



## 60 Years On Japanese Debate the Tokyo Tribunal's Legitimacy

By Yoshida Reiji

*[The Tokyo war crimes trial (International Military Tribunal for the Far East, 1946-1948) was the Pacific counterpart to the first Nuremberg Tribunal. Controversial at the time, it is more controversial today. This essay reminds American readers of differences in assessing the trial in the victorious and in the defeated countries, as well as within a single country such as Japan.*

*My Victors' Justice (1971) was the first monograph in English on the Tokyo trial. I was writing in the late 1960s, and the context was America's Vietnam War. That war gave the lie to the Tokyo trial's professions of American ideals and American innocence. The trial, I concluded, was a travesty of justice--not that Japan's war was right, but that the trial was wrong. Above all, it was flawed because it singled out Japanese war crimes while ruling out the possibility that the US or its allies might be liable for such acts as the firebombing of 64 Japanese cities and the atomic bombing of Hiroshima and Nagasaki. The right in Japan welcomed my book, concluding that if the trial was a travesty, then Japan's wartime policies were legitimate.*

*In Japan today the context is the neo-nationalist assault on history textbooks and the scholars they hold responsible for a supposedly "masochistic view" of Japanese history. Fujioka Nobukatsu and the Tsukurukai group assail progressive scholars such as Yoshida Yutaka who address the uncomfortable past, raising issues of atrocities and war crimes. The prize is Japan's younger generation. Public opinion polls report that 37% of Japanese in their twenties say they "can't tell" if Japan waged a war of aggression. But ask the same cohort in the U. S. about the Vietnam War or about Iraq II, which UN Secretary General Kofi Annan declared "illegal", and the results would be far more distressing. In China, the trials have particular meaning in the context of contemporary conflicts over war memories in Japan, ignited by Prime Minister Koizumi's repeated visits to Yasukuni Shrine at a time of growing territorial and resource conflicts between China and Japan. China's efforts to prevent Japan from securing a permanent UN Security Council seat provides an immediate political context for the renewed Chinese emphasis on Japan's wartime atrocities. Richard H. Minear.]*

Morioka Masahiro broke a taboo for government officials in May when, as parliamentary secretary for the health ministry, he disputed the legitimacy of the International Military Tribunal for the Far East, in which Japan's wartime leaders were tried.



Wartime Prime Minister Tojo Hideki listens as his death sentence is read aloud on Nov. 12, 1948, at the International Military Tribunal for the Far East.

Morioka, a House of Representatives member with the ruling Liberal Democratic Party, openly defended Japan's Class-A war criminals and questioned the legitimacy of the tribunal, which convicted 25 wartime Japanese leaders and, in a way, set the course of postwar Japan.

Morioka was rebuked by the government for the remark and drew harsh protests from China, where memories of Japan's wartime aggression are still fresh.

But the 62-year-old lawmaker says he has never regretted what he did, and claims that more than 90 percent of 1,500 e-mails he received from Japanese supported and encouraged his statement.

"Everybody was wondering why we should keep apologizing to China and South Korea even 60 years after (the end of the war)," Morioka told The Japan Times. "But they didn't know how to express that feeling."

Six decades after Japan surrendered on Aug. 15, 1945, fundamental questions linger here over the Allied-led international tribunal. In fact, it's recently become a hot topic with Prime Minister Junichiro Koizumi's annual pilgrimages to Yasukuni Shrine, which honors 14 wartime leaders who were convicted by the tribunal as Class-A war criminals.

Yoshida Yutaka, a Hitotsubashi University professor, points out that rising nationalism among younger generations, who feel less guilty about Japan's wartime acts, has given new momentum to arguments against the Tokyo Tribunal.

The situation could heat up the emotional confrontation going on between Japan and China. "Both in China and Japan, new generations who do not have wartime experiences will have to handle war-related issues now," Yoshida said.

To be sure, a majority of Japanese seem to support a key conclusion of the tribunal -- that Japan waged a war of aggression.

A poll conducted by NHK in 2000 showed that 51 percent of 1,468 respondents aged 16 or older consider Japan the aggressor for the war it waged in the 1930s and 40s, compared with 15 percent who feel otherwise.

Still, the same poll showed that an increasing number of young Japanese are questioning the validity of the tribunal, the professor said.

In a 1982 NHK poll of 2,623 people, 10 percent of those aged 16 to 19, and 11 percent of those in their 20s, replied that "they can't tell" whether Japan waged a war of aggression. Those ratios grew to 29 percent and 37 percent, respectively, in the 2000 poll.

Rejection of the Tokyo Tribunal is not rare for political conservatives.

Morioka made headlines because he was speaking on the issue while serving in a government position. Chief Cabinet Secretary Hosoda Hiroyuki quickly denied that Morioka's statement reflected Tokyo's official stance and said Japan stood by the outcome of the tribunal.

But former trade minister Hiranuma Takeo and Kamei Shizuka, a former LDP policy chief, both said they agreed with Morioka's statement.

The Tokyo Tribunal opened on May 3, 1946, under orders from Gen. Douglas MacArthur, then Supreme Commander for the Allied Powers.

After hearings that continued through November 1948, the tribunal branded 25 defendants as Class-A war criminals, seven of whom -- including wartime Prime Minister Gen. Tojo -- were later hanged.

The main point of contention in the debate over the tribunal is whether the Allied Powers were justified in trying Japan's wartime leaders.

Technically, even scholars who fully accept Japan was to blame for the war and acknowledge the judgments handed down by the tribunal say the proceedings may have been flawed in terms of international law at that time.

The war criminals were convicted of offenses that included conspiring to wage a "war of aggression" and committing "crimes against peace."

During the tribunal, the counsel for the wartime leaders argued that the concept of "crimes against peace" had not been established under international law but was retroactively thought up by the Allied Powers. In fact, there were no international pacts or treaties that clearly distinguished between "war of self-defense" or "war of aggression" at that time.

"Whether 'the crimes against peace' were thought up ex post facto is still a very subtle issue even among experts," said Awaya Kentaro, a professor at Rikkyo University and a leading expert on issues related to the military tribunal.

"I believe it was good that the tribunal was held. But it was also a political event," Awaya said.

According to Awaya, in the closing days of the war, Prime Minister Winston Churchill and Soviet leader Joseph Stalin initially called for the immediate capture and execution of Japan's leaders.

But the United States argued that a tribunal with "political and educational effects" should be held to expose the unprecedented ravages of the war to the world, Awaya said.

As a result, vast amounts of evidence were submitted to the court and can be re-examined by historians, Awaya said. "Holding a military court was much better than doing nothing" or summarily executing Japan's leaders, he added.

Meanwhile, many conservative scholars and politicians say Japan was forced to wage a war of "self-defense" because the U.S. imposed economic sanctions in the leadup to Pearl Harbor in 1941, and that Japan, like the Western powers that preceded it, was trying to defend its interests, which included parts of China.

The Western powers should also have been condemned for their colonial rule of parts of Asia and their wartime massacres of civilians, including the U.S. atomic bombings of Hiroshima and Nagasaki and the massive air raids conducted all over Japan, they argue.

In Hiroshima, the estimated number of people killed in the August 1945 atomic bombing reached 140,000 by the end of the year, while the attack on Nagasaki ultimately claimed around 70,000.

Judges from the Allied powers turned down the defense's proposal that the tribunal take up issues related to the atomic bombings.

"The tribunal one-sidedly ruled that only Japan conducted evil acts. That's not true," Morioka said.

He argued that the tribunal, which was carried out during the Occupation with stern censorship, implanted "a masochistic view of history" in the minds of the Japanese people.

But Hitotsubashi University's Yoshida has a different interpretation of the tribunal's impact on the public's view of the war.

He argues that the Cold War, which started soon after World War II ended, allowed the Japanese to maintain a double standard toward the Tokyo Tribunal and their own responsibility for the war.

"The focus (of U.S. interests) had already shifted toward strengthening Japan as an ally in the Cold War" rather than punishing it for past acts, Yoshida said.

Preferring stability over radical changes in the Japanese government, the United States decided not to prosecute the late Emperor Showa for his role in the war, limiting the focus of the tribunal to a handful of wartime leaders who it claimed played leading roles in launching aggression in Asia.

As a result, Yoshida said, the tribunal allowed the Japanese public to feel they only had been "deceived" by the wartime leaders and to regard themselves as victims of the war -- with many of their cities having been burned to ashes in air raids and food shortages hitting much of the public.

Such sentiment was perhaps reinforced by the fact that real developments in the war were kept secret from much of the public, for whom the Tokyo Tribunal was the first chance to learn what really happened.

"That logic of 'deception' fit well with the sentiments of the Japanese people," Yoshida said.

To end the Occupation and recover its independence, Japan concluded the 1951 San Francisco Peace Treaty, which was based on the judgments of the Tokyo Tribunal.

But domestically, the Japanese people tended to think of themselves as victims of the war, without seriously thinking about their responsibility as victimizers, Yoshida said.

While legal questions about the tribunal gave ammunition to people who tried to defend Japan's wartime acts, Yoshida argued that the tribunal's legal legitimacy and Japan's war responsibility should have been dealt with as two separate issues.

Awaya of Rikkyo University said people should not try to downplay Japan's wartime misdeeds by citing the past colonial rule of the Western powers.

"Yes, colonial rule by the Western powers was wrong. But that does not mean (Japan) can justify its own acts," Awaya said.

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