



The US Role in Constitution Drafting: Case of Japan, 1946 and Kosovo, 2008

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**The US Role in Constitution Drafting: Case of Japan, 1946 and
Kosovo, 2008**

(憲法起草における米国の役割: 1946年の日本と 2008年のコ
ソボを事例として)

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ABSTRACT

The present research aims to demonstrate the importance of a Constitution, in particular for the countries that have drafted or enacted one that was authored by a second party. While acknowledging the significance of a country's most important document, this study examines the United States (US) role in the constitution-making processes of Japan and Kosovo. Moreover, the US position during the Great Depression and the implications carried in East Asia, and Yugoslavia, will shed light on the former's interests. In other words, US objectives no longer concentrated solely on geopolitics, but also encompassed democracy building. Consequently, its role in the constitution drafting of Japan in 1946 and Kosovo in 2008 demonstrates its ability to implement principles that are in line with the interest in the given case study. As a host country implementing a Constitution based on US principles was crucial to establishing the country's postwar reputation. Of utmost importance for the respective case study was to stay in sync with the rest of the allies, which shared common values, including democracy, rule of law, human rights, and human security. Although the above observation adds value to Japan and Kosovo, the process of drafting their constitutions was highly complex.

KEY WORDS: Constitution, US, East Asia, Japan, Yugoslavia, Kosovo

SUMMARY

This thesis examines the relevance of Constitutions and the subsequent implications when one is drafted or imposed by a second party with primary influence over the process. The scholarly evidence with respect to the genesis of the constitution-making process is composed of several elements that are centered around historical evidence and casus belli. Therefore, this study stands out by examining two case studies, in this case Japan and Kosovo, with vastly different backgrounds, yet share a common thread: the United States. There have been many studies that have examined the US presence in East Asia and Yugoslavia from many points of view, allowing us to better understand the US foreign policy in Japan and Kosovo. It is important to emphasize, however, that most studies do not examine the role played by the US in drafting the Constitution in an existing nation, Japan and new emerging, Kosovo, and the implications and relevance of the process. Therefore, the following research questions will be empirically examined in order to gain a better understanding of: What role did the US neutrality acts play for East Asia and Yugoslavia, and how did they impact Japan and Kosovo; What implications do state Constitution have when an external power draft them; How do these implications reflect the US' involvement in drafting Japan's Constitution 1946, and Kosovo's Constitution 2008? Therefore, in order to provide a comprehensive analysis of US foreign policy in Japan and Kosovo, this thesis employs qualitative research techniques to analyze, understand, and contextualize US foreign policy. Using the historical interpretations, the first chapter examines both the benefits and drawbacks of the US's role in constitution-drafting of Japan and Kosovo. In addition, it demonstrates the counterproductive nature of formulating the most fundamental document of a country by a foreign power, in this case, the US. A common argument is that big powers are incapable of engaging locals in constitution drafting as they are legally entitled to. In turn, such a strategy provides insight into the long-term implications of such a policy for Japan and Kosovo, largely because both nations

have similar military limitations. Accordingly, in the second chapter the assessment of the US role in East Asia from 1930 sheds light on the former's transition from neutrality to assisting allies in an effort to defeat the adversary. In context, US economic assistance to China during the Manchurian incident led to the US and Japan's subsequent war due to the latter's increasing military strength. The US was enmeshed in the conflict for access to the Dutch East Indies, however, it was relatively insignificant for either country to meddle in Japan's military affairs. Accordingly, third chapter examines the US economic sanctions against the latter that accelerated its growth to the point that it formed the Anti-Comintern Pact, referred to as the Axis Powers. Although the US viewed Japan's alliance with Germany as a sign that it was committed to its strategic objectives, the alliance enhanced US fears of communist proliferation. Although the 'Neutrality Act of 1936' aimed to keep the US neutral, diplomatic measures were unable to prevent hostilities. Consequently, as a preventative measure, the US passed the 'Neutrality Act of 1939' that enabled allies to purchase military weapons through cash and carry policy. As the 'Neutrality Act' could not stem Japan's expanding military power, a portion of the act was revoked to allow arms transfers to countries vital to the country's prosperity and security. A combination of these factors propelled the US to enact the 'Lend-Lease Act' in 1941 by providing food, oil, and other necessities to the allies. Thus, China, among the beneficiaries of the 'Lend-Lease Act', played a role in reducing the Japanese resistance severely.

The third chapter discusses how the act demonstrated US efforts to fight the Axis Powers, of which the US was considered an adversary in Pacific warfare. Its involvement evidently had the opposite effect of any intended deterrence of US interference in Japan's Pacific strategic objectives. Therefore, chapter four examines the official entry of the US into the Second World War, which led to a number of meetings in attempt to limit Japan's military power. The inability of the US to defeat Japan alone made it more inclined to seek assistance from its allies, leading to the decision of the Cairo Conference to surrender Japan unconditionally, with the acquisition of

Manchuria, Formosa, and the Pescadores, along with Korea. In spite of Japan's resilient defense, the US concluded that Japan would be unconditionally conquered. Consequently, the fifth chapter discusses the Potsdam Conference, held between the US, the UK, and the Soviet Union, in which the US performed its most significant experiment - the testing of an atomic bomb. With this, Truman ushered in the atomic age, which he described as an unsurpassed weapon for defeating Japan. The unprecedented terms adopted at the Potsdam Conference, predominantly by the US, left Japan in a precarious circumstance that its response ultimately determined its fate. Therefore, *Mokusatsu* response defined the end of Japan's military era, culminating with the atomic bombing of Hiroshima and Nagasaki by the US. The atomic bombs' destructive effects prompted Emperor Shōwa to surrender unconditionally, thereby placing the fate of his nation in the hands of its adversary. The US invasion of Japan tackled all areas, from the economy to the image of the country, changing as per US demands without or little input from the host state. Conversely, the emperor's faith, demilitarization, and, most importantly, the constitution, which would require Japan's consent, were of paramount importance. Therefore, chapter six, it discusses Japan's relatively minor contribution which was crucial to implementing the constitution effectively. Despite positive outcomes such as economic development, equal rights, etc., an extensive and complex process has raised questions regarding its accurate representation of the nation's image. The drafting of a fundamental document is contested by some as unconstitutional that will be dependent on a foreign power, but others, such as (Miyazawa 1956), see it as a triumph, as Japan's abrasive image has changed.

As well, it is important to keep in mind that some nations or unions viewed the US economy as an opportunity to gain a competitive edge. Therefore, chapter seven examines the 'Lend-Lease Act' and how it enabled Yugoslavia, among other allies, to maintain the, "vital defense of the latter" by economically utilizing its resources. Evidently, Yugoslavia was a valuable ally whose efforts to maintain the federations unity at any cost were not clearly defined at the time. When

Fascist Italy occupied Albania in October 1940, the Nazis could provide Italy with assistance through the Tripartite Pact. Following extensive negotiations with the Nazis, King Karađorđević of Yugoslavia decided to join the pact given the circumstances. In Yugoslavia, however, there was a split at this point between officers who were dominated by ethnic Serbs, such as the National Defense and the Četnik Association, or Serbian Revolutionary Organization, which attempted to liberate Kosovo and Macedonia from the Ottoman Empire. The situation had become more volatile when the Četnik staged a *coup d'état* in March 1941 to dissolve the pact. Like the decision to unite with China at the Tehran conference, the Allied nations, particularly the US, demonstrated their commitment to helping Četnik fight the Axis powers. As Četnik seized control of Yugoslavia, the 'Lend-Lease Act' served as an important support mechanism. Despite fierce battles between the two countries, Yugoslavia surrendered to Germany under the belief that it would safeguard its national interests. The commitment of Yugoslavia to Germany's demand facilitated the latter's ability to pursue its strategic objectives. Since Yugoslavia was primarily composed of ethnic Serbs within the federation, they were deemed the dominant ethnicity. Despite Tito's upheld of the belief in the underlying ideology of 'brotherhood', it proved difficult to maintain, which resulted in interethnic conflict. In Kosovo, Bosniaks and ethnic-Albanians were subject to oppressive practices because Yugoslavian law limited their rights. The tensions between Serbs and ethnic-Albanians in Kosovo, however, soared both socially and economically. Although Kosovo sought fundamental rights, they were not met with a peaceful response, following Tito's demise.

Despite Yugoslavia's dissolution looking hopeless, Slovenia and Croatia disintegrated nonetheless, which exacerbated the conflict after Serbia refused to recognize Kosovo's disintegration later. However, shortly after the deep-seated ethnic divisions were exposed, yet despite Serbia's atrocities, the western allies failed to intervene, resulting in a demand for US power. Thus, chapter eight discusses the US's diplomatic efforts to settle the dispute during the Rambouillet negotiations when unconditional surrender was advocated to Serbia. The ultimatum

presented by the US failed to elicit an answer, who's interpreted as a negative response, leading to air strike launch by the UN. Following a 78-day air campaign, Serbia surrendered, culminating in Kosovo's constitution and establishment as a new nation. In fact, the government in Kosovo had drafted a Constitution named Kaçaniku, elements of who were incorporated into the post-war document. Despite the ceasefire, the process of drafting Kosovo's most fundamental document continued to have implications for the ongoing conflict between the two ethnic groups. Chapter nine and ten, it discusses how the US played a relatively rapid role in finalizing Kosovo's independence and draft based on the US Constitution. The declaration of independence, the rights of minority communities, and the process of demilitarization were important landmarks for Kosovo. In spite of Kosovo's keen ambitions to acquire its own military, the US and its allies turned down the idea. Therefore, this study provides empirical evidence on the implications that a state Constitution have when an external power draft it.

Regardless of differences, the US's leadership in democratic decision-making remained consistent in Japan and Kosovo. The US role in Japan and Kosovo, however, was not one of a different nature, but one of a big power assuming responsibility for a country's most fundamental pillars: justice and law. The US's decision to prevent Japan and Kosovo from acquiring military capability can be explained by a number of factors, one of which was the need to maintain regional stability. Alternatively, the US aim to increase its influence to counter its regional adversaries was successful, with Japan being the largest host country in East Asia and Kosovo being the largest host country in Western Balkans. However, following geopolitical shifts, the latter is pressing Japan and Kosovo to repeal provisions barring them from participating in military operations. As such here I expose one of the ramifications of Constitutions primarily drafted by the US and not by the host state. As of yet, neither Japan (Article 9) nor Kosovo (Article 125) have been able to amend or rectify their constitutions despite their minor differences. One reason for this is that the host country did not have much input into the constitution when it was

drafted due to their lack of interest in demilitarizing. Despite the impracticalities, there is one that stands out with the concept that both case studies require 2/3 votes to ratify the constitution, a feat that is nearly unattainable. This is one of the reasons why drafting a foreign constitution has its disadvantages. In part, this is due to the fact that the host country had little input into the constitution, if this had been the case, then there would have been provisions allowing militarization in limited terms. In order to gain a deeper understanding of the implications, future studies could address more effectively how US roles entwined with moral values, if applied, could become power plays.

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I would like to share my commitment to this research in honor of my parents (in memoriam).

LIST OF ABBREVIATIONS

ASZ	Air Safety Zone
AFID	Angle-Foreign Information Bureau
ABD-ACOM	American-British-Dutch-Australian Command
ACJ	Allied Council for Japan
AFPAC	Army Forces Pacific
ABD-ACOM	American-British-Dutch-Australian Command
AI	Amnesty International
CDHRF	Council for the Defense of Human Rights and Freedoms
CIA	Central Intelligence Agency
CIC	Counter Intelligence Corps
CCD	Civic Censorship Detachment
CIE	Civil Information and Education Section
CLO	Central Liaison Office
CPA	Communist Party of Albania
DP	Democratic Party
DSS	Democratic Party of Serbia
ESS	Economic and Scientific Section
FEC	Far Eastern Commission
FEAC	Far Eastern Advisory Committee
FEC	Federal Election Commission
FYR	Former Yugoslavia Republic
FCA	Farm Credit Administration
FEC	Federal Election Commission
HRW	Human Rights Watch
IAC	Interim Administration Council
IMTFE	International Military Tribunal for the Far East
ICTY	International Criminal Tribunal for the Former Yugoslavia
ICO	International Civilian Office
IICK	Independent International Commission on Kosovo

IJA	Imperial Japanese Army
JDF	Japan Defense Forces
JCS	Joint Chiefs of Staff
JSC	Joint Strategic Committee
JSP	Japan Socialist Party- <i>Nihon Shakai Tō</i>
JLP	Japan Liberal Party- <i>Jiyū-Minshutō</i>
JCP	Japan Communist Party- <i>Nihon Kyōsan-tō</i>
JPP	Japan Progressive Party- <i>Nihon Shinpotō</i>
KSCSP	Kosovo Specialized Chambers and Specialized Prosecutor's Office
KSF	Kosovo Security Force
KLA	Kosovo Liberation Army - <i>Ushtria Çlirimtare e Kosovës</i>
KVM	Kosovo Verification Mission
KPC	Kosovo Protection Corps
KCSS	Kosovo Center for Security Studies
LDK	Liberal Democratic Party
LBD	United Democratic Movement
MoU	Memorandum of Understanding
MOFA	Ministry of Foreign Affairs- <i>Gaimusho</i>
NATO	North Atlantic Treaty Organization
NSC	National Security Council
NIW	National Intelligence Estimates
NMC	National Munitions Control Board
NAM	National Association of Manufactures
NSC	National Security Council
NIW	National Intelligence Estimates
NDSH	Albanian National Democratic Movement
OWI	Office of War Information
OSCE	Organization for Security and Cooperation in Europe
PISG	Provisional Institution of Self-Government
PDK	Democratic Party of Kosovo
PCG	Pre-Constitutional Working Group
SAM	Sanctions Assistance Monitoring Missions
SAP	Socialist Autonomous Province
SEAC	Senior Enlisted Advisor to the Chairman

SCAP	Supreme Commander of the Allied Powers
SMSG	Special Representative of the Security General
SWNCC	State-War-Navy Coordinating Committee
SAP	Socialist Autonomous Province
SPO	Serbian Renewal Movement
SPS	Socialist Party of Serbia
SRP	Serbian Radical Party
TC	Transitional Council
UN	United Nations
UNSC	United Nations Security Council
UNHRC	United Nations Human Rights Council
UNHCR	United Nations High Commissioner for Refugees
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
USSR	Union of Soviet Republics
UÇPMB	Liberation Army of Presevo, Medveda and Bujanovac

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INTRODUCTION

The Constitution is the most important legal act that defines and protects the fundamental values of a state.¹ In many cases, constitutions have been influenced by their respective histories, which enables us to understand that Constitutions do not emerge spontaneously or materialize in a short amount of time. However, in some cases, opponents have imposed basic principles that sometimes do not necessarily reflect the hosts' image. This implies that often when a Constitution does not represent a country's image it can have long-term negative consequences. Nevertheless, from political-legal definition the image of a country is based on international affairs, political identity, and behavior.² As such, in a democratic system, citizens assert their constitutional rights by limiting government power in certain areas, starting with the country's politics which frequently leads them to be at odds with one another. In response to this, Tommasoli notes the importance of citizens' electoral rights as another link between democracy and the rule of law in a country.³ Thus, participation in constitution-making constitutes 'democratic participation' as defined in the UN International Covenant on Civil and Political Rights.⁴ Further, Article 25 emphasizes the right of citizens as follow: 'Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.'⁵

While international affairs have evolved, frequently requiring multilateral approaches, most countries have been placed in an unfavorable position by citizens who often oppose their

¹ Arsim Bajrami. *Draftimi i Kushtetutes Manual per hartuesit e Kushtetutes*. (Prishtine: Universiteti Fama, Maj 2007).

² *Ibid.*, 6-14.

³ UN Chronicle. *Rule of Law and Democracy: Addressing the Gap Between Policies and Practices*. December 2012, No. 4 Vol. XLIX, Delivering Justice. (accessed June 10, 2020).

⁴ OHCHR. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A. (XXI) of 16 December 1966, entry into force March 1976, in accordance with Article 49. (accessed June 10, 2020).

⁵ *Ibid.*

participation. A decision of this nature often can be unconstitutional depending on the country, but it is also often the case that citizens tend to avoid conflict zones in likely situations. As a result, this study examines the implications of constitutions, especially those that are not drafted by the host state, and last but not least examines alternative interpretations of constitutions so that it can determine which constitution best corresponds to the image of the nation. Most of this is due to the historical significance of nations' most fundamental document. With the US Constitution in place since 1788, other countries may be more inclined to adopt American principles when drafting constitutions. In addition, the latter's historical reputation as the world's leading power that has contributed to more than 100 countries adopting constitution similar to that of the US, leading to a multitude of discussions.⁶ However, the geopolitical landscape has undergone significant changes in recent decades, as have countries' perspectives of obtaining external assistance, especially in the realm of constitution drafting. While David S. Law (2012) argues that political dynamics are shifting to more nationalistic policies, which diminishes the significance of the US Constitution⁷ Nonetheless, many countries still rely heavily on US power today from humanitarian aid to democracy principles that are enshrined in the latter's constitution. In other words, democracy is one of the common values that many countries share and aim to integrate, particularly new emerging countries, a system that has played to the US advantage.

In either case, the question remains whether adopting a foreign constitution or having a foreign power create a legal framework in the host state is the right course of action. There are several factors underlying this, as outlined in the following paragraphs. Occasionally, the foreign policy of the host country is heavily influenced by that of the country whose constitution it adopted, primarily in defense matters. While this can be the case, each case study requires careful examination since the course of the event can sometimes alter the interpretation of the relevant

⁶ Eric Cheyfitz. *The Disinformation Age: The Collapse of Liberal Democracy in the United States*. (New York: Routledge, August 2022)

⁷ David S. Law, 'The Declining Influence of the United States Constitution,' *New York University Law Review*, Vol. 87, No. 3, pp. 762-858, June 2012. (accessed June 10, 2020).

power's role. Thus, this study focuses on Japan and Kosovo respectively which share considerable US-endorsed outcomes, although they have substantial historical differences. There are, however, many factors that can hamper the US's presence in a given country's democracy or nation-building process. Among the most prominent factor may be, that nationalism among politicians and the general public that can hinder US's success, making it nearly impossible in some cases.⁸ Generally, this implies that sometimes citizens of occupied or host nations fear US dominance, while in other instances they applaud its presence as a guarantee of regional peace and stability. Exceptions to this occur rarely, as with the post-war constitution of Japan adopted in 1947 and the Kosovo constitution in 2008 primarily drafted by the US. Consequently, large countries such as the US, which pioneer constitution drafting, often exert undeniable influence regionally to the benefit of host countries.⁹ However, Constitutions today are being written in a world where democratic norms and good governance are gaining prominence, if not being adopted *en masse*. As such, in the modern era, globalization is a factor that influences constitution-making process, providing an opportunity for constitutional writers to craft a document aligned with their geopolitical setting.

In other words, it is a process where negotiators, including politicians, try to summarize their political views and come to an agreement. In addition to constitutional interchange, globalization has greatly facilitated the secessionist movements, leading to a greater degree of support for small countries. Thus, the rise of such movements calls for a better understanding of how constitutions are drafted, what the role of big powers is, and that the international organizations have a hand in it. In most cases, having diverse opinions about the country's founding document ensures positive outcomes, albeit complex contributions. In reality, the complexity stems from the idea that each country is capable of contributing to global issues, but such inputs are often limited because of

⁸ John Brady Kiesling. *In Diplomacy Lessons: Realism for an Unloved Superpower*. (Washington D.C.: Potomac Books, Inc, September 2007). 47-65.

⁹ Shiraishi Takashi. *In Maritime Asia vs. Continental Asia: National Strategies in a Region of Change*. (Colorado: Lynne Rienner Publishers, Inc, March 2021). 9-25.

constitutional constraints like in Japan and Kosovo. This, however, brings into focus the fact that a constitution's scope has expanded beyond its domestic affairs in an attempt to help eliminate global issues. Among the areas that allies often contribute are humanitarian, economic, climate change, military, etc. However, military efforts are the most critical of all since they often conflict with countries' policy and civilian interests. This context lends itself to the importance of the military contribution to the country's foreign policy. In other words, such a contribution involves far more than just facilitating harmless activities, but also mobilizing troops to be involved in conflict zones at the cost of lives. Hence, the objective of this research is to shed light on the limits of Japan's and Kosovo's militaries, and the role played by the US in democratizing Japan and building Kosovo. Utilizing existing archival materials, this study untangles the underlying motives for US involvement in East Asia beginning in 1931 with significant attention paid to the constitution of Japan. While in the second case study, emphasis is placed on the US support for the former Yugoslavia until the creation of the Kosovo constitution in 2008.

1. The United States Role in Japan from 1931-1946

Following the rise of the Nazis, Europe experienced the rise of a full-scale military that led to the signing of the Tripartite Pact in 1940 between Japan, Germany and Italy, which was the catalyst for subsequent military dominance among the allies. Typically, however, the pacts serve as a mechanism to share their mutual interests against their adversaries. For a comprehensive analysis of the US role in Japan, two factors must be considered: the Great Depression and the Manchurian incident. The adverse effects of tumultuous events on human society led to many fundamental changes, primarily within the governance structure. In line with that, Woodrow Wilson's 14-point plan, which led to the League of Nations in 1920, reaffirmed the US commitment to building

democratic societies.¹⁰ Although the League of Nations was found to promote peace and stability, over time, its objectives proved difficult to achieve. At the time when, the Great Depression adversely affected the economies of the US, Southeast Asia, and Europe, several military actions took place while the US government remained neutral. For instance, US neutrality was displayed during the dispute between Japan and China over Manchuria, the Italian invasion of Ethiopia, and the Spanish Civil War. Thus, despite the US's declared intention to stay out of conflicts, the question of its role emerged: During this time, did its isolation policy serve as a strategic factor to generate more weapons for its allies in order to increase its economic output? Based on historical evidence, the former's isolation policy enabled countries to pursue policies in regions they considered important without US interference. In this part, empirical evidence on the following research questions is provided: What impact did the US' neutrality acts have on East Asia and Yugoslavia, and how did they affect Japan and Kosovo? From a historical perspective, the former's isolation policy enabled countries to pursue policies independently in regions of importance without interference from the US.¹¹ Following this example, Japan stands out as a stellar example, increasing its military strength to enhance its regional influence. Even so, there have been divergent opinions regarding Japan's presence in Manchuria.

In the US, Manchuria was seen primarily as a source of raw materials for Japan's industrial revival after the Great Depression. For Japan, however, Manchuria held great interest in light of US and Europe's strategic objectives relating to China. Amid tensions, Japan presented twenty-one demands to China through Prime Minister Shigenobu Ōkuma.¹² There were, however, many from Japan's side who shared practical views on the Manchurian incident. For example, the Japanese Communist Party *Nihon Kyōsantō* emphasized that the Manchurian incident was primarily caused by Chinese nationalist movements threatening Japanese

¹⁰ National Archives. President Woodrow Wilson's 14 Points (1918). Milestone Document.

¹¹ Office of the Historian. American Isolationism in the 1930s. Milestones: 1937-1945.

¹² Yoshihiro Kajii, 'Igrisukara mita Nihon no Manshū shihai,' *Asia-Japan Rresearch Institute Risumeikan University*, 2003, No.4 (No.290). 34. <https://www.ritsumeai.ac.jp/acd/cg/law/lex/03-4/kajii.pdf>. (accessed June 10, 2020).

citizens living in the area.¹³ On that note, it is important to accent the importance of nationalism and its differences in light of its often-misunderstood nature. According to (Smith 2010), nationalism is an ideology aimed at the well-being of nations at its core. Nevertheless, for Japan there were several ways to illustrate the definition of nationalism as: state managed *kokkai-shugi*, civic nationalism *kokumin-*, and nationalism *minzoku-shugi*.¹⁴ Accordingly, the third concept aligns with Tagore’s assertion that Japanese people, “believed that their mission is to unify and lead Asia.”¹⁵ In this way, we can better understand how nationalism enraged the adversaries during the wartime period, including the second. It was, however, the League of Nations’ objective to promote international peace rather than to combat nationalist sentiment. Wilson’s initiative to create the League of Nations in what would become known as the Treaty of Versailles was not ratified by the US Congress. Although no conflict was expected to follow, many countries increased their offensive military capabilities as a form of defense. In light of this, it is imperative to examine some of the factors that led to the tumultuous events, such as German and Japanese militarism, and the League of Nations incompetence in carrying out its objectives. As an outcome of interstate conflicts, alliances have a tendency to militarize when common interests cannot be met, potentially leading to chaos. While Japan gained a string of victories, its conflict with China remained unresolved, leading later to the Manchurian conflict.¹⁶

The US was, however, unable to fully comprehend China’s position at this time due to the country’s unstable political climate. The US had geopolitical interests overlapping with Japan’s in the region, it sought to prevent the latter from expanding its empire. The progress Japan made in the Dutch East Indies oil field led to a greater sense that a war between the two

¹³ Nihon kyōsantō, ‘2014 toku hō tokuhō. Nihon no shinryaku sensō dai 1-kai tōhōkaigi kara `Manshū jihen' e `zairyū hōjin hogo' o kōjitsu ni,’ (accessed June 10, 2020).

¹⁴ Brian J. McVeigh. *Nationalisms of Japan: Managing and Mystifying Identity*. (Lanham MD: Rowman and Littlefield Publishers, INC, 2006).

¹⁵ Ibid.

¹⁶ Tosh Minohara and Makoto Iokibe. *The History of US-Japan Relations: From Perry to the Present*. (Tokyo: Yuhikaku Publishing Co. Ltd., 2008). 83-102.

countries was imminent.¹⁷ Accordingly, Japan deemed talks with the US ineffective, leading to the prospect of war as well as a more profound understanding of its policy in Asia that went beyond conventional assumptions. Yet, Japan's tactical and strategic objectives became reality even after joining the League of Nations, which halted attacks on other members. The following are outline in Article 12: "The League's Members agree that if any dispute should arise between them, the matter will either be settled by arbitration or by judicial decision, or the issue will be examined by the council, where no war will be declared until three months after the arbitrators' award or the decision of the court, or the Council's report."¹⁸ Following Japan's incursion into Manchuria, the US assumed a larger role in the region, basically acting as an intermediary. As agreed in the Kellogg-Briand Pact, 'no member could attack or engage in war as an instrument to solve the disputes between the parties.' To counter Japan's relentless hold on China, the League of Nations appointed the Lytton Commission to closely monitor Manchuria's tensions.¹⁹ According to the report, the commission recommended a settlement between both parties, while focusing on the offensive actions of the Japanese military. Following the League's condemnation, the US decided to enact sanctions on Japan by imposing trade embargoes on oil, scrap metal, and aircraft exports.

Thus, Japan's Manchuria costs reached 1.1 billion yen at that time, or 70 percent of its annual budget.²⁰ In other words, Japan suffered numerous economic losses during the given period, while the US gained. Documents declassified indicate that this turbulent period contributed to the passage of the Lend-Lease Act in 1941, an act adopted by the US to lend money to China and other nations to boost their economies and military capabilities. In addition, the act was designed

¹⁷ Office of the Historian. Japan, China, the United States and the Road to Pearl Harbor, 1937-1941. Milestones: 1937- 1945.

¹⁸ Documents on the League of Nations. Compiled by Mrs. C.A. Kluyver with a Preface by Dr. C. Van Vollenhoven. (International Intermediary Institute the Hague, 1920).

¹⁹ Library of Congress. Situation in Manchuria: Report of the Commission of Inquiry. Appeal by the Chinese Government. [Report of the Commission of Enquiry October 1932]. <https://www.loc.gov/item/2021666890>. (accessed June 10, 2020).

²⁰ Tatsuki Ichikawa and Masashi Tsuruoka, 'Looking back on finances during the Showa Depression,' Ministry of Finance, Policy Research Institute 2021, https://www.mof.go.jp/pri/research/special_report/fo1_2021_04.pdf. (accessed June 11, 2022).

exclusively for countries that prioritize US defense in tandem with their own. However, Japanese military commanders were equally confident that they could continue the invasion as they saw fit, essentially believing that the US would disrupt their geostrategic plans.²¹ Ahead of the first attack on the latter, Japanese Admiral Yamamoto Isoroku intensified his plans to undermine US naval support in the Pacific. It was suggested that Pearl Harbor be used as the first point of attack on the US owing to Hawaii's proximity to Japan and its military bases. Accordingly, Imperial Japanese aircraft carried out the attack in 1941 due to the Admiral's belief that US fighters could not counter Japan's relentless military. The surprise attack sparked a destructive conflict between the US and Japan, whose effects still linger. Following the 1941 attack, Franklin D. Roosevelt addressed the US Congress and declared war, "Yesterday, December 7, 1941—a date that will live in infamy—the United States was suddenly attacked by naval and air forces of the Empire of Japan."²² While the attack aimed to reverse the sanctions imposed on Japan by the US, in reality, it triggered a vicious war that ended with Japan's unconditional surrender. However, due to the military might of Japan, the US resorted to an 'island-hopping' strategy that resulted in high losses at the hands of Japan's 2.2 million soldiers.²³ As the US-Japan hostilities were unlikely to end anytime soon, alliances held a number of meetings aimed at devising strategies to counter Japanese aggression.

Accordingly, the Cairo Declaration signed by the three big powers (US, China, and UK) pledged to fight and expel Japan from all Asian territories, including the Korean Peninsula and the Pacific Islands.²⁴ As a result of Roosevelt's demise in 1945, which coincided with Harry Truman's election as president, Cairo strategy eventually lost its appeal. Nevertheless,

²¹ Toshio Kurihara, 'Beikoku e no tsūkoku mae ni shinjuwan kishū kokusai-hō ihan o aete eranda,' December, 2021, *Mainichi Shimbun*. <https://mainichi.jp/articles/20211207/k00/00m/040/402000c>. (accessed June 10, 2020).

²² National Archives. Prologue Magazine. FDR's "Day of Infamy" Speech. Crafting a Call to Arms. Winter 2001, Vol.33, No.4.

²³ Yukiko Koshiro. *Imperial Eclipse: Japan's Strategic Thinking about Continental Asia before August 1945*. (New York: Cornell University Press 2013)

²⁴ Kenneth B. Pyle. *Japan in the American Century*. (Cambridge MA: Harvard University Press, 2018).

this led the big three to meet in Potsdam, Germany, and decide to end the war by forcing Japan to surrender. Following are the key points of the Potsdam Declaration, “The full application of our military power, backed by our resolve, will mean the inevitable and complete destruction of the Japanese armed forces and just as inevitably the utter devastation of the Japanese homeland”—unless the nation surrendered now. The time has come for Japan to decide whether she will continue to be controlled by those self-willed militaristic advisers whose unintelligent calculations have brought the Empire of Japan to the threshold of annihilation, or whether she will follow the path of reason.”²⁵ Nevertheless, Japan responded to the surrender terms by issuing the following message ‘*mokusutsu*’ translated as ‘*we refrain*’, which was misinterpreted as a negative response by the US.²⁶ This led to the dropping of atomic bombs on Hiroshima and Nagasaki on August 6 and September 9, 1945, respectively, bringing the war to a close.²⁷ Having witnessed the atrocities of first nuclear weapon in human history, Japan had to bear the long-term consequences. However, the underlying question remains ambiguous: was nuclear weapons the sole solution to end the war, regardless of the big three’s moral and ethical perspectives? In the immediate aftermath of the surrender, both political and social changes took place. The Military Tribunal for the Far East (IMTFE) for war crimes prosecution marked one of the first notable changes in legal proceedings.

Initially, Japanese people were opposed to having the victor have a say in their judicial system, therefore, welcomed the Tokyo trials with mixed emotions. Contrary to that, the Japanese media viewed the trial as a step forward for justice.²⁸ In addition to the Tokyo trial, the post-war constitution was the country's most significant US-drafted document. The Post-war Constitution *Sengo-Kenpō* or the Peace Constitution *Heiwa-Kenpō*, was drafted under the supervision of General Douglas MacArthur as the Supreme Commander of the Allied Powers (SCAP). It's no

²⁵ Truman Library Institute. WWII Highlights from the Truman Library Archives and Collections. Marching to Victory: The Potsdam Declaration. July 1945.

²⁶ National Archives of Japan. Hondo kessen no junbi to Potsudamu sengen. Seikyū bangō: Zatsu 03636100, June to July 1945.

²⁷ National Archives of Japan, ‘Genshi bakudan no tōka to nihon'nokōfuku,’ Kūshū higai jōkyō hōkoku [seikyū bangō: 29005020. August 1945.

²⁸ Madoka Futamura, "Japanese Societal Attitudes Towards the Tokyo Trial: A Contemporary Perspective. *The Asia-Pacific Journal*, Vol 9, Issue 29 No 5, July 19, 2011. <https://apjpf.org/2011/9/29/Madoka-Futamara/3569/article.html> (accessed June 13, 2020).

secret that Japan's society changed significantly, including a land reform aimed at rich landowners who supported the expansion of Japan during 1930.²⁹ The emperor's role, women's rights, and renunciation of war were among MacArthur's reforms. Additionally, the Allies devised a legal mechanism that prevented Japan from assembling a military, preventing it from participating in offensive operations. In terms of legal implications, Article Nine of Japan's Constitution lays out the following, "The Japanese people forever renounce war as a sovereign right as well as the threat or use of force as a means to settle international disagreements."³⁰ Military use, therefore, ceased to be a way for Japan to pursue its foreign policy objectives.³¹ While the constitution emphasizes citizens' right to claim their mandate, a more complicated system of imposed bodies evolved over time, largely because the constitution was drafted by its adversary, which allowed the US to exert greater influence over the military than Japan's own. Hence, Japan's post-war constitution shows that in some ways it's unworkable since its citizens were not involved in its formulation. In accordance with Article 96 of the Japanese Constitution, "Amendments to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds or more of all the members of each House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon, at a special referendum or at such election as the Diet shall specify. Amendments when so ratified shall immediately be promulgated by the Emperor in the name of the people, as an integral part of this Constitution."³²

Another example of Article 96's significance can be found in the efforts to amend Article 9. In a recent survey conducted by the Asahi Shimbun, 45 percent of respondents backed constitutional revision, while 44 percent said changes were unnecessary.³³ As such the Japanese people remain apprehensive of any attempt to militarize their country despite the US's persistent

²⁹ Kyoko Inoue. *MacArthur's Japanese Constitution*. (Chicago: University of Chicago Press, February 1991).

³⁰ Prime Minister of Japan and His Cabinet. *The Constitution of Japan*. Promulgated in November 1946 came into effect in May 1947.

³¹ Sheila Smith. *Japan's Rearmed: The Politics of Military Power*. (London: Harvard University Press, April 2019). 128-171.

³² Ministry of Internal Affairs and Communications (MIC), 'Sōmu-shō', Article 96 of the Constitution of Japan. *Kokumin tōhyō seido*. (accessed June 13, 2020).

³³ Yoshitaka Isobe (2021, May 3). Voters evenly split on need for revising the Constitution. *The Asahi Shimbun*, Survey. <https://www.asahi.com/ajw/articles/14342228>. (accessed June 13, 2020).

efforts. The complexity that Japan's post-war constitution embodies helps us understand the long-term implications which, to a large extent, lacks citizen input. Many scholars also argue that the phrase "we the people" should not be preserved since it was not written by Japan and does not represent Japanese citizens' image.³⁴ Consequently, the postwar constitution of Japan is an instrument written by external forces whose intentions may be legitimate, but their detrimental effects are difficult to justify. In other words, external force influence often has varied from 'interventions' to 'impositions' a distinction that determines the country's future. It can be argued that when two parties are involved in a constitution-making process, one party plays a major role in its finalization, either the host country or the outside entity. Although constitutions are usually designed to be easily implemented to the history of their country, this is not always the case, since local people's views are not always taken into consideration. However, an important aspect of the drafting process is the country's geographical location as it pertains to its history, and not always ongoing political condition.

2. The United States Role in Kosovo from 1941-2008

Having successfully implemented the Tokyo tribunal, the US had already demonstrated its ability under similar circumstances for the same trials. Consequently, US-led tribunals paved their way to Former Yugoslavia (FYR) as well. The International Criminal Tribunal for the former Yugoslavia (ICTY) was initially established by the UN with the US guidance to condemn Serbia's crimes committed against Kosovo. The tribunal's work lasted for only part of a framed period, more precisely from 1993 to 2001, but its legacy still endures today. In 2001, the Kosovo Specialist Chambers and the Specialist Prosecutor's Office (KSCSP) were established with their headquarters in Hague.³⁵ Initially, Kosovo opposed the US recommendation, but the decision

³⁴ Chaihark Hahm and Sung Ho Kim. "To make "We the People": Constitutional founding in postwar Japan and South Korea." *International Journal of Constitutional Law*, Vol 8, Issue 4, October 01 2010. <https://academic.oup.com/icon/article/8/4/800/667104>. (accessed June 20, 2020).

³⁵ Kosovo Specialist Chambers & Specialist Prosecutor's Office (KSC & SPO).

was quickly reversed. Historically, Kosovo politicians have embraced the US as the country's primary Ally during its quest for independence. The second case study plays an important role in understanding the US's role on Yugoslavia under the Lend-Lease Act and the subsequent initiatives for Kosovo's independence. Over time, history has shown that diplomacy is not always successful, causing nations to resort to force as a means of resolving disputes. In this context, the discussion must be framed as follows, under what circumstances is force justified, and to what extent can it be used? In the first case study, the US was analyzed for its role in the League of Nations, while the second case study looked at its impact on Kosovo within the framework of the UN. In light of the UN's role as the primary body tasked with promoting peace, it is important to find out how it managed to put an end to Serbia's aggression against Kosovo. Although the League of Nations and the UN are similar, one significant difference is the US membership in the UN; unlike the League of Nations, the latter was a founder, but not an active member. As a result, we can understand that US influence in Kosovo was initially driven by the pressure exerted on all parties to end the conflict through the UN. In that regard, UN Charter Article 42 emphasizes the following, "Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of members of the United Nations."³⁶

Therefore, the provision of the given law played a role in some of the conflicts that emerged after WWII. A prominent feature of the postwar era was the existence of numerous separatist movements that sought independence from the central government. In many cases, such movements were not met with diplomatic channels, resulting in conflict escalation, often leading to the use of force as a method of dispute resolution. This and more are covered in the Kosovo case study, which examines the significance of the US contribution to its liberation up to the

³⁶ UN, United Nations Charter (text).

drafting of the constitution. It is imperative to first examine the US alliance with Yugoslavia and how it contributed to the war's expansion. The breakup of Yugoslavia was gradual, starting with Slovenia, Croatia, and other countries leaving the communist bloc.³⁷ A report issued by the Central Intelligence Agency (CIA) in 1990 emphasized that an end to the, ‘‘Yugoslav Experiment’’ was imminent, which could result in civil wars between the ethnicities.³⁸ According to the CIA report, Yugoslavia’s dissolution could cause a significant rupture in Southeast Europe. While keeping that in mind it is yet important to note that the US role in Western Balkans evolved in several ways over time from 1941 to 1999. A prime example is its support to the federation through the Lend-Lease Act, which helped to provide food, oil, and supplies as a means of resisting the Axis Powers but actually strengthened Serbian position over time. It is equally important to understand why the US refused to pay attention to the Balkan turmoil during the given time. Many factors contributed to the former’s inattention and ignorance; therefore, one example that can be discussed is the Vietnam conflict, as well as the fact that ethnic conflict did not play a prominent role. In 1945, Kosovo was regarded as an autonomous province by the Yugoslavian constitution in accordance with the constitutional framework of Serbia.³⁹ During the latter’s war, which took place between 1955 and 1975, a large number of Americans believed their country wasted resources in war zones where millions of lives were lost.

However, by this time, tensions in Kosovo were at their peak since 1974, when the Yugoslav government recognized Kosovo’s independence, but it did not grant a *de jure* government.⁴⁰ Therefore, ethnic Albanians in Kosovo made consistent attempts to obtain their own government with the primary purpose which was to provide them with basic needs. A Constitution was adopted in 1990 due to the popularity the country enjoyed during the given period, but was rescinded soon

³⁷ Carole Rogel Poirier. *The Breakup of Yugoslavia and Its Aftermath*. (Wesport, CT: Greenwood Press, 2004).

³⁸ Gregory F. Treverton and Renanah Miles. *Unheeded Warning of War: Why Policymakers Ignored the 1990 Yugoslavia Estimate*. (Center for the Study of Intelligence, Central Intelligence Agency Washington, DC, October 2015).

³⁹ Arsim Bajrami and Florent Muçaj. *E Drejta Kushtetuese*. (Prishtine: Universiteti i Prishtines ‘‘Hasan Prishtina’’ Fakulteti Juridik, Mars 2018).

⁴⁰ Arsim Bajrami and Florent Muçaj. *E Drejta Kushtetuese*. (Prishtine: Universiteti i Prishtines ‘‘Hasan Prishtina’’ Fakulteti Juridik, Mars 2018).

after due to Serbia's oppression. While Europe failed to avert escalation of the Kosovo conflict, however its advocacy efforts succeeded in persuading the US to act more actively. Therefore, in 1995, NATO was handed the responsibility for leading the process of stabilization in the given region.⁴¹ Following Serbia's atrocities in some of the Kosovo regions, it became apparent that the latter's aggressive ideology had the potential for indefinite dominance elsewhere. Eventually, this led to heightened tensions between Kosovo and Serbia in 1998.⁴² Following the US criticism of Serbian military actions in Kosovo, allies were urged to take stronger action. Persecutory acts carried out by Serbia against the Kosovo people in 1998, further aggravated the conflict, consequently, the situation became more complex following the outbreak of a conflict that threatened the core of diplomacy. At this point, the intention of Serbian leader Milošević was clear: Kosovo will be suppressed to prevent its secession. In order to resolve the dispute diplomatically, western powers held a number of meetings, including Kosovo and Serbia. Among the most important meetings of the Western Peace Agreement was the Rambouillet, which included the Prishtina and Belgrade delegations. While much effort was put into the Rambouillet document, Milosevic refused to negotiate with the US, leaving his response ambiguous. As a result, the Serbian government refused to respond, claiming that foreign military forces could not be stationed on 'Serbian territory'.

At this point, a compromise between the parties was no longer considered realistic. While NATO members gathered to develop a mutually acceptable agreement, the intervention did not get the support of all United Nations Security Council members (UNSC), including China and Russia which rendered it partly illegal. The NATO air strikes against Belgrade in June 1999 took place despite partial support from its members. The US-led intervention's success in handling the Kosovo conflict can be attributed in part to the lessons learned in Bosnia and Rwanda. Therefore,

⁴¹David L. Phillips. *Liberating Kosovo: Coercive Diplomacy and U. S. Intervention*. (London: The MIT Press Cambridge, Massachusetts, 2012).

⁴² Arsim Bajrami 2021. *Shtetndertimi i Kosoves: Sfidat dhe perspektivat*. (Prishtine: Akademia e Shkencave dhe Arteve te Kosoves, 2021).

the study of the US role in Kosovo helps determine whether ‘force sometimes is considered as an effective instrument’ for resolving pending disputes, especially when human lives are at stake. Clausewitz emphasizes that, “politics influence military means, including ways to wage war, to pursue campaigns, and sometimes even as to conduct battles.”⁴³ Consequently, military involvement is often necessary to protect human rights that are periodically violated or disregarded by international community. It is essential to emphasize that military entities must always maintain a distance from civilian authorities in order to minimize conflict between the two. However, even though military strategy appears to be more concerned with political strategy, the civil servant is usually the one who suffers in such a setting as it was with the Kosovo citizens. In that regard, NATO's air campaign certainly succeeded in deterring Serbian forces from waging further acts of aggression on Kosovo. NATO's ceasefire on June 29, 1999, marked the beginning of a long road for Kosovo, since Kosovo was still waiting for a crucial document. After receiving US support, Finish President Martti Ahtisaari was tasked with drafting Kosovo's Constitution, which was viewed as one of the most important documents in the aftermath of the war. During the drafting process, US judge John Tunheim worked closely with Kosovo experts to draft a constitution based largely on the US constitution.⁴⁴

Among the Kosovo experts who played a prominent role were Arsim Bajrami and Hajredin Kuçi, however, having a US lawyer at the table meant that more or less American values will be incorporated into the document, which may or may not be appealing to the citizens. As with Japan's Constitution, the Kosovo Constitution has English as its official language and begins with the phrase “we the people”.⁴⁵ Further, one of the most important areas for a country remains its security, which can often be threatened by regional conflicts and geopolitical turmoil. Therefore,

⁴³ Suzanne C. Nielsen. *Political Control Over the Use of Force: A Clausewitzian Perspective*. (Pennsylvania: U.S. Army War College, Strategic Studies Institute 2001).

⁴⁴ John Tunheim., ‘Rule of Law and the Kosovo Constitution,’ *Minnesota Journal of International Law*, 2009. (accessed June 25, 2020).

⁴⁵ Gazeta Zyrtare e Republikës së Kosovës. Lloji i aktit: Kushtetuta. Numri I Aktit: K-09042008. Institucioni: Kuvendi I Republikës së Kosovës. Data e publikimit: Prill 2008. (accessed June 30, 2020).

same as Japan's Article 9, Article 125 of Kosovo's constitution emphasizes the country's inability to maintain military. The absence of an army is a clear indication that neither Japan nor Kosovo cannot participate in overseas conflicts. There is, however, a lack of absolute certainty regarding the reasons why the US imposed restrictions on the military abilities of the case studies. A successful outcome may either have increased the regional power of the US or reduced tensions between the given regions, such as Japan- China and Kosovo- Serbia. In light of this, we can more readily understand the significance of the US role in two different events with overlapping outcomes. The post-war constitution of the respective countries describes the existence of Japan's Defense Forces (JDF) and the Security Forces of Kosovo (FSK). In essence, none of them possess military capabilities; rather, they became the focal point of the US military's operations in their region. When it comes to conflict on the international level, many countries are inclined to participate in conflicts because their safety is assured by the presence of American troops. Nevertheless, their comfort is making them incapable of transforming their security and defense forces into armies. However, in recent years, US foreign policy has undergone significant changes, especially with the departure of its troops from Afghanistan, considered as the longest overseas mission in US history. It is important to consider that while Japan and Kosovo can remain safe and calm with the US presence on their soil, there is also a probability they may face a similar situation in the future.

As of now, the US is insisting that its allies do the fair share not just financially, but also in terms of personnel when it comes to conflicts required. In light of its Constitutional limitations, Japan has not been able fully to participate in conflict zones at the request of its closest ally. In addition, Japan has always been more cautious when intervening in conflict zones or cooperating with international organizations. According to critics, it is Japan's responsibility to initiate a co-joint operation, rather than waiting for it to happen.⁴⁶ Similarly,

⁴⁶ David Shambaugh and Michael Yahuda. *International Relations of Asia*. (Maryland: Rowman & Littlefield Publishers, 2008).

Kosovo is also relevant due to the largest US-NATO military presence in the Western Balkans. The inclusion of small countries in the global economy often exposes them to global threats, as big powers often support peace and nation-building efforts regardless of opposition. This often indicates that geopolitics plays a crucial role in regional interests. A key to understanding the future of international order and the role of states lies, however, in the fact that regional order has gone global rather than local. As such current times are marked by peace, prosperity, stability, and alignment of national interests in countries with cooperative interests. However, it is impossible to avoid conflicts as the state's authoritarian system is on rise. Therefore, in order to examine the complexities behind the US role in constitution-drafting of Japan and Kosovo the following three sections will be elaborated on two different areas such as: Historical, Constitutional, and Diplomatic. In each section, a unique interpretation of US foreign policy is presented through the case studies accompanied by constitutional texts. In each section, a unique interpretation of US foreign policy is presented through the case studies accompanied by constitutional texts. In the first part, this research examines the evolution of constitutions and the changes that states' most important documents undergo as geopolitical circumstances change. Moreover, it outlines both the advantages and disadvantages of implementing a foreign constitution or having a second party participate in its writing by emphasizing how such a process can lead to long-term implications.

The second part will further examine the implications of the US role in East Asia since 1930 with special emphasis on Manchuria and Japan respectively. Additionally, it elaborates how the US-China Alliance was driven by economic interests, leading to turmoil between the US and Japan until the latter's unconditional surrender. The third part, examines the second case study, Kosovo, and how the US's role in nation-building could extend its democratic influence to new emerging countries. In addition, it evaluates the contributions of the US to the Kosovo Constitution from a broader perspective. In a similar manner to the Japanese constitution, Kosovo's constitution

boasts a text that is primarily based on US ideals. In connection with the second case study, I would like to point out that a limited amount of information and the relatively recent nature of the case rendered it difficult to analyze the US role throughout the process. As a result, there is an imbalance between chapters and subchapters on the US presence in Japan and the US presence in Kosovo in this dissertation.

CHAPTER 1: The Constitution Making Process: Implications and Challenges

In the years following the end of the war, the US dominance was prominent in many different areas, but one of the most prominent was the making of a state constitution, widely regarded as the nation's most important document. The importance of a Constitution lies in its ability to establish a law-based and equal society while preserving a nation's identity, regardless of periodic revisions. Constitution making remains among the most pivotal processes in which parties are involved regarded as the pillars of a nation. Therefore, it is important to describe the setting of the drafting process in order to be able to understand the constitution's evolution. As (Hart 2003) noted in a report that we are living in an era of a constitution-making process, in which the process involves many elements of the drafting that occurs when new countries endeavor to draft democratic credentials into the most fundamental document they can incorporate.⁴⁷ However, to be able to reach the finish line, a number of vital components must be addressed. While the traditional method of drafting constitutions has been usually through parliamentary selection of the country, in Japan and Kosovo, the process was not independent but done by a joint committee. Therefore, it is important to identify those who have a hand in the process as actors or stakeholders. Case studies indicate that external actors sometimes play an integral or minor role in the implementation process, as evidenced by the US. As far back as 1878, the US was the originator and architect of traditional constitutions crafted by selected groups of elites. In fact, over 200 national constitutions have either been written or rewritten and have been shaped either directly or indirectly based on American principles.⁴⁸ It remains to be examined whether the US shares the burden equally if it provides more assistance to certain countries relative to others, and if so for

⁴⁷ Political Scientists Hart's Special Report to United States Institute of Peace on Democratic Constitution Making, July 2003. <https://www.usip.org/sites/default/files/sr107.pdf> (accessed June 1, 2020).

⁴⁸ Ibid.

what reasons. Scholars like (Ginsburg 2019) have criticized the US's role for focusing on restricting the host nation's military power.⁴⁹ Nevertheless, there is always a polarized opinion, especially from historians who perceive the US Constitution's restrictions on the military as beneficial to the host state. In terms of big countries like Japan and new emerging ones like Kosovo, the impact on military context has been the same which will be examined in the following part. The significant history-based disparity in both cases leaves the latter adherent to a parallel universe with divergent priorities, as in Japan and Kosovo. According to (Arato 2009), Japan's constitution making process, among other constitutional differences, shows that the US could impose a political order almost anywhere if it invested sufficient resources.⁵⁰ While Japan and Kosovo had similar constitution-drafting processes, there was one major difference between their roles: Japan was at war with the US, whereas Kosovo became a savior. For instance, in Japan, it opted for a largely mandated constitution but for Kosovo, with the support of USAID and the UN, it opted for an almost solely autonomous constitution. A constitution's legitimacy can be viewed from several perspectives, including:

1. Legal legitimacy – adherence to the rules, principles, and norms of the law;
2. Legitimacy in politics – ownership at the national level;
3. Legitimacy of morality – the moral ethos of a country can be embodied in its constitution and its shared values.⁵¹

1. The Drafting Process in Existing and New Emerging Nation: Perspectives from Japan and Kosovo

It is crucial to understand that the process of constitution-making largely depends on the constitution-makers' intentions when it comes to creating a new constitution or amending an existing one. For instance, if legislators intend to reform the nation's constitution, they may propose

⁴⁹ Tom Ginsburg and Sumit Bisarya. *Constitution Makers on Constitution Making*. (Cambridge: Cambridge University Press, November 2022). 33.

⁵⁰ Andrew Arato. *Constitution Making Under Occupation: The Politics of Imposed Revolution in Iraq*. (New York: Columbia University Press, March 2009).

⁵¹ Winluck Wahiu, 'A Practical Guide to Constitution Building: An Introduction,' *International Institute for Democracy and Electoral Assistance*, 2011. (accessed June 1, 2020).

a comprehensive document. Alternatively, it could encompass fundamental values, in which case a new constitution must be drafted in place of the old constitution, primarily if the new constitution is drafted by an external party in this case the US.⁵² To analyze the process and outcomes, favorable or not, there are some key aspects that must be highlighted. These include background, participants, and time frame. The process of establishing a constitution entails a long-term process based on a historical setting. Considering that the country's apparent constitutions result from its history, establishing a constitution that identifies national identity as such is of great importance. However, when we talk about *Constitutional law*, it is understood as a method that employs its own methods of setting norms. This enables the *jurists* to deduce the norms that might have been applicable or change from another constitution to the other one. If that indeed occurs when a constitution becomes disassociated from the history of a nation, it is understandable why that would be contrary to traditional constitution-making practices. In addition, it goes against the will of the people who are the sources of its legitimacy.⁵³ This renders the Constitution temporarily effective since its longevity is often short-lived as it does not accurately reflect the 'will of the people'. This is primarily due to the fact that the function of a constitution is framing the government and its institutions that will play a role in defining their purpose.

Consequently, it is understandable that the constitutional framework is a critical variable that often determines the outcome of a draft in an unexpected manner. In other words, the framework outlines the basic rules and principles of a country that will be governed and how its legislative, executive and judicial bodies relate to each other and the people of that country.⁵⁴ In line with this, among the few steps that constitution drafting entails are as follow: (a) agreement on the constitution and its scope which means the historical background of a country will be changed too

⁵² Arsim Bajrami. *Draftimi i Kushtetutes: Manual per Hartuesit e Kushtetutes*. [Constitution Drafting: Handbook for Drafters of the Constitution]. (Prishtine: Universiteti Fama ne Prishtine, May 2007).

⁵³ Arkadiusz Gornisiewicz and Bogdan Szlachta (Ed). *The Concept of Constitution in the History of Political Thought*. (Berlin: De Gruyter Open Ltd, January 2018).

⁵⁴ Legislative Assembly of British Columbia. *Constitutional Framework and Governance*. <https://www.leg.bc.ca/dyl/Pages/Constitutional-Framework-Governance.aspx>. (accessed June 1 , 2022).

in a way; (b) establishment of institutions that sometimes might require interim measures; (c) legal effects to the constitution; and (d) implementation of the constitution.⁵⁵ To be able to effectively implement the steps outlined, a thorough understanding of the parties involved is imperative. It is therefore essential to know that, so not only external influences but also the host country will have a better understanding of how complex or simple the ensuing process will be. The party participants in the constitution drafting vary from country to country. Japan's Meiji Constitution from 1858 provides an excellent comparison to the 1946 Post-War Constitution. Postwar Japan's constitution was largely shaped by US experts overshadowed by Japanese experts. Using the following example from Article 29 of the Meiji Constitution, we can illustrate the differences between the two constitutions, "Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication, public meetings and associations"... Article 13 derives from the 1946 constitution as outlined, "All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs."⁵⁶ Further, I have analyzed Kosovo's Constitution from 1974 under the Socialist Republic of Yugoslavia as well as Kosovo's Constitution of 2008. As written in Article 1; "The Republic of Kosovo is a democratic state of the Albanian Nation and members of other nations and national minorities, citizens; Serbs, Muslims, Montenegrins, Croats, Turks, other Roma who are in Kosovo."⁵⁷ In the post-war Constitution of Kosovo, adopted in 2008, Article 1 emphasizes, "Definition of State 1. The Republic of Kosovo is an independent, sovereign, democratic, unique and indivisible state. 2. The Republic of Kosovo is a state of its citizens. The Republic of Kosovo exercises its authority based on the respect for human rights and freedoms of its citizens and all other individuals within

⁵⁵ Winluck Wahiu, 'A Practical Guide to Constitution Building: An Introduction,' *International Institute for Democracy and Electoral Assistance*, 2011. (accessed June 1, 2020).

⁵⁶ Prime Minister Office of Japan and His Cabinet. The Constitution of Japan. Promulgated on November 3, 1946. Came into effect on May 3, 1947.

⁵⁷ Dukagjini. Kushtetuta e Republikës së Kosovës- Kushtetuta e Kacanikut. [Constitution of the Republic of Kosovo- Kacaniku Constitution]. <https://www.dukagjini.com/wp-content/uploads/2022/09/Kushtetuta-e-Kacanikut.pdf> (accessed June 1, 2020).

its borders. 3. The Republic of Kosovo shall have no territorial claims against, and shall seek no union with, any State or part of any State.”⁵⁸ Having no second party to voice its opinion undermined the legitimacy of the political system, since neither constitution had ownership but only limited authority. It is evident, for example, that Japan made significant amendments to its constitution, compromising its security, whereas some changes in Kosovo were more subtle. As a result, the more actors involved in the process, the longer and more complex it becomes. Lastly, although subjective, often the host state might accept the negotiation terms due to time constraints so as not to be held responsible if the negotiation fails. However, there are many who argue that the unprecedented changes imposed on Japan by MacArthur were illegitimate in the attempt to write the state’s constitution regardless of their disagreement. There are others, like Sebata, that have emphasized the advantages of Japan starting from the security perspective that guarantees Japan’s safety, especially considering Asia’s turbulent situation. In addition to that, many scholars (Sebata 2012) believe that the presence of US military forces in Japan reduces China’s and North Korea’s likelihood of initiating hostilities.⁵⁹ In contrast with Kosovo’s case study, when the country was granted ‘substantial autonomy,’ it was clear that prosperity would not follow soon. As a result, Kosovo experts and the KLA deemed it unacceptable, creating a need for Martti Ahtisaari to develop an alternative.⁶⁰

It was an advantage for Kosovo to have the US on board since it helped the country become an independent nation and establish a Constitution. While this factor may be subjective, we have usually encountered external powers involved in such processes. In this regard, the UN is a good example, as are the missions and experts assigned to assist nations in formulating the Constitution.

⁵⁸ Gazeta Zyrtare e Republikës së Kosovës. Lloji i aktit: Kushtetuta. [Official Newspaper of the Republic of Kosovo. Type of Act: Constitution] Numri i aktit: K-09042008, Institucioni. *Kuvendi i Republikës së Kosovës*, April, 2008). (accessed June 1, 2020).

⁵⁹ Takao Sebata, “Pros and Cons for Keeping United States Forces in Japan (USFJ),” *Journal of the Faculty of Global Communication*, No.13(2012).http://reposit.sun.ac.jp/dspace/bitstream/10561/944/1/v13p199_sebata.pdf (accessed June 1, 2020).

⁶⁰ Joseph Marko, “The New Kosovo Constitution in a Regional Comparative Perspective,” *Review of Central and East European Law* 33, 2008). 437-450.

Historically, however, big powers have always had more say in the process, which is of course subject to debate as to whether some countries are more likely than others to participate in such a process, or perhaps their geopolitical objectives fit well in the country they are in. Even so, external actors' involvement in the process is still subject to debate from a legal perspective. If we look at both case studies, clearly one of the most pressing issues was the conflict between external and internal influences. Often, public hearings in constitution-making cannot be held due to the complexity of the process, such as when external actors want to customize the draft to suit their purposes. However, this can exacerbate tensions due to the incompatibility of agendas. Thus, the dilemma remains as to whether the Constitution reflects the sentiments of the people in that country or merely the elites and political parties. The role of constitution-makers is to make the Constitution of the state as the primary authors regardless of whether it is through mechanisms that represent them or by popular vote. In a country, a Constitution represents the will of the people, meaning that once adopted, it expresses the people's sovereign will. However, in democratic societies, the *constitutional subject* is the parliament, acting as the representative of the people. In spite of adopting a constitution, the people are still considered the authors.⁶¹ Occasionally, constitutions are drafted by a constituent *assembly* subjective to the country. In other words, parliaments and assemblies are traditional means of drafting constitutions. But what happens when the people disagree with the elites about how to draft their constitution?

Historically, international actors have been part of the significant system that enforces or implements a Constitution, but they cannot achieve the objectives set for it as a whole, such as democracy, economy on its own, people, and a system is required. It is therefore necessary for leaders to engage the general public in order to accomplish their objectives. According to Article 25 of the International Covenant on Civil and Political Rights: “Every citizen shall have the right and the opportunity... (a) To take part in the conduct of public affairs, directly or through freely

⁶¹ Arsim Bajrami. *Draftimi I Kushtetutes: Manual per Hartuesit e Kushtetutes*. [Constitution Drafting: Handbook for Drafters of the Constitution]. (Prishtine: Universiteti Fama ne Prishtine, May 2007).

chosen representatives; (b) To vote and to be elected ... guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.”⁶² Since the constitution-making process can involve the public, legal transitional mechanisms are important since they provide parties with tools and techniques that can assist in drafting a constitution.. As (Saati 2019) asserts in his book Shaffer’s explanation of the legal norms that are distinct from foreign norms incorporated into the writing process. The transitional law, for example, consists of legal norms that have the potential to be utilized in international settings, sometimes in cooperation with international and regional organizations.⁶³ While it has been demonstrated that public participation has the potential to contribute to the country’s prosperity, there are times when their input is disregarded or completely dismissed in favor of the elites to make most of the country’s policies. In many cases, citizens’ participation is equated with participation in the electoral process, making their input less important in the process. As such, Japan’s approach to capacity planning is distinct from that in Kosovo, as it emphasizes the importance of strategic planning over the latter. To put it another way, in Japan, the US was greatly immersed in democracy building, whereas in Kosovo, a nation-building process gained momentum. While the second party’s role is subjective to the case study, delivering tasks in the host country can present challenges.

It is mainly because when peace has not been realized prior to the drafting of a document, it is far from feasible. While relevant to the case study, the differences between the US role in Japan in the aftermath of the Pacific War and the US’s role in Kosovo following Yugoslavia’s dissolution indicate that the process of reaching a peace agreement between the given parties is typically difficult, if not impossible. Unless both parties are willing to compromise, it will probably take multiple attempts to reach a consensus. A prime example of the former is Japan’s constitution

⁶² United Nations Human Rights. Office of the High Commissioner. International Covenant on Civil and Political Rights. Adopted on 16 December 1966. General Assembly resolution 2200A (XXI).

⁶³ Gregory Shaffer, Tom Ginsburg and Terence C. Halliday. *Constitution- Making and Transitional Legal Order*. (Cambridge: Published by Cambridge University Press, April 2019). 283-204.

drafting in 1946 with the Matsumoto Draft, and in 2007 with Ahtisaari Plan for Kosovo. A country's constitution represents the image of the country, so conflicts usually arise when locals claim exclusivity of the document's authorship. Occasionally, an international actor may influence a local actor, although this does not always occur. According to international law, a constitution's legitimacy must be assessed if it was not drafted by the local populace. There is a tendency to portray constitution-making as actors exercising their *pouvoir constituant*, a claim that does not always hold true. The reason is that the host's voice contributes to the draft, and sometimes the draft incorporates both the host's and a second party's input. Prior to the release of the final draft, the group's convening procedure and other rules are announced. In the post-war period, however, constitution-making has taken a different direction, which now involves new responsibilities at its core. In conjunction with the growth of secessionist movements, foreign assistance has also increased significantly. In comparison with past constitutional discussions, there is one significant difference today: constitutions are not only discussed among parties, but also with the general public in the case of amendments. The majority of citizens voice their opposition to government policies through voting or protest when they are being revised, which may sometimes be in violation of the Constitution. The opposition of Japanese citizens to the modification of Article 9 of the 1947 Constitution of Japan is one notable example.

A major emphasis is placed on the following points in Article 9: "Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized."⁶⁴ In the same vein as Japan, Kosovo has contemplated amending Article 125 over the past few years, within which is stated the following: "The Kosovo Security Force shall serve

⁶⁴ Prime Minister of Japan and His Cabinet. The Constitution of Japan Promulgated on November 3, 1946 Came into effect on May 3, 1947.

as a national security force for the Republic of Kosovo and may send its members abroad in full conformity with its international responsibilities.”⁶⁵ A review of an article where the US largely initiated the article without input from host states illustrates the difficulty of enlisting the input of a second party when creating a constitution that is often at odds with the historical identity of the nation. At the same time, it can be argued that US insertions into the constitutions of Japan and Kosovo enhanced their post-war reputations. However, in light of the fact that both countries already had constitutions in place, the US influence in the constitution is viewed as an extension of its *grand design*. The reason for this is that the parliamentary system was already in place in Japan and Kosovo, but its absence in Kosovo could be attributed to Yugoslav influence. Nevertheless, lawmakers debated and drafted a constitution to make external influences easier to deal with, understanding Kosovo had the capacity to obtain such a fair decision from a state. Consequently, the question arises, would it be easier to draft a constitution for countries that already have a parliamentary government and system or for those that have recently emerged from one? Before drafting a constitution, lawmakers consider several factors before deciding whether to modify an existing constitution or introduce a new one. For instance, they determine whether to use an existing constitution or create a new one. It is subjective to implement a completely new constitution, but it must be considered if the existing constitution and the one being implemented are significantly different while maintaining legal continuity. Given the new process, these considerations should be taken into account and considered legitimate. It is possible, however, to amend the existing constitution through existing amendments. In spite of the fact that such a process can sometimes be quite complex and time-consuming, legal continuity is maintained. As illustrated in the following table, the UN Secretary-General's Guidance Note on Constitutional Assistance illustrates the constitutional enactment process in Japan and Kosovo.

⁶⁵ Gazeta Zyrtare e Republikës së Kosovës. Lloji i aktit: Kushtetuta. [Official Newspaper of the Republic of Kosovo. Type of Act: Constitution]. Numri i aktit: K-09042008. Institucioni Kuvendi i Republikës së Kosovës, April 2008. (accessed June 1, 2020).

Enacting the Constitution	Japan	Kosovo
Phase A.		
1. Foster peacebuilding and sustainable human development	Article 9 (Renunciation of War)	Article 125 (Protection of Communities)
2. Ensure national ownership and reflect local text	“We the People”	“We the People”
3. Promote international norms and standards	“...an honored place in an international society striving for preservation of peace..”	“.. in order to maintain peace and to protect national interests, may participate in systems of international security..”
4. Support inclusivity, participation and transparency	Designated working group/ Fumimaro Konoe, Shidehara Cabinet and study Group Matsumoto Draft	Designated working group/ Rambouillet Draft
5. Mobilize and convene a wide range of expertise	Valid	Valid
6. Promote effective implementation	1946	2008
Phase B. Constitutional Processes –		
Phases and Elements		
<ul style="list-style-type: none"> • Setting the agenda (peace talks, transitional and designing of constitutional reforms). • Holding consultations (negotiating drafting and adopting constitutional amendments) • Implementing a new or revised constitution (institutions) 	Potsdam Declaration Matsumoto Draft Ashida Amendment	UNSCR 1244 Constitutional Framework for visional Government UNMIK Ahtisaari Plan
C. Forms of Assistance		
<ul style="list-style-type: none"> • Political and Strategic Support • Technical Advice on Constitutions and Constitutional Reform Process • Capacity Building and Institution • Development and Support 		

Table 1. Source: United Nations. Guidance Note of the Secretary General on United Nations Constitutional Assistance.⁶⁶

⁶⁶ United Nations (UN). Guidance Note of the Secretary- General on United Nations Constitutional Assistance. September 2020.

Even though the US military and international military presence in the world is significant in terms of geopolitical shift and turbulent change, governments strive to feel secure by maintaining their own military forces. In fact, US politics has propelled the respective states closer to militarization, following the implementation of foreign policy reforms. According to (Saati 2019), participants in constitution-making tend to extend beyond trend-following. There is ever-increasing importance to them, and their significance is becoming transitional legal norms, demonstrating that international cooperation is imperative for their advancement.⁶⁷ The view of (Zaid Al-Ali's 2011) suggests external influence can be exerted either actively through external actors or passively through norms and rules.⁶⁸ However, the role of international actors or influence varies subject to circumstance; however, one thing is certain: international intervention in such matters usually has the primary aim of enhancing international law, such as through the UN whose efforts play a crucial role in ensuring a society's prosperity. Then again, another factor that makes the process more difficult is conflicting geopolitical interests between the host state and its neighboring countries. Although this depends on the case study, the Japan and Kosovo examples are relevant from a historical perspective. A relative nature governs the nature of external interventions aimed at promoting democracy, like in Japan or ending crises, like in Kosovo.

The process of making constitutions, on the other hand, is often seen as one of identifying alternatives in contexts that differ greatly. Occasionally, constitutions are drafted as a response to conflicts, sometimes for the purpose of preventing conflicts, sometimes for the purpose of ensuring stability.⁶⁹ Thus, it is imperative to understand the legal legitimacy of external influences and the role they play in influencing a country's most important documents. Considering the role of international actors or external forces, one must note that they can play a wide range of roles as

⁶⁷ Gregory Shaffer, Tom Ginsburg and Terence C. Halliday. *Constitution- Making and Transitional Legal Order*. (Cambridge: Published by Cambridge University Press, April 2019). 283-204.

⁶⁸ Tom Ginsburg and Rosalind Dixon. *Comparative Constitutional Law*. (Cheltenham: Edward Elgar Publishing, May 2011). 56-92.

⁶⁹ Gregory Shaffer, Tom Ginsburg and Terence C. Halliday. *Constitution- Making and Transitional Legal Order*. (Cambridge: Cambridge University Press, April 2019). 26.

shown in the case study. During WWI, the US predominantly aided its allies economically, but following WWII, it dramatically increased its involvement in international affairs and constitution-drafting. Aside from the fact that the US cannot draft a Constitution without the host's approval, it is advantageous to gain the approval in the process.⁷⁰ Providing adequate assistance to the host country is even more essential when the host country lacks strong institutions, or if the host country is incapable of providing adequate assistance. In any case, it is important to consider both the validity of having another party involved in decision-making as well as the longevity of such a system. A historical context gives a sense of the complexity of such a process, exemplified in the case studies. As the geopolitical context changes, so will the constitution-making process, depending on how actors plan to move forward.⁷¹ However this may not always be the case since geopolitical trends are in constant flux, and so are laws that prohibits the host country from acquiring military capabilities. In terms of international assistance, there is a difference between countries that inquiries limited assistance in the constitution-making process, like Kosovo, and those who are unwilling, like Japan.

⁷⁰ Tom Ginsburg and Sumit Bisarya. *Constitution Makers on Constitution Making*. (Cambridge: Cambridge University Press November 2022). 47.

⁷¹ David Landau and Hanna Lerner. *Comparative Constitution Making*. (Cheltenham: Edward Elgar Publishing, October 2019). 47- 67.

CHAPTER 2: The London Naval Treaty on the Limitation and Reduction of Naval Armaments

In the wake of the Great War the US, Japan, France, Italy, and the UK assembled on several occasions with a shared objective: overcoming war's effects. The partially successful Washington Naval Treaty in 1922 managed to prevent a new naval arms race from breaking out but did not eliminate naval rivalry. Consequently, it was envisioned that a comprehensive and durable framework for arms limitation could be devised.⁷² In order to do so, however, cooperative efforts between them were critical, albeit complex. Alliances often determined sanctioning nations and collaboration strategies, for instance, determining how military security resources should be allocated among the countries.⁷³ This contributed to the public announcement of the incoming conference to be held between the big five. Nonetheless, many allies were not receptive to the idea of a new conference, including France, which deemed it unnecessary, as did Italy. Unlike the given states, the invitation was positively received by Japan, who indicated that they need to consult with Tokyo authorities, which led to them deciding to visit US after the disarmament agreement was ratified. The UK, on the other hand, had confirmed their participation, consequently, in 1927, the big three (the US, the UK, and Japan) discussed lowering their naval capabilities but could not agree on the conditions. For example, during the Geneva conference, the US and the UK did not agree on naval cruiser restrictions, although both parties tried to reach a compromise. The powers' steadfastness in attaining their objectives revealed their respective positions, often irrelevant to the other participating countries (Italy, France). At this point, the US naval doctrine aimed for two

⁷² John H. Maurer and Christopher M. Bell. *At the Crossroads between Peace and War: The London Naval Conference of 1930*. (Annapolis: Naval Institute Press, December 2014).

⁷³ Steven E. Lobell, "Historical lessons to extend America's great power tenure," *Sage Publications, Inc* Vol. 166, Issue 4, 2004. (accessed August 5, 2020).

main objectives: absolute parity with the British fleet and a 10:10:6 ratio with the Japanese fleet.⁷⁴ According to a *Suikoukai* report, the US's main concern was that Japan's success in China and the Pacific area would undermine its Pacific strategy, hence its pursuit of an international accord that would exceed Japan's.⁷⁵ The meeting in Geneva was deemed a failure, subsequently, another meeting convened, but this time in Washington D.C. The conference was chaired by US President Hoover and UK Prime Minister MacDonald in October 1929, culminating in a collective agreement. It was then agreed on a maximum of 50 cruisers and 339,000 tons, with just a few heavy cruisers allowed. Following the successful bilateral agreement between the US and the UK the five major nations—Japan, the UK, the US, France, and Italy—met in London in 1930 to amend the Five Power Treaty. The London Naval Conference and subsequent Treaty were plainly prompted by the global recession; therefore, the following discusses the relevance of the crisis-related meetings.⁷⁶ The conference meeting was clearly arranged with the intention of constraining the world's major naval powers and their naval capabilities. The main objective was to advocate disarmament in lieu of the calamities generated by the Great War, which began with the Washington Conference in 1921 and ended in 1935 with the Second London Conference.

Addressing the 1930 Conference, Prime Minister John Alexander MacDonald highlighted the significance of, “Although the immediate subject of the Conference was the Navy and naval affairs, let there be no mistake about it: the London Naval Conference was not merely a Naval Conference. It aimed at making a substantial contribution to the problem of general disarmament.”⁷⁷ Admiral Pratt, a US official who served as the country's naval adviser at the Washington conference and as the Chief of Naval Operations at the London Conference, was

⁷⁴ James B. Crowley. *Japan's Quest for Autonomy: National Security and Foreign Policy, 1930-1938*. (New Jersey: Princeton University Press, April 2016). 36.

⁷⁵ Koichiro Kagoyama, ‘Washington Rondon ryō kaigunshukujōyaku no teiketsu ni okeru Nihon no taiō shisei to sono igi,’[Japan's Response to the Conclusion of the Washington-London Naval Treaty and Its Significance]. *Suikoukai Public Interest Incorporated Foundation*, 2020. (accessed August 10, 2020).

⁷⁶ Ken Kotani, “The Preliminary Negotiations of the Second London Naval Conference,” *The Journal Research Institute for the History of Global Arms Transfer*, 2017 No.3, 2017. (accessed August 10, 2020).

⁷⁷ The Prime Minister Ramsay MacDonald “London Naval Conference,” Vol 238, cc2085-205, *UK Parliament*, May 15, 1930. (accessed August 20, 2020).

among the attendees. The US Navy was adamantly opposed to any kind of pact that if any of the commanders had not met their objectives, they would have sought to leave their position, even if the US was accruing advantages. Tonnage restrictions imposed on the US, the UK, and Japan sparked much debate at the time. As of this point, Japan's primary objective was to increase the ratio of tons. During the London meeting, Japan's three key arguments were as follows: A 7:10 global tonnage ratio for auxiliary boats; a 7:10 ratio for large cruisers; and 78,000 tons for submarines.⁷⁸ The discussions posed such a complex dilemma that it was imperative to consult the principal institutions before proceeding. Among the participants that helped ensure that the negotiations proceeded smoothly was Japan's Minister of Foreign Affairs (MOFA) Shidehara Kijūrō. In fact, Shidehara's most notable achievement during his time as foreign minister was the London Naval Conference. One of his responsibilities during the discussion period was to keep Minister Makino Nobuaki in the loop in order to be able to communicate the news to Tokyo. Thus, Hamaguchi's cabinet wanted to ensure that the delegation conveyed a clear message to the participating nations. The Japanese government initially desired a 10:10:7 ratio increase, but its demand had to be agreed upon with the US, a task that was impractical. Japan's delegation was led by former Prime Minister Wakatsuki Reijir and Navy Minister Takarabe Takeshi, who aim to increase auxiliary vessel share from 60 to 70 percent.⁷⁹ Similarly, to the UK, Japan began discussions with the US with the goal of reaching a comprehensive deal. While Shidehara was optimistic about the agreement, he also understood that Japan's navy's objections would continue to be an obstacle.

Politicians in Japan were divided between those who wanted to extend diplomacy to a wider international audience and those who wanted to avoid compromising their principles. While the talks seemed to be progressing effectively, Katō Hiroharu, as Chief of Navy General Staff, tried to

⁷⁸ Kichisaburo Nomura, "Japan's Demand for Naval Equality," *Council on Foreign Relations*, Vol. 13, No.2, January 1935. https://www.jstor.org/stable/20030656#metadata_info_tab_contents . (accessed August 20, 2020).

⁷⁹ Andrew Gordon. *A Modern History of Japan: From Tokugawa Times to the Present*. (New York: Oxford University Press, November 2008). 182-187.

persuade Emperor Shōwa to oppose the treaty because he considered it violated the emperor’s prerogative of unlimited authority. In addition to that, he believed that such a choice would endanger the Pacific Ocean. According to Article 13 of the Meiji Constitution, “supreme command” refers to the highest authority over the military, that of Emperor Shōwa. The emperor in this case has the power to declare/approve war, treaty ratifications, etc. Similarly, the opposition party *Rikken Seiyūkai* alleged the Hamaguchi administration of command meddling.⁸⁰ The following diagram depicts the Japanese factions that supported and opposed the ratification of the London Naval Treaty.

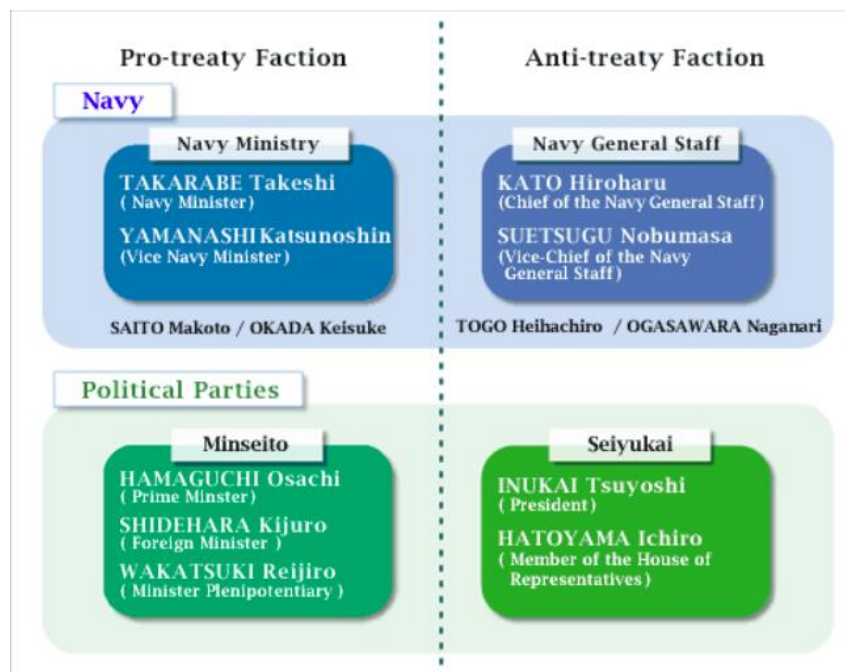


Figure 1. Source: National Diet Library, Japan.

While discussions were underway in Japan, President Henry L. Stimson urged US Ambassador, William Richard Castle Jr, to schedule a meeting with Hamaguchi. However, Castle declined his request since he knew that Japan did not share the same views, claiming that the US heavily influenced their politics.⁸¹ There was considerable attention paid by both the Japanese press and navy to the London Naval Treaty, which was widely condemned as a national dishonor. While the

⁸⁰ Ryuji Hattori. *Japan at War and Peace: Shidehara Kijūrō and the Making of Modern Diplomacy*. (Canberra: Australian National University Press, December 2021).

⁸¹ Ibid.

US was trying to persuade Japan that there were no alternatives, Castle decided to visit Shidehara and convey Stimson's message to him. Given that Japan acquiesced to a 60 percent ratio in the Washington Naval Treaty, the US government was concerned that a 70 percent ratio at London Treaty could lead to the outbreak of war in the Pacific.⁸² Accordingly, Castle conveyed the following message to the Acting Secretary of State in March 1930; "Yesterday Shidehara assured me that he was exploring every possibility to bring about acceptance by Japan; he stated that he was in communication daily with Hamaguchi and the Navy but that he was not optimistic. He promised to bring the contents of your telegram, which I gave him in writing, to Hamaguchi's attention immediately. He evidently was opposed to my approaching the Prime Minister directly; if I saw Hamaguchi personally, sensational articles might do great damage for the press is watching every move."⁸³ The 1930 conference also covered the topic relating to tonnage for light cruises. Given its global presence, notably in the Philippines and East Asia, and the limited number of refueling sites in the Pacific, the US was opposed to any limit lower than 10,000 tons. However, the rest of allies were willing to accept a ton limit of 7000, but the US objected. A series of meetings between Shidehara and Hamaguchi Osachi led to Hamaguchi's consent to the US-Japan agreement. Despite Japan's tonnage agreement, the US still had to evaluate it, allowing Japan 70 percent for all ship categories except offensive ones. This quickly shifted Japan's diplomacy toward a more friendly tone. It was obvious that if Japan accepted this ratio, it would imply that they could not have everything.

This meant that Japan relinquished its proposal for a 70 percent ratio, enabling US dominance in the heavy cruiser. However, it was then concluded that because the US would not build more than fifteen big cruisers by 1936 (Article XVII), Japan would eventually enjoy more than 70 percent throughout this era.⁸⁴ After three months of discussions, the Japanese representatives accepted the *sine qua non* treaty. The treaty, however, was not enacted until the emperor

⁸² Mari Ohtake, "Research materials for Henry L. Stimson and the London Naval Conference of 1930," *Journal of Human Environmental Studies* Volume 4 Issue 2, 2006). (accessed August 20, 2020).

⁸³ Office of the Historian. Papers Relating to the Foreign Relations of the United States, 1930, Volume I. 500.A15a3/768: Telegram. Tokyo, March 21, 1930-noon.

⁸⁴ John B. Whitton, "The London Naval Conference," *University of California Press* Vol. 32, No. 3, June 1930. (accessed August 30, 2020).

addressed it. On April 13th, the Imperial Palace was setting for a gathering where Emperor Shōwa stressed the importance of, “acceptable results have been obtained owing to the cooperation of three nations, Japan, the United Kingdom, and the United States.”⁸⁵ Evidently Emperor Shōwa was pleased with the compromised reached at the London Naval Conference. However, several American admirals, notably Volney O.Chase, were concerned that the US-Japan relationship would deteriorate stressed by the fact that, “we have increased Japan’s ratio at this time, in the future they will likely request more.” The treaty set maximum tonnage for cruisers and the maximum numbers of heavy cruisers were set at 18 for America, 15 for Great Britain, and 12 for Japan. According to Admiral William A. Moffet, the agreement as made did not jeopardize US safety and security. During discussions with fellow admirals, Admiral Joseph M. Reeves emphasized the following: “the arrival of aviation provides Japan an edge in the defensive posture which she maintains in the Far East. She will be able to bring shore-based aircraft into some regions of conflict, which we will not be able to do.”⁸⁶ Furthermore, Admiral Day emphasized that in an exchange of views on the US interest in decreasing its submarine tonnage “marines are vital for the defense of Hawaii, the Philippines, and the Canal Zone.

It is preferable to keep Japan's submarine tonnage as low as feasible, but not to the point of jeopardizing her parity in order to do so”.⁸⁷ Although Admiral Harry E. Yarnell did not address formally he was of the opinion that the partnership was to the Navy’s advantage, “Japan joined the conference with a submarine domination, so talking to her about a 5:5:3 decrease was pretty futile when she had these ships and we had not.”⁸⁸ At this point, the Japanese government argued

⁸⁵ Ryuji Hattori. *Japan at War and Peace: Shidehara Kijūrō and the Making of Modern Diplomacy*. (Canberra: Australian National University Press, December 2021).

⁸⁶ 71st Congress 2d Session. Senate, Document No. 197. London Naval Treaty of London. Is it to the interest of the United States to grant parity in Submarine tonnage to Japan in order to decrease her submarine tonnage? May 14 to 29, 1930.

⁸⁷ MS Watson, *The Nation’s Outlying Defense in 1941*, U.S. Army Center of Military History. (accessed August 30, 2020).

⁸⁸ Ibid.

that the given ratio was not compatible with Japan’s Far East nature.⁸⁹ As outlined in the table below, warships are authorized to carry the following tonnages:

	US	Britain	Japan
Battleships	453.400	472.350	266. 070
Aircraft	135. 000	135. 000	81. 000
Cruisers	323. 500	339. 000	208. 850
Destroyers	150. 000	150. 000	105. 000
Submarines	52. 700	52. 700	52. 700
	1. 114. 600	1. 149. 050	713. 620

Table 2: Source: U.S. Department of State Archive: The London Naval Conference, 1930.

To begin with, it was not a resounding success because the US, Japan, and the UK will likely have different impacts on all five countries. Additionally, two abatement projects, one involving submarines and one involving capital ships, were abandoned. In addition, the agreement neglected to address the key issue which is security. As Japan’s military presence in Manchuria increased, the London Naval Meeting became essential for US-Japanese relations, lessening its focus on other countries (UK, Italy, and France). In the end, the London Naval Treaty did not reflect Japan’s actual position, but rather the positions of politicians such as Hamaguchi and Shidehara. Similarly, to Shidehara, the US ambassador to Japan, Castle played a prominent role during the negotiations, regardless of the fact that he was only assigned as an Ambassador for the London Naval Conference. Shidehara aided Japan in its diplomatic efforts overseas. He was a trusted figure, even to Americans like ambassador Castle for Japan, resulting in stronger ties between the two countries. Shidehara was even featured in Castle’s letter to President Hoover, where he commended Shidehara’s ability to see things from different perspectives.

⁸⁹ Kichisaburo Nomura, “Japan's Demand for Naval Equality,” *Council on Foreign Relations*, Vol. 13, No.2, January 1935. https://www.jstor.org/stable/20030656#metadata_info_tab_contents . (accessed August 30, 2020).

1. The Manchurian Incident: The Invasion of Northeastern China that Ignited WW II

An act of secession means the dissolution of a constituent part of a state, including its territory and people, with the result that the state is permanently disintegrated. While secession was present in the US, Lincoln deemed it unconstitutional as it did not have the approval of the Central Government.⁹⁰ Nevertheless, the above assertion gradually ceased to be visible after the London Naval Agreement was introduced, since colonialism slowly transitioned from a western-led authority to democratic rule. The transformative system was widely supported and enthusiastically welcomed by Woodrow Wilson, whose presidency followed. In 1918, he launched a new diplomatic strategy based on established international standards, referred to as ‘14 points.’ The Wilson strategic plan was designed to create a system amenable to implementation by allies in accordance with their values and ideals. Essentially, the proposed framework encompassed rights to self-determination, justice, and democracy, constituting a fundamental element of countries’ rights.⁹¹ Through the complex period, a new form of nationalism emerged in Asia, with powers eschewing self-determination for unity. Even then, the war’s ramifications made it difficult for many countries to recover at their own pace. Consequently, extensive power-seeking strategies were necessary to foster growth. Understanding how the US and East Asia fueled the Manchuria invasions provides critical insight into events in the region, especially in Japan.

Despite the fact that it was perpetrated by the Mukden army in Manchuria, its critical impact was enormous in Japan’s surprise attack on the US military base at Pearl Harbor. China’s nationalism grew parallel to Japan’s interest in Manchuria and Mongolia, where Japan’s interest in these areas underwent a change by 1920. Due to its abundant farming, Manchuria was able to produce soybeans, an indispensable food staple, which partly explains the divergence in perspectives. By 1927, Manchuria had become the primary supplier for half the world, including

⁹⁰ Don H. Doyle. *Secession as an International Phenomenon: From America’s Civil War to Contemporary Separatist Movements*. (Athens: The University of Georgia Press 2010). 56.

⁹¹Makoto Iokibe. *The Diplomatic History of Postwar Japan*. (Abingdon: Routledge Taylor & Francis Group, 2011). 15.

Japan and Europe.⁹² In addition to agriculture, Manchuria also produced minerals and fisheries products, presenting a compelling combination of factors that could bring two strong opponents to the brink of a partnership. Scholars have interpreted Manchuria differently depending on whether they view it as an entity related to China or the Qing Dynasty (Manchus), latter's last dynasty. It is imperative to emphasize the initial agreement reached between the two for a comprehensive assessment. The vast majority of Manchuria was farmland, making it vital to build a railroad to facilitate its growth as a commercial agriculture area.⁹³ For China to sustain its industrialization, foreign funds were necessary to stimulate economic growth. As the war in Europe raged on, Japan's economy experienced a surge in maritime transportation and shipbuilding, with imports exceeding 47 million by 1914. The tremendous economic stimulus enabled Japan to be one of the countries that provided a 25-million-pound loan to China, alongside the US, France, Germany, the UK, and Russia.⁹⁴ Thus, a railway construction agreement was reached between China and Japan in October 1913. The treaty was composed of twenty-one demands *Taika Nijūikkajō Yōkyū* and it was signed in 1915 following a series of discussions.⁹⁵ By consenting to this agreement, China was able to acquire loans from Japanese banks to construct three railway lines: Ssupingkai-Taonanfu, Kaiyuan-Hailungcheng, and Changchun-Taonanfu. Essentially, it permitted Japan to extend the Kwantung lease and railway for another 99 years, which favored its long-term objectives. The following are a few notable aspects of Group I, as follows, "The Japanese Government and the Chinese Government, being desirous of maintaining the general peace in Eastern Asia and further strengthening the friendly relations and good neighborhood existing between the two nations, agree to the following articles."⁹⁶ Whereas Group II stresses the

⁹² Sandra Wilson. *The Manchurian Crisis and Japanese Society, 1931-33*. (London: Routledge, 2002).

⁹³ E-Tu Zen Sun, "The Pattern of Railway Development in China," *The Far Eastern Quarterly* Vol.14, No.2, February 1955. (accessed October 1, 2020).

⁹⁴ Kawashima Shin, "Japan-China Joint History Research Report," *Modern and Contemporary History* Vol.1, 35-65, 2011 https://www.mofa.go.jp/region/asia-paci/china/pdfs/jcjhrr_mch_en1.pdf (accessed October 1, 2020).

⁹⁵ National Archives of Japan. Santōshō ni-seki suru jōyaku nami minamimansh. Bu Uchimōko ni-seki suru jōyaku. Book number: Class 01210.

⁹⁶ Internet Archive, "The twenty-one demands, Japan versus China," <https://archive.org/details/twentyonedemands00woodrich/page/107/mode/1up> (accessed October 1, 2020).

following; ‘‘The Japanese and Chinese governments agreed to the following articles in order to develop their economic relations in South Manchuria and Eastern Inner Mongolia: Article 1.—The two Contracting Powers mutually agree that the term of lease of Port Arthur and Dalniy and the terms of the South Manchurian Railway and the Antung-Mukden Railway, shall be extended to 99 years. Article 5a.—(Changed to an exchange of notes.) The Chinese Government agrees that hereafter, when a foreign loan is to be made on the security of the taxes of South Manchuria (not including customs and salt revenue on the security of which loans have already been made by the Chinese Government), it will negotiate for the loan with Japanese capitalists first. Article 6.—(Changed to an exchange of notes.) The Chinese Government declares that hereafter if foreign advisors or instructors on political, financial, military or police matters are to be employed in South Manchuria, Japanese will be employed first.’’⁹⁷

The preceding agreement noted in the following articles enabled Japan to gain administrative supervision in South Manchuria and special privileges, which impacted its growth in Manchuria. In this period, the US played a prominent role in the Japan-China alliance, owing to the economic and political importance of Manchuria. In response to Japan’s 21 demands, Wilson advised China to refrain from it for as long as necessary.⁹⁸ In practice, President Wilson did not make any further moves on any of the fronts as it would jeopardize US influence in the region. On February 6, 1915, US Ambassador George Wilkins Guthrie informed the State Department that he met with Prime Minister Shigenobu Ōkuma where he was welcomed with the following advice: ‘‘Japan’s aim is to maintain peace and root for China’s territorial integrity.’’⁹⁹ Even so, in an exchange note sent on March 13, 1915, the US argued that acceptance of the proposed demands would obstruct its commercial and industrial development. Moreover, the following was observed: ‘‘The United States Government embraces this opportunity to make known that it has viewed the aspirations of Japan in the Far East with that friendship and esteem which have characterized the relations of the two nations in the past. On the contrary the policy, of the US, as set forth in this note, is directed to the maintenance of the independence, integrity, and commercial freedom of China and the preservation of legitimate American rights and interests in that

⁹⁷ Ibid,

⁹⁸ Bruce Elleman. *Wilson and China: A Revised History of the Shandong Question*. (Abingdon: Routledge, 2002). 155-170.

⁹⁹ Office of the Historian. Papers Relating to the Foreign Relations of the United States, With the Address of the President to Congress December 7, 1915. File No. 793.94/228. American Embassy, Tokyo, February 6, 1915.

Republic.”¹⁰⁰ In an effort to avoid a dispute between the US and Japan over Manchuria, the Japanese government adjusted its demands in response to criticism by the US. In the end, Japan relented on most of its demands that could have jeopardized China’s sovereignty over Manchuria, which led to the latter accepting the remaining terms. Due to volatile political climates, parties were reluctant to agree with certain decisions over national interest, compelling the US and Japan to reach the *Lansing-Ishii* pact in November 1917. The agreement between Ishii Kikujirō and State Secretary Robert Lansing contained the following allegations: “The governments of the United States and Japan deny that they have any purpose to infringe in any way the independence or territorial integrity of China, and they declare, furthermore, that they always adhere to the principle of the so-called ‘open door policy’ or equal opportunity for commerce and industry in China.” There were, nevertheless, divergent views between Japan and the US much of the time, including at the London Naval Treaty, Washington Conference, etc. During the 1920s and 1930s, Japan experienced a severe economic recession, social strife, and military expansion, as well as mass assassinations of prominent political figures and industrialists. Following food shortages and air strikes, many Japanese fled to Manchuria.¹⁰¹ This presented an unfavorable situation for Japan, as its policy of expansion needed to be carefully weighed in order to spur economic growth. For this reason, maintaining good relations with the US meant limiting its presence in China.

Consequently, Japan embraced non-allegiant diplomacy as its principal foreign policy instrument. Its participation in the Washington Conference in 1922, followed by the London Naval Agreement, indicated that cooperation was the latter's foremost concern. This indicated that Japan was transitioning from an isolated state to the Anglo-American system, an international relations system. Although Japan participated in the preceding conferences, its proposal of a 60-70 percent ratio at the London Naval Agreement was rejected, resulting in a number of adverse effects. In

¹⁰⁰ Office of the Historian. Papers Relating to the Foreign Relations of the United States, With the Address of the President to Congress December 7, 1915. File No. 793.94/240.

¹⁰¹ Okazaki Hisahiko. *Yoshida Shigeru and His Time*. (Tokyo: Japan Publishing Industry Foundation for Culture-JPIC, 2003). 23.

spite of the fact that the US and UK declined to accept Japan's proposal, an agreement was reached allowing Japan to increase the number of warships but not the number of fleet ships. Although during this time, however, there was already a division among politicians seeking peace through diplomacy and others apprehensive that compromising the nation's legitimacy would lead to calamity. In turn, this led to Hamaguchi's government becoming the focal point for the anti-treaty movement known as the 'fleet wing,' for which he was later assassinated. Following China's decentralization, the north of Manchuria was ruled by the Fengtian party's chief, Zhang Zuolin, and the northeast by the Beiyang Army.¹⁰² Initially, Japanese Kwantung provided material and logistical assistance but did so only temporarily before they became at odds with each other. However, the Japanese were supportive of the seizure of Manchuria, while Zhang exclusively sought Japanese aid. This enabled Zhang to present potential opportunities in the economic sector for the US and the UK, which was not covered in their negotiations. There was a need for more revenue for China to pay off its heavy debts, as it received a mere 3 percent of revenue during the Washington Conference in 1921-1922.¹⁰³ The latter, however, found this insufficient, resulting in a demand for more from the former. The full status of tariff autonomy was achieved on November 19, 1925, on the heels of the 'Peking Tariff Conference' launched on October 26, 1925. As China's nativism seemed imminent, Japan regarded it as detrimental since it could have ushered in a new government in Manchuria.

With this in mind, the Japanese plan of replacing Zhang with a puppet leader became apparent. In June 1928, the Kwantung army devised an assassination plot targeting Chinese warlord Zhang Zuolin. In disregard for the fact that the Kwantung possessed some evidence implicating them in the murder of Zhang, Prime Minister Tanaka Giichi took no significant action. His reluctance to act stemmed from the strong support he had for military expansion and

¹⁰² Tony Saich and Benjamin Yang. *The Rise to Power of the Chinese Communist Party: Documents and Analysis*. (Amsterdam: Routledge May, 1995).

¹⁰³ Arthur N. Young, *China's Nation-Building Effort, 1927-1937*. (California: Hoover Institution Press Stanford University December, 1971).

belligerent policies.¹⁰⁴ However, it turned out that his ambitions were not to last long since Emperor Shōwa was not pleased with his decision, compelling him to step down. While he had resigned, Japan neglected to acknowledge China's tariff autonomy until 1930, although the US had done so long before.¹⁰⁵ Negotiations and devising strategies to compel China to repay its foreign loans remained the core issue on the leaders' agenda. China's perspectives at this point differed from that of the US and Japan. There was a reluctance in China to back Japan's Nishihara loans in particular.¹⁰⁶ The Nishihara loans or *Nishihara Shakkan* came into existence when Terauchi Masatake became head of the new cabinet in October 1916. During this period, Japan had substantial amounts of funds to invest in China, totaling 150 million yen. A number of loans were subject to interest rates that were increased from 8 percent to 9 percent, amounting to 66 million yen in unpaid interest to Japan.¹⁰⁷ The negotiating committee was accused of extending risky loans subsequently. Essentially, their misconduct contributed to Japan releasing its own bonds in return for Nishihara. While this underscored to most Chinese that Japan received the lucrative concession in exchange for loans boosting its Manchuria position. That being the case, Japan expected that the US and Britain would contribute to exerting pressure on China to pay its obligations; however, following Japan's invasion of Manchuria, the debt settlement discussions broke down.

The discontent of the Japanese people with the foreign policy of their government manifested itself in the treaty agreement negotiated in London. It is possible to argue that the Great Depression accelerated the transformation of Japan's political system. In response to the heated political atmosphere already present in late 1928, the Japanese community in Manchuria mobilized to defend the country's interests and rights through an organization named *Manshu Seinen*

¹⁰⁴ Sadako Nakamura Ogata. *Defiance in Manchuria: Making of Japanese Foreign Policy*. (Berkeley: University of California Press October, 1964).

¹⁰⁵ Makoto Iokibe. *The Diplomatic History of Postwar Japan*. (Abingdon: Routledge Taylor & Francis Group, 2011). 15.

¹⁰⁶ Makoto Iokibe and Tosh Minohara. *The History of US-Japan Relations: From Perry to the Present*. (Tokyo: Yuhikaku Publishing Co.Ltd., 2008). 89-90.

¹⁰⁷ Jerome Ch'en. *China and the West: Society and Culture, 1815-1937*. (London: Houtchinson & Co. Ltd, December 2019).

Renmei.¹⁰⁸ Despite many attempts to revive the economy, the recession persisted through the 1930s, even when Japan returned to the gold standard. In large part, it was brought on by the fact that developed economies were adversely affected by the depression, which caused world prices to plummet. The price of raw materials increased as a result of their high demand. Japan's foreign policy came to revolve around China, at the time its primary supplier of coal, cotton, and iron.¹⁰⁹ As a result of the abolishment of the gold standard, banks sold immense amounts of yen for dollars, causing the yen's value to decrease against the dollar after the gold standard was abolished in 1931. A large portion of this impact was witnessed by Japanese people, in particular farmers, whose crops dropped 43 percent between 1929 and 1931.¹¹⁰ The consequent reduction in people's ability to pay taxes led to a conclusion that Japan needed significant economic reforms to regain its former prominence. In spite of the Great Depression's impact on Japan's economy, it incurred less harm than its Western counterparts. A rather unconventional turn was about to take place, however, when Kwantung troops, already present in the area, helped conquer South Manchuria on September 18, 1931. The Kwantung Army advanced on the same day after the Chinese Northeast Army suffered defeat by seizing Shenyang.¹¹¹ Based on their assessment, the strike was carried out by Chinese forces since it targeted Japan's main interest sector, railways. In the midst of this period, Western nations were recovering from the Great Depression, which made it difficult for them to devote enough attention to the conflict.

The Kwantung army in Manchuria was not a new phenomenon, regardless of how critical it is to acknowledge this. Their ascent in China was enhanced by the railway lines constructed in 1905. Ogata asserts (Ogata 1964) that Japan's inability to maintain its Manchuria holdings is

¹⁰⁸ Sadako Nakamura Ogata. *Defiance in Manchuria: Making of Japanese Foreign Policy*. (Berkeley: University of California Press, 1964).

¹⁰⁹ Winston S. Churchill. *Memoirs of The Second World War*. (Cambridge: Houghton Mifflin Company, 1959). 34.

¹¹⁰ Toake Endoh. *Exporting Japan: Politics of Emigration to Latin America*. (Illinois: Board of Trustees of the University of Illinois, 2009).

¹¹¹ Wenzhao Tao. *A History of China-U.S. Relations (1911-1949)*. (Singapore: Springer and Shanghai People's Publishing House, 2002).

attributable to both the Soviet Union's rise and its nationalism.¹¹² Over time, the Japanese army pursued plans to use the South Manchuria Railway as a “Trojan Horse” for a possible war with the Soviet Union over the northern Manchuria region.¹¹³ Manchuria was the scene of fierce international competition between Japan and the US while the latter sought to establish a foothold in the region. Aside from that, Manchuria presented the same opportunity for economic advancement to Japan as it did to the US. There are estimates that more than 1.55 million Japanese emigrated to Manchuria between 1930 and 1940.¹¹⁴ Following the violent assault on a Japanese national in Shanghai in January 1932, Japanese military units were dispatched to ensure the safety of Japanese citizens. In the aftermath of a number of casualties on both sides, Kwantung had succeeded in setting up a puppet monarchy by 1932. Known as the State of Manchukuo, the state was an independent Japanese puppet state that existed between 1932 and 1945.¹¹⁵ Yamamuro notes, however, that Manchuria was never merely a puppet state or colonial power.¹¹⁶ The militarist strategy of Japan, particularly in Manchuria, clearly had a military component. As defined, imperialism refers to the extension of a country’s influence by means of colonialism and military force for strategic purposes, akin to Japan’s imperial diplomacy.¹¹⁷

Colonel Ishiwara Kanji of the Japanese Imperial Army was in charge of Japan's imperialization, an important conduit for communicating national interests because of his hostility towards the international community, in particular the US. Manchuria’s invasion, which was followed by a series of variables, clearly demonstrated Japan's expansionist tendencies. In the run-up to the Russo-Japanese war, western countries were intrigued by the natural resources of

¹¹² Sadako Nakamura Ogata. *Defiance in Manchuria: Making of Japanese Foreign Policy*. (Berkeley: University of California Press, 1964).

¹¹³ Mark Gamsa. *Manchuria: A Concise History*. (London: Bloomsbury, I.B. Tauris and the I.B. Tauris logo, 2020). 75-87.

¹¹⁴ Maizuru Repatriation Memorial Museum. Social Situation during the Early Showa Period.

¹¹⁵ Hatano Sumio and Shoji Jun'ichiro. (2011). *Japan-China Joint History Research Report (Modern and Contemporary History Vol.1)*. 128-164 https://www.mofa.go.jp/region/asia-paci/china/pdfs/jcjhrr_mch_en1.pdf . (accessed October 20, 2020).

¹¹⁶ Shin'ichi Yamamuro and Joshua Fogel. *Manchuria Under Japanese Dominion (Encounters with Asia)*. (Philadelphia: University of Pennsylvania Press, February 2006).

¹¹⁷ Sakurai Ryoju (August 2014). Japan's Post–World War I Foreign Policy: The Quest for a Cooperative Approach. *Nippon.com* <https://www.nippon.com/en/in-depth/a03301/> . (accessed November 30, 2020).

Manchuria. Therefore, the US and Japan disagreed over naval armament in much the same way as they disagreed over Manchuria. The acquisition of Chinese territories by the former, including Jehol province, proves its dominance of the Far East. In light of this, the Great Depression and the Mukden incident certainly contributed to the country's foreign policy transformation in the 1930s, reorienting Japan's alliance with Italy and Germany.¹¹⁸ By utilizing power politics, Japan was able to acquire its dominance over the Asian continent. Despite this, there have been arguments asserting that the influence of the West contributed to Japanese imperialism's resistance.¹¹⁹ There was an outbreak of nationwide mobilization of the army at this time, consequently gaining broad popularity, *taigai-ko* or a firm attitude against a foreign power. The mobilization, however, was not received well by everyone else, as reflected in the 'Lytton Report', as outlined in the following section. Diplomacy enhancement was Japan's strategy for fostering relations with foreign countries, namely the US.¹²⁰ In this way, Mustu Diplomacy, Komura Diplomacy, and Shidehara Diplomacy comprised the prewar diplomacy of Japan.¹²¹ The foreign policy of Shidehara, however, was most conducive to accommodating the Washington Conference's objectives, embracing 'soft diplomacy' to make progress. The Washington Conference aimed to determine whether Japan's Manchuria interests would be guaranteed under international law.

In the course of the discussion, Shidehara broached the topic of cooperation with the US and the UK. Over the course of this period, Castle assumed the role of ambassador to Japan for the State Department, establishing himself as Shidehara's closest associate. Shidehara took a strong interest in Manchuria's underlying conflict. In response to a telegram from the Japanese Consul General in Mukden, he notified Prime Minister Wakatsuki Reijirō of the military action. Having discussed Japan's policy in Manchuria with Shidehara previously, Castle was initially convinced

¹¹⁸ Takeda Tomoki. *The Yoshida Shigeru Years: Coming to Terms with the Issues of Historical Memory*. (Colorado: Lynne Rienner Publishers Inc, February 2020). 13.

¹¹⁹ Sadako Nakamura Ogata. *Defiance in Manchuria: Making of Japanese Foreign Policy*. (Berkeley: University of California Press, 1964).

¹²⁰ Makoto Iokibe. *The Diplomatic History of Postwar Japan*. (Abingdon: Routledge Taylor & Francis Group, 2011).

¹²¹ Tosh Minohara, 'Japan In the World: Shidehara Kijuro, Pacifism and the Abolition of War,' *Pacific Affairs, University of British Columbia*, Vol. 83, No.4, December 2010. (accessed November 30, 2020).

Shidehara held the reins and intended to act unilaterally. It should be noted, however, that the political parties in Japan were ambiguous in many ways. The actions taken by General Hayashi Senjūrō contributed to the outbreak of war, including the deployment of troops to Manchuria without the approval of the central government. By the time Wakatsuki became aware of the operations, the military units were already en route, which left him no option but to determine the next course of action. Thus, on October 9, he agreed that a new plan should be taken in the event of an evacuation in the absence of a deal with China, permitting some restrictions on Japanese imports and an agreement on railway disputes with China. William Castle, a key figure in US diplomacy at this time, warned the Japanese ambassador in Washington of the potential harm caused by what he called hostile actions. However, one thing was certain, the Kwantung Army was beyond *Gaimusho* jurisdiction. On January 2, 1932, Kwantung attacked Jinzhou, prompting Roosevelt to urge President Herbert Clark Hoover to impose economic sanctions against Japan. Hoover did not consider economic sanctions to be viable options for retaliation and did not apply any measures in response but rather backed China's request to form a government in Jinzhou with the US, UK, and France. This prompted Shidehara to order the Chinese Army and Zhang Xueliang administration to withdraw their troops, which proved to be an irritant for China. In addition to the puppet state already in place, the Japanese War Minister sent more troops to China in an attempt to defuse tensions. In advance, Shidehara sent a secret data snippet to US Ambassador William Cameron Forbes, the contents of which were considered treacherous by Stimson since they revealed Japan's desire to end the offensive against Jinzhou.

Thus, Jinzhou's invasion was a breach of American trust. On January 7, 1932, the State Department sent the following statement to China and Japan; "The American Government deems to be its duty to notify both the Imperial Japanese Government and the Government of the Chinese Republic that it cannot admit the legality of any situation *de facto* nor does it intend to recognize any treaty or agreement entered into between those Governments, or agents thereof, which may impair the treaty rights of the US or its citizens in China, including those which relate to the sovereignty, the independence, or the territorial and administrative integrity of the Republic

of China, or to the international policy, relative to China, commonly known as the open door policy; and that it does not intend to recognize any situation, treaty or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928, to which Treaty both China and Japan, as well as the US, are parties.”¹²² In its unwillingness to acknowledge Manchuria’s puppet status, the US relied on these sanctions to penalize the nation. It was in 1932 that the US initiated its policy on Manchuria disputes, referred to as the Stimson Doctrine, reiterating its refusal to recognize any treaty reached between Japan and China. Nevertheless, between 1932 and 1939, Manchuria gained recognition from the Vatican, El Salvador, Dominican Republic, Italy, Spain, Germany, Poland, and Hungary.¹²³ The US was not the only country that denied recognition of Manchuria, but the Japanese cabinet, led by Prime Minister Inukai Tsuyoshi, was also unreceptive. However, his denial led to his amputation on May 15, 1932, carried out by a group of armed men. Moreover, Hayashi Fusao (1903-75) argued that Western hostility to Asia explains Manchuria’s temporary existence.¹²⁴ Following the demise of Inukai Tsuyoshi, the Japanese government officially recognized Manchuria in late 1932. Furthermore, Shidehara was fired after it was determined that he had leaked information to the US and was being probed by the MOFA. Intensive negotiations were underway between the administration and the army over the appointment of the next Prime Minister.

On May 26, 1932, Admiral Saitō Makoto became the new prime minister, appointing five members of his party to fifteen ministries, with the rest of the cabinet composed of military officials. According to Makoto, the annexation of his ‘home territory’ was an important principle in his life.¹²⁵ Intensive discussions were underway regarding the appointment of the new prime minister between the administration and the army. After assuming office on May 26, 1932, Admiral Saitō

¹²² Wenzhao Tao. *A History of China-U.S. Relations (1911-1949)*. (Singapore: Springer and Shanghai People's Publishing House, March 2022).

¹²³ Mark Gamsa. *Manchuria: A Concise History*. (London: Bloomsbury, I.B. Tauris and the I.B. Tauris logo, February 2020). 75-87.

¹²⁴ Shin’ichi Yamamuro and Joshua Fogel. *Manchuria Under Japanese Dominion (Encounters with Asia)*. (Philadelphia: University of Pennsylvania Press, February 2006).

¹²⁵ Japan Center for Asian Historical Records. National Archives of Japan. JACAR Newsletter Number 33. The March 1st Movement and the Governor- General of Korea.

Makoto became prime minister, selecting five party members for fifteen ministries, with the remainder of the cabinet composed of military officials.

2. The Lytton Commission Report: The Manchurian Crisis

After the event at Mukden in 1931, Japan consolidated its military dominance by setting up its own government. For Japan's assertiveness to be addressed, the League of Nations, which both countries have already joined, was the place where China could lodge a complaint. Therefore, China filed a complaint with the League of Nations on September 19, 1931, alleging that the League of Nations Charter requires; "Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall ipso facto be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not."¹²⁶ Despite this, the process of decision-making was delayed due to the fact that the US was not a member of the League of Nations. Despite China's attempts to convey the same message to the US, Stimson and Hoover believed that their interests in China were unaffected, citing Japanese claims Manchuria was likely an unplanned event. During Song Ziwen's meeting with Acting Secretary of State to the Minister in China Nelson Johnson on September 30, the US was encouraged to show more assertiveness in the face of Japanese belligerence. At this point, Johnson had made clear to Shidehara that he was not seeking a direct confrontation, but rather to resolve the conflict amicably. Nevertheless, Japan exploited the League's inaction, as did the Americans, gaining control of 13 cities, including Jinzhou, prompting the US to take stronger measures. Regardless, the latter struggled to make decisions as its trade with China totaled \$56 million, compared with \$135 million in trade with

¹²⁶ Yale Law School, "The Covenant of the League of Nations", (Including Amendments adopted to December 1924). (accessed November 30, 2020).

Japan in 1932. After two years of enlarging the military on the Great Wall, the Chinese nationalist government ceased military operations in 1935. The power of a country represents its strength, and the power of a country can influence other countries to act in accordance with the country's objectives, historians argue. Thus, it confirms the historical link between national power and military force, with war being the ultimate power dynamic in international affairs.¹²⁷ Thus, aiming to clarify and transparently assess the situation, it was decided to reinstate the committee that had been charged with investigating and assessing the situation. Upon China's request, Britain, France, Italy, and Germany created a committee to inspect the situation in China, with support from the US. Additionally, there were representatives from Japan and China participated on the committee. The League's commitment was often referred to as 'Collective Security'. Basically, a statesman was supposed to conduct a public debate; disputes would be handled by the league; economic sanctions would be imposed on the aggressor; and to cap it all, military weapons were supposed to be available to members.¹²⁸ To safeguard the League's covenants, the Council made recommendations to the governments about the effectiveness of the military, air force, and naval forces each member provided. While not a member of the league, the US contacted Foreign Minister Yoshizawa Kenkichi in hopes of resolving the issue. As Japan's military action had already intensified prior to the council meeting, the US had limited options for retaliation.

As of January 2, 1932, the Kwantung Army had seized Jinzhou, which Stimson addressed in the following note: "The American Government deems to be its duty to notify both the Imperial Japanese Government and the Government of the Chinese Republic that it cannot admit the legality of any situation *de facto* nor does it intend to recognize any treaty or agreement entered into between those Governments, or agents thereof, which may impair the treaty rights of the United States or its citizens in China, including those which relate to the sovereignty, the independence, or the territorial and administrative integrity of the Republic of China, or to the international policy, relative to China, commonly known as the open door policy; and that it does not intend to

¹²⁷ J. Boone Bartholomees. *US Army War College Guide to National Security Issues: National Security Policy and Strategy*. (Virginia: Library of the Marine Corps November, 2012).

¹²⁸ Martyn Housden. *The League of Nations and the Organisation of Peace*. (London: Pearson Education Limited October, 2011).

recognize any situation, treaty or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928, to which Treaty both China and Japan, as well as the US, are parties.”¹²⁹ In an effort to better understand the conflict, Donald R. McCoy and Bulwer-Lytton traveled to China on March 14 and conducted interviews with residents, journalists, civic organizations, educators, and more. On March 26, they returned to Nanking and subsequently to Peking. In Japan, the Lytton Commission was referred to as the *Kokusai Remmei Shina Chosa Iinkai* referred to as an international dispute resolution panel.¹³⁰ During six weeks of travel, the commission toured every region of Manchuria to gain a firsthand perspective of the situation. The report was begun only after they returned to Peking, with McCoy and his colleagues visiting Saitō Makoto, the newly elected Japanese minister of foreign affairs, to negotiate a diplomatic settlement.¹³¹ There was certainly an array of diplomatic techniques employed during this time to maintain peace. Therefore, McCoy conveyed the following message to the American Ambassador in Tokyo: “The Chinese are devils to work with. They have not played the game with the Japanese [and] have had a most irritating policy in Manchuria.”¹³² The Lytton Commission, which was tasked with investigating Japan’s actions, was unable to prevent Japan from enhancing its military. In August 1932, the US Ambassador to Japan Joseph C. Grew warned Secretary Stimson that tensions were likely to worsen. In addition, he claimed that the Japanese military was ‘made for war’, thus allowing them to perceive themselves as solidly prepared should a war break out.¹³³

A timely update on the situation was provided by Shigemitsu Mamoru, the Japanese ambassador to China, and *Gaimusho*. The committee issued a report in October 1932 declaring that the actions of the Japanese Kwantung Army were, ‘not be regarded as a measure of legitimate

¹²⁹ Wenzhao Tao. *A History of China-U.S. Relations (1911-1949)*. (Singapore: Springer and Shanghai People's Publishing House, March 2022)

¹³⁰ Report of the Commission of Enquiry. Appeal By the Chinese Government. League of Nations. Communicated to the Council and the Members of the league. Official No: C.663.M.320.1932. VII. Geneva, October 1st, 1932.

¹³¹ Andrew J. Bacevich. *Diplomat in Khaki: Major General Frank Ross McCoy and American Foreign Policy, 1898-1949*. (Kansas: University Press of Kansas, June 1989).

¹³² United State Department. SCAP, Peace and War: United States Foreign Policy, 1931-1941. US Government Printing Office. Washington: 1943.

¹³³ United State Department. SCAP, Peace and War: United States Foreign Policy, 1931-1941. US Government Printing Office. Washington: 1943.

self-defense,’’ therefore, the report grants China’s autonomy over Manchuria.’’¹³⁴ While the founding members of the league were optimistic, the Great Depression and nationalism eventually led to the league’s decline. Despite Stimson’s optimism about settling the issue, Japan’s hostile response was the last thing they expected. Despite McCoy’s portrayal of Japan as a belligerent nation, as presented previously, the US had already made Japan its foremost commercial partner by 1932. Despite this, China continued to keep the US in the loop as outlined by the Minister in China Johnson’s message to the Secretary of State; ‘I am more and more convinced that Japanese activities in Manchuria must be viewed in the light of Russo-Japanese relations rather than Sino-Japanese relations. It would appear that the Japanese Government made a careful survey of conditions in China last summer and reached the conclusion that China was disintegrating, that Chinese leadership was losing its prestige, and that the Kuomintang was no longer powerful. China is too weak to maintain her sovereignty in Manchuria and is unable to maintain, as, between Russia and Japan, the neutrality of Manchuria which lies between these two countries, both vitally interested in that area.’’¹³⁵ A total of 19 chapters comprised the report, with the first eight dealing with historical context, principles, and circumstances of settlements, as well as recommendations for the council.¹³⁶ Although it was less than clear how Japan viewed the final report, an opportunity was provided for it to provide its perspective. Based on the commission’s findings, both Japan and China had a vested interest in Manchuria.

Thus, the committee could not accept Japan’s argument that it had ‘special interests’ in Manchuria as defined by the Lansing-Ishii agreement of 1917. A more detailed analysis was carried out on the fact that: ‘The Japanese Government, since the Russo- Japanese War, has at various times sought to obtain from Russia, France, the United Kingdom and the United States of America recognition of their country’s ‘special position,’ ‘special influence and interest,’ or ‘paramount interest’ in Manchuria. These efforts have only met with partial success, and, where recognition of such claims has been accorded, in more or less definite terms,

¹³⁴ Appeal by the Chinese Government, *The Report of the Commission of Enquiry, League of Nations*, This Document can be accessed at MOFA, Japan. (October 1st, 1932).

¹³⁵ Office of the Historian. Foreign Relations of the United States Diplomatic Papers, 1932, The Far East, Volume III. The Minister in China (Johnson) to the Secretary of State. 793.94/3503: Telegram.

¹³⁶ The Lytton Report. Japan and the League of Nations. Secret C.P. 404 (32). Copy No. 55. Printed for the Cabinet. November 1932. This Document is the Property of His Britannic Majesty’s Governance.

the international agreements or understandings containing them have largely disappeared with the passage of time, either by formal abrogation or otherwise.”¹³⁷ The signatories of the Nine-Power treaty of 1922, ‘in large part, challenged any claims by a signatory state regarding special interests or privileges in any part of China, including Manchuria.’ The Japanese claim to such a position in Manchuria, “conflicts with the sovereign rights of China.”¹³⁸ The Lytton Report outlined Japan and China’s difficulties in Manchuria, contributing to the crisis on September 18, 1931. Disputes arose over Japanese treaty rights in Manchuria, including the question of Japanese railway guards, the Korean issue, the right of the Japanese to reside in the interior, as well as the Nakamura case. The Commission found, however, that by August 1931; “Sino-Japanese relations over Manchuria were severely strained in consequence of the many controversies and incidents described...in a claim that there were 300 cases outstanding between the two countries and that peaceful methods for settling each of them had been progressively exhausted by one of the parties cannot be substantiated. In reality, these so-called ‘cases’ were a collection of broader issues arising out of fundamentally irreconcilable policies. There are allegations on both sides that the other side had violated, unilaterally interpreted, or ignored the stipulations of the Sino-Japanese agreements each side had legitimate grievances against the other.”¹³⁹ Although some efforts were being made to dispose of these issues; “by the normal procedure of diplomatic negotiation . . . and these means had not yet been exhausted . . . the long delays put a strain on the patience of the Japanese”, particularly in army circles.¹⁴⁰

The commission’s recommendations were aimed at safeguarding Japanese interests in conjunction with Chinese interests. The Commission opposed restoring the status quo ante because it would “fail to take into account the reality of the situation”. In the same way, it opposed the continuation and recognition of the puppet state of Manchukuo. In spite of this, the Commission recommended creating an autonomous administration in Manchuria, subject to Chinese

¹³⁷ Appeal from the Chinese Government, *Communication from the Chinese Delegation*, This Document can be accessed at MOFA, Japan. (December 3rd, 1932).

¹³⁸ Manchuria: Report of the Commission of Enquiry Appointed by the League of Nations. United States Government Printing Office, Washington 1932.

¹³⁹ Manchuria: Report of the Commission of Enquiry Appointed by the League of Nations. United States Government Printing Office, Washington 1932.

¹⁴⁰ Foreign Policy Reports, ‘International Action on the Lytton Report,’ Vol. VIII, No. 18. 1932, 1932, *Foreign Policy Association*. (accessed January 1, 2021).

sovereignty, based on “direct negotiations” between Japan and China.¹⁴¹ As a result, the commission suggested that the League Council convene the Chinese and Japanese governments to settle their dispute in accordance with the report. Following the endorsement of the invitation, the next step was to convene an Advisory Conference with representatives from the Chinese and Japanese governments, and two delegations from the local community. Both parties consented to the appointing of a neutral observer, and the report of the commission was comprehensive and unanimous. Manchuria was deemed an artificial construct by the Japanese General Staff without considering the preferences of the Japanese people. Furthermore, the report offered concrete international remedies in addition to merely reporting on the issue.

3. The League of Nations and the East Asian Imperial Order: Japan’s Withdrawal from the League

Despite apparent insurmountability, Japan faced a monumental challenge with Manchuria. In the wake of the Lytton Report, the situation deteriorated with the demise of Prime Minister Inukai Tsuyoshi in May 1931, ending the party cabinet’s existence. As a result of a coalition between Association of Friends of Constitutional Government *Rikken Seiyūkai* and Constitutional Democratic Party *Rikken Minseitō* parties in government, Prime Minister Saitō Makoto promised to pursue official recognition of Manchuria regardless of the consequences. Responding to the Lytton Report, the Japanese government stressed that the commission's six-week trip to Manchuria and a few extra weeks in Beijing (then Peiping) and Nanjing (then Nanking) were inadequate for an accurate assessment. As a result of its inadequate and inept analysis, the report was deemed inadequate and ineffective. However, for the Lytton commission, the boycotts by the Chinese were a clear indication of their antagonistic attitude toward Japan. After responding unsatisfactorily to the March 1933 report, Japan opted to withdraw from the League of Nations. The withdrawal of

¹⁴¹ Raymond Leslie Buell, “Foreign Policy Reports. International Action on the Lytton report,” Vol. VIII, No. 18, 1932, *Foreign Policy Association*.
<https://archive.org/details/LyttonReport/mode/2up>. (accessed January 1, 2021).

Japan from the league led to a perception of a growing crisis. Therefore, through a letter sent to Congress in April 1933, US States Secretary Cordell Hull requested that Congress adopt legislation allowing the use of arms embargoes when appropriate. According to Hull, “whenever the President finds that shipping or supplying arms or munitions might promote the use of force, this will be unlawful after obtaining the cooperation of these governments.”¹⁴² Consequently, the US sent an observer to the Far East Advisory Committee, where attempts were made to impose sanctions against Japan, but to no avail. May 1933 marked the start of the construction of a wall between Manchuria and China; the wall, however, did not mean Japan intended to abandon its ambitions to expand nationwide. In a speech delivered in Washington in December 1933, Roosevelt emphasized that “the blame for the danger to peace was not in the world population but the political leaders of those populations.”¹⁴³ In reply to his remarks, Hirota Kōki, Japanese Foreign Minister, told Secretary Hull on February 21, 1934, that Japan intended to work in the interests of international peace. In May 1934, Secretary Hull met with Japanese Ambassador Hiroshi Saitō to convey differences of opinion between the two, in an effort to convince Japan to support peace measures. In spite of these efforts, the Japanese government refused to discuss the unfavorable findings of the Commission's report.¹⁴⁴

However, the Japanese government applauded the commission's efforts in two areas: the restoration of peace and the financial situation. The article did, however, emphasize the following on page 39: “Japanese interests in Manchuria differ both in character and degree from those of any other foreign country. Deep in the mind of every Japanese is the memory of their country’s great struggle with Russia in 1904-05, fought on the plains of Manchuria, at Mukden and Liaoyang, along the line of the South Manchuria Railway, at the Yalu River, and in the Liaotung Peninsula. To the Japanese, the war with Russia will never be remembered as a life-and-death struggle fought in self-defense against the menace of Russian encroachments. The fact that 100.000

¹⁴² United States Department. SCAP. Peace and War: United States Foreign Policy 1931- 1941. United States Government Printing Office, Washington: 1942.

¹⁴³ United States Department. SCAP. Peace and War: United States Foreign Policy 1931- 1941. United States Government Printing Office, Washington: 1942.

¹⁴⁴ United States Department. SCAP. Peace and War: United States Foreign Policy 1931- 1941. United States Government Printing Office, Washington: 1942.

Japanese troops perished in this war and that two billion gold yen were spent has instilled in Japanese minds a conviction that their sacrifices would not be in vain.”¹⁴⁵When the Lytton Commission was received, the Japanese government submitted the following proposals: 1. That China has, since the Revolution of 1911 fallen into a condition of confusion bordering upon anarchy, and remains in the same condition at the present moment ; that, so long as such a state of affairs persists, China may properly be considered as in a condition of national disintegration; and that at least, under present circumstances, it is entirely impossible to tell when China may come to have a strong and permanent central Government, even if we grant the ultimate possibility of that event; 2. That, because of the fact that such a state of affairs prevails in China, foreign lives and property cannot be afforded adequate protection, and that, especially in recent years, the situation has been aggravated as a result of the intensification of internal conflict and the operation of the so-called “revolutionary” foreign policy of the Kuomintang directed against foreign Powers; 3. That, consequently, foreign Powers have continued to exercise exceptional powers and privileges in China of a character now without parallel elsewhere in the world, such as extra-territorial jurisdiction, settlements and concessions, the maintenance of garrisons and the permanent stationing of warships in inland waters; 4. That, while all foreign Powers having interests in China have suffered from the anarchical condition and anti-foreign policy of China, Japan has suffered by far the most severely.¹⁴⁶ Amidst instability and uncertainty in Manchuria, Japan was unable to pull out of the region. An eight-month war broke out when Japanese and Chinese troops collided across the Marco Polo Bridge on July 11, 1937.¹⁴⁷

It is almost certain that Marco Polo led to a full-scale war between Japan and China as a result of the incident. This contributed to Japan sending troops from Korea and Manchuria in a bid to prevent further hostilities. In spite of this, Beijing and Tianjin had been seized by Japan, making war inevitable. There was division within the military between proponents of negotiations and those who advocated military expansion, which prompted Konoe Fumimaro to authorize new

¹⁴⁵ Communicated to the Council and the Members of the League. Observations of the Japanese Government. Official No. C. 775.M.366.1932. VII. Geneva, November 19th, 1932.

¹⁴⁶ Communicated to the Council and the Members of the League. Observations of the Japanese Government. Official No. C. 775.M.366.1932. VII. Geneva, November 19th, 1932.

¹⁴⁷ Higashinakano Shudo. *The Nanking Massacre: Fact Versus Fiction, A Historian's Quest for the Truth*. (Tokyo: Sekai Shuppan, Inc., Tokyo October, 2005).

offensives.¹⁴⁸ Even though Japan had invaded local cities, Chinese nationalists refused to acknowledge Japan's annexation until early 1938. Konoe responded by declaring his new objective in 1938: "the annihilation of nationalist control" which led to the Nanjing massacre, which lasted six weeks. The perspectives of Shidehara and Stimson on the Manchuria conflict differ considerably from each other in their assessments of the conflict. The goal of Shidehara was to make Japan a key player in Chinese affairs by using diplomacy to balance the interests of Japan, China, and the Soviet Union. This meant that he needed to avert US and Allied military intervention in Manchuria and Mongolia. By protecting its interests, the US should devise an East Asian policy aimed at bringing the major nations together. A four-month conflict with Soviet Union forces near the Khalkhin Gol river ended the Japanese military presence in China in 1939.

¹⁴⁸ Kazuo Yagami. *Konoe Fumimaro and the Failure of Peace in Japan, 1937-1941*. (North Carolina: McFarland & Company, Inc., Publishers, February 2016).

CHAPTER 3: The Anti-Comintern Pact: Imperial Japan and Nazi Germany

In response to a number of internal factors surrounding the economic depression, Japan and Germany sought to forge an alliance.¹⁴⁹ There were distinctive characteristics to Japan and Germany's alliance owing to Japan's declaration of war against Germany in August 1914, followed by the conclusion of the alliance that forged close ties between the two countries. This marked the moment when a significant number of German warships were delivered to Japan, enhancing bilateral relations. William Hack's efforts were instrumental in ensuring that the Germans supported substantial transfers of arms, equipment, and devices to the Japanese navy.¹⁵⁰ Beyond bilateral relations between the two, Admiral Paul Behncke had a strong interest in Manchuria, specifically its natural resources, well before 1926. However, the relationship between the two profoundly altered when Japan left the League of Nations. Based on what was discussed previously, Japan's hostility toward the democratic west resulted from a number of factors, including the Manchuria incident in 1933 resulting in the withdrawal from the League in 1934, as well as the abolition of the London and Washington Naval Treaties. Despite the league's opposition to Japan's strong-arm tactics, the league understood that Japan's withdrawal from the league was due to its inability to pursue its strategic objectives in the Far East. Therefore, with this objective in mind, the latter was primarily interested in acquiring a reliable ally. Consequently, this chapter explores the US's role in Japan's military agreement with Germany in the months leading up to the signing of the agreement. Ahead of the Naval Treaty meeting in London, military affairs expert, Friedrich Wilhelm Hack visited German politician Joachim von Ribbentrop. With

¹⁴⁹ Edwin O. Reischauer. *The Rise of Militarism. In E. O. Reischauer, Japan: The Story of a Nation.* (Vermont: Tuttle Publishing, September 1989) 152.

¹⁵⁰ John W.M. Chapman, "A Dance on Eggs: Intelligence and the 'Anti-Comintern,'" *Journal of Contemporary History* Vol. 22, No. 2, April 1987. (accessed January 1, 2021).

the goal of setting up a possible meeting in Germany, Ribbentrop recommended connecting Hack with Isoroku Yamamoto. Hence, a collaboration initiative was launched between Hack and the Air Ministry by the Japanese Naval Attaché in Berlin, Captain Tadao Yokoi. Initially, Japan was interested in acquiring the best armor-plating presses in Germany, and the latter was interested in Japanese-designed aircraft carriers.¹⁵¹ This strategy was noticed by all, including the Japanese ambassador to Great Britain, Matsudaira Tsuneo, though not all Japanese supported it.¹⁵² At this point, however, Hitler did not have any contact with the Japanese navy until May 1934, consequently, it was difficult to envision the forthcoming scenarios. During this period, the American government devoted particular emphasis to the crisis in Germany and the Far East individually, mainly due to potential joint interests. The Japanese policy began to become more hostile in 1932, contributing to the expansionist sentiment of the time.¹⁵³ In this regard, a conversation between Secretary of State Hull and German Ambassador Hans Luther on November 2, 1933, illuminated the tensions in Europe and the Far East. In his correspondence with Ambassador Luther, Secretary Hull shared his opinion that, “the outlook in Europe at this distance for disarmament for peace is not very encouraging.”¹⁵⁴

However, a lack of progress appeared to persist in the absence of constant correspondence. In his report to the State Department on November 23, 1933, General George S. Messersmith revealed that the situation had rapidly deteriorated and, “the spirit of military readiness was growing in Germany. Unless peace is to their advantage, the German leader appears incapable of seeing peace as a solution.”¹⁵⁵ Considering these factors, the US meticulously assessed the situation, realizing that a phenomenon such as this could undermine democracy. It was not until April 1934 that acting

¹⁵¹ John W.M. Chapman, “A Dance on Eggs: Intelligence and the ‘Anti-Comintern,’” *Journal of Contemporary History* Vol. 22, No. 2, April 1987. (accessed January 20, 2021).

¹⁵² Kazuhiko Kawamura, “Memories of History by Mitsumasa Yonai,” Chogen " *Rekiken Publishin*, 1989. (accessed January 20, 2021).

¹⁵³ Ken Ishida. *Japan, Italy and the Road to the Tripartite Alliance* . (New York: Springer International Publishing, October 2018).

¹⁵⁴ United States Department. SCAP. Peace and War: United States Foreign Policy 1931- 1941. United States Government Printing Office, Washington: 1942.

¹⁵⁵ United States Department. SCAP. Peace and War: United States Foreign Policy 1931- 1941. United States Government Printing Office, Washington: 1942.

commercial Attaché Douglas Miller drafted a report for the State Department that it became apparent that German economic conditions were precarious. In Miller's view, the Nazi movement sought, “to seize power to secure a greater share of the world’s future, expansion of territory and growth of the German race until it constitutes the largest and most powerful nation in the world, and ultimately, according to some Nazi leaders, until it dominates the entire globe.”¹⁵⁶ In the given period, major sources were presented to the State Department, emphasizing the growing ties between Germany and Japan. Hence, US Military Attaché in Berlin, Lieutenant Colonel Wuest, accurately reported to the State Department in May 1934 that Berlin was undergoing revolutionary reforms. In addition, he stressed that “there is a potential existing close friendly relation between Germany and Japan to a possible secret alliance. Germany is (we) are encouraging close and friendly relations with Japan because it is to our advantage to do so but we must never forget that we are white people, and they are not.”¹⁵⁷ While bolstering its ties with Germany, Japan resolutely avoided any confrontation with the US. As a result, Hirota Kōki, Japan’s Foreign Minister, wanted to be sure he conveyed a clear message to the State Department in reference to their strategic alliance. In February 1934, Hirota outlined his views to Secretary Hull, “no questions existed between the US and Japan which was fundamentally incapable of amicable solution and emphasized that Japan had no intention whatsoever of making trouble with any other power.”¹⁵⁸

Despite Hirota’s optimistic thoughts, Hull remained skeptical in light of Japan’s maneuvers in China. Therefore, in response to Hirota’s message, Hull emphasized that if controversies occurred between the US and Japan, their position would have to be reconsidered in the Far East. Shortly thereafter, the Japanese Foreign Office's Spokesman, Amau, made a statement that stirred up great controversy. The Asian Monroe Doctrine *Amou seimei* reaffirmed Japan’s opposition to efforts to undermine Asia's peace by exploiting its resources. That being said, Japan disapproved of all

¹⁵⁶ United States Department. SCAP. Peace and War: United States Foreign Policy 1931- 1941. United States Government Printing Office, Washington: 1942.

¹⁵⁷ United States Department. SCAP. Peace and War: United States Foreign Policy 1931- 1941. United States Government Printing Office, Washington: 1942.

¹⁵⁸ Office of the Historian. Foreign Relations of the United States Diplomatic Papers, 1934.

foreign loans, aid, and military equipment, as well as the restriction of political affairs between the two countries.¹⁵⁹ From the US perspective, however, the Amau statement was not a declaration policy, it was a *disclosure* policy.¹⁶⁰ Therefore, the statement was not considered valid by the US government. Both Secretary of State Hull and President Roosevelt struggled to respond to this statement, considering American citizens would oppose military intervention. Alternatively, the US could rely on Great Britain, China's largest foreign investor, to act appropriately if needed. Congressional responses differed slightly; in May, Dimond Anthony Joseph, Alaska territorial delegate, shared with the House of Representatives an article by Senator Arthur R. Robinson. Senator Robinson argued that Alaska is at risk of being attacked by Japan because of its close proximity. Considering Japan's expansion into the Pacific Area, he suggested Alaska should have been given equal attention to Pearl Harbor. Therefore, Secretary Hull in a speech delivered at Washington in May 1934 emphasized the following, "dictatorship had sprung up suddenly in place of democratizes; those nations everywhere were narrowing their visions, policies, and their programs; that each was undertaking more and more to visualize only itself and to live by itself; those numerous nations were feverishly arming."¹⁶¹

The Amau statement marked a significant departure from conventional views of the US foreign policy. Furthermore, Japan's move to southern Indochina also indicated to the US that the country was moving towards oil-rich regions.¹⁶² A number of factors contributed to the US disengaging from Far East affairs following the signing of the 21 Demands agreement. Although Cordell Hull emphasized at the State Department in 1933 the US interest in the Far East, his first objective was to prevent US hegemony in the region while keeping China independent. The Japanese foreign minister Hirota pursued *Hirota Wakyo Gaiko* diplomacy, or 'friendly diplomacy of Hirota.' In the

¹⁵⁹ Bernard L. Muehlbauer, "The Amau Statement of 1934: Its Sources and its Consequences," *Oklahoma State University*, September 1965. (accessed January 20, 2021).

¹⁶⁰ *Ibid.*

¹⁶¹ Office of the Historian. Foreign Relations of the United States Diplomatic Papers, 1934.

¹⁶² Foreign Relations of the United States: Diplomatic Papers. Volume VIII. The Far East. United States Government Printing Office Washington: 1971.

end, Hirota's diplomatic efforts were integral to Japan's victory, giving it the chance to expand its economic and political influence in China without resorting to the use of force. Following diplomatic correspondence between the Chief of Far Eastern Affairs (Hornbeck) and the Secretary of State Hull, the Japanese Foreign Office in its memo to its Minister to China explains the following: "From the points of view above stated we think our guiding principle should be generally to defeat foreign activities in China at present, not only those of a joint nature but those conducted individually, in view of the fact that China is still trying to tie Japan's hands through using the influence of foreign Powers."¹⁶³ As part of the defense of the US against hostile forces, General MacArthur proposed the expansion of the Army by demanding information about the conflict on a primary level. A meeting between Secretary Hull and German ambassador Luther in March 1935 addressed German objectives in Austria, Czechoslovakia, Memel, and the Polish Corridor. Luther, however, denied such claims and asserted that the government was more concerned about maintaining peace rather than waging war. However, it was the Germans' persistent pursuit of their strategic objective as well as Japan's position as a protector of the Far East that diminished the significance of the Monroe Doctrine.

In a meeting with Soviet ambassador Konstantin K. Yurenev in March 1935, Konoe Fumimaro elaborated on the possibility of establishing a demilitarized zone between Manchurian and Soviet territory.¹⁶⁴ However, this hardly sounded like a conducive environment for peace. In the beginning, Japan became an East Asian power at the expense of Russia; therefore, Western powers expected Japan to play a dual role in stabilizing the international order. But this was soon to change when, in October 1935, Joachim von Ribbentrop began to consider forming an Anti-Communist alliance with Kwantung forces. As such the military attaché to Berlin Hiroshi Ōshima welcomed Ribbentrop's proposal, hoping to bind China to Japan. Despite Ribbentrop's sentiments,

¹⁶³ Office of the Historian. Foreign Relations of the United States Diplomatic Papers, 1934, The Far East, Volume III. 793.94/6670. Washington, 1934.

¹⁶⁴ Dmitry Strelstov and Nobuo Shimotomai. *A History of Russo-Japanese Relations*. (Leiden: BRILL, June 2019). 201-209.

the German government did not unanimously support him, as Baron Konstantin v. Neurath and War Minister Werner v. Blomberg were concerned that a unilateral agreement with Japan would have a negative impact on Sino-Japanese relations. Therefore, the parties postponed their negotiations to the extent that the Spanish Civil War took place simultaneously. The agreement was not finalized until it reached its conclusion in February 1936. Throughout this period, Secretary Hull and President Roosevelt repeatedly expressed concern that peace was deteriorating. With Hitler's announcement of the German air force, Japan began limited military activity in China. Although President Roosevelt stressed the need to promote peace, the US reaffirmed neutrality during tumultuous times.¹⁶⁵ Despite this, he was concerned about the war's impact on everyone, regardless of their preferences. Furthermore, he stressed that, "we sought earnestly to limit world armaments and to attain the peaceful solution of disputes among nations; we sought by every legitimate means to exert our moral influence against discrimination, intolerance, and autocracy, and in favor of freedom of expression, equality before law, religious tolerance; we decline to encourage the prosecution of war by permitting belligerents to obtain arms from the US and sought to discourage the export of belligerent nations of abnormal quantities of other war materials."¹⁶⁶ This period was marked by several landmark decisions, including the Neutrality Acts, by which belligerent nations were prohibited from extending loans or credits. On June 12, 1936, the Secretary of State Hull addressed the Far Eastern crisis with Yoshida Shigeru, the Japanese ambassador.

The ambassador stressed to the US that the exponential growth of the Japanese population necessitates an extension of territory, a factor not overlooked by the US. However, Hull remained convinced that Japan had economic dominance. In response, concerns about the Franco-Soviet alliance arose in Berlin and Tokyo, prompting the two parties to resume their Anti-Communist talks. Essentially, both countries joined forces to defeat the Soviet Union, their common enemy. While remaining mindful of their reciprocity demands, the Japanese took advantage of the

¹⁶⁵ Digital History. Neutrality Act of 1936. Digital History ID 4059. Date 1936.

¹⁶⁶ Peace and War: United States Foreign Policy, 1931-1942. Warnings by President Roosevelt and Secretary Hull. United States Government Printing Office, Washington: 1943.

opportunity to compel Germany and Italy to acknowledge Manchuria.¹⁶⁷ In response to the Manchuria incident, the Soviet Union established general consulates in Harbin, Dalian, and Manzhouli. Though the Soviet Union did not formalize its recognition of Manchuria, its de facto recognition was evident. As such, the Manchukuo regime classified the Soviet consulate in Harbin as a ‘semi-organized state’, or *jun-shoninkoku*. Nevertheless, relations ceased following clashes at Lake Khasan between *Changkufeng* and *Khalkhin Gol Chōkohō Jiken* and the decision by Manchuria to establish alliances with Japan, Germany, and later Italy. However, the ceasefire of September 1939, however, marked a turning point in Soviet-Manchuria relations. A neutrality agreement between the two nations was signed on April 13, 1941, stipulating that the Soviet Union would respect the territorial integrity of Manchuria. In August 1945, the Soviet army invaded Manchuria, resulting in the collapse of Manchuria.¹⁶⁸ Even so, Germany was able to maintain good relations with China while maintaining commitment to Japan at the same time. Although, this led to a rift in Konoe’s first cabinet when the Germans proposed adding Britain to the agreement. Foreign Minister Hachirō Arita and Navy Minister Yonai Mitsumasa both argued that a strong relationship between Britain and the US would negatively affect US-Japanese relations.

In response, this was followed in January 1939 with Konoe’s resignation, however, in spite of the factors presented, Yonai and Hachiro did not express opposition to the German-Japanese pact. As a result of six months of efforts to finalize the pact, Hiroshi Ōshima of the Japanese army and von Ribbentrop rekindled Japanese interest in it. As early as November 1936, Ribbentrop began working on the agreement's text. A lengthy process culminated in the signing of the agreement by Ribbentrop and Japanese Ambassador Kintomo Mushanokōji. The Anti-Comintern Pact or *Bōkyō kyōtei* formally known as the *Kyōsan ‘intānashonaru’ ni taisuru kyōtei* was

¹⁶⁷ MOFA, Japan, ‘Japanese Diplomatic Documents Second European War and Japan Volume 1,’ Japan-Germany-Italy Tripartite Pact, Japan-Soviet Neutrality Pact. (accessed January 25, 2021).

¹⁶⁸ JACAR. Documents released on March 11, 2019. Diplomatic Archives of the Ministry of Foreign Affairs, Postwar Diplomatic Record. Series B’ Treaties, Agreements, International Conferences and International Organizations. Manchukuo’s International Relations: Manchukuo-Recognition Problem and Foreign Missions.

concluded on 25 November following Tokyo-based negotiations culminating in a Berlin signing on 26 November 1936.¹⁶⁹ There was a separate accord prohibiting the two from assisting the Soviets should the latter attack either country. In Japan's case, such an agreement was a boon because it enabled it to gain more power by persuading its allies not to side with the Soviet Union. In response to the 25 November 1936 Anti-Comintern Pact, the Imperial Japanese Army and the German Ministry of Defense issued the following joint statement:

1. Share military intelligence related to the Soviet Army and the Soviet Union.
2. Cooperate in carrying out subversive operations against the Soviet Union; and
3. meet at least once a year to discuss ways to facilitate the information sharing and intelligence

operations mentioned in 1 and 2 as well as military matters within the scope of the Anti-Comintern Pact.¹⁷⁰

An essential component of the agreement was cooperation between the German Abwehr (defense) and the Japanese Second Bureau of Intelligence. The two secret agreements took place between 1930 and 1932, one to facilitate Japanese-German intelligence operations, and the other to facilitate Soviet-Japanese coordination.¹⁷¹ On May 11, 1937, Oshima and chief Admiral Canaris signed two agreements to supplement the existing agreement. In the first accord, information about the Soviet Union was specifically covered, while in the second, Soviet actions were addressed as follows:

1. Joint operations [in Soviet territories) shall include (a) strengthening of national-ist movements of all ethnic groups; (b) anti-communist propaganda; and (c) preparations for instigating revolutionary, terrorist and riotous activities at the outreach of war.

2. The required preparations shall be made in respect to the entire Soviet Union, which shall therefore be divided into three spheres of interest: (a) the region bordering Europe to the west, from Finland to Bulgaria, shall be Germany's primary sphere of interest; (b) the region bordering Europe to the southwest (Turkey and Iran) shall be

¹⁶⁹ The National WWII Museum. New Orleans. Nazi Germany, Imperial Japan, and the Anti-Comintern Pact. November 17, 2021.

¹⁷⁰ Tajima Nobuo, "The Origins of the Berlin-Tokyo Axis Reconsidered: From the Anti-Comintern Pact to the Plan to Assassinate Stalin," *Seijo Law, Faculty of Law, Seijo University*, 2002. https://www.seijo-law.jp/pdf_slr/SLR-069-380.pdf (accessed March 10, 2021).

¹⁷¹ Shingo Masunaga, "Facts Clarified?: The Interwar Estonian-German-Japanese Intelligence Cooperation," *Estonia Academy Publishers*, Issue No. 25, 2019. (accessed January 25, 2021).

a common sphere of interest to both signatories; and (c) the region bordering Asia to the east shall be Japan's primary sphere of interest.

3. The joint operations shall be conducted from 1937 to 1941, in accordance with the appended five-year plan.

4. The cost of operations in the common sphere of interest shall be borne in equal shares by both signatories.

5. Each signatory shall constantly keep the other fully informed of the subversive conditions in its primary sphere of interest. [6 and 7 omitted here]

8. In the event that either signatory is drawn into war against the Soviet Union, the other signatory shall use all possible means to strengthen its strategic positions in its primary sphere of interest and in the common sphere of interest, as defined in article 2.¹⁷²

As a means of strengthening the military ties between the two countries, four points were agreed upon after the bilateral agreements dated February 1937:

1. Interaction on operation planning,
2. Exchange on Soviet information
3. Stratagems
4. Training for military equipment's and military affairs.

In May 1937, Canaris-Oshima signed an additional agreement to play a role in Soviet military operations. In order to address these matters, the Japanese Military Attaché to Europe convened conferences in Paris and Riga in October 1938. In a document published by the Angle-Foreign Information Bureau (AFID), a joint war plan was discussed secretly by Germany and Japan at their legation in Riga.¹⁷³ However, there were Japanese politicians who opposed the pact, including former Foreign Minister Ashida Hitoshi. When the Manchuria incident occurred, Ashida was among the diplomats revealing its occurrence was initiated by the Kwantung Army, a fact that was unknown to most Japanese. In the early 1930s, Ashida was elected to the House of Representatives as a member of the *Rikken Siyukai* (Constitutional Association of Political Friendship).¹⁷⁴ By

¹⁷² Tajima Nobuo, "The Origins of the Berlin-Tokyo Axis Reconsidered: From the Anti-Comintern Pact to the Plan to Assassinate Stalin," *Seijo Law, Faculty of Law, Seijo University*, 2002. (accessed March 10, 2021).

¹⁷³ Shingo Masunaga, "Facts Clarified?: The Interwar Estonian-German-Japanese Intelligence Cooperation," *Estonia Academy Publishers*, Issue No. 25. 2019. (accessed May 17, 2021).

¹⁷⁴ Diasuke Akimoto. *Japanese Prime Ministers and Their Peace Philosophy: 1945 to the Present*. (Singapore: Palgrave Macmillan, February 2022).

doing so, he was able to express his views, including the following, “The relations between Japan and Soviet Union as well as between the latter and other countries would be much more pleasant should such an organization as the Anti-Comintern never existed in Russia.”¹⁷⁵

Together with Ashida, Yonai Mitsumasa, Commander in Chief of Yokosuka Naval Station, criticized the Japan-German alliance, focusing on Japan’s reasons for not joining the Soviet Union rather than fighting. As such, the Anti-Comintern Pact had little significance for the Imperial Japanese Army until the Russo-German Non-Aggression Pact stimulated discussion of consolidating the pact in 1939. Upon Yonai’s appointment as Navy Minister in February 1937, a controversy arose.¹⁷⁶ Following that, Germany went through many developments, including a *coup d’etat* in 1938. In response to the event, Freiherr von Neurath, a member who supported China’s interests, stepped down in favor of General Wilhelm Keitel, a member who stood for Japan. The following year, such developments led to diplomatic ties between Germany and China being severed. A plausible scenario would have seen Soviet forces seizing power in Asia-Pacific, a region of similar importance to Japan. Japan prevented such an outcome from coming to pass by involving other countries in the process. On May 11, 1938, the Japanese Ambassador to Poland, Sakō Shūichi, conveyed an anti-committee agreement to the Polish General Staff.¹⁷⁷ There was a widespread observation that Japan was employing an anti-Soviet strategy in the Far East. However, Japan had advanced in industrialization and manufacturing by 1938, more than the US, Italy, Germany, etc. (see table)¹⁷⁸

¹⁷⁵ Vassili Molodiakov, “The Tripartite Pact and the Soviet Union,” *National Institute for defense Studies* (NDS). (accessed May 17, 2021).

¹⁷⁶ Kiyoshi Aizawa, “Japan and the Tripartite Pact,” *National Institute for Defense Studies* (NIDS). <http://www.nids.od.go.jp/english/event/forum/pdf/2010/08.pdf> (accessed May 17, 2021).

¹⁷⁷ Momose Hiroshi, “Japan’s Relations with Finland, 1919-1944, as Reflected by Japanese Source Materials,” *Hokkaido University Collection of Scholarly and Academic Papers*, 1973. (accessed May 17, 2021).

¹⁷⁸ Paul Kennedy. *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000*. (London: Unwin Hyman Limited, January 1988). 275-291.

	Germany	US	Japan	USSR
1933	79.4	121.7	360.7	363.2
1938	149.3	143.0	552.0	857.3

Table 3. Annual Indices of Manufacturing Production.

One of the features that put Japan in a better position than the given countries was its economic progress. During this time, Japan came to realize that it could only achieve economic sovereignty by waging war against the US. Comparatively, the US population was twice that of Japan, and its economy was twice as large. According to the following breakdown, defense expenditures between 1933 and 1938 were as follows:

	Germany	US	Japan	USSR
1933	452 (620)	570 (792)	183 (356) [387]	707 (303)
1938	7415 (5.807)	1.131 (1.131)	1.740 (2.489)	5.429 (4.527)

Table 4: Defense Expenditures of the Great Powers.

In light of the mutual adherence between the given countries, the US viewed the pact as negatively impacting democracy. At the beginning of 1938, a proposal was made by Germany for Italy and Britain to join the pact. It led to Japan, when, in November 1938, the government of Prince Konoe Fumimaro issued a report entitled “A New Order in East Asia.”¹⁷⁹ While Germany had formed alliances with Japan, a decision was made to attack Poland without prior consent. While the Japanese Kwantung Army was engaged in battle with the Red Army along the

¹⁷⁹Scott Dittloff. *CLEP® Social Sciences & History Book + Online, 2nd Ed.* (New Jersey: Research & Education Association, Inc. Piscataway, 2018). 101-171.

Mongolian-Manchurian border, the Germans signed a treaty with Moscow in August 1939, violating the Anti-Comintern Pact.

1. Neutrality Act 1939: Forging a Strategic Alliance Japan-Germany

If we repeal it, we are helping England and France. If we fail to repeal it, we will be helping Hitler and his allies. Absolute neutrality is an impossibility.

Senator George W. Norris on the repeal of the Neutrality Acts, 1939.¹⁸⁰

Senator Norris' statement summed up the US position on the East Asian and German conflicts in 1939. Unlike many countries that expanded their territories and increased their spending to boost their military and industrial power, the US maintained its neutrality. Upon enacting the neutral act in 1935, the Senate enacted the National Munitions Control Board in an effort to investigate the weapons industry. The initiative was spearheaded by Senator Gerald P. Nye of North Dakota.¹⁸¹ A thorough investigation revealed US support for arms deals in the munitions industry led to the US entering the war. While such an argument was not very persuasive, Congress and the American people were not hard to persuade, making the Neutrality Act more feasible.¹⁸² However, by the time the US was hit with the economic crisis in the 1930s, laws had already been passed that forbade the US from participating in foreign conflicts. Some critics asserted, however, that bankers and munitions traders had financial interests in the US war effort. However, it is imperative to examine in this chapter whether the US was aware that acting as an ally while remaining neutral on the peninsula could lead to entanglement with Japan. Additionally, this chapter will examine the shift in US policy from naturalistic to non-neutral, including its implications. As outlined

¹⁸⁰ National Archives, US. Congress, Neutrality, and Lend-Lease.

¹⁸¹ Document: "Neutrality Act" of August 31, 1935, Joint Resolution 49 stat. 1081; 22 U.S.C. 441 note. Source: University of Houston. (accessed May17, 2021).

¹⁸² Makoto Iokibe and Tosh Minohara. *The History of US-Japan Relations: From Perry to the Present*. (Singapore: Palgrave Macmillan, 2008). 89-90.

previously, the destructive events that took place in East Asia and Europe indicated that the world was headed toward a less hopeful future. This led Congress to approving the first Neutrality Act in 1935, which prohibited the export of weapons, ammunition, and other military equipment to hostile countries. The Air Force restriction policy of President Roosevelt was of great concern to China's government because it was the largest buyer of aeronautical equipment at the time. Between 1933 and 1935, China acquired 287 airplanes and 107 engines from the US, while 112 aircraft and 157 engines were acquired between January and September 1936.¹⁸³ In addition to importing planes, China also hired American instructors for its aviation school. A comparative analysis of the Neutrality Acts of 1935, 1937, and 1939 is necessary in order to comprehend the impact in most participating countries. Since it is impractical to include all sections and paragraphs relevant to the acts described, therefore only those relating to war materials will be included. Thus, in the Neutral Act of 1935, section 3 paragraph three, one can read, "When the President finds the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation, and the provisions of this section shall thereupon cease to apply."¹⁸⁴ There was no exemption for carrying or supplying weapons or other war materials under this provision. In total, there were nine sections in the Neutrality Act of 1935. The Japanese invasion brought systematic chaos to the marketplace, which made recovery difficult. In response to the severe financial crisis, President Roosevelt exempted the US from the gold standard, subsequently replacing it with silver dollars, indicating possible cooperation with China. The latter was on the silver standard at that time, hence when the US raised the price of silver in 1933, it borrowed foreign reserves from the US and the UK, building exchange reserves.¹⁸⁵ Following these developments, Chiang Kai-shek, a nationalist leader in China, initiated a currency reform in 1935,

¹⁸³ Far Eastern Survey. China and U. S. Restriction of Airplane Exports. Vol. 5. No. 24 (Dec.2, 1936), 262 (1 page). *Institute of Pacific Relations*. (accessed May 17, 2021).

¹⁸⁴ The United States Congress House. Neutrality Act of 1939.

¹⁸⁵ Working Papers No. 159/12, Money and Monetary System in China in the 19th-20th Century: An Overview . From Debin Ma, January 2012, Retrieved from London School of Economics: <http://eprints.lse.ac.uk/41940/1/WP159.pdf> . (accessed July 4, 2021).

permitting China to switch from silver to foreign currencies. Despite its importance, joint work was not welcomed by everyone, particularly Japan, which argued that it would allow the West to intervene in Chinese and East Asian affairs. The Japanese government took the following positions regarding US-China currency cooperation, according to a report published by the *New York Times*, “Reports from Japan that gold advanced by the United States in exchange for Chinese silver would be used by the Chinese Government for the purchase of munitions and other war supplies were described as absurd in Treasury circles here today.”¹⁸⁶ The US emerged as the largest creditor after WWI, providing loans and materials that helped the allies advance industrially and maintain their standing globally. Therefore, Japan and China avoided invoking the US Neutrality Act, largely due to the fact that it would lead to the suspension of trade between the two countries and the US.¹⁸⁷ An unpaid balance of \$16,608,330 owed to the Farm Credit Administration and the Export-Import Bank to China for wheat, cotton, and flour caused much unease in Congress in 1936. Having noted that China would be paying in installments until 1942, the balance had been reduced to \$10,500,000 by the end of 1939.¹⁸⁸ The US, however, changed its position on the Neutrality Act after the outbreak of the Spanish Civil War in 1936 and the escalation of hostilities between China and Japan. Referred to as the ‘quarantine warning’, Roosevelt’s 1937 statement addressed the effects of the war on international affairs.

He warned that no nation, including the US, would be able to escape such conflicts unless all nations commit to peace. Here is an excerpt from his speech, “War is a contagion, whether it be declared or undeclared. It can engulf states and peoples remote from the original scene of hostilities. . . . We are adopting such measures as will minimize our risk of involvement, but we cannot have complete protection in a world of disorder in which confidence and security have broken down. Most important of all, the will for peace on the part of peace-loving nations must express itself to the end that nations that may be tempted to violate their agreements and the rights of

¹⁸⁶ China Loan Rumor is Called ‘Absurd’; U.S. Treasury Denies Reports from Japan That We Will Lend Money for Arms. Only Currency is Aided Fiscal Reform in South China Is the First Problem for the Government at Nanking. *The New York Times Archives*. Washington July 22, 1936. (accessed July 4, 2021).

¹⁸⁷ Evan Mawdsley. *World War II: A New History*. (Cambridge: Cambridge University Press, April 2020) 43.

¹⁸⁸ Library of Congress, USA. Loans and Credits to Foreign Countries. *Editorial research reports 1940 (Vol. I)*.

others will desist from such a cause. There must be positive endeavors to preserve peace. America hates war. America hopes for peace. Therefore, America actively engages in the search for peace.”¹⁸⁹

The President’s comment, “We cannot have complete protection in times of disorder, when confidence and security have vanished,” indicates that the US may amend its neutrality act to deal with escalating hostilities in Asia and Europe. ¹⁹⁰ In the aftermath of the President's speech, Congress held lengthy discussions, mindful that the US’s neutral position was subject to different viewpoints. Congress was presented with an amended version of the Neutrality Act in May 1937. Unlike the first neutrality act of 1935, the 1937 act contained eleven sections that were of particular relevance. There was much emphasis placed on exports of arms, ammunition, and war implementation. According to Section 2, the provision reads as follows: (a) On the export of other articles and materials, “...it shall be unlawful for any American vessel to carry such articles of materials to any belligerent states, or to any state wherein civil strife exists, named in such proclamation issued under the authority of section 1 of this Act, or to any neutral state for transshipment to, or the use of, any such belligerent states or any such state wherein civil strife exists.” Even so, the following section contained an important paragraph despite the restrictions noted: “(d) The president may from time-to-time change, modify, or revoke in whole or in part any proclamation issued by him under the authority of this section.” ¹⁹¹ Contrary to the 1935 act, the 1937 legislation included some provisions that permitted the distribution or sale of materials under unusual circumstances.

The significance of this section lies in several factors, including its emphasis on US support for warring countries and those requiring defense assistance, “(a) Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port of the United States, fuel, men, arms, ammunition, implements of war, or other supplies to any warship, tender, or supply ship of a belligerent state, but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided

¹⁸⁹ [U.S. Department of State, Peace and War: United States Foreign Policy, 1931–1941 (Washington, D.C.: US Government Printing Office, 1943), . 384–87.]

¹⁹⁰ [U.S. Department of State, Peace and War: United States Foreign Policy, 1931–1941 (Washington, D.C.: U.S. Government Printing Office, 1943), pp. 384–87.]

¹⁹¹ U.S. Congress House. Committee on Foreign Affairs. American Neutrality Policy, April 11-May 2, 1939.

for by section 1, title V, chapter 30, of the Act approved June 15, 1917, and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security or neutrality of the United States, he shall have the power and it shall be his duty to require the owner, master, or person in command thereof, before departing from a port of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or any part of the cargo, to any warship, tender, or supply ship of the belligerent state.”¹⁹²

Additionally, the act clarified that the President has the authority to bar belligerent ships from entering American waters. In accordance with Section 10 of the Arming of US Merchant Vessels Prohibited Act, it is prohibited to, “Whenever the President shall have issued a proclamation under the authority of section 1, it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel engaged in commerce with any belligerent state, or any state wherein civil strife exists, named in such proclamation, to be armed or to carry any armament, arms, ammunition, or implements of war, except small arms and ammunition therefore which the President may deem necessary and shall publicly designate for the preservation of discipline aboard such vessels.”¹⁹³ In the 1937 act, belligerent nations involved in the war were allowed to purchase anything they needed from the US as long as they paid immediately and carried it on non-US ships, otherwise known as cash-and-carry.¹⁹⁴ There was a controversy between anti-interventionists and supporters that influenced the decision to adopt a new strategy, while anti-interventionists argued that the procedure should be mandatory, and supporters argued that the president had the right to take this decision in light of the circumstances. Amidst the US’s focus on conflict zones, Japanese Prime Minister Konoe announced on January 8, 1938, that the Imperial Government would cease its cooperation with the Nanking Nationalist Government.

The diplomatic relations between Japan and China were thus terminated. In response to Hitler’s orders, the war was advanced in Europe, resulting in a breach of the 1936 Anti-Comintern Pact

¹⁹² U.S. Department of State, Peace and War: United States Foreign Policy, 1931–1941. Washington, D.C: US Government Printing Office, 1943. 355-365.

¹⁹³ Congressional Record: Proceedings and Debates of the Congress, Volume 81- Part 4., April 19, 1937, To May 18, 1937. United States Government Printing Office Washington: 1937.

¹⁹⁴ U.S. Department of State. Office of the Historian. Milestones: 1921- 1936. The Neutrality Acts, 1930s.

between Germany and Japan. In *lieu* of an aggressive pact, Hitler negotiated a non-aggression pact with the Soviet Union. Consequently, when Hitler invaded Poland and France, Japan adopted a neutral position on European affairs, impacting its diplomacy. The Japanese position on the given conflicts was not widely supported, including by Prime Minister Konoe, who resigned thereafter after advocating neutrality with the US and UK. The US was concerned that the UK was assisting Japan in strengthening its position in China, reminding them that Britain would no longer be a security holder. Following the act's adoption, US and Japan's envoys forged diplomatic notes. A deadlock in China prompted the resignation of Prime Minister Konoe. Due to his determination to improve Japan's position, he was appointed chairman of the Privy Council, with responsibility for launching the "New National Structure Movement" to introduce reforms. He was succeeded by General Abe Nobuyuki and Admiral Yonai Mitsumasa, who sought to break China's stalemate by urging the US to reciprocate.¹⁹⁵ Nevertheless, the United States foresaw that conflict would almost certainly arise, prompting Congress to hold a hearing on military spending. In his note to Congress on January 12, 1939, Roosevelt stressed the importance of allocating \$450,000,000 for the Army, 65,000,000 for the Navy, and 10,000,000 for civilian air pilot training.¹⁹⁶

By March 1939, tensions had escalated in Czechoslovakia as Germany occupied the country. In the US, Congress refused to renew "cash and carry" legislation, which enabled weapons sales as well as banned items to be sold. The Secretary of State, speaking in Washington on April 25, 1939, stressed its importance, "Nations have most frequently resorted to war on the pleas that it is the only method to open to them for redressing wrongs or the only means left to them to settle international differences... We are prepared to make our appropriate contribution to such a peace. But if our hopes are doomed to disappointment, if, after all, the red flames of war rather than the noon-day sun of peace are to illumine our horizon, we are equally prepared to defend successfully our national interests and our cherished institutions."¹⁹⁷ As a result of their firm

¹⁹⁵ Andrew Gordon. *A Modern History of Japan: From Tokugawa Times to the Present*. (Oxford: Oxford University Press, November 2008). 226-240.

¹⁹⁶ [U.S. Department of State, Peace and War: United States Foreign Policy, 1931-1941 (Washington, D.C.: U.S. Government Printing Office, 1943).

¹⁹⁷ [U.S. Department of State, Peace and War: United States Foreign Policy, 1931-1941 (Washington, D.C.: U.S. Government Printing Office, 1943). 458-461.

position being conveyed, the US responded appropriately to Japan's actions in China. Following an amendment introduced by Senator Joe Pittman, an embargo was to be imposed on the ongoing developments in China perpetrated by Japan. At the time, Sumner Welles, the acting secretary of state, dismissed the idea, asserting that negotiations must take place before any decisions are made. Over the course of the congress, much discussion was devoted to the following topic. A Gallup poll conducted in June 1939 revealed that 72 percent of American citizens supported an embargo on Japanese war materials.¹⁹⁸ According to a memo from the Secretary of State outlining a conversation with Japanese Ambassador Kensuke Horinouchi, as follows, "Japan might enter into a military pact with Germany and Italy, whereas the truth is that his country has no idea on doing so; that Japan, because of its proximity and difficulties with Russia has been interested in the Anti-Comintern policy of certain European states and in working with them against Bolshevism."¹⁹⁹

Consequently, Secretary Hull responded to Ambassador Horinouchi by emphasizing that the US is not planning to engage in any activities with European nations. Upon the conclusion of the four-day exchange of perspectives on the situation, Roosevelt informed congress that the Senate Foreign Relations Committee had voted in favor of neutrality and peace legislation by a vote of twelve to eleven. Should this bill pass, US equipment, and materials could be provided to Britain and France on a cash-and-carry basis.²⁰⁰ It was common among American citizens to sympathize with Great Britain and its allies following the Nazi invasion. The following letter from Hull to Horinouchi was sent to Japanese Ambassador Horinouchi approximately six months later, on July 26, 1939, "[The] US has come to the conclusion that the Treaty of Commerce and Navigation between the US and Japan which was signed at Washington on February 21, 1911, contains provisions which need new consideration."²⁰¹ Nonetheless, Japan did not stay silent in response to US decision. A month after Japanese

¹⁹⁸ Irvine H. Anderson, Jr, "The 1941 De Facto Embargo on Oil to Japan: A Bureaucratic Reflex," *University of California Press*, Vol. 44, No.2, May 1975, (accessed August 1, 2021).

¹⁹⁹ [U.S. Department of State, Peace and War: United States Foreign Policy, 1931–1941 (Washington, D.C.: U.S. Government Printing Office, 1943), 659.

²⁰⁰ Heinrich August Winkler. *The Age of Catastrophe: A History of the West, 1914-1945*. (New Haven: Yale University Press, November 2015). 664-665.

²⁰¹ [U.S. Department of State, Peace and War: United States Foreign Policy, 1931–1941 (Washington, D.C.: U.S. Government Printing Office, 1943). 475.

Ambassador Horinouchi wrote to Secretary Hull, that the American press misattributed Anti-US activities in China as being conducted by Japanese officials. Although Japan's position towards China was clear at this point, there was little that could be done except embargoes and non-interactions. In October 1939, Senator William A. Clark sent the following message to President Roosevelt, "After taking into consideration all the facts, I take it that many of us have come to the conclusion that repealing the embargo would make the United States less likely to enter a war. In essence, that was the real question being debated and the one that interested the American people most. It became evident that the shorter the war, the less likely the United States would become involved. Furthermore, if the Allies could not buy arms and munitions from neutral nations like the US, the war would be prolonged. Another argument against repeal was that it was immoral to sell weapons, ammunition, and military equipment. To begin with, we should recall the positions of the many American statesmen whose positions were influenced by the notion that 'morality must be questioned by considering the total result.'" ²⁰²

The US' concern about being entangled in the war was apparent among most diplomats. Ambassador Grew was one of them, fully aware of the impending conflict between the US and Japan despite the doubts of many on both sides. His purpose was to convince US citizens that there are two types of Japan: a moderate Japan and a strident one. The actions of Japan in China, however, ensured that US citizens had a negative perception of Japan. Since the interwar period, the US has become the largest creditor, as well as a major producer of manufactured items. ²⁰³ In the midst of escalating warfare, Roosevelt incorporated cash and carry into arms sales. Following repeated efforts, Roosevelt persuaded Congress to pass the Neutrality Act in November 1939. With the lifting of the arms embargo, all trade with countries involved in the conflict was terminated. The US ships were, however, forbidden from delivering goods to belligerent nations. ²⁰⁴ As stated by the US government, the neutrality act of 1939 was intended to support the

²⁰² Congress.gov. Authenticated U.S. Government Information. Senate. Legislative day of Wednesday, October 2, 1939. Saturday, October 21, 1939.

²⁰³ Paul Kennedy. *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000*. (London: Unwin Hyman Limited, January 1988). 275-291.

²⁰⁴ Office of the Historian. Milestones: 1921-1936. The Neutrality Acts, 1930s.

interests of the US while preserving its neutrality. In contrast to the first two neutral acts, the act of 1939 had 20 sections outlining US policy extensively as follows, Section 1. Paragraph stated, “(a) In order to promote, maintain, or protect the security or peace of the United States, the President must issue a proclamation naming the states involved whenever the President, or Congress by concurrent resolution, determines that a state of war has developed between foreign states that need to be promoted, maintained, or protected. When other states become involved in the war, he shall name them by proclamation. In accordance with the amended section, the President shall issue a proclamation naming the states participating in the war. Under the subsection dealing with commerce with armed conflict-affected states.”²⁰⁵Section 2. (a) emphasizes that, “If the President issues a proclamation under section 1 (a), it shall thereafter be unlawful for any American vessel to carry passengers or materials to any of the states named in the proclamation. (c) Whenever the President shall have issued a proclamation under the authority of section 1 (a) From that point forward, it shall be unlawful to export or transport or attempt to export or transport, or cause to export or transport, any articles or materials from the United States to any state named in such proclamation (except copyrighted articles or materials) Until all rights, titles, and interests therein have been transferred to some foreign government, agency, organization, association, partnership, corporation, or nation.”²⁰⁶ Additionally, a cash-and-carry method of transporting items or materials is discussed next, not previously addressed. I would like to draw your attention to the following highlights, ‘g) The provisions of subsections (a) and (c) of this section shall not apply to transportation by *American vessels* (other than aircraft) of mail, passengers, or any articles or materials (except articles or materials listed in a proclamation referred to in or issued under the authority of section 12 (i)) (1) to any port in the Western Hemisphere south of thirty-five degrees north latitude, (2) to any port in the Western Hemisphere north of thirty-five degrees north latitude and west of sixty-six degrees west longitude, (3) to any port on the *Pacific or Indian Oceans, including the China Sea, the Tasman Sea, the Bay of Bengal, and the Arabian Sea*, and any other dependent waters of either of such oceans, seas, or bays, or (4) to any port on the Atlantic Ocean or its dependent waters south of thirty degrees north latitude.”²⁰⁷

With the exception of section 3, this subsection did not apply to ports located within combat zones. The following section discusses the restrictions on US ports in the following section. A

²⁰⁵ [U.S. Department of State, *Peace and War: United States Foreign Policy, 1931–1941* (Washington, D.C.: U.S. Government Printing Office, 1943). 494-506.

²⁰⁶ [U.S. Department of State, *Peace and War: United States Foreign Policy, 1931–1941* (Washington, D.C.: U.S. Government Printing Office, 1943). 494-506.

²⁰⁷ *Ibid.*

description of 10 (a) is presented in this section, “If during any war during which the United States is neutral, the President, or any person authorized by him, has any reason to believe that a vessel, whether domestic or foreign, is about to transport fuel, men, arms, ammunition, implements of war, supplies, dispatches, or information for a state designated. Under section 1 (a), a proclamation is issued, but the evidence is not deemed sufficient to forbid the vessel's departure as provided for in section 1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U. S. G., 1934 edition, title 18, sec. 31). It is the President's responsibility to take such action if he believes it will contribute to maintaining peace between the United States and foreign nations, safeguard United States interests and foreign commercial interests, or improve the security or neutrality of the United States...”²⁰⁸ A number of responsibilities fell to the board in its role as a representative of the national munitions control board, including SEC. 12. (a), according to which, “This Act establishes a National Munitions Control Board (hereinafter called the “Board”). The Board will be chaired by the Secretary of State, who will also serve as the executive officer, and include the Secretaries of Treasury, War, Navy, and Commerce. ...Those who manufacture, export, or import any weapons, ammunition, or war implements listed in subsection (i) must register with the Secretary of State the name, business name, principal place of business, and places of business in the United States, as well as the weapons, ammunition, and war implement they manufacture, import, or export.”²⁰⁹ In retrospect, the Neutrality Act of 1939 marked the US transition from isolationism to cooperation. While Congress did not achieve full victory over fascism or democracy, it contributed to greater progress in overcoming it.

2. The Tripartite Pact: Japan, Germany, and Italy’s Strategic Cohesion

Amid the indifferent management of China’s affairs, which is commonly known as the deadlock, Japan had begun to alter its foreign policy toward Southeast Asian enlargement. This prompted Konoe Fumimaro to resign as Japanese Prime Minister on January 4, 1939, shortly after being appointed President of the Privy Council. Eventually, Konoe was succeeded by Hiranuma

²⁰⁸ Ibid.

²⁰⁹ U.S., Department of State, Publication 1983, *Peace and War: United States Foreign Policy, 1931-1941* (Washington, D.C.: U.S., Government Printing Office, 1943. 494-505.

Kiichirō, who served until August 1939, when Abe Nobuyuki became Prime Minister. As the end of the war loomed, Japan attempted to isolate China's president Chiang Kai-shek and convince the west, including the US and Britain, of its superiority in the country. In terms of their long-term strategic objectives in East Asia, while Japan's objectives were clearly defined, the nation anticipated the removal of British influence from Malaysia, French influence from Indochina, and Dutch influence from Indonesia. Using such methods would simplify their process of becoming the dominant power in Asia, and this would give them an edge over Southeast Asia. Nevertheless, Japan had a primary interest in these regions because of the oil, rubber, and mining tin they acquired for their military, partly because the US had cut off supplies in response to the Sino-Japanese war. By hindering Japan's ability to influence China, the US embargo against Japan aimed to counter its influence. In the long run, however, Japan sought alliances with countries that had expansionist tendencies similar to its own. Thus, in light of Germany's progress in Europe, Hiranuma's government considered an alliance with Germany a viable solution. Nevertheless, he gained prominence in 1937 as the principal architect of Japan, Germany, and Italy's mutual defense agreement. Following sanctions imposed on Japan by the US, the effects of which were severe, Hiranuma wrote to Roosevelt urging him to resume diplomatic relations with the US. In consequence, it eventually led to a meeting between Hiranuma and the US embassy's Secretary Eugene H. Dooman.

In spite of these promising results, Haruma failed to keep his position after he was replaced by other leaders with contrasting opinions regarding Japan's ties with the US and Germany's potential. By far, this was the most prominent strategy for defeating both the Soviet Union and the Western powers in Asia, including the US. Due to a conflict of interests, the Soviet Union reacted to the Tripartite Pact in the same manner as the US at a time when such an action was unlikely, resulting in its non-participation.²¹⁰ Nevertheless, this was not Japan's first foray into cooperation with

²¹⁰ Heinrich August Winkler. *The Age of Catastrophe: A History of the West, 1914-1945*. (New Haven: Yale University Press, November 2015). 664-665.

Germany, since they had already ratified the Anti-Competition Pact in 1936. Consequently, following Germany's invasion of Poland and then France, there was a growing consensus in Japan that an alliance would be advantageous for both sides. In spite of that, both Abe Nobuyuki and Yonai Mitsumasa retained a neutral stance in Europe, a position that allowed them to prosper over the long term. In essence, this served as a means of making the US and UK recognize the significance of their presence in China. The army, on the other hand, opposed the plan as it persisted in seeking an alliance with the Axis powers. There was a misalignment in Japan's perspective at this point, which prompted the resignation of the government and the stepping down of its prime minister, who favored neutrality. Consequently, during the summer of 1940, Japanese premier minister Konoe Fumimaro assumed power with the goal of reforming Japan's policies. His return was actually motivated solely for one reason - the establishment of an 'Asian new order'.²¹¹ As a result, Japan began to regard Germany as indispensable to their democratic and national security systems. Nevertheless, despite significant reforms taking place in Asia and Europe, US citizens were still reluctant to fight. According to a poll conducted in May 1940, 40 percent of the people opposed foreign military involvement. As Germany grew stronger, the danger it posed gradually became more apparent. In the wake of the German victory, Japan believed it would become the successor to France and the Netherlands in East Asia. While Japan had an ideology conducive to the pursuit of such objectives, on the other hand, such a pursuit would not be free from constraints. Following Franklin D. Roosevelt's election as president of the US, he pledged to make the US an integral part of the democratic process.

To put it another way, Roosevelt's perspective asserted that the US should strive to eliminate communism, fascism, or any form of authoritarianism that threatens democracy.²¹² The election of Roosevelt paved the way for prosperity, although Washington altered its neutrality policy, thus

²¹¹ Andrew Gordon. *A Modern History of Japan: From Tokugawa Times to the Present*. (Oxford: Oxford University Press 2003). 204-208.

²¹² Makoto Iokibe. *The Diplomatic History of Postwar Japan*. (London: Routledge Taylor & Francis Group, 2011).

allowing warring nations to purchase goods at a profit. Among the countries to benefit from the US's neutrality policy was China as well. In response to White House support for China, the Japanese Imperial Army demonstrated an even greater commitment to Germany. The US and UK, however, condemned the proposal, claiming that it could precipitate a Pacific war. It is therefore imperative to fully comprehend the Tripartite Pact between Germany and Japan in order to understand its implications. It was Foreign Minister Yosuke Matsuoka who pursued the formation of an alliance with Germany by signing the Tripartite Pact in Berlin on 27 September, 1940. The joint drafting agreement outlined a number of pertinent points, Article 1 “Japan recognized and respected the leadership of Germany and Italy in the establishment of a new order in Europe; Article 2 “Germany and Italy recognize and respect the leadership of Japan in the establishment of a new order in greater East Asia. In addition, the three contracting powers agree to assist one another through all diplomatic, economic, and military means, should one of them be attacked by a country currently not involved in the European war or the Sino-Japanese conflict. In order to bring new order to Europe and Asia, the given countries were bound to acknowledge one another's respective objectives. Despite the fact that the US and other allies opposed this move vehemently, the pursuit of this goal took precedence. In 1940, the German Ambassador delivered a confidential letter to Japanese Foreign Minister Yosuke Matsuoka outlining numerous important points. It has been claimed by the German government that “the contracting parties are entering an era of global significance that will enable them to establish new orders within Greater Asia and Europe.”²¹³ An outstanding diplomat in Japan’s diplomacy at this time was Matsuoka Yosuke, a.k.a. ‘Matsuoka Diplomacy.’

The previous chapter discussed Japan’s divided interests between those advocating Western allyship and those wishing to retain its national identity. In commemoration of the Tripartite Pact the Tripartite Pact’s Imperial Rescript, which Emperor Shōwa declared,;“We earnestly desire the

²¹³ Address by Foreign Minister of Japan, Yosuke Matsuoka, Delivered Before the 76th Session of the Imperial Diet. Tokyo, Japan, January 21, 1941 [1].

end of the war and the restoration of peace as soon as possible.”²¹⁴ The Emperor’s claim was then met with the following response from a member of the Imperial Conference, “The US had hitherto resisted exerting pressure on Japan in order to prevent it from joining the Axis forces, but any decisive move on our part to draw closer to Germany and Italy would be far from a warning to the Americans.”²¹⁵ Moreover, Japanese Ambassador Toshio Shiratori expressed opposition to the Japan-Germany special agreement while calling on democratic countries to resolve their differences.²¹⁶ Because of his opposing views, Ambassador Shiratori did not join the Tripartite negotiations until the end. This instruction shows that, in essence, the Japanese counter-draft for the Tripartite Pact is identical to Exhibit No. 2619 (99), which contains the three documents listed therein: “(a) The pact proper; namely, the pact of consultation and assistance between Japan, Italy and Germany; (b) The signing protocol, and (c) The secret accessory protocols. As an additional effort to win Germany and Italy’s approval, Oshima and Shiratori emphasized the following points: Japan would not render military assistance in case Germany and Italy were attacked by countries other than Soviet Russia unless these countries had turned communists, and an explanation would be given to third parties to the effect that this pact was an extension of the Anti-Comintern Pact (101).” Shiratori deemed that the draft was harmless, preventing Japan from getting involved in a conflict caused by Germany or Italy. He stressed that the proposed pact, he stressed, excluded any provisions that precluded Japan from concluding agreements with both Great Britain and the United States related to China and the Far East.²¹⁷

There is no certainty whether the pact prevented Japan from entering the war with the US in 1941; however, from US perspective, the Tripartite Pact was as formidable an alliance as ever existed. Thus, we will look at *Gaimusho* and *kakushin-ha*, a project to restore the complex by

²¹⁴ JACAR. National Archives of Japan. Defense Document No. 1580. 1. Prevention of the American Participation in the War.

²¹⁵ Ibid.

²¹⁶ JACAR. National Archives of Japan. Record of International Military Tribunal for the Far East on Class A War Crimes, English. (No. 152-2). Situations for the Defense Section “N-21”. Shiratori. V. Negotiations for a Tripartite pact in 1938-1939. Ref. Boc. 3101-B (Sec. N-21).

²¹⁷ Ibid.

Toshio Shiratori (1887-1949). Toshio's views on East Asia were solely motivated by the faction advocating the end of Western influence. In light of this, the key objective of their strategy was to form an alliance with nations that shared the same interests, namely Germany, and Italy. Their motives, however, were clearly derived from *kodo gaiko*, a system based on imperialism, and the emperor himself. However, Satoshi Hattori argues that Japan's alliances with Germany, Italy, and the Soviet Union were just 'temporary marriages' owing to their limited options in overcoming western power. In *Gaimusho*, Shiratori's radical thinking echoed that of the *kakushin-ha*, which held the same basic viewpoint after the Manchurian incident. In an attempt to restrain Japan's moves, the US passed economic measures one month before Konoe's new cabinet was sworn in. Furthermore, the US, meanwhile, advanced its position on the Pacific coast state. The Pacific Fleet was based in Hawaii under Admiral Harold R. Stark, with Congress authorizing several measures to permit the construction of warships. Even though this was viewed as a prudent move, the December 1941 attack on Pearl Harbor backfired. As part of the partial neutrality maintained due to the fragile security situation, Congress passed a law requiring US exporters to obtain licenses prior to exporting war materials. In July 1940, Japan formed a new government headed by Prime Minister Konoe Fumimaro and foreign minister Matsuoka Yōsuke. He dispensed with the ideas of the *kakushin-ha*, the *kakushin-ha* divided into two factions following his appointment: those supporting Matsuoka, and those supporting Shiratori.

The difference between the two groups is quite apparent, based on their views of the US. However, many experts claim that it is difficult in unraveling Matusoka's diplomacy and Japan's East Asia policy owing to the destruction of many records before the defeat of Japan. Nevertheless, it is believed that Matsuoka wanted to reach a diplomatic compromise with the US. His initial goal was to conclude a diplomatic agreement with the US that could result in ending the Sino-Japanese conflict. Such a strategy was regarded by Japan as a sensible move because it enabled them to exert pressure on the US. In essence, it was Washington's warning that

a Tripartite Pact with Germany could be implemented unless an agreement between the US and Japan could be concluded. The decline of the Treaty of Commerce and Navigation between the US and Japan was detrimental to Japan primarily because nearly 80 percent of Japan's imports originated in the US.²¹⁸ In the aftermath of Konoe's cabinet in July 1940 and the subsequent tripartite negotiations, Matusoka's diplomatic efforts encompassed many areas, however, in this part we will focus on the Tripartite Act and the subsequent negotiations. He faced the biggest hurdle during the Tripartite negotiations because Japan's role in East Asia and the US's reluctance to enter the war was discussed during trilateral talks. While aware of the hostile position exhibited by many countries especially the US, on 9 September, Japan officially opened negotiations with Germany. Matsuoka proposed a pact that differed from the expectations of Washington and London. However, even though uncertainty existed on Japan's side, a pact was reached on September 27. This led to Germany, Italy, and Japan forming one united front should they be attacked. The treaty was commemorated in diverse ways in each of the three countries, including a march by 40,000 people outside the German consulate in the Japanese-occupied territory of Dairen (now Dalian).²¹⁹

The Tripartite Pact ensured that the US could not intervene in Asia as Germany was at war in Europe; however, when Germany invaded the Soviet Union, Matsuoka advocated for a new policy known as *hokushin seisaku* that encouraged the military to launch an offensive against the Soviets. In spite of this, reasoning that moving north would result in little or no natural resources being produced. Amidst the chaos, Konoe was in the midst of the army pressing for the south and his commander, Matsuoka, calling for north advance. In the wake of Matsuoka's departure from the cabinet, Konoe was determined to reach a common ground with the US, but his power was not enough to compel the military to follow his recommendations in terms of US-Japan negotiations.

²¹⁸ Dong Jung Kim, "US Compound Containment of Japan," *University of Michigan Press*, 2022–1941. 61-78. (accessed September 7, 2021).

²¹⁹ Christian Goeschel, "Performing the New Order: The Tripartite Pact, 1940–1945," *Cambridge University Press*, May 2022. (accessed September 7, 2021).

Consequently, the military invaded French Indochina, a region equally important to the US, in order to pursue expansionist ambitions. A move of this scale heralded a tumultuous period, not just in Asia but in the world. Prior to Japan's invasion of Indochina, the US did not impose an oil embargo on Japan. In fact, Roosevelt considered the Tripartite Pact a setback since he could not rule out the possibility of war between Japan and Germany. Roosevelt's concern came from the fact that the US couldn't combat Japan and Germany on the same fronts at the same time. Therefore, the US was compelled to extend assistance to China and Great Britain as a countermeasure to Japan's and Germany's aggression. As a result, in September 1940, around 50 destroyers were shipped to Britain under the "Destroyer for Base" deal. In addition, Deputy Secretary of the Navy Frank Knox stressed the necessity of following Japanese action to prevent the war from advancing. Following the Tripartite Pact's implementation, Japan's domestic policies underwent a series of unintended changes. Therefore, the Japanese government dispersed all political parties in October 1940 and replaced them with the *Taisei Yokusankei*. In a note submitted by the US Ambassador to Japan, Grew mentioned attending a meeting with Japan's Foreign Minister in October 1940. Ambassador Grew stressed that Matsuoka delivered a letter regarding the Tripartite Pact in English at the end of their meeting. One of the main points stressed was that due to alliances tying forces together, Japan's risk of being attacked by other countries had diminished. As such, (Kato 2016) asserts that Japan's House of Representatives supported reaching a ceasefire with China. She states, however, that differences of opinion between Foreign Minister Matsuoka Yōsuke and Japanese Ambassador to the US Kichisaburō Nomura led to a breakdown in Japan-US relations.²²⁰

From the US' perspective, the pact signified Japan's rapid expansion of its naval presence in the Pacific. Since its inception, the Tripartite Pact was based on bilateral relationships between the

²²⁰ Yoko Kato, "Mobilizing the power of words to the full. The China factor and "that war," *The University of Tokyo*, February 2016. https://www.u-tokyo.ac.jp/focus/en/features/f_00073.html (accessed September 10, 2021).

given powers. For example, Italy and Germany formed a military alliance in 1939 under the steel pact, and the German Japanese Anti-Communication Pact came into existence following their withdrawal from the League of Nations in 1937. While Hungary, Romania, Slovakia, Bulgaria, and Yugoslavia eventually joined the pact, their views remained ambiguous owing to the fact that they received less support than their counterparts.²²¹ There were, however, a number of factors between the three that facilitated their alliance, namely Japan's invasion of Manchuria in 1931 and Italy's attack on Ethiopia in 1935. During US-Japan negotiations, Matsuoka opted to implement a diplomatic solution while forming a puppet government, that led Japan to reduce its military presence in China. Secondly, there was the Japanese-Soviet relationship, resulting in Matsuoka's proposal for a non-aggression pact. Efforts were made to prevent the Soviets from cooperating with Anglo-Americans by presenting a strategic proposal of this kind. A similar perspective was shared by Matsuoka and the German foreign minister, Joachim von Ribbentrop. At this point, as previously emphasized, Matsuoka was opposed to Imperial Japanese Army (IJA) troops already stationed in northern French Indochina, which led to the US placing an embargo on Japan.²²² The embargo imposed by the US was considered by Japan as extreme pressure that caused it to contemplate the Tripartite Pact. Japan's Ambassador to Italy, Toshio Shiratori, pointed out that Tokyo exchanged notes regarding its limited military capabilities, indicating that the Japanese government still had 'Montel reservations' about the accord.²²³

Thus, in their first meeting, Roosevelt and Churchill agreed to establish the Atlantic Charter, which would promote self-determination for people, free trade, and freedom of navigation. According to the correspondence addressed to Churchill, Roosevelt asserted Congress was divided on whether to support Britain; however, the US military ships were delivering munitions as early

²²¹ Christian Goeschel, "Performing the New Order: The Tripartite Pact, 1940–1945," *Cambridge University Press*, May 2022. (accessed September 10, 2021).

²²² Masato Kimura and Tosh Minohara. *Tumultuous Decade: Empire, Society, and Diplomacy in 1930s Japan*. (Toronto: University of Toronto Press, March 2013). 215- 220.

²²³ JACAR. Record of International Military Tribunal for the Far East in Class A War Crimes. Opening Statement Tripartite Pact Pacific Division V. Sub-Division 1. Def. Doc. 1744.

as November 1941. In return, London enabled the US to establish military bases on Newfoundland, Bermuda, and the British islands in the Caribbean. Following the attack by Nazi Germany on US warships, Roosevelt repealed the Neutrality Act. The fate of the US's role in Asia was very much determined by the German spring offensive, namely that if the attack on Norway and Denmark succeeded, Britain and France would have been driven from Asia.²²⁴ Despite the US Pacific Fleet's smaller size in 1941, the US production was 77.9 times that of Japan.²²⁵ Consequently, the US transferred its foothold from Southern California to Pearl Harbor. The importance of oil to Japan prompted Konoe to inquire a meeting with Roosevelt in Alaska in August, but the meeting never happened as State Secretary Hull opposed it. In September, Japan abandoned the initial talks with the US. However, a month later, on October 2, Matsuoka delivered a memorandum to the US reaffirming the principles of territorial integrity and sovereignty. He also pointed out that Japan's claim to Manchuria had been supported by Germany and Italy, which the western powers deemed illegal. Further he emphasized that "as long as the powers which have not yet participated in the European war or the China Incident do not attack any of the three Countries—Japan, Germany, Italy, nor disturb our plan of the Greater East Asia Co-Prosperity Sphere our country is willing to be in friendly terms with them and to share in the godsend benefits."²²⁶

Additionally, Matsuoka, in his address at the Governors' Conference on October 7, 1940, made the following remarks: "Several nations in Europe and America have interfered with our overseas development by prohibiting or restricting Japanese emigrants and imposing high customs duties on Japanese goods."²²⁷ This statement was interpreted by the US as an indication that Japan is not in favor of any unified agreement. After Japan emerged from an apparent period of intense warfare, on October 18, 1941, Konoe resigned as War Minister and was succeeded by Tojo Hideki. Initially,

²²⁴ Jonathan G. Utley. *Going to War with Japan: 1937-1941*. (New York: Fordham University Press, April 2005). 131-137.

²²⁵ Makoto Iokibe (ed) and Tosh Minohara (ed). *The History of US-Japan Relations: From Perry to the Present*. (Tokyo: Yuhikaku Publishing Co. Ltd., March 2008). 94- 101.

²²⁶ JACAR. Record of International Military Tribunal for the Far East in Class A War Crimes. Address by Foreign Minister Matsuoka at the Governors' Conference. October 7, 1940. (accessed September 10, 2021).

²²⁷ International Military Tribunal for the Far East. Transcript of Proceedings, June 13, 1947.

Konoe was confident that a diplomatic solution was feasible. Over the course of 1941-1944, General Tojo Hideki held the offices of Prime Minister, Army Minister, and Home Minister. Japanese non-compliance was cited by the US as evidence of its refusal to respect the terms. The outcome might lead to war between the two nations consequently. In essence, Tojo's goals at this point were to "whipe the state" *hakushi kangen* in pursuance of Japan's interests.²²⁸

²²⁸ Makoto Iokibe (ed) and Tosh Minohara (ed). *The History of US-Japan Relations: From Perry to the Present*. (Tokyo: Yuhikaku Publishing Co. Ltd., March 2008). 94- 101.

CHAPTER 4: The Road to Pearl Harbor: The Coming War Between Japan and the US

In response to the occurrences in Southeast Asia, significant decisions were taken by the US government whose primary objective was to curb Japan's aggression considered as being excessively idealistic. According to our previous analysis, the US economy accounted for 80 percent of Japan's income, which indicated that it had a substantial impact on Japan's policies.²²⁹ At this point, however, there was a heightened concern among US citizens as Secretary of State Hull explicitly warned US Ambassador Joseph Grew in Japan on May 30, 1940, that the conflict had the capability of spreading throughout Asia and Africa in the event the Allied Powers succumbed.²³⁰ Additionally, Grew was queried if any significant progress had been made with the Japanese government in light of the correspondence he sent to the State Department from encounters with Japanese officials and non-officials. It was Japan's reliance on US imports, however, that propelled the US into believing it would be able to reach an agreement with Japan, while Japan sought to overturn Southeast Asia's *status quo*.²³¹ Thus, the US could either employ diplomatic means to resolve the crisis or tighten economic policies that might lead to unintended consequences. While State Secretary Hull was employing a number of embargoes on Japan's imports of resources, not everyone at the State Department concurred. Hull's policies towards Japan were particularly unpopular with prominent figures like Harold L. Ickes, a long-standing Secretary of the Interior, and a petroleum coordinator, known as a hard taskmaster. In fact, Ickes shared the belief of many US citizens that supporting Japan with resources would lead to the US becoming weaker and aiding Japan's rise and prosperity. Therefore, following the debate on the

²²⁹ Daniel Yergin, *Blood and Oil: Why Japan Attacked Pearl?* *Washington Post*, December 1, 1991. (accessed September 26, 2021).

²³⁰ U.S., Department of State. *Peace and War: United States Foreign Policy, 1931-1941*. Pg. 540. (accessed September 26, 2021).

²³¹ Jeffrey Record. *Japan's Decision for War in 1941: Some Enduring Lessons*. (Carlisle, PA: US Army War College Press, January 2009).

subject, Ickes proposed to Export Control General Maxwell Murray that oil imports to Japan be reduced. Consequently, the Export Control Act of July 2, 1940, authorized the President, under the national interest to prohibit or curtail the export of basic war materials to Japan.²³² The decision certainly did not go down well with Japan, where Ambassador Horinouchi Kensuke complained to Secretary Hull on October 8, 1940, by calling the decision an “unfriendly act”. In mid-July, reports circulated that the British government was going to temporarily prohibit the movement of certain commodities through Burma into China. A decision of this nature, however, was quickly overturned when the agreement between the Japanese and British governments expired after three months, and the restrictions were lifted by the British authorities on July 17, 1940. While a counterstrategy was ensuing about Japan, on the other hand, China's response to the latter was no less important. Following the termination of the agreement, UK eventually lifted restrictions. In fact, UK proposal of reopening the Burma Road became more realistic with US’s greater assistance. The US’s support of Britain was evident when in late August, the US military delegation visited London by concluding secret talks on the given matter.²³³ A Day later, on July 18, 1940, Lord Lothian from the British delegation met with US Treasury Secretary Henry Morgenthau Jr., Army Secretary Henry Stimson, and Navy Secretary Knox.²³⁴ There was discussion of whether Japan should be completely exempted from oil imports during the meeting.

As State Secretary Hull saw that Maxwell’s wishes would not be easily overturned, he informed President Roosevelt. This led Roosevelt to decide that matters of this importance would be handled by the President and State Secretary, however, this was not a simple task given the bureaucracy and the opposing views. The communication conveyed by Ambassador Grew to the State Secretary played a crucial role in encouraging Roosevelt and Hull to intensify their efforts. Grew reiterated

²³² Ibid

²³³ Antony Best. *Britain, Japan and Pearl Harbor: Avoiding war in East Asia, 1936-41*. (London: Routledge, September 2013). 111-131.

²³⁴ Irvine H. Anderson, Jr, ” The 1941 De Facto Embargo on Oil to Japan: A Bureaucratic Reflex, ”*University of California Press*, Vol. 44, No.2, May 1975. (accessed November 5, 2021).

that the Japanese military saw the current situation as a ‘golden opportunity’ to complete its objectives in a short amount of time. Consequently, the Japanese government observed that Germany was unlikely to defeat UK. The US and UK meanwhile, enhanced their mutual defense activities, in light of the latter’s support for the British fleet, establishing a stronger Anglo-American strategic alliance. Even so, the US hostility grew more towards Japan's progress in oil-rich zones, which served the interests of the former. One of the most prominent ways Japan tried to ensure its victory was through its offensive strategy. As such by September 22, 1940, it occupied northern French Indochina as a means of prohibiting China from importing oil and fuel from Haiphong through Hanoi to Kunming in Yunnan. In an informal discussion with the Secretary of State on October 8, 1940, Japanese Ambassador Horinouchi Kensuke lamented Japan’s unsatisfactory relationship with the US. Nevertheless, Hull conveyed US position to Horinouchi highlighting the latter's rights and interests in large parts of China that were being violated by Japan. During this period, the US provided military supplies and equipment to Britain and other allies under the “cash and carry” scheme instituted in the Neutrality Act. While this method had its advantages at the time, a reformation was imperative in order to collaborate effectively following the progress that Japan and Germany had made already. Roosevelt subsequently proposed a lend-lease program in January 1941, meaning that any country whose purpose was vital to the US's defense could benefit from the act.²³⁵

There were several countries on the list by the end of 1942, including the Soviet Union, Australia, New Zealand, and China. In spite of the reforms applied to the military supply, the US remained war-avoidant. Therefore, the lend-lease objective was to equip the US for combat against the Axis powers without engaging in combat itself. While the debate in Congress was taking place on the bill proposed by Roosevelt, Secretary of War Henry L. Stimson emphasized

²³⁵ United States House of Representatives. History, Art & Archives. The Lend- Lease Act of 1941. Document Category Legislation and Floor Proceedings. Date January 10, 1941. State of Territory N/A. Committee or Office: Committee on Foreign Affairs. Series: Bill Files, 1903-1968. Congress 77th (1941-1943). Member (S) N/A.

during the debate the following, “We are buying...not lending. We are buying our own security while we prepare.”²³⁶ In Congress, however, not all lawmakers welcomed a move that would put the safety of the country in jeopardy. A number of Congressional isolationists including Hamilton Fish, Dewey Short, and Karl Mundt were against lend-lease policy implementation on the grounds that it would lead to conflict.²³⁷ However, the US-led peace effort was apparent also when congressmen Doug Collins emphasized that neither Germany nor any country could prevent the aid from going to democratic countries. He was convinced that the bill would lead the US peace although not sure of the outcome.²³⁸ The State Department was notified by Ambassador Grew on January 27, 1941, that one of his diplomatic colleagues had informed him there were many Japanese sources indicating that Pearl Harbor could be attacked by the Japanese Military in an adverse US-Japanese relationship.²³⁹ When Admiral Nomura Kichisaburō as the appointed Ambassador Extraordinary and Plenipotentiary to the US delivered his credentials to President Roosevelt on March 8, 1941, Hull took the opportunity to talk to Nomura where he stressed that the US would remain vigilant against Japan’s military expansion.²⁴⁰ Furthermore, he told the ambassador that Hitler, together with Foreign Minister Matsuoka, had claimed to control the world through their military force.

In tandem with intense congressional debates, the House of Representatives passed H.R. 1776 on March 11, 1941, as, ‘An Act to Promote the Defense of the United States,’ referred to as the Lend-Lease Act. The US's neutrality and readiness to enter war indirectly, was advantageous for Britain since it acquired military supplies without compromising US neutrality. The month of March was a time of war-supply measures designed to supply food, materials, and equipment to allies' armies. Among the recipients of aid from the lend-lease act was China, an aid recipient of

²³⁶ National Archives. Milestone Documents. Lend-Lease Act (1941). The Congress 1st Session. H.R. 1776.

²³⁷ History, Art & Archives. United States House of Representatives. The Lend-Lease Act of 1941. March 11, 1941.

²³⁸ United States of America. Congressional Record. Proceeding and Debates of the 76th Congress, Second Session. House of Representatives, Wednesday, November 1, 1939.

²³⁹ United States, Department of State. Peace and War: *United States Foreign Policy, 1931-1941*. 118.

²⁴⁰ JACAR. The US-Japan War Talks as seen in official documents. Data Commentary. Document 1:A03023521400, Ambassador Extraordinary and Plenipotentiary to the U.S., Admiral of the Navy, Kichisaburo Nomura.

\$1.6 billion.²⁴¹ In part, US aid loans to China were conducted to fend off Japanese aggression. Accordingly, Hull was willing to permit China to buy military equipment through loans.²⁴² China at this point was considered as a possible avenue for battling Japan since the US was trying indirect methods of containing the latter's expansion. Nonetheless, it is vital to note that fighting Nazis was still more important to the US than Asia itself, as evidenced by its trade with UK and China. There was a proposal for a general settlement between the two countries delivered by the Japanese ambassador on May 12, 1941. The statement elaborated on the nature of the Tripartite Pact as a defensive mechanism, in addition to emphasizing that our country has the capability to establish lasting peace in the Pacific. Concerning Manchuria, the Japanese requested the US to end its support of Chiang Kai-shek's regime while stating that it was Japan and China's responsibility to reach an agreement regarding Japan's presence. The Japanese, however, insisted on maintaining their alignment with the Axis.²⁴³ Therefore, a comprehensive statement was delivered by Secretary of State Hull to the Japanese Ambassador on June 21, 1940, in response to his remarks. Among the points he addressed was the cooperation between Japan and Germany as follows:

1. Both governments should make it clear that their policies are headings toward the last peace.
2. A suggested formula that the Government of Japan maintains the purpose of Tripartite Pact for the purpose of unprovoked extension of European war.
3. A suggestion for Japan-China to enter into negotiation settlement.
4. Mutual assurance that US-Japan would supply each other with communities.
5. Supply with natural resources.
6. Mutual affirmation that the purpose of both countries in the pacific is of that peace.
7. A provision of declaration from Japan of its willingness to negotiate with the US.²⁴⁴

²⁴¹ U.S. Department of Commerce Bureau of Foreign and Domestic Commerce. *Survey of Current Business*. Volume 28, No.1. January 1948.

²⁴² U.S. Department of State Archive. Japan, China, and the United States and the Road to Pearl Harbor, 1937- 1941. Information released online from January 20, 2001, to January 20, 2009.

²⁴³ U.S. Department of State. Peace and War: United States Foreign Policy, 1931-1941. 121-122.

²⁴⁴ U.S., Department of State. Peace and War: United States Foreign Policy, 1931-1941.

For Germany, however, Hull's remarks seemed meaningless, since, on June 22, 1941, Hitler began the invasion code-named 'Operation Barbarossa.' Following Hitler's operation, the Roosevelt administration began providing aid to Britain and 1.6 percent of the aid went to China in July 1941.²⁴⁵ Following Japan's invasion of southern Indochina, the US issued an executive order freezing Japanese assets in the country on July 26, 1941. The act brought a sense of control over government financial import and export trade transactions in which Japanese interests played a prominent role. Despite all odds, the US demonstrated its determination to defend Southeast Asia by locating its Pacific fleet from southern California to Pearl Harbor in response to Hull's warning. No matter what the Axis powers claimed, Japan's Tripartite Pact implied the military would oppose the US in the event Germany or Italy were attacked. As the events unfolded Hull and Roosevelt received news from Japan that its expansionist military was being withdrawn in favor of their peaceful 'Open-Door Policy'. The news was conveyed to Roosevelt and Hull by bishop James E. Walsh. The findings revealed that the US sanctions were effective in Japan as the leaders recognized that in order to conquer China, the country would need a stronger economy. In order to attain this, the US understood that Japan would need the latter's economic assistance, as well as special interests in China, but people were unclear exactly what Japan meant when they used the term 'special interests.' The advisors' whom Hull consulted with argued against Japan's expansion southward, arguing it would lead to an extremely safe withdrawal. Despite their opposing views, Hull maintained that a consensus was possible.

Consequently, Japanese Ambassador Nomura in the US was told by Secretary Hull that, if the US principles were accepted, an agreement would be possible, otherwise not. Nomura knew that the principles outlined would not be accepted by its government, but it remained uncertain as to how they would fare. At this point, Hull and Nomura had a great deal of commitment to reaching a diplomatic agreement. Despite holding many secret meetings to find common ground, neither

²⁴⁵ Jonathan G. Utley. *Going to War with Japan: 1937-1941*. (New York: Fordham University Press, April 2005). 131-137.

party could reach a consensus. During the talks, two main objectives were discussed: one regarding China and the necessity for Japan to send troops there to counter communist activity. However, this would allow Japan to gain a foothold in Chinese territory, which was of great strategic importance to US. Secondly, it sought to prevent Japan from forming any ties with the Axis. However, Foreign Minister Yosuke Matsuoka, who believed the Axis allies were the enemy, opposed Hull's policy. On July 2, 1941, Japanese leaders decided to strike oil-rich areas such as Southeast Asia and the Dutch East Indies following the Imperial Council Meeting. This led to a decision regarding the response of Japan to the outbreak of the German-Soviet War. Meanwhile, President Roosevelt and Prime Minister Konoe exchanged optimistic correspondence that expressed the potential for collaborative efforts. A revised proposal was then presented to the Secretary of State by the Japanese Ambassador on September 6, 1941.²⁴⁶ The report emphasized the following points:

1. There will be no military advancement by the Japanese in French Indochina;
2. The US and Japan's attitude towards Hitler needs to be determined accordingly;
3. A Japan-China relationship would be unified by Japan;
4. There will be no restrictions on the economic activities of the US in China.

On September 11, it was disclosed that Minister for Commerce and Industry Kobayashi Ichizō would visit Batavia for talks with the Dutch. An agreement was signed by Jean Decaux of France on September 22 that enabled Japan to position 25.000 troops in Tonkin. In response, the United States issued an ultimatum of embargoes.²⁴⁷ Japan's relentless efforts to keep the US out of the war resulted in the establishment of a new government led by Tōjō Hideki, on October 18, 1941. A fervent nationalist, Tōjō remained loyal to the Kwantung army. While a new government in Japan was established, in the US Roosevelt administration refused to go to war over China because it believed it could contain Japan's aggression with economic sanctions and by positioning its

²⁴⁶ United States, Department of State. *Peace and War: United States Foreign Policy, 1931-1941*. 132-133.

²⁴⁷ Antony Best. *Britain, Japan and Pearl Harbor: Avoiding war in East Asia, 1936-41*. (London: Routledge, September 2013). 111-131.

Pacific fleet in Hawaii and deploying long-range bombers on the Philippine Islands. In that vein, Ryohei Nakagawa raised the question: How much of WWII was a struggle between the two countries over China?²⁴⁸ There was a general understanding that the US and Japan were very optimistic about each other's prospects. Grew warned that middle ground was nonexistent in the Japanese empire's expansion. In October 1940, Admiral Isoroku Yamamoto warned that, "[t]o fight the United States is like fighting the whole world. . . . Doubtless I shall die aboard the Nagato [his flagship]. Meanwhile, Tokyo will be burnt to the ground three times."²⁴⁹ In the months leading up to Pearl Harbor's attack, Yamamoto foresaw the following, "It is obvious that a Japan-US war will become a protracted one. As long as the tides of war are in our favor, the United States will never stop fighting. As a consequence, the war will continue for several years, during which [our] material [resources] will be exhausted, vessels and arms will be damaged, and they can be replaced only with great difficulties. Ultimately we will not be able to contend with [the United States]. As a result of war the people's livelihood will become indigent . . . and it is hard not to imagine [that] the situation will become out of control. We must not start a war with so little chance of success."²⁵⁰ During the August negotiations, Japan was entitled to 450,000 gallons of 'not so good' gasoline and issued export licenses for \$300,000 worth of diesel fuel, but never received the oil it was entitled to, thus precipitating Pearl Harbor.²⁵¹ On November 3, 1941, Ambassador Grew reported to the State Department that despite severe cuts in industrial output, Japan was still on a rising trajectory. However, Hull remained convinced that relations between the two could be enhanced when the two had another chance to cooperate.

Beginning of November, the Japanese Government dispatched Kurusu Saburō to Washington to assist Kichisaburō Nomura in communication with the US. In this context, Ambassador Nomura and Saburō presented State Secretary with a proposal that contained mutual commitments. Among

²⁴⁸ Ritsumeikan, Japan. *Japan-U.S. Trade and Rethinking the Point of No Return toward the Pearl Harbor*. The International Studies Association of Ritsumeikan University: *Ritsumeikan Annual Review of International Studies*, 2010. ISSN 1347-8214. Vol.9, 101-123. (accessed November 29, 2021).

²⁴⁹ Record, Jeffrey. *Japan's Decision for War in 1941: Some Enduring Lessons*. (Carlisle, PA: US Army War College Press, January 2009).

²⁵⁰ Ibid.

²⁵¹ JACAR. U.S. completely bans oil exports to all aggressor countries (including engine fuel and aircraft lubricating oil). August 1, 1941.

those points were the following, no arm advancements toward southeastern Asia and southern Pacific except French Indochina (where Japanese troops were already stationed); securing commitments from two governments in the Netherlands and East Indies; the US providing oil to Japan. The US, however, decided to give the ultimatum on November 26, 1941, after noting Japan's persistence in pursuing its objectives. It was an ultimatum of this kind that came from Japan's military leaders in order not to budge from their fundamental objectives. While the US was not trying to meet Japan's objectives at the time, the ultimatum contained the following points: the governments should conclude a non-aggression agreement in the Pacific that respects Indochina's territorial integrity without requiring economic treatment; not support any other government in China than the national government; to relinquish extraterritorial rights in China; to negotiate trade agreements, etc. An ultimatum of this nature led Kurusu to inquire about a meeting with President Roosevelt since the given principles were unacceptable. Accordingly, on November 27, Roosevelt concluded the meeting with Ambassador Nomura and Kurusu where he shared his disappointment in Japan's policies. State Secretary Hull, therefore, convened Britain, China, Australia, and the Netherlands to discuss the situation. In his proposal to the parties, he suggested giving Japan a *modus vivendi* under which Japan would withdraw troops from Indochina within three months and limit the number of troops to 25,000. Even so, China objected to the agreement limiting Japan's military presence in Indochina. Despite UK's commitment, the China's government ended up being the ultimate letdown for Hull, feeling trapped and on the verge of failure.

Despite attempting all possible methods to negotiate a settlement, Roosevelt continued to attempt to settle, dispatching a personal telegram to the Emperor of Japan on December 6. Consequently, he stressed that recent developments threatened the longstanding peace between the US and Japan - and humanity at large. Moreover, he stressed that he addressed the emperor as the only hope for alleviating Japan's darkness. In the end, this too unsuccessful when Japan

launched a surprise attack on December 7, 1941, at the US military base in Honolulu.²⁵² As a precaution, the Japanese ships maintained strict radio silence between *Hitokappu* Bay and the Hawaiian island *Oahu*. The attack on Pearl Harbor was considered to be a launch pad for upcoming battles in the Pacific, including British bases in the Philippines, Guam, Midway Island, Wake Island, Malaya, and Hong Kong.²⁵³ While the US citizens regarded Pearl Harbor as an immoral ‘sneak attack’ in Japan, it was perceived as a victory justifying the return to Asian dominance. As the attack in other countries progressed, the government opted to focus on economic development at a time when the nation most needed it. Consequently, during the Kono cabinet's tenure between 1937 and 1939 and 1940 to 1941, numerous economic reforms were introduced. In particular, the most notable was the ratification of the National General Mobilization Law by the Diet in 1938. Thus, Kono used the Mobilization Law in 1941 to create a new Economic Order in Asia as well as other political orders. In this way, associations were formed to allocate raw materials and other resources, depending on the industry. Therefore, during the second Kono cabinet, the government acquired control of the Patriotic Industrial Service Federation. After 1939-1941, the government, under the Mobilization Law, instituted a system of job registration that prohibited employees from shifting positions during the war. In parallel with the Pearl Harbor attack, these measures enabled the US to determine that Japan remained firm in its defensive positions. Consequently, on December 8, 1941, Roosevelt, through a radio broadcast, declared war on Japan. The following day, in the wake of President Roosevelt's announcement, Italy and Germany declared war on the US.

²⁵² U.S., Department of State. *Peace and War: United States Foreign Policy, 1931-1941*. 147.

²⁵³ L.M. Cullen. *A History of Japan, 1582-1941*. (Cambridge: Cambridge University Press, January 2010). 276-239.

1. Adversary Deterrence Strategy: the US Army in the Pacific War

A number of scholars, including Jeffrey Record, have emphasized that Japan's war with the US was fueled not only by economic sanctions but also by national pride.²⁵⁴ Conversely, President Roosevelt designed *de facto* objectives that would allow him to become actively involved in political affairs without diverging from neutrality. In the wake of Hitler's ascent along with Japan's ambitions of becoming a dominant power in the world, Roosevelt devoted himself to promoting democracy.²⁵⁵ It was imperative to develop a new strategy as the British position in the Far East deteriorated. That being said, Winston Churchill invited Roosevelt to position US warships in Singapore in order to restrain the Japanese forces. In response, the US-British Staff Conference known as the series of secret discussions between the two countries shall the US enter the war. The conference was held in Washington D.C. between January to March 1941. With Roosevelt's approval, a document titled ABC-1, which was mostly drafted by the British with a few changes from US were finalized.²⁵⁶ During MacArthur's guidance the Philippines' Clark Field air base proved to be a matter of concern due to Japan's Kembu group utilizing the airfield as its main operational base. Air raids by the American military began on the Japanese occupation of Clark in October, resulting in the destruction of over 1.500 Japanese aircraft. In stark contrast with Malaya, Manila's defenses collapsed very quickly, so soon after it was declared an abandoned city. In spite of this, the Philippine and American forces failed to regain control of the Bataan peninsula and Corregidor. One of the first actions the US took was the relocation of its fleet from San Diego to Hawaii although not in agreement with Admiral O. Richardson's will.

²⁵⁴ Jeffrey Record Dr. *Japan's Decision for War in 1941: Some Enduring Lessons*. (Carlisle, PA: US Army War College Press, 2009).

²⁵⁵ Paul S. Burtness and Warren U. Ober, "Provocation and Angst: FDR, Japan, Pearl Harbor, and the Entry into War in the Pacific," *The Hawaiian Journal of History*, Vol. 51, 91+, 2017. (accessed December 6, 2021).

²⁵⁶ Anne Sharp Wells. *Historical Dictionary of World War II: The War against Germany and Italy*. (Maryland: Rowman & Littlefield, December 2013).

He was succeeded shortly thereafter by Admiral Husband E. Kimmel, an enthusiastic supporter of Roosevelt's fleet objectives. While the US endeavored to deter Japan with such a maneuver, the reverse occurred. Following that, a war alert was issued on December 8, 1941, apprising US forces in the Philippines of the impending war. On the same day as the assault in Hawaii, Japanese troops were deployed in the Philippines. This prompted the US and Britain to declare war on Japan; simultaneously, a global war ensued, with the US playing a pivotal role. In response, Japan launched a series of attacks on US bases in Hawaii, Guam, Wake Island, and the Philippines. Additionally, it targeted Hong Kong, Malaya, and Singapore, all British colonies.²⁵⁷ Japan's vigorous expansion prompted Roosevelt to emphasize the following; "The United States was at peace with that nation at the solicitation of Japan, was still in conversation with its Government and its Emperor looking toward the maintenance of peace in the Pacific."²⁵⁸ Furthermore, Roosevelt stressed one thing with certainty, regardless of the technical deficiencies caused by the message's delayed dispatch, Roosevelt emphasized one thing with certainty. Considering the distance between the Ohau military base and Japan, the Japanese military had clearly prepared, well in advance, for the attack. Consequently, three strategies were employed by the Roosevelt administration to contain Japanese military power: (1) the US fleet deployment from southern California to Pearl Harbor; (2) oil embargos; (3) strength of the US military in the Philippines along with Britain's agreement on dispatching warships to the Pacific.²⁵⁹ Historians like (Callahan 2011) reiterated that the US intended to wage war with Japan but did not foresee the Pearl Harbor attack.²⁶⁰ In response, the US citizens mobilized their joint forces for national defense since the war had resulted in a shortage of steel and other resources, which led to rationing programs among US citizens.

²⁵⁷ The National WWII Museum New Orleans. Article: The Pacific Strategy, 1941-1944.

²⁵⁸ National Archives. Joint Address to Congress Leading to a Declaration of War Against Japan (1941). December 8, 1941; SEN 77A-H1, Records of the United States Senate; Record Group 46; National Archives.

²⁵⁹ Jeffrey Record. *Japan's Decision for War in 1941: Some Enduring Lessons*. (Carlisle, PA: Strategic Studies Institute, February 2009). 49.

²⁶⁰ Daniel Marston. *The Pacific War Companion: From Pearl Harbor to Hiroshima*. (Oxford: Osprey Publishing, March 2011). 59.

This enabled the US to recover from the loss and contain the war effort. In his volume (Métraux 2012) asserted that Takeo Iguchi, as a former diplomat, believed that the Japanese government's objective was to, “gain full access to Indonesia’s oil and natural resources, thus eliminating all Western powers, including the US and UK, that attempted to prohibit such a move. In response, Japan attacked British positions in Malaya, Singapore, and Manila, along with US and British positions.”²⁶¹ A total of three crucial documents were released within the time span: first, the Atlantic Charter drafted by the US and UK in August 1941, which was then endorsed by the UN a year later. The Atlantic charter consisted of eight principles aimed to build a post-war world that is more just and equitable. By defining common principles within their respective countries’ national policies, Roosevelt and Churchill paved the way for progress. The following were some of the key principles: people should be able to freely express their wishes when it comes to territorial changes. On the basis of the given principles, all nations of the world should abandon the use of force. In recognition that peaceful coexistence was impossible in a world where countries continue to use land, sea, or air weapons to threaten aggression outside their borders, they sought disarmament. In addition, any efforts that could reduce armament burdens for peace-loving nations received support and encouragement. However, scholars like (Hatcho 2003) expressed concern that the Atlantic Charter was not carefully analyzed, pointing out that if it expressed US war aims, what was the point of making such a declaration without declaring war? In his opinion, the Atlantic Charter contributed to the resolution of many global issues for the US.²⁶² The development of Japan’s military on invasion brought the trio (Germany, Japan, and Italy) together in January 1942, where the military agreement was reached on Berlin.²⁶³ The agreement outlined the naval forces Japan was to receive as follows: (a) The waters eastward from

²⁶¹ Daniel A. Métraux, “Teaching Pearl Harbor: A New Japanese Perspective,” *Association for Asian Studies* Volume 17:3 (Winter 2012): US, Asia, and the World: 1914–2012, (accessed December 6, 2021).

²⁶² Yui Hatcho, “The Atlantic Charter of 1941: A Political Tool of Non-belligerent America,” *The Japanese Journal of American Studies*, No.14, 2003. (accessed December 6, 2021).

²⁶³ National Diet Library, Japan. Court Exh. No. 49: Military Agreement between Germany, Italy and Japan, 18 Jan. 1942.

about 700, East longitude, to the West Coast of the US Continent, as well as the continent and islands (Australia, Netherlands, East Indies, New Zealand, etc.) which are situated in these waters.²⁶⁴ While the general operation of Japan in collaboration with Germany and Italy included the following,

- (a) To destroy important English, US, and Netherlands bases in Greater East Asia, /and/ attack or occupy their territory in that area.
- (b) Seek the annihilation of the North American and English land, sea, and air forces in the Pacific and the Indian Ocean in order to ensure the control of the Western Pacific.
- (c) If North America and English fleets concentrate largely in the Atlantic, Japan will reinforce her commerce raiding, etc.²⁶⁵

According to (Arakawa 2002), Sin-en Sato had the following points of view, “It is unimaginable what serious affairs might arise if an incident happened at sea, and the rice and salt could not be shipped from western and eastern parts of Japan, and such stalemate of shipping lasted more than a year If foreign invaders use their warships to shadow and plunder cargo boats at Edo (the Eastern Metropolis [meaning Tokyo Bay]), the metropolis will be surely thrown into immediate confusion.”²⁶⁶ In line with Sin-en Sato’s assessment of foreign warships during World War two, Torpedo’s was among the most effective US military weapons during the war.²⁶⁷ Consequently, US gradually began utilizing them since they had the potential to reach a greater depth than expected. It turned out, however, that the magnetic exploders were not able to reach their targets before exploding. In addition to the advanced submarines of the US, Japan’s signing of the Washington Treaty, which limited its tonnage to 60 percent of that of US and UK, only made Japan's disadvantages worse. During this time, the British government sought to completely ban submarines, although not everyone agreed with them. Whereas in Japan, the lack of submarines was perceived as a threat that would force them to surrender and prevent them

²⁶⁴ Ibid.

²⁶⁵ Ibid.

²⁶⁶ Arakawa Kenichi, “The Maritime Transport War - Emphasizing a strategy to interrupt the enemy sea lines of communication1 (SLOCs),” *NIDS Security Reports*, No.3, March 2002, 97-120. (accessed December 6, 2021).

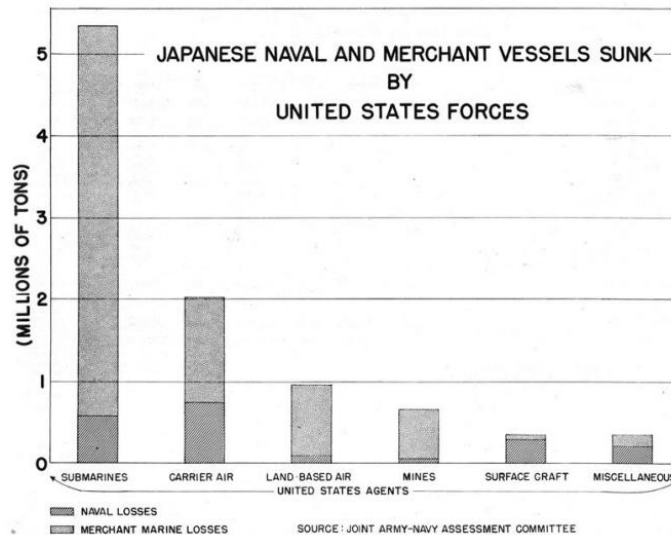
²⁶⁷ NavWeaps. Naval Weapons, Naval Technology and Naval Reunions. *Torpedoes of the United States of America: World War II*. (accessed December 6, 2021).

from fighting, which led to the belief that submarines should be banned. There was no warning given in which the US justified its assertion that Japanese merchant ships were armed. In fact, the US's unrestricted warfare was not authorized until shortly after Pearl Harbor had been attacked. In reference to the London Naval Conference of 1930 and its protocol of 1936, paragraph 22 emphasized the following; (1) In their action with regard to merchant ships, submarines must conform to the rules of international law to which surface vessels are subject; (2) In particular, except in the case of persistent refusal to stop on being duly summoned, or of active 'resistance to visit or search, a warship, whether surface vessel or submarine, may not sink or render incapable of navigation a merchant vessel without having first placed passengers, crew and ship's papers in a place of safety. For this purpose, the ship's boats are not regarded as a place of safety unless the safety of the passengers and crew is assured, in the existing sea and weather conditions, by the proximity of land, or the presence of another vessel which is in a position to take them on board."²⁶⁸

The aforementioned paragraph indicates, however, that the US was a signatory to the treaty, which rendered it illegal to carry out military operations actions against Japan in the first place, including the unrestricted submarine strikes. The Pacific Ocean was Japan's last line of defense for imperial success at this point. While Japan had made substantial changes to its national defense during WWI, as referenced by (Kenichi 2002) no documents exist pertaining to the first revision of national defense policy. However, some historical references are based on the Naval Annual Operational Plan for the late Taisho and early Showa periods of the 1930s, in which an offensive strategy against the US was explicitly laid out to be carried out until 1941.²⁶⁹ Although Japan signed the London Treaty, the high command of Japan's Navy commissioned the necessary ships for its defense. In 1931, a comprehensive plan was presented to the navy minister, which stated that Japan must eliminate the US presence in the Far East.

²⁶⁸ Horace B. Robertson, Jr. (ed). *International Law Studies- The Law of Naval Operations, Volume 64*. (Newport: Naval War College, January 1991).

²⁶⁹ Arakawa Kenichi, "The Maritime Transport War - Emphasizing a strategy to interrupt the enemy sea lines of communication1 (SLOCs), *NIDS Security Reports*, No.3, March 2002, 97-120. accessed December 6, 2021).



Equation 1. Japanese Naval and Merchant Vessels Sunk by United States Forces divided by groups: submarines, carrier air, land-based air, mines, surface craft and miscellaneous.

Source: Joint Army-navy Assessment Committee.²⁷⁰

As the war raged, the first US submarine, USS Gudgeon (SS-211), sank its first enemy target on January 27, 1942. Consequently, on February 1, 1942, the enterprise attacked Kwajalein in the Marshall Islands, beginning the first US carrier offensive of the war. This led to the next day dawning, Yorktown engaged in the battle, launching an air force in the northern Gilbert Islands.²⁷¹ Accordingly, on February 4, 1942, the US Army announced that hostile foreign powers were only allowed to travel within a five-mile radius of their locations in Germany, Italy, and Japan; thus, aliens could not travel beyond that distance.²⁷² According to the Wavell Report, a patrol was sent out on the night of the 8 of February 1942, when the Japanese Army invaded Singapore. This partly reflected the fact that air power requirements for the Pacific war differed greatly from those for the Atlantic war, allowing American production to meet both needs.²⁷³ In February 1942, President

²⁷⁰ The Navy Department Library (2022). *Naval History and Heritage Command. Japanese Naval and Merchant Shipping Losses During World War II by All Causes*. Prepared by The Joint Army-Navy Assessment Committee. NAVEXOS P 468. February 1947. (accessed December 6, 2021).

²⁷¹ Naval History and Heritage Command U.S. Navy. *Early Raids in the Pacific Ocean: February 1 to March 10, 1942*. World War II 75th Anniversary Commemorative Series. December 2012.

²⁷² National Monument California. Tule Lake. Timeline: Japanese Americans during World War II.

²⁷³ Daniel Marston. *The Pacific War Companion: From Pearl Harbor to Hiroshima*. (New York: Bloomsbury Publishing, March 2007). 63.

Roosevelt signed executive order 9066, which allowed the US Army to designate areas from which some or all persons could be excluded.²⁷⁴ At the same time, in February 1942, General Douglas MacArthur laid out the Allied military's strategy for the Southwest Pacific area for the next two and a half years. Upon his arrival in Australia, he found out that only 25,000 US soldiers were stationed there, insufficient for joint efforts with Australia. On the other hand, a new defensive strategy was adopted by the Japanese military, encompassing western Alaska and the Solomon Islands. Japan's attempt was to destroy Australia's line, which had been used by the US as a base. The US allies Australia and New Zealand had begun a counterattack across the Pacific which halted Japan's progress. In addition, their attack on the islands like New Guinea and the Philippines was primarily an attempt to eliminate Japan's presence. The advances in different areas ensured that designated commanders would be in charge of operations in those areas. Therefore, after the battle of the Coral Sea between May 7-8, MacArthur played a relatively minor role, but rather entrusted the responsibility to Vice-Admiral Robert L. Ghormley. Thus, the battle of Midway, which took place six months after Japan attacked Pearl Harbor, or more precisely 4-7 June 1942 significantly altered the war in the Pacific Southwest one month later. It was reported that four Japanese aircraft carriers were destroyed by US carrier craft. In the wake of such success, US managed to overthrow the country for the first time, which culminated in a full-scale conflict between the two in the following years.

Thus, Japan originally intended to capture both Port Moresby and the southern part of Solomon Island; however, it became apparent that Japan would have to seize Port Moresby in the process of occupying the Coral Sea. Midway, however, was the point where Japan realized that an ambitious operation could no longer be conducted after losing four large carriers. In the wake of Midway's victory, US Commanders in Chief seized the opportunity to launch an offensive against the Japanese base in Rabaul in response to MacArthur's call for action. While Japan was building

²⁷⁴ Ibid.

an airstrip on Guadalcanal Island in the southern Solomon Islands, General Ghormley's South Pacific Area received orders to seize the island. He was in charge of the 1st US Marines under major-General Alexander Vandegrift. The strategy enabled that upon arrival in Buna, they would occupy the landing strips that would serve as air support for their journey to Rabaul, where the Japanese were already present. The attack on Port Moresby was therefore led by major-General Tomitarō Horii from Japan since it was the first country to strike at it. MacArthur sent reinforcements to New Guinea, where intelligence indicated that the Japanese would advance overland in response to Japan's signal. In response, the US deployed its Marines to Guadalcanal on August 7, effectively taking over the balance of power in the conflict. In response, Japan launched a strike against the US base in Rabaul using a landing craft produced by Higgins Industries. Thus, on August 1942 under Vice-Admiral Gunichi Mikawa, Japan sunk three US cruisers in the Battle of Savo Island, which is considered the worst blue water defeat in US Navy history. At this time, the Allies had established a series of defensive island bases. It was a six-month battle involving seven major battles, three major land battles, and continuous air combat to control Henderson Field. On the heels of their victory, Japan sent 1,000 men to Guadalcanal to defeat the US. During the battle of the Tenaru, the Japanese lost the perimeter of Henderson airfield to the US forces. While the US controlled the airstrip, Japan controlled the surrounding seas during the day, while the Japanese took control at night. Their warship, dubbed Tokyo Express, sailed down every night to bring reinforcements there so that the vital air strip could be seized.

It was, however, on August 26 that Japanese forces in Australia encountered challenges during the Japanese offensive. As Japanese marines landed at Milne Bay on New Guinea's southeast tip, they attacked Kokoda Trail. To counter the Japanese, MacArthur warned General Marshall in Washington that more support for the Australians was necessary. By September 1942, Australian brigades at Milne Bay had defeated the Japanese, prompting them to evacuate. Yet, in September and October, the Japanese were continuously putting effort into recapturing Henderson's airfield.

In the Battle of Bloody Ridge, 2000 Japanese launched mass attacks in waves trying to gain the 900-meter airfield that would guarantee their campaign if they succeeded.

During the battle of Eastern Solomons in late August, another US aircraft carrier was sunk as the naval engagement continued. As a result, MacArthur conveyed to General Robert L. Eichelberger the following message: "Take Buna, or don't come back alive."²⁷⁵ The Japanese had already been at sea at Sanananda in January 1943, and about 13,000 had perished there, but in comparison, the American and Australian death tolls were higher. In addition, Japan's best pilots perished and its naval air force never recovered, while the US was able to replace its ships quickly, something Japan was not able to do. In New Guinea and Guadalcanal, US forces became aware of their underestimation of the Japanese military might, which made them recognize the obstacles in maintaining a force on Guadalcanal. A final offensive attempt was launched by the Japanese against the village of Wau in New Guinea, establishing the 18th Army to reinforce their defense. In March 1943, the Dutch surrendered in the Netherlands and East Indies enabling Japan to benefit from its rich resources. The US already understood the importance of the Pacific region for Japanese ships transporting oil, iron ore, rubber, etc. Aside from this, Japan sent ships laden with armaments and other essential items for fighting the American-British-Dutch-Australian Command (ABD-ACOM) and later at Midway and Guadalcanal.

As with Japan, the US was also heavily dependent on overseas trade with special emphasis on tin, rubber, chrome ores, vegetable oil, and many others (the data is from 1946).²⁷⁶ In the years before the Pacific War began, neither the British nor Americans planned an offensive against Japan. On April 18, 1943, American Intelligence shut down the P-38 from Henderson Field after being informed that Admiral Isoroku Yamamoto intended to visit Bougainville in the north of the Solomons. In the summer of 1943, Halsey's troops were deployed in New Georgia and Rendova

²⁷⁵ The Papuan Campaign: 'Take Buna, or Don't Come back Alive,' *INSCOM Journal*, Volume 17. (accessed December 6, 2021).

²⁷⁶ *Ibid.*

in preparation for ‘Operation Cartwheel.’ On the north coast of New Guinea, MacArthur’s troops landed on Kiriwina and Woodlark Islands and Nassau Bay on the same day. Following the New Georgia landing, Japanese troops were dispatched from Rabaul to engage the US navy, resulting in several US and Australian ships being sunk or damaged. However, three Japanese transport ships were sunk by the Allies. Two US Marine Divisions landed at Empress Augusta Bay on the west coast of Bougainville on November 1 and 3, destroying a cruiser and destroyer from the Japanese Eight Fleet. In placing forces within range of Japanese air power when a powerful Japanese fleet under Vice Admiral Takeo Kurita descended at Rabaul. The US naval aircraft caused such substantial damage to Kurita that it had no choice but to withdraw to Truk. By the end of 1943, the US had more men and vessels in the Pacific Ocean than in the Atlantic Ocean.²⁷⁷

2. Combating the Foe in Tandem: Cairo and Tehran Conference

First Quebec Conference, aka Quadrants, was an intensely secretive military conference held between August 17 and 24, 1943. The only attendees were representatives from the governments of the US, the UK, and Canada. It was discussed at the conference that a few possible options existed for defeating Japan collectively: the first route from the north of Japan through Hokkaido, cross the Pacific to Formosa, and then return to the main islands; from Singapore to the main islands towards Formosa; across the Pacific to Formosa and onto the main island. The strategists concluded it would be difficult to develop a plan for defeating Japan by 1945.²⁷⁸ In the end, they preferred the option of delivering goods to Formosa through the Pacific. However, Admiral King was concerned that a shift in the British fleet would be necessary to accomplish that, so it was preferred that they be used in the Bay of Bengal for Burma operations instead.²⁷⁹ The

²⁷⁷ Ikuhiko Hata, “Comparative Analysis of Japan and U.S. Global Strategy 1941-43,” *National Institute for Defense Studies*, September 2009). Comparative Analysis of Japan and U.S. Global Strategy 1941-43. (accessed December 15, 2021).

²⁷⁸ Charles F. Brower. *Defeating Japan: The Joint Chiefs of Staff and Strategy in the Pacific War 1943-1945*. (New York: Palgrave Macmillan, January 2016).

²⁷⁹ *Ibid.*

Joint Chiefs of Staff (JCS) understood that for a successful operation in Upper Burma British cooperation was essential, most notably when it came to naval and amphibious operations in the Bay of Bengal. In fact, the intentions of the British raised suspicions they may try to thwart US interests in the Pacific. Thus, JCS pursued the objective of channeling UK's efforts [in the war with Japan] into Southeast Asia. In this way, the US was assured that the Pacific War would be limited to the US only.²⁸⁰ China's inflation at the time was an increasing concern Roosevelt had, as it could lead to Japan abandoning its military campaign against it. Also, General Joseph Stilwell was not amicable with Chiang Kai-shek, among the reasons that the US proposed convening the Cairo conferences. Roosevelt was aware that Japan's expansionist tendencies could be curbed by a constructive alliance with China; therefore, he held some private meetings with China prior to the conference. He hoped Chiang Kai-shek would assure him that China would not attempt to control decolonizing nations, but rather that China would first serve its own interests. Consequently, the US had to guarantee that Japan would return the islands it had taken from it, including Manchuria, Taiwan, and Pescadores. Burma once served as a supply route for China, and it is only fair that she be allowed access once more.²⁸¹ In response, the three intendeds to center their efforts primarily on pursuing Japan, actions that eventually led to the latter's invasion. As stated in paragraph two of the China theater, below are recommendations related to Chinese operations that could have the most enduring impact on Japan during the Pacific War:

- a. Assist S.E.A.C. in operations against North Burma—Current.
- b. Develop land route to China and improve internal communications—Current.
- c. Continue to train and improve the combat effectiveness of the Chinese Army—Current.
- d. Initiate intensive bombing of Japan by V.L.R. bombers -Early 1944.
- e. Recapture Canton and Hongkong -November 1944-May 1945.

²⁸⁰ Ibid.

²⁸¹ U.S. Department of State Archives. The Cairo Conference, 1943. Information released online from January 20, 2001 to January 20, 2009.

- f. Carry out the intensive bombing of Formosa and P.I., deny the use of Straits of Formosa and South China Sea to Japan and furnish land-based air support to any US. Navy activities in these areas October 1944.
- g. Attack Formosa if required -May 1945-November 1945.
- h. Offensive operations towards Shanghai-November 1945.²⁸²

In their joint statement, the combined US and UK's Chief of Staff agreed that defeating Japan required a cooperative approach with China and Russia. As a result of an inability to achieve reconciliation between the parties, the Cairo meeting was held in November 1943. In view of the significance of such an event, Commander in Chief Alliance Force General Henri Honoré Giraud expressed France's willingness to participate, considering the nature of the event and the proposed operations.²⁸³ The Chief of Staff acknowledged France's commitment to participate, but deemed it unnecessary. Having endured two years of hostilities with Japan, the US was compelled to devise a plan for defeating Japan by late November. The Pacific War had already entered the phase of the 'island hopping' plan of action from a US perspective.²⁸⁴ As part of the 'island hopping' program that began on November 20, 1943, the US acquired small islands in the Pacific Ocean to establish military bases. In addition, a similar campaign was already in progress under the command of General Douglas MacArthur, Commander of Allied forces in the Southwest Pacific, and Admiral Chester W Nimitz, Commanding Officer of the Pacific Fleet. To attain their objectives, US forces mainly employed the 'island-hopping' strategy to further the war in areas not heavily defended by the Japanese. As Nimitz's command grew in the central Pacific, several 'island-hopping' expeditions were launched in the Micronesian region. Keeping in line with MacArthur's concept of strategic planning, the 2nd Marine Division seized Tarawa, commencing the first large-scale offensive by the American forces across the central Pacific that lasted between

²⁸² U.S. Secret British Most Secret. C.C.S. 405. Combined Chief of Staff. Role of China in Defeat of Japan. *Memorandum from Lt. General Stilwell, USA*. November 1943.

²⁸³ U.S. Secret British Most Secret. C.C.S. Combined Chief of Staff. French Participation in Cairo Conference. *Memorandum from Commander in Chief, Allied Force Headquarters*. November 1943.

²⁸⁴ Andrew S. Erickson[†] and Joel Wuthnow[‡], "Barriers, Springboards and Benchmarks: China Conceptualizes the Pacific "Island Chains"* , *Cambridge University Press*. The China Quarterly, 225, March 2016, 1–22. (accessed December 15, 2021).

November 20 and 23, 1943. The Marine Division faced resistance from Japanese forces armed with mortars mounted on naval rifles along with coastal defense, anti-aircraft, anti-boat, and field artillery. Despite its limited supply, Japan's prowess and capacity to manufacture such an abundance of war munitions stunned the US, an unprecedented event. Consequently, officers began to doubt whether the invasion of Tarawa had been a good decision, given that a fierce battle lay ahead. Colonel Joseph H. Alexander of the Marine Corps proclaimed; "Tarawa was the most heavily defended atoll that ever would be invaded by Allied forces in the Pacific."²⁸⁵ Furthermore, American soldiers, sailors, and marines improved their abilities after incorporating 'island-hopping' strategy. There were a high number of fatalities among the Navy and Marine Corps, with 1,085 troops slain and 2,292 wounded. Nonetheless, Japanese forces experienced a disproportionately high casualty rate. Mass fatalities were caused by several factors, including inadequate communication tools during the opening stages of the battles, which resulted in poor coordination between the forces. Tarawa's campaign ended with 4,836 Japanese military soldiers perishing, leaving only 17 to survive. The US's victory over Tarawa was unexpected, thus, Japanese Admiral Keiji Shibazaki contends that it was a mistake to think it could not be conquered in such a short period.²⁸⁶ During Admiral Nimitz's command of the Central Pacific, General MacArthur's command of the Southeast Pacific Area had undertaken an array of initiatives since it aimed to recapture the Philippines.

Therefore, in late December 1943, MacArthur's forces landed in the Bismarck Archipelago, known as an offshore group of islands in New Guinea. In ensuing battles for the islands, New Britain, New Ireland, and the Admiralties were designated as Bismarck Archipelago camps once again. Alternatively, the objective of Allied forces in the respective campaigns was, in essence, to weaken the formidable Japanese bastion at Rabul on New Britain's northeastern coast. Not only

²⁸⁵ Joseph H. Alexander. *Utmost Savagery: The Three Days of Tarawa*. (Annapolis MD: Naval Institute Press January, 1995).

²⁸⁶ Veterans of Foreign Wars, 'Bloody, Bloody Tarawa', Nov. 20 marks 75 years since the American assault against Japanese forces on Tarawa in World War II. November 2018.

did Rabaul supply Japanese forces in the Solomon Islands, but it was also in a favorable position to attack the supply lines linking the US and Australia. As a result, Allied efforts to eliminate the threat were once again endorsed at the Casablanca Conference in 1943. Considering Japan's position, the allies did not have many options since attacking Rabaul proved expensive. To weaken Rabaul, the only option left to the allies was to isolate and attentively conquer it through attrition and starvation. Consequently, MacArthur began to consolidate control of the western Solomon Islands, New Guinea, and the Philippine Islands. However, for the Archipelago Campaign, MacArthur drew most of his ground forces from the US Fifth Air Force and Royal Australian Air Force. Besides the US seventh fleet, MacArthur's army consisted of ships and vessels, under the command of Vice Admiral Thomas C. Kinkaid. Strategic objectives MacArthur sought to accomplish during the campaign were as follows;

1. Gain control of the Vitiaz and Dampier Straits (which separates New Guinea and New Britain).
2. Admiral Halsey to seize the northwest of Solomon Island (to attack Japanese forces).
3. Seize the Admiralty Islands, only 350 miles from Rabaul (to provide Allies with logistics).²⁸⁷

During the period of November 22 to December 7, 1943, the following important meetings were held: The Cairo Conference and the Tehran Conference.²⁸⁸ Given that the Quadrant meeting already covered international repercussions, the Cairo meeting presented another opportunity for Washington to embark on its new strategic initiative. In the Cairo Conference, which took place between November 20 and 26, the only representatives were Roosevelt, Churchill, and Chinese Generalissimo Chiang Kai-shek. In addition, only a few combinations of Chiefs and Staff could attend the conference. While many topics were discussed during the meeting, only a few warranted the most attention as they needed to be addressed urgently. On November 23, 1943, the Cairo Conference convened at Villa Kirk for the first plenary session. In the course of the discussions,

²⁸⁷ Leo Hirrel. *Bismarck Archipelago*. (Michigan: The University of Michigan Libraries, October 1994).

²⁸⁸ Combined Chiefs of Staff (U.S. and Great Britain). *Sextant Conference, November-December 1943. Papers and Minutes of Meetings, Sextant and Eureka Conferences*. Office, U.S. Secretary of the Combined Chiefs of Staff. December 1943.

air ferry routes into China through Burma were deemed necessary for more effective communication with China. Even though he knew Churchill's reservations about a "mighty British fleet," Chiang recorded the following remarks; "He was convinced that simultaneous naval and land operations gave the best chance of success for the operations. Burma was the key to the whole campaign in Asia. After he had been cleared out of Burma, the enemy's next stand would be in North China and, finally, in Manchuria. The loss of Burma would be a very serious matter to the Japanese and they would fight stubbornly and tenaciously to retain their hold on the country."²⁸⁹

It was therefore the critical shortage of landing craft that caused the uncertainty since it complicates the operations supply process. While there were enough resources in Normandy to support operation Overlord, it still seemed insufficient. Therefore, Overlord's deployment in the South of France in January, when 67 armada ships returned from the Mediterranean Theater to the UK, was deemed successful. However, although the return of the ships looked promising, it was evident that it would not suffice in the event of an invasion. In addition to their meetings, the big three met separately for discussions of military matters, most of which involved military matters. On December 1, 1943, the US, UK, and China released the Cairo declaration, which included the following; "In this war, the three great Allies are fighting to restrain and punish the aggressive behavior of Japan. There is no desire for personal gain or territorial expansion in their minds. The purpose of this action is for Japan to be stripped of all the islands in the Pacific it has seized or occupied since 1914, and all the territories she has stolen from the Chinese, such as Manchuria, Formosa, and the Pescadores, should be restored to the Republic of China. In addition, Japan will be expelled from all other territories that she has seized through violence and greed. Aware of Korea's enslavement, the aforementioned three great powers are determined that in due course Korea will become free and independent. In pursuit of these objectives, the three Allies will continue to persist in the serious and prolonged operations necessary to achieve Japan's unconditional surrender, in harmony with the United Nations at war with Japan."²⁹⁰ Consequently, the Cairo Declaration proclaimed that Japan must be defeated until it

²⁸⁹ US Secret British Most Secret. Sextant Conference. Minutes of First Plenary Meeting, Held at the Villa Kirk on Tuesday, 23 November 1943 at 1100.

²⁹⁰ National Diet of Japan. The Constitution and Other Documents. Cairo Communique. Department of State Received December 1943. Communications and Records.

surrendered the majority of its occupied territories, particularly those in China and Korea.²⁹¹ In the days prior to the departure for Tehran on November 27, a heated debate broke out with British Chiefs of Staff regarding Overlord's extension into Italy and the eastern Mediterranean. It presented a grim scenario that placed US in a tight spot; the only alternative was to accept the British proposal. Known also as the Eureka Conference, the Tehran conference took place in Tehran, Iran, between November 28 and December 1, 1943, with the participation of three leaders, which included President Roosevelt, Prime Minister Churchill, and Premier Stalin.²⁹² The following was concluded, 'Declaration of the Three Powers Regarding Iran.' This declaration contains some of the following paragraphs; "WE—The President of the United States, The Prime Minister of Great Britain, and the Premier of the Soviet Union, have met these four days past in this, the capital of our ally, Iran, and have shaped and confirmed our common policy. As to war—Our military staff have joined in our round table discussions, and we have concerted our plans for the destruction of the German forces. We have reached a complete agreement as to the scope and timing of the operations which will be undertaken from the East, West, and South. No power on earth can prevent our destroying the German armies by land, their U-boats by sea, and their war plants from the air."²⁹³ In addition to Japan, the Allies discussed Eastern Europe, emphasizing Germany's belligerent conduct. Considering Poland's significance to Germany, Stalin sought to redraw the borders of Poland in the east. For Poland to be compensated for its loss of territory, the three leaders agreed to shift the German-Polish border to the Oder and Neisse River basins. However, despite this, the decision was only formally ratified in 1945 by the Potsdam Declaration.

The Republic of Lithuania, Latvia, and Estonia were also slated for inclusion in the Soviet Union; however, each country had to conduct its own referendum in order to do so. Stalin was unimpressed with the proposal, emphasizing that the decision would be made in accordance with the Soviet constitution, regardless of other factors.²⁹⁴ During the negotiations, an international

²⁹¹ Office of the Historian. Foreign Relations of the United States: Diplomatic Papers, The Conferences at Cairo and Tehran, 1943.

²⁹² Office of the Historian. Milestones: 1937- 1945. The Tehran Conference, 1943.

²⁹³ Office of the Historian. Foreign Relations of the United States: Diplomatic Papers, the Conference at Cairo and Tehran, 1943. Roosevelt Papers. *The Agreed Text of the Communiqué*.

²⁹⁴ Office of the Historian. Milestones: 1937- 1945. The Tehran Conference, 1943.

theme emerged, with Roosevelt and Stalin discussing in private the possibility of establishing an international organization (UN). It was an advantageous situation since the future of ‘‘international peace and security’’ would be determined by these four nations (the US, UK, China, and the Soviet Union) following the defeat of the enemy.²⁹⁵ Consequently, a report compiled by chiefs of staff provided details on the conditions that must be ensured in order to conduct a successful operation against Japan:

- a. Destroy the Japanese Fleet at an early date.
- b. Secure the maximum attrition of enemy air forces.
- c. Intensify air, submarine, and mining operations against enemy shipping and lines of communication.
- d. Enable us to launch shore-based and carrier-borne air attacks on Japan.
- e. Keep China in the war.
- f. Insure that the sequence of operations remains flexible and that preparations are made to take all manner of shortcuts made possible by developments in the situation.
- g. Take advantage of the earliest practicable reorientation of forces from the European Theater.²⁹⁶

In regard to Japan, a discussion of the war against the latter and the ‘Buccaneer Plan’ took place by the Anglo-American delegations as soon as they returned to Cairo on December 2. Based on Leahy’s remarks, Churchill clearly harbored resentment over the Buccaneer plan since Churchill’s interests in Asia were quite different from Americans’ as stated, ‘‘The British clearly hadn’t developed the same deep interest in China as we had.’’²⁹⁷ After many lengthy negotiations, Roosevelt abandoned Buccaneer in 1944 and provided Chiang with a replacement operation. The meeting resulted in a new military strategy against Germany and Japan, which implied that the war would take a different course. It was not until the British and Americans had finally decided to launch ‘Operation Overlord’, an invasion of Battle in Normandy in the north of France. The

²⁹⁵ Ibid.

²⁹⁶ U.S. Secret British Most Secret. C.C.S. 417. Combined Chiefs of Staff Over-All Planed for the Defeat of Japan. References: a. CCS 31915, paras. 43,44 b. CCS 130th Meeting, Item 3. *Report by the Combined Staff Planners*. December 1943.

²⁹⁷ Charles F. Brower. *Defeating Japan: The Joint Chiefs of Staff and Strategy in the Pacific War 1943-1945*. (New York: Palgrave Macmillan, September 2012).

Normandy peninsula fell off under German occupation which was seized by the three allied powers later. In response, Stalin agreed to launch a new offensive on the Eastern front, the *Vistula-Oder* offensive which eventually led to *Fuhrerbunker* in Berlin following the Germans surrender on May 7, 1945. The unconditional surrender instrument of Germany was signed on the same day at Gen. Dwight D. Eisenhower's headquarters in Reims by Gen. Alfred Jodl, Chief of Staff of the German Army.²⁹⁸ In accordance with the Tehran Conference agreement in November 1943, Stalin announced that once Germany was defeated, he would declare war on Japan. However, it was inevitable that the Soviet Union would accept its declaration of war on Japan without contemplating retribution. The conclusion was Roosevelt's agreement granting free access to the Soviet Union to Dairen and Arthur ports in Northern China, as well as the Kuril Islands and the southern half of Sakhalin. In 1944, Generalissimo Chiang Kai-shek agreed that US- China cooperation with the China's allies ought to be enhanced.²⁹⁹ The president's invitation to Chiang, however, clearly indicated that he considered China to be his most important Asian ally. As a result, an agreement was reached for Operation *Capital*, aimed at freeing China from Japanese oppression. A memo from the US Chiefs of Staff outlined, in part:

1. We are agreed that every effort should be exerted to bring the U.S.S.R. into the war against Japan at the earliest practicable date and that plans should be prepared for that event.
2. Both the specific and supporting operations will be designed to destroy the Japanese Fleet at an early date; to secure maximum attrition of enemy air forces; to intensify air, submarine, and mining operations against enemy shipping and lines of communication; to establish air and sea blockade of the main Japanese islands; to continue efforts to keep China in the war; and to enable us to launch land, and carrier-based air operations against Japan.³⁰⁰

²⁹⁸ National Archives. Milestone Documents. Surrender of Germany (1945).

²⁹⁹ Ibid.

³⁰⁰ U.S. Secret British Most Secret. C.C.S. 397 (Revised). Combined Chief of Staff. Specific Operations for the Defeat of Japan. December 1943.

3. The Pacific War Offensive: US in Total War with Japan

Japan's attack on its adversary allowed it to concede unconditionally despite being caught off guard by the present reality. From an analytical standpoint, the war records indicate that Japan had no intention of driving eastward, but rather to prevent the US Pacific fleet from meddling with Japan's growing military power. The absence of a clear understanding of timelines after the Naval Base attack and other preludes led to the unfolding turmoil that impacted Japan and the US. Military operations in the Pacific consisted of two phases: defensive operations from 1941-1943 and assault operations from 1944-1945.³⁰¹ A decisive victory over Japan was only possible with the B-29 aircraft, an operation that required meticulous planning on the part of the US.³⁰² The operational B-29 possessed the only production capability to carry a bomb load that was designed to cover 1,600 miles in January 1944.³⁰³ The significance of the B-29 made the American military shift to a war-focused perspective. While the war was raging in Europe, the JCS worried that US commitment to the Pacific War might decrease until Japan's formal surrender. Their support for the war primarily stemmed from resentment towards the surprise attack on Pearl Harbor, leading them to favor it. Meanwhile, American citizens shared concerns that a prolonged war would require compromise on their part. The 11th of January 1944 saw Roosevelt invoke the need for Congress to pass 'unstinting war measures' and urge the public to continue with their support.³⁰⁴ The following paragraph is from the proposal; "(1) A realistic tax law—which will tax all unreasonable profits, both individual and corporate, and reduce the ultimate cost of the war to our sons and daughters. The tax bill now under consideration by the Congress does not begin to meet this test; (5) A national service law- which, for the

³⁰¹ Marc S. Gallicchio and Waldo H. Heinrichs. *Implacable Foes: War in the Pacific, 1944-1945*. (Oxford: Oxford University Press, June 2017).

³⁰² G. Scott Gorman. *Endgame in the Pacific: Complexity, Strategy, and the B-29*. (Alabama: Air University Press, September 2012).14.

³⁰³ Mark Lardas. *Japan 1944-45: LeMay's B-29 strategic bombing campaign*. (London: Bloomsbury Publishing, February 2019).

³⁰⁴ FDR Library & Museum. State of the Union Message to Congress. January 11, 1944.

duration of the war, will prevent strikes, and, with certain appropriate exceptions, will make available for war production or for any other essential services every able-bodied adult in this Nation.”³⁰⁵

In conclusion, he pointed out that such a recommendation was not based on his findings, but derived from an interagency discussion with the War Department, Navy Department, and Maritime Commission. However, he was concerned about one thing that of American public would not comprehend the sacrifice required to defeat the opponent. Consequently, Roosevelt was more determined after the XX Bomber Command demonstrated how effective parachute-dropped sea mines could be.³⁰⁶ In January 1945, General Curtis LeMay arrived in the Marianas to take command of the 21st Bomber Command. By that time, Tinian had become one of the world's largest air bases. The US progress prompted former Prime Minister Konoe Fumimaro to deliver the following statement on February 14, 1945, to the emperor, ‘Defeat is inevitable’.³⁰⁷ Konoe also encouraged the emperor to end the war as quickly as possible, even if that meant unconditional surrender. He argued that this was the only way to prevent widespread destruction on Japan’s mainland as already the country has been severely damaged and preserve country’s sovereignty or in Japanese *kokutai*.³⁰⁸ In response, the emperor imprisoned Konoe and others, including the diplomat Yoshida Shigeru, who assisted Konoe with the proposal. In February 1944, a strike led by Admiral Nimitz destroyed more than 200.000 Japanese vessels on the Chuuk Islands as one of the four states of Micronesia.³⁰⁹ By the end of February 1944, the US had seized control, although central Micronesia was not conquered by US, Japan spearheaded attacks on islands like Chuuk, Satawal, and Pohnpei to serve as bases for airplanes and submarines. The end of August 1945 marked the end of the war in the Micronesia islands. Following the progress Roosevelt was

³⁰⁵ FDR Library & Museum. State of the Union Message to Congress. January 11, 1944

³⁰⁶ R. Cargill Hall. *Case Studies in Strategic Bombardment*. (Washington, D.C.: Air Force History and Museums Program, June 2005).

³⁰⁷ Kagoshima University Law School, “*Okinawa-sen ni tsuite no hōteki kōsatsu (ichi)*,” [Legal Consideration on the Battle of Okinawa]. <http://www.ls.kagoshima-u.ac.jp/ronshu/ronshu1/36/ronbun/A03890813-00-000360001.pdf> (accessed December 15, 2021).

³⁰⁸ Jun’ichiro Shoji, “Konoe Fumimaro and Konoe’s Memorial to the Throne in February 1945: Japan’s Wartime Diplomacy and the Postwar Visions,” Vol. 1995 Issue. 109, *J-STAGE*. (accessed December 15, 2021).

³⁰⁹ Lin Poyer, “Chuukese Experiences in the Pacific War,” *The Journal of Pacific History*, Vol. 43, No. 2 Sep. 2008. 223-238. (accessed December 15, 2021).

committed to achieving total victory at any cost; however, he acknowledged it would be difficult to achieve total victory since it would be an uphill battle.³¹⁰

Yet, many Americans questioned the country's ability to endure such sacrifices, including James V. Forrestal who had apprehensions that, "anything short of the unconditional surrender of the Axis would be a serious mistake."³¹¹ In September 1945 during a radio talk to Columbia Broadcasting System network, he emphasized that: "We learned that peace without power is a dream that invites evil men to shake the very foundations of society. It is more important now than ever to ensure that those who hate war retain the means to wage war." Roosevelt's pledge to defeat Japan made many American strategists assess the implications of such a strategy. Not only did they note this, but as examined in the previous chapter, China's decision to keep Yunnan forces from Burma raised strategic concerns for UK as well. Therefore, the JCS modified the policy towards Burma, utilizing China for Central Pacific offensive air operations. Additionally, the proposal urged Britain and China to open up the Upper Burma route to allow for air operations to take place. Japan, however, was making rapid progress against China, leaving the allies with limited choices. In view of this, the response of China to opening the Burma route surprised many, given that not only they delayed the amphibious all-out offensive until November, but also requested the US to provide a "million-dollar gold loan" in exchange. Chiang wanted an enlarged US presence in China, while the US would bear the cost of its defense expenditures.³¹² Stimson's shock at China's demand led him to express the view that China had exploited the US for too long and it was time to change that.³¹³ In response to China's request, the Treasury Department delivered the following reply; "The US recognizes China's resolute war that has rendered the financial situation worse. Although we are prepared to bear all the costs of the war efforts, we cannot justify the use

³¹⁰ Franklin D. Roosevelt Presidential Library and Museum. *State of the Union Message to Congress*. January 1944.

³¹¹ Charles F. Brower. *Defeating Japan: The Joint Chiefs of Staff and Strategy in the Pacific War, 1943-1945*. (London: Palgrave Macmillan, October 2012).

³¹² Office of the Historian. *Foreign Relations of the United States: Diplomatic Papers, 1944, China, Volume VI*. Memorandum by the Deputy Director of the Office of Far Eastern Affairs (Ballantine) to the Secretary of State. January 1944.

³¹³ *Ibid.*

of a fixed exchange rate while prices are rising. It is unlikely that both our people and congress will understand the necessity of such a large expenditure.”³¹⁴

China’s demands were met by a carefully selected group of American officials, among them Undersecretary of the Treasury, Daniel W. Bell, Assistant Secretary of the Treasury Harry D. White, and Generals Brehon B. Somervell, Lucius D. Clay, and Carter W. Clarke.³¹⁵ Somervell played an integral part in drafting the US counter-response to the Chiang government, with the following objectives; “[The Army is] dissatisfied with the cooperation they were getting in China and with the small amount of fighting which the Chinese armies were carrying on,” he told Secretary of the Treasury Henry Morgenthau. “The Army was willing to go the limit if necessary . . . and was ready to approach Japan from another direction. They could break Chiang Kai-shek by withdrawing American support.”³¹⁶

In the absence of an agreement between the US and China, the UK hoped to reorient from Burma during this period. In Mountbatten’s view, the cancellation of China’s Yunnan offensive prevented the British from entering the country. In early 1944, he stressed the importance of coordination between London and the Allies. As part of his strategy, Churchill favored Operation *Culverin* as a primary option to capture northern tip of Sumatra from the Japanese. Upon learning of this decision, not many US citizens were pleased, so the US-JCS attempted to impede Mountbatten’s advancement, which eventually led to its abandonment. Despite early promise, the Stilwell-Mountbatten relationship quickly fell apart in the following years. On January 31, 1944, Mountbatten met with Stilwell and the Senior Enlisted Advisor to the Chairman (SEAC) Commanders in Chief in New Delhi for an assessment of the *Culverin* operation strategy.³¹⁷ The two did not share a common objective as Mountbatten claimed Sumatra was a more direct road to

³¹⁴ Office of the Historian. Foreign Relations of the United States: Diplomatic Papers, 1944, China, Volume VI. Treasury Department Draft of Reply to Generalissimo Chiang Kai-shek. January 1944.

³¹⁵ Office of the Historian. Foreign Relations of the United States: Diplomatic Papers, 1944, China, Volume VI. Memorandum of Conversation, by the Chief of the Division of Chinese Affairs (Vincent). March 1944.

³¹⁶ Charles F. Brower. *Defeating Japan: The Joint Chiefs of Staff and Strategy in the Pacific War, 1943-1945*. (London: Palgrave Macmillan, October 2012).

³¹⁷ Jonathan Templin Ritter. *Stilwell and Mountbatten in Burma: Allies at War, 1943-1944*. (Texas: University of North Texas Press, April 2017).

the Chinese coast than Burma and Yunnan. In essence, Louis Mountbatten disagreed with Stilwell on the sea strategy, and Stilwell disagreed with Mountbatten on the land strategy.

At this point in time, American strategists realized they could only support Pacific advances from China. The Cairo Conference was instrumental in this development. However, US staff planners on the Southeast Asia area emphasized that the British and US policies towards China and Southeast Asia do not coincide when it comes to Burma. The strategists recommended Mountbatten recapture Upper Burma by the fall of the following year, but the British decided to take the opposite approach. Thus, China had the potential to provide a significant contribution in terms of military supplies. Accordingly, the US concluded that China may not have been willing to undertake such a move. As time went on, the Joint Staff Planners and Joint Central Staff (JCS) recognized that US objectives on Asian soil depended on its strategic planning. Eventually, the JCS approved JCS 774 and forwarded it to the British for consideration, enabling US to provide China with resources it deemed necessary. Although the US did not merely rely on British maneuvers during 1944, it indicated clearly that it was persistent in its approach to Chiang. On March 10, 1944, Roosevelt announced a joint Army-Navy convention regarding the role of the military in political campaigns in response to a growing US presence in the Pacific. Thus, the invasion of Kwajalein and the election of MacArthur as General on March 12, 1944, prompted the JCS to dispatch two Pacific unit commanders.³¹⁸ Despite the significant changes that took place, the route to Burma remained unsolved. By March 17, 1944, Marshall had persuaded the President to take a further step towards persuading Chiang to commit Yunnan forces to Burma across the Salween River. In his letter to Chiang, the president stressed that China was required to contribute immediately to Burma's progress. Due to persistent demands from the US, Generalissimo ordered four divisions of Yunnan troops across the Salween River for Burma on April 14, 1944.

³¹⁸ Philip J. Briggs, "General MacArthur and the Presidential Election of 1944," *Wiley on behalf of the Center for the Study of the Presidency and Congress*, Vol. 22, No. 1, Winter, 1992. (accessed December 15, 2021).

There was a peculiar occurrence when Chiang enlisted on the same day that Japan launched its *Ichigo* offensive. In addition to coordinating the activities of China's and US forces in China, Stilwell supervised their coordination. At this point, Stilwell was confident that Galahad's attack on Myitkyina would succeed. During his first Congress address on April 16, 1945 President Truman outlined the following; "Today, the entire world is looking to America for enlightened leadership to peace and progress. Such a leadership requires vision, courage and tolerance. It can be provided only by a united nation deeply devoted to the highest ideals.... At this moment, America, along with her brave Allies, is paying again a heavy price for the defense of our freedom. With characteristic energy, we are assisting in the liberation of entire nations. Gradually, the shackles of slavery are being broken by the forces of freedom."³¹⁹

Towards the end of June that US public opinion strongly supported the war against Japan and Japan's surrender without conditions. In spite of Chinese forces' ill-preparedness for long-distance maneuvers, Chiang would oppose them, which is why Stilwell had no alternative but to use the 5307th for end run. As the 50th Division began moving from *Yunnan* to *Mainhkwan* on April 21, Stilwell constituted the task force to seize Myitkyina. The 5307 forces encountered harsh natural conditions that made survival nearly impossible.³²⁰ In his final report, Stilwell emphasized to the State Department the following; "The largest of the minority parties is the Youth Party with a membership of about 20,000 in free China, the majority of whom are in Szechuan. The minority parties and groups exert an influence far beyond their actual membership because they represent democratic ideals and because their membership is drawn from minor officials, junior officers, small merchants, and intellectuals. Postwar US economic aid is essential to China's rehabilitation and development."³²¹ A major battle involving the 2nd and 4th Marine Divisions as part of Operation Forager landing on the island of Saipan in the Marianas in June 1944. The US encounter with Japan's Army proved to be a formidable opponent. Thus, Admiral Ernest J. King sought a more effective way to reach Japan. In the event that the Marianas and Formosa became

³¹⁹ National Archives Harry S. Truman. Address Before a Joint Session of the Congress. April 1945.

³²⁰ Gary J. Bjorge. *Merrill's Marauders, Combined Operations in Northern Burma In 1944*. (Kansas: Combat Studies Institute, January 1996).

³²¹ Office of the Historian. *Foreign Relations of the United States: Diplomatic Papers, 1944, China, Volume VI. The Ambassador in China (Gauss) to the Secretary of State. April 1944*.

strategic bombing sights for B-29s, it would be relatively easy for the US to attack Japan's mainland.³²²

Consequently, under Dwight D. Eisenhower's direction, Normandy's invasion, the Philippines Sea battle in June, as well as the upcoming election, prompted public sentiment to ease war restrictions, something Roosevelt could not comprehend. This led to the War Production Board's pledge to convert 40 percent of the war economy into war equipment, however relatively few investments were made in war equipment. Despite this, US military officials ignored home front concerns, according to undersecretary of War Robert P. Patterson, which was a "bad case of peace jitters."³²³ Consequently, General Brehon B. Somervell announced his plan to increase war production in December 1944 as he addressed the National Association of Manufacturers (NAM). In what is considered to be his most important speech, he emphasized the importance of the message: "Make no mistake about our situation, they have supplies at the front right now. It's the future we must provide for."³²⁴ Thus, he implied that more munitions would reduce wartime duration and aid in lifesaving. In Japan, however, while US-led talks were in progress, Tokyo's prime minister, Tōjō Hideki, resigned on July 18, 1944, because of opposition from the government and navy.³²⁵ Following his defeat at Midway, Kuniaki Koiso succeeded Hideki. On July 21, 1944, the 4th Marine Division landed on Saipan to facilitate their entry into Guam in order to free the island. Consequently, the position in Saipan enabled the division to carry out an invasion of Tinian. Following several battles between allied and Japanese forces, US General Roy S. Geiger declared Guam a secure US possession in August 1944. The tumultuous times of 1944 saw a series of diplomatic meetings whose impact was most evident in the UN charter adopted in San Francisco

³²² Alfred L. Castle, "President Roosevelt and General MacArthur at the Honolulu Conference of 1944," *The Hawaiian Journal of History*, Vol. 38 (2004). <https://core.ac.uk/download/pdf/5014384.pdf> (accessed December 15, 2021).

³²³ Charles F. Brower. *Defeating Japan: The Joint Chiefs of Staff and Strategy in the Pacific War, 1943-1945*. (UK: Palgrave Macmillan, October 2012).

³²⁴ John D. Millet. *The Organization and Role of the Army Service Forces*. United States Army in World War II. The Army Service Forces. (Washington, D.C.: U.S. Government Printing Office, July 2015).

³²⁵ Andrew Gordon. *A Modern History of Japan: From Tokugawa Times to the Present*. (Oxford: Oxford University Press, November 2008).

in 1945. Dumbarton Oaks hosted a Washington Conversation on International Organization featuring delegations from China, the Soviet Union, the UK, and the US. Thus, Roosevelt's invitation to China to participate in the Dumbarton Oaks Conference had a positive impact.

The potential for China to become a member of the UN Security Council was advantageous to the US. Due to the enormity of the decision, the JCS was in a position to implement Japan's unconditional surrender rather effortlessly given that its allies, including China, were equally resolute in resisting the latter.³²⁶ During the evening of September 15, 1944, US JCS forces struck another Japanese area, this time Palau. Taking over the southern Marianas, and advancing southwestward of the Caroline Islands in September enabled the Navy to move forward with the Pacific Fleet and provide air and naval operations bases. The objective of MacArthur was to seize Luzon by the end of 1944, which provided a quicker and less expensive path to victory. When MacArthur returned to the Philippines in October 1944, Japan sent its entire fleet, including kamikaze aircraft, to engage in the battle, culminating in the largest naval conflict of WWII. In the following month, the US sunk a number of Japanese carriers on October 24-25, 1944. The first *kamikaze* pilots to fight for Japan were sent into battle on suicide missions to halt US advances toward the country. While Japan's naval base on Formosa was viewed by the Navy as a way to cut off Japan's forces so that they could help southern China and Southeast Asia. In this way, the US could provide the Chinese with ammunition to attack vital Japanese territory. These factors contributed to the carpet-bombing raids of November 1944 being considered the most violent raids of WWII, resulting in the death of more than 85,000 people in a single night.³²⁷ As such there is a growing consensus among scholars that Japan faced significant challenges in its intelligence operations, or *johosen*, in the Pacific War.³²⁸ According compiled reports by the Signal Security

³²⁶ Charles F. Brower. *Defeating Japan: The Joint Chiefs of Staff and Strategy in the Pacific War, 1943-1945*. (London: Palgrave Macmillan, October 2012).

³²⁷ Heinrich August Winkler. *The Age of Catastrophe: A History of the West, 1914-1945*. (New Haven: Yale University Press, November 2015). 664-665.

³²⁸ Masato Kimura and Tosh Minohara. *Tumultuous Decade: Empire, Society, and Diplomacy in 1930s Japan*. (Toronto: University of Toronto Press, March 2013). 258-264.

Agency dated November 1, 1944, “the Japanese method of obtaining intelligence is *not brilliant* [emphasis added].” The second report on September 4, 1945, authorized by the US Military Intelligence Service, 125 emphasized that “the quality of Japanese intelligence was generally poor at best where most of the time inaccurate spy reports comprised the core Japanese intelligence.”³²⁹ In support of the argument presented, historical data indicate a close relationship between Japan and Germany that contributed to both parties’ agents exerting maximum effort. It should be noted, however, that not all Japanese were satisfied with the outcome of Japan-Germany intelligence cooperation. For example, the Japanese Naval Intelligence officer Yuzuru Sanematsu reported that German intelligence underestimated US war capability more than Japan.³³⁰

³²⁹ Masato Kimura and Tosh Minohara. *Tumultuous Decade: Empire, Society, and Diplomacy in 1930s Japan*. (Toronto: University of Toronto Press, March 2013). 258.

³³⁰ Kotani Ken, “Japanese Intelligence in WWII: Successes and Failures,” *The National Institute for Defense Studies*, MOFA, Japan, December 2009. (accessed December 15, 2021).

CHAPTER 5: Yalta Conference: The Crossroad of US Efforts to End the Pacific War

I didn't say the result was good. I said it the best I could do.

Franklin Roosevelt to diplomat Adolf Berle, Jr. ³³¹

Following the developments in Europe and the Pacific, the big three, President Roosevelt, Prime Minister Churchill, and Soviet Premier Stalin, gathered in a Soviets resort town in Crimea between February 4-11, 1945. Consequently, Roosevelt and Churchill were convinced that a major strategic advantage in the Pacific would be Soviet participation. The conditions that would convince the Soviets to join the war against Japan were also discussed, where all three agreed that in exchange of their participation, the Soviets should be granted a sphere of influence in Manchuria upon Japan's surrender. In order to comply with Stalin's demands, the following conditions must be met: 1. The status quo in Outer Mongolia (The Mongolian People's Republic) shall be preserved; 2. The former rights of Russia violated by the treacherous attack of Japan in 1904 shall be restored, viz: (a) the southern part of Sakhalin, as well as, all islands adjacent to it shall be returned to the Soviet Union; (b) the commercial port of Dairen shall be internationalized, the preeminent interests of the Soviet Union in this port being safeguarded and the lease of Port Arthur as a naval base of the USSR restored; (c) the Chinese-Eastern Railroad and the South-Manchurian Railroad which provides an outlet to Dairen shall be jointly operated by the establishment of a joint Soviet-Chinese Company it being understood that the preeminent interests of the Soviet Union shall be safeguarded and that China shall retain full sovereignty in Manchuria; 1. The Kuril Islands shall be handed over to the Soviet Union.

It was understood that the agreement concerning Outer Mongolia and the ports and railroads referred to above will require concurrence of Generalissimo Chiang Kai-shek. The President will take measures in order to maintain this concurrence on advice from the Marshal of the Soviet Union.³³² In addition to the Pacific War and Japan's defeat, Allied leaders discussed the future of Germany, Eastern Europe, as well as the UN. It had been agreed between Stalin and his allies that

³³¹ Franklin D. Roosevelt Library. Confront the issues: FDR at Yalta.

³³² Wilson Center. Digital Archive International History Declassified. Yalta Conference Agreement, Declaration of a Liberated Europe. February 1945.

Germany would be responsible for partial reparations following the end of the war. Stalin had assured Roosevelt that the defeat of Japan would be carried out within three months following the defeat of Germany. While Roosevelt expressed to Stalin his reluctance to bomb Japan during the Yalta Conference, he emphasized that bombing would be the only way to save US lives. Accordingly, the conclusion was drawn from the observation that island hopping incurred very high costs for the US. On February 11, 1946, the State Department released a secret agreement signed at Yalta on February 11, 1945. The second paragraph of the agreement elaborates on this further, where it emphasized that ‘former rights of Russia’ shall be ‘restored’ however it’s difficult to envision how Southern Sakhalin can be returned or the lease of Port Arthur based of USSR restored when in fact none of them were in possession of Soviet Union.³³³ A *status quo* in Outer Mongolia (the Mongolian People's Republic) shall also be retained, as Roosevelt consented. The Soviet, however, emphasized that it would respect the Mongolian People’s Republic’s (Outer Mongolia) territorial integrity and independence. According to the following paragraph, the Union of Soviet Socialist Republics recognized Mongolia as a part of China in 1924, concluding the argument made by Herbert (Herbert 2017); if Roosevelt preserved the status quo in Outer Mongolia, what obligations did he have?³³⁴

As noted earlier, not all members of Congress were on board with Roosevelt’s politics regarding Japan. Despite US reservations, Republicans have been consistent in their contention that Roosevelt was naive in his handling of Yalta. This consequently made Yalta seen as a failure of the US president at one meeting having noted that Roosevelt had accepted terms that were of interest, particularly in Europe. Among the scholars who claimed Yalta as a failure due to indifferent views (Fried 2020). He argues that there are a few lessons we can learn; one is that leaders who have different values, aims, core values, etc., are unlikely to mesh well or produce

³³³Herbert W. Briggs. *The Leader’s Agreement of Yalta*. (Cambridge: Cambridge University Press, April 2017).

³³⁴ Ibid.

satisfactory results for the world at large as they focus on their strategic objective.³³⁵ In line with this, the 1941 non-aggression pact between the Soviet Union and Japan illustrates how the Soviet Union remained oblivious to the latter. Consequently, following Stalin's commitment at the conference, military attaché to Stockholm Colonel Onodera Makoto, known as the wizard of intelligence, learned shortly after Stalin's secret agreement of Yalta.³³⁶ With the help of his wife, Makoto encoded the message and delivered it by telegram to Army General Staff in Tokyo Hikosaburō Hata shortly thereafter. The message, however, failed to be received, thus rendering Japan unaware of the Yalta secret agreement. In the absence of knowledge of the Soviets' position, preparations were underway on the US side. Thus, with General LeMay as commander of the XXI Bomber Command, a unit emerged from the XX Air Force. It was then decided that XXI B-29s could move from the basement in Kansas in order to attack Saipan, Tinian, and Guam. In response to Admiral Spruance's question about Iwo Jima's values, General LeMay expressed interest in assuming over Iwo Jima. His response was that "without Iwo Jima, I won't be able to bomb Japan effectively."³³⁷

Consequently, on February 19, 1945, US Marines landed on Iwo Jima, considered the most violent engagement in Marine Corps history lasting for five consecutive weeks 60,000 US troops encountered 21,000 Japanese troops under the command of General Tadamichi Kuribayashi. Having noted that Kuribayashi suspected that the attack from US forces was imminent, he further promoted the construction and training of the forces.³³⁸ Therefore, having captured Iwo Jima successfully, US forces paved their way on March 10, 1945, to prepare the B-29s mounted by the XXI Bomber Command was launched against the urban area in Tokyo. However, being the capital

³³⁵ Daniel Fried, "The Yalta Conference at seventy-five: Lessons from history," *Atlantic Council*, February 2020. (accessed December 15, 2021).

³³⁶ Bert Edstrom, "The Untold Story of Onodera Makoto's February 1945 Warning of the Coming Soviet Attack," *The Asia Pacific Journal*. Vol. 20, Issue 8, Number 1, Article ID 5692, April 2022. (accessed December 15, 2021).

³³⁷ Robert S. Burrell. *The ghosts of Iwo Jima*. (Texas: Texas A&M University Press, May 2006). 10.

³³⁸ Tadamichi Kuribayashi, 'Nihon seisaku kenkyū sentā kuribayashi tadamichi to iōtōnotatakai (ue) daitōasensō-chū no sai gekisen,' [Battle of Iwo Jima: The fiercest battle during the Greater East Asian War Post]. *Japan Policy Institute*, December 2006. <http://www.seisaku-center.net/node/82> (accessed December 15, 2021).

of Japan, Tokyo certainly received the largest number of bombers. Nevertheless, as reported in an intelligence report after the bombing in Tokyo, a number of bombs were dropped in other cities as well such as Nagoya, Osaka, Kobe etc.³³⁹ Following the casualties unfolded, the Japanese Ambassador to the Soviet Union Sato Naotake, a former foreign minister, took the duty as the solo diplomat in charge of seeking the Soviet Union's aid to end the war conflict between the allies.³⁴⁰ Having noted that the Koiso government was to fall in April of 1945, Shigemitsu Mamoru, the foreign minister, contacted Sato to deliver to Soviet Union the intentions of the renewal of the neutrality pact that two countries had. Diplomatic efforts were centered on two primary requirements: the Soviet Union's role as a mediator and Japan's need to end the conflict. However, for Sato to adhere to the requirements would be unrealistic, specifically when it came to Japan's will to end the war. That is to say, he was certain that the given arguments would not convince the Soviets of Japan's intentions.³⁴¹ Nevertheless, US progress toward the invasion of Japan became increasingly imminent, paving the way for the final major battle of the war that of Okinawa, which began on April 1, 1945, and ended on June 21, 1945. In fact, US forces prior to Okinawa had landed on Kerama and Keise Islands on March 26, 1945, and then on the main island.

The primary objective was to seize Kerama and Keise Islands enabling the Joint Expeditionary Force to launch Operation Iceberg, the main strike for the Okinawa campaign.³⁴² In total, four Marine divisions landed, allowing the conquest of the island from north to south as follows: the 6th Marine Division (first to capture Yontan airfields and then Ishikawa Isthmus); the 1st Marine Division (went across the Kachin Peninsula); the 7th Marine Division (took Kadena airfield, enabling further advancement to the east coast); and the 96th Marine Division (to command its

³³⁹ National Diet Library, Japan. Air Intelligence report, Vol. I, No. 3, 22 March 1945. Report No. 1-c(12), USSBS Index Section 6. 文書名:Records of the U.S. Strategic Bombing Survey; Entry 46, Security-Classified Intelligence Library. 1932-1947. 65 ft.

³⁴⁰ Shoji Junichiro, "Sensō shūketsu o meguru Nihon no senryaku – taisō kōsaku o chūshin to shite Bōeikenkyūsho", [Japan's Strategy for Ending War -- Focusing on operations against the Soviet Union]. *Ministry of Defense, Japan*. <http://www.nids.mod.go.jp/event/proceedings/forum/pdf/2009/09.pdf> (accessed August 16, 2022).

³⁴¹ The National WWII Museum New Orleans. Article: "Pretty Little Phrases": Japanese Diplomacy in 1945". August 2020.

³⁴² Roy E. Appleman, James M. Burns, Russell A. Gugeler, and John Stevens. *United States Army in World War II. The War in the Pacific. Okinawa: The Last Battle*. (Washington D.C.: Historical Division Department of the Army, 1948).

beaches on the south and southeast).³⁴³ The US considered Okinawa an easier target because of its distance from Japan's main island. Once on Okinawa's shores US Fleet Admiral Nimitz issued a proclamation called the "Nimitz Proclamation" suspending Japan's authority from the outset of the occupation. Some of the points emphasized in the proclamation were:

Article I- All powers of government and jurisdiction in the Islands or Nansei Shoto and adjacent waters occupied by the United States Forces and over the inhabitants thereof, and final administrative responsibility are vested in me as Fleet Admiral.. Article II- All powers of the Government of Japanese Empire are hereby suspended.³⁴⁴ Prior to the Okinawa battle, Prime Minister Konoe Fumimaro informed the emperor that the situation in the war had reached a critical point: "Regrettably, defeat in the war has already become inevitable Defeat in the war will constitute a great flaw for our national polity (kokutai), but the consensus of England and the US has not yet gone so far as reforming (henkaku) the national polityTherefore, if it is just defeat in the war, I do not think that we need worry so much in terms of national polity What we have most to fear from the viewpoint of the maintenance of the national polity, is communist revolution which could occur following defeat in the war. Therefore, from the perspective of preserving the national polity, I am convinced that we should think about the way to conclude the war as soon as possible, by even a single day (Hosokawa Morisada, Hosokawa Nikki (Hosokawa Diary))."³⁴⁵

During Okinawa's ongoing battle, Japan's government collapsed on 5 of April 1945, followed shortly thereafter by Suzuki Kantarō. In spite of peace agreements, Suzuki remained firm in his decision to persist in the resistance. In conjunction with the establishment of the Suzuki Cabinet, the Soviet Union opted not to renew the Neutrality Pact. In a telegram to the Secretary of State on April 5, 1945, the US ambassador to Moscow emphasized the Soviet denunciation of the Japan Pact. The following was outlined in the telegram; "Today at 3 p.m. People's Commissar for Foreign Affairs of the USSR Mr. V. M. Molotov, received the Japanese Ambassador, Mr.Naotake Satō and made the following statement to him in the name of the Soviet Government... The neutrality pact between the Soviet Union and Japan was concluded on April 13, 1941, that is, before the attack of Germany on the USSR and before the outbreak of war between Japan on the one hand and England and the United States on the other. Since that time the situation has been

³⁴³ Ibid.

³⁴⁴ The Ryukyu-Okinawa History and Culture Website. Archive Proclamation No.1 (The Nimitz Proclamation) April 1945.

³⁴⁵ Aniya Masaaki, "Compulsory Mass Suicide, the Battle of Okinawa, and Japan's Textbook Controversy," *The Asia-Pacific Journal*. Vol. 6 Issue 1. Article ID 2629, January 2008. (accessed December 15, 2021).

basically altered. Germany has attacked the USSR, and Japan, ally of Germany, is aiding the latter in its war against the USSR. Furthermore Japan is waging a war with the USA and England, which are allies of the Soviet Union.”³⁴⁶ The Soviet Union's unforeseen response and Germany's surrender confounded the Japanese army. A robust diplomatic solution with the Soviet Union was suggested at this point by army chief Tōjō Hideki, to Foreign Minister Shigemitsu Mamoru. The Chief of the General Staff, Umezu Yoshijirō, was well aware of Japan's deteriorating military, so he was determined to avoid conflict with the US. Upon realizing that diplomatic solutions were too little too late, Prime Minister Tōgō Shigenori suggested that the Soviets act as mediators of peace with the US and UK. The Japanese General Staff, under Suzuki's leadership, refused to surrender over the course of the war, believing that negotiations with the Allies would yield better results. According to them, if the Allies incurred heavy casualties, the Japanese government would be more inclined to negotiate terms advantageous to them. Consequently, they planned the *Ketsu-Go* or in English ‘Decisive Operation’ a comprehensive defense built against Kyushu in anticipation of its decisive nature. Furthermore, the Japanese government ordered that all boys and girls under fifteen years of age and men under seventeen become combatants. The *Ketsu-Go* operation consisted of three phases: the first phase was the defensive preparations and combat unit organization, which continued until July 1945; the second and last phases were never completed because Japan surrendered.³⁴⁷

At this point, the Japanese government not only lacked weapons but also other logistic support, which was detrimental to the initial plan. Later in June 1945, the Imperial Conference *Gozen Kaigi* was held to assess Imperial Japan’s ability to continue the war. In addition, when *Ketsu-Go* was evaluated, they came to terms with that even if the initial goals had been met, Japan would have faced starvation the following year. Therefore, it was concluded that Japan's situation was not conducive to growth, citing a shortage of raw materials that contributed to the shortage of

³⁴⁶ Yale Law School Lillian Goldman Law Library. Soviet Denunciation of the Pact with Japan. Source: *The Department of State Bulletin* Vol. XII, No. 305, April 1945. (accessed December 15, 2021).

³⁴⁷ Richard B. Frank, “Choices among Weapons of Mass Destruction: How Far Were the United States and Japan Prepared to Go to End the Asia-Pacific War?,” *The National Institute for Defense Studies*. Ministry of Defense Japan. (accessed December 15, 2021).

warplanes. It should be noted, however, that the Imperial Navy General Staff did not hold the same opinion.³⁴⁸ The Imperial Headquarters Navy Department report included the statement, “The entire military [meaning population] should be steeped in the spirit of suicide attack.” Consequently, Lt General Torashirō Kawabe worked in conjunction with the navy to defend the country from the allied forces. By this point, Japan could not sustain more losses, so US attacks on Kyushu, Formosa, and Mariana and MacArthur's Fifteenth Air Force on Formosa left Ugaki puzzled. This may be one of the reasons he had not launched an attack until Admiral Soemu Toyoda had ordered *Kikusui Sakusen* on April 6. Ten *kamikaze* were launched against the Fifth Fleet of the US Navy on April 6, 1945, with a total of 300 kamikaze pilots departing Southern Kyushu in response to ‘Operation Ten-Go’. As a result of weather conditions, half of the planes hit random targets while trying to reach their intended objectives. The planes hit the carrier *Hancock* and two destroyers and almost flattop *Bennington*. Despite being one of the greatest battleships of its time, *Yamato* had survived the Battle of Leyte Gulf. *Musashi*, however, had not.³⁴⁹ In response to orders to seize Kakazu Ridge, the 1st Battalion, 381st Infantry crossed the saddle at 07:00 on April 11. Over the course of the night of 11-12 April, the Japanese bombarded the Uchitomari area of Kakazu.

On April 12, the 96th Division made its last attempt to take Kakazu, losing a significant amount of personnel to defensive Japanese fire. At the time of the fighting for the Shuri Line, President Roosevelt demise on April 12, 1945, and Harry Truman became president. During this point, US intelligence began to grasp the reality of Japanese soldiers in Okinawa and their ability to defeat their opponent. The strongest US position was evidently encountered between April 4-14 by the 96th Division in a defensive plan from General Mitsuru Ushijima. However, the 96th Division continued its efforts to encircle the Japanese, resulting in numerous Japanese casualties.³⁵⁰ A total

³⁴⁸ Peter Wetzler. *Imperial Japan and Defeat in the Second World War: The Collapse of an Empire*. (London: Bloomsbury Academy, August 2021).

³⁴⁹ Rober Leckie. *Okinawa: The Last Battle of World War II*. (London: Penguin Publishing Group, July 1996). 87.

³⁵⁰ Roy E. Appleman, James M. Burns, Russell A. Gugeler, and John Stevens. *The War in the Pacific. Okinawa: The Last Battle. (United States Army in World War II)*. (Washington D.C.: Government Printing Office, January 2005).

of eight destroyers, four cruisers, and two battleships were bombarded by the Fifth Fleet during the takeover of Le Shima. However, Japanese forces coordinated their attacks on the 3rd Battalion of the 305th on the night of the 16th. Consequently, a total of twenty ships from the US had been sunk by Japanese naval action by April 30, while 157 were damaged, despite the fact that they had already destroyed 1.100 Japanese planes. Consequently, there was a significant defeat and sinking of the Japanese forces, led by Yamato. While there were still disagreements among Ushijima's staff about combat strategies, the Japanese 32nd Army made a fateful decision on May 2, Isamu Chō, on the other hand, requested an immediate attack, but Colonel Hiromichi Yahara deemed it untimely.³⁵¹ At this point, General Ushijima ordered an all-out offensive by the 32nd Army for May 4, that included thirteen kamikaze pilots with five planes crashing into the Aaron's War, leaving two vessels sunk and four damaged. In the aftermath of Japan's attack, the US responded with a strike that resulted in the deaths of 462 Japanese in the Tanabaru area on May 5. In General Ushijima's view, the Japanese offensive was unsuccessful because American forces increased their range from Shuri to Maeda, Kochi, and Awacha primarily to communicate for the Tenth Army. A peak in Japanese air raids occurred on May 20th, resulting in 35 planes attacking the US fleet and causing many casualties among American sailors.

Later on, the Japanese bombed Okinawa, destroying two Corsairs, four C-54 aircraft, one privateer, and 26 other planes, among others. To enhance US's psychological resilience, the Office of War Information (OWI) advocated that US citizens be informed that the war could end in defeat.³⁵² Following up on the May 22 statement, Fred M. Vinson, the new Director of the Office of War Mobilization and Reconversion, raised concerns about the implications of the endeavor. Although Ushijima's troops on Okinawa were defeated by the end of May, American soldiers believed that the Japanese were committed to fighting for Shuri to the end. During his May 31

³⁵¹ Ibid.

³⁵² Sydney Weinberg, "What to Tell America: The Writers' Quarrel in the Office of War Information," *The Journal of American History* Vol. 55, No. 1. (June, 1968).

speech, General Simon B. Buckner said the following: “Ushijima missed the boat on his withdrawal from the Shuri Line.”³⁵³ It has been revealed that the last attempt of the 10-day battle for the Oroku Peninsula was the most challenging for many reasons, including the lack of good weapons, poor organization, ill-trained forces, and poor weather conditions. A few days before the US had arrived, General Ushijima and the 24th Division between *Yaeju* and *Dake* and the 62nd Division near *Makabe* had reached the area, as had the 44th Independent Mixed Brigade (defending the eastern part). Similar to Japan, the US utilized preparations as well; however, General Pachier requested night movements so everyone could keep track of the progress of the advance against the enemy. By 05:30, they reached the objectives; in addition, Colonel Walter Halloran’s 381st Infantry struck within thirty minutes as the Japanese retreated. The onslaught was in its early stages, as was implied in General Buckner’s statement, “We have passed the speculative phase of the campaign and are down to the final kill.”³⁵⁴ General Buckner’s letter that was intended for Ushijima arrived on June 17 instead of its scheduled date. The text reads as follows; “The forces under your command have fought bravely and well , and your infantry tactics have merited the respect of your opponents . . . Like myself, you are an infantry general long schooled and practiced in infantry warfare . . . I believe, therefore, that you understand as clearly as I , that the destruction of all Japanese resistance on the island is merely a matter of days .”³⁵⁵

As part of General Ushijima’s last order to the 32nd Army on June 18, a military officer was appointed to lead the Blood and Iron Youth Organization, which was responsible for conducting guerrilla warfare. Although the 32nd Army's activities had ended, Ushijima still recognized the US power by sending a message to Imperial Headquarters on June 21. Following, Okinawa’s defeat, he and Chief of Staff Isamu Chō committed suicide, which marked the end of the battle. Before the June 18 meeting with Truman, Marshall raised the following points: to press for the objective

³⁵³ Ibid.

³⁵⁴ Ibid.

³⁵⁵ U.S. Army in World War II. The War In the Pacific: Okinawa: The Last Battle. Historical Division Department of the Army, Washington, D.C., 1948.

to be limited at all costs, thereby reducing the duration of the Pacific War; concerning surrendering terms, Marshall mentioned risks, both domestically and with allies, from a political and psychological standpoint. To that end, Truman asked Grew to include the topic of warning Japan on the agenda of the Big Three meeting on July 17. Marshall and the Army impatiently pursued national objectives with unconditional surrender in July.

1. Potsdam Declaration: The Allied Powers and Japan's Response *Mokustsu*

On June 5, Truman instructed Admiral William D. Leahy to draft an agenda for the Potsdam Conference to be held. In the days leading up to Truman's departure for Potsdam on July 5, the House Selection Committee endorsed the Post-War Military Policy. Upon Germany's capitulation, the US sought to conclude the war with Japan more quickly. In this framework, the US Joint Chiefs of Staff had a significant influence on most decisions. It is true that in the majority of cases, JCS dealt with Admiral Leahy most of the time, but only occasionally with Roosevelt. In the aftermath of Roosevelt's demise, a man unlike him entered office whose main objective was to reshape JCS. In light of this, it became apparent that if his objectives were not met, getting along with the allies might be a challenge. Truman lacked any prior knowledge of what to expect from his first meeting with other allies. Aside from James Byrnes, he was accompanied by Prime Minister Churchill and Secretary Anthony Eden, as well as Premier Stalin and Foreign Minister Molotov. As a prelude to the main meeting, Truman decided to meet separately with the leaders. In advance of the Potsdam meeting, the Japanese Minister of Foreign Affairs Tōgō Shigenori delivered a telegram to the Soviet Union through the Japanese Ambassador in the Soviet Union Naotake Satō. It emphasizes, among others, the following; "...please bear in mind not to give them the impression that we wish to use the Soviet Union to terminate the war."³⁵⁶ The following is the additional statement made by Tōgō about Japan's willingness to end the war: "We consider

³⁵⁶ Office of the Historian. Foreign Relations of the United States: Diplomatic Papers, The Conference of Berlin (The Potsdam Conference), 1945, Volume I. 761.94/7-2145: Telegram. No. 580 The Japanese Minister of Foreign Affairs (Togo) to the Japanese Ambassador in the Soviet Union (Sato).

the maintenance of peace in Asia as one aspect of maintaining world peace. We have no intention of annexing or taking possession of the areas which, we have been occupying as a result of the war; we hope to terminate the war with a view to establishing and maintaining lasting world peace".³⁵⁷ Due to persistent demands from Tokyo Government, Solomon Lozovsky was instructed to read the telegram more carefully and respond promptly. When Satō and Lozovsky exchanged correspondence they argued that they should pay close attention to the message forwarded to Stalin. In light of the fact that it had been sent by Imperial, he urged him to forward it before leaving for Potsdam, or to coordinate communication from Berlin by message or otherwise. Accordingly, the Soviets are likely to postpone responding to the given matter. At the beginning of July, the Allied delegations arrived in Potsdam ahead of the conference. Meanwhile, Senator Homer E. Capehart urged the US to require Japan to demilitarize and punish war criminals as part of the war declaration.³⁵⁸ Grew, however, believed that US embargoes on Japan in 1930 were unnecessary because they believed they could avert the war from worsening. Thus, US communications between Japanese Foreign Minister Tōgō Shigenori and Tokyo's Ambassador in Moscow Satō Naotake shortly before and during the Potsdam Declaration revealed the imperial government's stance on peace.

During the days leading up to the first plenary session on July 16, a test of the atomic explosion was underway in Alamogordo, New Mexico, nicknamed 'Trinity'.³⁵⁹ Following the atomic bomb's successful detonation, the Secretary of War conveyed the following message to Truman: "Operated on this morning with satisfactory results that exceed expectations."³⁶⁰ The positive outcome of the atomic bomb test gave Truman renewed confidence in his ability to deliver the draft agenda of the US-drafted by Admiral Leahy and others. Truman's vision was that he

³⁵⁷ Ibid.

³⁵⁸ Waldo Heinrichs and March Gallicchio. *Implacable Foes: War in the Pacific, 1944-1945*. (Oxford: Oxford University Press, May 2017).

³⁵⁹ National Archives. Document for July 16th: "Eye-Witness Account of the Trinity Shot" by L. W. Alvarez. File Unit: Trinity, 1945; Records of the Office of Scientific Research and Development, 1939 - 1950; Record Group 227; National Archives.

³⁶⁰ Office of Historian and Heritage Resources. United States Department of Energy. Evolutions of Trinity, July 1945.

would be able to attain the power of diplomacy through atomic diplomacy. The following is the president's understanding, as outlined in the June 28 letter from Acting Secretary of State Grew: "In view of the actual Eastern European sphere on the Western Hemisphere bloc... we are hardly in a position to frown upon the establishment of measures designed to strengthen the security of nations in other areas of the world..."³⁶¹ However, Grew advocated a stronger US presence in Soviet-controlled territories since Stalin controlled 80 percent of Bulgaria, Hungary, and 50 percent of Yugoslavia. As noted, Truman omitted Yugoslavia from his speech, a decision that was reversed after the conference. According to Secretary of State James F. Byrnes, the elimination of Soviet influence in Southeastern Europe would be one of the most significant outcomes. The session of the plenary started on July 17 but was suspended on July 25 due to unforeseeable circumstances, including the British delegation returning to London for elections.³⁶² On July 17, President Truman asked Stalin to join the war against Japan, and by the middle of August, he confirmed the Soviet Union would join the war. Even though many historians believed Truman and Byrnes' enthusiasm for the Soviets' entry had waned, Truman's diary indicates that he appreciated the JCS for understanding how the Soviets' entry would put pressure on Japan.

At the first plenary session, more news was delivered from Mexico that the blast was able to be heard 250 miles away. With the positive outcomes of the atomic bomb, Stalin attempted to bring attention of Truman to Greece which lacked democracy and rule of law and that Georgiev and Groza deserved recognition. In response to his suggestion, Washington responded negatively, noting that Romania and Bulgaria occupied a great deal of US attention. Molotov was repeatedly told that the US should be permitted to observe the elections and reorganization of government, yet refused to let the US maintain the *status quo* or rectify the government structure. General Leslie R. Groves announced the following news on July 21st regarding an atomic test that altered

³⁶¹ Foreign Relations of the United States, Volume 1. By United States. Department of State. The Conference of Berlin (The Potsdam Conference) 1945. Washington 1960.

³⁶² James F. Schnabel. *History of the Joint Chiefs of Staff* (Volume I). (Washington D.C.: The Joint Chiefs of Staff and National Policy 1945- 1947, October 2012). 45-41.

the course of history; ‘...in a remote section of the Alamogordo Air Base, New Mexico the first full scale test was made of the implosion- type of atomic fission bomb. For the first time in history there was a nuclear explosion... The test was successful beyond the most optimist expectations of anyone...’³⁶³ It was evident that Truman was committed to their objectives when Stalin tried to get his attention to the area or issue, he deemed rational, such as the Balkans, but Truman preferred Truman's remarks took on a more confident tone. According to him, the following paragraph was one of his main points: ‘... the immediate reorganization of the present government in Rumania and Bulgaria.’³⁶⁴ A private meeting between Stalin and Churchill led him to express his response to the US proposal as follows: ‘... he had been hurt by American demand for a change of Governance in Rumania and Bulgaria.’ In line with this statement, Foreign Minister Molotov argued that foreign powers should not intervene in the domestic affairs of Bulgaria in Romania. To convince Truman otherwise, Molotov argued to first discuss Poland. Truman's perspective during the conference is outlined in the following; ‘The President stated that in the United States it was impossible to transfer assets without taking liabilities into account, either legally or otherwise. As he had stated before, there was no intention in the US to assume burdens of this sort. It was therefore absolutely necessary for liabilities to be taken into consideration. We will give the Polish Provisional Government everything coming to it and we want to be friendly.’³⁶⁵

Thus, in addition to Truman's atomic diplomacy, Churchill also supported the Balkans, although they were unsure Stalin would accept their demands.³⁶⁶ After noting the accomplishments of atomic diplomacy, Truman became impatient with the conference and demanded its termination as soon as possible. He brought major complications along with his tactic of threatening the parties with US departure with or without an agreement. Among the concerns that did not require much negotiation was Germany's postwar economy. In the Yalta agreement, Roosevelt agreed that Germany would pay 20 billion dollars in reparations for damage caused by

³⁶³ James W. Feldman. *Nuclear Reactions: Documenting American Encounters with Nuclear Energy*. (Seattle.: University of Washington Press, October 2016).

³⁶⁴ Ibid.

³⁶⁵ Office of the Historian. *Foreign Relations of the United States: Diplomatic Papers, The Conference of Berlin (The Potsdam Conference), 1945, Volume II. Report: Stimson- Churchill Conversation, Saturday, July 21, 1945.*

³⁶⁶ Gar Alperovitz. *Atomic Diplomacy: Hiroshima and Potsdam*. (London: Pluto Press, November 1994).

Germany, 50 percent of which would go to Soviets. However, Churchill refused to endorse the agreement because of the large sum, nevertheless, a common agreement on demilitarizing and disarming Germany under four Allied occupations was reached despite obstacles. Consequently, it was then decided that the demilitarization process and the reconstruction of the national German government will be led by the US, Britain, France, and the Soviet Union. However, in terms of territorial issues, the German-Soviet-Polish borders were one of the most controversial issues that required careful consideration. The Potsdam leaders also agreed to form a Council of Foreign Ministers to represent the Allied governments on matters related to Germany and Poland. In addition to European and Japanese affairs, they agreed to revise the Montreux Convention (1936), which granted Turkey exclusive control over the Turkish Straits. In the aftermath of the Potsdam meeting, Stalin presented Truman with a message from the Japanese ambassador to the Soviet Union, Prince Konoe which outlined the following; ‘‘The mission...was to ask the Soviet Government to take part in mediation to end the present war and to transmit the complete Japanese case in this respect. Simultaneously, he wished to repeat that Prince Konoe Fumimaro (sic) was especially charged by His Majesty the Emperor to convey to the Soviet Government that it was exclusively the desire of His Majesty to avoid more bloodshed by the parties engaged in the war...’’³⁶⁷

At this point, Truman was not interested in analyzing the message and coming to an agreement. Basically, he just wanted Stalin to know that Prince Konoe would not receive a positive response from him. In June and early July, American officials agreed to issue a proclamation warning Japan to surrender following the Potsdam meeting. This is the proclamation issued by the heads of the US, China, and the UK (although the Soviet Union had not yet declared war on Japan); ³⁶⁸ (2) The prodigious land, sea and air forces of the United States, the British Empire and of China, many times reinforced by their armies and air fleets from the west are poised to strike the final blows upon Japan. This military power is sustained and inspired by the determination of all the Allied nations to prosecute the war against Japan until she ceases to resist; ... (9) The Japanese military forces, after being completely disarmed, shall be permitted to return to their homes with the opportunity to lead peaceful and

³⁶⁷ Gar Alperovitz. *Atomic Diplomacy: Hiroshima and Potsdam*. (London: Pluto Press, November 1994).

³⁶⁸ Office of the Historian. *Foreign Relations of the United States: Diplomatic Papers, the Conference of Berlin (The Potsdam Conference), 1945, Volume II*. 740.00119 Potsdam/7-2645. No. 1382. Proclamation.

productive lives; (13) We call upon the Government of Japan to proclaim now the unconditional surrender of all the Japanese armed forces, and to provide proper and adequate assurances of their good faith in such action. In addition, a document was issued regarding Japan's fishing and permitting zones differently called (the MacArthur Line).³⁶⁹ Paragraph 5 emphasizes the following: (b) Paragraph 3 of the note states "Japanese vessels or personnel thereof will not approach closer than twelve (12) miles to Takeshima (37°15' North Latitude, 131°53' East Longitude) nor have any contact with said island."³⁷⁰

2. *Genbaku Saigai*: The Atomic Bombings of Hiroshima and Nagasaki

We call upon the government of Japan to proclaim now the unconditional surrender of all Japanese armed forces and to provide proper and adequate assurances of their good faith in such action. The alternative for Japan is prompt and utter
destruction.

Proclamation Defining Terms for Japanese Surrender

Issued, at Potsdam, July 26, 1945.³⁷¹

'Baby satisfactory born' was what Stimson conveyed to Churchill during the Potsdam conference after the successful bomb test.³⁷² Until this point, Japan was regarded as a defeated nation whose surrender would result in great losses for both sides. The US policy of how to ultimately defeat Japan was thoroughly debated within the State Department and among its allies. Although Truman felt bound to comply with the terms of the Potsdam Declaration, the US's post-war leadership proved difficult to maintain and posed many challenges. Truman's pledge of Japan's unconditional surrender, given the large number of lives lost attempting to end the war with Japan, was met with a wide range of opinions. In the meantime, it was suggested that Truman might induce Japan to surrender by easing unconditional surrender terms. Nevertheless, it was unquestionable for Japan since the Emperor occupied the highest position in the country. While the Japanese resisted surrender, Secretary of War Henry

³⁶⁹ Office of Policy Planning and Coordination on Territory and Sovereignty (Shūsen to heiwa jōyaku teiketsu ni muketa kōshō shūsen senryō kaishi).

³⁷⁰ Ministry of Foreign Affairs of Japan. Takeshima Immediately After World War II.

³⁷¹ National Diet Library of Japan. The Constitution and Other Documents Potsdam Declaration. Proclamation Defining Terms for Japanese Surrender. Issued, at Potsdam, July 26, 1945.

³⁷² Winston S. Churchill. *Memoirs of The Second World War*. (Boston: The Riverside Press Cambridge, March 1948). 979-983.

Stimson, Under Secretary of State Grew, and Chief of Staff to the Commander in Chief Admiral Leahy advocated preserving the imperial throne. The former Secretary of State Cordell Hull, Assistant Secretary of State Dean G. Acheson, and Secretary of State James F. Byrnes were all in favor of dismissing him. Essentially, the discussion revolved around the idea that unconditional surrender is meaningless when Japan is defeated. In that context, (Asada 1998) examined Japan's defeat as a *fait accompli*, with the act of surrender representing an acknowledgment by the nation's leadership of defeat or a formal renunciation of defeat.³⁷³ Japan's demise on August 14, 1945, has been the subject of much debate. Japan's historians like (Sodei 2019) have pondered the question: Was it the invasion of Japan's main islands or the Soviet Union waging war against Japan, or the atomic bomb dropped on Hiroshima and Nagasaki that brought Japan to its knees?³⁷⁴ Yet, there are many other factors as well, including the collapse of the Japanese economy, the total sea blockade, ongoing air raids, and the near-annihilation of the Japanese Navy.

In his memoir, (Churchill 1948) reflects on diplomats' belief that if Japan surrendered immediately, the Emperor would save the country. However, at the same time, they considered the emperor to be part of a military clique that sought to achieve the country's military objectives regardless of the cost.³⁷⁵ Uncertainty surrounded how to draw Truman's attention to this issue. In a private chat with Truman, Stimson mentioned that the US could still attain its objectives in Japan without having to demand 'unconditional concessions' from the Japanese.³⁷⁶ In terms of the meaning itself, a variety of perspectives on what was meant by 'unconditional surrender' were presented. The first from the State Department, which "did not mean the absence of terms but [that] whatever terms are imposed do not result from a bargain or a barter with the

³⁷³ Sadao Asada, "The Shock of the Atomic Bomb and Japan's Decision to Surrender: A Reconsideration," *University of California Press*, Vol. 67, No. 4, Nov 1998. 477-512. (accessed January 1, 2022).

³⁷⁴ Sodei Rinjiro, "Hiroshima/Nagasaki as history and politics," *Taylor & Francis Online*, July 2019. (accessed January 1, 2022).

³⁷⁵ Winston S. Churchill. *Memoirs of The Second World War*. (Cambridge: Houghton Mifflin Company, 1959).

³⁷⁶ Paul Ham. *Hiroshima and Nagasaki: The Real Story of the Atomic Bombings and their Aftermath*. (New York: St. Martin Press, August 2015).

enemy.” The second definition was that the Japanese surrender “was not subject to conditions or limitations.”³⁷⁷ As one of the most complex documents drafted by the Truman cabinet, the document was the subject of numerous discussions and meetings. As such an *ad hoc* committee headed by Stimson and John McCloy drafted the ‘unconditional surrender’ warning.³⁷⁸ A provision was included allowing the Japanese to establish a constitutional monarchy under the present dynasty. Despite being sent to the Joint Chiefs for review in early July, the draft had not yet been reviewed by them. Admiral Ernest J. King had passed the matter to the Joint Strategic Survey Committee, whose primary purpose was to evaluate US strategic objectives at a broader level. It was therefore prudent to have the Committee’s opinion on this matter. The Committee was reluctant to pass the provision preserving the Japanese monarchy. As an alternative, they recommended that the Japanese people could choose their own form of government, subject to adequate guarantees against further aggression. Meanwhile, Stimson was of the belief that Japan would most likely surrender to the US if it proposed to maintain its ‘constitutional monarchy under the emperor.’ A proposal of this nature raised considerable concern from the original authors who claimed it would not lead to the country’s surrender. However, opponents remained wary and aware of the importance of the emperor for Japan.

During a meeting with the chiefs of staff on July 16, Admiral Leahy highlighted the need for Truman to provide a comprehensive analysis of the ‘unconditional surrender’ controversy.³⁷⁹ Leahy tried to convince the President to modify the terms of unconditional surrender out of concern that the demand would enrage the Japanese army and hinder their surrender. The Joint Chiefs issued a memorandum instructing the president to replace McCloy’s language with the one recommended by the JSC. Despite the committee's diligent endeavors, Truman declined to

³⁷⁷ Michael D. Pearlman. *Unconditional Surrender, Demobilization and the Atomic Bomb*. (Kansas: U.S. Army Command and General Staff College, 1996, 1996).

³⁷⁸ Kasuhiko Togo, ‘Unconditional Surrender, the Emperor and the Tokyo Trial: Implications for the Present-Day Japan-US Alliance,’ *Kyoto Sangyo University Academic Repository*, March 2019. (accessed January 1, 2022)..

³⁷⁹ C.C.S. 193d Meeting. Combined Chiefs of Staff. Terminal Conference. Minutes of Meeting Held in the Conference Room at 25 Ringstrasse Babelsberg’s, Germany on Monday, 16 July 1945, at 1430.

compromise on the emperor's status. On the morning of July 18, both the JCS and Stimson presented more in-depth reports on the bombing test to the President. Further insights were made into the political situation in Japan by emphasizing that the country was coming to terms with the fact that victory was no longer possible since Germany surrendered, Okinawa was lost, and Japan's mainland was under attack. Although Japan's defenses lacked strength, the Suzuki Cabinet avoided compromise to the best of its ability. The Empire of Japan issued the following statement in response to Germany's defeat, "The Empire's war aims are not so much the country itself, but its own existence and self-defense. This is the steadfast belief of the Empire, and the sudden change in the European war situation never changes the Empire's war aims in East Asia. The Empire condemns the arbitrariness and violence by the US and Britain in East Asia and determine to (illegible, a kind of "overthrow"?) this and to secure stability of East Asia against the aspirations of them to overrun it."³⁸⁰ Evidently, Germany's surrender had no effect on Japan but instead reaffirmed its determination to fight until the end. The resistance played a key role in the Chiefs' conclusion by emphasizing Japan's foreign policy goals, including keeping the Soviets out of the war and creating a wedge between the east and the west. For Japan, another means of getting the Soviets to reconsider its position was to reappoint Togo as Japan's ambassador to the Soviet Union.

Togo was considered to be well-versed in Soviet politics that could persuade the Soviets to take Japan seriously on aiming to end the war. This is because surrender was not an option for any Japanese ruling group because dissolving both the Imperial House and the emperor would be a disastrous move: in other words, they considered unconditional surrender to be like the extinction of a nation. It is conceivable that they opted to withdraw from the seized territories and islands instead in *lieu* of unconditional surrender. The anti-surrender sentiment was very strong among the Japanese military, including Vice Admiral Takijirō Ōnishi, the founder of the kamikazes, when he argued that; "even if we are defeated, the noble spirit of this kamikaze attack

³⁸⁰ National Archives of Japan, Digital Archive, May 1945.

corps will keep our homeland from ruin. Without this spirit, ruin would certainly follow defeat.”³⁸¹ The *kamikaze* mission was quite ambitious and at times successful, however it failed to hold off the allied forces which proved to be a costly venture for the Japanese. The resistance to the surrender of Japan was characterized by its spiritual strength, also known as the *samurai* spirit, which drove Ōnishi to commit suicide as an alternative to surrendering. According to Leo Szilard and other Manhattan Project scientists, bombing Japan without warning would weaken “our moral position...in the eyes of the world.”³⁸² Despite Szilard’s views, General Henry Arnold asserted in his diary that bombing Japan would adversely affect surrender immediately, unconditionally, by the end of 1945.³⁸³ On the other hand, Marshall and King supported Arnold's claim that invasion was necessary to defeat the Japanese army, which was too powerful for conventional methods to work. The only way Japan would surrender was to have ground troops on their soil. A 196th meeting of the Chiefs of Staff on July 19 was therefore held, and the following decisions were made: Japanese organized resistance should be ended by 15 November 1946 for purposes of allocating manpower and planning production; as the war progressed, this date would be updated periodically.³⁸⁴

By utilizing their knowledge of Japanese culture and mentality, diplomats like Grew aimed at serving the US for good by advising the best strategy for settling differences. In the ten years prior to Pearl Harbor, Grew had served as US ambassador to Tokyo. During the war, he persuaded Truman to clarify his statement that the Japanese had to surrender. He wanted to ensure that the US did not undermine the Imperial institutions because he understood the significance to the Japanese. Truman approved Grew’s remarks and encouraged him to

³⁸¹ Document Resume. SO 026 999. ED 401 218. EG: 113-LA. The Last Act: The Atomic Bomb and the End of World War II. Smithsonian Institution, Washington, D.C. National Air And Space Museum.

³⁸²National Archives, “Document Resume SO 026 999. The Last Act: The Atomic Bomb and the End of World War II,” EG: 250-L5. EG:250-L6. (accessed January 1, 2022).

³⁸³ Charles F. Brower. *Defeating Japan: The Joint Chiefs of Staff and Strategy in the Pacific War, 1943-1945*. (New York: Palgrave Macmillan, October 2012).

³⁸⁴ C.C.S. 196th Meeting. Combined Chiefs of Staff. Terminal Conference. Minutes of Meeting Held in the Conference Room at 25 Ringstrasse Babelsberg’s, Germany on Monday, 19 July 1945, at 1430.

formulate an appropriate statement with Judge Samuel I. Rosenman, the JCS, and the Navy and War Department secretaries. However, not everyone aligned with Grew, including Acheson and MacLeish, who opposed any revision of Grew's interpretation.³⁸⁵ The Assistant Secretary of State Archibald MacLeish demanded that Japan receive less harsh terms than those in the Cairo declaration. Acheson, on the other hand, led the freeze of all trade with Axis powers, including imposing oil embargoes on Japan in August 1941, resulting in the outbreak of war.³⁸⁶ However, Roosevelt, Leahy, and Grew came to different conclusions on "unrestricted control over Japanese-mandated islands" than Acheson and MacLeish. Stimson and Grew, among others, favored the abolition of the unconditional instrument during the Truman administration. Under absolute terms, Grew and Stimson envisioned Japan setting its own postwar course, including its imperial line, subject to the guarantee of speech and human rights. However, a lack of consensus within US government prevented the unconditional instrument concept from being modified. While participating in the debates, McCloy emphasized the following points, "We should tell the Japanese that we have the bomb and we would drop it unless they surrender:" Naming S-1 'even in that select circle ... was sort of a shock,' he would recall. 'You didn't mention the bomb out loud; it was like ... mentioning Skull and Bones [an undergraduate secret society] in polite society at Yale; it just wasn't done. Well, there was a sort of gasp at that.'³⁸⁷

At the outset, Truman instructed McCloy that Byrnes, soon to be Secretary of State, would handle this issue. When he approached Secretary of State James Byrnes, MacLeish insisted that policy changes be subject to public hearings. A possible explanation for the public's support for unconditional surrender was that public opinion remained favorable to the policy. It was imperative that changes were communicated to the American people in an open and transparent

³⁸⁵ Michael D. Pearlman. *Unconditional Surrender, Demobilization and the Atomic Bomb*. (Kansas: U.S. Army Command and General Staff College, 1996, 1996).

³⁸⁶ *Ibid.*

³⁸⁷ Paul Ham. *Hiroshima and Nagasaki: The Real Story of the Atomic Bombings and their Aftermath*. (New York: St. Martin's Press, August 2015).

manner. However, as of this point, no one had mentioned that ‘if the bomb is successful, the invasion is off. In order to conceal US awareness of Japan's surrender, Byrnes took the responsibility to prevent media coverage about whether or not the Japanese government had made a *bona fide* offer, he even wrote to Under Secretary Joseph Grew.³⁸⁸ Accordingly, Grew emphasized on July 10 “We have received no peace offer from the Japanese government either through official or unofficial channels’ – which was technically true (Hirohito’s first peace offer – sent to Moscow – came the next day).”³⁸⁹ In the meantime, Suzuki had informed the *Gunji sangiin* of the importance to allocate Prince Konoye to Moscow, as agreed on July 12. However, Moscow first had to indicate that it was willing to meet before a formal meeting could be held. In Kase's memory, Konoye had no background in Soviet’s affairs; therefore, Foreign Minister Tōgō attempted to work with Japan's ambassador in Moscow Satō Naotake, but their efforts were to no avail.³⁹⁰ In regard to Tokyo’s proposal to Soviet Union Satō emphasized that Tokyo's message must be explicit and concrete; something Tokyo seemed unable to comprehend. The misperceptions of Japan's leaders about proceedings in Moscow increased the likelihood of its invasion by US, according to Satō. Regardless of Russia’s reluctance to agree on the proposal, Japan hoped consistency would prevail. The prospect, however, failed to materialize since Russia was ultimately uninterested in receiving the Emperor.

During this time, there were numerous rumors circulating in US media. For example, on July 21 the *Washington Post* published an anonymous letter from the United States Office of War (OWI) stating; “If, as Admiral Suzuki revealed in the Diet, their [the Japanese] chief concern is over Japan’s future national structure *kokutai* including the emperor’s status after surrender, the way to find out is to ask. Contrary to a widespread belief such a question can be answered quickly and satisfactory to all those who are concerned over the future of the peace of the Orient and the

³⁸⁸ Ibid.

³⁸⁹ Toshikazu Kase. *Journey To The Missouri*. (Read Books Ltd, August 2007).

³⁹⁰ Ibid.

world.”³⁹¹ A wide range of opinions emerged during this period, provoking many debates between the US and Japan. As the Postdam meeting took place, naval captain Ellis Zacharias made the following statement on July 21: “if Japan surrendered immediately, the Atlantic Charter would grant her the right to choose the government for the country.”³⁹² As Tokyo was perplexed by Zacharia’s terms, Washington made clear it had not provided Japan with a surrender option under the Atlantic Charter. The confusion afflicted both the US and Japan at the time resulted in the American people being more aware of Japan's position. On July 22, Marshall received information that three infantry Japanese divisions, totaling nine, had been identified in Kyushu, with approximately 450.000 troops.³⁹³ At this point, US raids had already destroyed 2.510.000 Japanese homes and bombed 66 cities, displacing around 30 percent of the population.³⁹⁴ As a result of LeMay’s bombing campaign, 310.000 Japanese were slain, thousands injured, and tens of thousands left homeless from June through July. The country had descended into chaos by the end of July, with 43 percent of its cities destroyed. At the beginning of August, Japan’s Supreme Council disintegrated into war factions that were not contributing positively to the country.

There was disbelief from US side as well that Japan could be defeated via air strikes alone due to approximately 5.400 kamikazes willing to sacrifice themselves at the time of surrender.³⁹⁵ Beginning in July, Truman commenced examining the feasibility of Japan’s early surrender, and if Russia was essential for an invasion. Stimson assured Truman that Soviet assistance would not be required given that the first atomic bomb would be operational by August 6. The bomb had already received Churchill’s approval, all Truman needed was Chiang Kai-shek’s approval, although he did not expect China to play a part in Japan's defeat when he

³⁹¹ Toshikazu Kase. *Journey To The Missouri*. (Read Books Ltd, August 2007).

³⁹² David A. Pfeiffer, “Sage Prophet or Loose Cannon?,” Skilled Intelligence Officer in World War II Foresaw Japan's Plans, but Annoyed Navy Brass. Summer 2008, Vol. 40, No. 2. *National Archives*. (accessed January 1, 2022).

³⁹³ Report of General MacArthur, “The Campaigns of MacArthur in the Pacific,” Volume I. Prepared by His General Staff. *Library of Congress* Catalog Card Number: 66-60005. Facsimile Reprint, 1994. Washington, D.C. (accessed January 1, 2022).

³⁹⁴ Tanaka Akihiko, “Chapter 3. Japan after World War II,” Seven Chapters on Japanese Modernization. *JICA-Open University of Japan*. Makuhari, Chiba: BS231, April. (accessed January 1, 2022).

³⁹⁵ United States Strategic Bombing Survey Summary Report (Pacific War). Washington, D.C. 1 July 1946.

conceived the bomb. In the course of the surrender talks, cities like Kyoto, Hiroshima, Kokura, Niigata, and Nagasaki became potential targets for atomic bombing; however, given Kyoto's historical significance and its unpatrolled nature, it was deemed suitable for industrial purposes.³⁹⁶ As a result, Truman decided to leave the matter up to the military, regardless of what input he provided on the list. In accordance with Marshall and Groves' approval, the following action was taken. On 24 July 1945, General Carl A. Spaatz, Commanding General, of the US Army Strategic Air Forces, penned the following statement: “(1) The 509 Composite Group, 20th Air Force will deliver its first special bomb as soon as weather will permit visual bombing after about 3 August 1945 on one of the targets: Hiroshima, Kokura, Niigata and Nagasaki. To carry military and civilian scientific personnel from the War Department to observe and record the effects of the explosion of the bomb, additional aircraft will accompany the airplane carrying the bomb. The observing planes will stay several miles distant from the point of impact of the bomb. (2) Additional bombs will be delivered on the above targets as soon as made ready by the project staff. Further instructions will be issued concerning targets other than those listed above ...”³⁹⁷

In accordance with US intelligence reports, since most large cities in the country incarcerated war prisoners, they preferred alternative possible targets. Nevertheless, in some cases, it proved difficult since Japanese companies had a tendency to house some prisoners on their premises.³⁹⁸ Grew suggested to Spaatz to first prioritize Hiroshima while urging Truman's declaration to ensure the throne of Japan's emperor. Truman's decision to wage war had to align also with its allies including China and the Soviet Union, which were deemed important allies. Since China had confirmed its willingness to wage war against Japan, it was hard to expect much, but Truman pledged not to ignore his concern. Following Truman's nuclear announcement, Stalin

³⁹⁶ Kaitlyn Duling. *The Order to Drop the Atomic Bomb, 1945*. (Buffalo, NY: Cavendish Square Publishing, LLC, December 2018).

³⁹⁷ Raymond H. Geselbracht. *The Memoirs of Harry S. Truman: A Reader's Edition*. (Columbia: University of Missouri Press, November 2019). 232-233.

³⁹⁸ Intelligence Research Project, “Project No. 2238. Installation In Japan Not To Be Bombed,” *Military Intelligence Service*, June 1945. (accessed January 1, 2022).

learned that the US would use an arsenal of powerful weapons against Japan that evening. The Soviet leader provided an accurate response a seemingly unrequited response by Stalin surprised Truman. However, this was because of his espionage agents had already been informed, a nuclear bomb was already in the works. On July 25, Admiral Mountbatten, the British commander of the Southeast Asian Command, received Truman. The very next day after Truman approved the use of the atomic bomb, Tōgō requested a meeting with Molotov to emphasize the vital role of Konoe. According to Tōgō, Japan was ready to “restore peace based on the terms of the Atlantic Charter, noting that unconditional surrender can be difficult for us, but we are prepared to settle the matter accordingly.”³⁹⁹ On July 26, Truman issued a statement as part of the allied warning to Japan. Following his announcement, Secretary of State Byrnes presented the Potsdam Declaration to Soviet Foreign Minister Molotov. In this circumstance, the US, UK, and China signed the Potsdam Declaration, warning Japan of the possibility of military unification if it refused to acquiesce. Following WWII, the Combined Intelligence Committee issued its ‘Estimate of the Enemy Situation,’ regarded as the most authoritative assessment of Japan's military capabilities. This report stated that Japan planned to deploy two million troops to Kyushu and Honshu as part of its defense operations.⁴⁰⁰

Accordingly, the Navy prepared for the possibility that Japan would not surrender. In the aftermath of the war, the public’s trust in Japan’s leaders dropped precipitously by July 1945, a postwar survey found.⁴⁰¹ Upon hearing the announcement of the Declaration via San Francisco radio on July 27, Tokyo learned what the terms of the agreement were the next day. Having found dissenters to be a threat, the Japanese premier invoked a tactic used to silence

³⁹⁹ C.C.S. 643/3, Report of Combined Chiefs of Staff, Estimate of the Enemy Situation as of 6 July 1945. (accessed January 1, 2022).

⁴⁰⁰ C.C.S. 643/3, Report of Combined Chiefs of Staff, Estimate of the Enemy Situation as of 6 July 1945. (accessed January 1, 2022).

⁴⁰¹ Susan Southard. *Nagasaki: Life After Nuclear War*. (London: Souvenir Press, August 2017).

them, *mokusatsu-suru*, refusing to follow Truman's advice.⁴⁰² Comparative analyses of Japanese and Western sources regarding the *mokusatsu-suru* meaning that followed are presented below:

National Diet of Japan Detailed Chronology – “Prime Minister Suzuki announces to the press that he will ignore the Potsdam Declaration and push forward with the war.”⁴⁰³

Mainichi Daily News- translated the “Mokusatsu” as “no comment.”⁴⁰⁴

The Johnston Tribune- “The Japanese Domei News- Japan will ignore the Churchill-Truman-Chiang proclamation calling for unconditional surrender.”⁴⁰⁵

The US aircraft had dropped millions of leaflets of Potsdam Declarations over Japan at this point in time, warning 12 Japanese cities of the impending destruction. The last warning was issued on August 5, meaning the bomb would be dropped the next day. On the same day, the ‘Enola Gay’ aircraft was loaded with an atomic bomb. On August 6, 1945, the first nuclear bomb, nick-named Little Boy, flew towards Hiroshima on the Enola Gay. On behalf of his department's secretary of war, Stimson delivered the following message: “Results clear-cut, successful in all respects.”⁴⁰⁶ He stressed the significance of the bomb in the wake of the news: “We have just dropped a new bomb on Japan which has more power than 20,000 tons of TNT.”⁴⁰⁷ Following news of the Hiroshima bombing, Foreign Affairs Minister Togo urged surrender. It was, however, the “Defense of the Constitution” that he pressed for as one of the conditions to be met. Togo’s demands were also endorsed by Yonai’s navy minister and Hiranuma Kiichirō, the council's lord president.⁴⁰⁸ In spite of the bomb, Japan’s military offered another perspective, albeit with some difficulty, to help them resist giving up. At this point, even the cabinet itself was unsure of the

⁴⁰² Kumiko Torikai. *Voice of the Invisible Presence: Diplomatic Interpreters in the Post World War II*. (The Netherlands: John Benjamins Publishing, February 2009). (accessed January 1, 2022).

⁴⁰³ National Diet of Japan, 1939-1945.

⁴⁰⁴ The Mainichi Newspapers, ‘Fifty Years of Light and Dark: The Hirohito Era,’ *The Mainichi Newspapers*. Tokyo, 1975, (accessed March 10, 2022).

⁴⁰⁵ Anna Aslanyan, “On the Diplomatic Mistranslation That Changed the Course of History,” *Literary Hub*, June 2021. (accessed March 10, 2022).

⁴⁰⁶ Michael Burgan. *Hiroshima and Nagasaki: The Atomic Bombings That Shook the World*. (Minnesota: Capstone, August 2019). 47.

⁴⁰⁷ Ibid.

⁴⁰⁸ Shuster, Richard J, and Shimodaira, Takuya, “Conditional Surrender—Conflict Termination in the Pacific, 1945,” *Naval War College Review*: Vol. 73 : No. 3, Summer 2020. (accessed March 10, 2022).

next step as they awaited a comprehensive analysis of Hiroshima's damage. For as long as Japanese resistance remained, the US would conduct the operation as discussed previously, targeting Hiroshima, Kokura, Niigata, or Nagasaki. One of the reasons Truman did not stop with one bomb was the refusal by Japan to settle the war, despite the shock of Hiroshima and the Soviet declaration. In the beginning, Kokura was the second target, but due to a number of factors and weather conditions, Nagasaki was chosen. It is notable that one of the few newspapers that continued to publish after the bomb was the *Chugoku Shimbun*. A report by Nakamura Satoshi, editor-in-chief of the *Domei News Agency's* Hiroshima Branch, was delivered to Hara Broadcasting Station: "Hiroshima City was completely burned down, and about 170,000 people were killed."⁴⁰⁹ The manuscript was forwarded from Hara Broadcasting station to Okayama and subsequently delivered to Tokyo headquarters, which were unimpressed with the manuscript's authenticity. However, Tokyo radio broadcasted the following news regarding Hiroshima's attack on August 7; "A small number of B-29s penetrated into Hiroshima City a little after eight a.m. yesterday morning and dropped a small number of bombs. As a result, a considerable number of homes were reduced to ashes and fire broke out in various parts of the city..."⁴¹⁰

Yet despite this, Vice-Minister of Foreign Affairs Yuichiro Matsumoto stressed it was an atomic bomb no matter what classification it was given. Following the bombing of Hiroshima, Kōichi Kido, the Emperor's most trusted advisor, received news that the US used an atomic bomb on Hiroshima, resulting in 130,000 fatalities.⁴¹¹ A group of thirty Japanese scientists and military personnel spent several days investigating the blast, producing a final report for Tokyo.⁴¹² The report indicated that a severe threat was imminent and that people in Japan should be alert to it. In response to the success of the first bomb, Truman delivered a radio address on

⁴⁰⁹ Hiroshima for Global Peace. *Leaning from Hiroshima's Reconstruction Experience: Reborn from the Ashes* vol II, (II genbakuhōdō, 1 Maboroshi no daiippō). The Lost Reports.

⁴¹⁰ Len Giovanitti and Fred Freed. *The Decision to Drop the Bomb*. (Routledge Library Editions: WW2, November 2021). 16.

⁴¹¹ Sadao Asada, "The Shock of the Atomic Bomb and Japan's Decision to Surrender: A Reconsideration," *University of California Press*, Vol. 67, No. 4, Nov 1998. 477-512. (accessed March 10, 2022).

⁴¹² Susan Southard. *Nagasaki: Life After Nuclear War*. (New York: Penguin Random House LLC, August 2017).

August 9, 1945; “We have laid down the general terms on which they can surrender. Our warning went unheeded; our terms were rejected. Since then the Japanese have seen what our atomic bomb can do. They can foresee what it will do in the future. The world will note that the first atomic bomb was dropped on Hiroshima, a military base.... If Japan does not surrender, bombs will have to be dropped on her war industries and, unfortunately, thousands of civilian lives will be lost. I urge Japanese civilians to leave industrial cities immediately and save themselves from destruction.... We have used it against those who attacked us without warning at Pearl Harbor, against those who have starved and beaten and executed American prisoners of war, against those who have abandoned all pretense of obeying international laws of warfare. We have used it in order to shorten the agony of war, in order to save the lives of thousands and thousands of young Americans. We shall continue to use it until we completely destroy Japan's power to make war. Only a Japanese surrender will stop us.”⁴¹³ The US’s position towards Japan came through loud and clear, so it was only a matter of time before Japan surrendered. In consequence, Tōgō was one of the first to take action to end the war, as he met with the emperor on August 8 with Suzuki's approval to decide whether to end the war. His report describes in detail how Truman instructed US forces to bomb Japanese cities up to the time they surrendered. In response to Tōgō’s concerns, the Emperor agreed that the only viable way to save Japan was a speedy surrender, urging Tōgō to talk with Suzuki about the next steps. As the Japanese leaders contemplated other options to end the war, the US was preparing to conduct the next round of bombings. The following morning, on August 9th, 1945, a second atomic bomb, knick-named Fat Man was dropped on Nagasaki’s industrial valley between Mitsubishi and the Arms Works.

The ‘Fat Man’ was more complexly built than Little Boy because of the 239 plutonium spheres designed to produce an accurate and symmetrical implosion. At this point, the Soviet declared war on Japan and occupied Manchuria, however, prior to its declaration there was a strong indication suggesting that Russia would eventually take over Japan’s strategic points. Among the people who emphasized it was General Ikeda Sumihisa who informed the government two weeks prior to the invasion of the Kwantung Army that its reduction enabled a

⁴¹³ UVA Millter Center. August 9, 1945: Radio Report to the American People on the Potsdam Conference Transcript. (accessed March 10, 2022).

greater possibility of invasion. Upon hearing the news, Suzuki requested that Hirohito's consent be granted to end the war immediately. In response to the Nagasaki bombing, Tokyo called an urgent meeting of the Six Supreme Council for War Direction (*Gunji sangiin*). A total of six executives attended: Prime Minister Suzuki Kantarō, Foreign Minister Tōgō Shigenori, Navy Minister Yonai Mitsumasa, Army Minister Anami Korechika, Army Chief of Staff Umezu Yoshijirō, and Navy Chief of Staff Soemu Toyoda. During their discussion, they addressed the Soviet invasion of Manchuria and the unconditional terms. When the Soviets changed their position from being Japan's staunch ally to taking part in the US offensive against it, Japan questioned the viability of the war. Following Prime Minister Suzuki's meeting with the emperor in which he urged him to accept the terms of the agreement. The Potsdam Declaration was accepted by the Supreme Council of the War on August 10 – ensuring that the emperor was to remain sovereign. In the Byrness note, however, it was emphasized that the emperor would be subject to the Supreme Commander for the Allied Powers. This prompted them to meet with the emperor shortly thereafter to discuss the matter. At this point, the emperor had seen pointless negotiations over it that culminated in accepting the Supreme Commander's strategic leadership. On August 15, *Gyokuon Hoso* broadcast the emperor's announcement that Japan had surrendered, bringing the war to an end.⁴¹⁴ In addition, he pointed out: "Now that such a new weapon has appeared, it has become less possible to continue the war.

We must not miss a chance to terminate the war by bargaining [with the Allied powers] favorable conditions now. Besides, however much we consult about [surrender] terms we desire, we shall not be able to come to an agreement. So my wish is to make such arrangements as will end the war as soon as possible."⁴¹⁵ Prior to its use, nuclear radiation caused a noticeable and alarming effect on humans. During the Manhattan Project, some nuclear physicists and the

⁴¹⁴ National Archives of Japan.

⁴¹⁵ Sadao Asada, "The Shock of the Atomic Bomb and Japan's Decision to Surrender: A Reconsideration," *University of California Press*, Vol. 67, No. 4, Nov 1998. 477-512. (accessed May 20, 2022).

commander-in-chief of the allied forces opposed the use of nuclear energy on humans.⁴¹⁶ A mortality toll of 140,000 is believed to be the result of Hiroshima, whose details are uncertain.⁴¹⁷ According to an investigation conducted during that time period, about 35,000 people perished between October and December 1945 in Nagasaki.⁴¹⁸

⁴¹⁶ Masao Tomonaga, "The Atomic Bombings of Hiroshima and Nagasaki: A Summary of the Human Consequences," *Taylor & Francis Online*, September 2019. (accessed May 20, 2022).

⁴¹⁷ The City of Hiroshima. Article ID : 0000009803, Updated on 2019-Nen 10 tsuki 21-nichi kōshin. (accessed May 20, 2022).

⁴¹⁸ Nagasaki National Peace Memorial Hall for the Atomic Bomb Victims. The Nagasaki Atomic Bomb Damage Records. Part 3 Rescue and Medical Relief. Final Section. Chapter 4 : Shifts in the Estimation of Fatalities Related to the Nagasaki Atomic Bombing. (accessed May 20, 2022).

CHAPTER 6: Japan's Post-War Constitution and its Complex Reform

In spite of skepticism regarding what the Axis countries aimed to accomplish with their treatment of Japan, historian and diplomat Makoto Iokobe pointed out the following; “President Truman and Prime Minister Suzuki paid due consideration to the voices of opposing policy changes, however, they still succeeded in realizing an early peace through policy changes.”⁴¹⁹ It could be argued that Truman’s nuclear diplomacy and the detonation of nuclear weapons dealt a defiant blow to other powers, most notably the Soviet Union.⁴²⁰ Upon Japan’s surrender, Truman espoused a compromise position between those from the War Department who saw the emperor as a minor matter and those from the State Department who wanted him to step down. Although many considered Japan’s surrender as a sign that it would accept the Potsdam Declaration, while military troops failed to cope with defeat by ending their lives when the news that Japan had surrendered reached them.⁴²¹ Though Japan had indeed surrendered, it still managed to preserve the sovereignty of the emperor. The irony is that this was quickly contested, leading to fierce arguments among US military personnel in which there was little understanding of Japanese culture and the emperor's authority. Nevertheless, a joint statement by the allied powers asserted that the emperor and the Japanese government were subordinate to the Supreme Commander of the Allied Powers (SCAP) in matters of rule. As a result, the emperor issued a proclamation shortly after Japan’s surrender, indicating that the Imperial State would remain *kokuktai*.⁴²² Implemented reforms did not tackle only the emperor but also social reforms influenced largely by US. In other words, the US tried to create an environment that facilitated the development of 'democratic and representative organizations' that adhered to 'fundamental human rights and freedoms of

⁴¹⁹ Okazaki Hisahiko. *Yoshida Shigeru and His Time*. (Tokyo: Japan Publishing Industry Foundation for Culture, March 2019).

⁴²⁰ Joe Majerus. *The Decision to Employ nuclear weapons at Hiroshima and Nagasaki*. (Hamburg: Anchor Academic Publishing, June 2013). 33-42.

⁴²¹ Andrew Gordon. *A Modern History of Japan: From Tokugawa Times to the Present*. (Oxford: Oxford University Press, November 2008). 226-240.

⁴²² Ikuhiko Hata. *Hirohito: The Showa Emperor in War and Peace*. (Kent: Global Oriental LTD, September 2007). 92-93.

expression'.⁴²³ The assignment to making the country more democratic became more complex as time passed, and the process evolved. It was mostly because the US had an ignorant perception of Japan's power, assuming it would be minimal. In the aftermath of Japan's surrender, occupation was implemented in three phases: first, punitive measures were taken in order to reform Japan by demilitarizing and disarming the country, the second phase was establishing a strong economy, and the third was signing the peace treaty. In the present chapter, I will cover the first phase, which began in 1945 and ended in 1947. As a result of extensive debate over the role of the emperor, the Department of State released a number of reports in an effort to address the controversy. In line with that, the Department of War assumed direct authority over Japan along with the responsibility to revise the existing rules. With the objective of coordinating wartime policies, the US encouraged its allies to convene an advisory committee in Washington by August 21, 1945. The War Department subsequently revised; 'The US Initial Post-Surrender Policy for Japan' (SWNCC 150/3) to emphasize an indirect mechanism, through which the Supreme Commander would exercise authority through Japanese government agencies and the emperor. In terms of regaining economic stability, this fell to the Japanese government.

An emphasis on unfavorable economic policies was made in a new paragraph entitled 'Reparations and Restitution' added to SWNCC 150/3 to be incorporated into SWNCC 150/4. In response to that, the JCS recommended changes that were adopted as SWNCC 150/4 by the SWNCC.⁴²⁴ The following were the absolute objectives of SWNCC 150/4 as follow; "(a) To ensure that Japan will not again become a menace to the United States or to the peace and security of the world; (b) To bring about the eventual establishment of a peaceful and responsible government which will respect the rights of other states and will support objectives of the United States...and principles of the Charter of the United Nations. The United States desires that this government should conform as closely may be to principles of democratic self-government, but it is not the responsibility of the Allied Powers to impose upon Japan any form of government not supported by the

⁴²³ Mark E. Caprio, Yoneyuki Sugita. *Democracy in Occupied Japan: The U.S. Occupation and Japanese Politics and Society*. (Abingdon: Routledge, March 2017).

⁴²⁴ National Diet Library of Japan. Documents with Commentaries. 1-5 U.S. Initial Post-Surrender Policy for Japan. (accessed May 20, 2022).

freely expressed will of the people.”⁴²⁵ While the US amendments to occupation policies were underway, in Japan, economic recovery was central to debates. On August 27, 1945, Yoshida Shigeru, a Japanese economist with a good understanding of the economy, said, “it is necessary to put all our efforts together to build our empire, and this can be done by inviting American capital.”⁴²⁶ As part of the process of setting up for MacArthur’s deployment, two hundred army technical experts landed at Atsugi Naval Air Base on August 28, 1945. Once the landing was conducted, MacArthur took up a position on Japanese soil not only in the name of the US but also on behalf of allied nations. Prior to the signing of the surrender instrument, there were many discussions as to whether US officials would be officially managing Japan directly, as with Germany, or through existing procedures. The first American military witnessed the atrocities of the war in Japan, where around 40 percent of Japanese cities were razed to the ground, with poor harvests contributing to food shortages.⁴²⁷ As a result of the war, 2.7 million Japanese had been killed and another 4.5 million people had been injured.⁴²⁸ In fact, the impact of the air strikes left the Americans stunned. While they adhered to an ideology of resentment towards Japan, they became more compassionate after witnessing the atrocities caused by bombs.

Therefore, in the realm of governance, the question of whether it was more efficient to handle it indirectly or directly remained unanswered. When it amounted to militarism, SCAP dismantled the Japanese Army by forbidding former military officers from serving in official capacities. This proposal was designed to accomplish the occupation with the least expenditure of resources and personnel by the Allies. In response, SCAP issued two directives on September 2 and 3 instructing the Japanese Imperial General Headquarters to comply with the directives. The disbandment of the

⁴²⁵U.S. State Department Records Decimal File 1945-1949 (PW) "740.00119 P.W./9-645" <SDD-3, Roll No. 3> United States Initial Post-Surrender Policy for Japan (SWNCC150/4). (accessed May 20, 2022).

⁴²⁶ Richard B. Finn. *Winners in Peace: MacArthur, Yoshida, and Postwar Japan*. (California: University of California Press, August 2022). 31.

⁴²⁷ Michael Schaller. *The American Occupation of Japan: The Origins of the Cold War in Asia*. (Oxford: Oxford University Press, November 1985). 27.

⁴²⁸ Mark E. Caprio and Yoneyuki Sugita. *Democracy in Occupied Japan: The U.S. Occupation and Japanese Politics and Society*. (Abingdon: Routledge, March 2017).

Japanese military was carried out by the Japanese War Department and the Navy Ministry. The first directive, issued on September 2, 1945, called on; “Imperial General Headquarters and its Commanders in Japan and abroad to cause the Japanese Armed Forces and Japanese- controlled Forces under their commands to cease hostilities at once, to lay down their arms, to remain in their present locations and to surrender unconditionally to Commanders acting on behalf of United States, China, UK and the British Empire, Soviet Union.”⁴²⁹ In the second directive, on September 3, 1945, there were general terms referring to 1. A, “The Japanese Imperial Government and the Japanese Imperial General Headquarters are hereby directed to comply, or to ensure the compliance as the case may be, with the requirement of the Supreme Commander for the Allied Powers states in this Directive.”⁴³⁰ In Part II: “Japanese Armed Forces- 1. The Japanese Imperial General Headquarters will, without delay adjust boundaries of control of the First Japanese General Army to coincide with the Eight United States Army and the Second Japanese General Army to coincide with the Sixth United States Army, as outlined on Map, annex ‘A’ hereto.”⁴³¹ Even though the Japanese had never officially acquired or implemented the *senryu* before however in this setting they were compelled to do so. Consequently, allies’ fleets sailed into Tokyo Bay, and, early in the morning of September 2, 1945, the formal surrender instrument was signed on the teak decks of the USS *Missouri*.⁴³² As part of his opening remarks following the signing of the surrender instrument, General Douglas MacArthur stressed the importance of justice, rebuilding, and other factors that he considered imperative to rebuilding Japan, etc.

On behalf of the emperor, Shigemitsu signed the Instrument of Surrender pursuant to MacArthur’s directive. This marked the moment when Japan’s past militarism and expansionism began to reap consequences from the Allies. With the Philippines providing assistance in the Pacific campaign, SCAP enlisted their assistance in appointing the Bataan Club as the high-level administrator in Japan. The most important SCAP area was that of the Government Section

⁴²⁹ National Diet Library of Japan. SCAPIN-1: General Order NO. 1 (Directive NO. 1), Office of the Supreme Commander for the Allied Powers 1945/09/02. (accessed June 5, 2022).

⁴³⁰ National Diet Library of Japan. Scapin-2: Directive NO. 2, Office of the Supreme Commander for the Allied Powers 1945/09/03. (accessed June 5, 2022).

⁴³¹ Ibid.

⁴³² Battleship Missouri Memorial Pearl Harbor, Hawaii. The Surrender Ceremony.

(General Courtney Whitney), the Economic-Scientific Section (William F. Marquat), Counter Intelligence Corps (General Charles A. Willoughby). The Government Section was in charge of the Diet; the Economic and Scientific Section (ESS) handled matters of economic independence, drafting a comprehensive plan called; “Possibility of Balanced Japanese Economy” in October 1947 that was followed by another book “Programme for Self-Supporting Japanese Economy (Blue Book) in November 1948. ⁴³³ The Counterintelligence Corps (CIC) and the Civic Censorship Detachment (CCD) were in charge of an intelligence organization, and the Civil Information and Education Section (CIE) was in charge of public information, education and other sociological and cultural matters. During MacArthur’s tenure, Courtney Whitney was appointed as head of the government section of SCAP. Consequently, on August 29, Whitney received a copy of the “Initial Post-surrender Policy for Japan” (SWNCC 150/4/A) in which an entire agenda of the reform was included. ⁴³⁴ In addition to what was emphasized on SWNCC 150/4, the SWNCC 150/4/A emphasized the following objectives as a principal means, “(a) Japan’s sovereignty will be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine; (b) Japan will be completely disarmed and demilitarized. The authority of the militaristic and the influence of militarism will be totally eliminated from her political, economic and social life; © The Japanese people shall be encouraged to develop a desire for individual liberties and respect for fundamental human rights, particularly the freedom of religion, assembly, speech and the press.” ⁴³⁵

Upon Truman’s approval on September 6, 1946, the document SWNCC 150/4/A was released and subsequently published in a series of publications. Unlike the Potsdam Declaration, the post-surrender policy emphasized that the Supreme Commander was responsible for disarming and demobilizing Japan. When the policy was announced on September 22, 1945, it was well received

⁴³³ Ichikawa Hiroshi, “A Modern History of Technology in Japan (II): Synopsis of a Lecture from the Socio-economic Perspective,” Japan: *Hiroshima University*, December 2020. (accessed June 5, 2022).

⁴³⁴ Michael Schaller. *The American Occupation of Japan: The Origins of the Cold War in Asia*. (Oxford: Oxford University Press, November 1985). 23-25.

⁴³⁵ U.S. Initial Post-Surrender Policy for Japan, “Top Secret Records of Various Sections. Administrative Division; Box No. LS-1, “Top Secret, File No. 1 - Covering the Period from 1 September 1945 thru 19 January 1946”.<Sheet No. TS00320-00323>. (accessed June 5, 2022).

by US public opinion, however, the British saw the economic provisions as exceeding the original intent. However, the dilemma at this time was how to get Japan and the current government to acknowledge the authority of SCAP on its own soil. As such, MacArthur had the option of proceeding with democratic goals as long as government approval could be obtained. However, SCAP had the authority to expel the militarists from governmental offices, owing to the influence they had during the war. Furthermore, SCAP realized that economic reform was a crucial component of the occupation. A major component of the MacArthur document stressed the need for Japan to rely on its own capacity to recover itself and not on any foreign powers, in this case, the US and its allies. During the State Department's deliberations on a proposal of this nature, vigorous debates ensued. In the era when communism was gaining traction around the world, there was a strong concern about the Soviet threat and the impact of the civil war in China, thus leading to US trying to revolutionize Japan by democratizing it. For this reason, Japan would have to undergo an enormous transition from a social to a military and economic transformation. In light of how vital communication between SCAP and Japan was, it was then suggested that a liaison office be established. In response to the request from the Manila headquarters of MacArthur, the office was established as a channel between the US and Japan. Therefore, SCAP and the Japanese government shared their communications through the Central Liaison Office (CLO) commonly referred to as *shuten* located in Tokyo and staffed mostly by Japanese diplomats.

The organizational structure consisted of a director and four departments, appointed by imperial command and under the supervision of the ministry of foreign affairs. Departments handled general affairs, military affairs, and political affairs, as well as providing Allied Forces with communications facilities.⁴³⁶ Although each section was staffed with Japanese people who specialized in handling distinct issues. A number of economic sectors were impacted by the occupation for example SCAP introduced land reform in order to reduce the power of rich

⁴³⁶ JACAR, Ref : C15011311900. (accessed June 5, 2022).

landowners commonly known as *zaibatsu*, especially those who participated in wars and the militarization of Japan in the 1930s. A communist uprising, however, led to the modification of SCAP's policies, despite the fact that the changes were implemented by the end of 1947 and early 1948. With an increase in the civil war in China seemingly inevitable, there was a fear that East Asia's future was in jeopardy. Thus, occupation policies were needed to address a variety of reforms including tax reforms and inflation control. At this point, the most pressing problem was the lack of raw materials that Japan needed to keep its economy growing. To revitalize Japan's economy, the primary method was to export goods to other nations as the most cost-effective way to boost the economy. Consequently, following the outbreak of the Korean War, Japan's economy was more likely to rebuild to its post-war prosperity. Thus, when the UN entered the Korean War, it was Japan that supplied most of the UN's armed forces, giving it a competitive advantage over the US. The JCS had, however, recommended that the SCAP implement economic disarmament and reparations simultaneously, resulting in the elimination of some Japanese manufacturing raw materials, such as iron, steel, chemical products, rubber, and ships.⁴³⁷ However, despite MacArthur's consistency in showing he could handle the occupation with the staff assigned, Washington was relentless in pushing him to accept the Diplomatic Section, which is also known as the Office of the Political Adviser, headed by George Aitcheson.

The Aichetson assignment did not go according to plan, with the subject matter of his complaint to the Under Secretary of State Dean G. Acheson concerning the obstructive attitude of MacArthur's staff in not listening to US instructions. It was an uphill battle between MacArthur, who had to follow Washington's agenda and the Japanese elites who dominated the political and economic spheres without a consensus being reached on how to conclude a peaceful agreement between the parties. It appears, however, that Grew and Stimson considered a hint of guilt sufficient to hold Japan responsible. General MacArthur, however, decided that Washington's input would

⁴³⁷James F. Schanbel. *History of the Joint Chiefs of Staff. Volume I The Joint Chiefs of Staff and National Policy 1945- 1947.* (Washington, D.C.: Office of the Joint History. Office of the Chairman of the Joint Chiefs of Staff, 1996).

be limited at this point. In parallel with that, General MacArthur believed that if Japan did not embrace reform by undertaking fundamental changes, the country would revert to its former practices. It was common for many Americans to be apprehensive that the occupation might negatively impact the country, particularly when it introduced vital reforms to a country. While MacArthur was confident that his policies would be embraced including the *zaibatsu*. The *zaibatsu* provoked intense debates when it came to economic reforms, with State and War Department economists arguing that they encouraged militarism abroad. In addition to the emperor, the *zaibatsu* policy was one of the biggest battlegrounds against economic revisionism. Since 1943, discussions had been held about the role of the Japan's emperor until the end of May when the Status of the Japanese Emperor was concluded. A conclusion was reached in favor of sustaining imperial institutions, emphasizing that the survival of the emperor would ensure stability within Japan, which could benefit Allied countries in implementing the policies. Evidently, the US supported the policy, but not every official in the State Department supported it, such as Dean Acheson. From the beginning of 1945 to the end of the war, Japan's military government was managed by the State-War-Navy Coordinating Committee. It was initially believed by the committee that the emperor had a poor reputation, in particular during the war. In response to the State Department failing to put forward a proposal, Richard B. Russell introduced a joint resolution in Congress on September 18, 1945, calling for the emperor to be condemned as a war criminal.⁴³⁸

While debates about the role of the emperor were ongoing, on October 4, 1945, General MacArthur suggested Konoe Fumimaro to play an active role in democratizing the Japanese Constitution under the Higashikuni cabinet.⁴³⁹ Further it was recommended to Konoe that the constitution should be revised, particularly in regard to the Diet authority. Consequently, on October 6, 1945, the Far East released a report (SWNCC- 55/3) titled, "Treatment of the Person

⁴³⁸ Kyoko Inoue. *MacArthur's Japanese Constitution: A Linguistic and Cultural Study of Its Making*. (Chicago: University of Chicago Press, February 1991).

⁴³⁹ Robert E. Ward and Sakamoto Yoshikazu. *Democratizing Japan: The Allied Occupation*. (Honolulu: University of Hawaii Press, March 2019). 1-42.

of Hirohito, Emperor of Japan.”⁴⁴⁰ In the report, it was concluded that Emperor Hirohito had carried out war crimes and had to be punished, tried, and imprisoned. In conjunction with this, MacArthur was entitled to gather evidence and provide recommendations to the JCS concerning bringing legal action against the emperor. A determination of this scope required immediate action, which was the responsibility of MacArthur exclusively. In light of the disagreements within SWNCC regarding the report, the committee decided not to proceed. On October 11, 1945, MacArthur advised prime minister Kijūrō Shidehara that the political and societal reforms would necessitate a ‘Liberalization of the Constitution.’ While Shidehara, along with a handful of others, argued that the Meiji Constitution should not be altered, he emphasized the abuses the militarists perpetrated. At this point, opposing perspectives were emerging on Konoe’s role in the ensuring constitutional reforms. It was Jōji Matsumoto who pointed out that revisions were the responsibility of the state, not of the administrative post of Cabinet rank in the government of the Empire *Gyōji* (Privy Seal of Japan). Debates on the occupation policy prevailed among SWNCC members as well. Consequently, on October 11, 1945, SWNCSS members believed that formal policy development would be impossible without a Far East Subcommittee that would be in charge of the foreign policy objectives of the US, the imperial institution as an element, and religious beliefs in the democratic reform of the Japanese government under the supervision of the occupation allied countries.

Although this was deemed a necessary policy in the immediate aftermath of Japan’s surrender, the US attitude toward Japan’s militarization evolved over time. Consequently, as communism in Asia started to flourish, Japan’s militarism also gained traction. Therefore, the final agreement between the US and Japan outlined the position of the US military base on Okinawa. As early as 1945, three major documents defined the US occupation objective of Japan. First, was the Potsdam Declaration, the, “Summary of the United States Initial Post-Defeat Policy Relating to Japan

⁴⁴⁰ Rudolf V.A. Janssens. *“What Future for Japan?”: U.S. Wartime Planning for the Postwar Era, 1942-1945.* (Amsterdam: Rodopi, 1995). 337.

(SWNCC- 150/4/A),” and the last one ”Basic Directive Post-Surrender for Military Government in Japan Proper (JCS- 1380/15).”⁴⁴¹ Following the first meeting conducted between General MacArthur and Emperor Hirohito on September 27, 1945. The meeting caught everyone in surprise having noted that is the unprecedented one. Although many people wanted to see the emperor imprisoned, MacArthur chose a different course of action. During the time frame between ‘‘US Initial Post surrender Policy for Japan and Basic Directive for Post surrender Military Government in Japan Proper ‘’ it has then released the following; “In view of the present character of Japanese society and the desire of the United States to attain its objectives with a minimum commitment of its forces and resources.. this policy moreover does not commit the Supreme Commander to support the emperor or any other Japanese governmental authority in opposition to evolutionary changes looking toward the attainment of United States objectives.”⁴⁴² On October 30, 1945, the FEAC convened its first meeting with nine members from nine countries. Ten meetings were held to discuss what action the US had taken against Japan.⁴⁴³ It was no surprise that governments like the British and the Soviets expressed discontent with their limited role. In response to the consistent pressure from the Allied powers, Secretary of State Byrnes met with General MacArthur in Tokyo to determine how Japan would proceed.

Following numerous meetings between Konoé and his staff with SCAP representatives, MacArthur’s request for a constitutional amendment was turned down on November 1, 1945. Evidently, he had no interest in bringing the emperor before the war crimes tribunal, especially after the emperor had already shown his willingness to comply. As instructed by the JCS on November 29, 1945, General MacArthur was instructed to find every source of information he could to influence the Allied countries to preserve imperialism.⁴⁴⁴ When the Big Four foreign

⁴⁴¹ National Diet Library of Japan. Joint Chiefs of Staff Basic Directive for Post-Surrender Military Government in Japan Proper. Basic Initial Post Surrender Directive to Supreme Commander for the Allied Powers for the Occupation and Control of Japan (JCS1380/15). November 1945. (accessed June 5, 2022).

⁴⁴² A Decade of American Foreign Policy Basic Documents 1941-1949. Department of State Publication: Department and Foreign Service Series. Bureau of Public Affairs Office of the Historian. 416. March 1986. (accessed June 5, 2022).

⁴⁴³ Richard B. Finn. *Winners in Peace: MacArthur, Yoshida, and Postwar Japan*. (California: University of California Press, March 1992).

⁴⁴⁴ National Diet Library of Japan. 3-3 Telegram, MacArthur to Eisenhower, Commander in Chief, U.S. Army Forces, Pacific, concerning exemption of the Emperor from War Criminals, January 25, 1946. (accessed June 5, 2022).

ministers met in Moscow on December 26, 1945, they reached an agreement regarding Allied participation. Thus, two bodies were created as a result of the agreement: The Far Eastern Commission and the Allied Council for Japan (ACJ). In Washington, the Far Eastern Commission (FEC) constituted eleven major Allied powers that were responsible for establishing policies and standards for surrendering Japan; in contrast, the ACJ was a four-member advisory body that consulted and advised the supreme commander on the implementation of surrender policies. However, the supreme commander had the authority to decide how to consult with the ACJ in this case. It was hard to understand MacArthur's diplomacy despite all the privileges he had, therefore he delivered a statement on December 30, 1945, noting that they had not consulted him during the Moscow meeting. Acheson, the Acting Political Advisor of the US to Japan, delivered a report to President Truman on January 4, 1946. In the report, he highlighted, among other things, the current situation in Japan by stating that major war criminals had been apprehended. However one of the more significant ones is the Constitution and its backbone, the Emperor Institution, both of which have been the subject of criticism. In addition, he highlights what the following Tokyo press had announced: *Asahi*- Directives issued because the Government, to its shame, neglected its duty. SCAP had advanced democratization in Japan. Future leadership must be found [not?] in the individuals but in the democratic social organizations of the people, such as labors and farmers' unions. The importance in the next elections increased.⁴⁴⁵

Yomiuri- Downfall of Cabinet inevitable. Now it's time for people to erect new government with their own hands...Prosecution of those responsible for war and infringement human rights must be carried out by people.⁴⁴⁶ In response to the following directive, MacArthur stated the following on January 25, 1946; "Since receipt of WX 85811 investigation has been conducted here under the limitations set forth with reference to possible criminal actions against the emperor...The whole of Japan can be

⁴⁴⁵ Foreign Relations of the United States 1946. Volume VIII The Far East. United States Government Printing Office: Washington 1971. Japan: Occupation and Control of Japan. The Acting Political Adviser in Japan (Acheson) to the Secretary of State. Tokyo, January 8, 1946. (accessed June 5, 2022).

⁴⁴⁶ Ibid.

expected, in my opinion to resist the action either by passive or semi-active means. They are disarmed and therefore will represent no special menace to trained and equipped troops; but it is not inconceivable that all government agencies will break down,.... The decision as to whether the emperor should be tried as a war criminal involves a policy determination upon such a high level that I would not feel it appropriate for me to make a recommendation; but if the decision by the heads of state is in the affirmative, I recommend the above measure as imperative.’⁴⁴⁷

This statement helped convince the JCS and the US public that the removal of the emperor would require more American troops in Japan, which would be detrimental to their security. The directive became a crucial document for SCAP, however, Japan did not see it until 1949, when it was published as part of a comprehensive study of Japan’s political orientation. Among other policies, US had some input on most, but not on the Constitution and permanent disarmament of Japan. As a result of the State-War-Navy Coordinating Committee’s meeting in Washington on January 7, 1946, they adopted a report entitled ‘the Reform and Japanese Governmental System’ (SWNCC-228).⁴⁴⁸ However, no action seemed to have been taken right away after it was considered a secret document. As a result, FEAC members visited Tokyo on January 31, 1946, where MacArthur met with them. He advised the members that if the occupation lasted for at least five years, they would be able to make ‘a friend of an enemy.’

It was not an easy process to bring all members to a common agreement and one of them if they should be part of the ‘garrison forces.’ As the only authoritative commander of Japan’s occupation MacArthur emphasized that they could be part of garrison forces however they would still be under his command. The UK agreed but the Soviets refused because Stalin insisted on Japan renouncing the Kurile Islands and the Northern half of Hokkaido. While Truman agreed to the Kurile, he made it clear that MacArthur would receive the surrender through the main islands in Japan, including Hokkaido. Soviet forces subsequently withdrew from Manchuria in May

⁴⁴⁷ National Archives, College Park. Office Memorandum.

⁴⁴⁸ Foreign Relations of the United States 1946. Volume VIII The Far East. United States Government Printing Office: Washington 1971. Japan: Occupation and Control of Japan. Memorandum by the State-War-Navy Coordinating Committee to the Secretary of State. Washington 1946. (accessed June 5, 2022).

1946. In the view of William Harriman, ambassador to the Soviet Union, it was clear that Soviet Union and US had come to a common ground after Japan recognized the US position, when the latter reciprocated by acknowledging Soviet rule in Romania, Bulgaria, and Hungary. As a matter of fact, the Embassy in Moscow had delivered a memorandum to Acheson concerning the Policy and Information Statement concerning Japan on June 1, 1946, indicating the following: "... current Soviet policy towards Japan is designed to disrupt to the greatest possible degree the development of a healthy Japan oriented towards the United States. While US was criticized for its position with Soviet, people like Prime Minister Yoshida considered as a greatest contribution since its refused Soviets desire to set up a separate zone of occupation."⁴⁴⁹ By February 1, 1946, the *Mainichi Shimbun* published a constitutional draft delivered by Matsumoto Committee.⁴⁵⁰ The Matsumoto draft left unchanged the central concepts of the Meiji Constitution, in particular the role of the emperor and the ownership of military force, two elements that the US was attempting to alter. Consequently, in 1946, the Federal Election Commission (FEC) approved a policy exempting the Japanese emperor from prosecution as a war criminal 'without direct authorization.'

Therefore, MacArthur did not make any decision regarding the elimination of imperial institutions on April 13, 1946. Following MacArthur's decision on the emperor in the postwar debate, he was not prosecuted. Alike US role in the German's surrender, the Japanese capitulation led to those engaged in aggressive activities losing prominent positions in the public and private sectors. By observing the Nuremberg tribunal's success, the US paved the way for the Tokyo tribunal following September 11, 1946, when General MacArthur ordered 39 suspects to be arrested. In response to the war trials, Prince Konoe emphasized the following in a memo to his second son; "...I have committed many political faults for which I feel deep responsibility. But I never thought I

⁴⁴⁹ National Archives, College Park. Embassy of the United States of America, Moscow. Memorandum Subject: Comments of the Embassy at Moscow on the Policy and Information Statement concerning Japan, dated June 1, 1946. (accessed June 5, 2022).

⁴⁵⁰ Toshiyuki Nishikawa, "The Future of the Japanese Constitution from the "MacArthur Constitution" to What?," *Surugadai Repository*, 2009. file:///Users/arbenitasopaj/Downloads/Hikaku17Nishikawa%20(1).pdf (accessed June 5, 2022).

would be tried at an American court as a war criminal. It is almost unbearable to me, especially when I think of the fact that I, feeling responsible for the China incident and thinking its solution the greatest mission I ever did, everything in my power to make Japan American negotiations successful, as I came to conclusion that the troubles between Japan and China could only be solved if we could come to an understanding with America".⁴⁵¹

1. The Implications of Japan's Semi-Imposed Constitution

The drafting of the new Constitution was marred by strong arguments between SCAP and the FEC. The draft Constitution of SCAP was resisted by Japanese leaders and ignited a heated discussion between them. Initially, General Courtney Whitney came up with the idea of drafting a new Constitution. Having acknowledged that this was the only way he could attain his objectives, including the emperor's role, MacArthur advocated Whitney's plan. As a result, he gave the Government Section (GS) the task of drafting the charter. Whitney was primarily responsible for drafting it while MacArthur only received guidance on Constitution changes during the drafting stage. The following list contains Meiji constitutional articles that were considered crucial by the US and whose revisions were advocated. The Japanese Imperial Constitution or the Meiji Constitution allocated the emperor to be incharge of sanctioning all laws that declared war, made peace, or concluded treaties in conjunction with the *Privy Council*, in charge of advising the emperor on important matters specifically related to constitutional matters. The Cabinet consisted of the heads of Government as well as a Prime Minister appointed by the emperor, last but not least, the Diet consisted of a House of Peers and a House of Representatives that served as a forum for debate, but they were not able to negotiate a budget because they were only able to control government expenditures.⁴⁵² Yet the most significant reform was neither military nor economic; rather, it was the constitutional revision, including the restructuring of the emperor, a matter

⁴⁵¹ Foreign Relations of the United States 1946. Volume VIII The Far East. United States Government Printing Office: Washington 1971. Japan: Occupation and Control of Japan. [Enclosure – Translation]. Memo Left By Prince Konoye To His Second Son. (accessed July 10, 2022).

⁴⁵² Ito Miyoji, "The Constitution of the Empire of Japan," *National Diet Library of Japan*. (accessed July 10, 2022).

regarded as highly sensitive and vital by Japanese officials.. In October 1945, the Military Government Section had been replaced by ten special staff secessions from the General Headquarters SCAP. In addition, GHQ SCAP was comprised of the general and additional staff on GHQ US AFPAC, such as section G2, which handled military intelligence and security.⁴⁵³ In response, members of the Government Section took advantage of the opportunity to convey US democracy to their Japanese counterparts. In spite of this, Japan was subjected to extensive adversity implied by the occupation that led to the resignation of the Higashikuni cabinet on October 5, 1945. The inability to choose over their own soil resulted in Shidehara Kijūrō who had chosen to advocate peaceful diplomatic relations at the end of the war as the new prime minister following Higashikuni's resignation. To facilitate the process and make it more effective Yoshida Shigeru was appointed as minister of foreign affairs under Shidehara's government. Thus, Shidehara together with Yoshida and Prince Konoe pulled jointly opinions on this matter that led to Prince Konoe being appointed by the emperor to form a committee to handle this task. Accordingly, the committee was formed within Lord Privy Seal's Constitutional Problems department. Thereby, Japan began to work on constitutional revision by establishing two competing agencies in this field. The first was located within the Imperial Household headed by Prince Konoe and assistant Professor Sasaki Soichi that worked on the draft that was ultimately presented to the emperor.

Despite the fact that their joint efforts collapsed shortly after it was SCAP's intention to remove the layers of repression in order to give the Japanese people the opportunity to build their own democracy. In response, SCAP informed the Japanese Prime Minister on October 11, 1945, among the reforms Japan should implement pursuant to the Potsdam Declaration would be the 'liberalization of the Constitution.'⁴⁵⁴ Nevertheless, it was clear that the only party that did not

⁴⁵³ Christopher Aldous. *The Police in Occupation Japan: Control, Corruption and Resistance to Reform*. (Abingdon: Routledge, April 2014). 6.

⁴⁵⁴ United States, Department of State. *Occupation of Japan, Policy and Progress*. By U.S. Government Printing Office. Published 1945; Digitalized: September 2011. (accessed July 10, 2022).

support the American-imposed Constitution was the Communist party, which had called Emperor Shōwa a war criminal and sought to grant limited powers Emperor system. On October 16, 1945, MacArthur confirmed that Japan's armed forces, "are completely abolished...around 7 million armed men.. ha[ve] laid down their weapons.'" Among the obstacles that the American soldiers encountered was the principle of *kanson minpi*, which indicated respect for authority but contempt for the *masses*. *Kanson* honors the former, while *minpi* denigrates the latter. This is a phrase applied to rationalize bureaucratic control of the government, whether in social, economic, or political matters.⁴⁵⁵ This was something that US was determined to change to bring more equality among the Japanese people. During this period, there were only a few alternatives, including George Sansom of the FEAC, who argued that the existing Constitution would be compatible with allied goals if three elements were implemented: the cabinet to assume responsibility for the Diet, reducing peer power, and giving the Diet complete budget authority. However, the US government had not yet made any formal proposals regarding the Constitution at this point, so on November 6, 1945, MacArthur's views were communicated to the State Department by the political adviser as follows: "...as the Japanese Government has been directed by the Supreme Commander through the prime minister to initiate a constitutional revision, none of us should be involved until the Japanese Government itself formally submits something on the matter."⁴⁵⁶

Despite the liberal and progressive support for the emperor system, the socialists remained silent whilst communists advocated its abolition. Initially, the *Nihon Shakai Tō* recognized the surrender but preferred to be known as the Socialist Democratic Party in English, emphasizing that this is more familiar to the US. Japan's government system was profoundly influenced by the postwar political pattern. Despite Japan's assertion that progress was underway, the US observed the opposite, illustrating their disparate outlooks. With an awareness of the possibility of a slow

⁴⁵⁵ Hori Masaharu*, "Japanese Public Bureaucracy in the Era of Globalization," No. 21, 2004 *Ritsumeikan Law Review*. (accessed July 10, 2022).

⁴⁵⁶ United States, Department of State. *Occupation of Japan, Policy and Progress*. By U.S. Government Printing Office. Published 1945; Digitalized: September 2011. (accessed July 10, 2022).

response from the Japanese government, Acheson drafted a message in mid-November emphasizing Japan's lack of progress. At this point, Acheson had been substituted by General Whitney for the responsibility of GS. He had presented a draft to American officials in 1945, including the emperor and government control, later deemed unsuitable. Thus, at the beginning of 1946, dozens of government members worked intensively on drafting a Constitution deemed acceptable to the SCAP. Even though the liberal cabinet members disagreed with the emperor's position, the conservative members remained dissatisfied. Yet regardless of this, Hirohito publicly denied his divinity and declared an end to 'radical tendencies' in the nation on January 1, 1946, a move praised by MacArthur. The new Constitution was therefore adopted in the spring of 1946 by the cabinet under Yoshida. A rural base of smallholders was to be created by the SCAP in an effort to eliminate landlord power and eliminate economic and political power. While many Japanese leaders expected the US to abandon reform in favor of rebuilding traditional values, the reverse happened. One thing linking conservative parties and a few other politicians was the draft Constitution that aimed to retain the emperor as the symbol of the nation. A good example is when MacArthur called an early election in the Diet to approve the Constitution promptly.

As (Iriye 2015) notes, some American and Japanese citizens of the 1930s believe that conditions have improved since 1945.⁴⁵⁷ In an international context, the occupation of Japan by the US was viewed as a display of power by one nation over another. At this time, Japan did not have its own sovereignty since it was under the control of the US in terms of its foreign affairs and domestic policies. Therefore, on January 7, 1946, Alexander D. Reid, B.L. Austin, and Raymond E. Cox drafted a policy paper titled 'Reform of the Japanese Governmental System' for the SWNCC 228 (State-War-Navy Coordinating Committee). As a result, it was concluded, among others that;

⁴⁵⁷ Duccio Basosi, Rosa Caroli. *Legacies of the U.S. Occupation of Japan: Appraisals After Sixty Years*. (Newcastle upon Tyne: Cambridge Scholars Publishing, April 2015). 166-177.

- b. Though the ultimate form of government in Japan is to be established by the freely expressed will of the Japanese people.
- d. The Japanese should be encouraged to abolish the Emperor Institution or to reform it along more democratic lines.
- 5. Only as a last resort should the Supreme Commander order the Japanese Government to effect the above- listed reforms, as the knowledge that they had been imposed by the Allies would materially reduce the possibility of their acceptance and support by the Japanese people for the future.
- 6. The effectiveness of governmental reforms in preventing the resurgence of military control in Japan will depend in a large measure upon the acceptance by the Japanese people of the entire program.

After the first agency headed by Konoe and Sasaki failed, the Japanese government set up a commission on October 24, 1945, headed by law professor Jōji Matsumoto. Constitutional lawyers were among the committee members who were responsible for developing drafts of constitutional amendments. Political parties from the Left, Center, and Right also supported constitutional changes, providing their perspectives. Thus, the Matsumoto draft, which was drafted under the Shidehara cabinet, was published in the daily Mainichi Shimbun on February 1, 1946. However, staff members of SCAP GS compared it with the provision in SWNCC-228 for compliance and found it inadequate for SWNCC. Therefore, on February 4, General Whitney called an emergency meeting of the Government Section where he proposed revamping the Constitution. By February 8, 1946, the Japanese government had submitted a draft, “Gist of the Revision of the Constitution,” presented by Jōji Matsumoto to GHQ.⁴⁵⁸ Among others Chapter 1, Article 5, which read: “The Emperor is sacred and inviolable” was changed to: “The Emperor is supreme and inviolable.”⁴⁵⁹ According to Colonel C. Stanton Babcock's memo to Far Eastern Advisory Commission McCoy, based on a Gallup poll conducted in Japan, 92 percent of Japanese want the emperor to remain in

⁴⁵⁸ National Diet Library, Japan. 3-16 Records of the Meeting when GHQ Draft was Presented to Japanese Government, February 13, 1946. (accessed July 10, 2022).

⁴⁵⁹ National Diet Library, Japan. 3-16 Records of the Meeting when GHQ Draft was Presented to Japanese Government, February 13, 1946. (accessed July 10, 2022).

power.⁴⁶⁰ Like Yasuda's plan on *zaibatsu*, the government began revising the Meiji Constitution after sketching a document on constitutional matters. The result of Jōji Matsumoto's and their joint efforts with Japanese scholars and journalists was a new Constitution with radical provisions submitted to the SCAP for their consideration. The Matsumoto Committee met thirteen times between October and December, and each committee presented a Constitution plan at each meeting. Using MacArthur's notes and SWNCC-228 as a guide, the twenty-one Americans drafted a Constitution in a week. The document was approved by MacArthur except for one change incorporated on February 11. Consequently, on February 13, 1946, General Whitney and his staff handed the drafted Constitution to the Japanese Government including Yoshida, Matsumoto, and Jiro Shirasu.⁴⁶¹ In spite of Whitney's plea to the Japanese to accept as soon as possible to prevent US dismissal, the Japanese were appalled to find that a substantially revised copy had been printed of their nation's most important document. In addition, Whitney stated that MacArthur was determined to share the draft with the public so the public could provide their feedback. According to the Memoirs of Yoshida, if the SCAP draft was not accepted, "GHQ did not bear responsibility for the emperor's demise." On February 18, Matsumoto provided Whitney with a written 'explanation' of his draft Constitution, but Whitney had reached an impasse, asserting that MacArthur "will take the Constitution to the people directly."

This led to the cabinet discussing the SCAP draft for the first time on February 19. Although the cabinet initially intended to reject the draft, Whitney said they were 'playing their final card.' Therefore, experts consider Shidehara's meeting with MacArthur to be among Japan's most significant contacts under occupation. An extensive discussion was held on Article 9 and its relevance to the emperor system. Based on Shidehara's statements, it appeared that the two

⁴⁶⁰ Foreign Relations of the United States 1946. Volume VIII The Far East. United States Government Printing Office: Washington 1971. Japan: Occupation and Control of Japan. Annex 2- Extracts. Memorandum by Colonel C. Stanton Babcock to the Chairman of the Far Eastern Advisory Commission (McCoy). February 1946. (accessed July 20, 2022).

⁴⁶¹ Richard B.Finn. *Winners in Peace: MacArthur, Yoshida, and Postwar Japan*. (California: University of California Press, August 2022).

provisions presented a dilemma to the Japanese government. Although MacArthur told him the emperor could remain, both the Soviet Union and Australia were concerned Japan might wage war again, thus opposing the emperor system. At the February 22 meeting, Shidehara recommended accepting the US proposal to the emperor and cabinet. Also in attendance were Yoshida, Matsumoto, Shirasu, Whitney, Kades, and other GS members. Regarding the renunciation of war, Whitney commented that “article 9 affords Japan the opportunity to assume the moral leadership of the world in the movement towards lasting peace.”⁴⁶² On March 4, the top experts met at 10:00 AM to discuss how to make the Constitution more relevant to the country by writing it in the Japanese language. A number of amendments were proposed by Matsumoto to the Government Section, but these amendments were refused by the officials of the section. As in the previous drafts the new Constitution highlights Japan’s war guilt and the US’ handling of it. Among the reforms introduced were political reforms, diet reforms, voting reforms, and Article 9 reforms. On March 5, successive drafts of the article were reviewed until the emperor approved the final version. A number of intense debates between the political parties led to an agreement that only the Diet should have the authority to amend the Constitution, rather than the imperial government. In response, Emperor Hirohito issued the Imperial Rescript (appendix 22) on March 5, 1946. In his remarks, he emphasized that: “it was his desire that the Constitution of our Empire be revised drastically upon the basis of the general will of the people and the principle of respect for the fundamental human rights.”⁴⁶³

In terms of its design, the first paper in the SWNCC-209 series, 209/1, resembles MacArthur’s speech on March 6, 1946, which unveiled Japan’s draft Constitution for the first time. Although opinions differ about the outcome and implications of the US occupation of Japan, others claim it helped establish an independent, democratic Japan supported by a loyal alliance. Therefore, on

⁴⁶² Ward, Robert E. Ward and Sakamoto Yoshikazu. *Democratizing Japan: The Allied Occupation*. (Honolulu: University of Hawaii Press, March 2019). 103.

⁴⁶³ *Ibid.*

March 6, 1946, the Japanese Government and SCAP published their drafted Constitution (Appendix 28). Following the announcement, MacArthur released the following statement; “It is with a sense of deep satisfaction that I am to-day able to announce a decision of the Emperor and Government of Japan to submit to the Japanese people a new and enlightened constitution which has my full approval. ... Declared by its terms to be the supreme law for Japan, it places sovereignty squarely in the hands of the people. ...It leaves the throne without governmental authority or state property, subject to the people's will, a symbol of the people's unity..... Foremost of its provisions is that which, abolishing war as a sovereign right of the nation, forever renounces the threat or use of force as a means for settling disputes with any other nation and forbids in future the authorization of any army, navy, air force or other war potential or assumption of rights of belligerency by the state. By this undertaking and commitment Japan surrenders rights inherent in her own sovereignty and renders her future security and very survival subject to the good faith and justice of the peace loving peoples of the world. By it does a nation, recognizing the futility of war as an arbiter of international issues, chart a new course oriented to faith in the justice, tolerance and understanding of mankind.”⁴⁶⁴

A key provision of the new Constitution was the renunciation of war ‘forever’ as well as prohibitions against maintaining armies, navy, and air force. In the week following the FEC's meeting on February 26, 1946, the US members learned of the new Japanese Constitution in the newspapers. In their opinion, the supreme commander should not have approved a draft without their input. Hence, the FEC desired to preserve the throne as a means of facilitating Japan’s democratization. Commission members conveyed their disappointment by passing a resolution proposing that MacArthur inform the Japanese government that a draft of the new Constitution should be submitted to them. Though a prosperous future loomed for Japan, glimmers of it were already evident. Following the end of the war, Japan held its first general election on April 10, 1946, won by Hatoyama Ichirō with 141 seats in the House of Representatives, then the Progressive Party *Shimpoto* with 94 seats, and the Socialist Party *Shakaito* with 93 seats.⁴⁶⁵ When Foreign Minister Yoshida Shigeru tried to get Hatoyama’s victory approved by GHQ, Hatoyama

⁴⁶⁴ National Diet Library of Japan. General MacArthur's announcement of a new Constitution for Japan, 3rd draft. (accessed July 20, 2022).

⁴⁶⁵ Okazaki Hisahiko. *Yoshida Shigeru and His Time*. (Tokyo: Japan Publishing Industry Foundation for Culture, March 2019).109-127.

was removed from power after Yoshida Shigeru succeeds him. Clearly, Yoshida played a significant role in the post-war occupation and the reforms introduced including that of the Constitution. Despite the Imperial Diet's right to modify the draft Constitution, Yoshida emphasized that “in light of the current international situation” meticulous care was taken when proposing the Constitution, despite opposition from all quarters. On April 10, MacArthur’s staff was requested to speak with FEC staff about constitutional matters. Whitney conveyed MacArthur’s opinion to the commission on June 4, stating that there would be no “any implication ... that reform resulted from Allied pressure.” In order to promote reform in Japan, he intended to offer moral support and encouragement to liberal forces fighting against tradition, prejudice, and reaction. The committee was very dissatisfied with a few points that need to be addressed. In the first place, the SCAP made few incremental changes; MacArthur’s role was mainly one of an observers, except for his role in determining the status of the emperor; and third, Article 9 remained ambiguous. While some scholars, like (Miyazawa 1956) believe that unless for self-defense, Article 9 does not permit ownership of military forces, and since the Self-Defense Forces are indeed military forces whose sole purpose is to defend Japan, their existence does not violate Article 9.⁴⁶⁶

On June 21, 1946, as the Japanese Government presented the draft Constitution to the Diet, General MacArthur did not refer to the commission or the possibility of a referendum in his public statements. As a result, it was agreed that any changes would require the approval of SCAP headquarters. Further remarks from him included the following: “With the submission to the Diet of a proposed revision of the Constitution, the Japanese people face one of the vital moments in the life of Japan.”⁴⁶⁷ In Diet deliberations, Yoshida emphasized that the new democratic

⁴⁶⁶ Toshiyoshi Miyazawa, “Japan’s Constitutional Problems and Her political Chart, *Public Information and Cultural Affairs Bureau. MOFA, Japan*, 1956. (accessed July 20, 2022).

⁴⁶⁷ Foreign Relations of the United States 1946. Volume VIII The Far East. United States Government Printing Office: Washington 1971. Japan: Occupation and Control of Japan. Statement by General of the Army Douglas MacArthur on Submission of Draft Constitution to the Japanese Diet, June 21, 1946. (accessed July 20, 2022).

Constitution would fulfill a precondition for the withdrawal of Occupation forces, meaning the longer it took for the constitution to become law, the longer the occupation would last. When the House of Representatives was debating the Constitutional Revision Bill in June 1946, a Communist member requested that it be postponed due to a lack of Japanese involvement. In order to comply with MacArthur's objections, the FEC did not publish the policy. On June 28, an 80-member special committee composed of representatives from all political parties was constituted. On July 23, the bill was sent to a fourteen-member subcommittee that included all parties except for the communist party. Meetings lasted until August 20, and the subcommittee kept its proceedings secret. According to the SWNCC-228, the FEC adopted its 'Basic Principles for a New Constitution' on July 3, 1946.⁴⁶⁸ The rest of the parties, except for the communist Party, refused to address the more pressing issue of self-defense. When the Diet discussed renunciation of war, Fujiro Hara, the leader of the *Shimpoto* party, stressed the government's response in case of invasion. A four-page summary of the English translation was drafted by Government Section officers on July 10. Kanamori Tokujirō, the cabinet minister in charge of constitutional revision, emphasized in his speech to the Diet that the constitution would remain unchanged. In Kanamori's view, polity *kokutai goji* does not mean the emperor is a political or legal figure, it means he is a moral figure, *akogare*.

In the end, such a substantial shift would have a significant impact on political structure, *seitai*, meaning that the nation's sovereignty would no longer reside with the emperor, but rather under the people's hands. Following is the final version of Article 9 (with the Ashida amendments highlighted in italics); "Aspiring sincerely to an international peace based on justice and order, Japan forever renounces war as a sovereign right and the use of force to resolve international disputes. Consequently, land, sea, and air forces, as well as other war potentials, cannot be maintained in order to accomplish the above goal.

⁴⁶⁸ Foreign Relations of the United States 1946. Volume VIII The Far East. United States Government Printing Office: Washington 1971. Japan: Occupation and Control of Japan. Memorandum by the State Department Member of the State-War-Navy Coordinating Committee (Hilldring) to the Committee. (accessed July 20, 2022).

There will be no recognition of the state's right to belligerency.”⁴⁶⁹ In response to Ashida’s revision, modifications were made to the Constitution. Admiral Ramishvili motioned, in the minutes of the 28th meeting of the Far Eastern Commission, to adopt paragraph 4 of FEC-087/5; “The Article concerning regency should be worded in the sense that regency is established on the principle of the free expression of will of the people with whom the sovereign power resides. Such principle of establishing the regency is in compliance with the spirit of the Potsdam Declaration and also with the decision of the Far Eastern Commission on ‘Basic Principles of a New Japanese Constitution,’ in which it is stated that ‘the Japanese people should be encouraged to abolish the Emperor Institution or to reform it along more democratic lines.’”⁴⁷⁰ Following MacArthur’s introduction of the post-war constitution on November 3, 1946, Japanese attention focused on the significant changes, including equal rights for men and women, as well as the renunciation of war.⁴⁷¹ In spite of the fact that the Japanese Constitution is a product of Allied occupation, historians like (Miyazawa 1956) maintain that it is not necessary to revise it if the existing Constitution is more relevant for the future.⁴⁷²

⁴⁶⁹ Prime Minister of Japan and His Cabinet. The Constitution of Japan. Promulgated on November 3, 1946. Came into effect on May 3, 1947.

⁴⁷⁰ Office of the Historian. Foreign Relations of the United States, 1946, The Far East, Volume VIII. Excerpt From Minutes of the 28th Meeting of the Far Eastern Commission. September 1946. (accessed July 20, 2022).

⁴⁷¹ Yukiko Koshiro. *Imperial Eclipse: Japan's Strategic Thinking about Continental Asia before August 1945*. (New York: Cornell University Press 2013). 89-122.

⁴⁷² Toshiyoshi Miyazawa, “Japan’s Constitutional Problems and Her political Chart, Public Information and Cultural Affairs Bureau. MOFA, Japan, 1956. (accessed July 20, 2022).

CHAPTER 7: The Detrimental Effects of the US Financial Aid on Yugoslavia

With its diversified political and social areas, the Socialist Federal Republic of Yugoslavia was constituted of six republics: Bosnia and Herzegovina, Croatia, Slovenia, Montenegro, Serbia (including the region of Kosovo and Vojvodina), Macedonia, and Montenegro. The Yugoslavian government, like many others, was primarily facing economic difficulties, which necessitated outside aid. As presented in the first case study, the US offered moral and financial support to countries that prioritized US defense, while also leveraging such support for its own benefit. This enabled the Yugoslavian federation to benefit as well from the policy of Lend-Lease. The policy's objective was not only to ensure US's national security but also to deter Yugoslavia's collaboration with the Nazis. Thus, the alliance's objective to support defense operations prompted a number of policy changes. It was apparent that the aftermath of the First World War had an impact on all nations, however, US foreign policy underwent a great deal of change which will be further examined. The exchange of notes between the State Department and Yugoslavian Minister Lane, dated February 14, 1941, stressed the importance of, "the Lend-Lease Act approved by the House of Representatives and the Committee on Foreign Relations of the Senate will now be used by the President to resupply with military equipment countries that have suffered aggression or who might face aggression."⁴⁷³ Thus, it was determined that many countries, including Yugoslavia, were eligible to receive war supplies under Lend-Lease.⁴⁷⁴ While the federation failed to recognize the rising regional power, Germans and Italians were advancing quickly across its borders by April 6, 1941. This prompted the Yugoslavian authorities to request additional support from the US. Following the occupation of Albania by Fascist Italy in October 1940, Germany

⁴⁷³ Office of the Historian. Foreign Relations of the United States Diplomatic Papers, 1941, Europe, Volume II. Efforts of the United States to encourage Yugoslavia resistance to Nazi aggression; invasion of Yugoslavia by Germany.

⁴⁷⁴ Robert M. Leighton and Robert W. Coakley. *United States Army in World War II: The War Department, Global Logistics and Strategy 1940-1943*. (Washington, D.C.: State Department, December 1955).

gained an advantage through Hungary, Romania, and Bulgaria coming together through the Tripartite Pact. Following extensive negotiations with Germany, Paul Karadordevic, the King of Yugoslavia, joined the pact for political reasons. At this point, Yugoslavia was divided between officers dominated by ethnic Serbs, like the National Defense, and the Četniks Association, which fought to free Kosovo and Macedonia from the Ottoman Empire, otherwise known as the Serbian Revolutionary Organization. The situation was evolving into a more volatile state when Četniks staged a *coup d'état* in March 1941 to terminate the pact. In the same way as the decision to join forces with China against Japan enacted during the Tehran conference, the Allies, primarily the US, demonstrated their determination to assist the Četniks in Yugoslavia in fighting the Axis powers. A Yugoslav determination to expel Axis powers from Albania included a number of strategies, including the establishment of a division named 'Kosovo Division'.⁴⁷⁵ As the war progressed, the US assisted Yugoslavia in preventing its surrender to the Axis. Despite fierce battles between Axis and Četniks, the federation was forced to surrender to the Nazis. The Nazis, however, agreed to let Yugoslavia assert its national interests, paving the way for a new government to be established. Consequently, Serbia showed its commitment to the German request, enabling it to be one of the most prominent ethnicities in the newly formed government.

The existence of Yugoslavia was originally populated by Serbs that led to the assumption that they would be the dominant ethnicity. Despite Tito's belief and the underlying idea of 'brotherhood', the concept was difficult to preserve, leading to unrest within the federation. Among these unjust practices were those committed against Bosniaks and ethnic Albanians in Kosovo, whose rights were restricted by the Yugoslavian Constitution. Nevertheless, tensions between Serbs and ethnic Albanians had spiked on both social and economic levels. Thus, this chapter examines US foreign policy in Yugoslavia before and during the breakup of the

⁴⁷⁵ Malcolm, Noel. *Kosovo: A Short History*. (London: Macmillan, 1998). 289.

federation. Further, it will examine how US foreign policy contributed to federation strength and the emergence of ethnic conflicts. As a result of the Axis power's occupation of Yugoslavia, two major resistance movements emerged. The first group, which was primarily composed of Serbian freedom fighters, the Četniks, was headed by Serbian Colonel Mihailović. They were the same resistance cell that fought the Ottoman Empire in the 18th and 19th centuries. The second group was called Yugoslav Partisans or differently known as the National Liberation Army led by a communist leader, Josip Broz (also known as Tito). Since the two groups had different ideologies in defending their own territory they ended up antagonizing one another instead of the Axis powers.⁴⁷⁶ Over the course of the war, Partisan forces stood out as the most active resistance force. They called for the establishment of an independent Yugoslav state with the Soviet Union's help. Despite Tito's strong brotherhood attitude during wartime, he was unable to defeat the Axis powers in spite of his efforts to unify the federation. Consequently, a meeting between Tito and Draža Mihailović was held on September 1941 to strategize the future of Yugoslavia. Mihailović had communist aspirations while Tito wanted to return to monarchy, which prevented them from reaching an agreement. Instead, Mihailović, leader of Četniks army, offered Germany and Italy assistance in combating Partisans. Regardless of Mihailović's support for the Axis powers the US was providing consistent aid in an effort to convince Mihailović to resist the Axis. Due to their divergent views on politics and democratic principles, Yugoslavia's cooperation with Axis powers and reliance on US support indicated that US-Yugoslavia cooperation would be short-lived.

Following the Allies' invasions of Italy and Normandy in 1943, the Axis powers retreated from Yugoslavia. In the midst of such transformative political changes, the Soviet Union had promised support, but since it never materialized, therefore, Tito rejected Stalin's influence on leading the country. As early as February 1944, western leaders, including the US, switched allegiance from Mihailović to Tito. Consequently, the Soviet Union's influence in Yugoslavia had been diminished

⁴⁷⁶ David Anderson. *The Collapse of Yugoslavia: Background and Summary*. (Canberra: Department of the Parliamentary Library, 1995). 4.

by 1948. As Stalin's power waned in Yugoslavia, Tito became Yugoslavia's president in 1953, resulting in gains for the US. Following Tito's election, in 1961 Yugoslavia had become a member of the Non-Aligned Movement by adopting a decentralized government system. Prior to his election as the future head, many changes transpired, primarily constitutional. On November 11, 1946, Yugoslavia's first Constitution was adopted. It established six republics based on Article 2: the people's Republic of Serbia, People's Republic of Croatia, People's Republic of Slovenia, People's Republic of Bosnia and Herzegovina, People's Republic of Macedonia, and People's Republic of Macedonia.⁴⁷⁷ On that note, Article 44 defined the existence of two autonomous units, namely "Vojvodina and Kosovo."⁴⁷⁸ The creation of an ethnic union like Yugoslavia was expected to cause ethnic disputes because of the differences between the groups. Though the ethnic composition of the federation was a major concern, constitutional provisions enabled ethnic Serbs to dominate the Yugoslav government from 1991 to 1999. As mentioned previously one of ethnicities Albanians in Kosovo was subjected to the most injustices within the federation. The 'Saint Germaine Treaty' also undermined Serbia's dominance without understanding its long-term impact. The treaty was signed between the Allied and Associated Powers of WWI where Section V talks about *Protection des Minorites* emphasizing ethnic equal rights, although, ethnic-Albanians rights in Kosovo were largely unfulfilled.⁴⁷⁹

To put it another way, the main objective of Serbian government policies was to alter the ethnic composition of Albanian lands, including Kosovo. However, the implementation of such a strategy required a formal-legal foundation vs. foreign public opinion which was already divided into pro and anti-ethnic Serb groups.⁴⁸⁰ There was a deteriorating trend in the situation when ethnic Albanians were denied the use of their native language in educational institutions with limited

⁴⁷⁷ Peter Radan, "Constitutional Law and the Multinational State: The Failure of Yugoslav Federalism," *UNSW Law Journal*, 18. (accessed August 5, 2022).

⁴⁷⁸ Archives of Yugoslavia, 1950. Устав Федеративне Народне Републике Југославије, 31. јануар 1946.

⁴⁷⁹ Treaty of Peace Between the Principal Allied and Associated Powers and Austria (Signed At St. Germain- En-Laye, September 1919). (accessed August 5, 2022).

⁴⁸⁰ Arsim Bajrami. *Draftimi I Kushtetutes: Manual per Hartuesit e Kushtetutes*. [Constitution Drafting: Handbook for Drafters of the Constitution]. (Prishtine: Universiteti Fama ne Prishtine, May 2007).

capacity. In fact, between 1939-1940 out of 37.885 students, only 11.876 were ethnic Albanians. The strategic importance of Kosovo emerged with its division of three occupied zones: Germany, Italy, and Bulgaria.⁴⁸¹ By the end of September 1942, the Bulgarians occupied primarily the village of Ramjan of Vitia city. The occupation led to the formation of many battalions initially led by ethnic Albanians aiming to protect its civilians. Following the intense events in 1943, Zenel Hajdini found the first Albanian National Liberation (Lëvizja Nacional-Çlirimtare), therefore, a variety of developments followed. During the period 1945-1990, the ethnic communist and politician Fadil Hoxha served as the President of the Executive Council of the Autonomous Region of Kosovo and Metohija. The inaugural parliament of the second league convened in 1943 in Prizren, which included representatives from Kosova, Dibra, Struga, Tuz, Ulqin, Rozhaja, etc. To unify Albanians, a Central Committee made up of 7 members and headed by Rexhep Mitrovica was selected. In that vein, the first conference for the National Liberation of Kosovo took place in Bujan between 1943 and 1944. Participants included 49 people; 43 Albanians, and 6 Serbs who shared their political views on the given situation. As a result, a unanimous decision was reached by the committee following hours of discussion that Kosovo and Rrafshi I Dukagjinit are composed of majority Albanian provinces that have long advocated reunification. Therefore, the delegates recognized that Kosovo had the right to self-determination and unification with Albania as well, a decision supported by the majority of Kosovo's citizens. However, the proposal of unifying Albanians was dismissed by CPA (Communist Party of Albania).⁴⁸²

By the end of 1944, Kosovo had become free of fascism, and the cities began to become free, starting with Prishtina on November 19. Due to Kosovo's lack of military capability, resistance movements did not last very long because Yugoslav defense dominated. Consequently, on February 8, 1945, Tito established the so-called military administration to ease tensions and unite

⁴⁸¹ Rexhep Ismajli, Mehmet Kraja. *Kosovo- A Monographic Survey*. (Prishtine: Kosovo Academy of Sciences and Arts, 2013)

⁴⁸² Mirela-Luminita Murgescu. *Libri 2: Kombet dhe shtetet ne Europen Juglindore*. [Book 2: Nations and States in Southeast Europe]. (Thessaloniki: Center for Democracy and Reconciliation in Southeast Europe, 2009).

the ethnic groups. Tito's plan, however, was unrealistic since Albanian ethnic minorities were dispersed into four geographical regions: Macedonia, Serbia, Montenegro, and Kosovo. Therefore, Kosovo was geographically under Serbian control, hindering its internal status due to the latter's opposition. Consequently, although not unanimously supported, the idea of unifying Kosovo with Albania was brought up at the Bujan conference once again. Among them who supported unification with Albania was Ramiz Cërnica who had the audacity to oppose Serbia's regime, but he was imprisoned multiple times. The ethnic Albanian population of Kosovo were not satisfied with Serbia's annexation of their territory, consequently, establishing political groups and organizations provided them with an effective means of resisting Serbian rule. This can be observed in the case of the Albanian National Democratic Committee (NDSH), founded in December 1943. To put it simply, the committee was the national political organization devoted to freeing Albanians from Yugoslav rule. The latter's issue, however, was no longer exclusive to the union, but also to the international community, notably the US. With Tito becoming Yugoslavia's Prime Minister, tensions with the US reached a peak when Tito alleged that Allied planes violated Yugoslavia's airspace. In response to his demands, commercial air service was suspended for US representatives in Yugoslavia as a result. In response, the US government issued an ultimatum to the Yugoslav government requesting to investigate the allegations.

The request was met shortly after 48 hours while both countries kept blaming each other. The hostile setting between the two countries continued until 1949 when neither side emerged victorious.⁴⁸³ At this point, however, it was the USSR that posed the greatest threat to the US since it was making significant progress in Yugoslavia. On that note, a National Security Council report NSC 18/4 delivered to President Truman in November 1949 reported that as a result of the Soviet Union's rise, the West would need to provide greater assistance to Yugoslavia.⁴⁸⁴ Consequently,

⁴⁸³ Dorothy Elizabeth Wooldrige, "Yugoslav-United States relations, 1946-1947, stemming from the shooting of U. S. planes over Yugoslavia, August 9 and 19, 1946," (master thesis, *Rice University*, 1971). (accessed August 5, 2022).

⁴⁸⁴ Report by the National Security Council to the President, "United States Policy Toward the Conflict Between the USSR and Yugoslavia," NSC 18/4 Top Secret. Washington, November 1949. (accessed August 5, 2022).

between 1949 and 1950, the Truman administration offered assistance to Yugoslavian Government as a way to limit the Soviet's influence in the region. The US politicians raised many objections at this time, for instance, James Fulton stated that Tito's lack of leadership had brought the country to the brink of requesting aid.⁴⁸⁵ Consequently, in 1949, State Secretary Dean G. Acheson conveyed to Yugoslavian Foreign Minister Edvard Kardelj the following message, "that asking Congress for any aid would not be easy unless Tito cooperates better."⁴⁸⁶ However, at first, the National Security Council was created to maintain relations with foreign powers in which Yugoslavia had the most to gain. In response to that, the US Congress passed the "Yugoslav Emergency Relief Assistance Act of 1950" (Public Law 897, 81st Congress) on December 29, 1950, allocating \$37.8 million for food aid to Yugoslavia.⁴⁸⁷ Though US officials believed Yugoslavia's support could be instrumental in abolishing the USSR with other communist countries, while awaiting the right opportunity to accomplish the mission. The US subsequently became Yugoslavia's largest trading partner, exporting cotton, vehicles, and electrical equipment, while largely obtaining raw materials from Yugoslavia. The rise of US aid to Yugoslavia coincided with the latter's support for the UN at the front against the Soviet Union. It was clear by 1951, however, that a Soviet invasion was imminent; consequently, in June, Yugoslavia's chief of staff traveled to Washington to discuss ways to assist his government.

By approving the National Security Council, the Truman administration succeeded in obtaining Congress' approval for additional military aid. A total of \$30 million in economic assistance and \$60 million in food assistance were supplied to Yugoslavia. By 1952, US-Yugoslavia relations had improved substantially, which led to the US recommending that NATO should create partnership with the federation at the earliest. Although the Yugoslavian government had made it

⁴⁸⁵ Lorraine M. Lees. *Keeping Tito Afloat: The United States, Yugoslavia, and the Cold War, 1945-1960*. (Pennsylvania: Pennsylvania State University, April 1997). 96-101.

⁴⁸⁶ Congressional Record- House of Representatives. Monday, January 28, 1957.

⁴⁸⁷ Foreign Relations of the United States, 1950, Volume IV. Political and Economic Developments, Volume IV, Part 2. (accessed August 5, 2022).

clear to the US that they were interested in becoming part of NATO gradually, however, they objected to the US' pressure to have them join as soon as possible. In response to the federation's perception that the US exploited their country, the latter's aspirations were met with great resistance. The relations between the US and Yugoslavia deteriorated significantly during this time; however, the US attitude towards Yugoslavia began to shift again when Eisenhower assumed office in 1953. Clearly, his administration's policy was that Yugoslavia must join NATO and become an example to other communist countries, or they would no longer receive aid from State Department. However, in the wake of Stalin's death, Khrushchev decided to re-establish diplomatic relations with Yugoslavia. This policy led to Yugoslavia's gradual withdrawal from the West and more towards Soviet. In 1954, the US realized that further attempts at stabilizing relations with Yugoslavia would be futile, thus, the new policy towards Yugoslavia was to have them pay off their debts.⁴⁸⁸ It can be argued that the US's inability to comprehend the historical social issues between ethnicities of the former Yugoslavia produced an alliance unsustainable in a long run. Though from a strategic standpoint, the economic support provided to Yugoslavia was a gateway for it to reach its democratic goals amidst communist countries like the USSR and East Germany. However, the fact that Yugoslavia was constituted of 21 million people with 6 million Serbs being the largest minority proved more complicated to be convinced than assumed.⁴⁸⁹ The uphill battle was primarily due to diverse ethnicities and last, but certainly not least the decision to remain part of the central government or withdraw.

The US remained committed to prevent Yugoslavia from joining the USSR regardless of the cost, therefore, during the 1955 meeting of western foreign ministers in Geneva, Dulles met with Tito to talk about the Belgrade-Moscow relationship. As such Eisenhower agreed with Dulles's assessment of the meeting that Yugoslavia would remain independent of Moscow. In mid-1956,

⁴⁸⁸ Vassil Zarev "An Unconventional Method of Containment – US Foreign Policy towards Communist Yugoslavia from 1948-1956," Prandium- *The Journal of Historical Studies*, Vol. 7, No.1, Spring, 2018. (accessed September 15, 2022).

⁴⁸⁹ Carole Rogel Poirier. *The Breakup of Yugoslavia and Its Aftermath* 2nd ed.. (Westport Connecticut: Greenwood Press 2004).

Tito's visit to Moscow, however, raised doubts over an agreement between the two countries. Despite the uncertainties, Dulles remained optimistic in Yugoslavia's independence. Unlike Dulles, however, the US Congress did not follow his lead, requiring the suspension of Yugoslavia aid, a pending decision that President Eisenhower would have to agree upon. However, the suspension was subsequently lifted by President Eisenhower as he believed that this was the only way to keep Yugoslavia from uniting with Soviet Union.⁴⁹⁰ With Tito's decision to terminate US military aid in 1960, the US-Yugoslavia alliance was bound to become embroiled in further controversies. This was due to the country's economic development, especially in agriculture. However, Yugoslavia at this time was experiencing internal issues on ethnic matters mostly. In 1966, ethnic Albanians were less vulnerable to violence and terror, but the call for Kosovo's independence persisted. It was reported that a large number of protesters demonstrated in Prishtina, Ferizaj, and other cities; Prishtina saw the largest turnout, where the Yugoslav forces were roused. Equal rights, self-determination, and university education were among the demands made by demonstrators. At the end of 1969, Kosovo's public university was permitted to operate after the movement.

1. War on the Horizon: From Socialist Federal Republic of Yugoslavia to Former Republic of Yugoslavia (FYR)

During Tito's reign, Kosovo was granted partial rights, however following his demise, Serbia began to exhibit fierce resistance to the establishment of a "Greater Serbia." On July 5, 1973, the State Department's National Intelligence (CIA) reported that Yugoslavia lacked unity therefore "the conflict would be bitter and intractable."⁴⁹¹ By 1980, the federation was on the verge of an unprecedented breakup due to a perceived disparity between ethnic groups. In the years that followed Kosovo's independence, the question of whether Yugoslavia could survive with Tito in

⁴⁹⁰ Henry W. Brands Jr, "Redefining the Cold War: American Policy toward Yugoslavia, 1948-60.," *Oxford University Press*, Vol. 11, No.1. Winter 1987. (accessed September 15, 2022).

⁴⁹¹ National Intelligence Estimate 15-73, Washington, July 1973. (accessed September 15, 2022).

power remained unanswered. Protests claiming equal rights were not new anymore, including one in the late 1980s when Serbs confronted ethnic Albanians in Kosovo. Following the collapse of communism in Eastern Europe, the unification of Germany one year later, and the imminent collapse of the Soviet Union, all these factors undermined the political instability of Yugoslavia.⁴⁹² In this period, both the US under President George W. Bush, as well as Europe with its ally, remained indifferent to Yugoslavia's issues. Absent diplomatic engagement from Western powers led to Slovenia and Croatia secessionist from the federation subsequently happened. In response, State Secretary James A. Baker III travelled to Belgrade for a meeting with Yugoslav leaders. He called for a peaceful settlement of the independence dispute of Slovenia and Croatia. As opposed to this, it played a less significant role in the conflict in Slovenia, where the army intervened for ten days before a decisive majority demanded autonomy. A situation of similar severity emerged in Croatia when in June 1991, the country declared unilateral independence from Yugoslavia.⁴⁹³ However, the federation deemed their actions unconstitutional, therefore latter's troops in Slovenia were unable to seize control due to divergent views. While in Croatia, the Yugoslav army assisted local Serbs in defending Serb-populated areas. In a similar manner in March 1992, Bosnia-Herzegovina held a referendum following Slovenia and Croatia's independence, although it proved more difficult than with the given countries. In terms of ethnic composition, Bosnia and Herzegovina, consisting of 43 percent Muslims, 33 percent Serbs, 17 percent Croats, and others, was one of the least likely Yugoslav countries to secede.

Following the Serb declaration of an independent republic in Bosnia, the Bosniaks followed suit, dividing the country. Upon becoming aware of the rising tensions, the US sent a peacekeeping mission to closely monitor the situation. The hostile environment was putting the federation on the brink of collapse. In general, the dominant ethnicity in the military service was Serbian with

⁴⁹² Milestone in the History of U.S. Foreign Relations. The Breakup of Yugoslavia, 1990-1992. (accessed September 15, 2022).

⁴⁹³ Ben Bagwell, "Yugoslavian Constitutional Questions: Self-Determination and Secession of Member Republics," *School of Law University of Georgia*, Vol. 21:489, 1991. (accessed September 15, 2022).

105 generals either ethnic- Serbs from Serbia, Croatia, or Slovenia.⁴⁹⁴ On April 1st, 1981, the second secessionist movement was taking place in Prishtina, therefore, until 1989, the political leadership of Kosovo was greatly opposed by Serbia's political actions. Among the most notable protests were those of *Trepça* miners, a strike of approximately 1300 people. Their appeals for Kosovo's independence were supported by 215 Kosovo intellectuals who had previously petitioned the Yugoslav government and the Serbian parliament for independence. By 1983, ethnic Albanians, who had fled Kosovo at the onset of this conflict, protested against Yugoslavia in a number of European cities including the US in New York. Serbian media coverage was widely spread during this time, especially following the death of Aleksander Rankovic in 1983, alleging that Serbs in Kosovo were under attack. On February 1, 1984, Yugoslavia's President Mika Špiljak visited US President Ronald Reagan. In light of recent developments, the meeting was of critical importance because US was willing to strengthen Yugoslavia's position in the region by providing economic assistance. In line with that, President Reagan stated that, "US strongly supports Yugoslavia's independence, unity, and territorial integrity."⁴⁹⁵ His statement paved the way to give a green light to Serbia in pursuit of its goal. Serbia's diplomacy was effective to the point where it took certain decisions in order to portray the image that ethnicities were being treated equally on the international level.

In accordance with the report of the diplomatic representatives of the autonomous socialist province of Kosovo- two ethnic Albanians, one from Montenegro, and one from Serbia. That being the case, under these circumstances, the Parliament of the Socialist Autonomous Province (SAP) of Kosovo convened on the 23rd of March 1989. A few days after the Parliament of Serbia adopted the amendments to the Constitution that called for a united Serbia. However, Kosovo

⁴⁹⁴ Philip J.Cohen. *Serbia's Secret War: Propaganda and the Deceit of History*. (Texas: University Press College Station, November 1996). 8-9.

⁴⁹⁵ Public Papers of the Presidents of the United States Ronald Reagan. Published by the Office of the Federal Register National Archives and Records Administration. Washington, D.C. 1986. 141-142. (accessed September 20, 2022).

resented the decision since they were being executed by the Serbian military, while Belgrade rejoiced in such a decision as a victory. On December 19, 1989, Kosovo people vowed to protect their rights even more strongly subsequently the Council for the Defense of Human Rights and Freedoms (CDHRF) was established.

2.The Kosovo Independence Quest and the US Role in the Process

Following Slovenia, Croatia, Bosnia and Herzegovina, Kosovo was the next to seize independence from the Yugoslavia Federation. However, Kosovo's quest for independence became one of the most complex case that required foreign assistance. The 1980s marked the beginning of Serbia's intensified assertiveness approach toward ethnic- Albanians in Kosovo. Beyond its geopolitical motives, it was also an attempt to undermine the legitimacy of Kosovo's autonomy as a Serbian province.⁴⁹⁶ This and more led to Kosovo's miners stage hunger strikes in protest of the Socialist Republic of Serbia's decision to abolish the autonomy of the Province of Kosovo. Strikes by Trepça miners began in February 1989 demanding Rrahman Morina's dismissal, as well as ensuring the 1973 Constitution's fundamental principles remain intact for Kosovo. While the requirement for Morina's suspension was met, Belgrade dispatched troops to Kosovo after a second request for his suspension was rejected, resulting in a state of emergency throughout the country.⁴⁹⁷ In the absence of constitutional rights for the Kosovo people, the situation became more intense, resulting in interethnic conflict. Furthermore, due to the given circumstance in March 1989, Serbia forced Members of Kosovo's Assembly to abrogate Kosovo's

⁴⁹⁶ Nen Pushtetin e Urdhrave: Krime e luftes ne Kosove, Report of Human Rights Watch. Krimet e luftes ne Kosove. [Under the Power of Orders: War Crimes in Kosovo, Report of Human Rights Watch. War crimes in Kosovo]. Washington: Human Rights Watch, 2002. (accessed September 20, 2022).

⁴⁹⁷ Konflikti, Reagimi Nderkombetare, Leksionet e Mesuara. Komisioni I Pavarur Nderkombetare per Kosoven, Report of *KIPRED*. [Conflict, International Response, Lessons Learned. Independent International Commission for Kosovo, Report of KIPRED]. (Instituti Kosovar per Kerkime dhe Zhvillime te Politikave, Qershor, 2005. (accessed September 20, 2022).

autonomy while being encircled by Serbian tanks.⁴⁹⁸ The Belgrade decision to abolish Kosovo's autonomy sparked extensive protests in 1981 in Prishtina and Ferizaj that mobilized around 3000 people. As the Serbia press did not adequately cover the Kosovo unrest during this period, protesters would have been much more numerous had Belgrade censored relevant news. In contrast, Belgrade hailed the event as a victory, claiming more autonomy over Kosovo while Slovenia and Croatia feared a similar political atmosphere might emerge there as well. As a result of Slobodan Milošević's assumption of the presidency of Serbia on May 8, 1989, the situation deteriorated. In the wake of the elections, the Serbian parliament adopted a hawkish position on the Kosovo population. Among the legal decision taken was the 'limited property transaction law' in the 90s, meaning Kosovo citizens could no longer sell or buy properties without the approval of the Serbian Ministry of Finance. The aim was to keep Kosovo residents displaced and incapable of returning home. In essence, this was just an indication of the hardships that ethnic Albanians in Kosovo had to endure in order to attain freedom from Serbia. Based on the Independent International Commission on Kosovo (IICK) at the end of 1980, the latter had an unemployment rate of 27 percent, and it was predicted that it would exceed 40 percent by 1990.⁴⁹⁹

A lack of equal rights for Albanians in Kosovo led to the deterioration of the situation. Between 1981 and 1987, approximately 20 thousand Serbs fled Kosovo, according to a report by Human Rights Watch.⁵⁰⁰ However, their decision to leave Kosovo was largely influenced by Kosovo's economy as the least developed country in Yugoslavia. There were several fundamental issues Serbia wanted to resolve on its own terms regarding Kosovo, notably the country's demography and education. In the period between 1961 and 1981, the Kosovo population increased from 67 percent to 78 percent, a phenomenon that Serbia considered a threat as the latter's population was

⁴⁹⁸ Joyce P. Kaufman. *NATO and the Former Yugoslavia: Crisis, Conflict, and the Atlantic Alliance*. (Maryland: Rowman & Littlefield Publishers, Inc, 2022). 149-150.

⁴⁹⁹ Independent International Commission on Kosovo, "The Kosovo Report Conflict* International Response* Lessons Learned," (Oxford: *Oxford University Press*, January 2000). (accessed September 20, 2022).

⁵⁰⁰ Nen Pusstetin e Urdhrave: Krimet e luftes ne Kosove, Report of Human Rights Watch. Krimet e luftes ne Kosove. [Under the Power of Orders: War Crimes in Kosovo, Report of Human Rights Watch. War crimes in Kosovo]. Washington: *Human Rights Watch*, 2002. (accessed September 20, 2022).

growing. In addition to the gradual loss of autonomy, Serbian military officials carried out human rights violations in the latter's territory. A number of Serbian policies were implemented in Kosovo, including the renaming of street names and radio programs from Albanian to Serbian. The diverse range of international actors that played a role in the Kosovo conflict was dominated by the US. Additionally, the role of the latter was heavily influenced by Soviet expansion into communist nations, especially in Yugoslavia. The scale of the conflict demanded international military assistance, and President Clinton initially left the task of dealing with it to Europe. At first, Washington supported Serbia via Yugoslavia by furthering the latter's geopolitical interests by moving to become an ally; however, once Serbia's political motives became apparent, US altered its policy. Therefore, US presence was present everywhere, including in 1981, when a correspondent from Vienna conducted a comprehensive report about the crisis in Kosovo by interviewing Kurtesh Salihu, a contributor to the Kaçaniku Constitution. Amidst other disputes within the federation, he emphasized the significance of the Kosovo conflict in his report. Further, he requested a detailed explanation of Yugoslavia's decision-making process regarding Kosovo's status. With the exception of Serbia, Kosovo and other provinces gained limited political rights however, Serbia's unresolved issue hindered Kosovo's exercise of its constitutional rights. The Constitution of Yugoslavia Socialist Republic 1974 outlined a number of basic principles, including the freedom and independence enjoyed by Yugoslav nationals; the common interest of workers; and that Socialist Yugoslavia should pay special attention to the interests of underdeveloped republics and autonomous regions. As far as we could tell, this was merely paper and not reality, hindering Kosovo people in their quest to obtain their rights under the federation's governance.

During a time when tensions had risen between Serbs and ethnic Albanians in Kosovo, Serbian vice president Milošević visited Kosovo, where he pledged to protect the Serb population. Such a premise contributed to Milošević becoming the symbol of heroism, placing him in a more likable

position. In part, the Serbian people regarded him as a successful leader due to his promise to 'protect' Serb residents of Kosovo, even though they had nothing to fear since it was Serbia that incited the conflict. Over 35,000 people attended his "Brotherhood and Unity" rally in Belgrade.⁵⁰¹ During his speech, he stated, "Every nation has a love that endures forever, and that love exists for Serbia through Kosovo." Over the years, he consistently called for a "Greater Serbia." Two days before his gathering, Kosovo was engulfed in five consecutive days of protest against the dismissal of Azem Vllasi, Kaskusha Jashari, and others opposed to the 1974 amendments. Following the mobilization of Kosovo people throughout the country, Ibrahim Rugova, and Veton Surroi organized numerous meetings between 1988 and 1989, where they presented roughly 400,000 signatures conducted on a survey called "Pro-Democracy, Against Violence."⁵⁰² In spite of Kosovo's ambitions for independence, the Serbian government was apprehensive about the prospect of developing its own government. Consequently, in 1990, the Assembly of Serbia gained control over the judiciary, the security system, and the finances of Kosovo, resulting in its complete autonomy.

It was unconstitutional to restore an autonomous Constitution while human rights were violated by ceasing journals, radio stations, and television stations that were broadcasted in Albanian language and last but not least and renaming streets from the Albanian language to Serbian. Following the developments, between 1990-1992, when 23,000 Kosovo teachers in schools were dismissed. Serbian textbooks portrayed Kosovo people as dissatisfied when, in reality, they were trying to regain their rights following the arrest of several Kosovo intellectuals, etc. In the 1990s, National Intelligence Estimates (NIWs) indicated that Serbia's President exploited the situation by gaining illegitimate control over the region in order to deploy the Serbian nationalist army in Kosovo. Despite its apparent success, the Serbian ideologies of defeating the

⁵⁰¹ Aleksandar Pavlovic, Gazela Drasko and Rigels Halili. *Rethinking Serbian-Albanian Relations: Figuring out the Enemy*. (London: Routledge, December 2021). 70-71.

⁵⁰² Howard Clark. *Civil Resistance & Power Politics*. (Oxford: Oxford University Press, October 200). 280.

demography and education of Kosovo people did not cease. In April 1990, around 7000 Kosovo students in different cities were poisoned with toxic gas in an event known as the 'mass poisoning of ethnic Albanian students'.⁵⁰³ The Serbian government referred to the poisoning as a false event 'made up' by Kosovo residents. However, for the sake of transparency, the French doctor Bernard Benedetti investigated the origins of the poison and determined that it was toxic.⁵⁰⁴ The Serbian regime intended to prevent Kosovo citizens from acquiring knowledge that can enhance the country's progress through this action. Apart from Benedetti's testimony, the UN findings also concluded that sarin and tabun were used to poison the students. A few years later, in 1995, they concluded that the substances were manufactured by the Yugoslav military.⁵⁰⁵ Serbian dominance of Kosovo citizens resulted in the open suppression of the Assembly of Kosovo, latter's main political organization. In July 1990, Kosovo Assembly delegates gathered to proclaim the new status of Kosovo's Constitution at which Hashim Thaçi described it as one of Kosovo's most significant legal occasions.⁵⁰⁶ To gain greater political autonomy, Kosovo intellectuals arranged secret meetings in order to avoid detection by the Serbian government. On September 7, 1990, a meeting was held at the Cultural Center of Kaçanik. A total of 111 delegates (Albanians, Muslims, and Turkish) attended the meeting to officially proclaim Kosovo's Constitution. In the meeting, the focus was on establishing a democratic state based on the legal and social foundations of ensuring national rights and equality rights of other nationalities living in the Republic of Kosovo.⁵⁰⁷ Accordingly, the delegates adopted the Kaçaniku Constitution in 1990, according to which, "that Kosovo is a democratic state of the Albanian people and other national minorities who reside in the country such: Serbs, Muslims, Montenegrins, Croats, Turks, Romanies, as well

⁵⁰³ Denisa Kostovicova. *Kosovo: The Politics of Identity and Space*. (Oxford: Routledge, January 2019). 75-76.

⁵⁰⁴ Halim Hyseni. *E verteta per helmimet ne Kosove 1987-1990*. [The truth about poisoning in Kosovo 1987-1990]. (Prishtine: Redaksia e botimeve e partise shqiptare demokristiane e Kosoves, 1996).

⁵⁰⁵ Shkelzen Gashi. *Kosova 1912-2000 në tekstet mësimore të historisë të Kosovës, Shqipërisë dhe Serbisë*. [Kosovo 1912-2000 in the history textbooks of Kosovo, Albania and Serbia]. (Prishtine: KAHCR dhe KEC, Printing Press, 2012).

⁵⁰⁶ Prime Minister Office. Message of the Prime Minister of the Republic of Kosovo, Hashim Thaçi, on the 23rd anniversary of the Constitutional Declaration (July 2, 1990), Prishtine, 2 July 2013. (accessed September 30, 2022).

⁵⁰⁷ Arsim Bajrami dhe Florent Mucaj. *E Drejta Kushtetuese*. (Prishtine: Universiteti I Prishtines, Fakulteti Juridik, Mars 2018). 211-217.

as others living in Kosovo.’’ The differences between the Yugoslav Constitution and the Kačaniku Constitution are easier to understand when compared. For example the Yugoslav Constitution of 1974, Part One, Articles 1 and 2 states that all ethnicities of Kosovo should unite within the central government while appointing Kosovo as an Autonomous Province.⁵⁰⁸

However, the Kačaniku Constitution of 1990 recognized Kosovo as an independent entity in its status as a constituent state of the Yugoslav Republic. Following the declaration of the Kačaniku Constitution, Serbian repression grew in politics, education, and elsewhere. Furthermore, the cruelty of the Serbian troops led to the destruction of cultural and economic centers, the exodus of Kosovo workers, etc. The latter’s new status was challenging Milošević’s regime, but so was a protest that took place between March 9 and 14 of 1991 in Belgrade against his politics. Consequently, western powers felt compelled to intervene due to the deterioration of the situation. It was Slovenia’s declaration of independence in December 1990 that paved the way for Croatia’s independence referendum in June 1991, culminating in the two states seceding from Yugoslavia. In the wake of Slovenian and Croatian independence, Kosovo held a referendum in September 1991, in which 87 percent of electors supported independence.⁵⁰⁹ Whereas in Bosnia-Herzegovina, a referendum for the country’s statehood was held in March 1992 but was boycotted by Serb minorities.⁵¹⁰

In the wake of Slovenia’s and Croatia’s independence, State Secretary James A. Baker III visited Belgrade on behalf of the federate states as follow: ‘if the federate states disunite, the US will not recognize them as independent countries.’⁵¹¹ While Belgrade received support from the State Department, other developments proceeded elsewhere, primarily in Kosovo. In addition, several amendments were adopted prior to the Kosovo elections, including the first elections held

⁵⁰⁸ Dragoljub Durovic (ed). *The Constitution of the Socialist Federal Republic of Yugoslavia*. (Ljubljana: Dopinsa Delavska Univerza). 39.

⁵⁰⁹ Atdhe Hetemi. *Student Movements for the Republic of Kosovo: 1968, 1981 and 1997*. (London: Palgrave Macmillan Cham, October 2020).

⁵¹⁰ Ibid.

⁵¹¹ David Hoffman “Baker Urges Yugoslav to keep unity,” *The Washington Post*, June 1991. (accessed September 20, 2022).

on May 24, 1992, which were overwhelmingly supported by Kosovo citizens. Aside from the 130 deputies being elected, Ibrahim Rugova of the Liberal Democratic Party (LDK) had been appointed as the leading party in Kosovo. In the ensuing elections, the party won 96 out of 100 seats, leading to the establishment of a new government. Initially, the government was based in Ljubljana, however, in 1992, it was relocated to Bon, with Bujar Bukoshi as a Prime Minister while in exile. Specifically, he urged the imposition of a voluntary tax of 3 percent that is intended to contribute to Kosovo's independence and gain its rights. Despite earmarking most of the funds for education and the remainder for cultural activities, Serbia carried on with its violent activities. Furthermore, the fund played a vital role in Kosovo's education, employing approximately 20.000 teachers, lecturers, and professors in 1993. At that time, Kosovo had only one journal, Bujku, but many independent publications benefited from foundation support, such as Zëri, Koha Ditore, etc.⁵¹² Although around 400.000 people fled to western countries, they still contributed to the Kosovo Independence Fund in support of Kosovo's independence. Funds were primarily used to purchase arms and logistical support for Kosovo's fight against Serbian forces. As early as 1992, the Conference for Security and Cooperation in Europe, dispatched its mission to Kosovo, Vojvodina, and Sanxhak, but Serbia refused to sign the Memorandum of Understanding (MoU) to extend the Organization for Security and Cooperation in Europe (OSCE) mission. Following Serbia's rejection of the MoU, the US concluded that Serbia was seeking a Kosovo ruling, thereby increasing its involvement in the process.⁵¹³

Consequently, in June 1992, Secretary of State Lawrence Eagleburger issued a 'Christmas Warning' to Serbian forces urging them to respect Kosovo's sovereignty.⁵¹⁴ Furthermore, the US

⁵¹² Konflikti, Reagimi Nderkombetare, Leksionet e Mesuara. Komisioni I Pavarur Nderkombetare per Kosoven, Report of *KIPRED*. [Conflict, International Response, Lessons Learned. Independent International Commission for Kosovo, Report of KIPRED]. (Instituti Kosovar per Kerkime dhe Zhvillime te Politikave, Qershori, 2005. (accessed September 20, 2022).

⁵¹³ Nen Pushtetin e Urdhrave: Krime e luftes ne Kosove, Report of Human Rights Watch. *Krimet e luftes ne Kosove*. [Under the Power of Orders: War Crimes in Kosovo, Report of Human Rights Watch. War crimes in Kosovo]. Washington: *Human Rights Watch*, 2002. (accessed September 20, 2022).

⁵¹⁴ U.S. Government Printing Office Washington: 1998. *The Crisis in Kosovo Before the Subcommittee on European Affairs of the Committee on Foreign Relations United States Senate*. One Hundred Fifth Congress Second Session, May and June 1998. (accessed September 20, 2022).

President Bush cautioned Milošević the attack on the Kosovo people would endanger US interests, indicating that if Serbia failed to reach a resolution, stronger measures would be taken. The US political discourse appeared more preoccupied with the Kosovo conflict than with previous Yugoslav conflicts. In addition to the protection of human rights, US feared that the conflict would develop into a regional conflict affecting Macedonia, Albania, etc. Thus, such a decision again demonstrated that Serbia was preventing the end of the conflict in the region. Following Washington's warning in May 1992 on Serbia's adversary policies, UNSC sanctions were imposed on Serbia, including a ban on trade. A few exceptions were made for food, medicine, and supplies related to humanitarian crises, however, the US recognized that they could turn to the UNSC for additional economic sanctions. Consequently, the US took the lead in setting up Sanctions Assistance Monitoring Missions (SAM) in late 1992 and 1993. Resolution 942 of the UNSC imposed continuing economic sanctions on Belgrade, whereas the US provided assistance to its allies through its international monitoring mission based in Bosnia. In Kosovo, the "Christmas Warning" was interpreted as a promise that they would be safeguarded. In the meantime, thousands of Kosovo people fled to Western Europe and the US to avoid persecution and armed conflict. Kosovo's unemployed and illiterate population joined the insurgents after voting rights and political participation was revoked. Therefore, Kosovo had the highest unemployment rate in the FYR, with roughly 67.000 citizen unemployed.⁵¹⁵

As the least developed nation in Yugoslavia, Kosovo demonstrates how ethnic Albanians were deliberately mistreated by the Serbian government. Accordingly, Serbia supported Kosovo's independence, despite its citizens' opposition to the conditions in which it lived.⁵¹⁶ Amid ethnic tensions that could complicate the resolution of the conflict, Ibrahim Rugova, Kosovo's leader,

⁵¹⁵ Noel Malcolm. *Kosovo: A Short History*. (London: Macmillan, 1998). 335-356.

⁵¹⁶ Konflikti, Reagimi Nderkombetare, Leksionet e Mesuara. Komisioni I Pavarur Nderkombetare per Kosoven, Report of KIPRED. [Conflict, International Response, Lessons Learned. Independent International Commission for Kosovo, Report of KIPRED]. (Instituti Kosovar per Kerkime dhe Zhvillime te Politikave, Qershor, 2005. (accessed September 30, 2022).

argued that the country would be better off to remain calm and live rather than dying. During his leadership, he encouraged the local people in Kosovo to remain patient until the international community intervened to resolve the dispute with Serbia. The majority of Kosovo citizens already knew that the “wait and see strategy” was unable to work due to the lack of protection for pro-independence activists. The best example of this is Adem Demaçi, a Kosovo fighter who had been imprisoned 29 times under Serbian rule.⁵¹⁷ There were many secret meetings held during the Yugoslav-Serbian leadership period. Among these meetings was one between Milošević and Tuđman Karadžorđevo in 1991 during which they discussed Yugoslavia’s crisis. According to the 1974 Constitution, Kosovo delegations were constitutionally entitled to participate in Yugoslavia-related decisions but were rarely invited to do so. According to Fehmi Agani, building relationships with Milošević was difficult, not only because of his motives for power but also because he is willing to go far in order to meet its objectives.⁵¹⁸ By doing so, Milošević demonstrated that he was willing to go to any lengths to reach his political objectives. Even though many people agreed with Agani’s assessment of Serbia’s capabilities, an agreement could still be reached. In 1995, after Bosnia and Serbia signed the Dayton Agreement with US presence, Kosovo expressed outrage over being excluded from the discussion. The meeting was led by State Secretary Warren Christopher and Richard Charles A. Holbrooke. The Dayton agreement differently known as the Peace Agreement involved the international community for Bosnia and Herzegovina crisis was welcomed by those in Kosovo, allowing Western powers to witness Serbian atrocities.

However, in reality, the Kosovo people realized that the international community was imposing an unfair reality on them because of the recognition of ‘Republica Serbska’s’ border. This meant that Bosnia will be divided between Bosnia-Croat and Bosnia-Serbs. There was a sense of

⁵¹⁷ Erlanger Steven, “Champion of Free Kosovo Now Urges Moderation,” August 1999, *New York Times*. (accessed September 30, 2022).

⁵¹⁸ Watson Paul, “Moderates Key to Kosovo Peace,” October 1998, *Los Angeles Times*. (accessed October 11, 2022).

disappointment among Kosovo's people even as it fought for independence. One example is Veton Surroi, who argued that international attention could only be gained through war. However, US diplomatic relations with Serbia and Yugoslavia as an entity remained strong until 1992, when Slovenia, Croatia, and Bosnia officially left the federal union. The secessionist movement from the former federations led to the termination of relations between the US and Serbia. While Serbia attempted to establish an alliance with Montenegro, US officials made it clear that the US would not recognize Serbia's political moves on creating other federations as long as Serbian forces remained in neighboring countries, in the case of Kosovo.⁵¹⁹ In September 1995, Yugoslavia was formally exempted from sanctions imposed on it in 1992. This contributed to many European countries establishing diplomatic relations with Yugoslavia, hindering Kosovo's ability to accept its lack of independence. Regardless of the progress that Serbia made with some of the Western countries, the UN and US firmly maintained sanctions, resulting in Serbia being denied membership in the World Bank. In addition, the State Department confirmed that sanctions would remain in place until the Kosovo conflict was resolved. Further, according to the State Department, the sanctions would remain in force for both conflict settlement and status negotiations. Because the US had already entered the Bosnia conflict with diplomatic footholds, Serbia took action in favor of Kosovo in fear of further interference.

Thus, the Serbian Ministry of Education and Kosovo government agreed to allow Kosovo students to return to their schools and universities in 1996. Although no agreement was reached on teacher wages, Kosovo's legitimacy was recognized.⁵²⁰ Between 1996 and 1997, debates about Kosovo's future status took place between Belgrade and Prishtina, where some of the most prominent proposals emerged. As both parties were apprehensive of having to surrender, they

⁵¹⁹ Kempster Norman, "U.S. Orders Diplomatic Sanctions Against Serbia : Yugoslavia: Two of three consulates in U.S. will be closed. American ambassador won't return to Belgrade," May 1992, *Los Angeles Times*. (accessed October 11, 2022).

⁵²⁰ Konflikti, Reagimi Nderkombetare, Leksionet e Mesuara. Komisioni I Pavarur Nderkombetare per Kosoven, Report of *KIPRED*. [Conflict, International Response, Lessons Learned. Independent International Commission for Kosovo, Report of KIPRED]. (Instituti Kosovar per Kerkime dhe Zhvillime te Politikave, Qershor, 2005. (accessed October 11, 2022)).

decided on the *status quo*, with Serbian forces in charge of the police, but the Kosovo government retained control.

2. Tumultuous Times: The Debut of the Kosovo Liberation Army (KLA)

On October 1st, 1997, in response to hostilities, a demonstration was held at the University of Prishtina, which was attended by 15.000 students.⁵²¹ A new reality paved the way following the unrest demonstrations with the unveiling of the Kosovo Liberation Army (KLA). As a result of KLA's presence in 1997, Serbia's military implemented more measures targeting civilians. However, Jakup Krasniqi points out that it was only the KLA's presence that brought the Kosovo conflict to the forefront.⁵²² During this period, Kosovo was viewed as a potential independent territory, which called for greater attention from international authorities. In light of this, many young people who studied abroad and co-founded the KLA supported the movement, including Hashim Thaçi. In Kosovo, however, people who supported the KLA were under threat of arrest and imprisonment by the Serbian military. In response to the ongoing developments, the KLA made its first attempts to communicate with international authorities, primarily the US. Consequently, this led to the army's recognition as a separate entity *de facto* during the Rambouillet talks, in which its representatives led the Kosovo status negotiations. Several KLA members were already subject to a dearth of consideration since Serbia's government designated them as terrorists. Nonetheless, a report by Amnesty International (AI) and Human Rights Watch (HRW), reveals that not only was exemplary torture applied to Kosovo civilians and KLA members but also corporal punishment was also carried out by the Serbian military. Meantime, in Belgrade, an unprecedented political change was taking place following the party Together for Serbia (Zajedno) protests. On November 17, 1996, the coalition "Zajedno" won local elections in

⁵²¹ Abdylizet Izet, "Shtypi shqip i Kosovës për protestat studentore të 1 tetorit 1997," The Albanian press of Kosovo about the student protests of October 1, 1997, *EPOKA E RE*. (accessed October 11, 2022).

⁵²² Sabit Sylaj. *Kosova- rruga drejt lirise*. [Kosovo- the road to freedom]. (Prishtine: Instituti i Historise "Ali Hadri"-Qershor 2019) 29-31.

a total of 17 cities, consisting of SPO, DS, and GSS.⁵²³ The allegations of electoral fraud by the Socialist Party of Serbia (SPS) conclude that Milošević initially attempted to sabotage the results, however, a conflict quickly erupted in Belgrade. In February 1997, Milošević resigned, enabling Vojislav Šešelj to assume the position. While Kosovo hoped that the newly elected president would resolve the issue, effectively as president, unfortunately, he was impotent to do so. In fact, he was implicated in some of Bosnia's most serious crimes, indicating that the situation in Kosovo may be even direr. In addition, Šešelj implied that Kosovo's population was to be purified and that no parliamentary elections should have been held until 1941 when the population in Kosovo had fallen to its 1941 level.⁵²⁴ Consequently, tensions mounted in 1998 when Šešelj joined Milošević's anti-Kosovo national unity government. It was a further blow when Clinton's special representative, Robert Gelbard, referred to the KLA as a "terrorist group" after the group was officially revealed. The US Ambassador to Kosovo, Gelbard, asserted in 1998 that, "US is acutely concerned and interested in the present situation in Kosovo. The US firmly believes that those who advocate independence for the Kosovar Albanians are anticipating an impossible and unrealistic goal. Having an enhanced status, whilst being a part of FYR, is essential to Kosovo's future."⁵²⁵

It is true that a statement of this kind is rarely influential, however, in the context of the volatile situation at hand, Gelbard's words had a more tangible impact on Serbia in the present day. Consequently, Serbia waged an attack on villages like Qirez, Likoshan, and Prekaz, as well as the KLA fighter Adem Jashari's family, leaving 58 victims, including 10 children. It was for this reason that Kosovo citizens banded together in defense of the civilians subsequently joining the KLA; effectively, the war between KLA and the Serbian military had begun.⁵²⁶ In the wake of

⁵²³ Studenti su ozbiljno uzdrnali režim Slobodana Miloševića, *Ekipa Danasa*, 2016. (accessed October 11, 2022).

⁵²⁴ Independent International Commission on Kosovo, "The Kosovo Report Conflict* International Response* Lessons Learned," (UK: *Oxford University Press*, January 2000). (accessed October 17, 2022).

⁵²⁵ U.S. Department State Archive, "Special Representative Robert S. Gelbard. Press Conference, Prishtina, Serbia, and Montenegro," February 1998. (accessed October 17, 2022).

⁵²⁶ Konflikti, Reagimi Nderkombetare, Leksionet e Mesuara. Komisioni I Pavarur Nderkombetare per Kosoven, Report of *KIPRED*. [Conflict, International Response, Lessons Learned. Independent International Commission for Kosovo, Report of *KIPRED*]. (Instituti Kosovar per Kerkime dhe Zhvillime te Politikave, Qershor, 2005. (accessed October 17, 2022).

US diplomatic concessions being withdrawn, the CIA warned the State Department that the Serbian army would most likely overtake Kosovo.⁵²⁷ As Serbian troops advanced across the country, their focus was on Drenica city, an area where KLA fighters held sway. In the aftermath of Jashari's family slaughter, the international community condemned the act. In response, on March 9, 1998, the Contact Group imposed an arms embargo on Serbia's military equipment.⁵²⁸ Following the US sanctions, on March 31, 1998, the UN Security Council (UNSC) adopted Resolution 1160, which imposed an arms embargo on Serbia pending resolution of the Kosovo issue with 14 votes in favor, none against, and one abstention (China). Following the crisis, the US Department of Treasury's office of foreign assets control issued sanctions on October 13, 1998, to stop the governments of SFR (Serbia and Montenegro) from making new investments in Serbia. At this point in time, Serbia employed its own civil servants for crimes against Serbs in Kosovo under the pretext of blaming locals. An example of this is "Panda" case that took place in December of 1998 in Peja city in which two masked men shot six Serbs to death at the Panda Café.⁵²⁹ Amidst the arrest of thousands of Kosovo people during the incident, Vllaznim Pergjejjaj told *Balkan Insight* that he and his fellow inmates were subjected to horrendous treatment by the Serbian authorities.⁵³⁰

Due to the lack of evidence, Serbia released all of its Kosovo detainees in November 1999. Former Serb prosecution witness Vladimir Vukčević testified that there was almost no ethnic Albanian population in Peja at the time, indicating that Kosovo citizens were not responsible for the attack. It was the US, however, that was instrumental in finding a mutually acceptable solution. As such an agreement between the US diplomat Holbrooke and Serbian leader Milošević was reached in October 1998, by allowing roughly 250,000 Kosovo people to

⁵²⁷ The National Intelligence Estimate presents the views of the Director of Central Intelligence with the advice and assistance of the US intelligence community, Yugoslavia transformed, October 1990. (accessed October 17, 2022).

⁵²⁸ Independent International Commission on Kosovo, "The Kosovo Report Conflict* International Response* Lessons Learned," (Oxford: *Oxford University Press*, January 2000).

⁵²⁹ Fred Abrahamas. *Under Orders: War Crimes in Kosovo*. (New York: Human Rights Watch, October 2001).

⁵³⁰ Filip Rudic and Serbeze Haxhijaj, "Kosovo's Panda Café Massacre Mystery Unsolved 20 Years On," *Balkan Insight*, p. 1. December 2018. (accessed October 17, 2022).

return to their homes.⁵³¹ A string of violent events in Kosovo began in January 1999 with the Reçaki massacre, which mostly drew the attention of the US. Under the leadership of US Ambassador William Walker, the Kosovo Verification Mission oversaw almost 1400 international and 1600 local workers. In response to his visit to Reçak, Ambassador Walker described it as a “crime against humanity” requiring immediate action by the State Department and its allies.⁵³² Essentially, Ambassador Walker led the way and exposed the Kosovo war to the world’s attention, encouraging the US and international community to act immediately. By 1999, the Serbian government had accused Ambassador Walker of going far beyond the scope of his mandate and providing “inaccurate information” about Serbia’s military. He was even declared *persona non grata* from Serbia but that was later reversed. In a recent interview, Ambassador Walker said the intervention in Kosovo aimed solely to protect human life, which constitutes a significant achievement for US foreign policy.⁵³³ The US response was undertaken because of concerns that Milošević would carry out ethnic cleansing in Kosovo, thereby destabilizing the entire region. Following the conflict in Drenica, James Rubin, the US representative in Kosovo expressed that: “we are deeply concerned” and that sanctions would continue “until there is progress.”⁵³⁴ The US perception of Kosovo’s future integration into Serbia contributed to delays in the execution of Serbia’s atrocities. Additionally, the belief that the State Department and its Western allies had been very certain that the war in Kosovo would not escalate was a significant error of foresight that resulted in considerable losses for Bosnia-Herzegovina and Kosovo. This only proves how underestimated Serbia’s power and nationalistic sensibility were by the US.

⁵³¹ Timothy W. Crawford, “Pivotal Deterrence and the Kosovo War: Why the Holbrooke Agreement Failed,” *Brookings*, April 2002. 499-523. (accessed October 17, 2022).

⁵³² Political Affairs Committee, Report of Andras Barsony and Peter Bloetzer, “Crisis in Kosovo and situation in the Federal Republic of Yugoslavia”, Doc. 8394, April 1999. (accessed October 17, 2022).

⁵³³ Interview with Ambassador William G. Walker in Washington DC, September 2021.

⁵³⁴ U.S. Department State Archive. Department of State Spokesman James P. Rubin. Excerpt from the *Daily Press Briefing* Washington, DC, October 1998.

3. Interim Agreement for Peace and Self-Government in Kosovo (Rambouillet Accords)

Diplomacy aims to prevent conflict between parties rather than resorting to force. In line with this, the Contact Group (US, France, UK, Italy, Russia, and Germany) devised a diplomatic compromise for the Kosovo conflict. Thus, at the first meeting in London on 29 January 1999, the group discussed both Kosovo's security and peace as well as the growing threat to its existence. In essence, the Western Powers had a chance to confront Milošević's atrocities in Kosovo through diplomatic talks. At a press conference, US State Secretary Madeleine Albright emphasized the serious implications Milošević's actions could have on the Contact Group in order to avoid repeating 1991's mistakes. As a result, the Contact Group met again in Rambouillet, France, on February 6, 1999. In Rambouillet, unlike other meetings, members of the KLA, LDK, and Serbia were encouraged to attend. The primary objective of the Rambouillet conference was to disarm the KLA and expel the Serbian forces from Kosovo. Although the agreement plans contemplated liberating Kosovo, it failed to address the future status of Kosovo as an independent state, which caused a great deal of resentment among the Kosovo delegation. In the absence of independence discussions at Rambouillet, chances of Kosovo being independent of Serbia were slim to none. In essence, the Rambouillet talks represented an important opportunity for Kosovo to claim independence, yet they were also delicate due to Serbia's accusations, which forced Kosovo to seek US support. In addition, about a dozen KLA representatives were positioned near the venue where the actual talks were being held, willing to assist if needed. In spite of how KLA was portrayed, the organization ensured that international media were informed of the principles addressed during the negotiations.⁵³⁵ Sabri Kiçmari, a member of the KLA staff, spoke with Hashim Thaçi about the current situation in Kosovo and the developments there. During the Rambouillet talks, Kiçmari said, Kosovo's exiled people had their voices

⁵³⁵ Sabri Kicmari. *Fitorja Diplomatike: Kujtime nga perfaqesimi diplomatik i Ushtrise Clirimtare te Kosoves*. [Diplomatic Victory: Memories from the diplomatic representation of the Kosovo Liberation Army]. (Prishtine: Epoka e Re, 2017). 108-123.

heard. Parallel to the talks, Serbians living in France protested, voicing their opposition to the talks and their concern over Kosovo's independence. In addition to Rambouillet, the US adopted H. Con. Res. 42 as a further peace-making measure for the people of Kosovo on March 11, 1999. In Res. 42, the concurrent resolution, states the following, ‘‘Authorizes the President to deploy US armed forces personnel to Kosovo in order to implement a Kosovo peace agreement under the NATO framework.’’⁵³⁶ Accordingly, US peacekeeping forces will provide Kosovo with 4000 troops out of 28.000 troops of NATO peacekeeping forces. While the talks were underway in Rambouillet, Serbia took advantage of the opportunity to advance militarily in Kosovo. Therefore, the first tanks were seen near Podujeva city, a few miles from the Serbian border. Although the UNHCR (United Nations High Commissioner for Refugees) was unable to obtain accurate data on victims, the Council for Human Rights estimated that 300.000 had been expelled from Kosovo between 1998-1999.⁵³⁷ Serbian attempts to revoke Kosovo’s authority set off mass violence that led to a realization that western diplomacy was powerless to prevent civil war. Following OSCE’s withdrawal on March 19, 1999, Kofi Annan decided to defy Serbia’s aggression in light of the expansion of Serbian force post-withdrawal. Following the turmoil in Kosovo, NATO Secretary-General Javier Solana communicated Kofi Anan warning that the situation in Kosovo is becoming direr.⁵³⁸

Initially, Serbian troops justified the flareup of the war by claiming they were battling KLA, a claim they were later found to be incorrect. Negotiations at the Rambouillet talks were centered around a project agreement providing Kosovo with a special status under the Serbian government under the observance of NATO. It was aimed at setting Kosovo’s legal and political status based on legal and political criteria. Due to the inability of Kosovo and Serbia to meet and

⁵³⁶ Congress. Gov. H.Con.Res.42 - Peacekeeping Operations in Kosovo Resolution. 106th Congress (1999-2000). (accessed October 17, 2022).

⁵³⁷ UNHR- Office of the High Commissioner. Commission on Human Rights Concludes Special Meetings on Situation in Kosovo. April 1999. (accessed October 17, 2022).

⁵³⁸ Hamilton Douglas, ‘‘FOCUS- Annan backs NATO military threat over Kosovo,’’ *Reuters*, January 1999. (accessed October 17, 2022).

discuss this issue, the status of Kosovo became more complex. In other words, there were two main approaches during the talks: the Kosovo one that aligned with the international community and the Serbian one that shied away from them. Serbs, however, had clearly stated that they would not accept Kosovo's status under the administration of the international community. The conference's delegates included a large number of American politicians and diplomats, including State Secretary Albright, who participated actively in the proceedings. In a press conference for the State Department, Albright presented the following remarks; "The Kosovar Albanians have negotiated with discipline and unity of purpose. They have not yet accepted every element of the interim political settlement, but it was my judgment and that of my Contact Group colleagues that the remaining issues can be resolved with a reasonable amount of effort. Belgrade, in contrast, has taken every opportunity for evasion and delay. The Serb delegation bears the lion's share of responsibility for the difficulties we have experienced today. Belgrade has said that it can accept the political settlement although my sense is that this is not completely firm."⁵³⁹

The Kosovo delegation was constituted of LDK (Ibrahim Rugova, Fehmi Agani, Edita Tahiri); KLA (Hashim Thaçi, Xhavit Haliti, Azem Sylja, Jakup Krasniqi, Rame Buja); LBD-ja (Rexhep Qosja, Hydajet Hyseni, Mehmet Hajrizi, Bajram Kosumi); Kosovo Parliament (Idriz Ajeti) Government in exodus (Bujar Bukoshi) and independent individuals (Veton Surroi, Blerim Shala). The Kosovo delegation accepted the proposed document by the international community and promised to sign it once it will be advised to do so. Apart from Kosovo and Serbian representatives and other delegates, part of the conference was also attended by Christopher Hill (US), Wolfgang Petritsch (Germany), Boris Majorski (Russia).⁵⁴⁰ The Serbian delegation led by Milan Milutinović initially declined to participate in the Rambouillet talks on the grounds that they could not sit at the same table with "terrorists", referring to the KLA. According to Serbs, admitting the presence and legitimacy of KLA was equivalent to threatening their "territorial integrity". The international

⁵³⁹ U.S. Department of State Archive. Press conference on the Kosovo peace talks with Secretary of State Madeleine K. Albright, Rambouillet, France, February 1999. (accessed October 29, 2022).

⁵⁴⁰ Arsim Bajrami dhe Florent Mucaj. *E Drejta Kushtetuese*. [Constitutional Right]. (Prishtine: Universiteti i Prishtines "Hasan Prishtina" Fakultetit Juridik, Mars 2018). 225-227.

community observed the second part of the discussion in Paris, where both delegations were encouraged to attend. While Rugova was the most likable candidate from the international community to initiate the talks, his popularity among Kosovo citizens was lower due to his inaction. Accordingly, Hashim Thaçi was elected as the wing leader of the KLA to be in charge of the Kosovo delegation, but this complicated the negotiations more since he seemed unwilling to compromise. The presence of Thaçi was also unwelcome to Albright, who had not dealt with him before and was aware that he would oppose the disarmament of the KLA without Kosovo's independence. Essentially, Thaçi became a figure that was equated with the people of Kosovo, but later Albright came to admire him as a competent young man. In response to Thaçi's refusal to sign the agreement, the State Department contacted Adem Demaçi, a resilient individual for Kosovo independence, to convince Thaçi to sign the disarmament request, but Demaçi refused on the grounds that he respected Thaçi's decision. There was a lack of confidence on the part of Kosovo's people too in the international community to disarm and resign the KLA. Their concern was that Kosovo would be like Bosnia and Herzegovina, where Serbs were too powerful for UN forces to control. The Serbian delegation, on the other hand, refused to abide by the points in the agreement based on the temporary peace and governance agreement.

Additionally, the agreement stipulates that after three years following the agreement, an international conference will be convened with both parties to determine the future of Kosovo with input from the civil population. The State Secretary's sole priority was to affirm that the right of the Kosovo people to determine their country's future is undeniable and in accordance with their rights.⁵⁴¹ According to Madeline Albright, the CIA had obtained confidential evidence that Serbia had already planned an offensive on the KLA despite what would have been decided at Rambouillet.⁵⁴² As the conference drew nearer, Thaçi flew back to Kosovo to consult on the

⁵⁴¹ Ibid.

⁵⁴² Thomas W. Lippman, "State Dept. Miscalculated on Kosovo," April 1999. *Washington Post*, p. 1. (accessed October 29, 2022).

matter with representatives of the KLA. This contributed to Thaçi, and the rest of the delegation eventually cooperated with the international community in order to reach an agreement. Consequently, on March 18, 1999, Kosovo's delegation ratified the Rambouillet Agreement, thus receiving moral support, *albeit* with no practical advantages. However, the Serbian delegation declined to sign the agreement for two reasons: they believed that the agreement favors the KLA disproportionately and that NATO's presence would threaten their territorial integrity. This led to failed negotiations, requiring the international community, including the US., to take direct military action to obtain a surrender from Milošević. In the US, many politicians knew that supporting Kosovo through intervention would lead to a trial run for pro-US ideologies, not to mention making Kosovo entirely dependent on US security. Consequently, the State Department on March 22, 1999, decided to send Richard Holbrooke as a last-ditch attempt to speak with Milošević first-hand. During this time, Madeleine Albright asserted that we underestimated the strength and perseverance of Milošević in the lead-up to escalation. While the State Department anticipated that the meeting between Holbrooke and Milošević led to an agreement, Milošević was already certain that the Kosovo war would be over by the summer of 1999. In his address to the nation, US President Bill Clinton outlined several ways to resolve the Kosovo conflict including the following:

“diplomatic dialogue by continuing the peace talks, and by bringing more troops and parties to the peaceful mediation. It is likely that this will lead to the deaths of more Kosovars. In addition, another option is to use military force in response to the greatest need for immediate genocide stoppage; this will force the US to accept the responsibility of actively confronting atrocities around the world. Getting involved will allow the US to become a stand-in for other nations seeking independence and the final option is to denounce the killings but stay out of the dispute, which will endanger the US position as a promoter of democratic values on a broader scale.”⁵⁴³

⁵⁴³ NARA and National Issues Forum Institute and Kettering Foundation, “Advise the President: William J. Clinton. What Should the United States Do About the Kosovo Crisis?” (accessed October 29, 2022).

CHAPTER 8: US-NATO Airstrike: The Last-Ditch Effort by the US to Cease Hostilities in Kosovo

It was exceedingly difficult for the US to lead Kosovo's intervention owing to divergent opinions among the allies on the use of NATO airstrikes. In a democratic process, the House of Congress acts as the most legitimate body of the US government. Consequently, congressional representatives stressed that US participation in the Kosovo-Serbia war would be unilateral and not multilateral, placing the US at the forefront and presenting huge challenges to our allies. Regardless of the decision taken by the President to settle the Kosovo conflict, the bill must be approved by both the House of Representatives and the Senate in identical form before it can be signed by the President. As a result, this process had proven to be quite complicated since the House and Senate have often held differing views on similar legislation. In spite of congress' ambiguous communication on airstrikes, the resolution S. Con. Res. 21, enacted by the Senate on March 23, 1999, that authorized the President to conduct air and missile operations against Serbia.⁵⁴⁴ Having received senate approval, the US concluded that the conflict had adverse effects not only on Kosovo, but also on adjacent nations whose logistical and supply systems such as Albania, Montenegro, Macedonia, and Greece. While ineffective according to Article 2(4) of the UN Charter, UN member states are prohibited from using force to resolve disputes, but two exceptions to this general prohibition exist: the UN Security Council has the authority to authorize the use of force as part of its responsibility to ensure international peace and security. Despite China and Russia abstaining with their veto power, Solana authorized NATO to conduct airstrikes between March 24 and June 10, 1999. On the following morning, NATO launched bombing on Belgrade, preventing access to the country's borders. An overall total of 38.000 sorties – 10.484

⁵⁴⁴ S.CON.RES.21. 106th Congress 1st Session in the Senate of the United States. March 1999. (accessed October 29, 2022).

strike sorties included - took place without any Allied casualties.⁵⁴⁵ Approximately 60 percent of airstrikes were conducted by US, while the rest were carried out by the international community, indicating the US's dominance in the intervening campaign. In response to Serbia's continued hostilities on ethnic- Albanians of Kosovo, President Clinton announced to Congress on March 26, 1999, the US had begun a series of airstrikes against Serbia.⁵⁴⁶ The NATO airstrike was intended to secure Milošević's surrender, however, no member of the alliance was prepared for the 78-day campaign that followed Serbia's refusal to surrender. A bomb was dropped on the Belgrade military basement as the airstrikes began, but the bombs failed to destroy its air defense system since the pilots were not instructed to fly above 5000 meters to avoid the threat of Serbian air defense, which prevented them from reaching their targets accurately. Unforeseen weather conditions led to an unsuccessful airstrike that failed to clear the targeted areas. In the course of the NATO airstrike, Serbian forces increased their hostilities against Kosovo civilians, particularly in Peja and Gjakova. As a result, the number of refugees spiked, a phenomenon that had not been predicted. As explained by Thaçi, the situation was tense, forcing him to hide during the daytime from Serbian pursuit, and emerge at night.

During the NATO airstrike, missiles were fired at different targets including the Chinese embassy in Belgrade, which has generated concern ever since. The incident resulted in three Chinese citizens being injured and 15 other victims, causing extensive property damage.⁵⁴⁷ There has been a lot of debate about whether the attack was intentional or not, however, US government sources claim that two factors contributed to the erroneous attack: technical difficulties caused by weather prevented the compound from being located, and two, military intelligence databases failed to verify the compound's location before the attack. A strong condemnation of the attack

⁵⁴⁵ Kosovo Air Campaign (Archived) NATO. Operation Allied Force. Last Updated: 2016. (accessed October 29, 2022).

⁵⁴⁶ Richard F. Grimmett. *War Powers Resolution: After Thirty-Six Years*. (Washington D.C.: Congressional Research Service, April 2010).

⁵⁴⁷ U.S. Department of State Archives. Thomas Pickering, Under Secretary of State. Oral Presentation to the Chinese Government regarding the accidental bombing of the P.R.C. Embassy in Belgrade. June 1999. (accessed October 31, 2022).

was issued by the Chinese government, which requested a UN Security Council condemnation, which did not materialize. In retaliation to China's unrest, protestors vandalized the US Embassy in China, including its consulate. To defuse the situation, Under Secretary of State Thomas R. Pickering issued the following statement: "The attack was a mistake. Our examination explains how a series of errors and omissions led to that mistake. Let me emphasize: no one targeted the Chinese Embassy. No one, at any stage in the process, realized that our bombs were aimed at the Chinese Embassy."⁵⁴⁸ In response to the damage, Beijing was given an official apology by the US, as well as \$28 million for the reconstruction of the Chinese embassy and \$4.5 million for the victims' families where a settlement was reached between the two.⁵⁴⁹ In support of the US argument about weather conditions, the NATO forces unintentionally struck Korisa, a refugee camp for Kosovo refugees. A total of 80 ethnic-Albanians from Kosovo perished, and 60 sustained injuries. Whereas when it comes to Serbia the preliminary reports indicate that airstrikes struck Belgrade and destroyed 59 bridges (7 from Danub), 9 highways (Beograd-Nish and Belgrade-Zagreb), and 7 airports.⁵⁵⁰

According to NATO's estimate, around 70-80 percent of electricity and oil refineries went offline. In the end, the civilians of both sides were hardest hit since NATO had no civilians fall in the operation, a first in history. Evidently, the international community response was rather complex having noted that some permanent members were divided, China and Russia believing that the conflict in Kosovo should be resolved by the parties involved free of external interference. However, more than 850. 000 out of 1.5. million Kosovo citizens have been reported as refugees. There was no doubt Milošević did not intend to sign a peace agreement, rather he

⁵⁴⁸ Ibid.

⁵⁴⁹ UN ICT for the former Yugoslavia, Final Report to the Prosecutor by the Committee Established to Review the "NATO Bombing Campaign Against the Federal Republic of Yugoslavia," <https://www.icty.org/x/file/Press/nato061300.pdf> (accessed October 31, 2022).

⁵⁵⁰ Konflikti, Reagimi Nderkombetare, Leksionet e Mesuara. Komisioni I Pavarur Nderkombetare per Kosoven, Report of *KIPRED* [Conflict, International Response, Lessons Learned. Independent International Commission for Kosovo, Report of KIPRED]. (Instituti Kosovar per Kerkime dhe Zhvillime te Politikave, Qershor, 2005). (accessed October 31, 2022).

took advantage of the international gathering to position more troops in Kosovo. Following the events in Kosovo, US President Clinton ensured that the US message to Serbia was clear and firm. On April 1, 1999, he stressed the following: ‘‘For peace to happen, Milošević would need to offer Kosovo self-government and security. Whether Milosevic sees the situation as a threat or as a chance to solve it depends on his perspective.’’⁵⁵¹

1. The US- Allied Powers Negotiations on Deployment of Foreign Military Forces in Kosovo

In the aftermath of NATO airstrikes between March 24, 1999, and June 10, 1999, the US’ interest in resolving the Kosovo conflict was undermined, primarily due to the anti-American policies of its geopolitical adversaries (Russia). However, as a means of resolving the conflict, both sides, the US and Russia, acknowledged that cooperation was key. However, underlying differences in values and perspectives made such significant cooperation more complicated than one might expect. On April 19, 1999, in a phone conversation, Russia’s President Boris Yeltsin and US President Clinton chatted about the conflict and alternative options. In response to NATO airstrikes driven by US motives, Yeltsin expressed his reluctance to participate. Furthermore, he added: ‘‘I have never faced such a difficult task as the NATO military airstrikes against Yugoslavia. I might say that NATO and the US committed a fatal mistake because Milosevic will never give in.’’⁵⁵² While the Kosovo war did not contribute to US-Russian relations in terms of compatibility, Yeltsin was certain that Russia’s presence of its troops in Kosovo would be vital to resolving the conflict. Consequently, Yeltsin took the opportunity and recommended to Clinton that Russian Diplomat Viktor Chernomyrdin be appointed as a Special Envoy. On the other side, the US was aware that to be able to convey a clear message to Milošević and settle the conflict, it had to

⁵⁵¹ The White House At Work. President Bill Clinton: A Commitment to Bring Peace to Kosovo. April 1999. (accessed October 31, 2022).

⁵⁵² National Archives, U.S. The White House. Clinton Digital Library, Memorandum of Telephone Conversation - President Boris Yeltsin of Russia, Declassified PER E.O. 13526, April 1999. (accessed October 31, 2022).

compromise with Russia. Consequently, Clinton supported Yeltsin's decision of appointing Chernomyrdin; however, during their conversation, Clinton and Yeltsin discussed perspectives that would affect their citizens' perceptions in the long run. The views of citizens played a key role in Russia's receptivity on their soil, which could help facilitate more effective cooperation and a faster resolution. However, having into consideration that Russia was supportive of Serbia, the US was already aware that permitting Russia's military presence in Kosovo would not be an easy undertaking. Despite Clinton's optimism in working with Russia, it was clear to him that Kosovars did not hold a positive view of the latter. In other words, for Kosovo, Russia's presence in their territory was equal to Serbia's presence, therefore, Clinton emphasized to Yeltsin that international presence was essential, otherwise Kosovo would never return if only Russian forces were present instead of American or international forces.⁵⁵³ Furthermore, Clinton stated that NATO was the only possibility of convincing Kosovo refugees to return, otherwise, it would be impossible to disarm KLA without NATO's presence. In the absence of an international presence, having Russian troops there would be too dangerous. In fact, Clinton was one of the few international diplomats who understood the ethnic-Albanians in Kosovo mindset, which made him one of the most popular figures in the country. Clinton was very firm in his determination to bring Serbia's aggression to an end, thus, he extended US sanctions to ban oil exports of Belgrade and freeze its assets in the US on May 1, 1999.

However, at this point, the US was no longer dealing only with Serbia but also with Russia having noted their anti-American sentiment. From the US side, Clinton had appointed US Deputy Secretary of State Strobe Talbott to be in charge of the ongoing talks who spoke fluent Russian in order to communicate better.⁵⁵⁴ Strobe Talbott, Acting Secretary of State, said that during this time, there was a sense of tension building, not just regarding NATO as a whole but also about future

⁵⁵³ Ibid,1.

⁵⁵⁴ U.S. Department of State Archive. History of the Department of State During the Clinton Presidency (1993-2001), Released by the Office of the Historian, Bureau of Public Affairs. (accessed October 31, 2022).

relations between the US and Russia.⁵⁵⁵ Accordingly, Russian Special Envoy Chernomyrdin could not reach an agreement with Deputy Secretary of States Strobe Talbott on two main issues: the command of future peacekeeping forces in Kosovo, or the uncertainty over whether the Yugoslavian Military would have to evacuate Kosovo before refugees returned.⁵⁵⁶ Essentially, it was impossible for Russia to accept that US troops would be stationed in Kosovo, as reversing the decision would not be feasible in the long run. Therefore, right up to the final moment, they wrestled and negotiated to ensure it would not happen. However, Yeltsin began to endorse NATO's key bottom line since he feared the escalation of the conflict could turn against Russia, despite the fact that the Russian public was pro-Serbia. Thus, Yeltsin agreed that Serbian forces would pull out of Kosovo with "substantial" NATO participation to be introduced to keep the peace. Following the developments on May 4, 1999, US Vice President Al Gore hosted a meeting with Secretary of State Albright, Vice Secretary Strobe Talbott, Security Advisor Samuel R. Berger, Gore's Special Assistant on International Politics Leon Fuerth, and Russia's Special Envoy to Kosovo Chernomyrdin.⁵⁵⁷ During the meeting, the parties identified the relevance of a third party from the international community to taking part in the negotiation process. Consequently, among the recommended negotiators was Kofi Annan who was initially tipped as the special envoy, but State Secretary Albright proposed the Finish President Martti Ahtisaari.

In her view, Ahtisaari had proven to have deft negotiating skills during the Namibian peace talks, in addition to the fact that he was from Europe, which would ensure inclusion of the region.⁵⁵⁸ In her capacity as State Secretary, Albright showed a very clear determination to make a greater impact in Kosovo. With Albright's name of a special envoy: Talbott, Cherno, and German Gerhard Schröder, three contacted Ahtisaari and instructed the following: "Let the action

⁵⁵⁵ Martin A. Smith. *Russia and NATO since 1991: From Cold War Through Cold Peace to Partnership?* (Abingdon: Routledge, March 2009). 84.

⁵⁵⁶ CNN, archive. Finish leader to join Chernomyrdin on Belgrade visit. May 1999. <http://edition.cnn.com/WORLD/europe/9905/14/kosovo.diplomacy.01/> (accessed October 31, 2022).

⁵⁵⁷ The President of the Republic of Finland, "The article appeared in the *Finish Suomen Kuvalehti* magazine on June 1999, "Operation Balkans. (accessed October 31, 2022).

⁵⁵⁸ Alex Bellamy. *Kosovo and International Society*. (New York: Palgrave Macmillan, October 2002). 180-202.

commence!.”⁵⁵⁹ Ahtisaari's role can be summarized with peace talks in Kosovo as he was in charge of them. In the course of Kosovo's political transition, the US appeared to be more determined than any other country to implement a resolution. Following the approval from Albright, on May 31, 1999, the EU announced that Martti Ahtisaari, the President of Finland, would head the mission jointly with the US, EU, and UN.⁵⁶⁰ Following a week of intensive negotiations, on June 2, 1999, Ahtisaari, Chernomyrdin, and Talbott composed a text specifying withdrawal of “all” FRY/Serb forces from Kosovo as well as “significant NATO participation” in an international security presence. Consequently, Ahtisaari and Chernomyrdin presented the text to Milosevic in Belgrade.⁵⁶¹ On June 3, 1999, at NATO's headquarters in Brussels, Deputy of State Secretary Talbott was asked about Russia's anti-security stance towards the International Community and the US in particular. Talbott concluded that the Russian presence, as part of international security, in Kosovo should not be discounted despite its past position. Following Ahtisaari’s negotiations with Milošević, where Ahtisaari emphasized “proposed terms by [the] G8 are not negotiable, and no concessions would be made.” In reality, the terms were drafted primarily by the US and its allies to a lesser extent.⁵⁶²

The following unconditional terms were endorsed by the G8 such as: withdrawal of Serbian military troops from Kosovo territory, ceasing NATO bombing, deployment of international security, and the establishment of an interim mission. In response to Ahtisaari’s unconditional terms, Milošević stated that an urgent meeting would have to be held in the Serbian parliament with other politicians on the given matter. At this point, Serbia no longer had support from Russia, which made Milošević resentful. As no other choices were left in a joint session, following

⁵⁵⁹ The President of the Republic of Finland, “The article appeared in the *Finish Suomen Kuvalehti* magazine on June 1999, “Operation Balkans. (accessed October 31, 2022).

⁵⁶⁰ European Commission. 2186th Council meeting – General Affairs Council - Brussels, May 1999. C/99/171. 8657/99 (Presse 171). The President of the Republic of Finland, “The article appeared in the *Finish Suomen Kuvalehti* magazine on June 1999, “Operation Balkans. (accessed October 31, 2022).

⁵⁶¹ Parliament UK. Memorandum submitted by the Foreign and Commonwealth Office. Chronology of events since 19 May. (accessed October 31, 2022).

⁵⁶² Drozdiak William and Mufson Steven, “NATO Sending Tough Terms to Belgrade,” *Washington Post*, A16, June 1999. (accessed November 10, 2022).

Milošević's call for a vote, the peace agreement was approved by a vote of 136- 74. The Radical Party led by Vojislav Šešelj as opposed to the withdrawal of Serbian forces from Kosovo, so much so that he even declared that he would resign if NATO established a position in Kosovo. However, on June 3rd, 1999, Milošević's accepted the unconditional terms by endorsing the Ahtisaari/Chernomyrdin text. Following the agreement with Milosevic on the peace terms, Ahtisaari flew to Cologne to meet with US Vice-Secretary Strobe Talbott, who informed NATO members of Serbia's decision.⁵⁶³

2. The Comprehensive Military Technical Agreement (Kumanovo Agreement)

In light of the developments between the US- Russia on Kosovo, the foreign ministers from the G8 met in Cologne on June 7-8, 1999, in order to draft a text with further details about the Ahtisaari-Chernomyrdin plan.⁵⁶⁴ NATO's airstrikes generated a consensus between the international community and Serbia, aided by General Jackson, who helped broker a definitive military agreement between the parties. An agreement was reached at Kumanovo on June 9, 1999, according to which Javier Solana requested that the NATO airstrikes should be halted by deploying military troops of the international community in Kosovo. The Kumanovo Agreement, also known as the Military Technical Agreement between KFOR and Serbia, consisted of 6 Articles, and 2 appendixes.⁵⁶⁵ In the context of security, which warrants the most attention in general, international security forces (KFOR) and Serbia were required to comply with the following points. The first part of the agreement indicates that international security forces would be deployed on the ground of Kosovo's territory, which led to the adoption of a resolution at a later date. In terms of the territorial dispute, the international community devoted considerable attention

⁵⁶³ NATO. Press Point of Mr. Strobe Talbott, US Deputy Secretary of State. June1999. (accessed November 10, 2022).

⁵⁶⁴ UK Parliament. Kosovo/ Cologne European Summit. Hansard Deb June 1999 vol 332 cc 463-79. (accessed November 10, 2022).

⁵⁶⁵ Peace Agreement. Military-technical agreement between the international security force (KFOR) and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia. (accessed November 10, 2022).

to the sensitive matter for both sides. Consequently, the Air Safety Zone (ASZ) became defined as a 25-kilometer zone extending from the border of Kosovo province into the rest of the Federal Republic of Yugoslavia. (e) The Ground Safety Zone (GSZ) is defined as a 5-kilometer zone extending from the Kosovo province boundary into the remainder of the FYR's territory.⁵⁶⁶ In brief, "ground safety zones" or "buffer zones" were established to prevent conflict between the parties, which deemed the Serbian military incompetent in the region.⁵⁶⁷ Nevertheless, at a later date, the territory became the next battleground between Serbs and ethnic Albanians, except this time it was ethnic Albanians from Preshevo, Medvegja, and Bujanovci. Kosovo people relied more on US involvement on its soil than any other country because of the determination that American diplomats conveyed throughout the conflict period.

⁵⁶⁶ UNSC. Letter Dated June 1999 from the Secretary-General Addressed to the President of the SC. S/1999/682. (accessed November 20, 2022).

⁵⁶⁷ The Prime Minister Office of the Republic of Kosovo. Supervision of Kosovo's border and military-technical agreement, June 2016. (accessed November 20, 2022).

CHAPTER 9: Resolution 1244: The US Role in United Nations Resolution on the Contested Statehood of Kosovo

Having reached an agreement resulting in the lifting of the NATO ceasefire and the withdrawal of Serbian forces from Kosovo's territory, the international community began the phase of peacebuilding. With 14 in favor, 0 against, and 1 abstention (China), Resolution 1244 was adopted by the UNSC on June 10, 1999, authorizing the deployment of an international civilian and military presence.⁵⁶⁸ As the most ardent supporter of Kosovo's independence, the US endorsed a forging settlement based on the principle that the future status of Kosovo would be decided through a peaceful process, as stated in the Resolution. Consequently, Resolution 1244 brought the end of the war officially that had existed between Serbs and KLA, which led to the permanent interim mission of the UN in Kosovo. A day after resolution 1244 was adopted, on June 11, NATO-led forces, namely KFOR, were deployed in Kosovo to ensure security in the country. Thus, the withdrawal of the Serbian military from Kosovo was finalized by June 20, 1999. KFOR was composed of 50,000 forces, including 7,000 US troops.⁵⁶⁹ The US troops were located in Gjilan at the GSZ, which was deemed as the most critical part of the area. In addition to the military withdrawal of Serbian troops from Kosovo, the important points of the Resolution were as follows: the establishment of considerable autonomy and self-government in Kosovo in order to perform the basic functions of a civil administration, facilitate the political process for deciding the future of Kosovo's status, support human rights, ensure the safety and unimpeded return of all refugees and displaced persons to their homes in Kosovo. Among other principal objectives was that under no circumstances could any force of Serbia re-enter or remain in the territory of Kosovo

⁵⁶⁸ United Nations Digital Library. Security Council resolution 1244 (1999) [on the deployment of international civil and security presences in Kosovo]. Vote date 1999. (accessed November 20, 2022).

⁵⁶⁹ New U.S. Aircraft Deployments to Kosovo and U.S. Contributions. To the Kosovo International Security Force Fact Sheet released by the White House, *Office of the Press Secretary*, Washington, DC. June 1999. (accessed November 20, 2022).

or the GSZ and Air Safety Zone (ASZ). Despite the fact that Kosovo's independence was not mentioned in the Resolution, assessing security matters to ensure a certain level of security, was deemed sufficient, to begin with, the process. Despite this, the other matters seem to have received more attention, owing to the complexity of the issues. In order to effectively resolve the disputes, the idea of sending a UN mission had been discussed. Consequently, resolution 1244, Annex 2, calls for the establishment of a legal and political environment conducive to the future determination of Kosovo's status.⁵⁷⁰ Accordingly the resolution set up the legal and political framework for a *sui generis* protectorate in Kosovo, namely the United Nations Interim Administration (UNMIK). In turn, this made it possible for a more comprehensive international civil and security presence in Kosovo under UNMIK. However, many scholars were critical of the UN's mission in Kosovo, in fact, Kosovo often was positioned by many experts (Takahiro Shin'yo 2022) as a *sui generis* case and others considered it a new reality in international politics.⁵⁷¹ According to (Dogan 2012) the UN's mission in Kosovo shifted from peacekeeping to reinforcement, implying "it goes beyond UN peacekeeping concepts."⁵⁷²

1. Post- Conflict Territorial Administration: United Nations Mission in Kosovo (UNMIK)

Kosovo's transitional period on state-building evidently began with the deployment of international civil and security presences, known as UNMIK on June 10, 1999, which was provided with the relevant agenda and personnel. UNMIK was supported by the General Assembly with the approval of Resolution 53/241 on July 28, 1999, empowering the UN Secretary-General to fund it with \$200 million.⁵⁷³ The establishment of UNMIK was a unique administration in a

⁵⁷⁰ UNSC, Resolution 1244 (1999) Adopted by the Security Council at its 4011th meeting, in June 1999. (accessed November 20, 2022).

⁵⁷¹ Takahiro Shin'yo, Primacy of Peacemaking: Kosovo Humanitarian Crisis ended in 1999 and lesson learned, *Online lecture for Kolegji Dardania*, Kosovo on April 25, 2022. (accessed November 20, 2022).

⁵⁷² Nejat Dogan. *Pragmatic Liberal Approach To World Order*. (Maryland: University Press of America, 2012). 12-129.

⁵⁷³ United Nations Digital Library. Financing of the United Nations Interim Administration Mission in Kosovo: resolution / adopted by the General Assembly UN. General Assembly (53rd sess.: 1998-1999). (accessed November 20, 2022).

post-conflict country due to several factors, but most importantly in that it would temporarily govern Kosovo by not only ending the crisis but also examining the underlying causes of the crisis.⁵⁷⁴ In other words, UNMIK was responsible for managing the executive, legislative, and judicial branches of state government, and its decisions were not subject to local challenge. While it may appear to be a contradiction to the UN and World Bank's claim that the local level is often deemed to hold the highest stakes in preventing violence and achieving effective lasting solutions.⁵⁷⁵ A clear indicator that UNMIK had to work closely with local people in order to grant a peaceful and lasting solution. However, the mission was unable to adequately engage locals in the mission, as well as provide a realistic assessment of the situation. Many scholars like (Chesterman 2004) emphasize that a better long-term strategy might have been to stage early elections and allow ethnic-Albanians of Kosovo to take part in the peace process.⁵⁷⁶ In order to make peace, international cooperation and engagement with local communities are essential, which will allow them to better understand and respond to local requests, including election-related ones. During this period, an important characteristic was the absence of a local institution to govern Kosovo. At this point, Kosovo was led by the Special Representative of the Secretary-General (SRSG), who, in accordance with the Constitutional Framework, had all the power over Kosovo's autonomy. However, even though an SRSG is typically considered a trustee responsible for missions that are in the host nation's interest, this did not always hold true for Kosovo.

In June 1999, Sergio Vieira de Mello was appointed SRSG, working with UNMIK as the principal architect of Kosovo's institutions. In accordance with Section 7 of the Constitutional Framework, the SRSG had the following autonomous powers over Kosovo; 'Authority of the Special Representative of the Secretary-General The exercise of the responsibilities conferred upon the Executive Branch of

⁵⁷⁴ Arsim Bajrami. *Hyrje ne Sistemin Ligjor ne Kosove*. [Introduction to the Legal System in Kosovo]. (Prishtine: Akademia e Drejtësisë së Kosovës, 2019). 19-20.

⁵⁷⁵ World Bank Group and United Nations. *Pathways for Peace: Inclusive Approached to Preventing Violent Conflict*. Washington DC, 2018. (accessed November 30, 2022).

⁵⁷⁶ Simon Chesterman. *You, The People: The United Nations, Transitional Administration and State-Building*. (Oxford: Oxford University Press, 2004).

the Provisional Institutions of Self-Government pursuant to the present regulation shall not in any way affect or diminish the ultimate authority of Special Representative of the Secretary-General for the implementation of UNSC 1244 (1999), including powers and responsibilities reserved to the Special Representative of the Secretary-General under the Constitutional Framework for Provisional Self-Government. The SRSG shall have the final authority to interpret the scope and any other parameters of the executive responsibilities of the Provisional Institutions of Self Government set out in the present regulation.”⁵⁷⁷

When Sergio assumed his position on June 13, 1999, he proposed to the UNHCR to establish five offices in Kosovo, which UNICEF would run for the benefit of the local people. Among them was “Back-to-School”, an initiative that strived to assist and continue education for the young people who fled the country and had to discontinue their education.⁵⁷⁸ In his first days as the SRSG, De Mello placed a high priority on working with the local community. Consequently, De Mello established Kosovo’s Transitional Council (KTC), enabling Kosovo citizens to play a more active role including the Serbian community.⁵⁷⁹ In addition to having only one advisor and one consultative authority, the council was unproductive due to logistical issues. He was determined to change the broken relationships between Kosovars and Serbs. While he was determined to improve relations between Kosovo and Serbia, however, his mission came to an abrupt end after it was suggested that the responsibility should go to the Europe allies, given NATO's dominance in the region. Consequently, Bernard Kouchner, a French national and a close friend of Sergio was appointed as the new SRSG of Kosovo from 1999 until 2001. Kouchner was therefore authorized, with the assistance of relevant international organizations, to establish a civil presence in Kosovo with the objective of providing interim administration. By doing so, the Kosovo people acquired substantial autonomy under the SRSG, as well as providing a transitional administration and overseeing the establishment of provisional democratic self-governing institutions to ensure that all citizens of Kosovo could live peaceful and

⁵⁷⁷ Regulation No. 2001/9. UNMIK/ REG/2001/19. September 2001. (accessed November 30, 2022).

⁵⁷⁸ Sergio Vieira de Mello Foundation, “Humanitarian action through dialogue,” *Summary Special Representative of Secretary-General to Kosovo June-July 1999*. (accessed November 30, 2022).

⁵⁷⁹ Samantha Power. *Sergio: One Man's Fight to Save the World*. (New York: Penguin Press, April 2020.). 277-282.

normal life.⁵⁸⁰ According to Ambassador Tsuneo Nishida, peacebuilding in post-conflict countries requires human resources, qualified personnel, and money.⁵⁸¹ Clearly, UN members' financial support for Kosovo was not lacking as they made continuous contributions and among them was the US, which was a firm supporter of Kosovo's state-building efforts. On July 28, 1999, the US pledged \$556 million to the Kosovo Donors Conference in Brussels to help not only Kosovo, but also regional countries with refugee flux, such as Albania, Macedonia, and Montenegro. As stated by James F. Dobbins, Special Advisor to the President and Secretary of State for Kosovo and Dayton Implementation, the main goal was to strengthen democracy in Kosovo and to support civilians. It took intensive US lobbying to secure the commitment of \$1.058 billion from donor countries at the second Kosovo Donors' Conference held in Brussels in November.⁵⁸² With the support of the US and other foreign powers, Kosovo might seem like an easy place to operate but later proved to be anything but. But, with the Constitutional Framework coming into power on May 15, 2001, a few mechanisms were established aiming to bring Kosovo's politicians and well-known faces together, such as the Interim Administration Council (IAC) and Transitional Council (TC).⁵⁸³ The given mechanism provided Kosovo's citizens with a greater sense of involvement in the decision-making process. The Kosovo members of the Interim Administrative Council were also members of the KTC. In order to make it more participatory, the UN decided that Administrative Council would consist of eight members appointed by the Special Representative of the Secretary-General, of whom three were Kosovo citizens and one was Serbian, and four were UNMIK personnel.

⁵⁸⁰Ibid, Article 10.

⁵⁸¹ Kyoto Peacebuilding Center (KPC), First Meeting of the Councilors of the *Kyoto Peacebuilding Center*, May 2022. (accessed November 30, 2022).

⁵⁸² Clinton White House. Winning the War and the Peace in Kosovo. President Clinton, *The White House*. June 1999. (accessed November 30, 2022).

⁵⁸³ Ibid, No. 2001/9.

2. The Path to Contested Statehood: Kosovo's First Democratic Elections

A number of notable events occurred during the first phase of UNMIK, including the first local elections on October 28, 2000, which were supervised by the OSCE. In accordance with Resolution 1244, the elections were legitimate. In order to facilitate the process, the US provided logistical, financial, and personnel support to UNMIK in setting up provisional self-governing institutions, restoring law and order, and holding democratic local elections. In addition, it fostered interethnic tolerance and multiculturalism in Kosovo by supporting a wide range of social services.⁵⁸⁴ Although Serbs boycotted the elections, the OSCE concluded that a large number of Kosovo citizens 79 percent cast ballots.⁵⁸⁵ It was believed that the number of voters was unprecedented in Kosovo's history. A significant number of people encouraged the progress, but it turned out otherwise. In the case of Kosovo, the US and international community's efforts had been largely ineffective when it came to addressing the chief underlying issue of ethnic groups. Despite the end of the war in 1999, tensions remained between ethnic Albanians in Kosovo and Serbs. A clear example of this was the boycott of local elections by the Serbs in 2000. In Taylor's view, "political culture and societies that are culturally and racially divided will remain divided regardless of how the electoral system is applied."⁵⁸⁶ Initially, the international community believed that encouraging the Kosovo government to be more attentive to the Serbian minority would ease tensions, however, that did not prove to be the case. In fact, this failed to address the needs of other communities that received little or no attention from Kosovo institutions. The situation was very precarious, on the one hand, Kosovo was seeking independence and autonomy under a constitutional framework. They expressed their will through the Kaçaniku Constitution

⁵⁸⁴ The White House, 'Text of a Letter from the President to the Speaker of the House of Representatives and the President Pro Tempore of the Senate,' *Office of the Press Secretary*, New York. June 2000. (accessed November 30, 2022).

⁵⁸⁵ OSCE. Kosovo Municipal Elections 2000- Final Results. November 2000. (accessed November 30, 2022).

⁵⁸⁶ Andrew Taylor, "The Strategic Impact of the Electoral System and the Definition of 'Good' Governance," *British Politics*. 2007, 2. 20-44. 10.1057/palgrave.bp.4200047. (accessed November 30, 2022).

that was ratified on September 7, 1990. In contrast, Serbia's demands included the autonomy of Kosovo under Serbian control, thereby demonstrating indifference towards Kosovo's interests.

3. Adversity and Ambition: Kosovo's Buffer Zone (Ground Safety Zone)

Initially, the Serbia military appeared to adhere to the required demands of the GSZ stated in Resolution 1244. The military benefited from their compliance by later being permitted to enter the GSZ and use light weapons. The most significant concern with Serbian forces being present was their proximity to GSZ, which lay close to Presheva city, where an estimated 100.000 people lived, 70.000 of whom were Albanians, and the remaining Serbs lived in southern Serbia.⁵⁸⁷ Having noted the Albanians' reluctance to become independent and reluctance to be ruled by Serbia, there was a good chance of another conflict. Certainly, peace talks would not have progressed effectively without US diplomacy, which was evident principally with NATO airstrikes until Kosovo's independence.⁵⁸⁸ Although the Serbian military retreated after the NATO bombings of Belgrade ended, peace in Kosovo still remained a distant concept. The shooting of Shaqipi's brother by the Serbian police in Dobrosin on January 20, 2000, sparked tensions between the Serbian military and ethnic Albanians.⁵⁸⁹ In fact, this led to the emergence of the Liberation Army of Preseva, Medveda, and Bujanovac (Ushtria Çlirimtare per Presheve, Medvegje dhe Bujanovc). The army consisted of ethnic Albanians from Presheva, Medvegja, and Bujanovc, whose first public appearance was at the funeral of Shaqipi brother where Jonuz Musliu addressed the crowd. Serbia labeled the UÇPMB a "terrorist organization", despite its military claiming its purpose was only to protect ethnic Albanians in that region and unify them with the rest of the Albanian population. In response, Vojislav Kostunica, the newly elected Serbian leader, called upon the US

⁵⁸⁷ Select Committee on Foreign Affairs Fourth Report. Regional Issues, Presevo valley. UK Parliament.

⁵⁸⁸ Truehart, C., 'Milosevic says no to peace,' *Washington Post*, p. 1. February 1999. (accessed September 15, 2022).

⁵⁸⁹ Humanitarian Law Center. Albanians in Serbia, Presevo, Bujanovac and Medveda. 2002.

to demilitarize the area in order to avoid a new conflict.⁵⁹⁰ The UÇPMB's main objective was the reunification of Presevo, Medveda, and Bujanovc, a province with a majority of Albanians, with Kosovo. As the deputy head of the UÇPMB, Sami Azemi made clear in his remarks; "we have already notified the Security Council and other international mechanisms that this Albanian land needs to be permanently solved and without that, there will be no peace in the Balkan."⁵⁹¹ Unlike Kosovo, the US was not on the UÇPMB side fearing the consequences of such a decision would ignite another conflict and result in aggressive behavior from Serbia and Russia. According to US State Department spokesman James Rubin, "I already conveyed our clear message to leaders from UÇPMB that Kosovo and Presevo are separate entities and that US assistance cannot be granted to Presevo."⁵⁹² Following Rubin's message, it was clear to UÇPMB that it was impossible to meet its objectives in a resolution.⁵⁹³ On March 8, 2001, KFOR enabled Serbian military units to return to the GSZ, thus marking a decisive breakthrough for Serbia.⁵⁹⁴ In response to the ongoing dispute between the parties, with the initiation of American Diplomat Christopher Dell, the UÇPMB leader, and former KLA leader Thaçi met in Gjilan on March under the auspices of US diplomacy.

Despite their initial optimism, the UÇPMB failed to overcome Serbian resistance and gain accession. In view of this, the only viable solution was a ceasefire culminating in the demobilization of the UÇPMB, which allowed Serbia to achieve victory culminating in the withdrawal of Serbian military forces from the GSZ. Presently, Presheva, Medvegja, and Bujanovaci are the only Albanian-majority provinces in a fragile state. In May 2001, Shefket Musliu, commander of the UÇPMB, signed the Končulj agreement, which demilitarized and demobilized the UÇPMB.

⁵⁹⁰ Renewed clashes near Kosovo border. *BBC NEWS*, Archives. January 2001. (accessed November 30, 2022).

⁵⁹¹ AP Archive, Yugoslavia: Rebel Albanian Separatists in Serbia, November 2000. (accessed November 30, 2022).

⁵⁹² Kempster, N., 'A Diplomatic Win for Washington in Kosovo,' *Los Angeles Times*, p. 1. March 2000. (accessed November 30, 2022).

⁵⁹³ BBC News. Presevo rebels renounce military struggle, March 2000. (accessed November 30, 2022).

⁵⁹⁴ Ian Jeffries. *The Former Yugoslavia at the Turn of the Twenty-First Century*. (London: Routledge, May 2002). 564.

CHAPTER 10: Constitutional Framework for Provisional Self- Government in Kosovo

As a precaution to avoid infuriating Serbia, the international community came up with the notion of a ‘legal framework’ for Kosovo instead of a Constitution. Given the circumstances, the Constitutional Framework seemed to have been the only sensible option for the time being. A draft of the legal framework was adopted by the Quint (US, France, Germany, UK, Italy) in February 2001, following approval by the UN Secretariat, and forwarded to a Kosovo-working group on March 5. Despite many consultations, they were unable to reach an agreement to the legal terminology. Representatives of Kosovo, some of which had been involved in the adoption of the Kačaniku Constitution, began to draft an amendment that reflected their own views. The new UN SRSG Hans Haekkerup was firm that the UN would not budge on Kosovo terms anymore.⁵⁹⁵ Considering the complexity of the situation, it was hard to accommodate either side however Haekkerup reached an agreement with Rugova and Haradinaj since this was considered beneficial to Kosovo. However, Thaçi refused to sign the document and insisted that it include a resolution guaranteeing Kosovo’s independence at a later date. After seven weeks of intensive negotiations between Kosovo and Serbia, the draft Constitution was approved. Kosovo wanted the referendum considering that majority of the population is ethnic Albanians and would thus secure their long-term *quest* for independence. Meanwhile, Serbia insisted on vetoing the referendum. In May 2001, UNMIK enacted Regulation 2001/9 which brought into force the Constitutional Framework for Provisional Self-Government in Kosovo marking the process of establishing legislative, executive, and judicial institutions possible.⁵⁹⁶ In adopting the Constitutional Framework, the UN demonstrated its ability to assist Kosovo in creating a Constitution that would

⁵⁹⁵ Hans Haekkerup, “Head of UN Kosovo Mission, to Depart at the end of 2001; Secretary-General expresses regret, deep appreciation for service,” *Press Release SG/SM/ 8086. 28/12/2001*. (accessed November 30, 2022).

⁵⁹⁶ Christopher K. Lamont. *Criminal Justice and the Politics of Compliance*. (Farnham: Ashgate, February 2010) . 148.

gradually hand over international control to local authorities elected by the people. A number of important principles are enshrined in the Constitution such as: to establish a legal basis for holding parliamentary elections and for establishing legislative, executive, and judicial authorities at the Kosovo level; settlement of proviso self-government for Kosovo in accordance with Resolution 1244; providing Kosovo with a final political solution in line with UN Resolution 1244. There was no mention of a referendum on Kosovo's independence in the Constitutional Framework; nevertheless, the framework was accepted by the citizens as a step forward. Due to the region's history of ethnic conflicts, UNMIK made a concerted effort to prevent another ethnic conflict by creating an equal treatment policy. Assuring a balanced representation of all ethnic groups, it set aside 120 seats for the Central Assembly: 100 of which were for ethnic Albanians, 10 for the Serbian minority, and 10 for other groups, including Roma, Ashkali, and Egyptians (RAEs), three Bosniaks, two Turks, and one Gorani.⁵⁹⁷ In addition, among the 56 rules that UNMIK issued in 2000, 25 of them were adopted by the Kosovo's Parliament.⁵⁹⁸ Things eventually unfolded in support of Serbia where on November 1, 2001, in Belgrade, SRSG Hans Haekkerup and Coordinator for Kosovo Nebojsa Čovic co-drafted a joint statement in which they pledged to engage Serbians in the general elections of Kosovo.

The draft among other consisted of the following three conditions to be met: a) the institutions resulting from the elections would not declare themselves independent, b) UNMIK had to guarantee the safety of Serbs in Kosovo, and c) Yugoslav units had to be allowed to return to Kosovo. The agreement not only went against the Kosovo's citizens will but also violated international law. For the first time, it legitimized Serbia as a joint negotiator in negotiations for Kosovo's status, which was in violation of UNSC 1244/99.⁵⁹⁹ The fact that Hans Haekkerup

⁵⁹⁷ European Parliament, "Notice to Members N 3/2002," *Ad hoc* delegation for the observation of Kosovo Assembly elections November 2001. (accessed November 30, 2022).

⁵⁹⁸ Ilir Dugolli and Shannel Sharma, "Ligjet pa politika- te paperdorshme, te pazbatueshme dhe te kota," *Seria e Analizava Politike: Punimi#4*. [Laws without policies - useless, unenforceable and useless," Series of Political Analyzes: Thesis#4]. Prishtine: KIPRED Dhjetor, 2006. (accessed November 30, 2022).

⁵⁹⁹ Blerim Reka. *UNMIK as an International Governance in Post-war Kosova: NATO's Intervention, UN Administration and Kosovar Aspirations*. (Skopje: Logos A, 2003).

signed a deal with later Serbian Prime Minister Nebojša Čović without consulting the Kosovo government contributed to the loss of much of his credibility. In the eyes of the local people, Haekkerup became the most unlikable figure that led to his resignation. On February 14, 2002, Michael Steiner assumed his position as Special Representative of UN Secretary-General for Kosovo. The frequent changes contributed to inefficiency on the part of the SRSG as the most authoritative person in Kosovo. Furthermore, many of the implied requirements of the agreement between Haekkerup and Čović no longer applied because of changes in the political landscape in Serbia. Kosovo was advantageously positioned as a result. The Democratic Party of Serbia (DSS) led by Vojislav Koštunica and Zoran Đinđić from Democratic Party held more promising political viewpoints during the reign of Milosevic, which made ethnic Serbs more likely to participate in the first Kosovo elections scheduled for 2001. Consequently, Kosovo's first general election took place on November 19, 2001, with a turnout of 1.25 million voters, with 63 percent of Kosovars casting their ballots, and 45 percent of ethnic Serbs.⁶⁰⁰ Demographically, the Democratic League of Kosovo (LDK) garnered 46.29 percent of the votes, PDK got 25.54 percent, and the newly-formed Kosovo Serb political entity, Coalition Return, got 10.96 percent of the votes.⁶⁰¹ The overwhelming turnout of the elections, yet again demonstrating to the international community the determination of Kosovo to form its own government and institutions.

Furthermore, the outcome of the vote permitted the establishment of temporary institutions for democratic self-government and autonomy in line with Resolution 1244. It was apparent that there was no monopoly of power and that Kosovo parties had to come to an agreement, but reaching a compromise was slow. In spite of the US representatives in the capital city of Kosovo, Prishtina monitoring the proceedings, it had little significance since the three parties, the LDP, PDK, and AAK failed to convene Provisional Institutions of Self-Government (PISG), resulting in

⁶⁰⁰UNSC, Resolution 1244/99. Constitutional Framework for Provisional Self-Government in Kosovo. Regulation NO. 2001/9. (accessed November 30, 2022).

⁶⁰¹ OSCE. First official results in Kosovo election announced. Pristina, November 2001. (accessed November 30, 2022).

unsuccessful attempts at electing Ibrahim Rugova as President of Kosovo.⁶⁰² The primary issue was to ensure that the newly elected President would have the responsibility of electing the new Prime Minister and simultaneously selecting new ministers, as outlined in UNMIK Regulation 2001/19. PDK's leader Hashim Thaçi's links with the KLA caused friction on the Serbian side, and with the international community noted that he was rooting for Kosovo's independence. However, the disapproval of Thaçi was not coming only from the international community in Serbia but also from Kosovo politicians. Among them is the leader of LDK Ibrahim Rugova since he knew that Thaçi aspired to be the next prime minister. Thus, Bajram Rexhepi from the PDK was appointed as Prime Minister and Rugova was appointed as President. While it had emerged, the PISC did not yet have the authority to declare independence for Kosovo, however, with the US on Kosovo's side, efforts were slowly progressing. Nonetheless, three months before the first general elections in Kosovo were held, the US was attacked by a terrorist group on September 11, 2001. Thus, the US began to focus heavily on Iraq and Afghanistan in the Middle East. A lack of US presence contributed significantly to Kosovo's uncertain period during which independence seemed unlikely, despite UN peacekeeping efforts.

On November 15, 2001, the Security Council held a public debate entitled. "The Purpose of Peace Operations".⁶⁰³ According to this statement, peacekeeping operations were principally aimed at fostering regional cooperation, thus, UNMIK declared in its "No Existence without a Strategy" that it would remain in Kosovo pending the resolution of its final status.⁶⁰⁴ The international community's main response in post-conflict nations is to promote the rule of law, also known as local institutions, which is vital to the progress of a country. In spite of UN ambitions for an independent Kosovo, they remain apprehensive about its prospects.

⁶⁰² U.S. Government Printing Office, Washington: 2001. 107th Congress, 1st Session. A report by Senator Joseph R. Biden, JR. to the Committee on Foreign Relations United States Senate in February 2001. (accessed December 1, 2022).

⁶⁰³ UNSC, "No exit without strategy: Security Council decision-making and the closure or transition of United Nations peacekeeping operations," *Report of the Secretary General*, April 2001. (accessed December 1, 2022).

⁶⁰⁴ *Ibid.*1.

1. The March 2004 Riots in Kosovo: An Inadequate Response and Future Prospects

The situation deteriorated significantly after the drownings of six Kosovo children in 2004, pursued by Serbia in the Ibar River west of Mitrovica, a city with a predominantly Serbian population. In response, Kosovo citizens staged a massive protest that drew between 50,000 and 60,000 protesters.⁶⁰⁵ Such an overwhelmingly large protest stemmed not just from the incident with children, but also from the unresolved status of Kosovo. According to Herbert, citizens attacked UNMIK's buildings because of their authoritative position.⁶⁰⁶ The protest resulted in the destruction of 550 homes, including 27 orthodox churches, and monasteries were destroyed, resulting in displacement, which in turn made UNMIK incapable of maintaining peace and security in Kosovo. In the wake of the March 2004 riots, the US diplomatic mission, along with representatives from Germany, France, Italy, and the UK, became more assertive for Kosovo's final status.⁶⁰⁷ Though progress had stalled since the March riots, unemployment still remained at 60 percent at this time, leading to much discontent among the people. On October 23, 2004, the country held another general election in order to continue state-building, in which the number of participants decreased by 13 percent from the previous election. As a result, Kosovo's people became more pessimistic about Kosovo's independence, which led to the UN appointing Norwegian Diplomat Kai Eide as Special Envoy in 2005 to monitor the ongoing intense situation in Kosovo. He stressed the importance of resolving Kosovo's status quo promptly, warning the Kosovo people that further tensions would result in UNMIK's collapse, making negotiations for Kosovo's final status impossible. Moreover, he argued that locals should collaborate with the international community in the quest for peace since peace cannot be achieved solely by one

⁶⁰⁵ Organization for Security and Co-Operation in Europe (OSCE). Office of the Representative on Freedom of the Media. *The Role of the Media in the March 2004 Events in Kosovo*. Vienna, 2004. (accessed December 1, 2022).

⁶⁰⁶ Nicolas Lemay-Hébert, "State-Building from the Outside-In: UNMIK and Its Paradox," *Journal of Public and International Affairs*, Princeton University, 2009. (accessed December 1, 2022).

⁶⁰⁷ Gezim Visoka. *Acting Like a State Kosovo and the Everyday Making of Statehood*. (London: Taylor & Francis, June 2021).

party. The UNDP Early Warning Report concluded in 2005 that on-site interactions were the most effective and efficient way to reach Kosovo residents.⁶⁰⁸ According to the report, 90.2 percent of respondents agreed that declaring independence within the border would be essential to resolving Kosovo's status. Every year, UNMIK's performance failed to meet the expectations of Kosovo's people, decreasing from 64 percent in 2002 to 21 percent in 2004.⁶⁰⁹ Although Kosovo received less favorable treatment due to its incursions on Serbian religious buildings in 2004, negotiations over the final status began in Vienna under Martti Ahtisaari.

2. The US Role in Kosovo's Constitution-Drafting Process

Secessionist movements increased following the breakup of former unions into independent states, resulting in more secessionist movements worldwide than UN memberships.⁶¹⁰ Therefore, being able to emphasize the complexities pertaining to secessionism showcases why a movement of this nature takes place. Some of the unions that broke up were the FYR and the Soviet Union. Though it is quite evident and often conceivable that an internal dispute pertaining to equality can be resolved internally, this is rarely the case due to the lack of appropriate institutions and experts. The dominance of foreign powers in the region is usually due to these factors. Aside from peacebuilding, newly independent countries typically need assistance with laws and constitutions. It is not uncommon for foreign countries or organizations to be involved in constitution-writing, such as the UN, the US, etc. The US's role as the second-party power demonstrates its significance in Kosovo's quest for freedom, establishing democratic institutions, and drafting the Constitution. The absence of experts and complexities in the region made it possible for external actors to gain a greater impact than local ones during Kosovo's long journey

⁶⁰⁸ UNDP, 'Kosovo early warning system phase III project, 2005-2010'. (accessed December 1, 2022).

⁶⁰⁹ Nicolas Lemay-Hébert, 'State-Building from the Outside-In: UNMIK and Its Paradox,' *Journal of Public and International Affairs*, Princeton University, 2019. (accessed December 1, 2022).

⁶¹⁰ Don H. Doyle. *Secession As an International Phenomenon: From America's Civil War to Contemporary Separatist Movements*. (Athens: The University of Georgia Press, November 2010). 37.

toward independence and constitution-drafting. According to Arato: “Wherever new state regimes will emerge in the future, whether through negotiation, revolutionary process, federation, secession, or partition, the making of a new Constitution will likely be a key item on the political agenda”.⁶¹¹ In line with Arato’s definition, Kosovo citizens had already exhibited the capability of drafting a Constitution that guaranteed their rights, such as the Kçaniku constitution that dissolved independence from the Serbia in 1991.⁶¹² In general, it was apparent that citizens aimed to govern their own country, under legitimate institutions. There was a growing sense of confidence among the KLA fighters as well as affiliated entities in their ability to overcome the crisis either with or without UN assistance. In accordance with Resolution 1244, UNMIK was authorized to establish self-governing institutions in which local people could assume power. The complexities arose during the process because Serbia was exerting influence at the same time Kosovo demanded a government of its own. The Serbian government’s critical views on Kosovo’s independence and Constitution led to many confidential meetings and discussions between Kosovo experts and international. Therefore, during the overlapping period of 2000, USGS Kouchner gathered in Prizren aiming to explore the likelihood of using the Rambouillet Agreement as a model for constitution- writing.⁶¹³

Kouchner had a comprehensive understanding of the aspiration of Kosovo’s citizens to become an independent state, enabling greater cooperation with local experts. Since the constitution-drafting process was kept secret, there was no public input at the beginning. As stated by US Judge Tunheim, Serbia wanted to know, “why U.S. officials were writing a Constitution for a part of ‘their’ territory.”⁶¹⁴ By 2001, Kosovo held its first democratic elections since the end of the war, which led to Ibrahim Rugova as the leader of the Democratic League of Kosovo, who later became

⁶¹¹ Andrew Arato. *The Adventures of the Constituent Power: Beyond Revolutions?* (Cambridge: Cambridge University Press, December 2018).

⁶¹² Kushtetuta e Republikës së Kosovës (Kushtetuta e Kaçanikut). [Constitution of the Republic of Kosovo (Kaçaniku Constitution)]. *KOHA*. KK Numer 3/92. Prishtine, Maj 1992. (accessed December 1, 2022).

⁶¹³ The Yale Review of International Studies. *Constitution as Reconciliation? Exogenous Influences on Post-Conflict Kosovo*, November 2012. <http://yris.yira.org/essays/762> (accessed December 1, 2022).

⁶¹⁴ *Ibid.*

the country's president. Rugova's ruling party gained the most popularity through elections for three consecutive years between 2001-2004. A successful and democratic election in accordance with international law contributed to the UN's ability to continue its negotiations on Kosovo's status. Consequently, a series of UNSC standards for Kosovo was endorsed in December 2003, including the rule of law, freedom of movement, right to return, and dialogue with Belgrade, and the Kosovo Protection Corps. The initial status negotiations were largely focused on technical matters, which strengthened Serbia's position during the negotiations by not debating Kosovo's independence or Constitution. Nonetheless, this did not deter Kosovo citizens from pursuing their aim, as they frequently presented inquiries about this subject.⁶¹⁵ During the status talks, Ahtisaari was fully aware that the Kosovo people were firmly committed to independence and constitution-building. Considering that former KLA leader Hashim Thaçi was now Kosovo's Prime Minister, Ahtisaari was concerned that Thaçi might announce Kosovo's independence at any time. However, it was the opposition party's 'Vetëvendosje' who, in 2005, made this interpretation a reality by rallying under the slogan "no negotiation, self-determination."⁶¹⁶ Consequently, in November 2005 the UNSC decided to appoint Ahtisaari as its Special Envoy for Kosovo's future status. In line with resolution 1244, Ahtisaari was responsible for the management of the political process that was taking place between Kosovo and Serbia.

The local population welcomed his appointment as Kosovo's future status advisor, believing that Kosovo's unrested call for full independence came from optimism that their independence aspirations would become a reality. A green light was given for finalizing the status of the country during these negotiations, therefore, comprehending the significance of Kosovo's final status helped Ahtisaari to find the optimal way for both parties. Consequently, on January 16, 2006, Ahtisaari and Special Representative Søren Jessen-Petersen met with representatives of the

⁶¹⁵ Marc Weller. *Contested Statehood: Kosovo's Struggle for Independence*. (Oxford: Oxford University Press, 2010). 240-257.

⁶¹⁶ Lëvizja Vetëvendosje, Historik i 'Lëvizja Vetëvendosje'. [History of Self-determination Movement] (accessed December 1, 2022).

Contact Group in Vienna to discuss the given matter. Their meeting prompted as a result of 2004 riots that were caused by Kosovo's ambiguous status prompted a number of different meetings throughout the process. In July 2006, in addition, the OSCE hosted a round table discussion centered on constitutional principles and way to promote democratic values.⁶¹⁷ The conference was aimed to examine the challenges that Kosovo would face; however, Ambassador Wnendt stressed during the meeting that, "the purpose of the meeting was not to influence the outcome of the status negotiations, but rather to prepare Kosovo's communities for their outcomes."⁶¹⁸ On March 26, 2007, Ahtisaari presented the Comprehensive Proposal for the Status of Kosovo to the UNSC. There are 12 annexes to the Proposal Plan, as well as fundamental concepts and general principles. The following areas received significant attention; Article 1, paragraph 1.2 of the General Principles: Kosovo "must create a constitution in compliance with Annex I of this agreement."⁶¹⁹ Article 9 of the Security Sector 9.3: "In accordance with the provisions of this settlement and in accordance with their respective mandates, the International Civilian Representative (ICR) and the International Military Presence (IMP) shall supervise and guide the development and evolution of the Kosovo security institutions."

Annex VIII of this Settlement: "a new professional and multiethnic Kosovo Security Force (KSF) must be constituted, with a lightly armed component capable of defined security responsibilities." Article 10 of the Constitutional Commission, paragraph 10.4: "the Kosovo Assembly must formally ratify the Constitution within 120 days following the entrance of this Settlement with a two-thirds majority of the present Assembly members."⁶²⁰ Annex II- Article 1 on Community Rights: "Kosovo must respect the national ethnic, cultural, linguistic, and religious identities of all Communities and their people."⁶²¹

In addition to Serbia's objection to the Ahtisaari proposal, another rationale was that the Ahtisaari's plan was likely to fail in the Security Council owing to Russia's veto.⁶²² However, this did not persuade the US to neglect the political settlement in which considerable effort had already

⁶¹⁷ OSCE, "Roundtable on drafting new constitution helps promote democratic values in Kosovo. Dillon Case," August 2006. (accessed December 1, 2022).

⁶¹⁸ Ibid.

⁶¹⁹ Ibid.

⁶²⁰ UNSC. Letter dated 26 March 2007 from the Secretary-General addressed to the President of the Security Council Addendum Comprehensive Proposal for the Kosovo Status Settlement. S/2007/168/Add.1. March 2007. (accessed December 1, 2022).

⁶²¹ Ibid.

⁶²² John Tunheim, "Rule of Law and the Kosovo Constitution," *Minnesota Journal of International Law*, 2009.

been devoted. In spite of all evidence, many G8 members opposed Kosovo's independence (minus Russia). During this time, several members of the Contact Group debated whether a constitutional document was appropriate because Serbia would never agree to Kosovo's independence. Nevertheless, it was already evident that Kosovo was on its way to becoming an independent country, although, Serbia did not apply the 'wait and see' method. Instead in October 2006, Belgrade's Assembly held a referendum in which the preamble of paragraph 6 identifies the Autonomous Province of Kosovo and Metohija as enjoying "substantial autonomy".⁶²³ As Abraham Lincoln noted a century before the second world war that "secession does not resolve domestic disputes; it only makes them international."⁶²⁴ Consequently, with US leading, experts from Europe and Kosovo came together to write Kosovo's post-war Constitution. The Constitution was constituted of 116 pages long and included a review of over 150 constitutions for their applicability to Kosovo as well as minority rights. The US Judge John Tunheim was one of the experts chosen by the UN in 2000 to construct an independent court in Kosovo via the establishment of the judicial system. Following his success in 2007, Tunheim was asked by the American chief mission to assist Kosovo's path to independence as well.⁶²⁵

In the same year, Torbjorn Sohlstrom, Arsim Bajrami, and Hajredin Kuçi from the Kosovo delegation organized a constitutional panel in January 2007. Unlike the Rambouillet Accords, the Kosovo delegation was evidently included in the writing process this time, encouraging local people to understand that a Constitution was still conceivable amid the status uncertainty. After the unveiling of the Ahtisaari comprehensive plan, it was evident that Kosovo was heading towards its final status. In this way, while the negotiations on Kosovo's final status were taking place, the process of drafting the Constitution had begun, but it became effective only after Kosovo declared

⁶²³ Council of Europe. European Commission for Democracy Through Law (Venice Commission). Opinion on the Constitution of Serbia adopted by the *Commission*. Opinion No. 405/2006. March 2007. (accessed December 1, 2022)

⁶²⁴ Don H. Doyle. *Secession As an International Phenomenon: From America's Civil War to Contemporary Separatist Movements*. (Athens: The University of Georgia Press, November 2010).

⁶²⁵ John Tunheim, "Creating a Constitution for Kosovo," *Concordia College*, Minnesota, December 2009. (accessed December 1, 2022).

its independence. In other words, the constitution writing was taking place while the Ahtisaari negotiations were taking place in Vienna. In spite of Kosovo being a predominantly ethnic-Albanian society, a multiethnic Constitution document emerged which was later drafted. A multi-ethnic society with equal rights was the objective of the Ahtisaari plan, principles that were incorporated in the Constitution ensuring ethnic rights for all the communities in Kosovo. Kosovo was certainly conforming with the international community's standards for the democratic rights of all people residing in Kosovo, regardless of ethnicity. The preambular provisions, on the other hand, demonstrates that constitutional texts should be grounded in the history of a country whose image is permanently determined by its past. The Kosovo constitution, on the other hand, was trusted to the international community, particularly the US.⁶²⁶ Result of US influence on the drafting of Kosovo's Constitution can be seen in that it commences with the same terminology as the latter's Constitution: "We the people of Kosovo [...]".⁶²⁷ Consequently, the Constitution employs several US-style checks and balances while also implementing a European-style parliamentary system in which the people elect a prime minister as the head of government.⁶²⁸

Prior to the drafting of the Constitution, three essential goals had to be considered: first, a Constitution that was acceptable to its citizens, second, a Constitution that would allow its independence to be recognized internationally even amid opposition, and finally, a Constitution that embodied values - values that other democratic countries embodied and embraced by its citizens. According to (Marko 2008) a number of factors should be considered when writing a Constitution, including legislative authority, executive power, and minority rights.⁶²⁹ In line with Marko's statement, the dominant theme during the talks was minorities in Kosovo, which made

⁶²⁶ Gazeta Zyrtare e Republikës së Kosovës. Kushtetuta e Republikës së Kosovës. Numeri I aktit: K-09042008. Date e publikimit: April 2008. (accessed December 1, 2022).

⁶²⁷ United States Senate. Constitution of the United States. Archived Floor Proceedings. (accessed December 1, 2022).

⁶²⁸ Juliet Kaarbo and Margaret G. Hermann. *The Leadership Quarterly*. (Athens: Ohio University, Autumn 1998). 243-263.

⁶²⁹ Joseph Marko, "The New Kosovo Constitution in a Regional Comparative Perspective," *Review of Central and East European Law* 33, 2008). 437-450.

the situation considerably more complicated owing to the existing crisis between ethnic-Albanian and ethnic-Serbs. Even though Kosovo's independence was not apparent, the country's president had already established its constitutional committee of advisors. The Ahtisaari plan for drafting the Kosovo Constitution was administered by 21 members chosen from the Kosovo delegation based on their relevant experience, 15 members appointed by the President of Kosovo in consultation with the Assembly, and 3 members appointed between deputies who hold their seats for Serbian community representatives and 3 members appointed from the rest of Kosovo communities. The Kosovo experts had previously prepared a proposal, which was delivered by Professor Arsim Bajrami and Professor Hajredin Kuçi that became available for Consultation between February 19 to March 4, 2007, resulting in constructive modifications. Throughout the negotiations, Kosovo delegations began to inquire for information as to whether Kosovo would have its own Constitution, and the elements of such a Constitution could be debated during the Vienna talks. However, Ahtisaari and the international community remained silent on Kosovo's delegation's proposal, concerned that hearing Kosovo's request would push Serbia to lead those negotiations because they were included in the discussions. The process and the writing of the Constitution had received considerable support from the US Office in Kosovo and USAID. To put it another way, US helped the commission by sending its experts, which was critical given that the Kosovo commission's members were relatively new in experience.

The US had a significant impact on constitution-making from the very beginning.⁶³⁰ Following Kosovo's independence, USAID chose two Kosovo legal officials to attend the '2008 International Legislative Drafting Institute' at Tulane University Public Law Center in New Orleans, Louisiana. This was intended to provide the attendees with an understanding of legislative drafting practices in the US State and Federal legislative and executive branches. In March 2007, Ahtisaari delivered the, 'Comprehensive Report and Proposal' to UN Secretary-General Ban Ki-Moon after 17

⁶³⁰ U.S. Department of State. Archived Content. Bureau of European and Eurasia Affairs FY 2007. U.S. Government Assistance to and Cooperative Activities with Central and Eastern Europe Report.

rounds of talks and 14 months of negotiations; he also urged the establishment of a committee of experts to monitor Kosovo's statehood.⁶³¹ Having been unable to reach a consensus with the parties on Kosovo's final status, then French President Sarkozy proposed an additional period of 120 days of negotiations. This meant if parties could not find a common understanding, then Ahtisaari plan would be endorsed.⁶³² Consequently, Bank Ki-Moon endorsed the Contact Group Troika composed of the US, EU, and Russia, enabling the group to be in charge of the 'additional 120 days' to sort out Kosovo's future. The troika group's representatives included Frank Wiesner from the US, German Ambassador Wolfgang, and Russian Alexander Botsan-Kharchenko. The Troika group indicated that they would assist in the dialogue between the parties but would not necessarily impose a solution. During the Troika negotiations, Serbia requested that Kosovo be given substantial autonomy, which would allow Kosovo to exercise self-governance differently than before. However, Kosovo rejected the proposal; alternatively, it proposed an agreement with Serbia on how to govern mutual cooperation by enabling Belgrade to have certain legitimate interests. The premise that Kosovo was negotiating with Serbia ultimately led to the understanding that Kosovo was not a province, but rather a sovereign nation. Following the developments in June 2007, US President George Bush visited Albania where he promised by emphasizing that: 'independence to Kosovo although the process can be long independence is certain.'⁶³³

Following the meeting in July, 2007 of the US, UK, France, Germany, Italy and Belgium decided to draft resolution that was less ambitious than the Ahtisaari plan.⁶³⁴ It states the following; 'Kosovo is *sui generis* resulting from the disintegration of the former Yugoslavia, including the historical context of Yugoslavia's violent break-up, as well as the massive violence and repression that took place in Kosovo in the period

⁶³¹ Gezim Visoka. *Acting Like a State Kosovo and the Everyday Making of Statehood*. (London: Taylor & Francis, June 2021).

⁶³² Marc Weller, "Kosovo's final status," *International Affairs*, Vol. 84, Issue 6, November 2008.

⁶³³ The White House, "President Bush Participates in Joint Press Availability with Prime Minister of Albania, Dr. Sali Berisha," *Office of the Press Secretary*. June 2007. (accessed December 1, 2022).

⁶³⁴ Marc Weller, "Kosovo's final status," *International Affairs*, Vol. 84, Issue 6, November 2008.

up to and including 1999, the extended period of international administration under resolution 1244, and the UN-led process to determine status and that this case shall not be taken as precedent by UNSC. ‘⁶³⁵

The document further reaffirms Kosovo as a multi-ethnic place that enabled Kosovo to be considered as an independent state and not just as a party.⁶³⁶ In response to the developments surrounding Ahtisaari, the commission met in late October 2007 in Mitrovica, the north of Kosovo, to review the drafts that had to be delivered. John Tunheim, one of the American lawyers, argued that the Constitution was a modern European Constitution based on the US form. When it was first published, the Constitution was amended although only few modifications were made before it was submitted to the president and prime minister.⁶³⁷ On November 7, 2007, Kosovo’s first election was held with the help of OSCE. The winning party was the Democratic Party of Kosovo (PDK) with former KLA leader Hashim Thaçi succeeding 34.3 percent of the vote.⁶³⁸ The results spurred other Kosovo parties to form a coalition, which was approved by the international community. Following Kosovo’s successful presidential election on December 7, 2007, the Troika Group presented its final report to the Security Council after four months and ten sessions, six of which were face-to-face. Finally, according to the Troika report, Kosovo embraced the Ahtisaari proposal, but Serbia dismissed it, hence a compromise could not emerge.

The Baden Conference in Austria, attended by the Troika group with the Kosovo delegation constituted of President Fatmir Sejdiu, Prime Minister Agim Çeku, Hashim Thaçi, Kole Berisha, and Veton Surroi. From Serbia, the delegation was composed of President Boris Tadic, Prime Minister Vojislav Koštunica, Foreign Minister Vuk Jeremić, and Minister for Kosovo Slobodan Samardžić.⁶³⁹ A final attempt was made to reach an agreement between the parties, additionally,

⁶³⁵ Ibid.

⁶³⁶ UNSC. Belgium, France, Germany, Italy, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution, July 2007. (accessed December 1, 2022).

⁶³⁷ John Tunheim. “Rule of Law and the Kosovo Constitution,” *Minnesota Journal of International Law*. 25, (2009). (accessed December 1, 2022).

⁶³⁸ Komisioni Qendror i Zgjedhjeve (KQZ). Zgjedhjet 2007. Rezultatet e Zgjedhjeve te QNR-se. [Central Election Commission (CEC). Elections 2007. Results of the Elections of the CNR]. (accessed December 1, 2022).

⁶³⁹ UNSC. Letter dated December 2007 from the Secretary-General to the President of the Security Council. S/2007/723.

the report's author thought that resolving Kosovo's status was critical, underlining that a peaceful resolution would contribute to regional peace. In response to Ahtisaari's proposal for the Constitutional Commission group, the US office in Pristina was created as a means of implementing an interim strategy with the establishment of the Pre-Constitutional Working Group (PCG).⁶⁴⁰ The PCG's work covered areas that Ahtisaari did not address emphasizing that the working group's importance should not be underestimated. The US office presented relevant information on the implementation of the Constitution jointly with the USAID and OSCE.⁶⁴¹ Among the reasons for the trust placed in the US by the Kosovo people is their political proximity to the latter's independence drive.⁶⁴² Initially, Hajredin Kuçi, led the PCG which was divided into the following groups:

1. Preamble.
2. Founding Principles, Rule of Law and Transitional Provisions.
3. Kosovo Institutions.
4. Fundamental Rights and Freedoms.
5. Community Rights.
6. Economic Relations.
7. Security and Order.
8. Judicial power, Prosecution and Constitutional Court.
9. Local Self-Government.
10. Independent Agencies and Ombudsperson.⁶⁴³

Regardless of the fact that each group was joined by international experts, some of this group sections were inaccurate and raised concerns due to a lack of local people's participation. Consequently, it was decided to establish a *committee de redaction* that would merely harmonize

⁶⁴⁰ Joseph Marko, "The New Kosovo Constitution in a Regional Comparative Perspective," Review of *Central and East European Law*, 33, 2008. (accessed December 1, 2022).

⁶⁴¹ USAID. Kosovo 2007 Performance Report. Opening Unit Performance Summary. (accessed December 1, 2022).

⁶⁴² Conducted an interview with Hajredin Kuci in Prishtina, Kosovo, January 2020.

⁶⁴³ UNSC, S/2007/168/Add.1, March 2007. (accessed December 1, 2022).

the draft.⁶⁴⁴ While this was the case, the input provided by Arsim Bajrami and Hajredin Kuçi, was crucial in presenting Kosovo's position. As a response, the International Civilian Office (ICO) was established under the Ahtisaari plan to supervise Kosovo's independence from 2008 to 2012. In fact, under Annex IX, the International Civilian Representative of the Ahtisaari plan, the ICO was stationed in Kosovo to monitor the country. The International Steering Group, comprised of the US, Russia, some EU members, and NATO, proclaimed Kosovo to be in compliance with the Comprehensive Status Proposal.⁶⁴⁵ The Presidential elections in Serbia contributed to the rest of the international community's understanding of Serbia's firm position on Kosovo since its geopolitics changed a little to nothing. According to preliminary results, Boris Tadić of the Democratic Party (DP) won the Serbian presidential election on January 20, 2008.⁶⁴⁶ He was perceived as pro-European, which contributed to a more positive climate for Kosovo's declaration of independence in February 2008. There was optimism from Kosovo that Serbia's elections would contribute to reconciliation between the two sides, nevertheless, following his election, Serbian President Boris Tadić addressed the Security Council where he asserted that Belgrade had engaged in fruitful negotiations for two years. Further, he emphasized that: "Belgrade was ready to grant the southern province the 'largest possible autonomy' and had offered numerous compromises during negotiations in the past two years. Serbia will never recognize Kosovo's independence and will preserve its territorial integrity and sovereignty by all democratic means, legal arguments and diplomacy."⁶⁴⁷

Serbia's refusal of Kosovo's independence had little effect on the international community's willingness to grant Kosovo a Constitution. Members of the Constitutions working group toured numerous areas of Kosovo, presenting to the people of Kosovo the main ideas of the work they

⁶⁴⁴ Marc Weller. *Contested Statehood: Kosovo's Struggle for Independence*. (UK: Oxford University Press, 2010). 240-257.

⁶⁴⁵ Martina Spornbauer. *EU Peacebuilding in Kosovo and Afghanistan: Legality and Accountability*. (Leiden: Martinus Nijhoff Publishers, February 2014).

⁶⁴⁶ Pro-Western Tadic wins Serbia's presidential election. <https://www.cbc.ca/news/world/pro-western-tadic-wins-serbia-s-presidential-election-1.748681> . (accessed December 1, 2022).

⁶⁴⁷ UNSC, SC/9227, January 2008. (accessed December 1, 2022).

had done thus far. Between February 19 to March 4, 2008, the public could review the Constitution, allowing citizens to engage in the process. During this time, the US office had developed a high-tech internet system for collecting public opinions and ideas. Due to time constraints, minimal adjustments were made when the group toured all towns and villages to discuss it with the people. By April 2, 2008, the final version of the Constitution was certified by the ICR, of which the text was adopted on April 9, 2008. After modifications, the Constitution took effect on 15 June 2008. The first mechanisms of Kosovo's Constitution were found in the Rambouillet Accords, and the constitutional framework adopted by the UN in 2001. Mechanisms were incorporated into the existing constitution of 2008 but were never accepted by Serbia. As stated by (Thomas 2008), "a Constitution is a written set of rules for a country that says what the government and its people must do for each other's. It must also say what the government cannot do." Although a Constitution "represents" a state's legitimate authority, it also creates the necessary laws, institutions, and regulations to keep the state functioning. Many questions have been addressed regarding Kosovo's constitution, which was drafted mostly by external powers. However, regardless of the fact that Kosovo experts took part in the constitution-drafting processes under UNMIK supervision, there was no "ownership".⁶⁴⁸ Although the constitutional commission explored alternatives for rephrasing some of Ahtisaari's clauses, a large portion of Kosovo's Constitution was taken from his comprehensive plan. Nonetheless, several international specialists advocated for the use of Ahtisaari language in certain critical sectors, such as ethnicities.

The Kosovo citizens, on the other hand, sought their historical quest for statehood to be acknowledged, however, it was denied since it was believed that it will pose a threat to regional stability. Upon approval of the Constitution the following day, the US, UK, Albania, and Afghanistan were among the first countries to recognize Kosovo's legal independence and adoption of its constitution. The US Secretary of State Condoleezza Rice appealed to EU members

⁶⁴⁸ Joseph Marko, "The New Kosovo Constitution in a Regional Comparative Perspective," *Review of Central and East European Law* 33, 2008). 437-450.

to back their position on Kosovo's sovereignty became a reality. Consequently, as Kosovo's constitution was being drafted, Rice encouraged the process with the following message; "The US congratulates the people of the Republic of Kosovo on the entry into force of their new constitution. This constitution enshrines the aspiration and determination of Kosovo's citizens to create a democratic, multi-ethnic state that is fully integrated into the Euro-Atlantic community. The US particularly welcomes the incorporation into the constitution of broad minority rights protections originally proposed by UN Special Envoy Martti Ahtisaari".⁶⁴⁹

3. Limitations of Kosovo's Constitution in Terms of Military Capability

Generally, scholars and policymakers agree on the role of military power when it comes to the formation of states.⁶⁵⁰ In response, countries whose Constitutions have been drafted and, in some cases, even imposed often have a different approach to keeping security threats at bay. This comes as a result that their security could be threatened due to the rise of regional powers. Accordingly, throughout the Kosovo legal process, three key elements were emphasized: status; minorities; and territorial security. In light of Kosovo's uncertain potential to become independent, the concept of a military force was absent from the discussion. Amid the Rambouillet security and military meetings, Serbia had refused to accept international troops on "their land" in Kosovo. The General Obligations of Rambouillet Accords of Section b. emphasizes the following; "The Parties agree that NATO will establish and deploy a force (hereinafter "KFOR") which may be composed of ground, air, and maritime units from NATO and non-NATO nations, operating under the authority and subject to the direction and the political control of the North Atlantic Council (NAC) through the NATO chain of command. The Parties agree to facilitate the deployment and operations of this force and agree also to comply fully with all the obligations of this Chapter".⁶⁵¹ Furthermore, no other armed forces were allowed to enter or reenter Kosovo without prior permission from the KFOR Command. Consequently, Article VIII on page 69 underscores

⁶⁴⁹ U.S. Department of States. Archive, Information released online from January 20, 2001 to January 20, 2009. Press Statement Gonzalo Gallegos, Director of Press Relations. Washington, D.C. June 15, 2008.

⁶⁵⁰ Ronald R. Krebs. *Fighting for Rights: Military Service and the Politics of Citizenship*. (New York: Cornell University, 2006). 2-4.

⁶⁵¹ U.S. Policy and NATO Military Operations in Kosovo. By United States Congress, Senate Committee on Armed Services, 2000.

that military activities are exclusively under the jurisdiction of the KFOR, which is the only authoritarian personnel in charge of Kosovo's security. In the end, KFOR thus became the sole legitimate army in Kosovo. Resolution 1244, Annex 1 further emphasizes the following; "Demands in particular that the Federal Republic of Yugoslavia put an immediate and verifiable end to violence and repression in Kosovo, and begin and complete verifiable phased withdrawal from Kosovo of all military, police and paramilitary forces according to a rapid timetable, with which the deployment of the international security presence in Kosovo will be synchronized; Decides on the deployment in Kosovo, under United Nations auspices, of international civil and security presences, with appropriate equipment and personnel as required, and welcomes the agreement of the Federal Republic of Yugoslavia to such presences; Demands that the KLA and other armed Kosovo Albanian groups end immediately all offensive actions and comply with the requirements for demilitarization as laid down by the head of the international security presence in consultation with the Special Representative of the Secretary-General."⁶⁵² However, neither the Rambouillet talks nor Resolution 1244 emphasized the possibility of establishing Kosovo's Security Forces. Nonetheless, Annex 1 of Resolution 1244 indicates that international civil and security presences would be created for a term of 12 months and would remain thereafter unless the Security Council agreed otherwise. Accordingly, if the situation on both sides changes in the future, Kosovo could develop its own security forces. Following the progress made during the process of status and constitution-building, special envoy Ahtisaari emphasized Kosovo's Security Forces in his proposal.

Paragraph 9.5 of Security Sector Article 9 underscores the following; "A new professional and multiethnic Kosovo Security Force (KSF) shall be established and shall develop a lightly armed component capable of specified security functions, in accordance with Annex VIII of this Settlement."⁶⁵³ Upon Kosovo's independence and constitution-drafting in 2008, the government developed plans for Kosovo Security Forces (FSK). As a response, in Kosovo's Constitution, Chapter XI - Security Sector, Article 125 paragraph 1 declares the following: "The Kosovo Security Force shall serve as a national security force for the Republic of Kosovo and may send its members abroad in full conformity with its international responsibilities. 4. The Kosovo

⁶⁵² UNSC. Resolution 1244, S/RES/1244, June 1999. (accessed December 1, 2022).

⁶⁵³ UNSC. S/2007/168/Add.1., March 2007. (accessed December 1, 2022).

Security Force shall be professional, reflect the ethnic diversity of the people of the Republic of Kosovo and shall be recruited from among the citizens of the Republic of Kosovo’’.⁶⁵⁴

The international community overlooked arming Kosovo during the status and constitutional debates since it could cause regional disability. As noted previously, Serbia refused to permit NATO forces on Kosovo’s soil, alleging a threat to ‘territorial integrity’ derived from their claim to Kosovo. Yet, since the turmoil of the past decade, attention has been drawn to newly independent countries, such as Kosovo, with the potential to contribute militarily to conflict zones, in response, Kosovo’s Ministry of Defense passed Law Nr. 04/ L-177 in 2013 based on Article 65 (1) of the Republic of Kosovo enabling the deployment of Kosovo Security Forces overseas; the law's third article emphasizes: 1.3. Operations in support of peace – referring to the operation and activities that provide conditions for sustainable peace; 1.4. Humanitarian operations - refer to operations that provides assistance in case of humanitarian, technical, technological or ecological disasters and provide assistance in case of war on terrorism.⁶⁵⁵ The Serbian minorities refused to participate in the voting process since it was considered incompatible with their political views. The Kosovo parliament voted in favor of three consecutive laws that changed the mandate of the KSF with 106 votes in favor and one abstention. In addition, the following laws were passed: Draft Law on the Ministry of Defense, Draft Law on the Kosovo Security Force (KFC), and Draft Law on Service in the Kosovo Security Force. The Kosovo military was never envisioned by many people, which is why such a decision failed to gain much support. In a press release on December 14, 2018, NATO commander James Foggo commented on the process; ‘‘I regret that this decision was made despite the concerns expressed by NATO. While the transition of the Kosovo Security Force (KSF) is in principle a matter for Kosovo to decide, we have made clear that this move is ill-timed. NATO supports the development of the Kosovo Security Force under its current mandate. With the change of mandate, the North Atlantic Council will now have to re-examine the level of NATO’s engagement with the Kosovo Security Force.’’⁶⁵⁶

⁶⁵⁴ Zyra e Kryeministrit, Kushtetuta e Republikës së Kosovës, 2008.

⁶⁵⁵ Gazeta Zyrtare e Republikës së Kosovës/ Nr. 18/ 28 Maj 2013, Prishtinë. Ligji Nr. 04/L-177.

⁶⁵⁶ NATO, ‘‘Statement by the NATO Secretary General on the adoption of the laws on the transition of the Kosovo Security Force,’’ *Press Release* 170. December 2018. (accessed December 1, 2022).

While the KSF would retain its name, it would consist of 5000 personnel and 3000 light armed soldiers. Aside from the fact that the army's development will take close to 10 years, it is not intended to replace NATO forces in Kosovo. In line with what was predicted, the US congratulated Kosovo on its decision to arm. In a tweet published on December 14, 2018, US Ambassador to Kosovo Philip Kosnett expressed his support for the militarization as follow: “KSF transition is a historic one for Kosovo. The US will support the professional development & organizational evolution of KSF, which must play a positive role for Kosovo & the region, reflecting both the multi-ethnic character of the country and Kosovo people’s dedication to peace.” Historically, KSF's aspirations for becoming a fully armed force can be traced back to 2014, when President Thaçi, proposed a few amendments. Because of opposition from the Independent Liberal Party of Serbia community, the project ultimately did not succeed in 2022.⁶⁵⁷ Revisions were reintroduced as part of the discussion between 2015 to 2018 but were once again rejected by the Serbian list of the Kosovo Assembly, which requested a broader discourse. According to a new assessment by the Kosovo Center for Security Studies (KCSS), a number of Serbian personnel of the KSF resigned owing to Belgrade's pressure.⁶⁵⁸ Hence, the lack of a compromise between the parties as of 2022 suggests that arming Kosovo might potentially have a negative impact on Belgrade's attitude toward Kosovo's position regionally.

⁶⁵⁷ Zyra e Kryeministrit. Kryeministri Thaçi: Forca e Sigurise se Kosoves do te transformohet ne Forca te Armatosura te Kosoves, [Prime Minister Thaçi: The Kosovo Security Force will be transformed into the Armed Forces of Kosovo.]. February 2014.

⁶⁵⁸ Balkan Insight. Belgrade ‘Pressured’ Serbs to Quit Kosovo Security Force. September 2018. Link: <https://balkaninsight.com/2018/09/19/belgrade-pushed-kosovo-serb-ksf-members-to-resign-report-finds-09-19-2018/>

CONCLUSION

The initial strategic objectives of neutrality that the US opted for between 1930 and 1941 impacted the case study in a similar way. Though it was conceived as a way to avoid conflict, the consequences were the opposite. This can be exemplified with Japan's pursuit of enlarging its territorial claims. Much like the previous case study, Yugoslavia was successful in achieving its objectives *fără* interference from the latter. With that in mind, there were distinct differences between the study period of US foreign policy in East Asia and Yugoslavia; however, the role it played in pursuing its strategic objectives remained consistent across each, enabling an assessment of its role in the existing nation, in this case Japan, as well as an emerging nation, Kosovo. In the present case, the Lend-Lease Act, in which loans and other instruments were utilized to emphasize the importance for US national defense, helped its allies remain viable in their respective regions by providing loans to China to resist Japan's imperialism. This decision, however, evidently benefited China, rather than the US, mainly due to Japan's expansion into the oil-rich East Indies, a strategically important island for the US. Akin to China, the latter provided assistance to Yugoslavia too that contributed to its strong resistance on opposing secessionist movements. Although Kosovo had intended to withdraw from Yugoslavia prior to loans disbursed, federation strength prevented its success. As far back as 1991, the US backed the federation heavily, impairing its members' ability to seek dissolution. Consequently, both case studies demonstrate that Act failed to safeguard US national security, thus bringing the US into WWII. This can be considered a failure to assess the implications of the process thoroughly. On other words, deficiencies in understanding the relevance of 'territorial integrity' in areas seized by Japan contributed to the Pearl Harbor surprising attack. It's entry in the pacific war contributed to the latter engage in war-torn regions, like the one in Yugoslavia. However, in this case the latter, on the other hand, resisted dissolution which contributed to its constituent states' struggle for independence. It is

important to note that regardless of the differences between Japan and Kosovo, the US's leadership in democratic decision-making remained consistent. In these case studies, its primary objective was to prosecute war criminals and enforce Constitution, which accounted for the majority of its work. I would like to point out that, in Japan, the US engaged in combat, whereas in Kosovo, the US preserved the country, thus giving a different take on the two cases. As such, the US demanded unconditional surrender from Japan to reinstate its government, whereas Serbia surrendered in Kosovo, thus allowing for the establishment of a new government there. The US role in the case studies, however, was not one of a different nature, but one of a great power taking responsibility for a country's most fundamental pillars: justice and law. Having successfully established the Tokyo tribunal, the US paved the way for the establishment of International Criminal Tribunal for the former Yugoslavia (ICTY). Despite only working for part of a designated period, specifically from 1993 to 2017, the tribunal's legacy persists today. Although it is widely accepted that the purpose of the Tokyo Trial and ICTY was to condemn those who posed a threat to the peace, some have noted that it has been unsuccessful. Given that understanding the moral law of a country can be challenging, a situation that is illegal in the US can have the opposite effect in the host country, especially with fighters whose primary goal is to defend the country or to expand government policies.

However, the US imprint and presence extended not only to the justice system, but also to the Constitution. It's decision to prevent Japan and Kosovo from acquiring military capability can be explained by a number of factors, one of which was the need to maintain regional stability. Alternatively, the US strategy of having a military base in the given region with Japan being the largest host country in East Asia and Kosovo being the largest host country in Western Balkans. However, following geopolitical shifts, the US has pressed Japan and Kosovo to repeal provisions barring them from participating in military operations. As such here I expose one of the ramifications of Constitutions primarily drafted by the US and not by

the host state. As of yet, neither Japan (Article 9) nor Kosovo (Article 125) have been able to amend or rectify their Constitutions despite their minor differences. One reason for this is that the host country did not have much input into the Constitution when it was drafted due to their lack of interest in demilitarizing. Despite the impracticalities, there is one that stands out with the concept that both case studies require 2/3 votes to ratify the Constitution, a feat that is nearly unattainable. Considered as a disadvantage associated with drafting a foreign constitution. In part, this is due to the fact that the host country had little input into the Constitution, if this had been the case, then there would have been provisions allowing militarization on certain terms. In order to gain a deeper understanding of the implications, future studies could address more effectively how US roles entwined with moral values, if applied, could become power plays.

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