

Chapter 6 Historical significance of the “Dissentient Judgment of Justice Pal”

Justice Pal, “a man of justice”

It is only in recent years that Justice Radhabinod Pal’s great achievement has been widely talked about and discussed from various perspectives. Justice Pal was the only judge that earnestly insisted that all defendants, including former Prime Minister Tojo Hideki, were “not guilty” at the Tokyo Trials and accused the legal deception of the Tokyo Trials in which the victor countries judged the vanquished countries, unilaterally following ex-post facto law.

Justice Pal was a chosen judge from India, then under the British colonial rule, for the International Military Tribunal for the Far East (the Tokyo Trials), which was held in Tokyo from 1946 to 1948 and for nearly two and a half years he investigated the case through voluminous sources and wrote up his judgment. This was what is called “Dissentient Judgment of Justice Pal.” In his judgment he held that each and every one of the accused must be found not guilty of each and every one of the charges in the indictment and at the same time, he resolutely argued that when considering war crimes accusations, the United States should equally be accused of the crime of having dropped the atomic bombs on Japan. In his judgment Justice Pal never once yielded to the pressure from the victor Allied Countries, nor to the pressure from the General Headquarters of Britain ruling over India. He was truly a man of courage and justice, sincerely pursuing the truth of law.

In the Tokyo Trials, respective judges differed in their opinions. Looking at them comparatively, it is obvious how consistent Justice Pal was in his belief:

1. The United States, Britain, The Soviet Union, the Republic of China, Canada and New Zealand →majority ruling (the judgment of the Tokyo Trials)
2. India (Judge Pal) → all defendants not guilty
3. The Netherlands (Judge Roling) →Hirota Koki not guilty and the other defendants’ sentences should be reduced, too severe compared to the execution of Nazi Germany
4. France (Judge Bernard) →This tribunal is wrong in the application and the procedure of law.
5. The Philippines (Judge Jaranilla) → the sentences are too light.
6. Sir Webb, President of the Tribunal →separate opinion (expecting the retrial of the supreme commander, reexamination of the judgment and reduction of heavy sentences)

The Allied Countries, having judged the defeated peoples and countries, began to spread the propaganda that at these Trials, “crime against peace” was rightly judged and peace would be brought to the world thenceforth. In fact, however, the Republic of China collapsed due to the violent

communist revolution, led by Mao Zedong, and in 1950, the Korean War broke the illusion of Asian peace to pieces, and the world entered the Cold War era. In Japan, amid vigorous economic restoration, the phrase of “no longer in the postwar era” was coolly repeated among the people. The Tokyo Trials and the Dissident Judgment of Justice Pal were almost forgotten for a while, except among a handful of scholars and politicians. This was not the situation in Japan alone, but the same happened in India and throughout the world.

It was after the collapse of the Soviet Union that the world came to re-recognize the significance of Justice Pal’s judgment. When the Soviet Union collapsed in 1991, civil wars erupted in various parts of the world and horrible massacres under the name of ethnic cleansing took place. In order to cope with such tragic circumstances, the International War Crimes Tribunal for Rwanda opened in 1994, the Iraqi Special Tribunal of Saddam Hussein was held from 2004 to 2006, and the International Criminal Tribunal for the former Yugoslavia (ICTY) of Slobodan Milosevic was held in connection with the Bosnia-Herzegovina war in former Yugoslavia. In the process of reexamining the legality of these tribunals and the way that international courts should be, Justice Pal, the only judge in the Tokyo Trials to express the dissident view, came to be mentioned as a forerunner, in a sense.

In addition, in Japan, since the 1990s onwards after the Cold War ended, people began to argue about the necessity to calmly reexamine the history of Japan and whether the various “crimes” judged during the Tokyo Trials were factual and to what extent the postwar historical view can be justified. At the same time, there have been unjust acts and words related to the historical issues coming from China, South and North Korea, bordering on interference in Japan’s domestic matters, and violent anti-Japan demonstrations occurred. These events reversely urged the Japanese people to doubt the truth of the unilateral postwar view of history (Japan was an aggressor country and committed ill governance and massacres in the Korean Peninsula and China). Consequently, this provided a good opportunity to criticize the Tokyo Trials and to revalue the “Dissident Judgment of Justice Pal.” Former Prime Minister Abe’s speech in the Indian Parliament mentioned in the introduction of this book was a good example and through his speech, reversely, within India, the name of Justice Pal impressively came to people’s minds once again.

How Justice Pal came to join the Tokyo Trials

It is a fact that the name of Justice Pal is not generally known either in India or in Bangladesh, except among those engaged in law. There are many reasons for it. First, let us briefly trace the life of Justice Pal.

Justice Pal was born in 1886, to a poor family in Kushtia prefecture, East Bengal and in his boyhood,

he went to school while working to earn a living at the same time. In 1905, he moved to Calcutta in West Bengal and enrolled in the Presidential College, then went to the University of Calcutta. After he obtained the degrees of Master of Science and Bachelor of Law in 1911, he taught mathematics at Anondo Mohon College in Moimonsing Prefecture, East Bengal. During that period, he studied law, obtained a Master of Law degree in 1920 and became a lawyer in the following year, 1921.



Justice Radhabinod Pal

After working as Professor of Law at the University of Calcutta, legal advisor to the Indian Government, judge at the Calcutta High Court and Vice-President of the University of Calcutta, he was appointed as one of the judges at the International Military Tribunal for the Far East. Thus, he studied and worked hard in the academic world to become an experienced expert. With such academic career, he stood above the general Indian public.

And in August 1947, in the midst of the Tokyo Trials, India finally became independent from the 200 years long British colonial rule. However, due to religious conflicts, it did not become one united India but was separated into two independent states, India and Pakistan. This separate independence caused nationwide conflicts between the Hindus and the Muslims. In some regions, the majority religion side segregated and massacred the minority side. In big cities like Calcutta, and states like Bihar, Punjab and Kashmir in India, as well as in the cities of Lahore and Rawalpindi in Pakistan, large-scale massacres took place and brought total havoc in the cities. Muslims in India took refuge in Pakistan while Hindus in Pakistan took refuge in India, desperately deserting their respective homeland. As many as ten million people became refugees.

Such confusion caused famines, the numbers of jobless people increased, and harsh political conflicts occurred between the Indian National Congress Party and the leftist party. Under such tumultuous domestic circumstances, the significance of Justice Pal's remarkable judgment was hardly understood by the people.

Moreover, the relationship between the first Indian Prime Minister Nehru and Justice Pal was not favorable. Although the two had known each other and were on good terms personally since their youth, politically they were different, the socialistic Nehru was close to the Soviet Union and the

democratic Justice Pal stood apart from socialism and communism.

This author had a wonderful opportunity to meet Justice Pal's eldest son Mr. Prashant Pal in 2007 in Kolkata (formerly Calcutta, changed in 2001) and enjoyed talking with him. Mr. Prashant Pal is also a lawyer and has visited Japan several times. According to Prashant Pal, Nehru did not like the "Dissentient Judgment of Justice Pal" and



Justice Pal's son, Prashant Pal and the author

often criticized it himself. Nehru expected Judge Pal to submit as severe judgment against the accused as the American and British judges did. Somehow, they thought that it would help India get independent and diplomatically deal with the Allied Countries thenceforth.

Earnestly seeking for justice and pursuing the truth of law, lawyer Justice Pal would never have made judgment against his own beliefs, and yet, to Nehru, who had become the first Prime Minister of India, Justice Pal's act was not politically favorable. To the General Headquarters of the Supreme Commander of the Allied Nations, the "Dissentient Judgment of Justice Pal" was damaging to the legitimacy of the Tokyo Trials. Therefore, the "Dissentient Judgment of Justice Pal" was never read aloud in court nor printed in letters.

However, through foreign press agencies, the news of the Justice Pal's judgment spread to the world. Those defendants who had been judged to be guilty were able to read Justice Pal's judgment in prison. Especially, for those who had been sentenced to death, what a joy and solace it would have been to be able to actually read Justice Pal's judgment before they were executed. How they felt when they read Justice Pal's judgment was excellently expressed in their respective *Tanka* (traditional Japanese short poems):

Tojo Hideki: *Hyaku nen no nochi no yo katozo omoishini ima kono fumi o manatarini miru*

[I thought it would be only possible a hundred years from now, but now I see before my own eye this judgment.]

Itagaki Seishiro: *Futatose ni amaru sabakino niwano uchi kono hito fumio miru zo toutoki*

[In the court lasting more than two years, how grateful it is to see this judgment]

Kimura Heitaro: *Yamino yo o terasu hikari no fumi aogi kokoro yasukeku ikuzo ureshiki*

[Looking up at the judgment, the very light to brighten up the darkness of the night, I am so happy to

go now, comforted and easy at heart.]

A question arises here. Why, in the first place, was Justice Pal selected one of the judges in the Tokyo Trials?

I can think of many reasons. First, on the part of the General Headquarters of the Allied Countries, in order to conceal the fact that Japan's aim of the War was the liberation of Asia from the status of European and American colonies, they might have wanted a judge from India under the colonial rule to criticize Japan in court. This theory can be plausible in view of the fact that Nehru was critical about Justice Pal's judgment as mentioned earlier. Then, since there were a few eligible lawyers for experts on international law at that time, it was necessary to have such authorized judge join the Tokyo Trials lest the authority of the court should be lost.

According to one theory, at the time when Justice Pal was invited to join the Tokyo Trials, he was not yet an expert on international law and it is said that he became expert on international law after the Tokyo Trials. However, he was selected as one of the chairs of the International Law Society meeting held at the Hague in 1937. In 1938, he gave a lecture on "Crimes in International Relations" at the University of Calcutta. Based on these facts, this author thinks that Justice Pal was duly recognized as an expert on international law at that time.

According to his son Mr. Prashant Pal, before the opening of the Tokyo Trials, Judge Roling, representing the Netherlands, visited India on behalf of MacArthur and asked Nehru to introduce some lawyer or judge versed in international law. However, Nehru, who had studied law at the University of Cambridge himself, answered that there was no one of that capacity in India. Helplessly, Judge Roling went back to Japan. However, at that time, Justice Pal was one of the chairs of the World International Law Society. Nehru cannot have been ignorant of this fact. But at the time of Judge Roling's visit to India, Nehru did not inform Judge Roling of Justice Pal. Later, Judge Roling came to learn, from a different source, that Justice Pal was an expert on international law in India at that time. Mr. Roling visited India again and asked Justice Pal to join the Trials, representing India. So far, this is what this author confirmed with Mr. Prashant Pal. According to other sources, it is also said that it was Director Sir Harold Derbyshire of the Calcutta High Court, which was then the supreme court of India, that recommended Justice Pal as a judge representing India at the Tokyo Trials.

Deception of the Tokyo Trials revealed by Justice Pal

What were the Tokyo Trials then? The Tokyo Trials were a stage for the General Headquarters of the Supreme Commander of the Allied Countries to take a total revenge on Japan (it was revenge not

simply on the suffering inflicted upon them by Japan's war, but a revenge on the fact that the European and American global ruling regime had collapsed), aiming to damage Japan mentally so that Japan might never be able to rise again and make the country responsible for and guilty of all false charges. Against this attempt, Justice Pal let sunlight into the deception of the Allied Countries, using the power of speech.

Justice Pal collected voluminous sources from every sector related to the histories of Japan and the world from 1928 to 1945 and thoroughly examined them for nearly two and a half years. Those materials amounted to 45,000 copies of papers and 3,000 books. And using this huge number of documents, he clearly proved that Japan's acts could not be judged to constitute an aggressive war in terms of the international law at that time.

Here, I pick up some of Justice Pal's dissenting views related to the most deceptive aspects on the part of the Allied Forces and the GHQ.

First, Justice Pal firmly held to the end that the idea of "vengeance" should never be brought to this tribunal. This applied not just to Japan. In all cases, even against a country that had committed an unlawful act, judgment should be made within the law. It should never happen that anger against an unlawful act be transformed into vengeance or demand for harsher punishment beyond the allowance of the law.

Based on this principle, after taking up each of the cases presented as atrocities committed by the Japanese military, Justice Pal pointed out first that there were many exaggerated statements without sufficient evidence to prove their criminality. Even if there were such criminal acts, there was no record that the accused directly ordered to commit such acts, but rather contrarily, Justice Pal emphasized, the accused were trying to have their men strictly observe the military rules even in the battleground. In this sense, the Japanese defendants were completely different from Nazi leaders who were directly responsible for the Holocaust against the Jews and rigorous racial discrimination in the occupied regions. And yet, Justice Pal emphasized, the judicial process employed at the Nuremberg Trial to judge Nazis was exactly followed in the Tokyo Trials. He asserted this was not at all right.

Moreover, Justice Pal quoted words of German Emperor the Kaiser Wilhelm II in World War I, regarding the massacre of civilians in the battleground by indiscriminate attack, "My soul is torn, but everything must be put to fire and sword; men, women and children and old men must be slaughtered and not a tree or house be left standing. With these methods of terrorism, which are alone capable of affecting a people as degenerate as the French, the war will be over in two months, whereas if I admit

consideration of humanity it will be prolonged for years. In spite of my repugnance I have therefore been obliged to choose the former system.”

Justice Pal stated, “This showed his ruthless policy, and this policy of indiscriminate murder to shorten the war was considered to be a crime.” Then he pointed out the hypocritical nature of the Tokyo Trials:

In the Pacific war under our consideration, if there was anything approaching what is indicated in the above letter of the German Emperor, it is the decision coming from the allied powers to use the ATOM BOMB.

[Omitted]

It would be sufficient for my present purpose to say that if any indiscriminate destruction of civilian life and property is still illegitimated in warfare, then, in the Pacific war, this decision to use the atom bomb is the only near approach to the directives of the German Emperor during the first world war and of the Nazi leaders during the second world war. Nothing like this could be traced to the credit of the present accused.

The Military Tribunal for the Far East, Dissident Judgment of Justice Pal, published by Kokusho-Kankokai, Inc., Tokyo 1999

As to the charge of the crimes against peace by waging an aggressive war on the part of Japan, Justice Pal counterargued, examining human sense of war according to four distinct periods, namely:

1. That up to the First World War of 1914,
2. That between the First World War and the date of the Pact of Paris (27 August 1928),
3. That from the date of the Pact of Paris to the commencement of the World War under consideration,
4. That since the Second World War.

And Justice Pal pointed out, “So far as the first of the above four periods is concerned it seems to be generally agreed that no war became crime in international life, though it is sometimes asserted that a distinction between ‘just’ and ‘unjust’ war had always been recognized.” Justice Pal stated that that was the reason why the European and American invasion of Asia had been justified:

At any rate an “unjust” war was not made “crime” in international law. In fact, any interest which the western powers may now have in the territories in the Eastern Hemisphere was acquired mostly through armed violence during this period and none of these wars perhaps would stand the test of being “just war.”

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Justice Pal argued on the basis that up to the time of the Tokyo Trials, the Western invasion of Asia had never been illegitimated by international law. Moreover, Justice Pal confirmed that during the second and third periods, after the conclusion of the Pact of Paris, the Pact did not have wide legal effects in the international society, referring to various views expressed by prominent jurists. Justice Pal also pointed out as historical facts that after the conclusion of the Pact, there was the invasion of Abyssinia (presently Ethiopia) by Italy in 1935, and of Finland by Russia in 1939, which were not illegitimated internationally and there was also the invasion of China by Japan in 1937, which was not illegitimated at that time, either. To sum up, international law at that time did not develop well enough to make any war criminal. In this respect, it was improper to judge Japan on the charge of waging a war.

Against the assertion that after the Pact of Paris, the international community realized the illegality of war and sense of humanity to regard any war as evil was spreading in the world and therefore the current war waged by Japan should be judged as against the general trend, Justice Pal mentioned as evidence of the fact that international society had not yet reached the higher stage of legal development nor maturity:

As to the “WIDENING sense of HUMANITY” prevailing in international life, all that I can say is that at least before the Second World War the powerful nations did not show any such sign. I would only refer to what happened at the meeting of the Committee drafting resolutions for the establishment of the League of Nations when Baron Makino of Japan moved a resolution for the declaration of the equality of nations as a basic principle of the League. Lord Robert Cecil of Great Britain declared this to be a matter of highly controversial character and opposed the resolution on the ground that it “raised extremely serious problems within the British Empire.” The resolution was declared lost; President Wilson ruled that in view of the serious objections on the part of some it was not carried.

The Military Tribunal for the Far East, Dissident Judgment of Justice Pal, published by Kokusho-Kankokai, Inc., Tokyo 1999

Justice Pal continued to point out, questioning the humanistic eligibility on the part of the Prosecutors of the Tribunal in charging Japan on counts of “crimes against humanity”:

Coupled with this, if we take the fact that there still continued domination of one nation by another, the servitude of nations still prevailed unreveiled and that domination of one nation by another continued to be regarded by the so-called international community only as a domestic question for

the master nation, I cannot see how such a community can even pretend that its basis is humanity.

Of course, Justice Pal's arguments show the consistency and justice as a jurist, but at the same time, in the background of his arguments lay his sharp criticism against the reality of Anglo-American colonial rule over Asia and against the entire structure of the Tribunal void of the recognition and self-criticism about the reality, as an Asian.

Then, regarding the Allied Countries' allegation that the accused illegally conspired, aiming to establish the control over the entire world, starting from Manchukuo and the Republic of China, during the period from 1928 to 1945, the year of Japan's defeat, and carried out the overall conspiracy in waging a war, Justice Pal closely covered enormous volume of materials like the Lytton Commission Report relating to the establishment of Manchukuo and proved that there were absolutely no such facts.

As to the stages from the Manchurian incident to the Sino-Japanese War, Justice Pal explained that even if the establishment of Manchukuo was led by Japan and Manchukuo was a kind of protectorate, it was the same as the rule in the name of "protectorate" as popularly practiced by the Western countries all over the world. Justice Pal quoted a political philosopher, "Was it not Western Imperialism that had coined the word 'protectorate' as a euphemism for 'annexation'? And had not this constitutional fiction served its Western inventors in good stead? ...Moreover, a Japanese apologist might discover precedent for almost every use that Japan had made of 'Manchukuo' in Western post-war as well as pre-war practice."

The railroad interests and leasehold Japan had possessed in Manchuria at that time were what Japan had obtained through due legal procedure as the result of the Russo-Japanese War. At the same time, Japan had to establish the counter axis against the Union of Soviet Socialist Republics (U.S.S.R) that aspired to hegemonism, just like the one against the Russian Empire during the Russo-Japanese War. Of course, Japan had intention to send part of her increasing domestic population to Manchuria for development, which was not to be blamed in terms of appropriate immigration measures. And yet, against the measures, there occurred a serious anti-Japanese movement in China, which should have been a grave issue in terms of law.

Moreover, the anti-Japanese movement was propagated and organized by the then Kuomintang leader Chiang Kai-shek and it was not all voluntary resistance derived from the Chinese citizens. What attracted Justice Pal's attention most was the massive boycott movements in China against Japan. Justice Pal cited from the Lytton Commission Report Supplement, "In numerous cases, Chinese servants left Japanese by whom they were employed, Japanese were cut off from the supply of food

and other daily necessities, and Japanese were subject to various forms of abuse and threats. In many cases, Japanese had been compelled to flee for safety or to withdraw altogether to Japan. Many Japanese lost their employment.” Justice Pal also pointed out the terror of the Communist activities conducted by the Soviet Union through the Comintern and the necessity of Japan’s active involvement in China to prevent the Communist destructive activities there. Justice Pal summed up the events in China at that time as follows:

1. The civil war in China and the state of anarchy prevailing there consequent thereupon;
2. the Chinese National Boycott;
3. the development of Communism in China.

Regarding the third event, Justice Pal cited the Survey by the British Royal Institute of International Affairs: “Communism and banditry (in so far as a clear distinction could be drawn between them) were the twin features that were dominant, in 1932, over the Chinese scene; and these two scourges, again, had increased in intensity without any substantial change in their character. Since they were simply the aftermath of anarchy and civil war and famine, they were bound to increase so long as these efficient causes persisted. The prevalence of brigandage can best be indicated by a mention of a few typical outrages against foreigners.”

“It will be seen that, by the year 1932, Communism in China had become AN ORGANIZED AND EFFECTIVE POLITICAL POWER exercising exclusive administrative authority over large stretches of territory, and that the Chinese Communists were in some degree affiliated to the Communist Party in Russia.”

The Survey continued to state: “COMMUNISM IN CHINA IS NOT by any means, as in most countries other than the U.S.S.R., either a POLITICAL DOCTRINE held by certain members of existing parties, or the organization of a special party to compete for power with other political parties. IT HAS BECOME AN ACTUAL RIVAL OF THE NATIONAL GOVERNMENT. It possesses its own law, army, and government, and its own territorial sphere of action.” Justice Pal was careful in developing his arguments. But if we read Justice Pal’s dissentient judgment now in the present perspective, we may suppose that in view of the establishment of the Communist regime in China after the defeat of Japan in the war and the consequent tragedies and massacres hardly comparable with the Sino-Japanese War or the establishment of Manchukuo, Japan’s actions in China before and during the War might have contributed to peaceful development of China in the long term, or at least prevented the present Communist dictatorship.

Through these three analyses, Justice Pal proceeded to prove that the Allied Powers had no legitimate

right to judge Japan and that Japan had not at all intended to wage an aggressive war to conquer the world. Rather, Justice Pal's dissentient judgment suggests that it was the United States that engaged in the act of war against Japan by providing arms to Chiang Kai-shek and that Communism on the part of the Soviet Union and the support for Chiang Kai-shek on the part of the United States contrarily prolonged the Sino-Japanese War and hindered the Asians from resolving the Asian issue.

Regarding the historical fact that Japan was forced into waging a war through pressures from those countries that had colonies in Asia and finally by the last straw of the Hull note of November 26, 1941, Justice Pal concluded: Even contemporary historians could think that "as for the present war, the Principality of Monaco, the Grand Duchy of Luxembourg, would have taken up arms against the United States on receipt of such a note as the State Department sent the Japanese Government on the eve of Pearl Harbor."

In the Tokyo Trials, Tojo Hideki stated that Japan started the war for self-defense of Japan and MacArthur himself admitted during a hearing in the U.S. Senate that Japan's war was a war of self-defense. The Cold War started and MacArthur, who was in the middle of it, handling the difficult situation, would have finally realized that Japan was indeed the last blocking bastion against the communism and that the Tokyo Trials were a mistake.

Justice Pal in later years and Japan

Lastly, I would like to talk about Justice Pal after the Tokyo Trials.

In 1952 Justice Pal visited Japan again with the invitation by Mr. Shimonaka Yasaburo. He attended the International Peace Conference, held in Hiroshima for the first time in the world by the World Federation, as a chairman. During his stay in Japan, he gave lectures on various occasions at universities, societies for lawyers and the bereaved families of the war criminals and so forth. He also met the family of the former Prime Minister Tojo Hideki. More than one hundred representatives from various countries of the world attended the International Peace Conference, among whom there were American and British delegates. During the peace conference, Justice Pal criticized the atomic bombing. "What was the pretext for dropping atomic bombs on Hiroshima and Nagasaki? What reason did Japan induce to become the victim of the atomic bombing? Japan already expressed her will to surrender via the U.S.S.R. at that time, didn't she? Notwithstanding the fact, the United States dropped this cruel bomb over Hiroshima as an 'experiment.' Not against the white people's Germany, but against non-white Japan. Was there not racial discrimination? What's worse, regarding this catastrophe, we have never heard words of repentance from them. Their hands have not yet been cleansed. Under such circumstance, how can we talk about peace with them?"

When he observed a silence prayer, dedicating flowers to the monument of the atomic bomb victims in Hiroshima, Justice Pal was caught by the words inscribed on the monument and had them translated by interpreter Nair. The words are the famous “Rest in peace. We shall never repeat the mistake.” Justice Pal confirmed over and over again and as he came to understand the meaning, he looked very stern.

“What act does this mistake that the monument says ‘we shall never repeat’ refer to? Of course, the Japanese people apologize to the Japanese people. I doubt what kind of mistake it was. What is enshrined here is souls of the atomic bomb victims and clearly Japanese did not drop the atomic bomb. It is understandable that the perpetrators of the atomic bombing held themselves responsible for the act and say that they shall never again repeat the mistake. If this mistake refers to the War in the Pacific, then Japan was not the least responsible for it. The clear fact is that the seed of that war was sown by the Western Powers in order to invade the East. Moreover, the United States should have been truly held responsible for opening the war. The U.S. provoked Japan to the inevitable war by forming the ABCD encirclement, blockading Japan economically and finally sending the ultimatum of Hull note to Japan.”

Then, Justice Pal emphasized that he had not defend Japan in every sense but had done just judgment as a jurist. Justice Pal explained during the reception held in his honor at the Imperial Hotel:

“It is a great misunderstanding that I made my judgment sympathetically toward Japan. I judged not as a sympathizer with Japan nor as an opposer to the Westerners who tried to judge Japan. I recognized the truth as the truth and applied the truth of law to the trials. That was all, nothing more nor less. Please do not misunderstand me.”

These words of Justice Pal were compiled by writer Mr. Tanaka Masaki as episodes at the time of his revisit to Japan after the Tokyo Trials.

To conclude, the Dissident Judgment of Justice Pal is now awakening conscientious Western people nearly seventy years after the War. British reporter Mr. Henry Stokes, former head of the Tokyo Bureau of the *New York Times*, who has lived in Japan for fifty years, wrote in the column “Historical War” of the *Sankei Newspaper* dated December 28, 2014:

When I first came to Japan, I believed without any doubt in the victor countries’ view of history. However, as I have known Japan and the Japanese people over half a century, I came to think that

the Tokyo Trials were a revengeful farce staged by the victors. I felt a sense of uneasiness about the victors judging defeated Japan as if they were the Almighty. In fact, Indian judge Radhabinod Pal judged all of the defendants to be “not guilty.” Judge Dale Smith of the Australian High Court studied the Tokyo Trials for thirty years and published a book entitled *Judicial Murders?* It is pitifully absurd that Japan in postwar years has kept the political and diplomatic position as if Japan has apparently accepted the historical view based on the Tokyo Trials. Japan must get rid of this historical view based on the Tokyo Trials, mere propaganda against the historical fact.

If we are eager to produce the true peace, we must not let ourselves be influenced by propaganda in any sense whatever. In the world where the victors are unilaterally right while the defeated are arbitrarily judged to be evil and must endure the destiny even if forced upon false charges, there will never be peace but only revenge after revenge will follow and the law of the jungle will prevail. The dissentient judgment of Justice Pal was not, as Justice Pal himself pointed out, for the defense of Japan. Its purpose was to keep telling the truth that in learning history we must always hold the just perspective and that in that manner alone, history can serve as a sure guide toward the future of humankind.

What the dissentient judgment of Justice Pal has shown is the fact that the biggest problem that caused the wars in the twentieth century was the colonial rule of Asia by the Western Powers and the racial discrimination led by the white supremacy. Justice Pal severely criticized the atomic bombing and got angry at the fact that the postwar Japan has been unable to become mentally independent from the United States and has remained too subordinate to justly blame the United States for the atomic bombing because the tragedies of Hiroshima and Nagasaki were the worst symbol of the Western racial discrimination that makes them totally remorseless and unrepenting in killing the colored races. The first step toward establishing peace is, above all, the elimination of racial prejudice and discrimination and the respect for the tradition and culture of each people.

Even today, Japan is still being asked to “reflect on the past war” by China and South Korea. It is a Japanese virtue to apology for the fault and show sincerity by doing so. Japan’s failure in clearly asserting her position resulted in the present situation of perpetual demands for apology. To apologize for an alleged fact that is not correct is an act of denigrating one’s people and home country. A self-deprecating people and state are despised by other states and cannot maintain their own peace.

Against the attempt to bring up again the issue already resolved in terms of international law, and to hold the politically advantageous position and manipulate Japan, Japan must resolutely say, “No!” Otherwise, Japan cannot defend her own people. Japan has apologized more than enough so far and

fulfilled her responsibility for the war in the form of compensation, ODA (Official Development Assistance) and other technological cooperation. Has the Great Britain ever apologized or compensated for acts under her colonial policy to India (including the present Bangladesh and Pakistan)? I have never heard of such incidents.

At present, peace in Asia is put under tension brought by the threat of China and its allegedly revived imperialism. China demanding apology from Japan for “having been invaded in the past” has now become a threat to neighboring countries of Tibet and Uighur and has put these peoples under her oppression. What will become of Japan, where the population is getting older and smaller, in fifty or a hundred years from now?

The Dissident Judgment of Justice Pal is not only very lengthy but also difficult to understand unless one laboriously studies the history of that period. Notwithstanding all these difficulties, this author sincerely hopes that now is the time for as many people as possible of any generation to read and understand this truly valuable historical document.