

Justice in the Time of Cholera

Barak Kushner

Abstract: Numerous complex issues concerning the history of Japanese war crimes cloud the trials that adjudicated justice in postwar East Asia. Discrepancies between fact and fiction, or facts that can be proven in a court of law, result in a situation that even today renders what actually happened during the creation of empire and the ensuing war in Asia open to interpretation. More than seven decades after the war, disagreements about the justice or injustice of these processes continue to feed political friction in the region.

Keywords: justice, war crimes, trials, legacy, memory

In January 2020, when word of a new “pneumonia” reached media centers in Shanghai, I was finishing the overdubbing for a Chinese documentary on war crimes trials of imperial Japanese soldiers.¹ The previous year, I had joined a Shanghai media crew to film and there gained first-hand knowledge of how television works and how history is shaped in the People’s Republic of China (PRC).² In the end, I felt that the series was mainly faithful to the topic and the Chinese producer published a summary of her understanding of the history. However, in some ways my work is an addendum to theirs—a more critical analysis, but one that also pits Japanese academic debates about the issue against those found in China and Taiwan.

1 Some material adapted from Barak Kushner, *The Geography of Injustice: East Asia’s Battle between Memory and History* (Ithaca: Cornell University Press, 2024). Used by permission of the publisher. The spread of disease during the chaos of the postwar across borders in East Asia was a well-known story at the time and borrows from the title of Gabriel García Márquez’s famous novel *Love in the Time of Cholera*. This analogy also works for the time during which I wrote up this research, which coincided with the Covid-19 pandemic. The author would like to thank Mark Selden for his assistance in bringing this article to publication.

2 The documentary was broadcast in China in September 2020, but it is also available on DVD: *Yatai zhanzheng shenpan* (Asia Pacific War Crimes Trials), an eight-episode series, *Shanghai jiaotong daxue dianzi yinxiang chubanshe*, 2021. A book was later produced: *Shanghai guangbo dianshitai jilupian zhongxin* Chen Yinan gongzuoshi, ed., *Yatai zhanzheng shenpan* (Shanghai: Shanghai jiaotong daxue chubanshe, 2021).

One rather surprising moment at the start of my interviews occurred in a small village in Hebei Province. It was a historically significant village because it was the site of a Japanese imperial military gas attack in 1942, where more than one thousand Chinese villagers were killed. The media crew and I were there to add a personal dimension to our filming, but the interview turned out stranger than one could have predicted.

“Are you Japanese?” he asked.

Imagine my surprise when I first met Li Xinyou in Beituan Village, now part of Dingzhou City in Hebei Province. Mr Li strode up to me and asked very innocently about my origins. How was that even possible, I wondered? (For the record I do not look remotely Asian.)

It was apparent that Mr Li’s contact with foreigners was limited to the Japanese military during World War Two and then Japanese peace activists since the 1980s. Mr Li understood that I was not Chinese: therefore, I must be a foreigner. It stood to reason in the logic of his experience that the only foreigners who would make the trek out to his village would be Japanese. Perhaps this was due to the fact that since the 1980s many groups, mostly Japanese, had been visiting his town as a wartime memorial site. After a long pause during which I pondered whether I had misunderstood him, I replied, “No, I am from Great Britain,” but I am not sure that it really registered. The incongruity of our initial meeting pushed me to marvel more about Mr Li and how he saw the world.³ After we briefly discussed my origins, that was the extent of the conversation I could understand without an interpreter—and mind you, this was an interpreter who was translating from Chinese into Chinese.

3 Li Xinyou interview, May 30, 2019.

Beituan Village presents a crucial locus of interest to locate justice for Japan's wartime actions and what people wish to remember about the war. I spent much of a whole morning with the less than talkative Mr. Li—he would answer if you had a specific question, but aside from his wondering if I was Japanese at the outset of our encounter, he did not have any questions of his own.

Assessing the veracity or legacy of war crimes tribunals is difficult because one confronts, at times, the worst of humanity. But there was also much confusion at all levels that continues to cloud our understanding. This article is a brief attempt to highlight some of those disparate threads that both led to and impeded the development of this novel way of pursuing justice in postwar East Asia. I will first dive into what I label the “shape of justice,” questioning why various governments pursued trials which were expensive and did not guarantee success. What propelled forward this idea of a new form of justice? There were many problems, particularly for the Chinese, some of whom recognized that their own legal platforms might fail to be able to implement such new policies. But one other reason that I investigate is that most of the postwar victors did not have a choice to open trials. They found themselves in a judicial competition with their fellow Allies to bring about justice.

The history of the war crimes tribunals remains salient to contemporary politics in East Asia because many on all sides of the political spectrum define their political stance toward the present based on an interpretation of the past. And that past was cast in the verdicts of the large number of war crimes tribunals implemented by the US, its allies, the PRC, and the Soviet Union of Japanese wartime misdeeds. We can even see this debate unfolding now, as I note later in the essay, in contemporary Japan, between progressives and conservatives whose ideological borders are indelibly contoured to their stance concerning what each group considers a “proper understanding” of war crimes tribunal history. The essay moves toward a brief discussion of how we need to examine the periphery of the Japanese empire and whether justice

was found or lost to get to the heart of the matter. And lastly, we take a brief foray into a little-known case of one of the few women charged with war crimes.

This article addresses the thousands of prisoners of war and war criminals who were tried in more than fifty venues around East and Southeast Asia, as well as the USSR. This means that we need to look at the *longue durée* of war crimes tribunals, from their start in the autumn of 1945 until the last ones held by the Chinese Communist Party (CCP) in China in 1956. Moreover, we should not discount the fact that the CCP incarcerated and sought to “reeducate” (but rarely put on trial) Japanese troops as well as Chinese Nationalist (Guomindang or KMT) war criminals until a series of amnesties that finally ended in 1975. Investigating the evolution of these events, the competition over defining justice, and the more than three decades-long efforts to reform or punish those linked to Japan's war (even tangentially) suggests that a comprehensive approach might offer new insights often missed when we only focus on succinct moments.

The Shape of Justice: Creating New Symbols of International Stature

Postwar East Asian efforts to reframe the narrative concerning the history of Japanese war crimes trials are evidence that governments were deeply concerned with the need to manage how their domestic populations understood the meaning of World War II and the significance of Japan's imperial loss. Japan was looking to salvage what it could and aimed to minimize, to the extent possible, the intrusion of the Great Powers, which seemed set on once again ruling the world stage. Managing the postwar conversation about “justice” demonstrated the importance both the Allies and the Japanese attributed to being able to define the war. The situation in East Asia saw a collection of crumbling imperial spheres—Japan's and those of former European hegemon—competing within a narrowing space, while two newly emerging superpowers—the USSR and the United States—vied for dominance. China was able to gain a seat at the international table of elites for the first time at the tail end of World War II, but its ascent to world power did not really begin until

the start of the twenty-first century.

Currently, the Chinese Communist Party wishes to treasure the Nuremberg and Tokyo Trials, retaining the allied master narrative from the immediate postwar. Unfortunately, that is no longer truly reflective of international reality. While accepting the historical need for the Tokyo Trial, scholarship over the years has grown equally critical of its implementation. One of the real ironies is that the CCP has appropriated for its own purposes Chinese participation in the Tokyo Trial, even though the CCP was not part of the proceedings and the law used was not even communist. In fact, for years the Chinese communists were critical of the Tokyo Trial. The mouthpiece of the Shanghai branch of the CCP, the *Liberation Daily*, published a contemptuous editorial in late July 1946:

The strange drama unfolding at the International Tribunal for the Far East symbolizes Chiang Kai-shek government's loss of authority, national humiliation and decay. On the world stage not only can they not represent the Chinese people's will, each day they manage to increasingly lose respect for our nation. If this situation continues, the honor we have gained as one of the four major allies through our sacrifice of the Chinese people's blood in this struggle risks being completely lost.⁴

Getting to the Legal Stage

Chinese and Japanese leaders were cognizant of the fact that war crimes trials were on the horizon at the end of World War II. This propelled the Chinese Nationalists to move with speed. However, China was in a bind, because fundamentally the world did not highly estimate Chinese law; thus, many of its own elites constantly felt the need to trumpet that China actually had a rule of law and was not despotic. Much of this probably fell on deaf ears. The view that the system of Chinese law was somehow incapable of becoming modern did not only emanate from foreigners. One of China's late Qing jurists, Ju Zheng, who later became eminent during the Republican era, also opined that Chinese law had a deep and broad history. Ju had studied law in Japan and over the years served in key posts in the Chinese Nationalist Party and government,

including serving as head of the Judicial Council (*sifa yuan*) in the early 1930s and then as minister of justice in 1934.⁵ But Ju also believed that in earlier times, Confucian ideology had virtually subsumed law. This devolution ossified legal thinking through the ensuing dynasties. Ju Zheng assessed that the development of Chinese jurisprudence had stopped with the entry of the Great Powers into China. They created hybrid legal cities that, in Ju's estimation, broke China's system. The biggest culprit, which in the end destabilized Chinese law, was the system of extraterritoriality and the consular system of trials. And so, Chinese sovereignty took a blow. Officials in the late Qing era tried to change this, but it was only window dressing and not fundamental enough.⁶ Chinese pundits and scholars at the time may have differed in the position and pointed to the issue that it was, in fact, Western bias that prohibited the late Qing dynasty from adapting to international change just as the West was implementing this arrangement of new legal ideas. Ju Zheng estimated that foreign consular courts deprived China of the opportunity to modify its own system. At the same time, the Chinese could not just suddenly adopt Western law, to which they were not acclimatized.⁷ In the end, Ju Zheng's idea was that China needed to reformat and rebuild its legal system to adapt to modernity. This entailed fomenting a revolution to establish new legislation to overcome historical problems.⁸ Ju Zheng believed that extraterritoriality was the "alien" element of the Chinese legal system and that it hampered the independence and completion of a modern Chinese legal system. Due to this impediment, he asserted, China could not become an independent country.⁹

It was obvious to many that the abolition of extraterritoriality in 1943, and the potential for war crimes trials against the Japanese, was a moment ripe

5 Xiaoqun Xu, *Trial of Modernity: Judicial Reform in Early Twentieth-Century China, 1901–1937* (Palo Alto, CA: Stanford University Press, 2008), 91.

6 Fan Zhongxin, You Chenjun, and Gong Xianzhai, ed., *Wei shenme yao chongjian zhongguo faxi: Ju Zheng fazheng wenxuan* (Beijing: Zhongguo zhengfa daxue chubanshe, 2009), 24–26; Terada Hiroaki, "The Crowded Train Model: The Concept of Society and the Maintenance of Order in Ming and Qing Dynasty China," in *Law in a Changing World: Asian Alternatives*, ed. Morigawa Yasumoto (Stuttgart: Franz Steiner Verlag, 1998), 100–109.

7 Fan et al., *Wei shenme*, 26.

8 Fan et al., *Wei shenme*, 27–29.

9 Fan et al., *Wei shenme*, 47.

4 "Yuandong guoji fatingshang de guaiju," *Jiefang ribao*, July 30, 1946.

for China to fully upgrade an otherwise outdated system of law. It also served as a way to prove to both the domestic and international populations that China was due the respect of a victorious ally in World War II, alongside the USSR, the United States, and the United Kingdom. Unfortunately, the war had pulverized China. Its judicial system was sclerotic and neither robust nor effective in many regions.¹⁰ China had not yet fully developed its own homogenous legal environment and was thus split into two competing schools for reform. On one side was the “yingmei (Anglo-American)” group, which was “represented foremost by the Soochow School of Comparative Law.” On the other side was a “rival legal culture, promoted by at least six law schools in Shanghai, [and] commonly known as deri (German-Japanese).”¹¹ Soochow University (Dongwu University) was fundamental in China’s moves to seek justice against the Japanese because it supplied virtually the entirety of the Chinese legal staff employed for the Tokyo War Crimes Trial.¹² The albatross of competing legal philosophies, along with the additional burden of small numbers of staff within an enormous country dotted with innumerable sites of Japanese atrocities, created obstacles.

What Emerges from Juridical Competition?

Societies do not automatically embark on a path to seek justice in the aftermath of war or social revolution. Previous conceptions of justice do not explain, however, even with all this effort, why a belief emerged that justice was not administered

10 Yang Zhaolong, “Zhongguo falu jiaoyu zhi ruodian ji qiu bujiu zhi fanglue,” in *Yang Zhaolong faxue wenji*, ed. Yang Zhaolong, Ai Yongming, and Lu Jinbi (Beijing: Falu chubanshe, 2005), 229–243. Glenn Douglas Tiffert, “Judging Revolution: Beijing and the Birth of the PRC Judicial System (1906–1958)” (PhD diss., University of California, Berkeley, 2015).

11 Tahirih Lee, “Orienting Lawyers in China’s Tribunals before 1949,” *Maryland Journal of International Law* 27, no. 129 (2012): 182. See also Pasha L. Hsieh, “The Discipline of International Law in Republican China and Contemporary Taiwan,” *Washington University Global Studies Law Review* 14, no. 1 (2015): 87–129. Dongwu University was referred to in English as Soochow University, or Suzhou University in modern Chinese pinyin.

12 Li Xiuqing, “John C. H. Wu at the University of Michigan School of Law,” *Journal of Legal Education* 58, no. 4 (December 2008): 549; John C. H. Wu, *Beyond East and West* (New York: Sheed and Ward, 1951), 66–67; Sei Jeong Chin, “Autonomy through Social Networks: Law, Politics, and the News Media in Modern China, 1931–1957” (PhD diss., Harvard University, 2008), 52.

satisfactorily in the war crimes trials in East Asia. Rather, we need to consider the notion that competitive justice reigned in order to consider why ideas of judicial imbalance developed.

This competition in East Asia has a long genesis that influenced the evolution of the trials because these courtroom dramas were part of a much larger international trend. The Allies, or United Nations as they called themselves, responded to the horrors committed by the Axis nations in World War II in two ways. First, they encouraged states to commit themselves to international law. Second, with the Holocaust atrocities in mind, they established a legal system to punish these newly defined crimes. This practice was initially managed through the auspices of a new body based in London with a subcommittee in Chongqing, China, the United Nations War Crimes Commission. In a way, 1945 created an international juridical moment and a set of legal beliefs shared among the victorious nations that using courts to mediate war crimes was the preferred process to end a state of war. This new strategy of using international law was a formula to transcend the obstacles posed by national law and forge new legal methods to prosecute individuals for crimes that the international community assessed as heinous, but that required a novel set of legal tools to bring to justice. We could use different language to discuss the same idea and see these trials as part of an international “economy of justice,” where countries gained legitimacy or the currency of being recognized as civilized by promoting their use of international law. This economy of justice was propped up through various legal transactions, including the circulation of the targets of justice, namely Japanese soldiers, or the movement of legal staff that traded Japanese prisoners or information, oftentimes reluctantly. This pursuit of justice and the act of sharing memory and history have continued to the present, so the trials and their verdicts retain a certain value within contemporary regional geopolitics.¹³

The issue of competitive justice is twofold. First, in the initial years after the war ended, officials and laymen involved with war crimes trials debated the question

13 I am grateful to Isaac Gagné for suggesting this idea. The language of thinking of justice as a commodity and a transaction is his.

of the fairness of the trials—lopsided pursuit of victor’s justice or a quest for the truth? It was a moment so pregnant with importance that the United States ignored the fact that extraterritoriality had been abolished in China in 1943. The US quickly implemented a series of ten different war crimes trials in Shanghai, charging close to fifty Japanese with having abused or executed downed US airmen.¹⁴ The trials all took place in a special section within Shanghai’s Ward Road Gaol from January to September 1946. All the prosecutors, judges, legal clerks, and defense attorneys were appointed by the US military.¹⁵ This jail later served as the site where the KMT pursued its own Shanghai war crimes trials.

So keen were the Americans on moving quickly that the War Crimes Branch Office for the China Theater was already established in April 1945, and after V-J Day judge advocates were sent to Japanese POW camps in Mukden (now known as Shenyang), Beijing, Shanghai, Canton, Hong Kong, and later Taiwan. Former allied POWs were questioned and Japanese camp guards placed in custody.¹⁶ The men at these camps must have been eager to tell the story of their harrowing experiences. US General Jonathan Wainwright explained why: “Apparently it [Mukden POW camp] was built on the presumption that Japan would not only win the war, but would keep many prisoners at work for years to come.” The men sent to that camp were told that if they behaved and worked diligently for the next “ten to twenty years,” after that

“relatives from America would be permitted to visit them!”¹⁷ Moreover, the rancor within American public opinion concerning the news of downed US airmen being unjustly executed should not be underestimated. Controlling the postwar conversation about “justice” in newly minted military tribunals became a paramount policy for all the Allies to balance emotion and evidence. The same was true for needing to show the public which government could, in turn, implement this justice.

For Japan, the war concerned two historical issues: empire and the military battle for supremacy of East Asia. Achieving success in that war of words continued to be important even after defeat. The competition was also on the information front. The Americans concealed data about some Japanese biological and chemical weapons war crimes to secure what they believed were vital military secrets for themselves during the start of the Cold War. For this reason, they protected the associated Japanese researchers from prosecution. The USSR, by contrast, opened one of the only trials on biological warfare in 1949, which the west generally denigrated as “propaganda” in a bid to discredit it. The competition over justice spread to the trials and even the prevention of the dissemination of some trial records.¹⁸

This conversation about justice received or denied continues to this day. East Asian authorities’ persistent attention to this problem demonstrates the emphasis the Allies (including the Chinese), former colonial subjects in East and Southeast Asia, and the Japanese themselves place on being able to define the meaning of Japan’s empire and World War II. This moment has historically deep as well contemporary political ramifications. Had the war been, as the Japanese propaganda emphasized, for the “liberation” of Asia? Had it been a war of liberty versus fascism as defined by the Chinese? Or was it more about colonial oppression as the Koreans later argued?

14 Renmin fayuan baoshe, ed., *Zhengyi de shenpan: jinian zhongguo renmin kangri zhanzheng shengli qishi zhounian* (Beijing: Renmin fayuan chubanshe, 2016), 422. See Review of the Records of Trials before United States of American Military Commissions, Shanghai, China. ICC Legal Tools Database: <https://www.legal-tools.org/doc/282e93/pdf/>. Chaen Yoshio, ed., *Bishikyū senpan beigun shanghai nado saiban shiryō* (Fuji shuppansha, 1989), 132–135 (Unless otherwise noted, all Japanese books are published in Tokyo.); Timothy Brook, “The Shanghai Trials, 1946: Conjuring Postwar Justice,” in *Zhanhou bianju yu zhangzheng jiyi*, ed. Lyu Fangshang (Taipei: Academia Historica, 2015), 127–155.

15 “Tilanqiao jianyu—jingneishouci qiaoxiang shenpan riben zhanfan fachui,” September 3, 2015, in series *Zhengyi de shenpan zhi meiguo shenpan shanghai*, in the Renmin fayuanbao, tekan, from 2015 (available for download or online reading at the *People’s Court Daily* [Renmin fayuanbao] website, <http://rmfyb.chinacourt.org/>).

16 RG 153, Records of the Office of the Judge Advocate General (Army), War Crimes Branch, China War Crimes File, 1945–1948, XIV-A thru XIV-F, box 12, War Crimes Files, Nanking, China, Master Index XIV-A Folder “War Crimes Summary,” National Archives, College Park, USA.

17 Jonathan Mayhew Wainwright, *General Wainwright’s Story: The Account of Four Years of Humiliating Defeat, Surrender, and Captivity* (Westport, CT: Greenwood Press, 1970; originally published in 1945), 245–246; *Prisoner of the Rising Sun: The Lost Diary of Brig. Gen. Lewis Beebe*, ed. John M. Beebe (College Station: Texas A&M University Press, 2006).

18 Katō Tetsurō, *Hōshoku shita akuma no sengo—731 butai to Futaki Hideo seikai jipu* (Kadensha, 2017), 23.

Bringing anyone to court in the chaotic symphony of postwar East Asia was far from easy, but the Western Allies did not hold out much hope to elicit justice in any form except in their own trials. Each government competed with others in the region to prove its political legitimacy through the use of military tribunals based on a new interpretation of international law. William Hamilton, an official at the Australian embassy at Nanjing, recalled in his memoirs “that all evidence about atrocities during the Nanking Incident would need to be provided by Europeans” because the Chinese exaggerated. A colleague of Hamilton’s, somewhat oblivious to the international changes since the start of the war, concluded that “the Chinese would be quite uninterested in war criminals; and that many Chinese did not dislike the Japanese any more or less than other foreigners.”¹⁹

The British concurred with the low Western opinion of Chinese legal savvy, but were also wary of the fact that the Americans had already made brisk moves to pursue their own war crimes trials in China, as evidenced in Shanghai. The British wanted to be seen as taking part in the process of seeking justice and not simply the recipients of US trials’ outcomes. This was similar to the actions of other US allies, including the Australians and the French. The British were worried not only about the decline of their imperial holdings, but also about their extensive imperial assets in both Southeast Asia and China, which were sorely needed as the postwar British economy foundered. Feeling the same pressure to conduct their own trials, British officials made it clear in a confidential internal memo that they wanted to “uphold” British prestige in East Asia, and this meant holding war crimes trials even though they were not fully prepared. The British aimed to do so by publicizing throughout China and the region “reports of all trials in Hong Kong of war crimes committed against British subjects there.”²⁰ From the early days of the postwar period, the pursuit of justice in East Asia served a range of stakeholders for a variety of competing national interests.

There were many trials over a very large geographic space of close to fifty venues and more than 5,700 individuals, which created very different dynamics among the numerous ruling agencies. War criminals were moved back and forth to testify, sometimes at several different trials. For example, former Manchukuo “last emperor” Pu Yi was put on the stand—as a loan from the Soviet Union, where he was sequestered—for a longer period than any witness at the Tokyo Trial. Several years later in December 1949, the Soviets again employed his testimony at their trials at Khabarovsk. He was finally trotted out for the cameras in 1956 by the Chinese communists in their last trials of Japanese war criminals in Shenyang. Sejima Ryūzō, a high-ranking Japanese officer of the Imperial General Headquarters, was also brought forward by the Soviets for legal display at the Tokyo Trial and then detained for eleven years at Khabarovsk in the USSR. Other witnesses and defendants showed up here and there, as did legal staff and a few judges. William Webb, the Australian chief of the Tokyo Trial, had led a team to investigate Japanese war crimes against Australian POWs in the last years of the war. The Chinese judge at the Tokyo Trial, Mei Ruao, later served as a consultant for the CCP investigations and trials in the 1950s, and many of the Japanese legal defense teams at Tokyo played important roles in the committee that analyzed redrafting Japan’s constitution in the 1960s.

Locating the Nexus of Justice in East Asia

In contemporary East Asia, a fierce battle between memory and history has swayed political camps on all sides of the debate. In part, this cementing of national opinion was paradoxically a product of the war crimes trials. The courtroom is a place where documents and testimony are presented with the legal aim of establishing a factual base in veracity and then assigning blame. But public or even personal memory may not be something that can be authoritatively fixed by this process. In short, out of a mass inventory of details surrounding something that occurred, a limited supply of evidence is selected and employed in court. History and memory work in opposition on the legal stage. Moreover, trials do not conclude simply with the incarceration or execution of the guilty prisoners.

19 William S. Hamilton, *Notes from Old Nanking, 1947–1949: The Great Transition* (Canberra: Pandanus Books, 2004), 30.

20 WO 32/15509, Confidential Memo, subj: War Crimes against British Subjects in the Far East, June 14, 1946, Kew Garden, National Archives, UK.

Tribunals continue as an experience remembered by those who participated in the process. In fact, while the pursuit of justice may have truly begun with the trials, the ramifications continue to endure long after.

When the trials are tracked geographically, we can see both similarities and differences, depending on where in the former empire any given Japanese soldier was arrested. An examination of these colonial to postcolonial shifts and the competitive connections reveals the web of legal information and technology that also made the evolution of the trials possible. These flows are observable in the movement of internationally educated judges who took part in more than one war crimes trial, as well as the prosecutors who shared information, including the interpersonal relationships and layers of employment of legal staff, defendants, and witnesses among the countries involved.²¹ For example, in one surreal moment in 1946, after the Tokyo Trial had begun, Judge Mei Ruao invited to dinner members of the prosecution investigation team who were also in Shanghai gathering evidence. The Chinese lead prosecutor from the trial, Xiang Zhejun, joined the meal, compounding what was an unusual rendezvous because it contravened most legal practices where judges normally separate themselves from trial staff.²² Countries could not fully operate trials on their own and often shared data and prisoners behind the scenes to implement actionable justice. The fact that this information network later lent itself to the construction of commemorative symbols and sites of memorialization is intimately tied into regional politics owing to the legacy of the trials and the linkages among locations that meted out justice.

Viewing the Debate in Contemporary Japan

In recent years we can gain a fuller picture of how this competition over defining the war and postwar has played out in Japan by examining two books that appeared almost simultaneously—Takahashi

Shirō's War Guilt Information Program and History Battles—Reclaiming Japanese Morality, and Kamo Michiko's War Guilt Program: The True Picture of GHQ's Intelligence Education Plans.²³ Interestingly, both books utilize virtually the same material from the American occupation archives, but arrive at polar opposite conclusions.

The Takahashi book sports a recommendation from Japanese TV talent-turned-“national spokesman,” Kent Gilbert. Gilbert glowed: “This is the one book that all Japanese need to read!” Takahashi is a self-styled historian who seems to have an endless supply of funds to conduct his international archival research. The crux is that long before Takahashi and his followers conducted research their conclusions were preordained. The Americans “brainwashed” the Japanese into believing the war and empire were wrong and did this through nefarious intelligence and education plans that convinced the otherwise innocent Japanese of their guilt. This implanted the “masochistic-view of history” now supposedly engrained in Japanese. This thesis links back to the Tokyo Trial which had declared Japan's empire the result of a conspiracy and aggressive military action. Takahashi and his team wish to inform readers that they have now gained access to these formerly “secret plans” and can reveal the truth so that Japanese can restore their national pride.

Kamo, by contrast, is a professional historian who criticizes this revisionist approach for its sloppiness and preordained conclusions.²⁴ But the battle rages, and importantly it remains connected to the verdicts that were delivered at the multitude of trials where Japanese were put in the docket for war crimes. Kamo does not deny that the Americans had plans to “educate” the Japanese about the true nature of the war but she will not classify it as “brainwashing.” That would deny

21 I thank Kerstin von Lingen for pointing out the importance of this notion of flows of ideas and people.

22 Jeanne Guillemin, *Hidden Atrocities: Japanese Germ Warfare and American Obstruction of Justice at the Tokyo Trial* (New York: Columbia University Press, 2017), 116.

23 Kamo Michiko, *Woa giruto puroguramu: GHQ jōhō kyōiku seisaku no jitsuzō* (Hōsei daigaku shuppan, 2018), and Takahashi Shirō, *WGIP Woa giruto infomamēshon puroguramu to rekishisen, nihonjin no dōtoku o torimodosu* (Morarōji kenkyūjo, 2018). Kent Gilbert added his own voice to the parade in *Mada GHQ no sennō ni shibarareta nihonjin* (PHP kenkyūjo, 2017).

24 “WGIP to rekishisen, GHQ ga sennō? Jittai wa, Kamo Michiko-san ga kenkyūsho hoshurontan jigyakushikan uetsuketa setsu, shiryō de saguru,” December 5, 2018, *Asahi shimbun*, evening edition, Tokyo; “Kaiko 2018 rontan unomi ni shinaide ga imi suru mono,” December 26, 2018, *Asahi shimbun*, evening edition, Tokyo.

Japanese themselves of agency. One might also like to ask: why is it that conservative Japanese circles can never be critical of the imperial military that led to Japan's downfall? A more substantive approach might be to examine scholarly investigations into the "real reasons for Japan's defeat," led by historian Tobe Ryōichi. Tobe's team pointed out that the main reasons for Japan's defeat were:

The fact that tactical goals were vague and diversified, the fact that the strategic objectives were determined on a short-term decisive victory model, the fact that the methodology for policy formulation rather than emerging from scientific logical thought was more based on a unique form of subjective incrementalism, the fact that strategic options were narrow and furthermore lacked an integral cohesion, and then the fact that natural resources as part of the overall technological system were a pipe dream in which the whole organization lacked balance.²⁵

What is Lost When We Focus Solely on Japan for Justice?

One major issue that, of course, upsets the current mainland Chinese narrative which champions nationalism, is what occurred, or often did not, in the confines of the Japanese empire as it disintegrated. The CCP story would like to find a domestic population that immediately reconvened after the Japanese defeat and coalesced around a single leader. Sadly, that did not come about and a civil war ensued, demonstrating that even without the Japanese machinations, the Chinese were unsure of the path toward their own future. Similarly, I contend that an overemphasis on the end of war as "August 15" has produced amnesia concerning the violence of imperial dissolution at the periphery.²⁶ In fact, many areas, such as Korea and Taiwan, witnessed large scale massacres and rebellions following Japan's surrender.²⁷ While Japan was defeated its impact on

former imperial lands was long lasting. In Taiwan, the February 28 Incident in 1947 launched the imposition of martial law, which lasted until the mid-1980s and spawned the era of white terror. South Korea attempted to bring some measure of justice to Japanese colonial rule, even if it could not pursue specific war crimes since it was legally never in a state of war with Japan. However, the role of Korean soldiers and officers who had been educated under imperial Japan has rarely been examined until recently. What should we make of the Yeosu-Sunchon Rebellion (1948), when key Korean generals who had graduated from the Manchurian Military Academy orchestrated a brutal repression of the left-leaning military insurrection?²⁸

The Yeosun Insurrection was directly related to the Jeju Island uprising, but while Yeosun rested on internal military dissatisfaction, Jeju was mainly civilian discontent. In October 1948, the 14th regiment of the Korean police was dispatched to Jeju Island to suppress the brewing civilian uprising. Thousands of police and soldiers mutinied against this command, not wanting to take arms against fellow Koreans. The mutineers killed their officers and those they deemed former Japanese collaborators, took over six counties—including Yeosu and Sunchon—which is how the name came to be a conglomeration of Yeo and Sun. After the mutiny, thousands of civilians were killed in the mop-up campaigns.²⁹ South Korean commanders who were seemingly taking orders from the US had been trained by the Japanese imperial military and many had been part of the Manchukuo military academy. Some in the ranks during the repression campaign were still wearing their old Japanese army uniforms and US reports stated they were ransacking the city and "raping."³⁰

point wanted to clarify if it could pursue Taiwanese pushing for independence with "war crimes charges." "Guofangbu wei taiwanrenmin qianyou yinmou duli xingwei shifou goucheng neiluanzai huo yinggou liewe zhanfan ji qi shenpan guanxia yiyi," diancanghao, 015-010302-0080, Guoshiguan Archives, Taiwan

28 These generals included: Kim Paik-il, Paik Sun Yap, and Song Seok-ha.

29 George Katsiaficas, *Asia's Unknown Uprisings, vol 1: South Korean Social Movements in the 20th Century* (PM Press, 2012), p. 97.

30 George Katsiaficas, *Asia's Unknown Uprisings*, p. 101. Iikura Erii, "Korosaneba narananu 'kyōhi' no kioku to manshūkōkugun shushin Kin Tokuchū, aka no tanjō o yomu," *Quadrante*, dai16gō, 2014, p. 255–264. Bruce Cumings, *The Origins of the Korean War, vol II, The Roaring of the Cataract, 1947–1950* (Princeton University Press, 1990), p. 263.

25 Tobe Ryōichi, et al, eds., *Shippai no honshitsu: nihongun no soshikironteki kenkyū* (Nikkō bunko, revised edition 2021 [originally published 1991]), p. 343.

26 Sato Takumi, *Zōho hachigatsu jūgonichi no shinwa: shūsen kinenbi no mediagaku* (Chikuma gakugei bunko, 2014). See also Deokhyo Choi, "The Empire Strikes Back from Within: Colonial Liberation and the Korean Minority Question at the Birth of Postwar Japan, 1945–47," *The American Historical Review*, Volume 126, Issue 2, (June 2021): 555–584.

27 In fact, the Republic of China's Ministry of Justice at one

We can see this uncertainty about borders in the immediate postwar battles for legitimacy within former colonies. This intensity was mirrored by the brutality within the unmoored Chinese state as well, particularly in the more dubiously managed former colony/puppet kingdom of Manchukuo. Manchukuo was a key site of contestation for three reasons. First, due to the Soviet Union Red Army's sudden invasion in August 1945, bent on acquiring the region's industrial wealth and forcing Japan's surrender, the Japanese Kwantung Army fell into chaos and fled for its life, abandoning the Japanese and other imperial settlers. Second, the lack of clarity concerning how the massive Manchukuo Army would respond to the invasion was further destabilizing. This was a military that had been trained by the Japanese. And third, there was uncertainty due to the fact that Communist guerrilla groups, which hoped to take advantage of the absence of Chinese Nationalist forces, further pulled the region apart.³¹ What happened to the former Manchukuo military was also of deep personal interest to many Japanese who had staffed troops in the puppet kingdom. For decades after the war, these men aimed to be treated as equal members to Japan's own imperial military and claim eligibility for a pension from the Japanese government.³²

The Gender of Justice

The majority of war crimes tribunals and their history, with the exception of those with charges linked to the comfort women, deal mainly with men. Very little space has been devoted to the role of women in tribunals, although they played a very strong role in the immediate postwar in pressing the Japanese government for clemency and the reinstatement of military benefits, a topic that demands further work. Aside from the confusing case of war criminal and traitor Kawashima Yoshiko, a cross-dressing female figure of intrigue who was both a Manchurian princess and a spy for the Japanese military in Manchukuo,

there were only two other women in Chinese communist custody initially arrested as war criminals. One female Japanese war criminal, Kodama Hanako, was held in the Taiyuan POW detention facility for almost a decade. Kodama was Kōmoto Daisaku's secretary. In 1928, Kōmoto was a young imperial officer who crafted the assassination plan of northern Chinese warlord, Zhang Zuolin. Kōmoto was later expelled from active military service for this action.³³

The editor of the Chūkiren magazine, Kumagai Shinichirō, interviewed Kodama Hanako twice in her home in Tokyo in 2006. This Chūkiren journal was established by members of the Liaison Group of Returnees from China (Chūgoku kikansha renrakukai, usually abbreviated to Chūkiren), which was mainly composed of repatriated former Japanese war criminals who were detained and investigated by the Chinese Communists from 1950 until 1956. There were actually two female members of Chūkiren, Kodama and another woman, Nakashima Kyōko, about whom less is known. They had both been interned in Taiyuan Prison Camp after 1949 when the CCP took over. Kodama was born in Port Arthur, a key port in northeast China, and raised on the mainland. Essentially, she grew up within a Japanese expat bubble and did not have much contact with the Chinese. Once she went to work, however, she started studying the Chinese language seriously. By the late 1930s, her family was told that there were good opportunities in the city of Taiyuan. Kodama's father was a textile salesman and her mother a seamstress. In Taiyuan, as the Japanese imperial behemoth was taking over key industries, Kodama met Kōmoto Daisaku. Kōmoto was in Shanxi Province at the behest of the military and installed as chief of the Northwest Technical Company. Kodama said that Kōmoto came to work every day dressed in a suit and did his work well, but he was still a military man who liked the entertainment districts "and I saw him go out with geisha. Everyone knew the story of the assassination [of the warlord Zhang Zuolin]. It was a famous story," she recounted. Kodama had only been to Japan a few times and did not really know her home country so she decided maybe it was better to remain in China if

31 Iikura Erii, *Manshūkoku gun chōsenjin no shokuminchi kaihō zengoshi: nihon shokuminchika no gunji keiken to kankokugun e no renzokusei* (Yūshisha, 2021).

32 Iikura Erii, "Manshūkoku gun shushin nihonjin no onkyū seigan undō to manshūkoku manshūkoku gunzō, in Satō Ryō, Tomohiro Kanno, and Makie Yukawa, eds., *Sengo Nihon no manshū kioku* (Tōhō shoten, 2020), p. 75–99.

33 Renmin fayuanbaoshe, ed., *Zhengyi shenpan: jinian zhongguo renmin kangri zhanzheng shengli 70 zhounian* (Beijing: Renmin fayuan chubanshe, 2016), p. 988.

things turned sour. After all, the CCP did not actually get to Taiyuan until April 1949, so after Japan's initial defeat it was not clear how things would unravel throughout the mainland. Nonetheless, Kodama was soon arrested. "My job was like a tea girl serving. I knew almost nothing of the actual work that Mr Kōmoto conducted," she told Chinese investigators. But they kept pressing. "The person who was his real secretary was his nephew, Nagai Muneo, but he managed to repatriate just before liberation, so he escaped arrest," Kodama remembered.

Kodama was questioned almost every day by CCP investigators, mostly about Kōmoto. Because she did not know much the frequency of being called in for questioning decreased, but she remained in detention. It was not until 1952 that the other woman, Nakashima, was brought in and she finally had female companionship. Finally, in July 1956, along with the rest of the Japanese POWs who were not tried but released, Kodama was also freed without having been charged. Her incarceration of eight years with no indictment or trial was one of the longest of those detained at Taiyuan.³⁴ It appears it took rather a long time for her name to be taken off the register as a war criminal before they recognized that the charges would not be "justifiable."³⁵

Conclusion: Confusing Justice

What we have seen here within the various vignettes in examining the war crimes trials history from several novel angles is that while pressure to implement justice remained palpable, the stories of successful prosecution varied. In some venues, justice was probably achieved, in others it was miscarried. And due to this imperfect application of international law's new ability to transgress sovereign boundaries, many in the postwar now clamor that such trials were duplicitous. I think that it would be best to reserve judgement on the justice of the trials and concentrate on the processes and results. We need to be able to be

³⁴ Kumagai Shinichirō, "Kangoku kara senpan kanrijo e – Kodama Hanakosan no taiken," *Chūkiren* (35), 2006, p. 20–23.

³⁵ Ōsawa Takeshi, "The People's Republic of China's 'lenient treatment' policy towards Japanese war criminals," in Kirsten Sellars, ed., *Trials for International Crimes in Asia* (Cambridge: Cambridge University Press, 2015), p. 166.

critical of the trials, while lauding their loftier goals.

Admittedly, this task is not easy, because injustice seems to continually lurk just around the corner. For example, Kiyose Ichirō, Japanese defense attorney for General Tōjō Hideki at the Tokyo Trial and head of the defense counsel team, wrote postwar not only about his experiences with the famous trial but other cases involving war criminal charges. Kiyose was a long-standing lawyer of international repute, but he also had a distaste for the wrongful pursuit of justice. One time during a visit to Sugamo Prison, he met with a Japanese first lieutenant whom he named only as Mr A. A-san, Kiyose wrote, was charged with having slapped General Jonathan Wainwright while standing guard at a prison camp in Taiwan. Wainwright was the United States General who lost the Philippines and who, along with tens of thousands of his troops, was forced to surrender to the Japanese. Eventually, Wainwright was shipped to Taiwan where he and his men were distributed among several POW camps. In his memoirs Wainwright wrote that one evening in late December he was returning to his hut from the latrine when he stopped to salute a Japanese guard, a mandatory form of respect demanded by the Japanese military toward prisoners. The guard for some reason was angry and assaulted him.

The Jap swung very quickly and slapped me across the face. It was a stinging blow, and in my throat I felt a rising gorge of hate and despair. I stood there. Encouraged by what he had done, he slapped me again, then again, and then a fourth time. Each time he hit me he shouted, "Japanese in America." He saw that I was not going down so he took a lunge at me and hit me on the left jaw with his fist.³⁶

Wainwright provided an affidavit to the war crimes investigation teams that he had been slapped on the left side of his face, which meant the slap had probably been delivered with the right hand by someone else. The problem was the Japanese first lieutenant who was charged, A-san, was missing his hand and wrist on his right arm due to a war injury. This became an issue during the initial legal deliberations. A-san explained that he had been assigned to Taiwan after losing

³⁶ Jonathan Mayhew Wainwright, *General Wainwright's Story: The Account of Four Years of Humiliating Defeat, Surrender, and Captivity* (Westport, Conn., Greenwood Press, 1970 [originally published in 1945]), p. 193–194.

his hand in battle so that is when he would have supposedly encountered Wainwright. Obviously, missing his right hand rendered it physically difficult for him to have been the culprit. While Wainwright indeed must have been mistreated, A-san insisted it was a case of mistaken identity and the incident was not of his doing. After several letters of affidavit and confirmation were dispatched between the general and various lawyers, the investigating committee decided that a man missing his right hand could not have slapped the face of anyone and the case was dismissed. A-san was released.³⁷ It was a triumph of justice, since an innocent man was released, but in the same measure Wainwright's assailant was never uncovered, so his justice was never served. Dissatisfaction remained on both sides of the judicial table.

Confusion did not only stem from misidentified culprits, but also sometimes from linguistic gaps.³⁸ Obviously, General Wainwright's failure to gain justice was not shared by all. And yet, these disparate experiences, separated by time and geography, demonstrate how instructions and charges could be easily marred by the smallest of inconsistencies.

The fabric of justice in postwar East Asia continues to be pulled in these opposing directions, not only due to the complexity of the issues, but also how the memory of those events was later detailed and recalled.

Barak Kushner is an American/British historian and translator. He is a Professor of East Asian History in the Faculty of Asian and Middle Eastern Studies at the University of Cambridge and Fellow of Corpus Christi College. This article is drawn from his fourth monograph, The Geography of Injustice: East Asia's Battle between Memory and History (Cornell University Press, 2024).

37 Ichirō Kiyose, *Hiroku tōkyō saiban* (Chūō kōron shinsha, 2002), p. 152–155.

38 Shen Zui, *Zhanfan gaizao suojianwen* (shang), Beijing: Qunzhong chubanshe, 1990, p. 39–40; Yinghong Cheng, *Creating the "New Man": From Enlightenment Ideals to Socialist Realities* (Honolulu: University of Hawai'i Press, 2008), p. 66; Philip F. Williams and Yenna Wu, *The Great Wall of Confinement: The Chinese Prison Camp through Contemporary Fiction and Reportage* (Berkeley: University of California Press, 2004), p. 161.