The Asia-Pacific Journal: Japan Focus
n-depth critical analysis of the forces shaping the Asia-Pacific...and the world.

History on Trial: French Nippon Foundation Sues Scholar for Libel to Protect the Honor of Sasakawa Ryōichi 試される歴史——フランコ日本財団、笹川良一の名誉を守るために学者を中傷のかどで起訴 •French, Japanese documents available

Mark Selden, Karoline Postel-Vinay

History on Trial: French Nippon Foundation Sues Scholar for Libel to Protect the Honor of Sasakawa Ryōichi

Karoline Postel-Vinay with Mark Selden

Updated: See the associated documents below en Français, Japanese, and English.

L'Affaire

Something unusual happened on 5 March 2009 in the quiet compound of the French school known as Sciences Po, the National Foundation for Political Science, from which most of the past and present French governmental elite graduated. It was the first day of a major conference on "Memory, The Writing of History and Democratization" that assembled political scientists, sociologists, and historians, addressing a vast array of issues related to World War Two, Stalinism and Maoism, and recent African wars. Around one hundred people had gathered in one of the main lecture halls. The first session was ending when a woman from the audience quickly approached the speakers' table. She was not your typical academic conference attendant. A bailiff, she was there to hand one of the speakers a subpoena to appear before the Paris district court at the request of the "French Sasakawa Foundation" (FFJDS).[1] The Foundation, having filed a libel suit against that particular scholar, had chosen this flamboyant way to make the case public.

A few months earlier, the scholar in question had joined some sixty other colleagues, including the co-organizers of the on-going conference, in signing a petition addressed to the French Foreign Minister, Bernard Kouchner, asking him to withdraw his support from an event celebrating the 150th anniversary of Franco-Japanese diplomatic relations that was mainly financed by FFJDS.

The concern of the petitioners was to avoid associating the name of a very controversial historical figure such as Sasakawa Ryōichi with that of the French Republic, especially in the symbolic context of a diplomatic commemoration. A number of the petitioners were all the more troubled by the choice of the sponsor for this official event, being aware of the link of the Sasakawa-related institutions in general, the Sasakawa "network" — or the "large family of organizations" as the Nippon Foundation puts it on its website — with historical revisionism in Japan today (see infra).

It later became known that the French Foreign Ministry had made its own enquiry into the matter and decided to withdraw from the Franco-Japanese event. The minister asked his staff not to attend it and requested that the logo of FFJDS should be eliminated from all communication material associated with the event. Despite, or perhaps because of the minister's decision, the organizers, a French private think-tank, along with the Japanese embassy in Paris, proceeded to hold the event. According to witnesses, the attendance, mostly Japanese, was modest. "Loss of face" is what comes to mind in trying to make sense of the way the organizers handled the situation, and eventually FFJDS's decision to launch a legal battle. But the corollary question arises: "whose face" was lost in this affair?

While omitting to mention the French Foreign Ministry's role in the chain of events, FFJDS initially presented the disturbance of the event it had sponsored, as the core point of its claim that its honor and good name had been sullied. As its full argument unfolded, however, it soon appeared that the honor and good name that were at stake were rather those of Sasakawa Ryōichi, the man whose memory the foundation has vigorously defended – although such a purpose is conspicuously absent from the foundation's stated mission.

The Narrative and its critics

"Sasakawa" refers here both to the surname of a man, Sasakawa Ryōichi (1899-1995), and to his legacy, both tangible and intangible. This legacy is as much about the numerous institutions Sasakawa Ryōichi established in Japan and around the world, as it is about the narrative his heirs and surviving entourage are endeavoring to produce.

Sasakawa Ryōichi was a man of action and only in the later part of his life did he set about to create a cohesive self-portrait that would serve as the basis of the grand narrative his kin, and the foundations he financed, are now in the process of establishing. In 1981, Sasakawa's old friend, the media and publishing baron, Robert Maxwell, commissioned a book that celebrated his life describing him as a "warrior for peace" and a "global philanthropist".[2] It was, in a sense, the first draft for what appears retrospectively to have been a long-term biographical project whose aim was to design a historical figure that was so literally "remarkable" that it would be situated beyond the ordinary categories of right and wrong — or to put it more prosaically to make it acceptable that "being Ryoichi Sasakawa meant never having to say you're sorry".[3] He would be a "messenger from another world"[4] whose deep love for his mother and his country would constitute the heart of a story, from which the crudity of crime, violent politics and jingoism would be obliterated, and replaced by an allegoric sense of mission which should logically have resulted in the reward of a Nobel Peace Prize, the dream of Sasakawa's old-age, dream but one that would be unfulfilled.

Upon his death, Sasakawa's obituaries in the international press clearly indicated that this story had not taken root. The British daily *The Independent* announced: "The last of Japan's A-class war criminals has died, a nonagenarian multimillionaire. In the land where most people do their utmost to pass unnoticed, Ryoichi Sasakawa stood out as a monster of egotism, greed, ruthless ambition, political deviousness…" (20 July 1995). Another English

newspaper, *The Guardian*, reported: “Ryoichi Sasakawa, philanthropist, billionaire, politician, candidate for the Nobel Peace Prize, friend of the great and good, war criminal and “don” of Japan, has died (…). Controversy followed him to the grave with Yomiuri Shimbun, Japan’s best selling newspaper, saying he was regarded as a “monster of modern times”. (20 July 1995). The French daily *Le Monde* concurred: “Former war criminal, one of the dons of the Japanese mob, converted into philanthropy (…), in Japan he was powerful and feared but was little respected as no one ignored his history” (20 July 1995).

Sasakawa with Mussolini. The New York Times obituary states that "In 1939 he flew one of his 20bombers to Rome to pose for pictures with Mussolini."

The French Tokyo correspondent was referring to a history that was not included in the authorized biographies of Sasakawa but could be found in disparate articles and books written by Japanese authors, sometimes, apparently, at their peril.[5] The awareness of that history — some fragments of which can also be found in Western language books[6] — explains why Sasakawa-tagged funding has so often stirred controversies, especially in academic circles. Echoing his friend and Prime minister Nakasone Yasuhiro’s policy of “internationalization” (*kokusaika*) in the early 1980s, Sasakawa Ryōichi embarked upon a project of asserting his presence in the higher education sites of the Western world. Using the vast financial resources of the Japan Shipbuilding Industry Foundation, he established the United States-Japan Foundation, in 1980, the Great-Britain Sasakawa Foundation in 1983, the Scandinavia Sasakawa Foundation in 1985, and the Franco-Japanese Foundation (FFJDS) in 1990. The respective administrators of these organizations approached prestigious universities with extremely generous gifts. More often than not those gifts were accepted, albeit rarely without debate, and in some cases – the University of Chicago, MIT, UCSD, the University of Kansas, the University of Hawaii, McGill, and the Australian National University, to name a few – they were actually turned down. The controversies that arose in each of these cases were interpreted by Sasakawa’s supporters as attempts to foment anti-Japanese sentiment. In Tokyo the official response was one of “bewilderment”.[7]

Fifteen years after Sasakawa Ryōichi’s death, controversies about acceptance of Sasakawa-tagged funding have not died away. As recently as 2008, Swedish public radio aired an informed and detailed program on the matter that prompted university representatives to publicly distance themselves from Sasakawa donations. But the most telling sign of the persistence of those controversies is the comment made on its website by the Nippon Foundation itself, the core organization of the Sasakawa network: “He (Sasakawa Ryōichi) is best known for the controversy that continues to surround him as a result of his unapologetically nationalistic stance, and the gambling-based philanthropic machine that he constructed following the war.[8] Most telling . . . and yet an incomplete mention of the issues that continue to swirl around the Sasakawa name and legacy.

Sasakawa Ryōichi’s followers have attempted to create a much more coherent and compelling narrative than their patron was ever able to provide for himself. In the last five years, no less than six volumes promoting a positive vision of Sasakawa and his world have been published, in most if not all cases, with the financial backing of the Sasakawa network. Sasakawa Yōhei commissioned a three volume book edited by Itō Takashi on the topic of « Sasakawa and the Tokyo Trial », which is as much about rehabilitating Sasakawa as reaffirming the revisionist view of the International Military Tribunal for the Far East (IMTFE).[9] The Nippon Foundation has also financed the English translation of Sasakawa Ryōichi’s prison diary — *Sugamo nikki* — by a Japanese PhD candidate at Cambridge University. The presentation of the book on the publisher’s website would doubtless have been welcomed by the autobiographer himself for its perfect lack of criticism.[10] These publications, along with the Nippon Foundation website presentation, share a common discourse characterized by a two-sided dynamic; erasing negativity — by ignoring the criminality of Sasakawa’s history — and creating positivity — by claiming that Sasakawa “volunteered for indictment” in 1945 and was eventually “acquitted”. It is in fact known that the Allies had serious reasons to arrest him and that the charges against him were never formally dropped (cf. infra).

Like the statues of himself carrying his old mother on his back (link), that are scattered throughout Japan, or the image he promoted through his motorboat racing enterprise (link), Sasakawa created a self-portrait that was closer to fiction in a literary sense of the word, mixing emotions with references to a well-known militaristic repertoire. In the narrative his heirs are now establishing, this lyrical dimension is somewhat muted and replaced by a representation of Sasakawa that is both more abstract and structured in a way that conveys a clear, albeit unconvincing, portrait distancing him from any responsibility for Japan’s ultra-nationalistic past, and whitewashing that past.

Was Sasakawa Ryōichi a “Class A war criminal”?

Some major reference dictionaries as well as mainstream media[11] have chosen to present Sasakawa Ryōichi as a “class-A war criminal” without any further specification. Such a presentation, one could argue, is inaccurate given the fact that Sasakawa was released from jail without judgment. Yet is the expression “suspected war criminal” chosen by other publications[12] more accurate? Being “suspected” could mean that he was never arrested, or that he was indeed brought to trial and acquitted, or at any rate acquitted through some formal legal proceeding. But that was not the case: he was both arrested and never formally acquitted of “class-A war” charges.

The Tokyo Trial raised a number of fundamental issues both because of the decisions that were then taken and because of those that were not taken. The decision to absolve the emperor of any type of war responsibility, or the decision to put aside all matters related to colonization, as well as the decision not to question the legality of the atomic bombing of Hiroshima and Nagasaki, produced, beyond concerns about “victor’s justice”, a long-term and complex debate on the role of international law and historical memory in addressing issues of war and peace. Among the decisions that were not taken were those concerning the fate of a number of individuals arrested in 1945 for committing “crimes against peace” (class-A war crimes) and that were eventually neither brought to trial nor acquitted. This non-decision, made by the prosecution, left these individuals in a state of legal limbo from the perspective of international law. From a historical perspective, however, this non-decision had consequences which remain to be addressed by scholars and concerned citizens.

By December 1945 the arrest of possible class-A war criminals had been completed in accordance with the Basic Directive for Post-Surrender Military Government in Japan Proper (3 November 1945). Around one hundred individuals were thus detained in Sugamo prison. As early as the spring of 1946, however, it was suggested that no more than a fifth of those individuals would be brought to trial, regardless of the actual contents of their respective files. The Chief Prosecutor, Joseph Keenan, faced conflicting pressures. One was to give priority

to representativeness over legal considerations in the selection of persons brought before the tribunal: the trial was to be educational, and therefore both prompt and limited in scale, the endgame being to effectively demonstrate for future generations the criminality of planning and launching an aggressive war. The counter-argument to the principle of representativeness, was that the one hundred or so people detained under class-A charges, had been selected among tens of millions of Japanese for reasons that were not baseless, and therefore could not be released a priori without any legal justification. It was at that early stage in the process of the Tokyo Trial that Joseph Keenan, while considering that the trial of as many as one hundred individuals was not logistically feasible, floated the idea of a second, even a third trial that could follow the first of an agreed number of twenty-five defendants (a number that was eventually raised to twenty-eight). Thus emerged a compromise that would accommodate the desire for an early trial of a representative group of class-A defendants but keep options open, including that of another trial, for the remaining detainees.[13]

A few prisoners were released the following year, but by the spring of 1947, fifty "*A-kyū sempan*" ("class-A war criminals"), as they were by then designated by the Japanese public, were kept in limbo, neither selected for a possible second trial nor acquitted. In the summer of 1947, being under pressure for clarifying these detainees' situation, Joseph Keenan ordered the resuming of their screening and later announced publicly, without consulting the other prosecutors, that a second class-A war crimes trial would be held. The result of the completed screening by the International Prosecution Section (IPS) was the further release of thirty-one detainees and the selection of nineteen others for the announced second trial. Among those carefully selected defendants was Sasakawa Ryōichi, as well as Kodama Yoshio, a close friend of Sasakawa's and like him a civilian go-between for the Army and the Underworld, Abe Genki, head of the "thought police" (*tokkō keisatsu*) and Home Minister in August 1945, and Kishi Nobusuke, the man who had been in charge of the economic control of Manchukuo and had signed the declaration of war against the United States and would later re-invent himself as America's best ally in the Eisenhower years. Sasakawa, in his own behind-the-scenes way, followed the same path of re-incarnation. He had actively supported the attack on Pearl Harbor, but he would become, a decade later, a de facto friend and power broker in the service of US military policy-makers, as indicated by his involvement in the "Federation for Victory over Communism" (*Shōkyō Rengō*).

The file on Sasakawa produced by Mac Arthur's team after thorough screening by the International Prosecution Section (IPS) in October 1947 reads as follows: "Subject is clearly one of the worst offenders, outside the military in developing in Japan a policy of totalitarianism and aggression. He was active in the war and grew rich off ill-gotten gains". It concludes by recommending that "subject be retained in custody as a Class A war criminal suspect and tried before an International Military Tribunal in Tokyo".[14]

A few months later, echoing the political mood in Washington, Joseph Keenan declared that a second trial would not be such a good idea after all — it could become, he said, a "sharp anti-climax" to the on-going first trial – and suggested recycling, so to speak, the "A" cases into "B" (conventional war crimes) or "C" (crimes against humanity) trials. The historian Yuma Totani notes how improbable the actual carrying out of such a suggestion would turn out to be as the documents gathered so far by the IPS were specifically relevant to investigation of "crimes against peace" and could not as such be used to investigate possible "B/C" crimes.[15] To transform class-A war crimes charges into class B or C ones meant to pursue new lines of investigation for which neither time nor resources were available. One could also note that the very purpose of looking into "crimes against peace" — a more fundamental reflection on the significance of war — would be lost. Both of those preoccupations appear in the memorandum prepared by the Legal Section of the occupation authorities on the subject of "Trial of Class A suspects on B and C Charges" (25 September 1948), and again in the release document of the previously selected nineteen class-A defendants, also produced by the Legal Section (24 December 1948) — which, not surprisingly, simply states that "it was determined that they would not be tried on "A" crimes charges" but nowhere indicates that the charges had been dropped.[16]

It is interesting to see that this very word "determined", used by the Legal Section in reference to the Chief Prosecutor's instruction to abort, for explicitly strategic reasons, the project of a second class-A war crimes trial, is also used by the Nippon Foundation to narrate its founder's history, but in a very different sense. Its website presentation states: "three years of interrogation determined that Sasakawa was not guilty of Class A war crimes". The paragraph concludes that "Sasakawa was one of the many for whom the evidence was insufficient to bring to trial, let alone support a Class-A conviction".

A tableau of historical revisionism in present-day Japan

Japanese historian Awaya Kentarō argues that Sasakawa's post-war motto, "*sekai wa ikka, jinrui mina kyōdai*" ("the world is one family, all human beings are brothers") can be interpreted as a rehash, inspired by his Sugamo Prison days, of the famous pre-war slogan "*hakkō ichiu*" ("all the world under one roof"). Awaya notes that Kiyose Ichiro, the Chief of the Japanese Defense Council for the Tokyo Trial, rationalized the purpose of "*hakkō ichiu*" by translating it into English as "universal brotherhood".[17] By doing so Kiyose provided the former slogan a plasticity that would indeed fit the reincarnation of some of the main characters of Japanese ultra-nationalism into roles as major actors of the "New Japan", as Prince Konoe Fumimaro hoped to be, or as Kishi, Kodama and Sasakawa managed to become. Without further speculating on the actual genealogy of the "*sekai wa ikka*" slogan, suffice it to note that this slogan is still used today by Sasakawa's followers and is projected as the core vision of the "Ryoichi Sasakawa Young Leaders Fellowship Fund", also known as SYLFF.[18] This program, which is presented as "an outgrowth of the vision of the late Ryoichi Sasakawa" provides each year a one million dollar endowment to tens of universities in numerous countries around the globe. Considering its financial power, and therefore influence, it seems reasonable to ask to what legacy precisely the vision it claims to promote refers. And from that perspective, Awaya's "old hat" argument merits consideration.

As mentioned above, the Nippon Foundation officially evokes Sasakawa's "unapologetically nationalistic stance". Indeed, in the course of his long lifetime, Sasakawa never apologized for being a prominent supporter of a regime that was responsible for abysmal destruction, including millions of deaths and unspeakable atrocities. From his Sugamo days forward and until his death, Sasakawa also showed an unmistakable consistency in his personal loyalties. In a letter sent in November 1946, and intercepted by the censorship services of the occupation authorities, Sasakawa wrote: "A newspaper reported that the Allied Authorities executed the first-class war criminals of Germany and scattered their ashes over the ocean to eliminate the idea of revenge. This will not destroy the mighty soul. It certainly will be criticized by future historians as a lowly, inhuman act on the part of a people who knew no religion and had no faith".[19]In the same line of preoccupation and loyalty, Sasakawa went to the Philippines in 1964 to search for the remains of a number of condemned Japanese war criminals that were executed and apparently not given proper burial. Among them were Yamashita Tomoyuki, General of the Japanese Army in the Philippines, condemned for large-scale atrocities committed in Manila, and former Lieutenant-General Homma Masaharu, held responsible for the Bataan Death March. Sasakawa gave a press conference explaining that no "true friendship" could be established between Japan and the Philippines if the remains of the executed were not given a "respectful burial in a respectable cemetery".[20]

Sasakawa's political affinities are demonstrated by his long-lasting friendship with Kodama Yoshio and his later association with Reverend Moon Sun Myung, both of which constitute a continuum linking his pre-war to his post-war identity. This identity has survived Sasakawa in different ways, which are manifest both in the people and the actions of the Sasakawa network. Looking back at his political affinities, it seems more déjà vu than surprising that, for example, the Nippon Foundation provided support to Alberto Fujimori in November 2000, when the disgraced former president had fled Peru, accused by the Lima authorities of corruption and human rights abuses. The following month, the then chairwoman of the Nippon Foundation, the novelist Sono Ayako, organized a press conference at the headquarters of the foundation, to announce that she had invited Fujimori to stay in her house, where he was leading the "life of a stoic",[21] and where he eventually spent a year. Sono Ayako took over the chairmanship of the Nippon Foundation after Sasakawa Ryoichi's death and, along with the administrative responsibility, that she held until July 2005, she kept alive a core feature of the founder's political identity, his "unapologetically

nationalistic stance".

Sono Ayako only recently declared herself to be a supporter of official visits to the Yasukuni shrine by Japanese government officials. As historian John Breen noted, whereas she had previously maintained the position that such visits were unconstitutional, in 2005, she reversed her stance, announcing that her husband and herself would go to the shrine on 15 August of that year.[22] Her opposition to writer Ōe Kenzaburo's view of the forced mass deaths that occurred in Okinawa at the end of the Pacific War has, on the other hand, a longer history. Her book on the "myth" behind the Okinawa story was published in 1973 with the clear intention to reject any suggestion that the Imperial Army had coerced hundreds of civilians on the islands to commit suicide, claiming rather that those deaths had been voluntary acts of "love" for emperor and nation.[23] Precisely that point, the criminal responsibility of the Army, was made by Ōe in his essay on Okinawa published three years earlier.[24] So in 2005, when the Nobel Literature Prize laureate was sued for libel by two former soldiers who had been posted in Okinawa in 1945, Sono predictably sided with the plaintiffs, who also quickly received support of the "Study Group for a Liberal View of History" (*Jiyūshugi shikan kenkyūkai*), the revisionist association led by Fujioka Nobukatsu. But as Ōe reported, Sono had already made plain her stance a few years before. In 2000 she publicly stated that there was no "evidence" — such as a written order – that the Okinawan people had been forced to kill themselves, adding that the words used by Ōe to describe the military associated with the Okinawa mass deaths constituted "an inhumane lynching".[25]

Sono Ayako is one of the figures of the Sasakawa galaxy that are central to the post-1990s historical revisionist current in Japan. As mentioned above, the historian Itō Takashi, the editor of the latest authorized — commissioned by Sasakawa Yōhei —biography of Sasakawa Ryōichi, is also a founding member of *tsukurukai*, the association that aims to produce textbooks conveying a "non-masochistic" view of Japan's history. The "masochism" here refers in particular to the acknowledgement of some of the darkest pages of Japan's ultranationalist past such as the Nanking Massacre. Another prominent figure in the Sasakawa galaxy is Watanabe Shōichi, a philologist who sits on the board of trustees of the Nippon Foundation. Watanabe has been fighting against the "masochistic view of history", claiming in particular that no more than a handful of civilians were killed at Nanking, and that, on the contrary, the Japanese Army had provided the Chinese population with food assistance.[26] Watanabe Shōichi also co-signed a 2007 letter addressed to the United States Congress to protest against the submission of a resolution calling for recognition by the Japanese government of responsibility for the "comfort women". The letter, that was made public at a press conference organized by Watanabe, argued that the resolution was misguided as, during the Pacific War, there were "no sex slaves" but only "professional camp followers" who were "making money from soldiers".[27] The text was signed by several Japanese public intellectuals, including Kusaka Kimindo, another prominent player in the Sasakawa network. Kusaka is the head of a Nippon Foundation-sponsored institution, the "Foundation for Encouragement of Social Contributions" (*Shakai kōken shien zaidan*) whose stated aim is to "publicize good works and heroic actions that largely go unnoticed by the press and society". Before that, from 1997 to 2006, Kusaka served as the chairman of the Tokyo Foundation.

The Tokyo Foundation was established in 1997 under the umbrella of the Nippon Foundation whose website presents it as "Japan's first genuinely autonomous, private, non-profit think tank". It is also "engaged in developing the next generation of human resources, through the Ryoichi Sasakawa Young Leaders Fellowship Fund", as announced during the ceremony celebrating its tenth anniversary. Another aim of the Tokyo Foundation, according to its executive director for research, is to correct "biased views and misapprehensions of Japan overseas".[28] Hence the foundation launched in 2005 a two-year program to sort out "issues surrounding the Nanjing Incident". The centerpiece of this program was the promotion of a book by Higashinakano Shūdō, *The Nanking Massacre*. Facts versus Fiction, of which several thousand copies (2424 to be precise) were sent to individuals and institutions around the world, including major public and university libraries.[29] The Tokyo Foundation also published a twelve pages synopsis of Higashinakano's work, which was sent along with the book, and which starts with the following paragraph:

> "This book is a research work intended to unearth and reveal the truth about the events that transpired in Nanking on December 13, 1937, when Japanese invaded Nanking, and thereafter. Its conclusions were reached via the painstaking examination and reexamination of primary sources, which yielded information that resolves most of the issues currently under debate, and show that the "Nanking Massacre" is a product of wartime and postwar propaganda. Without the benefit of this book, an understanding of the facts about Nanking is not possible."[30]

The author himself confirms that this is indeed the key argument of the book, recommending in a preface that readers begin with the final chapter, entitled "New Evidence Leads to the Conclusion that There Was No Massacre in Nanking".[31] Higashinakano also conveys his special thanks to the people who "urged" him to have the original Japanese version of his book translated into English, including Itō Takashi, Watanabe Shōichi, as well as Takubo Tadae, professor at Kyorin University and a member of the board of trustees of the Nippon Foundation.

The *Wall Street Journal* once described the Nippon Foundation as an institution that "funds everything from leprosy research to nationalistic projects" (16 February 2005). That was in an article reporting on the investment made by the Nippon Foundation to develop Okinotori, an islet that was and is at the heart of a dispute between Japan and China concerning whether Okinotori was a rock or an island. At a point when the Japanese government appeared hesitant to confront China on the matter, with important consequences for the territorial boundaries of the two nations, the Nippon Foundation proclaimed a ten million dollar project that would help ascertain Japan's right to Okinatori and the maritime space around it.[32] Coming back to the promotion of Higashinakano's work by the Tokyo Foundation, and the fact that the latter is financially dependant on the Nippon Foundation, the characterization made by The *Wall Street Journal* could apply here too. The question that derives from this, and taking into account that the Tokyo Foundation intends to develop "the next generation of human resources", is whether it matters or not. In June 2006, when a number of American university libraries had received from the Tokyo Foundation a copy of Higashinakano's book, a short debate took place on the H-ASIA discussion forum. The historian Jordan Sand noted that a major financial supporter of Japanese and East Asian studies in Western universities was propagating a denial of the Nanjing Massacre, and therefore suggested that Sasakawa-funded institutions had some obligation, following careful critical examination of the book itself, to voice their opinions to the public and directly to their benefactors regarding their assessment of the book. His suggestion apparently was met with more silence than interest at H-ASIA. Other scholars, however, have discussed the issue.[33]

Pursuing Jordan Sand's reflection, it is worth noting the Nippon Foundation's implicit ambition to speak "for Japan". In 1995, when the foundation was asked by the Japanese government to change its name — it was then known in Japan as the "*Sasakawa Zaidan*" ("Sasakawa Foundation") — it responded by announcing that it would henceforth be called the "*Nippon Zaidan*" ("Nippon Foundation"). This announcement was not welcomed by the official government-funded "Japan Foundation" which feared that the similarity of the names would generate confusion, especially abroad, if not merely unnecessary ambiguity.[34] This ambiguity seemed indeed at play, in June 2009, when the Chinese minister of Defense received a delegation of the Nippon Foundation-sponsored "Sasakawa Japan-China Friendship Fund", headed by its chairman Sasakawa Yōhei, to discuss military cooperation between China and Japan.[35] The same Sasakawa network institution invited to Japan, in February 2010, a group of Chinese journalists so as to expose them to "a slice of real Japanese life", organizing a tour that included a sumo stable, Kyoto and Hiroshima, as well as the Yasukuni shrine.[36] The authority claimed by the Nippon Foundation to represent "real Japanese life", by organizing a visit that included Yasukuni Shrine, echoes that of representing the "Japanese view" of Nanking by promoting Higashinakano's work. In both cases the representation of an entirely different Japan is noticeably absent. It is the Japan that does not identify itself with the war narrative of Yasukuni and the Japan of scholars whose works on the Nanking Massacre and other atrocities are not only academically remarkable but also humbling for their rigor and genuine questioning.[37]

The mix of ethical relativism and judicialization of the intellectual debate

Twenty years ago when the president of York University (Canada) accepted, over the objection of some faculty, Sasakawa funding, he justified his decision by arguing, among other things, that Sasakawa Ryōichi — who was still alive at the time — was just following in the footsteps of "many of the world's most generous philanthropists" such as Rhodes who "stole land from black people".[38] The official presentation of the Rhodes Trust does not provide, however, a

portrait of its founder similar in tone and length as the one of Sasakawa Ryōichi on the Nippon Foundation website – the Rhodes Trust actually introduces readers to a few book references on both Cecil Rhodes and his institutional legacy that are far from uncritical. There is no indication either that the Rhodes Trust has been promoting a thesis denying the crimes resulting from the British colonization of Southern Africa, including the Apartheid regime. Even if that were the case it would not really clarify the logic of justification put forward by the York University president, unless one were to adopt a "why bother" standard to define ethical expectations associated with academic sponsorship. The parallel between Sasakawa and Rhodes does point, however, to an important question that is increasingly present in international debates. It is the problem that has been summed up by the expression "Western hypocrisy" and that challenges the legitimacy of the West (whose definition varies) to pronounce normative judgments on issues such as human rights and democracy. One obvious illustration of this problem is how the quasi-absence of official self-introspection regarding their colonial past can undermine the credibility of former European imperial powers as norm-setters in the management of collective memory.

Yet if tackling this problem should in principle constitute progress, it has sometimes, because of the way the issues have been formulated, produced the reverse effect. The various and contradictory meanings given to the characterization of the Tokyo Trial as "victor's justice" illustrate how the appeal for universal justice, can be reduced to even narrower interests than some of those on display at the IMTFE. When protesting the resolution submitted to the US Congress on the "comfort women", Watanabe Shōichi argued that the atomic bombings of Japan — for which the US never apologized — constitute a human rights issue in comparison to which the problem of "comfort women" could be defined as "only a commercial act".[39] It seems chimerical, however, that raising questions of international law and ethics — such as the legality and the morality of the atomic bombing, or the criminal dimensions of colonialism — should imply disregarding specific issues such as the atrocity that constituted the abduction, rape and torture of women and girls on a massive scale. The limits of the IMTFE that were already apparent at the time of the Tokyo Trial have become only clearer in retrospect, as in their failure to address the comfort women issue. It should nevertheless be possible to reflect on those limits, and the serious questions they raise, while still acknowledging the universal ambition, and indeed legacy, that this institution produced.

Confusing the enlargement of the debate on international ethics with an exercise in moral relativism — in which everyone is guilty and no one is accountable — is all the more problematic in that it resonates with the difficulty citizens and governments alike are confronted with in tackling political complexity. Faced with an inflation of divergent perspectives on an increasing number of issues — thanks to the global rise of political participation — many societies have sought the reassurance of the supposed objectivity of judicial findings. If the adjudication of politics[40] as such can be seen as a welcome development of civil society and the rule of law, especially in the context of recent democratization processes, it can have contradictory secondary effects that include suppressing legitimate scholarly inquiry. The filing of lawsuits against scholars and intellectuals in democratic countries, until recently the prerogative of authoritarian regimes, is one chilling effect of such tendencies.

Returning to the starting point of this article, the libel suit filed by the French partner of the Sasakawa network aims to obtain from a national tribunal a definitive judgment on Sasakawa Ryōichi's history, and beyond that on the legacy of Japan's imperial wars and the Tokyo Trial. A noteworthy argument put forward by the plaintiff is the minimization not only of Sasakawa's part in Japan's violent politics but of the historical significance of fascism in general. If it triumphs, this judicialization of intellectual life can only lead to the silencing of critical inquiry and the institutionalization of ethical relativism.

Karoline Postel-Vinay is a senior research fellow at Sciences Po Center for International Studies and Research in Paris. The author among other works of Le Japon et la nouvelle Asie*, she is also the defendant in the FFJDS vs KPV case.*

Mark Selden is a Senior Research Associate in the East Asia Program at Cornell University and a coordinator of the Asia-Pacific Journal.

This article was written for The Asia-Pacific Journal.

This article has been inspired both by the on-going lawsuit and numerous exchanges with scholars and intellectuals on both sides of the Atlantic and the Pacific. The authors would like to thank in particular for their attention and suggestions: Herbert Bix, John Dower, Gavan McCormack, Yuki Tanaka, David Kaplan, Magnus Fiskesjö, Bruce Cumings, Chalmers Johnson, Daqing Yang, Richard Samuels, Bob Wakabayashi, Harry Harootunian, Sven Saaler, Steffi Richter, Tobias Hübinette, Bertil Lintner, Pierre Souyri, Philippe Pons, Jean-Philippe Béja, Paul Jobin, Philippe Pelletier and Claire Andrieu.

Recommended citation: Karoline Postel-Vinay and Mark Selden, "History on Trial: French Nippon Foundation Sues Scholar for Libel to Protect the Honor of Sasakawa Ryōichi," The Asia-Pacific Journal, 17-4-10, April 26, 2010.

***Updated**: In addition to the notes below, the following documents are associated with the case addressed in this article.*

• The petition by French citizens (PDF)

• The court's verdict (PDF) [Français] [Japanese] [English] (English translation by John Brenson)

• The Nippon Foundation's response (PDF) [Français]

• Response of the Defense to the Nippon Foundation's statement (PDF) [Français] [Japanese]

Notes

[1] This French foundation was created in 1990 with a 3 billion yen endowment from Sasakawa Ryōichi's Japan Shipbuilding Industry Foundation. It is part of a network of organizations headed by the Nippon Foundation (link). Sasakawa Yōhei, Ryōichi's son, is chairman of the Nippon Foundation, and is on the board of a number of partner organizations, including the French, the British and the Scandinavian ones, as well as the Tokyo Foundation. According to the French decree of recognition of the Paris-based foundation, its official name is « Fondation Franco-Japonaise, Dite Sasakawa » (FFJDS) which might translate into English as Franco-Japanese Foundation, so-called Sasakawa.

[2] Paula Daventry (ed), *Sasakawa, The Warrior For Peace, The Global Philanthropist*, Foreword by Robert Maxwell, Oxford, Pergamon Press, 1981.

[3] As captured by Andrew Marshall and Michiko Toyama in their investigative article: « In The Name of the Godfather », Tokyo Journal, October 1994.

[4] Satō Seizaburō, *Sasakawa Ryōichi kenkyū. Ijigen-kara-no shisha*, Tokyo, Chūō Kōronsha, 1998. See also by the same author: *Seiyoku (za raito uingu) no otoko*, Tokyo, Chūō Kōronsha, 1999, and the post-mortem autobiography of Sasakawa edited by Itō Takashi and Watanabe Akira, *Sugamo Nikki*, Tokyo, Chūō Kōronsha, 1997.

[5] Iguchi Gō, Shimoyama Masayuki, Kusano Hiroshi, *Kuromaku kenkyū. Takemura Masayoshi, Sasakawa Ryōichi, Kobari Rekiji*, Tokyo, Shinkokuminsha, 1977, Awaya Kentarō « Tokyo saiban-e-no michi 26 », Asahi Journal, 12 April 1985, Kamata Satoshi, *Shiawase-no hōshū*, Tokyo, Suzusawa shoten, 1990, pp. 7-104, Kaga Kōei, « Saigo-no Don. Sasakawa ichizoku-no anto », *Bungei Shunjū*, August 1993. It is reported that the journalist Kaga Kōei received death

threats in relation to his research on the Sasakawa empire (*cf.* Bertil Lintner, *Blood Brothers*, Crows Nest, Allen & Unwin, 2002).

[6] Philippe Pons, *Misère et crime au Japon du XVIIème siècle à nos jours*, Paris, Gallimard, 1999, David Kaplan and Alec Dubro, *Yakuza. Japan's Criminal Underworld*, Berkeley, University of California Press, 2003 (expanded edition), Richard Samuels, *Machiavelli's Children. Leaders and their Legacies in Italy and Japan*, Ithaca, Cornell University Press, 2003, Eiko Maruko Siniawer, *Ruffians, Yakuza, Nationalists. The Violent Politics of Modern Japan, 1860-1960*, Ithaca, Cornell University Press, 2008. In the preface to the new edition of their famous book, David Kaplan and Alec Dubro tell how, at the request of Sasakawa Ryōichi, Robert Maxwell ordered the shredding of the whole inventory of the English edition, and along with it the portrait of Sasakawa as a war criminal with ties to the underworld and the ultranationalist movement.

[7] *Cf. The Chronicle of Higher Education*, 2 May 1990. For a view on some European cases see Tobias Hübinette, « Asia as a Topos of Fear and Desire for Nazis and Extreme Rightists », positions, 15/2, Fall 2007, pp. 403-428.

[8] Link.

[9] Itō Takashi is a historian and a founding member of the "Society for the Creation of New History Textbooks" (*Atarashii rekishi kyōkasho-o tsukurukai*), also known as *tsukurukai*, a leading organization promoting historical revisionism in Japan today. The three volume book actually comprises previously published texts such as Satō Seizaburō's articles: Itō Takashi, *Sasakawa Ryōichi to Tōkyō Saiban*, Tokyo, Chūō Kōronsha, 2007-2008.

[10] Source (12 April 2010). Also recently published in English translation is Satō Seizaburō's hagiographic biography: *Sasakawa Ryoichi. A Life*, Norwalk, Eastbridge, 2006.

[11] *Konsaisu nihon jinmei jiten*, Tokyo, Sanseidō, 1990, *Asahi jimbutsu jiten. Gendai nihon*, Tokyo, Asahi shimbunsha, 1990, *Kyodo News*, 26 May 1995, *Jiji Press*, 19 July 1995, *Yonhap News*, 30 May 2005.

[12] *Encyclopedia Britannica*, Chicago, 1980; *The Associated Press*, 20 July 1995.

[13] Ishida Takeshi, A Foreign Country in Japan: Sugamo Prison, *The Asia-Pacific Journal.*

[14] SCAP to the War Department, 28 October 1947 (NARA: RG 331, Entry 1289, Box 1416, File 010-2). Another SCAP evaluation of Sasakawa, as "a man potentially dangerous to Japan's political future", has often been quoted by historians. Although it does not contradict the above statement — it actually confirms it — one should, however, note that the former was produced on 4 June 1947, before the new round of investigations by the IPS had been set in motion. In other words, the later document is an even stronger argument for considering Sasakawa as a defendant in a class-A war crimes trial.

[15] Yuma Totani, *The Tokyo War Crimes Trial. The Pursuit of Justice in the Wake of World War II*, Cambridge, Harvard University Press, 2008, p. 73.

[16] NARA: RG 319, Box 270, Row 84, Compartment 11, Shelf 5.

[17] Awaya Kentarō, *Tōkyō saiban-e-no saiban e no michi*, Tokyo, Kōdandansha, 2006, p.141.

[18] Link.

[19] Letter from Ryoichi Sasakawa to Office Sasakawa in Tokyo, 18 November 1946 (NARA: RG 331, M-1683, Fiche 38).

[20] Cf. Satoshi Nakano, "The Politics of Mourning" in Setsuho Ikehata and Lydia N. Yu Jose (eds), *Philippines-Japan Relations*, Manila, Ateneo de Manila University Press, 2003, p. 357. See also Yuki Tanaka, Last Words of the Tiger of Malaya, General Yamashita Tomoyu

[21] *EFE World News Service*, 19 December 2000. See also *Kyodo News*, 28 November 2000, *Japan Times*, 10 August 2003.

[22] John Breen, "Popes, Bishops and War Criminals: reflections on Catholics and Yasukuni in post-war Japan," *The Asia-Pacific Journal*, 9-3-10, 1 March 2010.

[23] Sono Ayako, *Aru shinwa-no haikei*, Tokyo, Bungei Shunjū, 1973.

[24] Ōe Kenzaburō, *Okinawa nōto*, Tokyo, Iwanami shinsho, 1970.

[25] Ōe Kenzaburō, translated by Scott Borba, « Misreading, Espionage and "Beautiful Martyrdom": On Hearing the Okinawa 'Mass Suicides' Suit Court Verdict », *The Asia-Pacific Journal*, updated 14 November 2008 http://japanfocus.org/-Oe-Kenzaburo/2915. See also Kamata Satoshi, translated by Steve Rabson, « Shattering Jewels: 110,000 Okinawans Protest Japanese State Censorship of Compulsory Group Suicides », *The Asia-Pacific Journal*, 3 January 2008, Steve Rabson, « Case Dismissed: Osaka Court Upholds Novelist Oe Kenzaburo for Writing that the Japanese Military Ordered "Group Suicides" in the Battle of Okinawa », *The Asia-Pacific Journal*, 8 April 2008, link, Minoru Iwasaki and Steffi Richter, « The Topology of Post-1990s Historical Revisionism », *positions*, 16/3, Winter 2008.

[26] "Ketteiban 'Nankin Jiken' saishin hōkoku", Shokun!, February 2001, Watanabe Shōichi, *Shōwashi no nazo wo ou*, Tokyo, Bungei shunjū, 1999.

[27] *Agence France Presse*, 14 July 2007.

[28] Fukiura Tadamasa "Closing the Japan-China Perception Gap", in *An Overview Of The Nanjing Debate*, Tokyo, Japan Echo, 2008.

[29] F. Tadamasa, *ibid.*

[30] Synopsis for *The Nanking Massacre: Fact Versus Fiction*, Tokyo, The Tokyo Foundation. This publication is not dated but it was mailed to libraries and researchers, and was recorded as such, between 2006 and 2008.

[31] Shudo Higashinakano, *The Nanking Massacre. Fact Versus Fiction*, Tokyo, Sekai Shuppan, 2005.

[32] See also *The New York Times*, 10 July 2005. The project financed by the Nippon Foundation for Okinatori was presented in the Ocean Policy Research Foundation (OPRF) Newsletter, n°174. The OPRF was established by Sasakawa's Japan Shipbuilding Industry Foundation, the ancestor of the Nippon Foundation. The former and present chairmen of the Tokyo Foundation are members of the OPRF board of directors.

[33] Source, 8 June 2006. The "Higashinakano phenomenon" has, however, been critically analyzed by scholars such as Steffi Richter: "Historical Revisionism in East Asia: What Does Politics Have to Do with It?" in Steffi Richter (ed), *Contested Views of a Common Past*, Chicago, The University of Chicago Press,

2008, and Kasahara Tokushi, “Higashinakano Osamichi. The Last Word in Denial” in Bob T. Wakabayashi (ed), *The Nanking Atrocity 1937-1938. Complicating the Picture*, New York, Bergahn Books, 2008.

[34] The official name at the time of the government’s request was still the “Japan Shipbuilding Industry Foundation” but the unofficial name “Sasakawa Foundation” had been commonly used for some years. The request came amidst a bribery scandal that implicated the foundation’s secretary general, and coincided with the government’s intention to proceed to a major overhaul of the foundation. See *Asahi Shimbun*, 6 June 1994 and *Kyodo News*, 26 May 1995.

[35] As reported on the website of the Ministry of National Defense of the People’s Republic of China.

[36] See the Sasakawa Peace Foundation Newsletter, 19 March 2010.

[37] For example: Yoshida Yutaka, *Ten’nō no guntai to Nanking Jiken*, Tokyo, Aoki shoten, 1986, Kasahara Tokushi, *Nanking Jiken*, Tokyo, Iwanami shoten, 1997, Toshiyuki Tanaka, *Hidden Horrors. Japanese War Crimes in World War II* (foreword by John Dower), Boulder, Westview Press, 1996, and by the same author, *Japan's Comfort Women: Sexual Slavery and Prostitution during World War II and the US Occupation*, London, Routledge, 2002, Takashi Yoshida, *The Making of the "Rape of Nanking". History and Memory in Japan, China, and the United States*, New York, Oxford University Press, 2006.

[38] *The Chronicle of Higher Education*, op. cit. A special edition of the Newsletter of the York University Faculty Association gave a detailed report of the controversy: *Active Voice*, 27 February 1990.

[39] *Agence France Presse*, op. cit.

[40] For an overview of this rich sub-field of political science see for example Ran Hirschl, “The New Constitutionalism and the Judicialization of Pure Politics Worldwide”, *Fordham Law Review*, 75/2, 2006.