

## What insights can historians provide into the legal, ethical and moral debates surrounding the decision of the United States to drop atomic bombs on Hiroshima and Nagasaki?

When assessing the legal, moral and ethical (LME) factors affecting the decision to drop the atomic bomb and what light historians can cast on them, we have a dilemma. It is a given that all historians are influenced (often subconsciously) by their culture, preconceptions and beliefs. This is especially prevalent when discussing the atomic bomb. This was a watershed in warfare, Churchill remarking, “what was gunpowder? Trivial. What was electricity? Meaningless. This Atomic Bomb is the Second Coming in Wrath!”<sup>1</sup> Thus, there is a greater need to evaluate the sources and their bias. Even attempts to present information impartially can face difficulties, witness the Smithsonian exhibition of the Enola Gaye and Keegan “historians...are committed to controversy as a way of life.”<sup>2</sup> <sup>3</sup> This essay therefore looks at each source, what light it casts on the LME aspects but also on the authors’ views which are rarely openly stated (with Marr an honourable exception).<sup>4</sup> Also, given the subject’s importance, it is written about in a wider range of publications often less concerned with bias. Even in primary sources, facts are often what the writer wanted the world to believe<sup>5</sup> or in Japanese cases what they believed their interrogators wanted to hear.<sup>6</sup> Additionally, public and private views can contradict.<sup>7</sup> Limited information is also a factor, something acknowledged by the official British military history.<sup>8</sup> I therefore propose to show that only with a wide range of historians’ views can we start to form a balanced view.

It is worth thinking why we should look at the LME considerations anyway? We are not just trying to understand the past, this evaluation of something that could be seen as morally wrong is what Broyles regards as the hallmark of a civilised society.<sup>9</sup> Multiple views of what passes as acceptable and right however complicate the issue further.

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<sup>1</sup> Quoted in Keegan, John. *A History of Warfare*. London: Pimlico ed., 1993 p379

<sup>2</sup> Zolberg, Vera L. “Contested Remembrance: The Hiroshima Exhibit Controversy.” *Theory and Society* 27, no. 4 (August 1998): p565–90.

<sup>3</sup> Keegan, John. *The Battle for History: Re-Fighting World War II*. New York: Vintage Books, 1996. p28

<sup>4</sup> Marr, Andrew. “History KS3 / GCSE: The Atomic Bomb.” BBC Teach. BBC, September 12, 2022. <https://www.bbc.co.uk/teach/class-clips-video/andrew-marr-history-world-atomic-bomb/z6nyrj6>.

<sup>5</sup> Such as Trueman’s changing the date of his decision, Hastings, Max. *Nemesis: The Battle for Japan, 1944-45*. London: Harper Collins, 2008. P497, 504-505

<sup>6</sup> Asada, Sadao. “The Shock of the Atomic Bomb and Japan’s Decision to Surrender—a Reconsideration.” *Pacific Historical Review* 67, no. 4 (November 1998): 477–512. [https://doi.org/10.1163/2468-1733\\_shafr\\_sim130130091](https://doi.org/10.1163/2468-1733_shafr_sim130130091). p484-5

<sup>7</sup> Hastings, Max. *Nemesis: The Battle for Japan, 1944-45*. London: Harper Collins, 2008. P493-494

<sup>8</sup> Kirby, Stanley Woodburn, M R Roberts, G T Wards, and N L Desoer. *The War Against Japan: The Surrender of Japan*. V. Vol. V. V vols. The War Against Japan. London: Her Maj.’s Stationary Off., 1969. Chapter 18

<sup>9</sup> Broyles, William. *Goodbye, Vietnam: A Journey from War to Peace*. Audible ed. United States: Audible, 2013. Chapter 16

Let us start by looking at how the decision was seen at the time. Enola Gay's co-pilot, Captain Robert Lewis diary entry reads "my God, what have we done?"<sup>10</sup> Ware also notes this was not a universal feeling in either political or military circles. Lewis contrasts the pilot, Tibbets who stated he was just relieved the bomb had worked.<sup>11</sup> Overall, the ordinary servicemen's views were that the dropping of the atomic bomb was justified and necessary.<sup>12</sup> George MacDonald Fraser expressed huge relief about the fact that it ended the war. He goes on to consider if his attitudes had changed since and concluded he still felt the same. He points out that there is a view today that enemy civilians are worth more than friendly soldiers but that servicemen such as his section were civilian conscripts in uniform.<sup>13</sup> This desperation for the war to end is also quoted by Laurence among the crews of the Nagasaki raid itself.<sup>14</sup> The camera aircraft for Hiroshima was called "A Necessary Evil," which gives insight into contemporary views.

Additionally, American decisions were also influenced by public opinion. Yavenditti identifies that 85% of Americans believed the decision was correct (the current figure is 59%).<sup>15</sup> <sup>16</sup> This was undoubtedly influenced by the Japanese biological weapon use and experiments on humans (by Unit 731)<sup>17</sup> and by the treatment of PoWs.<sup>18</sup>

Hastings observes the first briefing to Truman and his initial decision to use the bomb did not introduce any LME dilemmas, being explained as just a more powerful bomb.<sup>19</sup> Even post-Hiroshima, Truman showed influences of this, comparing the effect to Lancaster dropped Grand Slam bombs, the most powerful used previously.<sup>20</sup> General Marshall had however appreciated that there was a difference and as a result felt the decision on how and when to use the bomb should be a political decision.<sup>21</sup> Walzer expands this, arguing the moral decision was already made, demonstrated by the

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<sup>10</sup> Ware, Pat. *The Cold War 1946 to 1991: Operations Manual*. Sparkford: Haynes Publishing, 2016 p15

<sup>11</sup> Thames Tv. "World at War | Hiroshima | Atomic Bomb | Interviews | 1974." YouTube. YouTube, August 12, 2015. <https://www.youtube.com/watch?v=CknAtJFGgos>.

<sup>12</sup> Hastings, Max. *Nemesis: The Battle for Japan, 1944-45*. London: Harper Collins, 2008. P520

<sup>13</sup> Fraser, George M. *Quartered Safe out Here: A Recollection of the War in Burma with a New Epilogue: Fifty Years On*. Kindle ed. London: HarperCollins Publishers, 2019. unnumbered

<sup>14</sup> Keegan, John. *The Penguin Book of War: Great Military Writings*. London: Viking, 1999. P453

<sup>15</sup> Yavenditti, Michael J. "John Hersey and the American Conscience: The Reception of 'Hiroshima.'" *Pacific Historical Review* 43, no. 1 (1974): 24–49. <https://doi.org/10.2307/3637589>.

<sup>16</sup> Al Jazira. "Was Hiroshima a War Crime?" YouTube. YouTube, August 5, 2020. <https://www.youtube.com/watch?v=z9beBjcZsKI&t=324s>.

<sup>17</sup> Jusufi, Islam. "Ethics in Hiroshima and Nagasaki Atomic Bombing." YouTube. YouTube, November 20, 2021. <https://www.youtube.com/watch?v=lvUpxcznTsA>.

<sup>18</sup> Identified by Hastings, Max. *Nemesis: The Battle for Japan, 1944-45*. London: Harper Collins, 2008. P515

<sup>19</sup> Hastings, Max. *Nemesis: The Battle for Japan, 1944-45*. London: Harper Collins, 2008. P489, 496

<sup>20</sup> Indeed RAF Lancasters of Tiger Force had been identified as the bomber of choice if the B29 had not been available – see Felton, Mark. "Hiroshima 1945 - the British Atomic Attack." YouTube. YouTube, August 5, 2020. <https://www.youtube.com/watch?v=5XX9ptCNpik>.

<sup>21</sup> Hastings, Max. *Nemesis: The Battle for Japan, 1944-45*. London: Harper Collins, 2008. p510

fire-bombing used previously (causing more casualties and damage per raid than either nuclear attack). He draws a distinction between the British in 1940 and the Americans in 1945 in that Britain had no alternatives while the Americans did, negating the argument of necessity. He further argues that if unconditional surrender was dropped as a demand, the Japanese would have surrendered and their internal government was their own affair, something we shall return to later.<sup>22</sup>

Even before the decision to drop the weapons, a huge moral decision was required, namely the Trinity test. There was concern that there was a small chance of a runaway reaction that would ignite the atmosphere. "Given the choice between our blowing up the world and the enemy blowing up the world, it was obvious what to do. That is, on reflection, not a happy sentence."<sup>23</sup> However, this misses the fact that the test took place AFTER the German surrender and the Japanese were far behind in their programme. Buckley discusses the various factors that helped justify this decision in a slightly broader way from the initial development reaching a similar conclusion of necessity.<sup>24</sup>

The first attempt to study the attacks by John Hersey in 1946 blurs the line between journalism and history, especially as he used New Journalism (with fictional style story-telling elements).<sup>25</sup> Hersey travelled to Hiroshima, interviewing survivors, telling the stories of six of them. The selection is interesting, two Christian priests (one German), two doctors, a widowed seamstress and a young female factory worker. Hardly a representative sample and I suggest these were chosen to be relatable to American audiences. He emphasises the suffering of the Japanese but also that they were hostages to the leaders' choices. Only once does his book show any hatred of Americans which is very much at odds with the main presentation of a lack of blame.<sup>26</sup> Hersey states there was a surprising lack of interest in the survivors regarding the ethics and the only real discussion he notes is between priests who were split between regarding it as a war crime and justified (or at least excusable) in total war.<sup>27</sup> An odd footnote is one survivor suggesting that the massive damage could have been caused by dispersion of petroleum into the air which was then ignited, something not developed at that point, being becoming fuel air explosive that ironically had such force that it was compared to a small nuclear weapon!<sup>28</sup>

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<sup>22</sup> Walzer, Michael. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*. 4th ed. New York: Basic Books, 2008. P264-269

<sup>23</sup> Pratchett, Terry; Stewart, Ian; Cohen, Jack. *The Science Of Discworld*. Ebury Publishing. Kindle Edition. Chapter 2

<sup>24</sup> Buckley, John. *Armchair General: Can You Defeat the Nazis?* London: Century, 2020.

<sup>25</sup> Hersey, John. *Hiroshima*. Harmondsworth (Gran Bretanya): Penguin Books, 1978.

<sup>26</sup> Ibid p98 and 119

<sup>27</sup> Ibid p119-120

<sup>28</sup> Ibid p50

Around the same time a study was published by the team involved in the Manhattan Project.<sup>29</sup> This brings out a number of points that are not always covered in modern accounts. Of note is the use of propaganda to induce surrender after the attacks. I suggest that this casts light on the fact that the intimidation factor was probably a motive (even if not the main reason).<sup>30</sup> The team concluded “the atomic bomb did not win the war...but it certainly ended it.”<sup>31</sup> This technical report otherwise sheds little light on the decision from the LME aspects except an account from another Catholic priest of his experiences ending in his participation in the same discussion noted by Hersey!<sup>32</sup>

Coker quotes Huxley in comparing Hiroshima with the 1631 sack of Magdeburg where the latter’s devastation was percentage wise (in casualties and devastation) worse.<sup>33</sup> Huxley states that the atrocities were so bad that it resulted in a period of limited warfare if not peace after each. Coker himself emphasises in warfare there is an “etiquette of atrocities,” with each side matching the other in a race to the bottom. Applying this to the atomic bomb (and the conventional bombing prior and post), it could be argued that the Japanese atrocities (including the use of chemical and biological weapons in China) were the trigger that the US then matched (although he does not state this explicitly).

Keegan (who hoped that war had become too terrible to contemplate<sup>34</sup>), identifies that public opinion had little sympathy for a country that had attacked Pearl Harbour, was ferocious in combat and shown inhumanity to prisoners and subject peoples<sup>35</sup>. He adds the expected American casualty rate to demonstrate why the US took the decision it did. Interestingly, he makes no mention of Japanese military or civilian casualties. This section follows his discussion of European carpet bombing which he notes was ineffective although he makes no comparison. He considers both only from the utilitarian view as perhaps could be expected from a lecturer at Sandhurst.

Expected American casualties are a controversy for those studying the justification of using Operation Downfall as an alternative. Alperovitz quotes 20,000-26,000 for Olympic, raising to 46,000

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<sup>29</sup> Manhattan Engineer District. *The Atomic Bombings of Hiroshima and Nagasaki*. Reproduction ed. Amazon, 1946.

<sup>30</sup> Ibid, unnumbered

<sup>31</sup> Ibid, unnumbered

<sup>32</sup> Ibid, unnumbered

<sup>33</sup> Coker, Christopher. *Ethics and War in the 21st Century*. London: Routledge, 2011 p19-20

<sup>34</sup> Keegan, John. *The Illustrated Face of Battle: A Study of Agincourt, Waterloo, and the Somme*. New York, N.Y, U.S.A. : Viking, 1989.

<sup>35</sup> Keegan, John. *A History of Warfare*. London: Pimlico ed., 1993 p379

if Coronet was required.<sup>36</sup> Chun quoting other studies gives 193,500 and 220,000 respectively.<sup>37</sup> Part of this can be down to selective quoting (for exemplifying including/excluding wounded or Japanese casualties) to support the historian's bias. Additionally, there were multiple studies with varied conclusions at the time, something that Chun identifies as a difficulty with participants making decisions using incomplete information.<sup>38</sup> Very few sources mention British casualties, Reynolds quoting Churchill as expecting British (presumably including Commonwealth) casualties as being half the US figure.<sup>39</sup>

Allied casualties only tell half of the story, Jusufi observing that 400,000 Asians were dying each month the war continued (it is unclear if this includes Japanese casualties).<sup>40</sup> Fighting was continuing in China and Burma and these casualties would also need to be taken into account. The British official histories also show a concern that there would be mass executions of prisoners held by the Japanese.<sup>41</sup> It is worth noting the Japanese propaganda campaign in preparation for the invasion was called "the Glorious Death of One Hundred Million."<sup>42</sup> These clearly indicate a fast solution by whatever methods was a priority.

Alperovitz has long championed the view that the bombing was unnecessary, the main purpose being intimidating the Soviets, Japan being ready to surrender provided that the Emperor was safeguarded. He identifies however that Truman noted in both his diary and letters to his wife that saving the lives of American servicemen was key.<sup>43</sup> Given their non-published nature, this clearly implies this moral duty to save the lives of US servicemen was a key factor for him. Buckley notes that once Truman had seen the effects of the first two bombs, he gave clear instructions that no further attacks were to be made without his express authority.<sup>44</sup> This could be seen as remorse but the fact that the third bomb was sent to Tinian shows he accepted the necessity.

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<sup>36</sup> Alperovitz, Gar. "Hiroshima: Historians Reassess." *Foreign Policy*, no. 99 (1995): 15–34.  
<https://doi.org/10.2307/1149003>. p25

<sup>37</sup> Chun, Clayton K S. *Japan, 1945: From Operation Downfall to Hiroshima and Nagasaki*. 1st ed. Campaign. London: Osprey Publishing, 2013. p42-45

<sup>38</sup> Ibid p45

<sup>39</sup> Reynolds, David. *In Command of History: Churchill Fighting and Writing the Second World War*. London: Penguin, 2005. p484

<sup>40</sup> Jusufi, Islam. "Ethics in Hiroshima and Nagasaki Atomic Bombing." YouTube. YouTube, November 20, 2021.  
<https://www.youtube.com/watch?v=lvUpxcznTsA>.

<sup>41</sup> Kirby, Stanley Woodburn, M R Roberts, G T Wards, and N L Desoer. *The War Against Japan: The Surrender of Japan*. V. Vol. V. V vols. The War Against Japan. London: Her Maj.'s Stationary Off., 1969. Chapter 20

<sup>42</sup> Buckley, John. *Armchair General: Can You Defeat the Nazis?* London: Century, 2020. P419

<sup>43</sup> Alperovitz, Gar. "Hiroshima: Historians Reassess." *Foreign Policy*, no. 99 (1995): 15–34.  
<https://doi.org/10.2307/1149003>. p21

<sup>44</sup> Buckley, John. *Armchair General: Can You Defeat the Nazis?* London: Century, 2020. P430-431

In his summary Alperovitz identifies those who changed their minds post-war while uncritically accepting those who later stated they were against it at the time but only went on record years later (such as Eisenhower).<sup>45</sup> Wilson also argues the bomb was in fact a failure and did not achieve the desired effect of “shock and awe.”<sup>46 47</sup> His explanation is that the Russian attack into Manchuria was what ended the war.

The idea that America knew Japan was ready to surrender, propogared by Alperovitz and Wilson is countered by Frank where he points out the preparations to transfer the First Army from Europe and the policy paper by the Joint Chiefs of Staff highlighting no Japanese government had ever surrendered and there were no cases of Japanese military units surrendering in the war.<sup>48</sup>

An infrequently made claim is that the attacks were racist with bombs only used against the Japanese<sup>49</sup>. This overlooks that the initial race to create the bomb was against the Germans, indeed Einstein stated he did not want the work to continue once Germany was beaten (although interestingly he is also quoted that the bombing of cities was morally justified after it had been done by the Axis powers).<sup>50</sup> I would suggest that probably this was caused by his horror at his participation but accepting the need for attacks on civilians. Jusufi mentions that Truman believed it would also save Japanese lives<sup>51</sup>, although I feel this is unlikely to have been a significant factor in his decision given that Nagasaki was regarded as being equivalent to a raid by 120 B29s and 1000 bomber raids continued after the nuclear strikes.<sup>52</sup> Hastings believes that it would have been used on Germany with no qualms given that the allies believed decapitation of the German leadership would have lead to capitulation.<sup>53</sup>

Jusufi without concluding, points out that idealists would state that the bombing was immoral and no dilemma or moral ambiguity exists, “no end however good and however necessary can justify the

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<sup>45</sup> Alperovitz, Gar. “Hiroshima: Historians Reassess.” *Foreign Policy*, no. 99 (1995): 15–34.  
<https://doi.org/10.2307/1149003>. p24

<sup>46</sup> Wilson, Ward. *Five Myths about Nuclear Weapons*. Boston: Mariner Books, 2014. p21-53

<sup>47</sup> Parkin, Steve. “Ward Wilson: The Myth of Hiroshima.” YouTube. YouTube, August 6, 2014.  
<https://www.youtube.com/watch?v=r9H6o83NUf4>.

<sup>48</sup> Marston, Daniel, ed. *The Pacific War: From Pearl Harbor to Hiroshima*. Oxford: Osprey, 2010. P230-231

<sup>49</sup> TRT. “The Bombing of Hiroshima: A Necessary Measure or a Racist War Crime?” YouTube. YouTube, September 25, 2020. <https://www.youtube.com/watch?v=38Ba9StBNJs&t=128s> and Hastings, Max. *Nemesis: The Battle for Japan, 1944-45*. London: Harper Collins, 2008. P516

<sup>50</sup> Jusufi, Islam. “Ethics in Hiroshima and Nagasaki Atomic Bombing.” YouTube. YouTube, November 20, 2021.  
<https://www.youtube.com/watch?v=lvUpxcznTsA>.

<sup>51</sup> Jusufi, Islam. “Ethics in Hiroshima and Nagasaki Atomic Bombing.” YouTube. YouTube, November 20, 2021.  
<https://www.youtube.com/watch?v=lvUpxcznTsA>.

<sup>52</sup> Figures (but not conclusion) taken from Chun, Clayton K S. *Japan, 1945: From Operation Downfall to Hiroshima and Nagasaki*. 1st ed. Campaign. London: Osprey Publishing, 2013. P80-86

<sup>53</sup> Hastings, Max. *Nemesis: The Battle for Japan, 1944-45*. London: Harper Collins, 2008. P516

use of evil means.”<sup>54</sup> This reflects the *jus in bello* argument of proportionality, although interestingly he accepts Dresden as a supreme emergency. He also asks the question that would prolonging the war been a greater evil? He accepts that three or four “Magic” intercepts mention that the Japanese wanted peace but also points out that thirteen stated they would fight to the end. Frank quotes Stimson as stating the bomb was the least abhorrent choice.<sup>55</sup>

With much ink used discussing the impact on the Soviet declaration of war, little is available from the Soviet perspective other than very unreliable official histories that barely mention the atomic bombing.<sup>56</sup> Glantz in one of the few English language studies of Operation August Storm, notes the attack into Manchuria, were rapidly advanced after the Hiroshima bomb, orders being given to attack at two day notice.<sup>57</sup> Something often overlooked when discussing the Soviet intervention, is that while Manchuria was quickly overcome, large scale amphibious operations were not something that the Red Army had experience of, nor did the Red Banner Pacific Fleet have the capability to land large numbers of troops even after Lend-Lease naval transfers. The largest naval landing operation undertaken by the Soviets was two regiments strong.<sup>58</sup> Contrast the Americans plan to land twelve DIVISIONS in the initial landing.<sup>59</sup> Given this, is it realistic to attribute the Japanese surrender to the threat of a Soviet invasion as some historians do?

There is an even bigger problem with Japanese sources, namely there is no official history.<sup>60</sup> The Japanese style of historiography which is reluctant to attribute decisions to individuals also limits their use, as does for my purposes their limited involvement in the decisions of atomic use.<sup>61</sup>

Allied decision makers had in many cases fought in the First World War before seeing the rise of the totalitarian regime in Germany, with the “stab in the back” myth (Truman himself commanded an artillery unit on the Western Front). The Japanese attempts to retain the social order may possibly

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<sup>54</sup> Jusufi, Islam. “Ethics in Hiroshima and Nagasaki Atomic Bombing.” YouTube. YouTube, November 20, 2021. <https://www.youtube.com/watch?v=lvUpxcznTsA>.

<sup>55</sup> Quoted in Marston, Daniel, ed. *The Pacific War: From Pearl Harbor to Hiroshima*. Oxford: Osprey, 2010. P245 where he calculates expected Japanese casualties from Soviet occupation as approximately 2.5 times the casualties from the atomic attacks.

<sup>56</sup> Keegan, John. *The Battle for History: Re-Fighting World War II*. New York: Vintage Books, 1996. P41-43

<sup>57</sup> Glantz, David M. *August Storm: The Soviet 1945 Strategic Offensive in Manchuria*. Kindle ed. Fort Leavenworth, Kan.: Combat Studies Institute, U.S. Army Command and General Staff College, 1984. Chapter 6

<sup>58</sup> Ibid Chapter 9

<sup>59</sup> Chun, Clayton K S. *Japan, 1945: From Operation Downfall to Hiroshima and Nagasaki*. 1st ed. Campaign. London: Osprey Publishing, 2013. P 53

<sup>60</sup> Keegan, John. *The Battle for History: Re-Fighting World War II*. New York: Vintage Books, 1996. P45-47

<sup>61</sup> Ibid p47

have stirred up thoughts of creating a similar myth and a conditional surrender would help fuel this narrative.<sup>62</sup> This is something that Walzer (discussed earlier) overlooks.

Other factors were identified by Chung who takes the view that there was no one factor that resulted in surrender.<sup>63</sup> His summary of the different options facing and statistics from the time help explain the strengths and weaknesses of each (adding in modern data such as in giving the estimated US casualties for Downfall he notes these were based on an underestimate of Japanese opposition).<sup>64</sup> These statistics help identify that given the information available at the time, the use of the atomic bombs was the fastest and least costly (in terms of lives) option that still allowed other methods to be used if they failed. One option he also identifies that is rarely noted, is that chemical weapons were considered by both Marshal and MacArthur<sup>65</sup> as an alternative but not pursued due to the Japanese capability demonstrated by their use in China.<sup>66</sup> This would have been a clear breach of the existing Geneva Protocols of 1925, showing that legality issues were clearly secondary to utility in the minds of the decision makers.

When considering the legal aspects, there is much controversy. Al Jazeera, hardly a major US supporter, concluded the attack was not illegal. It observed that under modern law (mainly the 1949 Geneva Protocols) the attack would probably be illegal but that the International Court of Justice has still not made a definitive ruling.<sup>67</sup>

The 1907 Hague Convention prohibited “unnecessary suffering.” Some have argued that this could apply to the attacks (and could also argued for conventional bombing).<sup>68</sup> It is notable however that no commanders (of either side) were indicted for air attacks against cities in either the Nuremburg or Tokyo trials. This implies that either it was felt that there would be calls to also try allied commanders such as Le May and Harris or that it was felt that it was an acceptable tactic depending on your personal bias.

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<sup>62</sup> Asada, Sadao. “The Shock of the Atomic Bomb and Japan's Decision to Surrender—a Reconsideration.” *Pacific Historical Review* 67, no. 4 (November 1998): 477–512. [https://doi.org/10.1163/2468-1733\\_shafr\\_sim130130091](https://doi.org/10.1163/2468-1733_shafr_sim130130091).

<sup>63</sup> Chun, Clayton K S. *Japan, 1945: From Operation Downfall to Hiroshima and Nagasaki*. 1st ed. Campaign. London: Osprey Publishing, 2013 p10

<sup>64</sup> Ibid p44

<sup>65</sup> Who in Korea consistently argued for the use of WMDs.

<sup>66</sup> Ibid p41-44

<sup>67</sup> Al Jazira. “Was Hiroshima a War Crime?” YouTube. YouTube, August 5, 2020. <https://www.youtube.com/watch?v=z9beBjcZsKI&t=324s>.

<sup>68</sup> Talking Law. “Can Nuclear Weapons Be Used in International Law? Hiroshima and Nagasaki's 75th Anniversary.” YouTube. YouTube, August 9, 2020. <https://www.youtube.com/watch?v=6DBq-MxOW6Y>.



There is however a legal decision that has been almost completely ignored by historians with commentary mainly being in legal journals.<sup>69</sup> This was the Shimoda case brought against the Japanese government in 1963.<sup>70</sup> This decision accepted there had been a breach of the customs of war and that the laws on poison gas could be extended to cover nuclear weapons. It rejected the Japanese government's claim that as the bomb was not excluded in international law (statute or customary) then it was legal.<sup>71</sup> What is not stated (and the bias is fairly obvious from the article title) is that this precedent is a Japanese domestic decision based on international law and has no standing in international case law.

In concluding, it can be seen the decision can not have been easy to make with so many unknowns, something historians with hindsight are not limited by. Hastings notes there was conflicting information and advice even at the time that often played to the prejudices and political motivations of the advisors.<sup>72</sup> The vast body of literature from such a wide range of authors also allows selective reading which can easily confirm any preconceived view. When we then add in the fact that the historian is a second-hand observer of the events, we need to consider the beliefs and influences on the author even more than we usually do. Perhaps the only thing that can be easily identified by historians is the sheer complexity of the event both at the time and in retrospect.

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<sup>69</sup> Tanaka, Yuki, and Richard Falk. "The Atomic Bombing, the Tokyo Tribunal and the Shimoda Case: Lessons for Anti-Nuclear Legal Movements." *The Asia Pacific Journal* 7, no. 44 (November 2, 2009) p6-7

<sup>70</sup> It was brought against the Japanese government as the 1951 treaty signed away any US accountability.

<sup>71</sup> Ibid p13

<sup>72</sup> Hastings, Max. *Nemesis: The Battle for Japan, 1944-45*. London: Harper Collins, 2008. p485-488

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[https://ahec.armywarcollege.edu/documents/Dropping\\_The\\_Atomic\\_Bomb.pdf](https://ahec.armywarcollege.edu/documents/Dropping_The_Atomic_Bomb.pdf).
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