Part Five

Nuremberg and Australian Implementation of International Criminal Law
Chapter 11
Australia's Prosecution of Japanese War Criminals: Stimuli and Constraints

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I Introduction

In November 1945, the matter of war crimes was very much on the agenda of the Allied powers, and particularly so in Australia. World War Two was over, the Axis powers had been decisively defeated and war crimes trials had begun in both Europe and the Asia-Pacific region to judge selected German and Japanese prisoners for various crimes associated with the war.

In the Philippines, General Douglas MacArthur, the Supreme Commander Allied Powers, had been quick to place the Japanese General Yamashita Tomoyuki on trial for war crimes committed by his subordinates against civilians in Manila as the war had drawn to an end. This 'command responsibility' trial had begun on 8 October 1945 and concluded on 7 December 1945. General Yamashita was found guilty and hanged on 23 February 1946.¹

In Europe, the International Military Tribunal (IMT) at Nuremberg would begin its deliberations on 20 November 1945 and continue until 1 October 1946. The corresponding tribunal in Tokyo, the International Military Tribunal for the Far East (IMTFE), would not get underway until 29 April 1946, but would then remain sitting for two-and-a-half years – until 12 November 1948.²

Australia’s own war crimes program would begin on 29 November 1945 and continue until mid 1951. This chapter will firstly consider the ‘stimuli’ that impelled Australia to commence that program and then look at the ‘constraints’ that limited the program’s effectiveness and eventually brought it to its end.