The International Military Tribunal of the Far East and Emperor Hirohito
— Justice Undone —

SUGITA Yoneyuki

INTRODUCTION[1]

As the only holder of the supreme power under the Meiji Constitution, the Emperor could not escape a major, if not the whole, responsibility of the Pacific War even if he was just a puppet of the military clique. Nevertheless, the International Military Tribunal of the Far East (IMTFE) decided not to try Hirohito. It was not justice but political considerations that affected IMTFE. This paper first points out that the American policy with regard to the Emperor contained ambiguity which ultimately provided flexibility for adjusting its actions to future developments. It demonstrates that even after heated discussions among US officials, they could not formulate a firm policy concerning the Emperor. It will then argue that, during the crucial years 1945 and 1946, since Washington paid almost exclusive attention to European affairs, General Douglas MacArthur had the greatest influence on the implementation of US policy towards Japan. He intended to use Hirohito to accomplish a successful occupation, regarding the Emperor as a necessary evil for bringing stability to Japan. Since Japan was the only industrialized country in Asia, the U.S. expected it to become an economic core in postwar Asia, MacArthur believed that political stability would be prerequisite for economic recovery. Finally, this paper contends that the Japanese

made complementary responses to the US policies of sparing Hirohito from IMTFE and of making the Emperor a figurehead symbol in a new constitution. Sparing Hirohito was a political decision; legal justice gave way to political expediency.

1. ENVIRONMENT

On 29 December 1943, Joseph Grew, Special Assistant to the Secretary of State, made a speech entitled "War and Post-War Problems in the Far East." In his speech, Grew implied that the Emperor would be necessary to stabilize Japanese society in the postwar era.[2] Grew's speech stirred a heated public discussion about the postwar Emperor system. Four days later, the New York Times bluntly criticized Grew's defense of the Emperor.[3] Edward Hunter, a journalist, asserted that once the Allies abolished the Emperor system, Japan would naturally lean toward a republic.[4] According to a Gallup Poll, the majority of responses supported harsh punishment against the Emperor including execution, imprisonment, or exile. Only three percent of replies suggested that the Allies could use the Emperor in the postwar era. Based on the results of this poll, Director of the Office of Far Eastern Affairs, Joseph Ballantine, warned Grew that it would be politically questionable to support the Emperor system.[5] Two Assistant Secretaries of State, Archibold MacLeish and Dean Acheson, had already clarified their positions that Congress, the Press, and public opinion would not accept any proposal for maintaining the Emperor system.[6] On 18 September 1945, Senator Richard Russell proposed a US declaration that the Allies should try Hirohito as a war criminal.[7]

In October 1943, Sun Fo, a liberal politician in China, had

published an article in the National Herald entitled "The Mikado Must Go," indicating that Japan would have to abolish the Emperor system in the postwar era.[8] On 28 July 1945, the People's Council in China made a resolution that the Emperor was a war criminal.[9] The Australian and New Zealand governments shared China's opinion, insisting that the Allies should put Hirohito at their disposal.[10] Joseph Stalin was also of the opinion that the Allies should abolish the Emperor system.[11] In 17 November 1945, Antonio Araneta, President of the National Executive Council of the Philippine Lawyers Guild, sent a letter to President Harry Truman pleading that the Allies must put Hirohito on trial as a war criminal.[12] Since the US policy makers failed to reach a consensus among themselves concerning the Emperor system, they could not submit a list of war criminals to the United Nations War Crimes Commission (UNWCC). Lord Wright, head of the UNWCC, was so irritated as to say that the U.S. was responsible for the absence of major war criminals.[13]

Although the Japanese were clearly fighting a losing war after their defeat at the Battle of Midway, they became more fanatical to die for the Emperor. *Kamikaze Tokkotai* (suicidal attack) and the Japanese diehard resistance at Iwojima and Okinawa indicated that the Japanese were willing to fight until the very last man. The US government anticipated that the invasion of *Honshu* (main land) would be long and bloody. Acting Secretary of State Grew explained to Truman that: "We must remember that the Japanese are a fanatical people and are capable, if not likely, of fighting to the last ditch and the last man. If they do this, cost in American lives will be unpredictable."[14]

While the Japanese had strong sentimental ties to the Emperor,

they also had a rational, business-minded aspect. Japan was the only country in Asia that had a modern industrial infrastructure, a reservoir of high-skilled labor, and close economic ties with American businessmen, Japan was, for these reasons, the most productive nation in Asia. American officials assumed that Japan would come back to a postwar international economic system. In his memorandum to Grew, Ballantine insisted "that any policy for Japan to be successful ... must permit ... its [Japan's] eventual participation in world trade."[15] The U.S. found a formidable potential economic power in Japan.

Franklin D. Roosevelt (FDR) announced in May 1942 that China would become one of the four great powers that would maintain postwar world peace. The U.S. expected China to become a pro-American stabilizing force in Asia.[16] Washington also promised to equip Chinese military forces. In short, China was going to become a major political and military power in Asia.

China, however, faced the imminent crisis of open civil war which caused political instability. In addition, China was a backward country economically, even though it had vast amounts of resources and the greatest potential market in the world. The U.S. did not expect China to become an economic giant in the near future, as it did not have a modern infrastructure nor expertise. When Chiang Kai-shek asked Donald Nelson, FDR's special economic envoy to China, about the possibility of a postwar automobile industry in China, Nelson replied that he could not even think of Chiang's wish for at least ten years because of the lack of basic and supplementary industries in China.[17]

The U.S. anticipated political turmoil in Southeast Asia (SEA). Southeast Asians, the US government predicted, would demand political independence. They would have to decide who would rule their

countries and in what way. In other words, they would have to deal with critical issues of nation building. The U.S. sought the best way to channel nationalist feelings into a moderate course so that the newly independent nations would support a liberal capitalist world system based on multilateralism.

The U.S. thus faced three primary issues in the Pacific rim region: how to use Japan's great potential in productivity, how to establish pro-American China as a stabilizing force, and how to manage nationalism in SEA. "Divided core strategy" may be an appropriate term for the US policy toward the postwar Pacific rim region. With respect to Japan, the U.S. developed a rather coherent objective: demilitarization of Japan and getting it back into a cooperative liberal capitalism.[18] As for China, the U.S. engaged in a "managed revolution": transformation of the Chinese political system from one based on tutelage to participatory coalition government.[19] The U.S. would also help to establish strong Chinese military forces, expecting China to become a stabilizing force in postwar Asia. The U.S. divided power in order to avoid the emergence of a single powerful nation in the Pacific rim region. Instead, the U.S. sought to establish China as the political and military core while Japan as the economic core. Since power would thus be divided, neither could seek hegemony in the region. The U.S. also envisioned that buliding China and Japan as pro-U.S., liberal, moderate, half-core powers would provide SEA with a model course for their nationalism. Washington expected that SEA would accept the logic of market economy and become a supplier of primary resources as well as a potential market.

Postwar Asia would be fluid, dynamic, and unstable. The U.S. had a basic framework that it wished to see in postwar Asia; however, it

was extremely difficult to predict what would happen. Consequently, Washington's attitude concerning Asia was ambiguous and flexible. Moreover, the US Government could not pay much attention to Asia between 1945 and 1947. In summation, the factors which characterized Washington's policy toward Asia during this period were ambiguity, flexibility, and neglect.

II. PROCESS

FDR preferred personal diplomacy: using a non-bureaucratic, ad hoc envoy to have direct contact with foreign leaders. He also emphasized the importance of China, paying less attention to Japan in the postwar Pacific rim region. Roosevelt's style of diplomacy allowed State Department bureaucrats and experts on Asia to formulate postwar policies regarding Japan without interfernce from above.

These bureaucrats and experts engaged in heated discussion concerning the Emperor. Since they had such diverse opinions, they could not make coherent suggestions. There were roughly three opinions on dealing with the postwar Emperor. First a group of people considered social stability as the top priority. In order to achieve this goal, they insisted that the U.S. use the influence of the Emperor. This group included Joseph W. Ballantain, George H. Blakeslee, and Isaiah Bowman. Second, Hugh Borton stated that the U.S. should link the Emperor with liberal elements in Japan. Using the Emperor's influence, Japan could make a liberal reform. The third opinion held that Japan would have to abolish the imperial system and become a republic. Thomas A. Bisson, Nathaniel Peffer, Army Vandenbusch, and Hamilton Fish Armstrong held this punitive opinion.[20]

On 15 January 1944, the Committee on Post-War Programs (PWC), consisting of top-level officials such as Cordell Hull, Edward Stettinius, Adolf Berle, Dean Acheson, G. Howland Show, Green Hackworth, and other high-ranking officials in the State Department, was established. The postwar status of the Emperor, however, was such a controversial issue in the PWC that it could not formulate a coherent policy.[21]

Truman's decision-making style differed from FDR's. He relied on the State Department concerning the Emperor issue; however, the State Department provided ambiguous suggestion, which stirred confusion and ambivalence among the top decision makers. Consequently, when Japan accepted the Potsdam Declaration, the U.S. did not have a coherent policy regarding the Emperor. There was a great probability that the U.S. could have abolished the imperial system in Japan. The State-War-Navy-Coordinating-Committee (SWNCC) Subcommittee for the Far East (SFE) made two important decisions in September 1945: first, that "Hirohito should be removed from office and arrested for trial as a war criminal," and second, that the U.S. should inspire Japan "to seek abolition of the institution of the Emperor."[22]

Since top policy makers paid most of their attention to Europe between 1945 and 1947, a vacuum emerged in the US policy with regard to the Pacific rim region. In this situation, General Douglas MacArthur, who was immediately in charge of the Japanese occupation, exerted great influence on both the formulation and implementation of US policy toward the Emperor. MacArthur possessed the straightforward idea that he would use the Emperor to facilitate the Japanese occupation.[23]

On 18 December 1945, the Joint Chiefs of Staff (JCS), supporting MacArthur's opinion, wrote a memorandum for SWNCC:

> The principal short-term military interest is in the possibility that the implementation of the proposed reforms [including the abolition of the Emperor institution] may foment unrest in Japan to such a degree as to require increases in occupational forces or lengthening of the tenure of occupation by such forces.[24]

On 7 January 1947, SFE revised its tough position that: "The Japanese should be encouraged to abolish the Emperor Institution or reform it along more democratic lines." Since the SFE assumed that retention of the Emperor system would be inevitable, it focused on the reduction of the Emperor's power:

> If the Japanese decide to retain the Institution of the Emperor, however, the Supreme Commander should also indicate to the Japanese authorities that the following safeguards ... would be necessary: ... The Emperor shall act in all important matters only on the advice of the Cabinet; The Emperor shall be deprived of all military authority ... [and] the Cabinet shall advise and assist the Emperor.[25]

After making a trip to Japan "to study conditions' between December 1945 and February 1946, Blakeslee reported that the Emperor was

useful: "The Occupation has found the Emperor to be a great asset in its task of disarming and administering Japan."[26]

The Acting Political Adviser in Japan George Atcheson originally had advocated a punitive policy towards the Emperor. However, having firsthand experience in Japan, he modified his attitude. In his report to Truman on 4 January 1946, he argued that:

> I believe ... that the Emperor is a war criminal ... I have not altered my opinion that the Emperor system must disappear if Japan is ever to be really democratic.
>
> But a number of circumstances seem to make ... more cautious policy the best for us to follow at this time, ... there is no question that the Emperor is most useful [for the administration of Japan and the carrying out of reforms].
>
> If we decide to continue to use the Emperor, he should be given some sort of immunity from arrest.[27]

On 29 November 1945, the JCS gave a top-secret directive to MacArthur to collect evidence concerning Hirohito's involvement in the war.[28] MacArthur then began to examine the "possible criminal actions against the Emperor," and finally, on 25 January 1946, he sent a report to Dwight Eisenhower, US Army Chief of Staff, that:

> No specific and tangible evidence has been uncovered with regard to his exact activities which might connect him in varying degree with the political

> decisions of the Japanese Empire during the last decade. I have gained the definite impression from as complete ad research as was possible to me that his connection with affairs of state up to the time of the end of the war was largely ministerial and automatically responsive to the advice of his counsellors.

MacArthur gave warning about serious consequences if the Allies decided to try him:

> If he is to be tried great changes must be made in occupational plans and due preparations therefore should be accomplished in preparedness before actual action is initiated. His indictment will unquestionably cause a tremendous convulsion among the Japanese people ... It would be absolutely essential to greatly increases the occupational forces. It is quite possible that a minimum of a million troops would be required which would have to be maintained for an indefinite number of years. In addition a complete civil service might have to be recruited and imported, possibly running into a size of several hundred thousand. ... if the decision by the heads of states is in the affirmative [the Emperor should be tried as a war criminal], I recommend the above measures as imperative.[29]

Until the formulation of a firm policy, the US government prevented

other Allied powers from putting Hirohito on the war criminal list. On 18 February 1946, Secretary of State Byrnes sent an urgent message to John Winant, US Ambassador to the United Kingdom that:

> Should [War Crimes] Commission ... vote to proceed to prepare and adopt list of major Japanese war criminals, ... you are instructed to state USGov considers position of Emperor as war criminal should not be discussed by Commission.

Byrnes clearly understood that the Emperor issue had "far-reaching political implications." Consequently, it "should only be discussed at highest governmental level."[30]

Finally, on 11 April 1946, the SFE reached the conclusion that Japan would retain the Emperor system: "The Supreme Commander should give aid to Japanese efforts to transform the imperial institution in Japan into a constitutional monarchy" on condition that Japan would make a democratic constitution and "the Emperor is under the constitution."[31]

III. JAPANESE COMPLEMENTARY RESPONSES

Japanese complementary responses to US policy also made a significant contribution to sparing Hirohito from the trial. In the Tokyo Trial, none of the defendants criticized the Emperor; on the contrary, the defendants made every effort to protect him. Ken Inukai, the late Prime Minister's son, demonstrated the peace-loving character of the emperor by testifying about the Manchuria Incident

that: "When my father visited Prince Saionji, Prince Saionji told my father that it was the Emperor's wish that Japanese politics should not be controlled solely by the Army." He later continued that "the Emperor frequently said that he hoped that the Manchurian Incident would be stopped as quickly as possible, and before it spread any further." He stated that the Emperor preferred a peaceful settlement: "[The Emperor said] that negotiations should be started with the Chinese statesman as soon as possible in order to find some basis of eternal and fundamental peace between the two countries."[32]

Kido Koichi, Lord Keeper, described the cooperative character of the Emperor by testifying about Japan's withdrawal from the league of Nations that:

> The Emperor inquired of me up on my visit concerning our arrangements to resign from the League of Nations and asked whether we would still have need to withdraw from the League now that the situation had improved as a result of the favorable settlement of the Johol problem.

Then Kido showed that the Emperor, even contrary to his will, had to follow the advice of the government. "I advised the Emperor that there was nothing else to do but to let the government carry out its decision."[33]

Kido explained how powerless the Emperor really was. The prosecutors asked him that: "the Emperor has the real power of saying, 'how about doing this?' That is not paper power; that is real?" Kido answered that: "But the Imperial power is restricted in

the sense that the -- that His Majesty the Emperor administers the affairs of government with the assistance and on the advice of ministers of state." The prosecutor still tried to prove that the Emperor did have real power: "But in any event, the act or the law ... cannot become effective without his consent if he [the Emperor] decides not to give his consent, is that true?" Kido maintained that the government had the real power: "The wishes or the will of the state becomes complete only with the advice and assistance of the ministers of state." Finally, the prosecutor asked a more direct question that: "Are you intending to say that if the cabinet agreed upon war the Emperor of Japan would have no actual power to prevent it?" Without hesitation, Kido replied, "Yes, the Emperor had no power to prevent it."[34]

Tojo Hideki, wartime Prime Minister, agreed with Kido that the Emperor had no real power, testifying that: "The Emperor studiously refrained from placing a veto upon any final decision made by the cabinet and the supreme command on their responsibility." He further explained that even the Emperor's own wishes and suggestions "were issued on the recommendation of the Lord Keeper of the Privy Seal." He concluded that:

> Summing it up, the Emperor had no free choice from the govermmental structure setting up the Cabinet and the Supreme Command. He was not in a position to reject the recommendations and advice of the Cabinet and High Command. His wishes or hopes were necessarily assisted by the Lord Keeper, and even these hopes when expressed finally were to be

> scrutinized by the Cabinet or the Supreme Command. Recommendations and suggestions after this careful examination had to be approved by the Emperor and never to be rejected. That, then, was the position of the Emperor before and during the most perplexing period in the history of the Japanese Empire

Consequently, Tojo insisted that it was not the Emperor but the government that was responsible for the war decision:

> It was solely upon the Cabinet and the Supreme Command that the responsibility lay for the political, diplomatic and military affairs of the nation. Accordingly, the full responsibility for the decision of 1 December 1941 for war is that of the Cabinet Ministers and members of the High Command, and absolutely not the responsibility of the Emperor.[35]

The Asahi Shimbun, a leading Japanese newspaper, separated militarists from the Emperor. The Asahi presented an image that militarists were responsible for the war while the Emperor was the symbol of peace and a new democratic Japan. On 29 September 1945, the Asahi reported the Emperor's peace-minded statement that:

> An eternal peace will not be established by sword or other weapons. Neither the victor nor the vanquished can solve a peace issue with weapons. A true peace will be achieved only through cooperation and

accordance among free people.[36]

As for public opinion, George Atcheson reported that: "It is worthy to note that there has been observed as yet no adverse criticism of the Emperor or the Imperial Institution except by the communists."[37] According to a Japanese public-opinion poll, 92 percent of Japanese supported the retention of the Emperor.[38] On 11 February 1946, Max Bishop of the Office of Political Adviser sent a report to the Secretary of State:

> The fundamental attachment of the masses for the Emperor remains as strong today as in the past. ... An estimated 90 to 95 percent of the general population support retention of the emperor institution in some form, and all except a very small proportion of the educated and ruling classes are of the same view.[39]

On 27 September 1945, Hirohito, the living god for ordinary Japanese, paid a courtesy visit to MacArthur. The Asahi published a picture of the short, stern-faced Emperor with a formal tie standing still beside the tall, relaxed MacArthur.[40] MacArthur provided an image of a powerful Shogun. At the same time, he knew that a Shogun could exert his influence most efficiently if he "cooperates" with (or uses) the Emperor.

Hirohito himself did his best to establish himself as a symbol of the new democratic Japan. He made an announcement that he was not a living god, but just a man. He also stated that Japan should

commit itself to peace and to the improvement of living standard.[41] This declaration indicated to the Supreme Commander for the Allied Powers (SCAP) that Hirohito was willing to cooperate with SCAP to establish a democracy in Japan. MacArthur expressed his satisfaction with Hirohito's declaration.[42]

Japanese "liberals" also played their part to prevent the abolishment of the imperial institution even though this process was not smooth. In October 1945, MacArthur advised Prime Minister Shidehara Kijuro to make a new constitution. Shidehara soon appointed a committee (the Matsumoto Committee) to draft a new constitution. On 1 February 1946, the Matsumoto Committee submitted a draft to SCAP. This draft, however, tried to maintain the imperial institution without substantial change: It insisted that the Emperor have sovereignty. MacArthur rejected this draft outright and ordered General Whitney, Chief of the Government Section of SCAP, to redraft a constitution. Whitney employed a "two-steps-backward-three-steps-forward" approach: It drastically reduced the power of the Emperor turning him into a mere figurehead of Japan (two-steps backward), while it managed to maintain the imperial institution (three-steps forward). Japanese "liberals" were shocked when they saw the draft, but they were convinced that this would be the only way to retain the Emperor system; consequently, they accepted the draft and pushed hard to get it ratified. The new constitution was ratified in October 1946.[43] The swift decision by the Japanese to accept a SCAP-made constitution had a complementary effect on MacArthur's program of Japanese occupation. In this sense, the process of Japanese constitution making contributed to sparing the Emperor.

IV. CONCLUDING OBSERVATIONS

The majority of American as well as international opinions agreed that the Emperor was a war criminal, that he had to be tried, and that the Allied Powers had to impose severe punishment on him. However, the U.S. spared Hirohito. This was a political decision.

There are three primary reasons why this decision was made. First, at the end of the war, the U.S. could not articulate its policy concerning the Emperor. Consequently, it was colored with an ambiguity that contained the seeds of flexibility for its future course. In short, regardless of American and international opinions, this ambiguity allowed the US government the option of employing either benevolent or punitive attitudes.

Second, since the Truman administration paid almost exclusive attention to Europe between 1945 and 1947, MacArthur had disproportionately greater influence in implementing US policy toward Japan. The U.S. had a basic idea of a "divided core policy" in which Japan would be the economic core in postwar Asia. Believing that political stability would be essential to economic recovery, MacArthur insisted that the U.S. should consider the Emperor as a necessary evil for bringing political stability to Japan and strongly recommended sparing Hirohito from IMTFE.

Finally, Japanese "liberals" made complementary responses to the US policies by defending the Emperor at IMTFE and by adopting swiftly a new constitution in which the Emperor was just a figurehead symbol of the Japanese people.

These three major reasons—the US ambiguous policy with regard to the Emperor, MacArthur's wide discretionary power in occupation policies, and Japanese complementary responses—played an essential

role in the US decision to spare Hirohito. The IMTFE was an epoch-making event in U.S.-Japan relations; however, political factors influenced the trial. Legal justice gave way to political expediency. Justice was undone.

1. I would like to thank Professor Alfred McCoy of the University of Wisconsin-Madison for bringing my attention to this interesting topic.
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12. Notter File 30 December 1943-23 February 1944 in *Ibid,* pp. 49-67.
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30. *Ibid,*. p. 415.
31. *Ibid,*. p. 200.

32. *The International Military Tribunal of the Far East. 1946-1948, Proceedings*, pp. 1540, 1545.
33. *Ibid,*. pp. 30795-96.
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35. *Ibid,*. pp. 36381-83.
36. *Asahi Shimbun*[*The Asahi Newspaper*], 29 September 1945.
37. *FR* Vol. VI, 1945, p. 781.
38. *FR* Vol. VIII, 1946, p. 166; The Department of State, *Commission*, p. 26.
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41. *Ibid,*. 1 January 1946.
42. *Ibid,*. 3 January 1946.
43. The Department of State, *Commission*, pp. 45-46.