

日本の法律

にも軍律にも「とりこを罰する定はな
 い」とりこにならぬと云ふ事は軍人の
 名譽にかけての事で法律などできめ
 てある水くさい事ではない。もし法律
 で定めてあるのならばなぜ上海事變
 の時(昭和七年二月)空閑少佐が重傷を負
 ひとりことなり傷いえて日本側に引
 渡された時軍法會議なり裁判になり
 掛けなかつたか。当時の陸相荒木氏は青年
 將校のごきげんとりに空閑少佐に圧迫
 を加へ自殺させたが今日生きて居たら
 り、ばに國のお役にたつものである。
 先頃までロシアへ行つて居た建川大使(陸軍
 中將)も日露戦争の時騎兵の中尉で、
 ク兵にとりことなつた人だ。日露戦争は僅
 一年半始終日本軍が前進又前進であ
 したがそれでも露軍のとりことなつた者二千
 人餘りに及んだ。皆建川中尉同様日本
 にかへつてから別になんの事もなかつた。又三
 六事件さへなかつたら建川中將は大將にな

たのであった。昭和十四年九月十九日のノモンハン
停戦協定第五條には、俘虜交換と明あきにかい
てあり、それにより戻つて来た者にこれまた
何のそがめもなかつた事は皆人の知つて居る
ところだ。戦へるのに降参せよとは申さぬ。戦
ふもむだになつてなほ死を求むるは天理にそむ
くと申すのである。従つて日本にも諸君の
中のある人々が思つておらるゝ様なそんな
馬鹿な天理にそむいた法律はたないのであ
る。まへにのべた空閑少佐およびノモンハン
の例で分つて居るいはんや此世界大戦のあ
と戦につかれた各國は一人でも生きた同國
人の多い方がかちだ。第一次ヨーロッパ大戦
のあとでもいかにばかりとリことなつたが生きて
歸つて来た人が國家のお役にたつた事か。
前線日本軍將兵中にもはたまた既に收
容所に居らるゝ人士の間にも俘虜とな
ると云ふ事につき誤解ごかい僻見へきけんがあるやいま
きおよぶのでこゝに之をのべる。戦つて役立
時は戦ふのが道であり戦がむだになつたとき
は生きて御奉公を他日に期するのが
道である。

Legal Consequences of capture for Japanese Soldiers.

Neither in the civil nor in the military laws and regulations of Japan is there any provision for the punishment of soldiers who have been taken prisoners-of-war.

While to avoid falling into captivity is a matter of honour to the warrior, it is not a problem lending itself to cold and distant treatment by law. You will remember the case of Major Koga who, seriously wounded, was captured in China at the time of the Shanghai Incident (February, 1932). After having recovered from his wounds, he was sent back to the Japanese side. If there had been any relevant provision in Japanese law, would he not have been taken before a court of enquiry and subsequently before a court martial? Yet nothing of the kind happened. On the contrary, Major Koga was compelled to commit suicide by General Araki, then Minister of War, who wanted to curry favour with the so-called Younger Officers. Thus ended the life of a man who would have been of service to his country if he had lived.

In the same way the ex-Ambassador of Japan to Soviet Russia was once taken prisoner by Cossacks during the Russo-Japanese War, while serving as a cavalry lieutenant. In that war, which lasted for a year and a half only, although the Japanese army was always advancing, a little over 2,000 officers and men fell into the hands of the enemy. In the case neither of Lieut-General Tatekawa, nor of any of the others, did anything happen to them after their return to the homeland. If the mutiny of February 26, 1926 had not intervened, that same Tatekawa would most certainly have been promoted to full general. (Note:- Lieut-General Tatekawa was placed on the retired list, allegedly in connection with this affair.)

In the conditions arranged and accepted for the truce at Nomonhan on September 19, 1939, "exchange of prisoners-of-war" is mentioned in article 5, showing clearly that this exchange was made. Nothing has been heard of anything untoward happening to those who then returned to Japan.

Nobody speaks about surrendering when fighting is still of service. It is therefore irrational to seek death when fighting has become futile. Also in Japan there cannot be such a foolish irrational law (punishing surrender) as some of you seem to believe.

This is clear from the case of Major Koga, and from what happened after Nomonhan. In the war-torn world after this conflict is over, each country will need the help of every man in the nation still alive. Who can estimate the service rendered to their countries by prisoners who returned after the first world war?

We have put these points before you, as we understand that many misunderstandings and queer ideas about this subject exist amongst officers and men in the war areas as well as amongst those in internment camps.

It is the duty of a soldier to fight when fighting serves his country, but it is also his duty as a man of his country to preserve life when fighting is no longer of service.

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