



# The Asia-Pacific Journal: Japan Focus

in-depth critical analysis of the forces shaping the Asia-Pacific...and the world.

## Trying Bush's War Crimes: The International Criminal Tribunal for Afghanistan

by Maeda Akira

*In the course of 2002, Japanese peace activists laid the groundwork for the convening of an International Criminal Tribunal for Afghanistan to try George W. Bush for war crimes. Following three research trips to Afghanistan and research in Japan, the Tribunal convened the first of a series of hearings in December. Maeda Akira, a convenor of the International Criminal Tribunal for Afghanistan, is a professor of international law at Zokei University in Tokyo. This article appeared in Kinyobi 10, January 2003.*

Unfortunately, there is no international organization to try America for having invaded Afghanistan on the pretext that terrorists are hidden there. Therefore, the people have begun to hold a trial to investigate this criminality

On December 15, 2002 the International Criminal Tribunal for Afghanistan (ICTA) convened its first public hearing in Tokyo to try President Bush. Four hundred participants gathered to raise the curtain with an opening declaration of the *Culture of Peace* against *The Globalization of the Military*.

At the tribunal's first public hearing, Ito Narihiko, Professor Emeritus at Chuo University, said that September 11 was a consequence of America's global military and economic strategy. He noted that the Bush administration used military means to accomplish two objects that it was unable to accomplish diplomatically: the overthrow of the Taliban and construction of an oil pipeline through Afghanistan. The photojournalist Hirokawa Ryuichi, recently returned from assignment in Afghanistan, reported on the reality of wartime suffering as he showed slides of his photographs. While showing video that he had taken during the fall of Kabul, Watai Takeharu of the Asia Press compared those who bomb to those who were bombed, providing abundant images of the horrors of war. Paul Galang, a director of the Abakadang Kayumanggi Community Development Foundation (AKCDF), reported on the murder and torture committed against women and children by Philippine soldiers who had been trained by the American military. Ando Taiko, a Professor at Ibaragi University, carefully explained the concept of *Crimes of Aggression* as understood under modern international law. She showed that the invasion of Iraq met the criteria for crimes of aggression in violation of international law. Gary Wilson, of the American International Action Center, noted that during the bombing of Afghanistan, in addition to bunker busters, daisy cutters and cluster bombs, with their extensive capacity to kill and maim, about 600 tons of depleted uranium rounds were fired.

### *The Ruins of History and The Ruins of the Spirit*

The steering committee working to convene the *People's Tribunal* began on October 20. Members of the peace movement, all untrained in the law, comprised the secretariat. For a year, we struggled together as a *tribunal movement* with the objective of convening the tribunal. The call to convene the ICTA was issued at a meeting on *Peace and Justice for Afghanistan* held in Tokyo on February 17, 2002. In March, the first fact-finding mission concerned with wartime suffering investigated conditions in Afghan refugee camps in the Peshawar region. In July and August, the second fact-finding mission conducted additional research. In September a third fact-finding mission studied conditions in Kabul and Kalahar. In early September in Kabul, we encountered the Ruins of History.

The school grounds on the southern side of Kabul University had been completely destroyed during the Civil War. Collapsed buildings, crushed houses, crumbled walls all continued to burn. People walked among the rubble, children were running about. There were even houses that had been totally destroyed, not a trace remaining. In Kabul, we filmed the horrors of war experienced by three people. Alifah's house was completely destroyed when it sustained a direct hit by bombs dropped from a B-52. Eight members of her family were killed. In Afghanistan, a woman whose husband has been killed has no social standing and no means to earn a living. She struggled on, carrying her remaining child in her arms. Her next-door neighbor Sahib's house was destroyed and two of her children were killed. In the cemetery that we were shown, ten graves lay beneath green flags. These are the graves of Alifah's family and Sahib's children. We were told that the green flag is the sign of a war victim.

In October of last year, cluster bombs were dropped in the western district of Kabul. The explanation given was that the Taliban had been coming and going from a small building near an elementary school. However, the building was surrounded by a residential district. Children were struck by fragments of the cluster bombs and wounded. Isanu sustained a severe injury to his left leg. In Kalahar, a village to the north of Kabul, about twenty percent of the residents are Tajik. The remaining eighty percent are Pashtun. Because there were Taliban buildings in the area, bombing began, mosques were destroyed and about 60 people were killed. The Tajik fled on foot to the valleys of Pansheer. This is the region in which the Northern Alliance had entrenched itself. Because it was such a dangerous area, people were also killed when they plunged into ravines. The Pashtun fled to the south. Some fled to Kabul, still more fled to Pakistan, becoming refugees.

It is possible that the circumstances that led many of these people becoming refugees are crimes against humanity. First, there is no justification in international law for the US-British attack on Afghanistan. It cannot be explained as the right to self-defense. The UN Charter provides no grounds to justify it. There has been no Security Council resolution to approve the US-British invasion. The US claims that its actions are justified by Al Qaeda's criminal acts, but it hasn't offered a single piece of evidence. If Kabul has experienced the *Ruins of History*, I wonder if America hasn't been reduced to the *Ruins of the Spirit*.

### *The People's Tribunal*

Having completed three research projects, we drew up a *Draft Statute for the International Criminal Tribunal of Afghanistan* and a *Draft Indictment Against Bush* and proposed to convene the ICTA. The ICTA convened as a *Peoples Tribunal Movement* with the people at its center. Its steering committee is made up of members of the peace movement. The ICTA is a part of the Japanese Anti-War Movement. We convened it as the responsibility of a peace movement that was unable to block the wartime participation of Japanese Self-Defense Force aerial tankers. The ICTA works from Japan in solidarity with peace movements in the US and Asia. Global Exchange, the American NGO that supports Afghan victims and mediates between IS and Afghanistan, has cooperated with us in our field research. Starting in December, we began to convene a series of public hearings rather than simultaneously staging the tribunals. Continuing on from the first hearing, open sessions will be held in various places. The hearings will center around reports of our fieldwork in Afghanistan; reports from NGOs, journalists and the like; and lectures by scholars of International Law and Political Science.

Our objective is to organize these documents and accumulate evidence. In concrete terms, we will focus on American military strategy, diplomatic strategy, the strategy of the oil industry; detailed accounts of the omissions and inclusions of Japan's Self-Defense Force participation in the war; the definitions of war crimes, crimes against humanity and crimes of aggression; the problem of American military bases and crimes against women; and the conditions of Afghan refugees in Japan. The Tribunal Movement began in Japan but our aim is also to convene sessions in Asia and the US. There is already a possibility that we will hold sessions in Manila and Berkeley. Bush's war crimes are already quite clear. However, meticulous preparation is necessary for a *people's tribunal* to be able to bring charges of war crimes. First, we must be rigorous in our application of international law. Based on the standards of contemporary international law, we must prove beyond the shadow of a doubt that Bush is a war criminal who has violated international law.

On this count, the International Tribunal for Crimes Against Women, a tribunal that investigated and condemned Japanese crimes against the military comfort women in the Pacific War, set the standard for methodological accuracy when it was convened last year after having been called for by Japanese and Asian women. Second, the ICTA movement will draft the ICTA Formal Rules of Evidence and an Annotated Edition of ICTA Regulations. Third, we will collect and disseminate information from NGOs as well as that which has been collected through field research. We will conduct multiple verifications of the documents, photographs and images, and other evidence. To the extent possible, we will verify the reality of Bushi's war crimes.

Our project encompasses the contemporary history of Afghanistan and US military and diplomatic strategy. Fourth, the rights of women in Afghanistan will also be an important theme to consider. With the exception of brief periods of time in modern and contemporary Afghan history, the violation and denial of women's rights has been extreme. If anything, we can say that both the Taliban and the Northern Alliance have been complicit on this count. What's more, brothels have already been concentrated in the area around the American bases in Bagram. It will also be necessary to take up the problem of bases and violence against women.

A year would hardly be enough time to carry out a project such as this. However, with US plans for invasion of Iraq, we must investigate and judge Bushi's war crimes in Afghanistan as quickly as possible. To the globalization of carnage and destruction that attempts to smash our pleas to transform the twentieth century of genocide and war into a twenty-first century of peace, the ICTA movement will respond with a resounding No! We appeal to you for your cooperation. Subsequent public hearings were scheduled to be held in Osaka and Kobe.

<http://afghan-tribunal.3005.net/>

Translation by Christopher Nelson