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Japanese Societal Attitudes Towards the Tokyo Trial: A Contemorary Perspective□□東京裁判に対する日本人の社会的態度―今日の一視点

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Japanese Societal Attitudes Towards the Tokyo Trial: A Contemorary Perspective

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I Introduction

The positive and negative significance of the Tokyo Trial has been passionately debated among Japanese historians and intellectuals. However, the attitudes of the Japanese people in general towards the Trial have been rather apathetic. The Trial was almost absent in Japanese public discourse from the conclusion of the Trial until the 1980s, and according to opinion polls conducted recently, 60 per cent[2] or even 70 per cent[3] of Japanese people are unfamiliar with the specifics of the Trial. Some historians and intellectuals argue that the Tokyo Trial, unlike the Nuremberg Trial, had no direct impact on post-war Japanese society. Nonetheless, a close look at Japanese attitudes shows that the Tokyo Trial has had a subtle but substantial impact on the Japanese sense of history, war responsibility and war guilt, all of which are highly contemporary issues. This long-term societal impact of the Tokyo Trial became clearer in the 1990s and started to be recognised and pointed out publicly from 2005 onwards.

This article examines Japanese popular attitudes towards the Tokyo Trial from 1946 to 2008, and analyses the Trial's societal impact, especially on the Japanese sense of history and war responsibility. Japanese attitudes and perceptions are examined through popular reactions to the Tokyo Trial itself, as well as related events and movements within society — including films, symposiums, historical controversies, the rise of neo-nationalism, the Yasukuni Shrine row — and public and media responses to them.[4]

Tokyo Trial: Judges (left), Defendants (right) and Prosecutors (rear)

II Original Reactions to the Tokyo Trial

On 13 November 1948, the day of the Judgment of the Tokyo Trial, the *Asahi Shimbun* editorialized:

> The judgment of the Tokyo Trial has a special significance in the history of Japan and the world because it is a global expression of the determination for peace, which

> can be commonly held both by the victors and the vanquished, and is an oath of its practice among related countries.[5]

Earlier, an editorial in *Mainichi Shimbun* also pointed out a positive message of the Tribunal's Judgment, 'the zeal for peace and the spirit of democracy', and held that it should be accepted and supported by the Japanese people.[6] Indeed, the Tokyo Trial enjoyed total support from the Japanese media since its opening in May 1946, and was hailed as 'civilization's justice'.[7] This positive reaction in the media needs to be understood within the context of the General Headquarters' (GHQ) strict censorship targeting items including 'criticism of military tribunals' and 'justification or defense of war criminals'.[8] Yet, the tone of the media coverage was shared by many academics at the time. Yokota Kisaburō, an international legal scholar, emphasised the importance and political significance of the Tokyo Trial, whose verdict was a lesson for Japan for having conducted aggressive wars and violence as it 'drew a line in the sand', and opened the way to Japan's rehabilitation in the future.[9] The record of a round-table talk, chaired by legal scholar Kainō Michitaka and attended by academics such as Ukai Nobushige, Takano Yūichi, Tsuji Kiyoaki and Maruyama Masao on 13 December 1948, shows that they were aware of several defects and problems in the law and procedure but that, in general, they viewed the Trial positively from an international legal point of view. Above all, they recognised that the Trial sent out important messages on war and peace and they expected it to have a positive educational impact for post-war Japan.[10]

However, these views and expectations were not necessarily shared by the majority of people at the time. Japanese societal attitudes towards the Tokyo Trial show important characteristics, which seem to have remained in the Japanese psyche thereafter. First, general Japanese attitudes towards the Trial can be characterised as 'passive acceptance'. The Trial was conducted under American military occupation, and many Japanese accepted it as a 'consequence of defeat'. Likewise, the Tokyo Trial, too, was accepted as a 'physical necessity' for the vanquished.[11] The MacArthur Report observed the Japanese people's reaction to the occupation policy on demilitarisation and war crimes prosecution and stated: 'All these things the Japanese people had initially accepted, and continued to accept submissively, if not favorably.'[12]

Of course, many people were frustrated and sceptical. Why should Japan alone face a trial was a question expressed in the private sphere.[13] Indeed, when Tōjō Hideki, Prime Minister at the time of the outbreak of the Pacific War, stood in the Tribunal and justified the policy of wartime Japan, his stance gained a certain support from the Japanese people.[14] Nonetheless, most Japanese swallowed their frustration with the logic of 'might makes right' and accepted the Tokyo Trial with feelings of inevitability. This sense of inevitability led not so much to repulsion towards victors' justice as it did to cynicism towards it. Some intellectuals summed up the general attitude of the Japanese people at the time and found it worrisome: 'the Tokyo Trial is a consequence of defeat, nothing more'. Gushima Kanesaburō, for example, commented soon after the Tokyo Tribunal's Judgment that many people equated the Trial with 'might makes right' logic and that their understanding of the significance of the Trial was insufficient.[15] The British delegation also observed that the Japanese general public did not understand the substance of the Indictment and regarded the defendants' responsibility for the war in terms of defeat but not on the basis of waging an aggressive war.[16]

In addition to inevitability, the people's acceptance may have been due to general disinterest toward the Tokyo Trial. Compared

with serious post-war poverty and hunger, war crimes prosecution was an issue of little importance. What is more, the long and dry legal procedures seem to have bored even journalists.[17] Unlike some academics and intellectuals who looked back on the Tokyo Trial and tried to learn lessons from it, after its closure, the Tokyo Trial became much less visible in public discourse. According to its database covering 1945–84, *Asahi Shimbun* published 1270 articles referring to 'the Tokyo Trial' or 'the International Military Tribunal for the Far East', of which 1138 appeared between 1945 and 1948.[18] The coverage dropped drastically in 1949, with only 12 articles published in comparison to 325 in 1948. Considering the fact that the Judgment was given in November 1948 and eight defendants were executed late in December of that year, this is a surprisingly quick change in attitude.

Second, to some extent, the general public confirmed and developed through the Tokyo Trial their understanding of responsibility for the war which their country had fought. As research examining Japanese sentiments and attitudes at the time illustrates, many people were angry and frustrated towards their wartime government for the hardship and struggle they suffered during and after the war.[19] This created 'victim consciousness' within the Japanese psyche, that is, they were the victims of a war recklessly conducted by their leaders and a military clique. This sentiment gradually disassociated people from their wartime leaders. In December 1945, George Atcheson Jr, the Acting Political Adviser in Japan, pointed out the general mood among the Japanese 'of fixing war responsibility on the major suspects' and anticipated that the Trial, as regards the majority of those listed, would receive popular support.[20] Indeed, the people's negative sentiment towards their wartime leaders, which existed prior to the Tokyo Trial, helped the Trial to gain popular, albeit passive, acceptance,

As to the Tokyo Trial itself, by indicting and punishing certain wartime leaders and thus pointing a finger at those to blame for wartime and national suffering, it strengthened many people's self-identity as victims, not as perpetrators. The prosecutor at the Tokyo Trial also portrayed the Japanese people in general as victims of the war.[21] Indeed, most people remained 'bystanders' of the Trial and could justify their own wartime actions, blaming their reckless leaders. More importantly, the Trial did not indict, or even call to the court, Emperor Hirohito, in whose name Japan fought the war. According to Tsurumi Shunsuke, '[t]he absence of the Emperor at the War Crimes Trial was a relief to most Japanese', who continuously and strongly supported him even after the war.[22] However, the absence of the Emperor in the Trial surely sent out ambiguous messages to the Japanese understanding of war responsibility, indicating paradoxically that it rested with both everybody and nobody.[23] In sum, prosecuting and punishing wartime leaders matched the Japanese general sentiment at the time, while the procedure of the Tokyo Trial further emphasised wartime leaders' war responsibility.[24]

At the same time, it should be noted that some did sense that the Judgment of the Tribunal was given not only to the defendants but also to Japan and the Japanese as a whole. Referring to Count 1 of the Indictment on overall conspiracy, Nomura Masao, *Asahi Shimbun* journalist, wrote on 13 November 1948 that the Tokyo Trial judged Japan as a nation, not necessarily legally but historically and morally, 'because the country as a whole could never have moved towards the war without organisations supported by people'.[25] This shows that individual punishment was perceived as collective responsibility on behalf of the nation as a whole.[26] Some argue that it was what the GHQ expected as its occupation policy.[27] Others noted that the Tokyo Trial itself had sent to the Japanese rather ambiguous and contradictory messages. The research group of

Asahi Shimbun analysed in 1953: 'Sometimes it seemed that the Tokyo Trial was punishing the state, and at other times individuals'.[28] Yet, other views more actively recognised the collective responsibility of the Japanese. *Mainichi Shimbun* wrote on the day of the execution of seven defendants in December 1948:

Nobody can assert that they are the only criminals and that all other Japanese people opposed the war … the responsibility of having caused the tragedy should be shared by the whole nation. Facing their executions, the Japanese should think over this point solemnly.[29]

Even more assertively, some leftist intellectuals claimed that the pursuit of war responsibility should not end with the Tokyo Trial and the Japanese themselves should continue to prosecute and punish war criminals.[30] Whether the Japanese in general at the time deeply felt collective responsibility is difficult to discern. It can nonetheless be said that the idea of collective war responsibility of the nation, or further war crimes trials by the Japanese, did not appeal to many people at the time.[31] They neither wished nor faced pressures to touch on these issues by themselves after the Trial.

Third, from the Tokyo Trial people acquired details about the war, which had been concealed from the public during the war. Through the legal procedures at the Tokyo Trial, Japan's policy during the period 1928–45, especially its war policy — who had planned and conducted the war and in what way — was examined in detail. The prosecutors tried to prove that the defendants were responsible for planning and waging an aggressive war against the Allied countries and the defence counsel claimed that the war Japan had fought was self-defensive in nature. The Tokyo Judgment took the line of the prosecution and concluded that Japan had launched a war of aggression against China, had planned and prepared for a war of aggression against Britain, France, the Netherlands, the United States, and the Soviet Union, and had launched a war of aggression against the US and the British Commonwealth. It concluded:

These far-reaching plans for waging wars of aggression and the prolonged and intricate preparation for and waging of these wars of aggression were … the work of many leaders acting in pursuance of a common plan for the achievement of a common object. That common object, that they should secure Japan's domination by preparing and waging wars of aggression, was a criminal object.[32]

It convicted the military and their supporters of the conspiracy for 'crimes against peace'. The Judgment also stated that atrocities and war crimes were conducted by the Japanese military and concluded that 'the atrocities were either secretly ordered or wilfully permitted by the Japanese Government or individual members thereof and by the leaders of the armed forces.'[33] What utterly shocked the nation were the details of war crimes committed in Nanjing.[34] Although many pointed out the problem of adopting the concept of 'conspiracy' in relation to 18 years of Japan's war policy, questioning whether there was a coherent policy,[35] the Trial's role in revealing the facts of the war and compiling the record and evidence has been positively regarded by many historians in Japan.

Importantly, the Tokyo Judgment's account of the war was more or less accepted by many Japanese people at the time, just as the Tokyo Trial itself was passively accepted. GHQ's censorship and propaganda, and the fact that Separate and Dissenting Opinions were not read at the Trial, might have played a role here. At the same time, the Trial's account of the war, immunising the Emperor and putting the blame on wartime military leaders, was acceptable, or even 'comfortable', for many people. It was also accepted, based on the

people's lack of trust in their wartime leaders. All the revealed facts, as well as the fact of the defeat in the war that people had been told to win, created within the general public a sense that they had been deceived by their wartime leaders. During the Trial, an executive of a company explained: 'During the war we were forced to suffer a poor life; but we lost the war that Tōjō had said we would definitely win'. He continued, 'Now I came to learn through the Tokyo Trial and others that it was a reckless, aggressive war pursuing the interests of the privileged class and capitalists, and realised that we had been completely deceived.'[36]

Fourth, the Japanese could regard the Trial as a means of post-war 'settlement'. It is symbolic that on the day of the Judgment of the Tribunal, the editorial of *Asahi Shimbun* wrote:

What we need to bear in mind is that this Trial demands *the complete burial of the past Japan* coloured with the militarism which was cultivated by the defendants. The Trial also clearly prescribes that the country we, the nation, should construct in future is a peaceful nation.[37]

This well reflects a national desire at the time to leave the war behind and move forward. It shows that people could see in the Trial an opportunity to restart as a 'peaceful nation'. As for the Japanese Government, the acceptance of the Tokyo Trial and its Judgment were the conditions to re-enter the international community.[38] The view that the Tokyo Trial was a form of settlement of the war is also shared by many present day Japanese.[39] In this sense, it may be natural that people saw the Trial as something that had to be gone through in order for Japan to return to 'normalcy', but not as an important lesson through which to examine the war and war responsibility themselves. Seeing the Tokyo Trial as a 'settlement' of the war surely had an impact on the apathetic attitude of the Japanese general public towards the Trial, which can be observed thereafter.

III General Apathy and Debates Surrounding the Tokyo Trial

According to the Government's opinion poll on the Tokyo Trial, conducted in August 1955, three years after the occupation had ended, 19 per cent accepted the prosecution and punishment of wartime leaders by the victors 'as a matter of course', while 66 per cent accepted it passively, seeing it as 'inevitable'. To a question asking whether it was appropriate that the victors conduct war crimes punishment, 63 per cent answered that the victors' war trial went too far.[40] The opinion poll shows that the ambivalent attitude of the Japanese people towards the Tokyo Trial that was observed during the occupation — passive acceptance with a sense of uneasiness and unpleasantness — remained. Further detail of the general perception of the Trial is difficult to discern, because with the end of the occupation the Tokyo Trial almost disappeared from public discourse. This can be seen from the number of newspaper articles referring to the Tokyo Trial. According to the *Asahi Shimbun*'s database referred to above, during the period 1952–60, there were 61 articles referring to 'the Tokyo Trial' or 'International Military Tribunal for the Far East'.[41] In the 1960s, there were only 16 articles and also 16 articles in the 1970s. General disinterest towards the Tokyo Trial after the occupation is understandable: people's minds shifted from the country's recovery from the war to the rapid growth of the economy.[42] Moreover, towards the 1960s and 1970s, general apathy surely increased as memory of the war and the Trial started to fade and the so-called post-war generation became the majority of the population. Sumitani Takeshi looked back at the early 1970s and wrote that at the time the Tokyo Trial seemed to have already faded from public memory because he had rarely heard about it.[43]

In contrast to this public disinterest, with the end of the occupation the Tokyo Trial came to be debated actively and emotionally among

some intellectuals. In particular, the Trial, as well as its account of the war, came to be publicly criticised by former members of the defence counsel at the Tokyo Tribunal, such as Takigawa Masajirō and Sugahara Yutaka.[44] They criticised the Tokyo Trial as 'victors' justice' because it was a retroactive as well as a unilateral trial, prosecuting only Japanese leaders for conduct which they claimed was not criminal (that is, a crime against peace or a crime against humanity) at the time it was committed. They not only pointed out the defects of the Trial but also attacked the verdict that Japan prepared and waged wars of aggression; they instead claimed that Japan's war was self-defensive in nature.

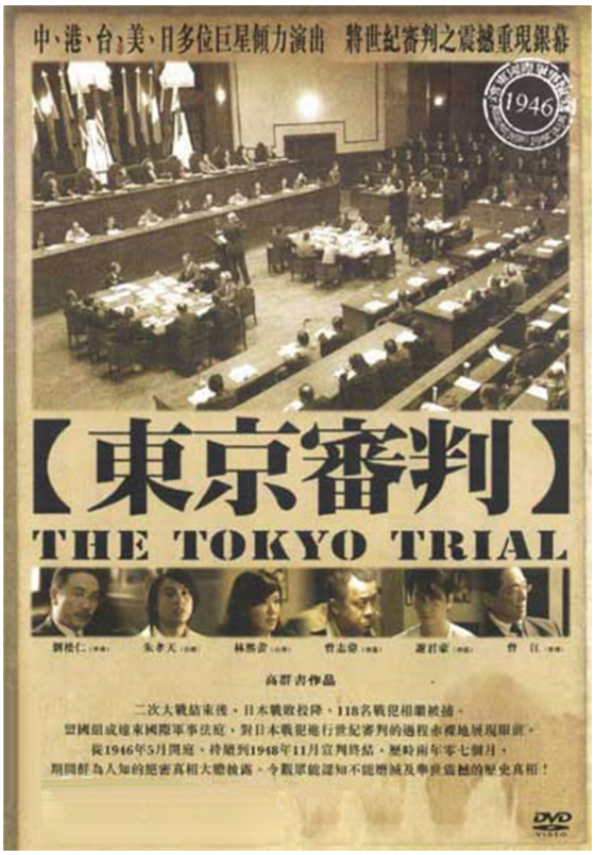
It is one of the characteristics of the debate on the Tokyo Trial that criticisms of the Trial accompany the denial of the aggressive nature of Japan's war. In other words, the pros and cons of the Trial have been debated in association with the debate on the characterisation of the war: whether to see the war as defensive in nature and/or an attempt to liberate Asian countries from Western imperialism, or aggressive in nature. Those who saw the aggressive nature of the war tended to value the work of the Tokyo Trial, or criticise it for not having prosecuted other crimes, while those who emphasised the defensive aspect of the war fully attacked the Trial as unjust. The debate on the nature of the war became political and ideological in the 1970s, divided between those who call the war '*Jūgonen sensō*' (Fifteen-Years War), emphasising the aggressive aspect of Japan's war starting from the Manchurian Incident of 1931, and those who call it '*Daitōa Sens*ō' (the Greater East Asia War), denying its aggressive nature. Awaya Kentarō pointed out that the pros and cons of the Tokyo Trial actually radicalised the confrontation between the different views on the history.[45]

Up to the late 1970s, it was anti-Tokyo Trial critics who were more active in disseminating their views. They seemed to have gained support from Justice Pal's Dissenting Opinion, which acquitted the defendants on all counts based on his view that the law relating to crimes against peace was ex post facto law and that the defendants could not be held legally responsible for atrocities committed by the Japanese military. The Dissenting Opinion, as noted above, was not read at the Trial but was published in Japanese, first partially and later in full, as soon as the occupation ended in 1952, accompanied by a rather controversial title, *Nihon Muzairon* (The Japan-Is-Not-Guilty View).[46] Justice Pal's Dissenting Opinion, for understandable reasons, encouraged anti-Tokyo Trial critics, and he has been almost always referred to by anti-Tokyo Trial publications. Whether Justice Pal completely negated Japan's war guilt has been questioned by several researchers who went through his text.[47] Either way, with his Dissenting Opinion Justice Pal became one of the best known and important figures in Japan regarding the Tokyo Trial. The fact that his Opinion became an important issue of debate on the Trial relates to the fact that the debate has mostly focused on whether the Tokyo Trial was just or not, or whether Japan's war was a criminal aggressive war or a war of self-defence. These irreconcilable dualisms made the Tokyo Trial a difficult topic to discuss. At the same time, Justice Pal himself was warmly accepted by the Japanese society and Government when he visited Japan in 1952, 1953 and 1966.[48] From such Japanese reactions to Justice Pal and the fact that he remains in the Japanese societal memory of the Tokyo Trial, it may be possible to sense an aspect of the Japanese people's attitude towards the Trial.

IV The Rise of Public Interest in the Tokyo Trial: The First Wave

After long years of public apathy, the Tokyo Trial suddenly caught the interest of the Japanese public in the mid-1980s. This was the first wave of societal interest in the Tokyo Trial

since its closure and was caused by the release of a feature-length documentary film, *Tōkyō Saiban* (The Tokyo Trial) in 1983. The film achieved great success and stirred up public interest in the Tokyo Trial.[49]



Director Kobayashi Masaki explained that his intention was to 'illustrate the Tokyo Trial, the historical truth, as objectively as possible' and 'to examine, within a historical context, the significance of the Trial for the Japanese … in order to think about war and peace'.[50] However, the general reaction was not necessarily what Kobayashi expected. He was surprised to receive comments from the audience, such as: 'Those 28 defendants were praiseworthy'; 'The Trial was a political trial'; or 'It was coloured with racism'.[51] Ōnuma Yasuaki, an international legal scholar, observed that the reaction to the film was easily understood as the eruption of 35 years of pent-up feelings (i.e. 'something is wrong with the Tokyo Trial').[52] In other words, through the reaction to the film, it became visible that there had been frustration and a sense of 'victors' justice' that had long lain dormant among many Japanese under apathy and silence.

Such attitudes could be also seen through the International Symposium on the Tokyo War Crimes Trial, which was held in Tokyo in May 1983 and examined historical, legal, international, and contemporary aspects of the Tokyo Trial.[53] The symposium was organised by academics, including international legal scholars, Ōnuma and Andō Nisuke, who were trying to go beyond emotional and irreconcilable dualisms surrounding the Tokyo Trial up to that time. At the symposium, it was stated:

> thirty years after the end of the war, and of the trial itself, we were liberated from emotional bias and were able to evaluate the Tokyo trial from a position of relative calm. This is one of the reasons the time is ripe for a reexamination of the Tokyo trial.[54]

The symposium, however, brought up some reactions that were far from 'calm'. The record of the symposium shows that the factual and historical aspect of the Trial and its Judgment, rather than the Trial's general significance and lessons, had received great interest and emotional reactions from the audience so much so that a chairman had to intervene in question-and-answer sessions, stating: 'the purpose of our gathering here is not to take nationalistic positions against one another. Please bear this in mind in making statements.'[55] A similar reaction was observed in another symposium in 1996: 'Thinking About the Tokyo Trial: How the War Was Judged'.[56] This symposium, according to the organisers, heated up in unexpected ways, with the participants actively expressing agreement and disagreement with presentations, with some people even standing up and shouting at panel members. Igarashi Takeshi, one of the

organisers and an historian, observed through the symposium 'a deep scar' that the Tokyo Trial had left on the Japanese people's perception of history.[57] Interestingly, while general interest towards the Tokyo Trial decreased gradually after 1983, far more books on the Tokyo Trial were published in 1995 (the symbolic year commemorating half a century from the end of the war) than any other single year up to then.[58]

V The Tokyo Trial and a Sense of History: The Second Wave of Societal Interest

The Tokyo Trial reappeared in public discourse in the late 1990s. This time it was raised in the context of the so-called 'neo-nationalist (revisionist)' movement, in which a number of conservative intellectuals formed groups, such as *Atarashii Rekishi Kyōkasho wo Tsukuru Kai* (Japanese Society for History Textbook Reform), and publicly endorsed a claim that Japan's war was self-defensive, that it contributed to liberating Asia from Western imperialism, and that the Nanjing massacre and 'comfort women' cannot be substantiated as historical facts. Although such claims were widely covered by the media and reported internationally as indicative of the rise of nationalism in Japanese society, the movement was actually a backlash against the Japanese Government's policy and popular attitudes at the time. In the mid-1990s, responding to the Asian victims' strong claims, the Government had admitted and apologised for the suffering inflicted on them by the Japanese Imperial Army, especially the 'comfort women'. In 1995, Prime Minister Murayama Tomiichi issued an unequivocal statement that Japan, 'through its colonial rule and aggression, caused tremendous damage and suffering to the people of many countries, particularly to those of Asian nations' and expressed an apology to the victims.[59] Opinion polls at the time also showed that the majority of the Japanese people had recognised the country's responsibility for the wartime conduct.[60] It was these policies and the Japanese attitudes that accompanied them (especially towards the issue of 'comfort women'), that provoked conservative intellectuals. They claimed that people were suffering from a 'masochist view of history (*Jigyaku-shikan*)', that is the view that 'Japan prepared and waged wars of aggression and committed terrible war crimes'. In this context, the Tokyo Trial and its Judgment were targeted as the source of the masochistic view, which they labelled the 'Tokyo Trial view of history' (*Tōkyō saiban shikan*). It is symbolic that in 1998, in the middle of the movement, a film on the Tokyo Trial, *Puraido: Unmei no Toki* (Pride: The Fateful Moment) was released, focusing on the 'heroic agony' of Tōjō Hideki trying to protect Japan's pride at the Tribunal, paralleled with the struggle of Justice Pal and India's movement for independence from the United Kingdom. The film was attacked severely for trying to acquit Japan of the responsibility for aggression and wrongdoing by some community groups, some of which even campaigned for suspension of the screening. At the same time, the film achieved success and evoked sympathy from some viewers.

Tōjō center during Tokyo Trial

To what extent the Tokyo Trial actually shaped the Japanese sense of history is difficult to tell, as a sense of history is not as simple as to be shaped exclusively by one trial. Above all, the Tokyo Trial itself has not been visible enough in public discourse to be connected to the majority's view of history. Still, the neo-nationalist movements show one aspect of the Trial's long-term impact on the Japanese sense of history. Discourses surrounding the Tokyo Trial in the 1990s show that the Trial continues to be strongly related to how some see the character of the war, which is still emotionally debated. The characterisation of the war is not necessarily settled in contemporary Japan and newspapers still conduct opinion polls asking how to characterise the 'past war': aggression, self-defence, or a mix of both elements.[61] What is more, there is not yet an official term for the 'past war'. This, in turn, reveals why the Tokyo Trial, which itself is a controversial topic, further invites emotional and ideological reactions from rightist and leftist critics. Being critical of the Tokyo Trial does not necessarily mean denying the portion of the Tribunal's Judgment which found that Japan conducted aggressive war and committed war crimes, and valuing the Trial is not necessarily identical with acceptance of the whole Judgment. However, they are inseparable in the Japanese mentality. The connection between the Tokyo Trial and its account of the war is so strong that it is not possible to criticise the former without being seen to challenge the latter.[62] This fact made academics as well as the media hesitant in tackling the Tokyo Trial and cautious about highlighting its problems. In the early 1970s, Richard Minear sensed this attitude in Japanese scholars: 'Apparently, they fear that denigration of the trial will lead to a positive reevaluation of Japan's wartime policies and leadership.'[63] This surely was an attitude shared by the general public, and the tendency can still be observed in Japanese society now.[64]

Accompanying ideological and political arguments about the country's negative past, including the politically thorny issue of Emperor Hirohito's war responsibility, the Tokyo Trial came to be perceived as a national taboo.[65] This is why the Trial has been either talked about emotionally and ideologically within a limited circle, or not talked about at all by the majority of the population despite its importance in Japan's modern history. This is one of the problematic aspects of Japanese societal attitudes towards the Tokyo Trial. At the same time, if the perception that the Tokyo Trial is 'a national taboo', together with the indifference and cynicism of the Japanese people towards the Trial, constitutes a national silence, then this silence is a loud indication of popular views of the Trial.

VI The Tokyo Trial and the Responsibility

of War: The Third Wave of Societal Interest?

Unlike often expressed intellectuals' views, especially those of anti-Trial critics, the Japanese people's attitude towards the Tokyo Trial has been ambiguous, many accepting the Judgment, while at the same time feeling frustration towards it. Historian Yui Daizaburō pointed out that behind such an ambiguous attitude there is a sense of unfairness embraced by the Japanese.[66] Indeed, as examined above, such a sense has been observed through Japanese societal attitudes from time to time. This is interesting because the sense of unfairness and frustration indicate a certain personalisation of the Trial. However, the Japanese people at the time of the Tokyo Trial were believed to have remained detached from the Trial and the defendants, they did not take the Trial personally, and remained as 'bystanders' at the Trial. The Japanese were bystanders at the Tokyo Trial, detached themselves from the Trial and did not take the Judgment personally because the Trial did not directly target each one individually. Nonetheless, many felt frustrated that they were being blamed at the Tokyo Trial as a nation. How can this rather contradictory attitude be understood?

Pointing out the fact that with the passage of time the divide between pros and cons of the Tokyo Trial became even sharper and the Japanese sense of 'humiliation' increased, Higurashi Yoshinobu stated that the Tokyo Trial stirred up national consciousness.[67] Indeed, whether those leaders were popular among their people or not, when they were prosecuted and punished internationally and unilaterally, this inevitably created a sense that the nation as a whole was also being punished from outside. After all, the defendants at the Tokyo Trial symbolised the country and by seeing their leaders judged at an international trial, many people could not but feel that they too were being judged. This is exactly what many conservatives and right-wing critics emphasise, that the Tokyo Trial unfairly punished Japan and its people as a whole. This is an interesting message that international trials might convey through pursuing individual responsibility of leaders. Similar societal reactions are observed in Serbia regarding the *Milošević* trial at the International Criminal Tribunal for the former Yugoslavia. This rather paradoxical combination of views towards the Tokyo Trial, that is 'individual responsibility pursued' and 'collective responsibility perceived', left many Japanese with an ambiguous and in some instances distorted sense of war responsibility and guilt.[68]

This ambiguous understanding of war responsibility in relation to the Tokyo Trial became visible early in the 21st century, when the Trial reappeared in public discourse in the context of the so-called Yasukuni shrine row, in which it was debated whether Prime Minister Koizumi Junichirō should visit the shrine that holds the souls of about 2.5 million Japanese war dead since the Meiji Restoration in 1868. One of the reasons why the visit was controversial was that the shrine also holds the souls of 12 convicted Class A war criminals and two defendants died during the Tokyo Trial, who were enshrined in 1978. The Yasukuni row had first occurred in 1985 when Prime Minister Nakasone Yasuhiro conducted an 'official visit' to the shrine. However, it became more serious under Koizumi who visited the shrine every year while in office between 2001 and 2006. Ever since 2001, the Yasukuni controversy was widely debated in pubic and negatively impacted on Japan's diplomatic relationships with China and South Korea, who viewed the visits to the place where war criminals were enshrined as contradicting the apology for the past war. Initially, however, the Yasukuni row was not discussed among the Japanese in relation to the Tokyo Trial; the linkage between the controversy and the Trial did not seem to be clear to the public, although it is at the core

of the row.[69]

Stimulated by the Yasukuni row, the Tokyo Trial finally came to the centre of discussion in 2005, on the 60th anniversary of the end of the war. Notably, the year 2006 also marked the 60th anniversary of the start of the Tokyo Trial. Again, the database of major newspapers shows that the number of articles referring to the Tokyo Trial jumped in these years.[70] Facing the heated debates on Yasukuni, politicians started to comment on the Tokyo Trial in public. Importantly, unlike in the past, such comments came not only from those who criticised the Trial but also from those who regarded the legacy of the Tokyo Trial for contemporary Japan in positive terms. In the field of art, Kinoshita Junji's 1970 play, *Kami to Hito tono Aida* (Between God and Man), highlighting the war responsibility of the Japanese people, was performed again in 2006. From 2001–06, Inoue Hisashi wrote a series of plays focusing on the historical significance of the Trial and Japan's war responsibility.

During the period 2005–08, the major newspapers published a series of special articles on the Tokyo Trial. *Asahi Shimbun* tackled the history problem as a whole, which adversely affected Japan's relationship with neighbouring countries, and situated the Tokyo Trial within a question: how should the Japanese face the past?[71] *Yomiuri Shimbun* tackled the re-examination of war responsibility and concluded with their verdict on the wartime leaders' responsibility, naming specific individuals for their responsibility for each major stage in the development of the war.[72] Watanabe Tsuneo, Chairman and Editor-in-Chief of Yomiuri Shimbun Holdings, expressed his concern about the heated debate on Yasukuni and the shrine's excessively revisionist view of the war and the Tokyo Trial. He thought that he, as a member of the wartime generation, should address the issue of war and responsibility. Pointing out that issues and problems were left by the Tokyo Trial, he expressed concern at the fact that the Japanese had never closely examined their responsibility for the war, especially moral and political responsibility.[73] Yomiuri, as well as Watanabe, pointed out that their intention was not merely to expose the problem of 'victors' justice', but also to highlight the importance and necessity of the Japanese people's examination of responsibility for their own past war. In conclusion, they tried to focus on various aspects of war responsibility, not only for starting the war but also for continuing the war and for the defeat, aspects of which were not examined in the Tokyo Trial.

Indeed, with the active media reporting stimulated by the Yasukuni row and the 60th anniversary of the end of the war and the Trial itself, the Tokyo Trial has become much more visible within Japanese society in the past several years than ever before.[74] On the one hand, the increased attention to the Trial has stimulated already existing ideological debates surrounding the Tokyo Trial. Many anti-Tokyo Trial publications published during the 1950s – 1970s have been republished and the Tokyo Trial again has been attacked by those who support Yasukuni's historical perspective and the Prime Minister's visits there. Symbolically, a controversial revisionist article written by Japan's former Air Force Chief, General Tamogami Toshio, claimed that '[t]he Tokyo Trial imposed all the responsibility for the war on Japan and the mind control that it conducted still puts the Japanese at a loss after 63 years'.[75]

On the other hand, a number of solid works by academics, intellectuals and historians have also been published recently. These works have several characteristics in common, which are important from the perspective of the Japanese societal attitude. First, unlike past publications on the Tokyo Trial, works published recently have been conducted by authors with diverse backgrounds and from various perspectives. For example, Higurashi Yoshinobu conducted a

full-scale study of the Tokyo Trial based on primary sources, examining its significance in relation to foreign policy. He attempted to analyse the Trial through the relations of 'norm' — or 'civilization's justice' — and 'power' — or 'victor's justice' — within the context of international politics.[76] In his 2008 work, Higurashi examined the Trial as public policy, based on empirical research on Allied and Japanese attitudes towards it. Being written in a more casual manner than his previous work, the book was able to share historical facts and issues which have been debated among academics with the general public.[77] Yuma Totani, a researcher based in the US, situated the Tokyo Trial as a significant legal event in the history of international law, and examined the Trial's significance in relation to the development of international criminal justice.[78] Ushimura Kei also actively published his research on the Tokyo Trial, which was conducted from the perspective of Japanese history, focusing on how intellectuals viewed and analysed the Trial.[79] There was also a work focusing on the works of interpretation at the Tokyo Trial by Takeda Kayoko.[80]

Second, many of these works go beyond, or try to go beyond, traditional irreconcilable dualisms created through the rightist–leftist argument. Higurashi stated that the true facts of the Tokyo Trial were being distorted by the ideological confrontation between those who affirmed the Trial and those who opposed it, and emphasised the importance of examining the Trial calmly. Totani examined Justice Pal's opinion from the perspective of going beyond the right–left dichotomy. She pointed out that Justice Pal's Dissenting Opinion and the rightist critics' view of history share not a few points in common, while severely criticising his Opinion for having gone against the development of international law and misinterpreting the Manchurian Incident.[81] Historian Hosaka Masayasu saw the Tokyo Trial as a method of post-war settlement and emphasised the importance of accepting the Trial as an historical fact, instead of debating whether the Japanese would accept it or not. The most important thing, according to Hosaka, is to learn lessons from the Trial. He attempted to do so by focusing on 'the logic of the prosecutor', 'the responsibility of the defendant', and 'the judgment on the historical facts made by the judge'.[82] These approaches, on the one hand, reflect the passage of time, which has changed Japanese society, increased the autonomy of the young researchers from traditional ideological debates, and thus lightened the sense of taboo surrounding the Tokyo Trial. These works, which have been widely read in public, on the other hand, can also be expected to create an atmosphere within society that allows people to debate the Trial in a more free and nuanced manner. After all, as noted above, the majority of the population has been adopting an attitude that neither completely denies nor accepts the Tokyo Trial and its significance for post-war Japan.

Third, many of these works, as well as the approach taken by the media since 2005, have highlighted the impact that the Tokyo Trial has had on Japan and how the Japanese have tried to tackle them. Overcoming the polarized right–left debate is one such example. Another example is that the Tokyo Trial came to be examined and re-examined from the perspective of war responsibility. Ushimura pointed out that there has been confusion in the minds of the Japanese regarding responsibility for defeat and responsibility for starting the aggressive war; the former is moral and the latter is legal in nature. He considered that the actual gap between what the Japanese wanted to judge at the time (that is, the leaders' responsibility for defeat) and what was actually judged at the Tokyo Trial (that is, the responsibility for planning, launching and waging aggressive war) made the debate and issues of war responsibility complicated.[83] Hosaka also pointed out that the problem of the Tokyo Trial lay in the fact that

the Japanese did not settle the war responsibility of their leaders by themselves.[84] As is seen above, the awareness of this issue came to be shared also by the media.

Whether the Japanese themselves, after the Tokyo Trial, have tried to re-examine their own past and think about their own war responsibility, not only from a legal perspective but also from a political and moral perspective, is a serious matter that Japanese society has been facing ever since the Trial.[85] And, perhaps, it is not despite, but because of, the passage of time that Japanese society has begun to confront this issue recently. A further important question is what role the Tokyo Trial plays, and played, in this endeavour (i.e. whether or not the Tokyo Trial could have been the first step towards such re-examination). This is strongly related to the Japanese societal attitude towards the Trial, how they perceived and still perceive it. Against the background of the Japanese passive and apathetic societal attitude at the time, it can be seen that the Japanese did not enthusiastically welcome the Tokyo Trial but were prepared to accept an internationally rendered judgment. By doing so, they could settle, in a symbolic manner, the difficult themes of judging war and war responsibility. At the same time, the Tokyo Trial itself is an historical event that the Japanese people themselves would not proudly discuss. In one sense, the fact that the Japanese government formally accepted the Judgment of the Tokyo Trial allowed Japanese society to avoid making its own judgment on the war. At the same time, the various problems in the way the Tokyo Trial was conducted and the way it has been debated by some critics made it more difficult for Japanese society and the Japanese people to re-examine war responsibility. The Tokyo Trial contains a number of elements, which could be the starting point for deepening the Japanese people's understanding of the war and war responsibility. However, Japanese societal attitudes show that the Trial worked in the opposite way, hindering people from coming to terms with the past.

VII Conclusion

Japanese societal attitudes towards the Tokyo Trial have been a complex mixture of acceptance, disinterest, cynicism and frustration, each of which has been embraced by people in nuanced and diverse ways. From the beginning, there was a sense of unfairness stemming from a view that the Tokyo Trial was 'victors' justice', and this perspective remains in the Japanese psyche. However, while this has been the driving force for the nationalist and conservative criticism of the Tokyo Trial, the majority of the population accepted it with a sense of 'inevitability' and cynicism in the context of defeat. Indeed, 'passive acceptance' has been a basic and coherent societal attitude of many Japanese towards the Tokyo Trial. What is more, prosecuting and punishing wartime leaders, especially military leaders, to some extent matched the sentiments of many at the time. In addition, in the Judgment of the Tokyo Trial, people did see the opportunity to settle issues of war responsibility and move forward.

The Tokyo Trial faded from public discourse thereafter, even as emotional and ideological debates among intellectuals started and developed. The silence of the general public is based partly on their disinterest in the Trial, but the heated debate among intellectuals, to some extent, prevented many people from talking about it in public. What is more, an attitude toward the Tokyo Trial strongly relates to how one perceives and responds to the war and war responsibility. Being passively accepted, the Tokyo Trial became an excuse for many Japanese people not to closely examine the war and pass judgment on it, while at the same time experiencing frustration that the judgment was imposed from outside. Indeed, ambivalence towards the Tokyo Trial and war crimes prosecution reflects the Japanese

people's struggle to come to terms with their own past and reconciliation with neighbouring countries, two challenges which have not yet been resolved.

Examining Japanese popular attitudes towards the Tokyo Trial is crucial to understanding its societal impact, which in turn is important for analysing the aims, objectives and functions of the Tokyo Trial. The Tokyo Trial was a legal event designed to prosecute and punish war criminals so as to establish post-war international order and norms. At the same time, it was conducted in the context of Allied military occupation whose goals were to demilitarise and democratise post-war Japan.[86] Accordingly, some societal impact was surely expected. Considering the fact that international and internationalised courts are currently operating in post-conflict societies, this aspect of the Tokyo Trial and the Allied policy and strategy requires further research.

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Notes

[1] An extended version of this paper was published in Madoka Futamura, *War Crimes Tribunals and Transitional Justice: The Tokyo Trial and the Nuremburg Legacy* (2008). I have added new quantitative data and updated information on recent developments in Japanese society.

[2] Kitō Makoto et al, 'Kenshō: Sensō Sekinin Usureru Taisen no Kioku — Tokushū', *Yomiuri Shimbun* (Tokyo, Japan), 27 October 2005, 12.

[3] 'Keishōmeguri tomadoi — Asahi Shimbun Yoron Chōsa', *Asahi Shimbun* (Tokyo, Japan), 2 May 2006, 12.

[4] In examining Japanese attitudes, it is of course important to examine intellectuals' views on the Tokyo Trial as well, which illustrate sharply divided views in the debate surrounding the Trial. However, this chapter recognises that the intellectuals' arguments are not necessarily shared by people in general, whose attitudes towards the Tokyo Trial have been more ambivalent, nuanced and complex.

[5] Editorial, 'Heiwa Ketsui no Sekaiteki Hyōgen',

Asahi Shimbun (Tokyo), 13 November 1948, 1.

[6] Editorial, 'Tōkyō Saiban no Hanketsu', *Mainichi Shimbun* (Tokyo), 5 November 1948, 1.

[7] Based on the Opening Statement of Joseph Keenan, Chief Prosecutor, claiming that 'we are waging a part of the determined battle of *civilization* to preserve the entire world from destruction', the Tokyo Trial came to be understood by the Japanese as 'civilization's justice' [*Bunmei no Sabaki*], together with 'victors' justice': United States et al v Araki Sadao et al in *The Tokyo Major War Crimes Trial: The Records of the International Military Tribunal for the Far East, with an Authoritative Commentary and Comprehensive Guide* (2002) Vol 2, Transcript, 384 ('*Tokyo Major War Crimes Trial*') (emphasis added).

[8] Awaya Kentarō, *Tōkyō Saiban e no Michi* [The Road to the Tokyo Trial] (2006) Vol 2, 23. See Takakuwa Kōkichi, *Makkāsā no Shimbunkenetsu* (1984) for the details of GHQ's censorship of newspaper coverage.

[9] Yokota Kisaburō, *Sensō Hanzai Ron* (1947) 5.

[10] Kainō Michitaka, Ukai Nobushige, Takano Yūichi, Tsuji Kiyoaki and Maruyama Masao, 'Tōkyō Saiban no jijitsu to hōri' (1949) 21 *Hōritsu Jihō* 13.

[11] See Shunsuke Tsurumi, *A Cultural History of Postwar Japan: 1945–1980* (1987) 15.

[12] General Staff of General MacArthur, *Reports of General MacArthur: MacArthur in Japan: The Occupation: Military Phase* (first published 1966, 1998 ed) Vol I, Supp, 53.

[13] See, e.g. B V A Röling and Antonio Cassese, *The Tokyo Trial and Beyond: Reflections of a Peacemonger* (1993) 84.

[14] John W. Dower, *Embracing Defeat: Japan in the Aftermath of World War II* (2000) 510. See also Yoshimi Yoshiaki, 'Senryōki nihon no minshūishiki: Sensōsekininron wo megutte' (1992) 811 *Shisō* 73, 82–4.

[15] Gushima Kanesaburō, 'Tōkyō saiban no rekishiteki igi' (1948) 3(6) *Rekishi Hyōron* 30.

[16] Higurashi Yoshinobu, 'Tōkyō saiban to Nihon no Taiō: "Kokka" to "Kojin"' (2008) 44(3) *Gunjishigaku* 7.

[17] Mainichi Shimbun Seijibu (ed) and directed by Utsumi Aiko and Nagai Hitoshi, *Shimbun Shiryō ni miru Tōkyō Saiban, BC-kyū Saiban* (2000) Vol 1, xx.

[18] There were 50 articles in 1945, 453 articles in 1946, 310 articles in 1947, and 325 articles in 1948.

[19] See Yoshimi, above n 14, 73–99; Yoshida Yutaka, 'Senryōki ni okeru sensō sekininron' (1991) 105(2) *Hitotsubashi Ronsō* 121, 121–38; Awaya, above n 8, Vol 2, 4–7, 16–18; Dower, above n 14.

[20] Telegram from George Atcheson, Acting Political Adviser in Japan, to James Byrnes, US Secretary of State, 17 December 1945, in US Department of State, *Foreign Relations of the United States: Diplomatic Papers* (1945) Vol VI, 984.

[21] *Tokyo Major War Crimes Trial*, above n 7, Vol 2, Transcript, 468.

[22] Tsurumi, above n 11, 16.

[23] See Futamura, above n 1, 120–2.

[24] See also Yoshida Yutaka, 'Sensō sekinin to Kyokutō Kokusai Gunji Saiban' in Nakamura Masanori, Amakawa Akira, Yun Kooncha and Igarashi Takeshi (eds), *Sengo Nihon: Senryō to Sengokaikaku* [Post-war Japan: Occupation and Post-war Reformation] (1995) Vol 5, 80.

[25] Nomura Masao, 'Sabakareta "Nihonkoku"', *Asahi Shimbun* (Osaka, Japan), 13 November 1948.

[26] See Futamura, above n 1, 123–33.

[27] Ushimura Kei and Higurashi Yoshinobu, *Tōkyō Saiban wo Tadashiku Yomu* (2008) 144–6.

[28] Asahi Shimbunsha Chōsa Kenkyūshitsu (ed), *Kyokutō Kokusai Gunji Saiban Kiroku: Mokuroku oyobi Sakuin* (1953) 5.

[29] Editorial, 'Kono Shokei wo Igiarashimeyo', *Mainichi Shimbun* (Tokyo, Japan), 23 December 1948, 1.

[30] See, eg, Inoue Kiyoshi, 'Hō no ronri to rekishi no ronri' (1948) 3(6) *Rekishi Hyōron* 13. For an analysis of the intellectuals' debate on the Tokyo Trial and war responsibility issues, see Yoshida Yutaka, 'Senryōki no sensō sekininron' in Ajia Minshūhōtei Junbikai (ed), *Toinaosu Tōkyō Saiban* (1995) 210. Claims for further trials, however, did not necessarily focus on collective responsibility of the Japanese people but targeted the responsibility of the Emperor, the military clique, and *zaibatsu*. At the same time, some academics did point out the war responsibility of the intellectuals and the media.

[31] Awaya, above n 8, Vol 2, 5–7.

[32] *Tokyo Major War Crimes Trial*, above n 7, Vol 103, Transcript, 49 768–9.

[33] Ibid Vol 103, Transcript, 49 592.

[34] Higurashi, 'Tōkyō saiban to Nihon', above n 16, 16–17.

[35] See, eg, Iokibe Makoto, '"Tōkyō saiban" ga sabaita hito to jidai' in Kōdansha (ed), *Tōkyō Saiban: Shashin Hiroku* (1983) 109.

[36] Quoted in Yoshimi, above n 14, 77.

[37] Editorial, 'Heiwa Ketsui no Sekaiteki Hyōgen', *Asahi Shimbun* (Tokyo, Japan), 13 November 1948, 1 (emphasis added).

[38] See, e.g., Treaty of Peace with Japan, opened for signature 8 September 1951, 136 UNTS 46 (entered into force 28 April 1952), with which Japan regained independence, and which contains Article 11 stating that: 'Japan accepts the judgments of the International Military Tribunal for the Far East and of other Allied War Crimes Courts both within and outside Japan, and will carry out the sentences imposed thereby upon Japanese nationals imprisoned in Japan.'

[39] According to an opinion poll conducted by *Asahi Shimbun* in 2006, 48 per cent of those who replied that they knew enough about the Tokyo Trial (27 per cent) answered that 'with some problems, the Tokyo Trial still was

necessary as a settlement': 'Keishōmeguri tomadoi — Asahi Shimbun Yoron Chōsa', *Asahi Shimbun* (Tokyo, Japan), 2 May 2006, 12.

[40] Japan Cabinet Office, *Sengo 10nen no kaiko to tenbōni kansuru yoronchōsa* (August 1955) .

[41] There were 22 articles in 1952, the year that the occupation ended, and 17 articles in 1955, when Class A war criminals sentenced by the Tokyo Tribunal were released from prison.

[42] Awaya Kentarō, *Tōkyō Saiban-ron* (1989) 276.

[43] Sumitani Takeshi, '"Shōsha no sabaki" ron saikō' in Ajia Minshūhōtei Junbikai (ed), *Toinaosu Tōkyō Saiban* (1995) 53.

[44] See Takigawa Masajirō, *Tōkyō Saiban wo Sabaku* (1952–53) Vol 1; Sugahara Yutaka, *Tōkyō Saiban no Shōtai* (1961).

[45] Awaya, *Tōkyō Saiban-ron*, above n 41, 270.

[46] Radhabinod Pal and Tanaka Masaaki, *Nihon Muzairon: Shinri no Sabaki* [The Japan-Is-Not-Guilty View: Judgment of the Truth] (1952). Tanaka continuously wrote and published books on Justice Pal's Opinion, all of which carried the phrase, *Nihon Muzairon*, in their title: see, e.g, Tanaka Masaaki, *Paru Hakase no Nihon Muzai-ron* [Justice Pal's Theory of Japan's Innocence] (1963).

[47] It has been pointed out that Justice Pal did not state that Japan was 'morally' innocent as he confirmed that the Japanese military conducted various atrocities during the war and therefore, his argument should not be taken as a total acquittal of modern Japan. See Tsunoda Jun, 'Paru hanketsusho to Shōwashi' in Tōkyō Saiban Kenkyū-kai (ed), *Paru Hanketsu-sho: Kyōdō Kenkyū* [Pal's Judgment: Joint Research] (1984) Vol 1, 199; Yuma Totani, *The Tokyo War Crimes Trial: The Pursuit of Justice in the Wake of World War II* (2008) 220.

[48] In 1966, Justice Pal was given the Grand Cordon of the Order of the Sacred Treasure (*Kun Ittō Zuihō Shō*) by the Japanese Government, and an emeritus doctorate from Nihon University.

[49] According to the National Diet Library's database, there were 33 books categorised under 'the Tokyo Trial' or 'the International Military Tribunal for the Far East' during the 1980s. This was a significant number considering that, in total, 25 books related to the Tokyo Trial — including court materials — were published during the occupation (1946–51), 11 during the 1950s (1952–60), 11 in the 1960s, and 19 in the 1970s.

[50] Comment by Kobayashi Masaki, in 'Tokushū Tōkyō saiban: Zadankai — Rekishiteki shinjitsu wo kyakkanteki ni gurōbaruna shiten de' (1983) 858 *Kinema Junpō* 64, 67.

[51] Ibid.

[52] Ōnuma Yasuaki, *Tōkyō Saiban kara Sengo Sekinin no Shisō he* [From the Tokyo Trial to a Sense of Postwar Responsibility] (4th ed, 1997) 123.

[53] A record of the Symposium was published in 1984, which is available in English as Chihiro Hosoya, Andō Nisuki, Ōnuma Yasuaki and Richard Minear (eds), *The Tokyo War Crimes Trial: An International Symposium* (1986).

[54] Comment by Ōnuma in the record of the Symposium: ibid 123.

[55] Ibid 56.

[56] See Igarashi Takeshi and Kitaoka Shinichi (eds), *'Sōron' Tōkyō Saiban toha Nandattanoka* (1997) (as the record of the Symposium).

[57] Ibid v.

[58] According to the database of the National Diet Library, in 1995 alone, 15 books on the Tokyo Trial, including eight volumes of compiled documents of the defence counsel, were published. Altogether, there were 34 books published in the 1990s.

[59] *Statement by Prime Minister Tomiichi Murayama 'On the Occasion of the 50th Anniversary of the War's End'* (15 August 1995) .

[60] See, e.g., an opinion poll result carried in *Yomiuri Shimbun*, 5 October 1993, in which 53.1 per cent agreed with the then Prime Minister Hosokawa Morihiro's comment that year that 'Japan's war in the Asia Pacific was aggression', 24.8 per cent disagreed and 22.1 per cent did not answer. See also an opinion poll result carried in *Asahi Shimbun*, 23 August 1994, in which more than 70 per cent thought that the Government 'has not adequately compensated the people of countries Japan invaded or colonised'.

[61] According to *Asahi Shimbun*'s opinion poll in May 2006, 31 per cent answered that it was aggression, 7 per cent answered that it was self-defence, and 45 per cent answered that it had both aspects, while 15 per cent answered 'do not know'.

[62] Futamura, above n 1, 109.

[63] Richard Minear, *Victors' Justice: The Tokyo War Crimes Trial* (1971) ix.

[64] During intensive interviews and focus group interviews conducted by the author in 2003, many interviewees expressed reluctance and discomfort to talk about the Tokyo Trial in public, for fear of being misunderstood or involved in ideological disputes: see Futamura, above n 1, 116–43.

[65] For a detailed analysis of the taboo of the Tokyo Trial, see Futamura, above n 1, 107–11.

[66] Yui Daizaburō, 'Komento' in Takeshi Igarashi and Shinichi Kitaoka (eds), *'Sōron' Tōkyō Saiban toha Nandattanoka* (1997) 44.

[67] Higurashi Yoshinobu, *Tōkyō Saiban* (2008) 256–7, 391–2.

[68] For detailed discussion of this paradoxical combination of the perception, see Futamura, above n 1, 116–43. The Japanese ambiguous attitude may be related to the societal impact of the trials of minor war criminals, the so-called Class B and Class C war crimes trials, which Tsurumi pointed out are seen by the Japanese 'to be connected in an unbroken chain' with the Tokyo Trial: Shunsuke Tsurumi, 'What the War Trials Left to the Japanese People' in Chihiro Hosoya, Andō Nisuki, Ōnuma Yasuaki and Richard Minear (eds), *The Tokyo War Crimes Trial: An International Symposium* (1986) 141. Each trial was conducted by one of the Allied countries, mostly outside Japan. Altogether 5700 soldiers were tried for committing conventional war crimes and crimes against humanity. 984 were sentenced to death, 475 to life imprisonment and 2,944 to limited prison sentences. Quoted in Tōkyō

Saiban Handobukku Henshū Iinkai (ed.), *Tōkyō Saiban Handobukku* (Tokyo: Aoki Shoten 1989), 219.

[69] In an opinion poll conducted in May 2005, 51 per cent answered that they 'cannot understand the Chinese stance of problematising Yasukuni', while most opinion polls up to then clearly showed that the majority of the population acknowledged the aggressive nature of the past war and that war crimes were committed: 'Yasukuni Sampai "Chūshiwo" 49%, Chūgoku no mondaishi "Rikaidekinu" 51% — Asahi Shimbun Yoron Chōsa', *Asahi Shimbun* (Tokyo, Japan), 31 May 2005, 1.

[70] The number of articles in *Asahi Shimbun* leaped from 31 in 2004 to 98 in 2005, and the number of articles in *Yomiuri Shimbun* jumped from 23 in 2004 to 58 in 2005. Both newspapers issued the largest number of articles in 2006, 142 in *Asahi Shimbun* and 77 in *Yomiuri Shimbun*.

[71] The articles were published as Asahi Shimbunsha (ed), *Sensō Sekinin to Tsuitō* (2006).

[72] The articles were published as Yomiuri Shimbun Sensō Sekinin Kenshō Iinkai (ed), *Kenshō Sensō Sekinin 1* (2006).

[73] Watanabe Tsuneo, '"Sensō sekinin" to ha nanika' [What is 'War Responsibility'] (November 2006) *Ronza* 131.

[74] According to the database of the National Diet Library, during the period 2005–08 there were 59 books published that are categorised under the Tokyo Trial and the International Military Tribunal for Far East. There were 14 books in 2005; 12 in 2006; 15 in 2007; and 18 in 2008. See also above nn 49, 58.

[75] Tamogami Toshio, *Nihon ha Shinryakukokka de attanoka* [Whether Japan Was an Aggressor] (2008) .

[76] Higurashi Yoshinobu, *Tōkyō Saiban no Kokusai Kankei: Kokusai Seiji ni okeru Kenryoku to Kihan* [International Relations of the Tokyo Trial: Power and Norm in International Politics] (2000).

[77] Higurashi Yoshinobu, *Tōkyō Saiban* (2008).

[78] See Totani, above n 47, which was also published in Japanese: Yuma Totani, *Tōkyō Saiban: Dainiji Sekaitaisengo no Hō to Seigi no Tsuikyū* (2008).

[79] Ushimura Kei, *'Sensō Sekinin'ron no Shinjitu: Sengo Nihon no Chiteki Taiman wo Danzu* [The Truth of the Debate on War Responsibility] (2006).

[80] Takeda Kayoko, *Tokyo Saiban ni okeru Tsūyaku* (2008).

[81] Totani, above n 47, 218–45.

[82] Hosaka Masayasu, *Tōkyō Saiban no Kyōkun* [Lessons of the Tokyo Trial] (2008).

[83] Ushimura and Higurashi, above n 27, 171, 215.

[84] Hosaka, above n 82, 11.

[85] This point was already raised by some

academics in the 1980s. See, eg, Ara Takashi, 'Tōkyō saiban: Sensō sekininron no genryū — Tōkyō saiban to senryōka no yoron' (1984) 408 *Rekishi Hyōron* 2.

[86] State–War–Navy Coordinating Committee, *Politico-Military Problems in the Far East: United States Initial Post-defeat Policy relating to Japan* (21 September 1945) .