki then went on to name several Chinese leaders who had been released by the Japanese military to establish and run the OCA.<sup>146</sup> Researchers have challenged Shinozaki’s account of the OCA’s establishment. In his landmark book, *Red Star Over Malaya*, Cheah Boon Kheng explained that the Japanese military had ‘tortured’ and ‘threatened’ Chinese community leaders to secure their participation in the OCA.<sup>147</sup> One of the main aims of the OCA was to raise 50 million Malayan dollars as a ‘gift’ or ‘atonement’ to the Japanese administration for the Chinese community’s pre-war anti-Japanese resistance.<sup>148</sup>

Shinozaki argued that the OCA ‘actually protected the Chinese people’ and functioned ‘like a brother looking after his younger brother’.<sup>149</sup> As the British ‘father’ had left, the ‘elder Chinese people had to look after the younger brothers’.<sup>150</sup> He argued that it was ‘unfair’ for the OCA to be viewed as collaborationist.<sup>151</sup> Shinozaki explained that the OCA was necessary because the British

<sup>138</sup>*Ibid.*, at SP 67.

<sup>139</sup>*Ibid.*, at SP 372.

<sup>140</sup>*Ibid.*, at SP 371.

<sup>141</sup>*Ibid.*

<sup>142</sup>*Ibid.*

<sup>143</sup>*Ibid.*

<sup>144</sup>*Ibid.*, at SP 67.

<sup>145</sup>*Ibid.*

<sup>146</sup>*Ibid.*, at SP 67–8. Those named include S. Q. Wong, Chan Kay Tan, Chan Kay San, Lee Chong Sian, and Lee Tian Poh who became founders of the OCA.

<sup>147</sup>See Cheah, *supra* note 125, at 24.

<sup>148</sup>*Ibid.*

<sup>149</sup>See Nishimura Takuma and others, *supra* note 53, at SP 69.

<sup>150</sup>*Ibid.*, at SP 70.

<sup>151</sup>*Ibid.*

had 'left' the country and 'left behind so many children' when the 'strong step-father came in'.<sup>152</sup> The 'eldest brother', referring to the OCA, 'came forward to the step father to look after their younger brothers and sisters'.<sup>153</sup> This familial analogy tracked official propaganda used by the Japanese during the war, depicting Japan as the 'nucleus' of the Greater East Asia Co-Prosperity Sphere.<sup>154</sup> Apart from the OCA, Shinozaki was also involved in the establishment of the Eurasian Welfare Association (EWA) which served as the link between the Eurasian community and the Japanese administration in Singapore. Charles Joseph Pemberton Paglar, an influential Eurasian surgeon, was appointed as head of the EWA. Paglar was tried by the British after the war for treason and collaboration. At Paglar's trial, Shinozaki served as a witness and defended Paglar's actions. He denied that Paglar had 'whole-heartedly' co-operated with the Japanese.<sup>155</sup> Rather, Shinozaki testified that he had issued orders to Paglar and that Paglar had only co-operated with the Japanese to protect the Eurasian community.<sup>156</sup> Paglar was eventually granted a discharge amounting to an acquittal when the prosecution decided to withdraw the charge.<sup>157</sup>

Some Chinese community leaders publicly criticized Shinozaki's trial account of his wartime role. The Appeal Committee convened a meeting at the end of the Nishimura trial during which members demanded that Shinozaki be deported from Singapore due to his spying activities.<sup>158</sup> At this meeting, Chuang Hui Chuan, the Manager of General Affairs of the Appeal Committee, denounced Shinozaki as a mastermind of the 'Sook Ching' massacre. Chuang's speech criticizing Shinozaki was reported by the Chinese press. In this speech, Chuang argued that Shinozaki had only secured the release of those who 'were not relevant to the Japanese enemy's schemes' or 'those who were willing to assist the enemy as traitors'.<sup>159</sup> Chuang went on to observe that Shinozaki had lost his 'status' and 'good name' after the war and that he was 'only masking his evil deeds as acts of kindness'.<sup>160</sup> He castigated Shinozaki for behaving as a 'wily old fox' in court and for his 'shameless' behaviour.<sup>161</sup> Much tension and uncertainty remains over such questions of collaboration and the role played by personalities like Shinozaki, especially as these remain scarcely discussed in Singapore's mainstream historical narratives.<sup>162</sup>

## 7. Conclusion: Subaltern stories in the Nishimura trial

On 2 April 1947, the Nishimura court concluded its hearing and pronounced on the defendants' guilt.<sup>163</sup> Kawamura and Oishi both received death sentences while the other five accused were sentenced to life imprisonment. The local press reported that the courtroom was 'extremely

<sup>152</sup>*Ibid.*

<sup>153</sup>*Ibid.*

<sup>154</sup>The Second World War was described by Japanese leaders as a 'righteous war' aimed at establishing a 'Greater East Asia Co-Prosperity Sphere' that would include Burma, China, French Indochina (present-day Vietnam and Cambodia), Hong Kong, India, Malaya (which Singapore formed a part), Manchuria, the Netherlands East Indies (present-day Indonesia), the Philippines, and Thailand. In a 1942 speech, General Tojo set out the purpose of establishing such a sphere as 'securing an order of co-existence and co-prosperity based on ethical principles with Japan serving as its nucleus'. *Reflections & Memories of War Volume 1: Battle for Singapore (Fall of the Impregnable Fortress)* (National Archives of Singapore, 2011), 34.

<sup>155</sup>'Former Jap Welfare Officer's Evidence', *Malaya Tribune*, 25 January 1946, at 4/1.

<sup>156</sup>*Ibid.*

<sup>157</sup>'Cases Against Doctor, Lawyer & Journalist Withdrawn', *Sunday Tribune (Singapore)*, 24 March 1946, at 4.

<sup>158</sup>鸣冤会决呈东南亚司令部队处绞刑 ('Appeal Committee of the Singapore Chinese Victims Massacred by Japanese: All of the Seven Japanese War Criminals Should Be Sentenced to Death'), *Nanyang Siang Pau*, 6 April 1947, 3.

<sup>159</sup>*Ibid.*

<sup>160</sup>*Ibid.*

<sup>161</sup>*Ibid.*

<sup>162</sup>For an account of how the Singapore state has managed wartime narratives and memorialization related to the 'Sook Ching' see Blackburn, *supra* note 34.

<sup>163</sup>檢証元兇聞判有罪個個閉目咬緊嘴唇 ('Court Found All Seven Defendants Guilty; Each One Closed Their Eyes and Gnawed at Their Lips'), *Nanyang Siang Pau*, 3 April 1947, 5.



crowded' and 'tense', with many of those in attendance having lost family members or friends.<sup>164</sup> There was a palpable change in the courtroom's atmosphere, as the 'audience lit up with pleasure, expressing their joy'.<sup>165</sup> The defendants were visibly downcast and 'seemed to lose their composure' as their faces 'slowly turned white'.<sup>166</sup> Press reports however note that many trial attendees thought the sentences were 'too light' and 'expressed their discontentment'.<sup>167</sup> On the same day, the Appeal Committee met and expressed their dissatisfaction over the sentences. The Committee declared that it would conduct further evidence collection so 'they could sue again'.<sup>168</sup>

Despite criticism and pressure from Chinese community leaders, the British authorities stood behind the Nishimura court's findings and sentences. In their petition submitted at the post-trial review and confirmation stage, defence counsel repeated arguments of superior orders and military necessity in support of their request to 'rescind the supreme penalty' and 'abrogate or at least commute the punishment' of all defendants.<sup>169</sup> The review report of the deputy judge advocate general found that the defendants' petition did not 'disclose any material factors which were not before the court' and advised its dismissal. The report also stated that there was 'sufficient evidence' to support the findings of the Nishimura court and advised confirmation of the court's sentences.<sup>170</sup> Interestingly, the report noted the 'great outcry against what are said to be the "lenient" sentences of imprisonment for life', 'a clamour for enhancement of those sentences', and 'other criticisms' reported in the local Chinese press.<sup>171</sup> Nevertheless, the report explained that these life imprisonment sentences 'cannot reasonably be described as lenient' and that four of those punished with life imprisonment were 'comparatively junior in the chain of command'.<sup>172</sup> The report also emphasized that it would be 'an abuse of judicial discretion' to refuse confirmation of the court's findings based on 'grounds wholly unconnected with the validity or justice of those findings' with the aim of 'enabling another court to be convened to pass more severe sentences'.<sup>173</sup> All sentences handed down by the Nishimura court were eventually confirmed.<sup>174</sup>

This microhistory of the Nishimura trial highlights the varied experiences and agency displayed by survivors and complicates the idea of war victimhood. In doing so, it contributes to TWAIL's 'reassessment and rewriting of the past' which aims at developing a 'non-Western interpretation of historical developments in international law'.<sup>175</sup> TWAIL-inspired microhistories of post-war justice efforts, like the Nishimura trial, have the potential to reveal otherwise overlooked exercises of subaltern agency. In the case of the Nishimura trial, Chinese community leaders mobilized the community around the prosecution and punishment of 'Sook Ching' perpetrators. Chinese women, who had lost family members and suffered during the Japanese occupation, called for the repayment of the 'blood debt' owed by the Japanese for 'Sook Ching' killings.<sup>176</sup> The British authorities, whose legitimacy as colonial authority had been seriously undermined by the war, made efforts to address these demands. Though the Chinese community was persistently depicted by their leaders and the press as united in their suffering and victimization, trial testimonies

<sup>164</sup>*Ibid.*

<sup>165</sup>*Ibid.*

<sup>166</sup>*Ibid.*

<sup>167</sup>*Ibid.*

<sup>168</sup>See '鸣冤会决呈东南亚司令部处绞刑' ('Appeal Committee of the Singapore Chinese Victims Massacred by Japanese: all of the seven Japanese war criminals should be sentenced to death'), *supra* note 158, at 3.

<sup>169</sup>The petition of Nishimura Takuma, Kawamura Saburo, Oishi Masayuki, Yokota Yoshitaka, Jyo Tomotatsu, Onishi Satoru, and Hisamatsu Haruji, at 10.

<sup>170</sup>*Nishimura Trial*, Review Report, at 4.

<sup>171</sup>*Ibid.*

<sup>172</sup>*Ibid.*

<sup>173</sup>*Ibid.*

<sup>174</sup>On 26 June 1947, about two months after the Nishimura trial court's judgment, Kawamura and Oishi were executed at Changi Gaol. 'Four Women Watch Hangings', *The Straits Times*, 27 June 1947, 1.

<sup>175</sup>See Bendel, *supra* note 3, at 407.

<sup>176</sup>See Blackburn and Hack, *supra* note 71, at 150.

highlighted the role of local collaborators in the ‘Sook Ching’ screening process. Pursuing justice for ‘Sook Ching’ atrocities had mixed consequences on survivors. While the war crimes prosecution of ‘Sook Ching’ atrocities consolidated local Chinese leadership and politicized many, it also had an ambivalent impact on survivors who sought avoid allegations of collaboration. Prosecution witnesses included Chinese who testified about being forced to work with the Japanese. These witnesses took the opportunity to emphasize the coerced or ineffectual nature of their involvement. Their experience highlights the need for a better understanding of war victimhood and the survival strategies deployed by civilians in times of conflict and occupation.

Apart from contributing to a better appreciation of victim experiences and perspectives, this article’s micro-historical approach and focus on the agency of colonized populations challenges international legal history’s continued Eurocentric tendency, a key objective of TWAIL scholarship.<sup>177</sup> Such Eurocentricism may be partially explained by international law’s focus on states and formal institutions.<sup>178</sup> It is challenging to excavate the less powerful voices of war survivors and colonial subjects from archival material compiled by those in positions of power. Nevertheless, as this article demonstrates, these voices and lives can be reconstructed through micro-historical methods of reading and analysis. By spotlighting and exploring the agency exercised by survivors in the ‘Sook Ching’ trial, this article privileges the perspectives of individuals and communities under wartime occupation and colonial rule, beyond their role as victim or survivor. Alongside the common narrative of these post-war trials as an Allied response to Axis atrocities are diverse narratives of civilian survival against shifting constellations of power. Also embedded in these trial transcripts are local stories of anxieties over wartime collaboration allegations. A fuller appreciation of the different roles and aims pursued by trial participants in the Nishimura trial demonstrates the agency exercised by individuals and groups emerging from brutal occupation while under colonial rule.

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<sup>177</sup>See Vadi, *supra* note 4, at 321.

<sup>178</sup>As Vadi observes, international law’s recent recognition of the important role played by non-state actors will necessitate a ‘shift’ in international legal history from its traditional focus on states to examining the role of non-state actors such as ‘individuals, minorities, indigenous groups, and local communities’. See Vadi, *ibid.*, at 319.