

Michael Sinatra

*The Ways of the Victors:
The Fractured Legacy of the Tokyo War Crimes Trial (1946-1948)*

ABSTRACT: *This article examines the Tokyo War Crimes Trials (1946-1948). On the basis of trial records, published opinions of dissenting judges, and first-hand accounts of participants, it addresses the issue of legitimacy that arose during and after the trials. The author challenges the overall positive appraisal of these trials which have often been heralded as the origins of transitional justice.*

KEYWORDS: *modern Japan; post-World War II era; International Military Tribunal for the Far East (IMTFE); Tokyo War Crimes Trials (1946-1948); transitional justice; international law; legal history*

Introduction

On April 29, 1946, the first day of the Tokyo War Crimes Trial, presiding judge and tribunal president Sir William Webb of Australia remarked in his opening statement: “there has been no more important criminal trial in all history.”¹ The eleven judges from eleven different Allied nations from around the world had to overcome legal, linguistic, logistical, and political obstacles to guarantee a fair and expeditious trial to the accused. In addition, they were expected to analyze approximately 5,184 admitted exhibits of evidence and a trial transcript of approximately 48,288 pages before reaching their judgment.² Analogous to the Nuremberg Trial of Nazi war criminals which had begun in Germany five months prior, the goal was to see justice served to select Japanese military and civilian leaders indicted for crimes against peace, crimes against humanity, and conventional war crimes.³

The kind of justice these two landmark tribunals sought to dispense was unique and therefore gave rise to a new term in political and legal scholarly circles: “transitional justice.” As historian Kim Christian Priemel has pointed out, the term is “roughly defined as the wide array of legal means to confront the wrongdoings of predecessor regimes in periods of political change.”⁴ For the victorious Allied powers at Nuremberg and Tokyo, the issue of who should be held responsible for the heinous war crimes, crimes against humanity, and

¹ *The Tokyo Judgment: The International Military Tribunal for the Far East (I.M.T.F.E.), 29 April 1946-12 November 1948*, ed. Bernard V. A. Röling and Christiaan F. Rüter, 2 vols. (Amsterdam: APA-University Press, 1977), 1: xi.

² Yuma Totani, *The Tokyo War Crimes Trial: The Pursuit of Justice in the Wake of World War II* (Cambridge, MA: Harvard University Press, 2008), 4-18. For the full court transcripts, see *The Tokyo War Crimes Trial*, ed. R. John Pritchard and Sonia Magbanua Zaide, 22 vols. (New York and London: Garland, 1981).

³ *Tokyo Judgment*, ed. Röling and Rüter, 1: 31-33.

⁴ Kim Christian Priemel, “Consigning Justice to History: Transitional Trials after the Second World War,” *The Historical Journal* 56, no. 2 (June 2013): 553-581, here 553-554.

blatant wars of aggression the prosecutors described was the great task at hand. Those accused at Nuremberg included Hermann Göring, the highest-ranking Nazi official still alive at the time, and most of them were easily recognizable as a result of the countless propaganda films and news reels in which they had appeared. To hold these men responsible for Nazi Germany's wrongdoings, so that they would receive proper punishment for their crimes, ideally preventing similar criminal acts in the future, seemed logical. The two apparent symbols of Imperial Japan were Emperor Hirohito, who was not indicted or prosecuted, and former Prime Minister Hideki Tojo.⁵ According to historian Kenneth J. Ruoff, what followed after the war in Japan was a campaign "central to efforts by a segment of the political elite to concentrate responsibility for the war on as narrow a group of individuals as possible or to diffuse responsibility so widely and equally that individual accountability was blurred."⁶

When the trial ended on November 12, 1948, members of the small group of twenty-eight accused leaders received seven death sentences and eighteen prison sentences ranging from seven years to life; two of the defendants had died during the trial (from natural causes); and in one case the charges were dismissed due to the accused being deemed unfit for trial.⁷ The judgment itself, as well as the supplementary opinions of four of the five justices, remained unpublished until 1977.⁸ Memoirs and journals from some of the defendants and those in contact with them, American officials involved with Allied General Headquarters (GHQ) and letters from the general public to General Douglas MacArthur all reveal the political and social influences on the trial.⁹

Scholarship regarding the Tokyo Trial intensified during the 1970s, and there are numerous works in both English and Japanese. The study that is often called the most influential critique of the trial is American historian Richard H. Minear's *Victor's Justice* (1971), a powerful and emotional assault on the legitimacy of the trial written amid student protests against the U.S. involvement

⁵ Arnold Brackman, *The Other Nuremberg: The Untold Story of the Tokyo War Crimes Trials* (New York: William Morrow, 1987), 23.

⁶ Kenneth J. Ruoff, *The People's Emperor: Democracy and the Japanese Monarchy, 1945-1995* (Cambridge, MA: Harvard University Press, 2001), 128.

⁷ *Tokyo Judgment*, ed. Röling and Rüter, 1: 464-466.

⁸ Justice Radhabinod Pal of India's dissenting opinion was first published in Calcutta in 1953 and is featured in full in *Tokyo Judgment*, ed. Röling and Rüter, 2: 517-1040, which also features the separate opinion of President Webb (1: 469-480), the concurring opinion of Justice Jaranilla (1: 497-515), and the dissenting opinions of Justice Röling (2: 1041-1148) and Justice Bernard (1: 481-496).

⁹ For an American perspective, see William Sebald and Russell Brines, *With MacArthur in Japan: A Personal History of the Occupation* (New York: W.W. Norton & Co., 1965). For insight from a Japanese perspective, see Shinsho Hanayama, *The Way of Deliverance: Three Years with the Condemned Japanese War Criminals*, trans. Hideo Suzuki, Eiichi Noda, and James K. Sasaki (New York: Charles Scribner's Sons, 1950). See also Sodei Rinjiro, *Dear General MacArthur: Letters from the Japanese during the American Occupation* (Lanham: Rowman & Littlefield, 2001).

in Vietnam.¹⁰ During the last three decades, American historians John W. Dower and Herbert P. Bix have been the most vocal with regard to criticizing American policies during the occupation of Japan, with Bix focusing specifically on the mistake of not indicting the Emperor Hirohito.¹¹ Nariaki Nakazato has chronicled the use of Justice Radhabinod Pal's dissenting opinion as fuel for neo-nationalism mythology and its continued dangers, exactly the type of uproar Japan's neighbors continue to fear today and the danger the victorious Allies wished to extinguish forever.¹² Optimistic historians have considered the Tokyo Trial "the starting point of Japan's confrontation with its past," and others have described the trial as ultimately, successful given the difficulties of the status quo under international law.¹³

This article demonstrates that the Allies ultimately did not succeed in their goal of transitional justice, nor did they fulfill the Potsdam Declaration by eliminating "for all time the authority and influence of those who have deceived and misled the people of Japan."¹⁴ This was due in large part to ethnocentric bias and western neo-imperialism, a faulty comparative approach that considered the Nuremberg and Tokyo Trials as fundamentally equal despite clear differences in language, culture, and history, and the failure to address the Emperor of Japan's responsibility or lack thereof for the war. The damage from this postcolonial episode is largely overshadowed by Japan's miraculous postwar recovery and rise as an East Asian powerhouse, but the social and political unrest that is generated in the region by Japan's apparent refusal to accept the past all have roots in the Tokyo Trial. In his dissenting opinion, Justice Radhabinod Pal of India wrote: "it has been said that a victor can dispense to the vanquished everything from mercy to vindictiveness, but the one thing the victor cannot give to the vanquished is justice."¹⁵ This article proves that he was correct.

I. A Misguided Comparison

Over the two and a half years of its proceedings, many questions were raised about the authority of the Tokyo Trial and whether it was capable of adequately

¹⁰ Richard H. Minear, *Victor's Justice: The Tokyo War Crimes Trial* (Princeton: Princeton University Press, 1971).

¹¹ John W. Dower, *Embracing Defeat: Japan in the Wake of World War II* (New York: W. W. Norton & Company, 1999). See also John W. Dower, *Ways of Forgetting, Ways of Remembering: Japan in the Modern World* (New York: New Press, 2012); and Herbert P. Bix, *Hirohito and the Making of Modern Japan* (New York: Harper Perennial, 2000).

¹² Nariaki Nakazato, *Neonationalist Mythology in Postwar Japan: Pal's Dissenting Judgment at the Tokyo War Crimes Tribunal* (Lanham: Lexington Books, 2016).

¹³ Totani, *Tokyo War Crimes Trial*, 2. See also Neil Boister and Robert Cryer, *The Tokyo International Military Tribunal: A Reappraisal* (Oxford: Oxford University Press, 2008).

¹⁴ "The Potsdam Declaration," in *Tokyo Judgment*, ed. Röling and Rüter, 1: 514.

¹⁵ Radhabinod Pal, "Judgment of Mr. Justice Pal, member from India," in *Tokyo Judgment*, ed. Röling and Rüter, 2: 1037.

administering justice in the Far East. From the early days of the occupation of Japan, GHQ's insistence on upholding and following the unconventional principles from Nuremberg continued as the trial struggled to establish its foundations. Legal challenges from the defense eventually led to disagreements and dissenting opinions by three of the eleven justices, leaving a pathway open for future observers to question the legitimacy of the trial altogether. The eventual result was the widespread belief that the Tokyo Trial was an exercise of "victor's justice" and not a worthy accomplishment.

The Tokyo Trial was officially named the International Military Tribunal for the Far East (IMTFE). Ironically, this very name serves as an example of how much the Tokyo Trial owed and often copied its spiritual and legal predecessor, the Nuremberg Trial, which was officially called the International Military Tribunal (IMT). Other examples include the list of charges and the legal grounds used to justify them, the multinational makeup of both the prosecuting attorneys and presiding judges, as well as the physical design of the courtroom itself.¹⁶ From a postcolonial perspective, the U.S. government's decision to follow the principle that all "procedures and policies contemplated or already being applied in Europe related to the trial and punishment of war crimes will be generally applicable in the Far East," regardless of cultural and legal differences, is an example of imperialist logic.¹⁷ However, since both Nuremberg and Tokyo were often criticized as practicing *ex-post facto* laws, a feeling of solidarity between the two tribunals and a tendency of the latter to extensively rely on the former was perhaps unavoidable.¹⁸

At the Nuremberg Trial, the four Allied powers of the United States, the United Kingdom, France and the Soviet Union shared an equal degree of power and responsibility for the proceedings and the selection of judges with no central authority figure. However, in addition to the complexity and logistical challenges of increasing the number of participating nations to eleven, the Tokyo Trial was under the direct control of the Supreme Commander for the Allied Powers (SCAP), General Douglas MacArthur. The Charter of the IMTFE stated that only MacArthur had the power to appoint or remove judges, as well as commute or alter sentences.¹⁹ When two of the eleven justices were singled out as unqualified to administer justice by the defense, the rule regarding the appointment of judges provided a helpful response. William Webb's prior work as a trial judge involving Japanese atrocities in New Guinea, as well as Delfin

¹⁶ Totani, *Tokyo War Crimes Trial*, 1-13.

¹⁷ Totani, *Tokyo War Crimes Trial*, 22. For more on this postcolonial/global history approach, see Sebastian Conrad, "Enlightenment in Global History: A Historiographical Critique," *The American Historical Review* 117, no. 4 (October 2012): 999-1027.

¹⁸ Brackman, *Other Nuremberg*, 148.

¹⁹ "Charter of the International Military Tribunal for the Far East (26 April 1946)," in *Documents on the Tokyo International Military Tribunal: Charter, Indictment and Judgments*, ed. Neil Boister and Robert Cryer (Oxford: Oxford University Press, 2008), 7-11.

Jaranilla's experiences as a victim of Japanese atrocities in the Philippines should have disqualified both as impartial justices due to the risk of preexisting prejudices. Despite this, they were allowed to serve because they were appointed by MacArthur, and the tribunal had no power to change its members.²⁰

In his dissenting opinion, Justice Henri Bernard of France wrote: "a verdict reached by a tribunal after a defective procedure cannot be a valid one."²¹ This description of the trial's procedural shortcomings later served Richard Minear well in his landmark monograph *Victor's Justice*. He was quick to point out that the justices for the trial "were selected only from the aggrieved and victor nations. No challenge to their credentials, collective or individual, was allowed. They were themselves the judges of their qualifications and their attendance."²² Unlike in Nuremberg, whenever a judge missed a court session, there was no alternate to take his place, leading several judges to be absent for significant amounts of time.²³ However, these flaws were not lost on several of the justices who oversaw the trial, leading to controversy at its end.

II. A Divided Judgment

To the disappointment of the Allied powers, the judgment reached by the Tokyo Trial judges was far from consistent. In contrast to the Nuremberg Trial's unanimous guilty verdict, three justices at Tokyo wrote dissenting opinions, while the president of the tribunal himself added a separate opinion. Adding to doubts about his impartiality, Justice Jaranilla of the Philippines wrote a concurring judgment not only to rebuke his dissenting colleagues, but to assert that the tribunal's treatment of the accused was too lenient.²⁴ Various challenges by the defense, consisting of allegations of "victor's justice" were rejected for "reasons to be given later," yet when the majority verdict was handed down, there were no reasons to be found.²⁵

The most significant dissenting opinion, which recommended that "each and every one of the accused must be found not guilty of every one of the charges in the indictment and should be acquitted of all those charges," came from Justice Radhabinod Pal of India.²⁶ He listed several factors in his judgment that led to this conclusion. First, he challenged the majority judgment's notion that the Pact of Paris (1928), in which the signatories (two of which were Germany and Japan)

²⁰ Brackman, *Other Nuremberg*, 116.

²¹ Henri Bernard, "Dissenting Opinion of the Member from France," in *Documents on the Tokyo International Military Tribunal*, ed. Boister and Cryer, 676.

²² Minear, *Victor's Justice*, 122.

²³ Nakazato, *Neonationalist Mythology in Postwar Japan*, 16.

²⁴ Delfin Jaranilla, "Concurring Opinion of the Member from the Philippines," in *Documents on the Tokyo International Military Tribunal*, ed. Boister and Cryer, 650-651.

²⁵ Boister and Cryer, *Tokyo International Military Tribunal*, 33.

²⁶ Radhabinod Pal, "Dissenting Opinion," in *Documents on the Tokyo International Military Tribunal*, ed. Boister and Cryer, 1422.

agreed to outlaw wars of aggression, was sufficient grounds to indict for crimes against peace, since the Pact allowed for wars waged in self-defense yet did not define how they differed from those waged in aggression. Pal believed it was up to the subjective view of Japan to determine which kind of war it was fighting.²⁷ He also noted, in indirect solidarity with similar motions submitted by the defense during the trial, that the Pact did not criminalize war itself, nor did it offer methods for determining individual responsibility.²⁸ Since all of the accused “Class A” war criminals at Tokyo were indicted for waging wars of aggression, it was only natural for Pal to conclude that this faulty justification was enough to dismiss all charges.

Secondly, Pal argued that the reason for the classification into three categories of war criminals was because of the ultimate responsibility for conventional war crimes. Apart from the Class A war criminals at Tokyo, there were separate trials for “actual perpetrators of war crimes” (Class B), as well as “superior officers who had formulated the plans or given the orders for, or failed to prevent, war crimes” (Class C).²⁹ This further contributed to Pal’s notion that the accused at Tokyo could not and were not shown to be directly culpable of committing war crimes, but were rather included in claims of conspiracy to both commit war crimes and wage aggressive wars.³⁰

Thirdly, Pal agreed that the concept of “victor’s justice” was an issue that should be addressed. He believed that issues in international law had to be agreed upon and applied unanimously among the parties involved. Much like the defense attorneys during the trial had tried to point out (and had subsequently been forced by the tribunal to discontinue) that Allied nations were also responsible for acts that could be called atrocities, Pal declared “if it is really law which is being applied [...] members of the victor nations” should also be prosecuted.³¹

Justice Bernard Röling of the Netherlands offered the second-most important dissenting opinion of the Tokyo Trial. While Röling also questioned the legitimacy of trying the accused for crimes against peace based on the Pact of Paris, he added his doubts about judging “aggressive intent.” In the case of Shigenori Togo, a former foreign minister who was convicted of conspiracy to commit crimes of aggression, among other charges, Röling believed he should have been acquitted of all charges, the reason being that “no one should be

²⁷ *Documents on the Tokyo International Military Tribunal*, ed. Boister and Cryer, 850-851.

²⁸ Totani, *Tokyo War Crimes Trial*, 218-221.

²⁹ Philip R. Piccigallo, *The Japanese on Trial: Allied War Crimes Operations in the East, 1945-1951* (Austin: University of Texas Press, 1979), 33.

³⁰ Nakazato, *Neonationalist Mythology in Postwar Japan*, 36-39; Piccigallo, *Japanese on Trial*, 31.

³¹ Bernard V. A. Röling, *The Tokyo Trial and Beyond: Reflections of a Peacemonger*, ed. Antonio Cassese (Cambridge, UK: Polity Press, 1993), 60; Radhabinod Pal, quoted in Piccigallo, *Japanese on Trial*, 33.

convicted for waging aggressive war if he entered a cabinet during wartime solely with the intention of ending the war.”³² When he reflected on his dissenting opinion later in life, Röling added: “The victor in a war, even in a world war, is not entitled to brand as an international crime everything he dislikes and wants to prosecute for.”³³ In fact, Röling also agreed with the notion that the excessive focus on crimes against peace overshadowed the critically important subject of conventional war crimes in both Nuremberg and Tokyo.³⁴

Pal and Röling differed on the extremity with which they disagreed with the majority judgment submitted at the end of the Tokyo Trial on November 12, 1948. However, they both questioned whether the trial could truly be called “international” due to an overwhelmingly Eurocentric ideology that pervaded it. Despite being a citizen of an imperialist nation (the Netherlands) with colonial holdings in East Asia (Dutch East Indies), Röling cited the exclusion of many Asian nations which had suffered heavily under Japanese occupation, such as Korea and Taiwan.³⁵ He even went so far as to claim that one of the three Asian judges was appointed for political reasons. Justice Jaranilla of the Philippines, who was added after an amendment to the Charter of the IMTFE allowed for eleven justices instead of nine, was “totally Americanized” and did not represent any interests of Asia.³⁶ Pal argued that concepts found in Anglo-American law (such as conspiracy) were not applicable to international law simply because they were accepted by civilized (western) nations.³⁷

Both Justice Bernard of France and Justice Webb of Australia, who filed dissenting and supplementary opinions respectively, raised questions about one of the most criticized elements of the Tokyo Trial: the decision to exclude the Emperor of Japan from all prosecution and courtroom involvement. On the subject of ethnocentric ideology present during the trial and the occupation of Japan in general, historian John Dower has remarked how “the conquering USA now adopted a paternalistic, civilizing mission to ‘guide an immature people with backward institutions to maturity [and] eliminate what was primitive, tribal and ritualistic,’ echoing earlier colonial attitudes towards the Philippines.”³⁸ In other words, the western imperial powers were exercising their right, earned by their victory in the war, to judge and correct the “exception” in the Far East that

³² Bernard V. A. Röling, “Opinion of the Member for the Netherlands,” in *Documents on the Tokyo International Military Tribunal*, ed. Boister and Cryer, 803-807; Radhabinod Pal, “Dissenting Opinion,” in *Documents on the Tokyo International Military Tribunal*, ed. Boister and Cryer, 1422.

³³ Röling, *Tokyo Trial and Beyond*, ed. Cassese, 65.

³⁴ Boister and Cryer, *The Tokyo International Military Tribunal*, 175.

³⁵ Yuki Tanaka, Tim McCormack, and Gerry Simpson, eds., *Beyond Victor’s Justice? The Tokyo War Crimes Trial Revisited* (Leiden: Martinus Nijhoff Publishers, 2011), xxviii.

³⁶ Röling, *Tokyo Trial and Beyond*, ed. Cassese, 28.

³⁷ Nakazato, *Neonationalist Mythology in Postwar Japan*, 36-37.

³⁸ John W. Dower, quoted in Barbara Bush, *Imperialism and Postcolonialism* (New York: Routledge, 2008; first published 2006), 113.

was the Japanese Empire. If this was indeed the goal, the ultimate means to do so would have been the most prominent symbol of all, namely the Emperor.

III. An Emperor Absolved

Ian Buruma offers an insightful analogy how some people have come to view Emperor Hirohito, namely as a Japanese Hitler who escaped prosecution: the Emperor “was not Hitler [...] But the lethal consequences of the emperor-worshipping system of irresponsibilities did emerge during the Tokyo trial. The savagery of Japanese troops was legitimized, if not driven, by an ideology that did not include a Final Solution but was as racist as Hitler’s National Socialism.”³⁹ Both General MacArthur and the U.S. government concluded that sparing the Emperor and using him as a symbol to unify postwar Japan was more favorable than prosecuting him or forcing him to abdicate. What resulted in Japanese society was “a deep cynicism and distrust of legal measures in dealing with war responsibility.”⁴⁰ It was after initial Japanese public reaction to the Tokyo Trial that the concept of “victim’s history” is said to have been born.⁴¹

Prior to Herbert Bix’s Pulitzer Prize-winning book *Hirohito and the Making of Modern Japan* (2000), many believed that the Emperor’s efforts to help end the war far outweighed any potential guilt he had had in starting it. When asked in the 1980s whether he supported the decision not to indict the Emperor, Bernard Röling replied that he still did, stating that many scholars had come to the wrong conclusions because of linguistic and cultural differences, as well as not understanding “the very complicated structure of the Japanese government.”⁴² Justice Pal believed that any debate on whether the Emperor should be prosecuted was “highly improper and irrelevant.”⁴³ This played directly into the hands of MacArthur and the GHQ’s neo-imperialist objectives, as the victimized Emperor of a victimized people was the perfect figure to lead Japan into becoming a more modern, westernized partner in the American sphere of influence in Asia. The Japanese people followed suit, as “it was easier for many Japanese to see themselves in the emperor than to reflect seriously on the responsibility of not just the ‘militarists’ but of the people for fifteen years of war.”⁴⁴

³⁹ Ian Buruma, *The Wages of Guilt: Memories of War in Germany and Japan* (New York: New York Review Books, 1994), 172.

⁴⁰ Franziska Seraphim, *War Memory and Social Politics in Japan, 1945-2005* (Cambridge, MA: Harvard University Press, 2006), 318.

⁴¹ Totani, *Tokyo War Crimes Trial*, 255. For the similar concept of “victim consciousness” in Postwar Japan, see James J. Orr, *The Victim as Hero: Ideologies of Peace and National Identity in Postwar Japan* (Honolulu: University of Hawaii Press, 2001), 1-13.

⁴² Röling, *Tokyo Trial and Beyond*, ed. Cassese, 42.

⁴³ Quoted in Nakazato, *Neonationalist Mythology in Postwar Japan*, 38.

⁴⁴ Ruoff, *People’s Emperor*, 136.

In the words of John Dower, at the Tokyo Trial, “the prosecution functioned, in effect, as a defense team for the emperor” with the full support of American leadership at GHQ.⁴⁵ While on the witness stand, the former Prime Minister and perhaps the most recognizable face of Japan’s wartime history, Hideki Tojo, was actively maneuvered by the prosecution to avoid entangling the Emperor. During cross-examination on December 31, 1947, Tojo referenced that no Japanese subject could go against the will of the Emperor, thus implying the Emperor had the power to end or avoid the war altogether but chose not to. Perhaps more shocking, Dower claims, was “the simplest of tactics: nonaction. Despite the charge to do so, neither SCAP nor the IPS [International Prosecution Section] ever conducted a serious investigation of the emperor’s involvement in promotion aggression.”⁴⁶

Even if the prosecution had followed its duties and conducted an investigation, it is difficult to assess if it could have mounted a concrete case or not. As Herbert Bix has noted, many imperial records were kept secret until after Emperor Hirohito’s death, while some are kept secret still.⁴⁷ However, based on the extensive research conducted by both Dower and Bix, there is very little doubt that can be raised against the statement that “at the end of the war as at its beginning, and through every stage of its unfolding, Emperor Hirohito played a highly active role in supporting the actions carried out in his name.”⁴⁸ The loyalty shown by the Emperor’s Class A war-criminal subjects was also utilized by GHQ, which went as far as deliberate witness tampering on numerous occasions.⁴⁹

This sense of loyalty offers some explanation as to why Hideki Tojo, who attempted suicide after remarking “I should like not to be judged before a conqueror’s court,” eventually changed his views and took responsibility for the entire war.⁵⁰ Tojo’s sense of responsibility was deeply personal, as he remarked in a statement he wished conveyed to the public: “So far as I am concerned, the sentence of death is deserved. [...] At least, the Emperor was not involved, and that is a great comfort. [...] It is my responsibility that I was unable to drive home, in the Army and elsewhere, the traditional benevolence of the Japanese people and the humanity of the Emperor.”⁵¹

⁴⁵ Dower, *Embracing Defeat*, 326.

⁴⁶ Dower, *Embracing Defeat*, 325.

⁴⁷ Bix, *Hirohito*, 3-7.

⁴⁸ Bix, *Hirohito*, 519.

⁴⁹ Bix, *Hirohito*, 584. On March 6, 1946, MacArthur’s subordinate Brigadier General Bonner Fellers explicitly directed former Navy Minister Admiral Mitsumasa Yonai to instruct Hideki Tojo on what to say in court, saying Tojo and wartime Navy Minister Shigetaro Shimada should bear total responsibility.

⁵⁰ Quoted in Brackman, *Other Nuremberg*, 44.

⁵¹ Quoted in Hanayama, *Way of Deliverance*, 200.

Although Tojo was arguably the face of the ultranationalist militarism that many still believe had led Japan and its people into a cataclysmic war, he was eventually portrayed as a martyr sacrificed to victor's justice. Meanwhile, the Emperor "had been formally responsible for everything, and by holding him responsible for nothing, everybody [except the war criminals] was absolved."⁵² Embracing the sentiment of "victim's history," many Japanese believed that, because of militarists like Tojo, Japan had become the victim of extensive aerial bombardment (including the first ever use of atomic weapons) which had resulted in millions of civilian casualties. Simultaneously, the fealty of Tojo and other high-ranking subordinates, accepting responsibility for the war in service to the Emperor, led many Japanese to admire neo-nationalism and emulate his words and actions.

Conclusion

For the seventy years since the adjournment of the IMTFE, it is difficult to find examples that lasting justice had been served in Tokyo in 1948. Once Japan regained its sovereignty in 1953, the remaining Class A war criminals were all paroled within four years. In 1957, one of those accused, yet never formally indicted war criminals, Nobusuke Kishi, became Prime Minister of Japan and served until 1960. His son, Shinzo Abe, serves as Prime Minister and the head of Japan's Liberal Democratic Party (LDP) at the time of writing.

In 1985, Prime Minister Yasuhiro Nakasone of the LDP visited Yasukuni Shrine in Tokyo, which serves as the shrine that honors all Japanese citizens who have died in the nation's wars since 1868. It was this shrine which in 1978, despite great controversy (and with help from the LDP itself), enshrined the seven defendants executed by the IMTFE for war crimes. This official visit, which has been repeated by subsequent prime ministers and high-ranking government officials, enrages Japan's East Asian neighbors whenever it is performed almost as much as the official policy of "general regret" rather than sincere apology.⁵³

How Japan's official position regarding its past wars and the damage inflicted by previous leaders will change is a critical question for future studies of U.S.-Japan relations, as well as international law. An editorial writer for the *Yomiuri* newspaper penned in 2004 that "no one should forget that Japan's peace and prosperity today are founded upon the death of 3.1 million Japanese in the war."⁵⁴ But as one Japanese ex-serviceman lamented immediately after the war: "even the emperor gets away without taking responsibility, so there is no need

⁵² Buruma, *Wages of Guilt*, 176.

⁵³ Dower, *Ways of Forgetting, Ways of Remembering*, 129.

⁵⁴ Quoted in Akiko Hashimoto, *The Long Defeat: Cultural Trauma, Memory, and Identity in Japan* (New York: Oxford University Press, 2015), 62.

for us to take responsibility, no matter what we did.”⁵⁵ Thus, the “victim’s history” narrative is still alive and well in Japan.

ABOUT THE AUTHOR: Michael Sinatra of Brea, CA, earned his B.A. in History and Japanese from the University of California, Santa Barbara (2010). He is currently pursuing an M.A. in History at California State University, Fullerton (CSUF), focusing his research on transitional justice and twentieth-century relations between the U.S. and Japan. He also works for the Walt Disney Company. His article printed above originated in a CSUF graduate seminar in World History.

⁵⁵ Quoted in Ruoff, *People’s Emperor*, 133.