

BALANCE SHEET OF THE OCCUPATION

OF JAPAN

ASSETS:

June, 1947

1. General MacArthur
2. The intact Japanese government and Emperor.
3. The civilian spirit of the occupation personnel.
4. The new constitution, and elections.
5. The renunciation of war and militarism.
6. The Japanese acceptance of democracy; feeling of liberation.
7. Decentralization of government.
8. The purge of militarists.

LIABILITIES:

1. Economic prostration, inflation, black market, food lack.
2. Old habits of follow the leader; acceptance of authority.
3. Excessive censorship controls.
4. Excessive activities by G2 agencies and MP's.
5. Summary procedures of provost courts and penalties on mere speeches under Proclamation 2.
6. Discouragement of labor militancy, and division of the labor movement.
7. Unfair purge procedures and blanket action.
8. Domination by military of EG teams and red tape in contact with SCAP.
9. High costs to Japan of too large an army.
10. Communist tactics of minority control of assns.
11. The new yen class of rich reactionaries in politics.
12. The bureaucracy.
13. International isolation.
14. Unreasonable bans on fraternization with Japanese.

AMERICAN CIVIL LIBERTIES UNION

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Civil Liberties in Japan

June, 1947

1. The new constitution and the laws to implement it, not yet complete, afford a solid basis for civil rights. The occupation has gone as far as practicable in assisting the Japanese to set up the forms and institutions essential to democratic liberties. The constitution and laws are not however, the supreme law of the land under an occupation which has final powers. The supreme law is the Far Eastern Commission, whose decisions are implemented by SCAP directives. Few are issued now because the structure of the new democracy is pretty well completed.

2. The occupation necessarily restricts civil liberties by repressing anti-democratic forces and directing the course of democratic development. It does this by: (1) a censorship of all forms of communications, domestic and international, inspection of the mails, and controlling all meetings and organizations; (2) by trial in provost courts of Japanese offenders against directives and; (3) by ordering the purge of militarists and their supporters. It also raises issues by putting on trial war-time offenders against the "laws of war" in the treatment of prisoners, and the leaders who waged aggressive war; (5) by restrictions on the relations of occupation personnel with the Japanese, and; (6) by opposing Communism in principle, while according Communists the rights exercised by others, tho with far greater supervision.

3. CENSORSHIP

- (1) All international communications is censored, mail, cables, radio. Parcel post is allowed in, not out. No printed matter whatever is allowed, not even a clipping in a letter. No books or magazines or newspapers are allowed except through SCAP channels for libraries and institutions.
- (2) All the leading newspapers and magazines are censored (850 out of a total of 4200) both in galley and final make up. Not even SCAP releases are free of it.
- (3) Radio, movies, stage and children's "card plays", a common form of rural entertainment by travelling showmen, are all censored by G-2 and indirectly by CI & E.
- (4) All domestic mail is subject to opening for information; also copies of telegrams. About 3% is examined but all letters and telegrams are checked against a so-called flash list of 2700 names, addresses which are held by G-2 to be suspect as subversive or engaged in illegal activity.
- (5) All public meetings, whether held in private or public places, are under the control of notification in advance (48 hours in the cities, 5 days in the

provinces) to the police, who require subjects and names of speakers, - subject to cancellation if not approved. MP's and Japanese police or interpreters, or both, frequently attend to take down speeches and call speakers to account. Prosecutions have resulted for criticism of the occupation.

- (6) Telephone conversations are regularly tapped for information, and a flash list is kept of numbers to be watched and recorded.

COMMENT: The basis of the controls is found in the press code of 1945 and a Proclamation of about the same time. The code prohibits "false and destructive" criticism of the occupation or of the United States and the Allied governments. The Proclamation makes any interference with the occupation, even by speeches or articles, punishable in provost courts by penalties up to death.

- (7) However necessary these controls have been they are contrary to the democratization program now, and impede rather than assist it. If removed there would be little danger of releasing hostile forces or increasing criticism of the occupation or Allied governments. That criticism is published anyhow in the proceedings of the Allied Council, which are not censored, and in which the Russian, Australian and US representatives frequently criticize one another. Proclamation 2 should be rescinded or interpreted to deal only with ACTS of interference. The press code should be revised as a guide to editors, radio writers etc., indicating precisely what criticism is allowable. At present editors do not dare discuss US-Soviet differences, the Truman' policy, capitalism in the US, strikes in the US or many other subjects they think might be interpreted as "false and destructive" criticism.

Every control could be removed if a clear press code were formulated as SCAP policy. If censorship of the international mails is desirable to prevent illegal transactions or subversive propaganda, that could be kept without banning as at present all printed matter

4. PROVOST COURTS.

- (1) These one-man courts staffed by army officer laymen try all Japanese offenders against occupation directives. They keep no records; defendants are rarely represented by counsel; bail is rarely arranged and no habeas corpus is provided. Appeals go to the Judge Advocate. Sentences are unduly severe. When Koreans and Formosans or other aliens come before the courts they are customarily sentenced with a provision for deportation, a hardship on many with Japanese wives and families, and for years away from

their native lands.

- (2) The provost courts enforce the black market regulations as they affect US goods, and control of VD where US personnel may be involved. They penalize the Japanese for possession of goods, and women for prostitution with US personnel, but do not of course have jurisdiction over those who sell or give the goods or those who patronize the prostitutes.
- (3) COMMENT: The provost courts should be restricted to offences where an American is directly involved with a Japanese or where an act against occupation directives is involved. Mere speeches or publications should not be penalized. They should be reformed to comply with the procedures of regular courts, headed by lawyers. Deportation as a penalty should be abolished. The black market and VD offences should be transferred to the Japanese courts.

5. THE PURGE.

- (1) The purge is conducted by categories as well as by individual action, and while the bases are fair and the penalties mild (exclusion from public office or private leadership) the procedures are not, and the categories too sweeping. Too much is left to favoritism and to the chance to reach political enemies. Only lately have opportunities been given for counsel, hearings and an adequate review.
- (2) COMMENT: When the present purge of editors and writers is finished, the last category, the whole purge should be reviewed and opportunity given to reopen cases on demand, so that those purged in the past will have the same procedural protections as are now provided, with a chance for individual consideration. The occupation authorities, who have final power, should direct the review and reopen cases on which they have rendered the decision. All purgees should be furnished with a copy of the findings in their cases.

6. WAR-TIME OFFENDERS:

- (1) Some hundreds of alleged offenders have been held for months in prison without trial, over 50 without charges. Many would plead guilty to brutalities in prison camps if they had some notion of the penalties, which are not fixed.
- (2) COMMENT: Those not charged should be charged or freed. Those charged should be brought to trial promptly, and pleas of guilty accepted when some schedule of penalties is fixed, in accordance with usual criminal law.

7. RESTRICTIONS ON FRATERNIZATION.

- (1) While the Presidential directive governing the occupation asserted a policy of not limiting relations between US personnel and the Japanese beyond the necessities of the "objectives of the occupation", the practices go far beyond that. No American can give anything whatever to a Japanese; none can remain in any Japanese home after 11 p.m. a great hardship on Nisei with Japanese relatives; none can patronize a Japanese theater, restaurant, place of amusement, a public beach, dance hall, hotels, etc.

These restrictions which have greatly increased in recent months, give the MP's free rein to invade Japanese homes and public places looking for Americans who violate the orders. They commonly take Japanese police with them to talk with the Japanese proprietors and home-owners. A system of espionage on Americans has been set up in which the Japanese police play a leading part.

- (2) The relief workers are restricted, unlike the missionaries, in giving anything, even old clothes, to Japanese, or assisting agriculture with seeds, etc., unless sent directly from the US to the Japanese recipient. Nor can they travel without special permits, like all occupation personnel. Nor can they remain in Japanese homes after 11 p.m.
- (3) COMMENT: The apparent objects of these restrictions are to decrease opportunities for black market operations; to promote morality; and to effect law and order. But they set up a system of espionage far more objectionable than the practices they seek to overcome. They unduly restrict legitimate help to the Japanese.

The regulations should be liberalized to (1) permit occupation personnel to get exemptions from designated superiors where they have valid reasons for visiting Japanese establishments, public or private; (2) rescind the 11 p.m. curfew; (3) allow recognized relief workers such as the Quakers to conduct their activities without restrictions against fraternization; (4) prohibit MP's from entering Japanese homes, except when a search warrant is issued by the Provost Marshal.

8. MARRIAGES:

- (1) All marriages of occupation personnel with Japanese are denied the essential military permits except under "unusual circumstances". The reason given is the impossibility of taking wives to the US under the oriental exclusion act.

The authorities stand by present law regardless of

the prospects of the act's repeal or modification by the courts as applied to GI's. Nor do they consider that a man may be able to remain in Japan or go to some country to live where he can take his family. Nor do they seem sensitive to the desire to legitimatize babies, whatever the future prospects of family unity.

- (2) COMMENT: The bar should be removed for all persons over 21, and for minors with parents' consent, if necessary under the laws of the state of domicile. The objection that Japanese wives would get access to US rations and PX privileges, and that this is a factor in inducing marriage, is without substance. Such privileges go only with housing, open only to officers of the grade of sergeant and above and are rare at that.

9. COMMUNISM.

- (1) While no formal restrictions exist on the civil liberties of Communists, the regulations affecting public meetings, censorship and publication are applied more severely to them. This would be defensible if it covered only Communist activities. But it is commonly extended, particularly in the prefectures, to all labor unions of the CIU, to all associations in which Communists are said to be active, and to strikers generally.
- (2) The occupation's hostility to Communism, a perfectly legitimate defense of democracy, is so interpreted as to include the entire left, labor unions and strikes. It has encouraged the conservatives in all parties, the employers and the reactionary press. G 2 follows a line so fearful of Communism as to reach far beyond that movement. Political Communism is not now much of a threat in Japan when democratic institutions are working with such general support. Outside Communist propaganda amounts to something, by radio from Siberia and papers published there and clandestinely brought in, but the censorship does not and cannot control it.
- (3) COMMENT: It should be made clear that while the occupation regards the Communist movement as anti-democratic, it does not mean to restrict its rights nor to apply the regulations with discrimination, and particularly does not desire to curtail the right to strike or to label as Communist agencies those not clearly under Communist political control.

10. MILITARY GOVERNMENT.

- (1) SCAP is a directing and planning agency. The actual carrying out of its objectives is done by the MG teams in the prefectures, composed of some 20 to 30

military men and some 5 to 10 civilians. The military deal primarily with Japanese civil officials, and they dominate the teams to the exclusion of real influence by US civilians on the Japanese. The head is always a military man, and all the main army services are represented as well as the main sections of SCAP, usually by civilians. The teams are by army routine far removed from SCAP, with which connections are made only through army and corps channels. Direct connection is possible only by visits of SCAP representatives. The argument against direct relations is that the army would be by-passed and that it needs to be educated to share the responsibilities; and further that this is a military occupation in which the army is primarily responsible, not the civilians.

- (2) COMMENT: The increasing civilian functions of the occupation would justify greatly increasing the civilian personnel of the MG teams. They should be at least half the teams and should play the leading roles in civilian relations with the Japanese, leaving to the military the security and "house-keeping" functions, such as food, construction etc. The civilians should be permitted to maintain direct connections with the SCAP agencies to which they are attached, by mail, telephone and wire (coordinating with the military by reporting all such relations to them).

Civil liberties can thus be better encouraged, since civilians represent that attitude and function commonly more fully than men trained in the school of military disciplines.

11. INTERNATIONAL RELATIONS.

- (1) The isolation of Japan from the democratic world impedes the sense of participation in the greater struggle. Provision should be made for (1) the affiliation of Japanese agencies with the international bodies to which they naturally belong (2) the attendance of representatives at international conferences (3) the travel of Japanese journalists as soon as arrangements can be made for payments abroad (4) the resumption of air-mail and (5) the free flow of printed matter to and from Japan, - with increased efforts for greater paper supplies.

1. The main objectives now should be:

- a. To remove as rapidly as practicable the occupation controls of the Japanese government and agencies by placing responsibility on them, as a process essential to democracy. There can be no real democracy without responsibility.

- b. To make occupation policies and procedures in its own field conform as nearly as army practices permit to the democratic principles it expounds.
- c. To bring Japan as rapidly as possible into the stream of international life, and out of its isolation.
- d. To lay the basis for economic self-sufficiency after the peace treaty, and to insure against the resurgence of either militarism or big business monopolies.

2. Recommendations in brief:

- a. Remove all forms of SCAP censorship, domestic and international.
- b. Adopt a code of directives to press, radio etc., concerning criticism of US or Allies.
- c. Reform the provost courts, limit jurisdiction to acts, abolish deportation of aliens.
- d. Review the purges, and reform procedure.
- e. Release or try the war offenders.
- f. Liberalize the fraternization rules; abolish the curfew, free relief workers from restraints, restrain MP searches.
- g. Remove the ban on marriages to Japanese.
- h. Make clear distinction between Communism and labor and liberal movements.
- i. Reorganize the MG teams and provide direct access of civilians to SCAP agencies.
- j. Permit affiliation of Japanese agencies with international, travel of representatives, air mail, printed matter.