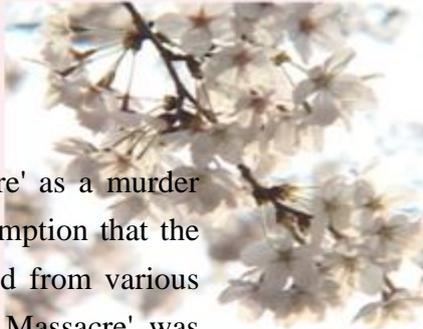




Chapter IV

**THE 'NANKING
MASSACRE'
IS THE
FALSEST
ACCUSATION
OF THE CENTURY**





So far, we have been cross-examining the so-called 'Nanking Massacre' as a murder case (including the looting and rape associated to it). Under the assumption that the Prosecution is responsible for burden of proof, this book has examined from various aspects through procedures of criminal codes whether the 'Nanking Massacre' was proved as a crime. In the following, we would like to comprehensively state our conclusion, which is comparable to the Summation in the criminal procedure.

Let us here briefly quote the History of the War against Japan which was referred to in the indictment of the Prosecution.

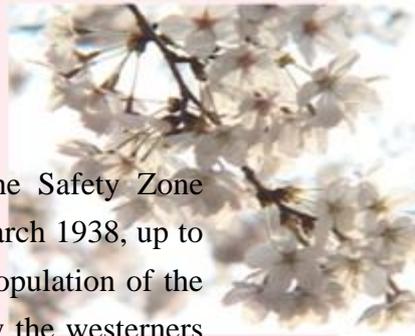
After the seizure of Nanking, during the six weeks starting from December 13, 1937, the Japanese Army systematically and deliberately has committed the murders of more than 300,000 POWs and civilians, and also has committed large scale instances of looting and rape which were estimated at 80,000 cases, within or in the suburbs of the city of Nanking. Here are the typical examples of insanely committed murders, which were called the 'Murder Race' committed by two Second Lieutenants.

The vagueness in verification of the 'cause of death' and the 'motive'

First, let us examine the centrally focused 'case of murder'. In the murder case, the corpses need to be identified. The case is said to be committed during the time of the Sino-Japanese war, and the prosecution is made eight years later. This case is also proved only by the eyewitnesses' reports and the assumption based on the various statistics and materials, and the corpses don't receive autopsies.

The most important point at issue is the sum of the corpses counted before and after the battle of Nanking. The Prosecution claims that there were 550,000 soldiers and civilians together prior to the war within the city of Nanking and in the suburbs, and that the population decreased down to 170,000 by May 1938. But the reason of the decrease has not been explained yet. Also, the sum shown in the burial records of the Red Swastika Society has been padded with considerable empty figures, so that the records can not be trustworthy enough to prove the 'murder of 300,000 people'.

We have estimated the total population of Nanking at the time of Nanking Battle as not more than 250,000, including 200,000 civilians and 50,000 soldiers and their families,



according to the information about the Safety Zone recorded by the Safety Zone Committee. Also, we have estimated the population at that time of March 1938, up to 270,000 according to the Smythe's Investigation. In other words, the population of the city of Nanking has increased after the war. The testimonies made by the westerners including J. Rabe who all stayed in Nanking during the period, are mostly based on the rumors and have not been cross-examined except two testimonies presented to the EVITFE. Consequently the so-called 'murder of several tens of thousands' has not ever been verified. As for the sum of the corpses during the battle of Nanking, we estimate 10,000 corpses from the burial records. The remaining issue is the sum of the unburied corpses, who were mainly stragglers thrown to the Yangtze River. Although it is difficult to exactly count the sum, we estimate that it might not incomparably exceed the sum of burials.

Next to this, 'cause of death' and 'type of offensive weapon' have not been identified by means of inquest, but they are mostly based on the testimonies of the eyewitnesses. These testimonies are all one-sided statements which have not been cross-examined yet, and the contents of statements are extremely lacking rationality not only in admissibility, but also in probative value. Therefore it is all but impossible for us to believe them. In addition, 'cause of death' due to the 'systematic and deliberate large scale of murders' committed by the Japanese Army, have to be confirmed by the 'motive' of 'offenders'. In this case, what is absolutely lacking is the proof of the 'motive'.

The Prosecution claims that the Japanese Army committed such crimes for the purpose of 'destroying the resisting will of Chinese people by threatening them.' However, there is absolutely no personal evidence nor material evidence. On the contrary, the 'Japanese Army's Rules of Engagement' to the soldiers, which the army published relative to this campaign, has expressed a totally different intention. What has been totally misunderstood is the treatment of POWs. The Japanese Army has already issued the order that all the Japanese Army should treat the POWs according to the international humanitarian law. If the Japanese Army has an intention of 'threatening Chinese people,' why have they not done 'systematic and deliberate large scale murder' in the war in Beijing, Jinan, Xuzhou, and Hankou? The reasons why such an incident had to happen only in Nanking are not explained, neither there are such evidences shown at all.

The blunders which treated the war dead as the victims of Massacre

Let us now examine the identities of the victims. Normally, the process of investigations can not advance unless the identities of the victims are cleared in a murder case. Here, however, we have given priority to the cross-examination as to the number of the corpses and the 'cause of death', since there were crucial doubts about the number and the cause described in the indictment of the Prosecution. Now we come back to the verification of the identities of the victims.

Repeatedly speaking, we would like to clarify that the majority of the corpses counted were the war dead of Chinese soldiers due to battles and revolts occurred relative to the Nanking battle. These causes of death were out of the question since the war dead was due to legal actions. Also, it is legal that the Plain-clothes soldiers can not be treated as the POWs when captured. (We can quote the U.S. Army Field Manual of 1863 which specifies that Plain-clothes soldiers can not be given the status of the POWs when captured. They will be collectively treated as pirates or bandits. Most of the nations follow this and treat them with maximum punishments.) The crucial errors the Prosecution has committed are that they did not distinguish the war dead, which were killed legally from those who were killed otherwise.

Lastly, the following three cases are remained as the problems. First, those soldiers have been killed after the surrender. Among them, Plain-clothes soldiers and persons under suspicion of Plain-clothes soldiers have been executed without proceeding in Court-marshal or provost courts. And, the failures are not only blamed, but also the Prosecution has included the sum of these soldiers in the cases of murder.

Two more problems remain. One is the civilians who have been killed in spite of being non-resisting, and another is the civilians who would be killed in error with the suspicion of Plain-clothes soldiers. The former are, no doubt, the victims of unjust murders committed by the Japanese troops. But, for the cases of the latter, the illegality may be waived because they have been mixed up in the Japanese campaign that mopped up the Plain-clothes soldiers. For any cases, the number of victims has not been counted, also the soldiers' unusual mental state in the fierce battlefields fully need to be considered.

Another thing which we would like to call our readers' attention, is how to identify the 'offenders'. The Prosecution declares, without any questions, that the offenders were

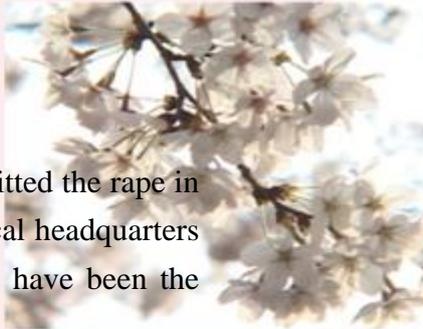




the Japanese troops alone in the battle of Nanking. However, it is not always true. There have been many murders committed by the Chinese troops. Many of the retreating Chinese soldiers have been shot to death by their 'Supervising unit' who were in charge of preventing Chinese soldiers from escaping from the front lines, or some fleeing Chinese soldiers have been caught to death under other running away soldiers when in a state of confusion occurred along with rout. In spite of these facts, the Prosecution has counted all the war dead as victims of the Japanese Army's 'systematic and deliberate large scale massacre'. Therefore, we would need to repeatedly emphasize their carelessness and arbitrariness in calculating the sum of corpses.

Further, we would like to examine the so-called 'systematic large scale looting and rape' said to have been committed along with the 'systematic and deliberate large scale massacre'. As for their claims of looting, the Japanese Army strictly prohibits the looting as explained in the 'Japanese Army's Rules of Engagement' which the army published, and the offenders are heavily punished. Therefore, even if such offenses were committed, those acts could have never been the systematically planned ones. We can not tell how extensive the offenses have been, because the Bates' witnesses and others which were being believed as a basis on the large-scale looting were inconsistent, and the 'documents of damage' collected by the Safety Zone Committee indicated less than 200 cases which seemed to contain the cases not relative to the offenses committed by the Japanese troops. However, to our regret, we must admit the fact that there were some looting acts against the military discipline by the Japanese soldiers, although the view as to whether or not the looting less than 200 should be regarded as large-scale cases will be depending on each subjectivity.

As for their claims of rapes, the Japanese Army has ordered all the soldiers 'to kindly and open-mindedly treat the elderly, women and children,' and those who did not obey the orders have been heavily punished. The issue is a sum of cases. The number of the 'cases of rape' they claim is from 20,000 to 80,000 cases. Suppose we took this number, there should have been from 500 to 2,000 cases of rapes occurred daily. This number is absolutely not trustworthy, when thinking about the sum of the Japanese soldiers stationed in Nanking. This number is based on the witnesses made by Rabe and Bates, and these have not been directly eye-witnessed but only the rumors. The 'documents of damage' prepared at the request of the Safety Zone Committee are only 361 cases for six weeks, including some cases which have not been identified with the offenses committed by the Japanese soldiers.



It is very regrettable to have to admit that some Japanese soldiers committed the rape in addition to the looting, acting against the military discipline, and the local headquarters have acknowledged those punishable incidents. Those acts of crimes have been the responsibility of each individual soldier.

Lastly, the so-called 'Murder Race', which is demonstrated as a typical example of 'cruel atrocities' committed by the Japanese Army during the battle of Nanking, is actually pure fiction. In this extreme example, those who have not been able to join combats on the front line, considered from the nature of their duty, have been recognized in the court as offenders on the basis alone of newspaper articles distorted with the rumors, without testimonies and real eyewitnesses presented.

Numerous circumstantial evidences which deny the massacre

We have been demonstrating the ambiguity of the 'evidences of crimes' described in the indictments by the Prosecution as the 'direct evidences' in order to prove the 'Nanking Massacre'. Furthermore, our counter-evidences will be reinforced by some more 'circumstantial evidences'.

First of all, there are photos, which obviously show restoration of order in the Safety Zone immediately after the seizure of Nanking, and also the documentary films which show the Chinese citizens rushing to get ID cards. These photos and films are made by the trustworthy sources, and coincided with the witnesses of over 100 Japanese correspondents dispatched to Nanking then. The false claim saying that an average 6,000 citizens of Nanking were slaughtered a day and the remains were burnt by kerosene within and near such a naiTOW city as Nanking, the area of which is about ten times as large as Central Park in New York, is absolutely incompatible with what these photos and films show. On the contrary, some of the pictures, which were claimed to have been taken at the time of the massacre, have never indicated the date, the places, and the names of photographers. Also, some of them are showing the entirely different things, and others are forged ones.

We must focus our attentions to the attitudes of the KMT, the Chinese Army and the nations sympathizing with the KMT. As far as Ho Ying-chin's 'Military Report', Chang Kai-Shek's 'Statement' and League of Nations' 'Resolution' are concerned, any one say nothing about 'Nanking Massacre' other than the violations made by the Japanese Army against the International Treaty and Air-raid to Canton. For this, the Prosecution should give the world a rational explanation.



Last, we would like to refer to the peculiarity of the tactics of the Chinese Army. Within the Chinese Army, there has been a special organization called the 'Supervising unit'. Furthermore, the Chinese Army frequently carries out the so-called 'Scorched-earth policy' and has sacrificed the properties and even the lives of their own people. Although the use of the 'Plain-clothes soldiers' has been prohibited by the international humanitarian law, it is relatively well known that the Chinese Army had systematically utilized them. Both of them, the 'Supervising unit' and the 'Plain-clothes soldiers', have appeared during the Nanking battle.

Furthermore, we would like to focus our attentions to the peculiar war culture of China, the so-called 'Slaughtering the castle', which TAKIGAWA Masajiro, authority of China's Law and History, pointed out earlier. What 'Slaughtering the castle' means is that 'at the time when the castle falls after having resisted following the enemy's advice for surrender, not only the warriors but also every citizen, young and old, will be exterminated.' While the Prosecution's Chinese witnesses have never eye-witnessed the massacre, the reason why they have used to testify the massacre as if they have actually eye-witnessed it, is due to the social background that they had been impressed on their mind with the historical view originated in such peculiar war culture of China.

The western psychology has a word explaining this type of hypothesis which the Prosecution would imagine such acts of brutality on the Japanese Army. It is called 'Reminiscence' and also 'Projection'. What their ancestors had been doing for thousands of years remains alive as the 'unconscious memory' that is, 'reminiscence' and project it on some other person. It is something like the witch urging Macbeth to kill his rival.

How about the Japanese Army? The China Incident is not a declared war. Therefore, it is not a war under the international humanitarian law. However, as mentioned before, the Japanese Army has tried to respect the international humanitarian law. Not only so, the Japanese Army has avoided attacks on the Safety Zone and the historical sites such as Sun Yat-sen Mausoleum, risking the increase of casualties, even though such indiscriminate attacks to a 'Defense city' were permitted. ('Defense city' is defined as a garrison city where the garrison is defending the city resisting attacks that the enemy's ground troops intend occupation. Nanking has been correspondent to this, then.) We need to focus our attentions on the difference of the tactics between the Chinese Army and the Japanese.

The Nanking Massacre' which the Prosecution claimed had never been verified

Thus, we have tried to explain at great length and you may have understood the clarity of our explanations. In other words, the 'criminal evidence' which has been given in the 'indictment' as appeared in the beginning of this chapter, has not been proved with the evidences brought by the Prosecution. Especially, the 'motive' of the offenders which are the most important key point of a 'murder case', has not been proved yet. Likewise, the sum of these 'corpses' and the 'cause of death' have not been proved, we must say that these are detrimental to the case. Of course, there have been some regrettable facts of criminal acts of murders, looting and rapes which have been committed by the Japanese Army. However, these sporadic criminal acts committed during the fierce battles, are far from the so-called 'systematic and deliberate large scale massacre' of 300,000, and from the so-called 'systematic large scale rapes' of 20,000 through 80,000 which they claimed.

Of course, this case has already been processed at the IMTFE and at the Nanking District Court, and verification of this case nowadays exclusively belongs to the field of history. Also, the way we verify the case is per the procedures of criminal code which some may raise an objection to this. The reason why we have dared to adopt this approach, which is commonly used for mystery dramas or detective stories rather than the academic approach, is that we needed to point out how sloppily the story of 'Nanking Massacre' without proof is becoming established in the world.

Lastly, we would like to appeal to all who love justice and truth, especially, American citizens who live in a democratic society which has the juridical power independence, for the just application of the law and the trials on an evidential basis, and that those who respect the fairness and the humanity and have devoted all their endeavor to fight for both. "Would you allow to sentence the 'guilty verdict' through evidences without receiving 'cross-examinations'?" Or, "Would you allow to sentence the 'guilty verdict' through evidences based on rumors, testimonies with the contents remarkably lacking rationality, statistic data and figures without having clear bases, or pictures or films unknown of their sources?"

Thoughtful American, we would greatly appreciate your examination of this case from a fair and neutral standpoint, assuming that you are a juror.

Conclusion

The Beijing authorities view anti-Japanese sentiment as something to orchestrate primarily for its own international purposes-to strengthen war guilt among Japanese and opposition to Japanese rearmament among the nations of the world. Meanwhile, China's Communist Party shows no concern with any moral accounting for the atrocities that it perpetrated against its own people during the long years of mass imprisonment, labor camps, the politically induced famine of the early 1960s, or, for that matter, the massacre of pro-democracy protesters at Tiananmen.

- Richard Bernstein and Ross H. Munro, *The coming conflict with China*

When time shall have softened passion and prejudice, when Reason shall have stripped the mask from misrepresentation, then justice, holding evenly her scales, will require much of past censure and praise to change places.

- Radhabinod Pal, *Dissentient Judgment of Justice Pal*

Today, the so-called 'Nanking Massacre' is said to be another holocaust, which can be comparable to the slaughters committed by the Nazi Germany against the Jewish People. Due to the fact that Japan made a military alliance with Germany, Japan is often misunderstood as if Japan had pursued similar national policy. However, it was not that simple. This is the same mistake as regarding the Soviet Union as the same democratic nation as the U.S. or the U.K., only because she was in the same military alliance, which had gone to war against Germany.

As we have stated earlier, the 'Nanking Massacre' in which the Prosecution claims the 'massacre of 300,000', has never been so proved. However, any other unjustifiable killings by Japanese troops are regarded as punishable war crimes during the combats against the Chinese Army, and these should be processed under the international humanitarian law. On the other hand, in case of Germany, they were not fighting the war against the Jewish people. The large-scale slaughters targeting all the Jewish people, including the killings of Jewish people who had German citizenship, committed by the Nazi Germany were systematically planned killings based on the specific ethnic ideology which had no direct connection with the war. Those killings were, indeed, the 'crimes against humanity', and those crimes are fundamentally different from the 'war crimes' which the Japanese troops were said to have committed.





Many of the war criminals of the Nazi Germany processed at 'the International War Criminal Court' (the Nuremberg Trial) were found guilty of the 'crime against humanity'. However, in the DVITFE even both HIROTA Koki, the former Foreign Minister and MATSUI who were prosecuted for their responsibility for the 'Nanking Massacre', were found guilty under the 'conventional war crimes'. They were not sentenced the severe punishment due to the 'crimes against humanity'. This clearly proves that the 'Nanking Massacre' could not be put in the same category with the holocaust committed against the Jewish people by the Nazi Germany as we see these different court processes.

Not only so, we must say that there existed the crucial fact that the then Japanese government sternly refused the persecution policy against the Jewish people which the Nazi Germany was implementing, even though Japan had amicable relations with Germany by means of concluding the Anti-Comintern Pact during that time when the battle of Nanking occurred. In December 1938, almost one year after the battle of Nanking, the Japanese Government decided the policy that 'based on the spirit of racial equality which we have insisted on for many years, we will treat the Jewish people with fairness, in the same manner as we treat other foreigners and we will not take special measures to reject them.'⁸⁵

For that very reason, the 'Japanese Oskar Schindler' SUGIHARA Chiune (Sempo)'s

⁸⁵ Hillel Levine, In search of Sugihara, p.168. as follows:

It is around this time in December 1938 that the most authoritative proclamation regarding Jews was made. Attributed to the Gosho Kaigi, it virtually dictated - though other proclamations would follow-norms of thought and action for the time to come:

No.1 Outline of Responses to Jews: To maintain good will and close relations with both Germany and Italy is central to the diplomacy of the Empire at the present time. So on principle we should certainly avoid tolerating Jews in our Empire whom our allies so vehemently reject. But taking the attitude of shunning them completely, as do the Germans, does not accord with the spirit of racial equality which our Empire has insisted on for many years.

Not only that but we must consider the fact that we need to introduce foreign capital for economic construction to accomplish the war in this state of emergency which the Empire now faces. And also we must avoid making relations with the United States worse. It could cause disadvantageous results. So we should treat [Jews] in accordance with the Guidelines on the left [below]:

Guidelines: 1. We will treat the Jews living in Japan, Manchuria, and China at present with fairness, in the same manner as we treat other foreigners and we will not take special measures to reject them. 2. We will treat the newly arrived Jews to Japan, Manchukuo, and China fairly, generally within the regulations of controlling the entry of foreigners. 3. We will avoid making special efforts to invite Jews to Japan, Manchuria, and China. But this policy does not include people who are worth using such as capitalists and technologists.

energetic activity was possible, and many Jewish people were rescued. This historical fact proves that the Japanese people were far away from such racism as seen in the holocaust produced by the racial extremist Nazi Germany.



Who can imagine that the Japanese people is a nation who will do anything like systematically planned atrocities called 'holocaust'? Any westerners who know even a little bit about the Japanese culture may testify. Alfred Smoular, who received many awards from the French President De Gaulle, as a resistance fighter, was one of them. He survived tortures at the concentration camps in Auschwitz and Bofenvalt. This great French hero states the followings in his memoir *Auschwitz 1864-16 dies in Japan* (Tokyo: Fuso-sha, 1995):

World War II including the movement of resistance was the fight against Fascism. I can not keep myself silent for such absurd statements which to say we should regard Japan as same as Hitler's Germany. These absurd statements are nothing but someone's ideological propaganda.

We are sure the American people understand our humane heritage over 2,000 years. We, as Japanese, take pride in the same humane history. We can no longer suffer from such an unreasonable disgrace to our nation brought about by unfounded absurd accusations.

On the other hand, any other inhumane criminal acts comparable to the crimes committed by the Nazi Germany might be a lot of racially oriented abuses and large-scale slaughters committed in the name of Communism since the Russian Revolution, elsewhere in the world. With the end of the Cold War as a trigger, re-examination of Communism, which brought about curse and disaster to mankind and society in large in the 20th century, is now being made. According to Karel Bartosek's *The Black Book of Communism: Crimes, Terror, Repression* (Harvard University Press, 1999), the victims of the crimes committed by the Communism can be estimated no less than 100,000,000. As for the Soviet Union, which was the mainstream of worldwide Communism, it is said that 20,000,000 people had been killed, and after all, its Communistic regime collapsed in 1991.

However, Communism in China, where it is estimated that a far larger number of 65,000,000 people had been victimized, is still existing under the dictatorial political system, and still persecuting minorities and committing human right violations ceaselessly.



Especially in Tibet, more than 1,200,000 people, corresponding to roughly 20% of the total population, were massacred since being unfairly annexed to Communist China in 1955. And even today, the people there are still abused, and their cultures are being destroyed. The miserable conditions of 'Ethnic Cleansing' in Tibet are known as crueler than ones in Bosnia and Herzegovina or Kosovo. And, it becomes an increasing concern to John Q. Public, because it is introduced to them through hit movies, *Seven Years in Tibet* (Director: Jean-Jacques Annaud, 1997) and *Kundun* (Director: Martin Scorsese, 1997). If we can not call this crime against humanity as 'holocaust', what else can we call 'holocaust'? The very Communist China declared that the problem of Tibet is a problem relating to domestic affairs and refused the interference of the foreign nations. On the other hand, the CCP is loudly denouncing the 'Nanking Massacre' which had been insisted on its happening more than sixty years ago, but not even clearly defined. It is indeed their ridiculous self-righteous gestures.

The extreme example of China's ridiculous gestures is that the CCP is strongly supporting the production of the movie, titled *Rabe's Diary*.⁸⁶ Of course, this is a campaign movie for the purpose of denouncing the 'massacre of 300,000'. At least, as verified before, Rabe himself did not say the 'massacre of 300,000'. In other words, this movie is indeed the false movie with double fabrications.

The CCP frequently persists in requesting Japan to show an attitude of the 'remorse and apology' for the behavior that Japan took to China in past, citing the 'Nanking Massacre' as an example. As for its intention, there is no doubt that the CCP aims at withdrawal of the 'compensation and financial assistance' and the 'concession' from Japan as analyzed by the Library of Congress, Congressional Research Service.⁸⁷ At the same time, in order for the CCP to establish the hegemony in the post Cold War East Asia, the CCP has to drive a wedge into the Japan-U.S. alliance, which is an obstacle on the road to its hegemony. Therefore it may say that as one of measures to accomplish this, the CCP intends to have ex-Allied Nations recall the 'evil act of ex-enemy Japan' stressing old ties of Allied Nations.

⁸⁶ The China Daily dated on January 15, 1999, "'Rabe's Diary' hits big screen"

⁸⁷ According to the Sankei Shimbun dated on November 27, 1996, the Library of Congress, Congressional Research Service has completed the report, titled *Japan - China Relation, Present and Future Prospective*, and their meanings to the United States. The report points out one of its characteristics which is the accusation made by the CCP has been using this accusation 'to stir out its internal nationalism and to put Japan in the defensive position, in order to gain economical and trade benefit from Japan.'



It is obviously telling of the China's intention that on the background of the sales campaign of The Rape of Nanking, we can catch a glimpse of the shadow of the CCP through the activities of Chinese-Americans and overseas Chinese merchant organizations in the U.S.

From the years of 1930 through 1940, the national interests of Japan and the U.S. became severely opposite, and caused a very unfortunate war. On this background, it is true that China and the Comintern concentrated its effort to carry out the skillful propaganda maneuver, which aimed at splitting Japan and the U.S.⁸⁸ We must not allow this to appear again.

We would like to emphasize that our assertion that 'Nanking Massacre' was a propaganda by the CCP, isn't only for us to remove the stigma that has been attached to Japan due to the unfounded 'false accusation,' but also to take into consideration formation of a mature friendly relationship between Japan and the U.S., looking toward the 21st Century, and reinforcement of our relationship.

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⁸⁸ For the detailed information how the U.S. had developed the anti-Japanese, and pro-Chinese activities in the pre-war U.S. are provided in NAGAO Ryuichi's book, titled America's intellectuals and Far East (Tokyo University Publication, 1985). America's famous diplomat George F. Kennan wrote his book, titled American diplomacy, 1900-1950 (London: Seeker & Warburg, 1952), and he expressed his painful regret that the pre-war American diplomacy had been pro-Chinese and anti-Japanese which allowed the Continental China and North Korea to become inclined to the Communism.

On May 3, 1951, in the hearing before the Committee on Armed Services and the Committee on Foreign Relations of the Senate of the United States, General of the Army Douglas MacArthur also said, "It is own personal opinion that the greatest political mistakes we made in a hundred years in the Pacific, was in allowing the Communists to grow in power in China." (the New York Times dated on May 4, 1951)