

Panel Session

Reassessment of the Tokyo Trial

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As a contemporary historian, I would like to discuss the meaning of the Tokyo trial from the perspectives of history and politics.

I will share the many flaws in the Tokyo trial to consider the Class B & C war crimes trials conducted in various places and imagine what might have happened if there had been no war crimes trials, that is, if the Japanese soldiers who committed atrocities had returned to Japan without any kind of punishment. This thought experiment suggests that, even given the many flaws in the trial, it was tremendously significant that judgments under the law were pronounced. It is often said that the United States (US) took the lead in the Tokyo trial, but my book *Research on War Crime Trials*, released in 2010, emphasized the identification of the forces creating the international norms discussed here today.

The United Nations War Crimes Commission was established during the war with participation from 17 countries, including many small and medium-sized countries, proposing judgments based on law and the creation of an international court. This format was adopted by the US for the Nuremberg and Tokyo trials. The US, while on the one hand idealistic, was also superpower-centric and unilateralist, revealing both of these aspects in the Tokyo and Nuremberg trials. As to why the small and medium-sized countries called for these actions, their reasoning was that aggressive wars are often staged by larger countries, the violence of which must be prevented in some way, and therefore it was necessary to create international norms. Therefore, if the Tokyo trial is written off one-sidedly as a judgment by the victors, the efforts of these small and medium-sized countries to create international norms for peace are also discarded.

The Tokyo trial also focused strongly on Class B & C crimes, that is, conventional war crimes. All the defendants who received the death penalty in the Tokyo trial were Class B war criminals,

that is, only those found guilty of conventional war crimes. At first, the US prosecutor, Joseph B. Keenan, attempted to address only crimes against peace and the Pearl Harbor attack, without taking Class B crimes seriously. However, prosecutors from other countries convinced the court to address several Class B crimes as well. High regard must be given to the efforts of the small and medium-sized countries and the nations that had been victimized, efforts which have been ignored in discussions concerning the US in the lead or of joint Japan–US efforts.

The Tokyo trial verdicts also discussed the coercion of “comfort women” by the Japanese army. During the trial, the prosecutors presented eight pieces of documentary evidence. These included evidence on the victimization of Asian and Dutch women, including cases in which only young women were taken captive while other villagers were killed in massacres of anti-Japanese forces, cases in which village chiefs were told to bring out young women, and in which women were abducted based on lies that they would be working in factories, and so on. The primary pattern found was that the Japanese army made “comfort women” of local women. As there was no proof that such cases were connected to the individual defendants of the Tokyo trial, they were not referred to in the verdicts on the defendants; however, the Tokyo trial was important in the sense that it raised the issue of the system of “comfort women” or forced prostitution.

Mr. Cohen made an important point about the reasons why no one suggests changing the Nuremberg Code to the Nuremberg–Tokyo Code. This year, major international symposia were held in Germany and China. However, the situation in Japan does not allow such initiatives to arise independently, and there is no meaningful research emerging either.

Regardless of the political positions, the Tokyo trial tends to be viewed critically. The background to this is the sense that postwar Japan relieved the stress caused by becoming a dependency of the US by condemning the Tokyo trial as a

judgment of the victors, that is, the US. They might simply have abandoned the US–Japan alliance in that case, but that did not happen. This warped sensibility may have led to the extremely discriminatory and oppressive stance toward South Korea, North Korea, and China. In this situation, there can be no recognition of an approach to the Tokyo trial and war crimes trials from the perspective of international norms for making peace.

The same thing has happened with regard to the recent issues of draft labor and “comfort women” for the Japanese army with South Korea, but Japanese discussions have continued to view the issues as resolved by the Japan–Korea Treaty established in 1965 in the midst of the Cold War, entirely ignoring the modern developments of international law and its respect for human

rights. The fundamental problem is that regardless of the fact that these issues are closely related to basic human rights issues, they are not understood in Japanese society. Basic human rights protect the freedoms of the people by regulating the tyranny of power, essentially the same as the creation of international norms to realize peace by regulating the tyranny of large and strong countries.

Therefore, not in the case of the Tokyo trial issue alone, Japanese society itself has poor awareness and makes little effort toward the regulation of the tyranny of the strong by the power of the people and the creation of norms therefor. This is a major issue for Japan today, which is also related to the assessment of war crimes trials.