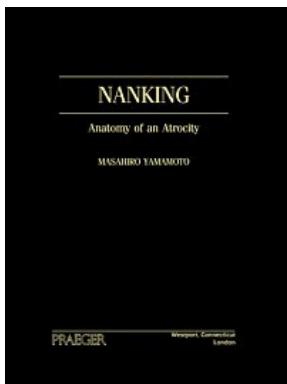


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NANKING

Anatomy of an Atrocity

MASAHIRO YAMAMOTO

PRAEGER

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Abbreviations

CCAA Central China Area Army

CDN *Chicago Daily News*

CE Court exhibit

DD Defense document

DNSZ *Documents of the Nanking Safety Zone* (Shanghai, China)

DSKS Dai-10-gun Sakusen-shido ni Kansuru Sanko-shiryō [Reference Materials Concerning the Tenth Army's Operations]

GS Gaiko Shiryōkan [Diplomatic Record Office, Japan]

HP *Jih-pen Ti-kuo Chu-i Ch'in-hua Tang-an Hsuan-pian* [Selected Archival Documents Relating to Japan's Imperialistic Aggression against China] (Peking, China)

ICNSZ International Committee for the Nanking Safety Zone

IMTFE International Military Tribunal for the Far East (in text) International Military Tribunal for the Far East: Proceedings 1946–1948 (in notes)

IPS International Prosecution Section

KS *Nankin Jiken: Kyoto Shidan Kankei Shiryōshu* [Rape of Nanking: Materials Relating to the Kyoto Division] (Tokyo, Japan)

KCCC *K'ang-jih Chan-cheng Cheng-mian Chan-ch'ang* [Resistance War against Japan: Regular Warfare Front] (Chiangsu Province, China)

LC Library of Congress

M976 Records of the Department of State Relating to Political Relations between China and Japan, 1930–1944, Record Group 49, M976

M1444 Correspondence of the Military Intelligence Division Relating to General, Political, Economic and Military Conditions in China 1918–1941, Record Group 164, M1444

- M1513 The Military Intelligence Division Regional File Relating to China 1929– 1944, Record Group, 165, M1513
- M1613 Numerical Case Files Relating to Particular Incidents and Suspected War Criminals, International Prosecution Section, 1945–1947, Record Group 331, M1683
- M1690 Numerical Evidentiary Documents Assembled as Evidence by the Prosecution for Use before the International Military Tribunal for the Far East 1945–1947, Record Group 331, M1690
- MHD Military History Division, Defense Agency, Japan
- NA1 National Archives and Record Administration in Washington, D.C.
- NA2 National Archives and Record Administration in College Park, MD
- n.d. No date
- NDG *Nankin Daigyakusatsu no Genba e* [Visit to Rape-of-Nanking Locations] (Tokyo, Japan)
- NDK *Nankin Daigyakusatsu no Kenkyu* [Study of the Rape of Nanking] (Tokyo, Japan)
- NDKK *Nankin Daigyakusatsu o Kirokushita Kogun Heishitachi* [Imperial Japanese Army's Soldiers Who Recorded the Rape of Nanking] (Tokyo, Japan)
- NEM *Nankin e no Michi* [Road to Nanking] (Tokyo, Japan)
- NJK *Nankin Jiken o Kangaeru* [Analyses of the Nanking Incident] (Tokyo, Japan)
- n.p. No place, no publisher
- NP *Yuan Kuo-min-tang Chiang-ling Chan-cheng K'ang-jih Chan- chen Ch'inli-shih: Nanking Pao-wei-chan* [Personal Experiences of Former Nationalist Party Generals in Resistance War against Japan: Defense of Nanking] (Peking, China)
- NS *Nankin Senshi* [Nanking Campaign Chronology] (Tokyo, Japan)
- NSS1 *Nankin Senshi Shiryō-shu* [Nanking Campaign Chronology Primary Source Collection], vol. 1 (Tokyo, Japan)
- NSS2 *Nankin Senshi Shiryō-shu* [Nanking Campaign Chronology Primary Source Collection], vol. 2 (Tokyo, Japan)
- NYT *New York Times*
- PNTJ Papers of Nelson Trusler Johnson
- POW Prisoner of war
- RG Record Group
- RMD Rikushi Mitsu Dainikki [Army's Secret Diary about the China Campaign]
- RNFH *The Rape of Nanking: The Forgotten Holocaust of World War II* (New York)
- SEF Shanghai Expeditionary Force

- SL* *Ch'in-hua Jih-chun Nanking Ta-t'u-sha Shih-liao* [Source Materials Relating to the Massacre Committed by the Japanese Troops in Nanking] (Chiangsu Province, China)
- “SNS” “Shogen ni yoru Nankin Senshi” [Nanking Campaign Chronology Based on Eyewitness Accounts], *Kaiko* April 1984–March 1985 (Tokyo, Japan)
- TA* *Ch'in-hua Jih-chun Nanking Ta-t'u-sha Tang-an* [Archival Documents Relating to the Massacre Committed by the Japanese Troops in Nanking] (Chiangsu Province, China)
- TWCT* *The Tokyo War Crimes Trial: The Complete Transcripts of the Proceedings of the International Military Tribunal for the Far East in Twenty-Two Volumes* (New York)

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Introduction

The history of almost every country records some dishonorable events that peoples of other countries continue to condemn and the people of that country would like to forget or at least to justify. In particular, the 20th-century world has witnessed many atrocious incidents such as the mass murder of Armenians by the Turks during World War I, the Nazi persecution and attempted extermination of European Jewry prior to and during World War II, and the ethnic cleansing conducted by the Serbs and other ethnic groups of former Yugoslavia in the Balkans in the 1990s. Among these notorious historical events, the Rape of Nanking is exceptional because of the unusual degree of attention paid to it for an extraordinarily long time. Despite the time and energy of many people who have discussed this subject, however, there appears to be no consensus over such crucial questions as how and why the Rape of Nanking happened and how extensive the loss of human life was.

In the wake of the sixtieth anniversary of the incident in 1997, Princeton University hosted a commemorative event concerning the Rape of Nanking. In a document that described the event, one could find the following passage, which represents an orthodox view of the Rape of Nanking today: “Most experts agree that at least 300,000 Chinese died, and 20,000 women were raped. Some estimate the numbers to be much higher—340,000 and 80,000, respectively.”¹ The reality is, however, that there is no agreement on these numbers. In the proposal of the same event, its organizers admit the existence of various opinions: “On one hand conservative Japanese histories de-emphasize or deny the atrocities of the Nanking Massacre, while on the other Chinese histories exaggerate Japanese excesses.”² The second unique aspect is the high degree of emotion that has complicated the Rape of Nanking controversy. Princeton University defined the purpose of the commemorative events as “a much needed step in the long-stalled healing process,” an apparent reference to the highly agitated words those with opposing views on the incident often exchange with each other. The healing

process is, however, not an easy task because emotion inhibits the search for historical truth by creating a vicious cycle: attempts to investigate the subject by one group precipitate emotional counterarguments from other groups, resulting in more emotion and little additional clarity. Typically, despite what might seem to be a slightly pro-Chinese tone in Princeton University's events—notably a reference to the massacre of 300,000 Chinese as an opinion shared by “most experts”—one of the event organizers said that they had received many hostile reactions from people “unhappy with our [their] apparent ‘pro-Japanese’ slant.”³

A glimpse into the way Japanese intellectuals and journalists have discussed the Rape of Nanking since the early 1970s also shows how difficult the “healing process” will be. Honda Katsuichi, a newspaper correspondent, and Hora Tomio, a university professor, were notable among those who represented the orthodox or traditionalist view, which a majority of scholars in the West shares today. Representing more or less the politically liberal side, they have argued for Japan's responsibility for the incident. Among those who have refuted the orthodox thesis and represented the revisionist opinion were Suzuki Akira, a journalist, and Tanaka Masaaki, who had been a secretary of Matsui Iwane, the Japanese army commander in Nanking. Speaking for the politically conservative side, they have questioned the traditionalist interpretations, especially the number of victims—300,000 people killed in six weeks. In the heated exchange of words over more than a decade, neither side showed the slightest sign of giving in to the other. Yet there was a positive aspect in this debate in Japan. Although each side has criticized the other in emotional and agitated ways, the recurring debates in Japan about the Rape of Nanking have at least stimulated the search for primary sources and refined the quality of scholars' publications. While the traditionalists no longer persist in asserting the figure of 300,000 dead, the revisionists have by now admitted that the Japanese did indeed commit atrocities in Nanking. Some Japanese writers today assume a middle position by adopting a part of both positions: they admit to the occurrence of atrocities by accepting the traditionalist position but refute the scale and nature of the atrocities in agreement with the revisionists.

This brief survey of the wide range of Japanese opinions about the Rape of Nanking actually serves to summarize how I have approached this issue throughout my life. My first experience with this topic was during elementary school in Japan. As a sensitive child, I was horrified to listen to the atrocity stories narrated by my sixth-grade teacher. For many years, I hardly doubted the accuracy of every detail: that the Japanese slaughtered innocent civilians indiscriminately; that two Japanese officers engaged in a killing competition for fun; and that the death toll reached almost or more than 300,000. I was thus a believer in the traditionalist theory until about twenty-two or twenty-three years of age.

When a controversy erupted in the early 1980s over the textbook description about the Rape of Nanking, initially I had nothing but contempt for the revisionist view. Then, I had a chance to read a book published about that time—the Japanese translation of *Japanese Terror in China* by H. J. Timperly, a British

journalist who personally witnessed the atrocities. Before opening the book cover, I thought that I had another publication supporting the traditionalist view and expected to read many accounts of mass murder and other brutal acts. It was a book written by a national of a third country and seemed to be a credible primary source. By the time I finished reading it, however, I was stunned. Timperly, mostly by quoting from another source entitled *Documents of the Nanking Safety Zone*, enumerated over 400 cases of Japanese soldiers' misconduct in Nanking. I had, and still have today, a feeling that almost every one of these cases really happened and was truly revolting. Yet, I was also struck by a totally different picture of the Rape of Nanking that implicitly emerged from the descriptions in that book compared with what I had been taught in elementary school. Instead of ruthless and indiscriminate killing of civilians, Timperly told about Japanese soldiers wandering around the city without officers and committing scandalous, but not necessarily lethal, crimes. Instead of a mass slaughter of 300,000, the total death toll I could count in Timperly's book was less than fifty.

Thereafter, I started reading the revisionists' works, and at one point I converted more or less to the revisionist side. After more in-depth research using Japanese and English primary sources as well as some Chinese language materials, I shifted my position a little back toward the traditionalist side. At present, I do accept the savage and fiendish nature of Japanese atrocities in Nanking as a fact, but I reject the prevailing traditionalist interpretation of the incident because of some of its questionable theses as well as negative ramifications that are already obvious today and may become more serious in the future.

At present, those ramifications seem to be more potent outside Japan, notably in the United States. In contrast with the presence of opposing views in Japan, a vast majority in the United States has adopted the traditionalist interpretation of the incident. Recent publications such as Shi Young and James Yin, *The Rape of Nanking: An Undeniable History in Photographs*, and Iris Chang, *The Rape of Nanking: The Forgotten Holocaust of World War II*, strengthened that tendency. So far, an overwhelming majority reacted to these publications favorably, and few people have criticized them. This lack of criticism stands in stark contrast with the American reaction to other allegations of wartime atrocities. A notable case was their reaction to James Bacque's publications such as *Other Losses* and *Crimes and Mercies* in the late 1980s to the 1990s. In response to Bacque's contention in *Other Losses* that from 800,000 to nearly one million German prisoners of war perished in the Allies' camps after World War II, Stephen E. Ambrose and other reviewers questioned not only his theory but also his research methods. Bacque's next controversial work, *Crimes and Mercies*, which accused the Allies of having caused nine million German civilians to die in the aftermath of World War II, met a similar reaction. I share the opinion of these critics, and I do not lend too much credence to Bacque's works. In the same way, I do not give so much credit to recent publications dealing with the Rape of Nanking, unlike a majority of this country. Some may argue that it is

ill advised to compare Bacque's monographs with the story of the Rape of Nanking. But one aspect worthy of investigation regarding the Rape of Nanking is the attitude of researchers, that is, whether Westerners who commented positively on these recent Rape of Nanking publications did so after they had subjected these books to the same scrutiny as Ambrose and others had done to Bacque's *Other Losses* and *Crimes and Mercies*. As I will elaborate later, one must answer to this question in the negative.⁴

The ways American researchers have approached the Rape of Nanking are seriously flawed, resulting in an incorrect analysis and conclusion. Consequently, many people in this country accept the conclusion of such a flawed research and analysis and develop their own ideas—some of them problematic—about the incident as well as about the Japanese in general. The most extreme example of how the unconditional acceptance of the traditionalist view unfolds is the following:

consider that the United States, on all fronts, lost 323,000 in the four years of World War II. Or that at Auschwitz the Nazis killed on average 350,000 every two months. The Japanese killed roughly the same number in a few months without the benefit of the technology of mass murder available to the Nazis and without the advantage of concentration camps.... What's more, the Japanese troops weren't "specialized": nothing comparable to the *Einsatzgruppen* existed in their military. These were the boys next door...the Rape of Nanking reminds us how recently Japan emerged from its medieval age; a scant 140 years ago, less than 100 at the time of the Rape.⁵

One may argue that this is an opinion of an extremist—as I myself said—and that a majority of the American people does not share it. Yet I must say that this passage, however offensive and outrageous it may sound, is logically constructed. (There is, however, one obvious flaw: to claim that "Japan emerged from its medieval age" very recently does not make sense in explaining what is supposed to be an atrocity of unprecedented scale, which, according to the same reviewer, rivaled or even superseded the Nazi atrocities.) The writer of this passage is at least more realistic than some authors who insist on the death toll of 300,000 and demand that the Japanese government admit its legal responsibility for the atrocities and compensate the victims. If the death toll in Nanking had really been so high as to defy all historical conventional wisdom, one may accept the conclusion implicit in the previously quoted passage: the Japanese people themselves were—and maybe still are—extraordinary by nature. If the Japanese were that extraordinary, the Japanese would probably have to be quarantined internationally for re-education or reformation purposes before being held legally accountable for the atrocities. But few people advocate this. To pressure the Japanese to recognize their legal responsibility for their wartime conduct and to prove that Japan can afford it financially, such authors point to Japan's postwar economic success and prosperity—a fact that one cannot easily

reconcile with the extraordinary negative character of the Japanese as an ethnic group.

As the passage suggests, the alleged death toll of the incident had a profound impact on the minds of people in this country. In the course of completing this work, which started as my doctoral dissertation, quite a few people told me that *how many* people were killed does not matter and that the mere fact of atrocities is the significant aspect. They are certainly correct from a humanitarian standpoint, and I have no hesitation in acknowledging the savage and cruel behavior exhibited by many Japanese soldiers in China. Yet the logic implicit in that passage, which is, most regrettably, likely to be influenced by a certain kind of prejudice, clearly demonstrates how essential the investigation into details—the numerical analysis, for example—is, not only historically but also in other ways. Historically, how many lost their lives in what circumstances is a question concerning the nature of the incident—whether it was a genocide-type atrocity or one caused by other factors. This question is closely connected with another: how and to what extent Japanese were responsible. At the same time, one can foresee a possible long-term ramification. Suffice it to say that the logic used in the above quoted article may easily be employed against other nationalities or ethnic minorities in the United States. In the future, the Chinese and Chinese Americans, who today seem to be quite satisfied with such manner of criticism against the Japanese, might face the same form of verbal attack in connection with China's alleged persecution of ethnic minorities, the Tibetans in particular. It is easy to imagine that quite a few Japanese, who have been under attack for the Rape of Nanking issues, will willingly join the ranks of accusers in that eventuality. Such a reciprocal expression and resulting escalation of inter-ethnic hatred will be the most undesirable consequence one may anticipate. Thus, what the Princeton University group defined as “healing process” may leave a serious trauma without sensitive considerations for the future.

Of course, the consideration of future ramifications must not be a justification for covering up the past. One must look at both the past and the future to address the questions and issues today. I hereby propose a guideline for any person who wants to investigate touchy historical issues like the Rape of Nanking. If historians start conducting research on such a topic by relying heavily on a secondary source, they possibly follow the same path I followed—a traditionalist being converted to a revisionist, then stepping backward a little to the original stance—or completely the reverse—namely, a revisionist being turned into a traditionalist, and then returning a little to the revisionist side. To avoid such a pendulum-like swing, they have to pursue two tasks at the same time: history and historiography. In case of the Rape of Nanking, historical research should attempt to determine why, how, and to what extent the Japanese committed the alleged atrocities, while historiographical research investigates how accurately historians and journalists have studied the Rape of Nanking issues. Although it is inevitable that each researcher will reach a conclusion that is viewed by others as pro-Japanese or pro-Chinese, historiographical study can weed out the most

egregious political and ideological motivation behind some secondary sources so that it does not subconsciously affect the way the researcher investigates what happened in Nanking. This book is an attempt to approach the various issues surrounding the incident commonly called the Rape of Nanking in such a manner. I suspect that a majority of American readers will disagree with the thesis of this book, which more or less contradicts the prevailing interpretation of the incident. Also, some may speculate that this work is analogous to the denial of the Jewish Holocaust, which has long been existent in the Western world. Yet I hope that readers will try first to grasp the logic and reasoning that will unfold in the following chapters, instead of speculating on my motive by looking at my nationality and last name. (One cautionary note: I am *not* related to the planner of the Pearl Harbor attack.) Careful readers will acknowledge that this is certainly “revisionism” but not “denial.”

The arrangement of chapters in this book is chronological. Because publications about the Rape of Nanking, Japanese publications in particular, always touch on war crimes trials, the discussion of the war crimes trials must precede the analysis of the literature. In turn, the discussion of the war crimes trial would be impossible without first establishing the known facts about the incident itself. This book thus consists of two major parts: the first four chapters are historical and the remaining three historiographical. The first part will investigate the exact nature of atrocities; the second will analyze the mindsets of the people who have participated in the Rape of Nanking debate.

The historical analysis starts with a study of war atrocities in general to examine what has caused atrocities in the history of warfare. The first chapter places in context some patterns observable in war atrocities not only prior to Nanking but also at Nanking itself. Those readers who are interested only in the Rape of Nanking and who do not want to be bothered by a long prelude to the main topic may skip this chapter, but I would encourage them to read it, because it includes some information to facilitate understanding of the analysis in later chapters. The second chapter traces the events leading to the fall of Nanking in December 1937 to examine what factors helped set the stage for atrocities. The third and fourth chapters, the core of the book, are a qualitative and quantitative analysis of the Rape of Nanking that investigates numerous atrocity cases in minute detail. The third chapter concludes with the quantitative analysis of the estimated number of total victims, a subject that has been most controversial in the debate. The fourth chapter will contain qualitative descriptions of atrocities in comparison with historical cases discussed in the first chapter. The analyses in these four chapters will lead to the conclusion that the traditionalist interpretation of the Rape of Nanking—that the Japanese massacred 300,000 Chinese people deliberately and systematically—does not reflect the truth. Although a massacre on a large scale did happen, it was not a Nazi Holocaust-style indiscriminate slaughter. A close examination of reliable primary materials indicates that a large majority of victims were adult males whom the Japanese troops rounded up and subsequently executed on the pretext of

clearing the city of former soldiers disguised in civilian clothes. Apart from such mass executions of soldiers and civilians misidentified as soldiers, individual Japanese soldiers committed numerous criminal acts. Yet, these were violent acts that the soldiers engaged in as individuals outside the supervision of the military command and did not result in a huge number of deaths.

The fifth chapter treats one of the most neglected aspects of the Rape of Nanking, that is, reaction to the event by various parties up to the start of war crimes trials after World War II. This chapter will reveal that the Western eyewitness accounts in the late 1930s described the atrocities in Nanking in the same way as I have done in Chapters 3 and 4, and that wartime propaganda during World War II drastically affected the depiction of the incident and transformed its image into a Nazi-like atrocity in both scale and nature. The war crimes trials, the International Military Tribunal for the Far East in particular, are the topic of the sixth chapter. This chapter discusses different perceptions, interpretations, and definitions of the Nanking atrocities in the minds of trial participants, not only as the crucial determinants of their opinions or judgments but also as the source of subsequent controversy. The last chapter will critically analyze modern interpretations of the Rape of Nanking. This chapter will begin with the survey of the Rape of Nanking controversy in Japan. Although the recent publications and a TV program on the History Channel claimed that there has been a deliberate cover-up of the Rape of Nanking in Japan, a mere glimpse into the Japanese research of this topic, as I will summarize, will be more than enough to prove that there was no cover-up, and that instead Japanese researchers have studied this incident much more intensively than those of any other countries.⁶ This chapter will also touch on a recent tendency to establish a parallel between the Rape of Nanking and the Holocaust of European Jewry—a context in which recent popular books on the subject should be analyzed historiographically. Since the word *holocaust* is often used as a generic term to refer to atrocious incident or conduct, some people may claim that the use of this word does not necessarily mean the allusion to the Nazi Holocaust. Yet, the analysis of this last chapter will reveal that there have been obvious efforts to depict the Rape of Nanking as an Asian counterpart to the Nazi Holocaust. Finally a major theme of the last two chapters is an imbalance between the verdict and the sentence given to the Japanese commander in Nanking at the Tokyo War Crimes Trial—an imbalance that originated from the gap between the perception of the Rape of Nanking in the late 1930s and that of 1945 and which still affects the people who discuss the Rape of Nanking today.

The Wade-Giles system—the one in use when the Rape of Nanking happened—is the primary style of Chinese language transcription here, but some words such as Nanking that are more widely used than their Wade-Giles version are written in the Postal Atlas system. Also exempt from the Wade-Giles transcription are the titles of some English-language newspapers, magazines, and books published in mainland China and in the United States today. All Asian

names are written in the Asian manner—that is, the surname first and given name next.

NOTES

1. Princeton University, *Nanking: Commemorating the 60th Anniversary of the Nanking Massacre*, main page, <http://www.princeton.edu/~nanking/>. Internet web page addresses cited in the notes are those at the time of the research and might be obsolete.
2. Ibid., “Proposal.”
3. One of the organizers of Princeton University’s Rape of Nanking sixtieth anniversary commemorative event to Masahiro Yamamoto, 14 October 1997, re: conference on Nanking Massacre, through e-mail.
Among critical commentary of Chang’s book are Richard B. Finn, “The Real Numbers Are Bad Enough,” *Washington Post*, 5 March 1998, p. A20; David M. Kennedy, “Horror,” *Atlantic Monthly*, April 1998, pp. 110–16; Joshua Fogel’s review on the *Journal of Asian Studies* (August 1998): pp. 818–20. For critical reviews of James Bacque, *Other Losses: An Investigation into the Mass Deaths of German Prisoners at the Hands of the French and Americans after World War II* (Toronto: Stoddart, 1989), see Jonathan Osmond’s review in *International Affairs* (July 1991): p. 597; Michael Howard, “A Million Lost Germans,” *Times Literary Supplement*, 14 September 1990, pp. 965–66; Stephen E. Ambrose, “Ike and Disappearing Atrocities,” *New York Times Book Review*, 24 February 1991, pp. 1, 35–37; and John Keegan, “James Bacque and the ‘Missing Million,’” *Times Literary Supplement*, 23 July 1993, p. 13.
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5. Russell Jenkins, “The Japanese Holocaust,” *National Review*, 10 November 1997, p. 58.
6. “History Undercover: The Rape of Nanking” on the History Channel, 22 August 1999.

1

What Causes War Atrocities: A Historical Analysis

In 1946, the Chinese prosecutor for the International Military Tribunal for the Far East (IMTFE) charged that Japanese troops had committed atrocities at Nanking in 1937 “to crush forever all will to resist on the part of the Chinese people.”¹ He thus implied that the Japanese army had sacked the city as part of a deliberate scheme to break the morale of the enemy. One, however, should not conclude that a desire to intimidate the opponent is the sole factor that motivates war atrocities. Attackers in many cases in history wanted to avoid massacre and plunder because they recognized the military necessity of securing supplies and maintaining discipline among soldiers. Moreover, some Westerners, at least initially, did not attribute the incident to a Japanese army policy of intimidation. A *New York Times* editorial, for example, described the news reports of atrocities at Nanking as “the stories of war hundreds of years ago... when... a conquered city with its helpless inhabitants should be given over for twenty-four hours to the unbridled lust of the victors.”²

Since this editorial was based on the contemporary news coverage of the time, one may accept this view as a more accurate characterization of the event. Yet, it seems that neither interpretation derives from an in-depth examination of the incident. Although the *New York Times* editorial did make an analogy based on past history, it stopped short of studying the causes of atrocities. To understand the nature of the Nanking atrocities, it is necessary to trace the history of war atrocities and examine other similar cases to establish a range of possible causes that may contribute to their occurrence. Based on such an analysis, one can then better determine whether the incident was (1) truly an ancient- or medieval-type atrocity that happened in modern time, as the *New York Times* editorial indicated; (2) the result of the Japanese military’s planned brutality as the Chinese prosecutor argued at the IMTFE; (3) attributable to other factors to be explored in this chapter; or (4) the combination of all or some of these.

The first question I address is what has changed and what has remained

unchanged in the history of war atrocities. How and for what purposes have military men treated, or mistreated, combatants and noncombatants at different ages in the world? Here, although the Rape of Nanking happened in Asia, I first focus on Western military history for several reasons. First, Japanese and Chinese troops at the time were Westernized armies that were trained and equipped to fight in Western ways of warfare. Second, the concept of *jus in bello*, or the regulations on military conduct in wartime, developed mainly in the West and ultimately was more or less accepted in other parts of the world. Third, one must understand the Western thinking about the atrocities in view of the strong influence of Western opinions on the controversy about the Rape of Nanking from its very beginning. A special focus is on atrocities related to siege warfare, because the Nanking battle preceding the alleged atrocities was very much like a siege and also because siege warfare, regardless of age, plunged the populations into more immediate danger and thus created environments amenable to atrocities.³ Then, I shift my attention to some factors and historical contexts unique in Japan and China—the two central players in the incident. A major question to be answered here will be if some cultural characteristics that were likely to affect their conduct on the battlefield existed on either side. This part also summarizes the history of Sino-Japanese relations in the modern era as a prelude to the Second Sino-Japanese War of 1937–45.

HISTORY OF WAR ATROCITIES

From Ancient Time to Napoleonic Wars

Since ancient times, military forces often slaughtered combatants and noncombatants even after the termination of military action, while they plundered conquered areas at will. Such carnage was especially severe when the war was fought against a culturally different group and when a siege ended violently.⁴

People in the premodern age apparently accepted violence against defeated enemy soldiers and the population of a fallen city as the norm, not the exception. One factor that strengthened such a notion was the concept in medieval European siege warfare that a city besieged was “forefeit [*sic*] for the contumacious disregard of a prince’s summon to surrender.”⁵ A prince could carry out the subsequent crushing of a city’s resistance as enforcement of justice, not military action. As a result, attackers did not observe the military rules usually valid on an open battlefield. The second factor that promoted rough behavior among soldiers was poor logistics. Since no logistic system at that time could sustain an army operating in enemy territory, plunder was the rule. Further aggravating such a tendency was the ordinary soldier’s expectation that he could acquire wealth in war. Especially, those who had besieged a town had an expectation of plunder as a reward for the privation they had suffered during the siege. Military commanders also recognized the need to reward their soldiers for enduring hardship. It seems that the aforementioned *New York Times* editorial on

the Nanking atrocities referred to a version of this custom. Although military leaders sometimes tried to restrain the conduct of soldiers by the publication of military ordinances, such measures did not remedy the heart of the problem— the lack of regular pay. Besides murder and plunder, which were distinguishable from military actions, troops sometimes conducted military operations that were targeted at noncombatants for strategic reasons and subsequently caused atrocities. A notable example was the scorched-earth policy adopted by Sir John Fastolf of England during the Hundred Years' War in France.⁶

At the root of such violence was an almost complete disregard for life and the welfare of common soldiers and inhabitants in the ancient and middle ages. Although medieval chivalry and the custom of paying ransom helped develop the idea of protecting prisoners, only the knights enjoyed that privilege, and ordinary enlisted soldiers and noncombatants were totally outside this system. Moreover, ordinary soldiers sometimes became the target of an even harsher form of brutality. Crossbowmen, for example, were often subjected to cruel treatment in the event of their capture for what the mounted knights regarded as an unfair way of fighting, thereby foreshadowing the often cruel treatment of irregulars in modern times. It is premature to assume that these atrocities typical in the premodern time have ceased to occur. Wherever armed men find themselves in conditions similar to these faced by ancient and medieval troops, these atrocities may happen even today.⁷

Early modern times saw what looked like two contradictory trends in war atrocities: the systematic massacre of the enemy, often including civilians, and the expanded protection of disarmed soldiers and civilians. Attackers in siege warfare sometimes conducted a systematic massacre of the defeated population even if that population belonged to the same cultural or ethnic group, or even when siege did not end violently. The Dutch Revolt in the 16th century witnessed many such cases. When the Calvinists in the city of Valenciennes surrendered to the Spanish in 1567, the Catholics ignored a promise not to sack the city and subjected the city's population to murder and robbery. Such intentional killing occurred when the besiegers had a strong determination to crush the morale or will of the opposing side: the reason the Chinese prosecutor at the Tokyo War Crimes Trial cited as the Japanese army's motivation for the Nanking atrocities. As in the middle ages, intentional killing typically happened in a religious war in which the victors often justified their killing of the vanquished as a "righteous judgment of God upon these barbarous wretches," as Oliver Cromwell said in his defense of the massacre of Drogheda in 1649. This harsh treatment of opponents reflected the conviction held by the perpetrators of massacre that they indisputably represented the lawful government, and that all who stood against them should be treated as traitorous rebels rather than prisoners of war. The same conviction sometimes contributed to carnage attributable to defenders. The siege of Magdeburg in 1631 during the Thirty Years' War was a case where defenders were more responsible for the carnage following the violent end of siege. According to recent scholars, leaders of the Catholic force

that besieged Magdeburg wished to take the city without bloodshed to capture the city's wealth in order to supply their own troops. It was the Protestant officer in charge of the defense of the city who ordered his men to set fire to the city and thus magnified its destruction.⁸

The revolutions and religious strife in the 16th and 17th centuries thus gave rise to intentional and systematic massacres of people and destruction of property, attributable either to the attackers or to the defenders. At the same time, however, there was a gradual movement to restrain the excesses of troops on the battlefield. First, enforcing discipline on soldiers became easier among state-financed troops than in the private mercenary armies of the medieval age. For example, higher military authorities tried to protect POWs and prohibited privately arranged ransom, while punishing soldiers who had committed plundering. Also, the leadership began to punish the unauthorized massacre of POWs. Second, the process of deconfessionalization, especially after the treaty of Westphalia in 1648, worked to mitigate atrocities motivated by religion. Third, the chivalric rule of extending immunity to combatants was gradually extended to all the categories of soldiers. Behind those moderations in the conduct of warfare was a consensus, which became evident in the Enlightenment era, that only legal military measures were those necessary for achieving military purposes. Although strategic devastation and destruction were still accepted customs of war, there was a growing notion that invading troops should conduct such measures with moderation and only when necessary.⁹

The two contradictory trends in the previous era became more evident at the time of the French Revolution and the Napoleonic wars. Mass armies in these wars had to live off the land since their sheer size did not allow the military authorities to provide them with sufficient logistical backup. Regulated requisitioning, however, replaced uncontrolled pillaging when regular troops took the place of mercenaries on the battlefield. The French revolutionary government's concern about its own legitimacy prompted its army to enforce stricter discipline regarding civilian lives and properties in enemy territory. At the same time, noncombatants became a more common target for military operations because revolutionary wars strengthened the notion that all the subjects of one nation are enemies of the subjects of the other. Since any army invading a foreign country had to face a hostile population inflamed by nationalism, it had to deal with opposition in the form of irregular forces such as guerrillas. One could define such fighting as the "inner front" as opposed to the "outer front," meaning the military confrontation with regular forces. The inner front posed a challenging task for the attackers since the belligerents were concealed among the civilians and sometimes undistinguishable from them. It was likely that military action directed against civilians often caused civilians to attack the invading troops, resulting in a spiralling of atrocities, the most prominent example being the Peninsular War.¹⁰

Summing up how the moderation and escalation of atrocities progressed simultaneously, Geoffrey Best says that "‘circumstances’ made observance of the

law difficult or impossible, rather than because men's minds had turned against the idea of the law itself." What appeared to be two contradictory trends were in a sense two sides of the same coin. Best also states that "the chances of the law of war's observance were heightened by the intermittent presence within the French armies of representatives of all classes of French society," but that "circumstances" lessened the same chances. The very "circumstances" that contributed to the reduced effectiveness of the law of war originated from the same factor that prompted its fostering—participation in war by all classes of society in the enemy country.¹¹

19th Century

The U.S. Civil War was a modern war in which terror was not inflicted on people but on property. General William T. Sherman's march to the sea was a prime example of devastation for strategic purposes, but not for the sake of destroying human lives. A Civil War veteran recalled nearly half a century after the war, "I never knew of an officer being called upon to protect a woman against mistreatment by our soldiers."¹² But the war was not entirely without brutal killing targeted at nonmilitary personnel. As Sherman prophetically said, "There is a class of people, men, women, and children, who must be killed or banished before you can hope for peace and order."¹³ The western theater of the U.S. Civil War, Kansas and Missouri in particular, saw the activities of Confederate "bushwhackers" and Union "jayhawkers," who often raided and killed enemy civilians. Their atrocities, such as the sack of Osceola conducted by James H. Lane's jayhawker brigade on September 23, 1861, and the massacre at Lawrence, Kansas, on August 21, 1863, by William Clark Quantrill's bushwhackers, were the results of unique conditions in the West. First, the Union commanders in occupation of part of Missouri tended to regard local residents as secessionists and rebels without distinction and took a harsh attitude toward them. Such an attitude caused bitter resentment among the local population and created the conditions amenable to guerrilla activities. Second, the Union military leadership made it a policy to execute summarily the bushwhackers upon their capture. Finally, such a policy led to a "maelstrom of retaliation and counter-retaliation" and culminated at a point where both sides took few prisoners.¹⁴

Jayhawkers and bushwhackers had characteristics of both the medieval mercenary and the modern guerrilla. Many of them were not regular soldiers and were more interested in plunder. They thus resembled, and in a sense were descendants of, medieval mercenary soldiers. Their tactics, however, had some elements of modern-day guerrillas. For example, they usually killed only the civilians they had marked in advance. In this respect, they were a precursor of modern-day insurgents like the Viet Cong who assassinated local notables on the government side. The jayhawkers and bushwhackers were thus irregular troops of a transitional stage and conducted both new- and old-type atrocities.¹⁵

Although the sacking of towns and cities during the U.S. Civil War happened more in sparsely populated areas in the West, one may easily imagine how a similar escalation of violence in urban areas was likely to unfold. Other nations of the world witnessed such examples around the same period. The Paris Commune in 1871, although an incident during a civil war, was one of the first examples of how war might develop if it happened in an urban area in modern times.

Paris was under siege twice in 1870–71—first by the Prussians and then by government forces intent on crushing the Commune. The siege by the Prussians did not cause many casualties. Although the lack of food contributed to numerous deaths from sickness and malnutrition, the bombardment of the city itself killed only ninety-seven people and wounded 278.¹⁶

The residents of Paris suffered much more severely in the civil war between the Communards and the Versailles-based French government led by Louis-Adolphe Thiers. Thiers ordered the storming of Paris because the Prussians threatened to re-enter Paris if the French government hesitated to suppress further resistance. The Commune leaders appealed to ordinary citizens to take up arms and resist the government forces. They passed a decree to conscript every man, married or unmarried, between the ages of nineteen and fifty-five.¹⁷

The Commune's plan for defense was, however, far from satisfactory. Its leaders, who were apparently not familiar with tactical planning, anticipated a frontal assault on the city center and were totally taken by surprise when the Versailles force made a series of flanking movements and rendered useless most of the elaborately constructed defense positions. As a result, the Communards fought "piecemeal and *ad lib.*" Commune leaders then ordered the firing of "any houses capable of jeopardizing [the] defense."¹⁸

In the confusion during the final phase of the siege, government troops committed many atrocities. Each time a barricade fell, the defenders were put up against a wall and shot. In some military hospitals set up by the Commune, government troops massacred the patients and staff, claiming that shots had been fired from the hospitals. Ordinary citizens were not spared the carnage. The raging fire created a rumor that *petroleuses*, women carrying incendiary-filled bottles, were setting fires everywhere in the city. Because of this rumor, government troops executed many innocent women. They also summarily executed men who were wearing army boots or had a discoloration on their right shoulders, a mark that might have resulted from carrying a rifle butt.¹⁹

The leaders at Versailles never instructed their troops to carry out summary executions. Thiers himself told the assembly that civilization had triumphed and that the restoration would take place in the name of the law and by the law. Thiers also claimed in his memoirs that he had issued strict orders to restrain the anger of the soldiers. Thiers was, however, determined to crush the Commune in his proclamation calling for "complete expiation." The French army of 130,000 soldiers faithfully interpreted this phrase and killed 20,000 to 25,000 people.²⁰

One may see both a factor consistent through time and a new factor of the modern age as contributing to this massacre. That Paris became like a besieged city stormed by attackers undoubtedly caused a considerable amount of confusion on the one hand. In this aspect, atrocities followed the traditional pattern of siege warfare. On the other hand, the Commune's mobilization of civilians contributed to the government troops' intensification of street battles and mopping-up operation in Paris, resulting in large-scale atrocities. Thus, another cause of atrocities was an increasingly obscure distinction between combatants and noncombatants in modern warfare.

Hague Convention and World War I

Prior to World War I, major powers codified the laws of belligerency, which had so far existed mainly in the form of unwritten custom. The Hague Conventions of 1899 and 1907 were the first international treaties signed by a considerable number of powers for the regulation of the conduct of war.²¹

Regarding the protection of POWs, article 4 of the 1907 Hague Convention Respecting the Laws and Customs of War on Land said, "Prisoners of war are in the power of the hostile government, but not of the individuals or corps who capture them. They must be humanely treated."²² Article 23 also contained a clause that forbade belligerents to kill or wound an enemy who has surrendered at discretion. Under these provisions, belligerents were prohibited from taking reprisal against POWs or using them to extort ransom.

Article 28 prohibited the pillage of a town or place, even when taken by assault. It is apparent that this article referred to the practice observed traditionally by besieging troops—that victors were entitled to unlimited pillaging in a forcibly captured city for a certain period of time. The military leadership was also required to extend due protection to the inhabitants of occupied areas. Article 43 stated, "The authority of the legitimate power having in fact passed into the hands of the occupants, the latter shall take all the measure in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."²³

One subject that remained unclear was the status of irregular troops like guerrillas. The only provision relating to this matter was Article 2, which said, "The inhabitants of a territory which has not been occupied, who, on the approach of the enemy, spontaneously take up arms to resist the invading troops...shall be regarded as belligerents *if they carry arms openly* and if they respect the laws and customs of war. [*Italics added.*]"²⁴

Apart from this provision, the Hague Convention imposed restrictions on irregular military activities. One of the clauses of Article 23 forbade armed forces "to make improper use of a flag of truce, of the national flag or of the military insignia and uniform of the enemy, as well as the distinctive badges of the Geneva Convention."²⁵ The drafters of the convention were aware of the existence of many areas not covered by the convention and inserted in the

preamble the so-called Martens clause: “Until a more complete code of the laws of war has been issued, the high contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.”²⁶

World War I was the testing ground for the effectiveness of these articles, while it also revealed the existence of these “gray” areas in the laws of war. Two cases of atrocities in World War I are worthy of attention not only as examples of these gray areas but also due to a certain degree of resemblance with the Rape of Nanking and as an illustration of the Western attitude about atrocities in modern-day total war. The two cases are the German atrocities in Belgium, which some Westerners called the “rape of Belgium,” and the massacre of Armenians in Turkey, an event some people today call the first case of “genocide”—a term recently used by some people to describe the Rape of Nanking.²⁷

The Entente powers in World War I accused Germany of extensive murder, destruction, and plundering in Belgium in the early part of the war. A British commission’s report made public in May 1915 had a major impact on people’s perception of German atrocities. The report compiled by the Bryce Commission, named after its chairman, Viscount Bryce, concluded that

...there were in many parts of Belgium deliberate and systematic organized massacre of the civil population, accompanied by many isolated murders and other outrages.

...In the conduct of the war generally innocent civilians, both men and women, were murdered in large numbers, women violated, and children murdered.

...Looting, house burning, and the wanton destruction of property were ordered and countenanced by the officers of the German Army.²⁸

Among numerous cases of alleged German atrocities, the case of Louvain in August 1914 acquired a particular notoriety since the city was a well-known academic town with an old university. According to the Bryce report, there was an exchange of friendly fire between some German soldiers who had been defeated by Belgian troops in a skirmish nearby and German soldiers in occupation of Louvain. The Germans in the town blamed the firing on civilians in the city and started a systematic destruction of buildings, rounding up residents and executing some of them. Among the buildings burned to ashes were university buildings, including the library. The commission concluded that the Germans had committed these acts, assuming that by exceptional severities at the outset they could cow the spirit of the Belgian nation. The commission distinguished the German atrocities in Belgium from past cases in history: “It was to the discipline rather than the want of discipline in the army that these outrages, which we are obliged to describe as systematic, were due.”²⁹

Many contemporary writers shared this conclusion that the German atrocities in Belgium were unprecedented in their deliberate and systematic nature:

...so far from constituting exceptional crimes and contraventions against an established discipline, these acts are to be attributed to the form of discipline itself and consequently to the system of command.³⁰

They were willfully committed as part of a deliberately prepared and scientifically organized policy of terrorism.³¹

The worst crimes committed were committed not by brutes escaping from discipline, but by soldiers obeying orders. They were not accidents of war, but details in a carefully compiled plan of making war. They expressed the conclusion of the German mind that the way to conquer a foe was to terrify him, that the way to rob his arm of strength and his spirits of determination was to burn, to rape, to rob, and to murder, until the spirit broke and the soldier laid down his arms to escape a continuation of horrors wreaked upon his women and children.³²

To counter such allegations, the German government charged in its “White Book” published shortly following the Bryce Commission’s report that the Belgian civilian population had committed various hostilities against Germans, including the shooting of troops, the throwing of boiling water, the maiming of the wounded, and the assassination of officers. The German government justified the destruction in Louvain and other locations in Belgium as measures to suppress these attacks. A notable point here is that the German government did not deny resorting to stern measures and instead tried to justify them as military necessities.³³

It seems that both sides accused the other of violating the laws of war: while the Bryce Commission blamed the Germans for the mistreatment of the people in the occupied area, the Germans charged the Belgian population with illegal military activities. The case of World War I Belgium thus exemplified one of the gray areas in the Hague Convention.³⁴

In 1958, a group of German and Belgian historians concluded that the German White Book had no claim of credibility, since its approach did not meet the standards of historical inquiry. At the same time, instead of simply blaming the Germans, historians began probing into the psychology of the aggressors. According to a recent analysis, the German soldiers in Belgium were infected, at all ranks and levels, with the “*franc-tireur* psychosis.” In other words, they firmly believed that Belgian irregulars, comparable to French volunteer fighters called *franc-tireur* during the Franco-Prussian War of 1870–71, were in operation against them and were hiding among the civilian population. The Belgian regular army’s tendency to resort to guerrilla tactics such as assaults on supply and communication lines strengthened these German fears. The German actions in Belgium were thus due in part to the German troops’ concern for their own

safety, and not entirely to a deliberate intent to break the morale of the population of the occupied area.³⁵

The German troops in Belgium were in a sense surrounded by a hostile population. The case of the Armenians in Turkey was different: the victims of atrocities were a minority population in a land ruled by the perpetrators. This was yet another blind spot not covered by the Hague Convention.

Armenians have lived in several countries in central Asia. They constitute a Christian minority in Turkey and even before World War I had experienced persecution at the hands of the Muslim central government. The government justified its policy by accusing the Armenian reform or autonomous movement, which was sometimes supported by outside forces such as Russia, as breaching the Muslim common law that allowed the people of different faith to live peacefully as long as they remained subservient to the Muslim authorities. After the Balkan War of 1912 stripped Turkey of a large amount of territory in Europe, the recurrence of the reform movement undertaken by the Armenians convinced the Turkish leaders of the need to solve their “Armenian Question” once and for all. The outbreak of World War I then provided the Turkish authorities with a favorable environment in which to execute their policy against the Armenians and allegedly to initiate a systematic persecution of Armenians on the pretext of relocating them for security reasons.³⁶ Eyewitnesses reported that

several bands of Turkish horsemen made a concerted rush into the Armenian quarters at Moush, first attacking the shopkeepers in the bazaar, burning, looting and murdering as they went. The massacre went on till far in the night, even the regular police joining. Fully 250 men were killed. The women, if old and ugly, were murdered or beaten; if young and pretty, were taken away. The children generally were spared, but a few were put to death for sheer amusement.³⁷

...the roads and the Euphrates are strewn with corpses of exiles, and those who survive are doomed to certain death, since they will find neither house, work, nor food in the desert.³⁸

The Armenian death toll during World War I, including those who were killed and those who died of privation, amounted to two million people according to Armenians, and 200,000 to 300,000 according to Turkish sources.³⁹ Although the word genocide had not yet been coined, a notion implicit in the word crept into the thoughts of some contemporaries:

It is a plan to exterminate the whole Armenian people.⁴⁰

The atrocities which filled the first eight months of 1915 were carefully organized, and represented the fulfillment of a long-cherished policy.⁴¹

...the massacres are the result of a deliberate plan of the Turkish Government to “get rid of the Armenian question.”⁴²

On May 24, 1915, the governments of Russia, France, and Britain jointly issued a public denunciation of Turkish brutality against Armenians. The Turkish government replied that it was merely exercising its sovereign right of self-defense. The German government defended its ally's action in a way reminiscent of its own justification of atrocities in Belgium. The German ambassador to the United States said in September 1915 that the Turkish actions were in response to provocation by the Armenians. Having described the incident as "extreme penalties," the ambassador said that attempts to stir up rebellion and revolt and treasonable activity had made the "Armenian policy" a necessary wartime measure. Scholars sympathetic to the Turkish position still maintain this line of argument and even argue that the Turkish government did everything it could to guarantee the safety of the deportees. Although they do admit that there were some massacres, they also point to revolts, bandit attacks, famine, and disease as causes of deaths.⁴³

The truth seems to be close to the interpretation of "genocide," but not so conclusive as in the case of Nazi Holocaust. There has so far been no solid or definitive evidence found to indicate that the Turkish leaders had a deliberate plan to wipe out the entire Armenian population. The Turkish government authorized the high command of the army only to deport non-Muslim elements of the population from points of concentration and from the army's line of communication. Thus, as far as one looks at the ostensible motive of the Turkish government leaders, the deportation of Armenians in World War I Turkey was motivated by security concerns. Unlike the Jews under Nazi rule, conversion from Christianity to Islam did save the lives of some Armenians: an estimated 200,000 did convert from Christianity, although forcibly in many cases. Yet, under the guise of "relocation" as promulgated by the Turkish government, Armenian deportees were openly executed by the military and "special organization" formed by the government and composed mainly of convicted criminals. Survivors usually perished due to starvation because the Turkish authorities were poorly prepared to undertake the Armenian deportation. This lack of preparation was very likely the result of willful negligence. The plight of the Armenians thus bears resemblance to the fate of the Jews under Nazi rule. In terms of cruelty and their intended objective, Turkish policy toward Armenians finds a modern echo in the ethnic cleansing conducted by the Serbs in Bosnia and in Kosovo in the 1990s.⁴⁴

Despite the codification of the laws of war, World War I experiences show that the patterns of atrocities since ancient times have remained constant to a considerable extent. First, belligerents sometimes conducted the systematic massacre of the inhabitants of an occupied area or an ethnic minority within their own territory. They took these measures to eliminate any potential resistance in wars in which the distinction between combatants and noncombatants became increasingly obscure. Second, devastation for strategic purposes happened, sometimes accompanying killing, as it happened in Belgium. Third, lack of military discipline could still be a source of atrocities, especially when supply

became difficult. For example, German soldiers' looting often slowed the German offensive in the spring of 1918. Their looting became so rampant that one division created special "booty commands" to prevent the disordering effect of looting.⁴⁵

A notable, and in a sense ironic, characteristic found in the Western reporting of atrocities was a racial or religious bias. Many of the *New York Times* articles reporting the Armenian massacre, for example, referred to Armenians as "Christians," implying a Western concern about the Armenians' plight due to a religious and cultural affinity with the victims.⁴⁶ Therefore, this seemingly rightful criticism of racially or ethnically motivated persecution was also based on another racial bias. Westerners brought their racial biases with them in the 19th century when they started extensive contact with the peoples of Asia, especially the Japanese and the Chinese, the aggressors and victims in the Rape of Nanking.

ATROCITIES IN ASIA

Chinese Military Conduct through the 19th Century

Throughout the premodern history of China, one may recognize the same factors that caused war atrocities in the Western world. For example, whether it was a war between Chinese and nomadic invaders or an internal rebellion, it was an accepted custom to slaughter the defenders of a town that had resisted to the bitter end. As happened in European cities, warfare in an urban area was almost always characterized by looting.⁴⁷ Yet, with all these similarities in the actual committing of atrocities, there were several peculiar Chinese concepts about warfare that made the nature of atrocities different.

Chinese Confucian tradition regarded war as a result of the failure of a sovereign ruler's duty to maintain social order and thus refrained from glorifying it, unlike the Westerners or the Japanese. Mencius, an ancient Chinese philosopher, described war in which belligerents contest over land or city as the one "leading on the land to devour human flesh" and said, "Death is not enough for such a crime.... Therefore, those who are skillful to fight should suffer the highest punishment."⁴⁸ Even Sun Tzu, a Chinese military philosopher who wrote *The Art of War* around the 5th century B.C., said in his work, "those who win every battle are not really skillful—those who render other's armies helpless without fighting are the best of all. The best victory is when the opponent surrenders of its own accord before there are actual hostilities.... When you do battle, it is necessary to kill people, so it is best to win without fighting."⁴⁹

Chinese intellectuals thus defined war as an abnormal event that interrupts the normal time of peace and thus should be terminated as soon as possible. Because of this attitude, war and peace were not clearly or legally differentiated. Consequently, the Chinese apparently did not develop a firm concept of *jus in bello*. Although Confucian ethics served as a mitigating factor on the overall