

From the Mandates System to the Trusteeship System:
Legal and Political Case of the Japanese Mandated Islands
1944-1947
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Haruo Tohmatsu, Tamagawa University

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summary

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Haruo Tohmatsu (Tamagawa University)

In the period of transition from the League of Nations to the United Nations, many of the territories under the mandates system of the former were transferred to the trusteeship system of the latter. The case of Japanese mandated islands of Micronesia is of much academic interest, as it clearly revealed the interaction between the idea of international accountability of colonial rule and power politics aspect of the post Second World War international relations.

One may see a parallel between the Allies' postwar planning for the colonial question, and the post-war settlement of the First World War regarding the disposition of the colonies of the defeated. The mandates system was a compromise between the Wilsonian idealism and conventional imperialism of the day. It saved the face of Wilson's new diplomacy, while to some extent satisfying the victorious Powers' territorial ambitions. In the disposition of the Japanese mandated islands, however, the compromise was made not between the confronting states, but rather between two different schools of thought within the same country, the United States. Pro-trusteeship opinion represented by the State Department and pro-annexation advocates led by the US Navy and War Departments fought over the drawing up of post-war arrangements for the captured mandated islands.

Under the initiative of the State Department, the post-war trusteeship was originally supposed to become a scheme of a universal nature under the proposed United Nations Organization, applicable to all the colonial possessions. Nevertheless, in the need for wartime cooperation between the Allies, the US had to make concessions to the friendly colonial Powers, excluding some of their colonial possessions from the application of the trusteeship scheme. Also, with the experience of hard-won battles in the Pacific islands, and seeing the omen of the Cold War in the final stages of the war, the US official policy gradually shifted to the conventional style of 'balance of power' politics. The former Japanese mandated islands were regarded as a territory vital to American interests and security in the post-war world, on which the US was determined to put an exclusive control.

Through the continuous studies of the history of the mandated islands and the

examination of legal and political problem of problems it entailed, the US elaborated the concept of strategic trusteeship during the war. The lesson from Japan's struggle for the retention of the mandate after its announcement of withdrawal from the League in 1933 was fully made use of in the drafting of the UN Charter regarding the strategic trusteeship. One of the chief legal arguments that had emerged at the time of Japan's announcement of withdrawal from the League of Nations had been whether Japan could retain the mandate without League membership. Although in the event it was generally accepted that the League membership was not an indispensable part of the conditions to be a mandatory, the ambiguity concerning the two left a room for dispute in the future. What if the US as a member of the UN held a trusteeship but later decided to leave the organization for some reason? If UN membership was made a necessary condition of being trustee, might the US be obliged to surrender its trust territory? This situation was something that the US was determined to avoid. While Japan in 1933 endeavored to justify its mandatory status by the concept of 'non-League member state in collaborative relations with the League', in 1945 the US tried to fix a more fundamental solution: the separation of trustee qualification and UN membership.

In this connection, an interesting discussion took place in a UN committee during the Allied San Francisco Conference of 1945. Two month before the termination of war in the Pacific, on 15 June 1945, in the Committee II/4 (Trusteeship System) the Egyptian delegate proposed that provisions for the termination of trusteeship should be made, suggesting that the UN Council should be provided with a power to remove the trusteeship from a state withdrawing or being expelled from the UN. In this argument the Egyptian referred to the Japanese case saying that 'When Japan withdrew from the League it not merely retained the mandate assigned to it, but disregarded the obligation in respect to the mandate which it has assumed.' This proposal, however, was turned down, presumably by a pressure from the US delegate on the ground that 'the termination or transfer of a trusteeship without the consent of the trustee power would be contrary to the voluntary basis upon which the trusteeship proposal had been built.' It was also mentioned that '[S]ome states might withdrew from the [UN] Organization for respectable reasons, such as inability to accept some amendments to the Charter...' As a result, in Chapter XII (International Trusteeship System) and XIII (The Trusteeship Council) of the UN Charter, no word was inserted that made UN membership a necessary condition of being a trustee state. The US was thus successful in separating the UN membership and trustee qualification.

By the time of termination of conflict in the Pacific on 15 August 1945, the US Navy controlled the key islands of the Japanese mandated islands. In the same month

President Truman designated the Secretary of the Navy as interim administrator of the islands. In October a high level committee was created which consisted of the Secretaries of State, War, and Interior in order to study the problems of future administration of the former Japanese mandated islands. On 15 January, during the first session of the UN General Assembly in London, James Byrnes, US Secretary of State, made a statement that the US would place the mandated islands either under ordinary trusteeship arrangements or as strategic areas. The US, needless to say, preferred the latter.

The basic difference between such strategic areas and other trusteeship areas is contained in Article 83(1) of the UN Charter: 'All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.' On this Council, then consisting of eleven members, the US was permanently represented with the power of veto. This was a firm guarantee for protecting American interests in the mandated islands.

Still, as strategic areas would be under the aegis of the Security Council, it was feared that the US plans for the disposition of the mandated islands would be prevented from other Council members. The next step for the US therefore was to gain approval of the member states including the Soviet Union. It was not so difficult for the US to gain approval from Great Britain, France, and Nationalist China who were after all heavily reliant on American economic aid after the war.

The Soviet Union, however, was a different matter. It has been opposing the US on many occasions in formulating the terms of the trusteeship system in the UN Charter. A different type of deal was necessary to appease the Soviets. Judging from circumstantial evidence, it was highly likely that Soviet acceptance of the US proposal to place the former Japanese mandated islands under its strategic trusteeship was the result of the secret agreement between US Secretary of State Byrnes and Soviet Foreign Minister Molotov, in the Council of Foreign Ministers at Moscow in December 1945. In the talk Molotov insisted that each trusteeship agreement must be acceptable to the 'states directly concerned', and that the Soviet Union, as one of the five permanent members of the Security Council, should be regarded as such a state. To avoid possible Soviet intervention in the trusteeship issue in the Pacific, Byrnes suggested that in exchange for Soviet support for making the US-occupied Japanese mandated islands a US strategic trusteeship, the Soviets might keep for themselves the Kuriles, as well as South Sakhalin. These Japanese territories had been seized by Soviet forces at the final stage of the war and were under Soviet occupation. Byrnes was well aware of Soviet eagerness to get American endorsement of the 'handing over'

of the Kuriles to the Soviet Union at the future peace conference. Molotov, according to Byrnes memoir, 'quickly grasped the implication of [his] remark.'

As a result, in February 1946 it was publicly announced that Southern Sakhalin and the Kuriles would be awarded to the Soviet Union as a part of the Yalta Agreements. Thereafter the US proposal for putting the former Japanese mandated islands under American strategic trusteeship did not meet any substantial opposition in the Security Council, and only a few minor amendments were made. On 2 April 1947 the Security Council voted unanimously for approval and on 18 July of the same year the US Congress approved it by joint resolution.

Various provisions were devised in the 'Trust Agreement for the Former Japanese Mandated Islands' which would safeguard American strategic interests in the area. For the first time the maintenance of 'international peace and security' was incorporated in the general aims of the international trusteeship scheme. The Trust Agreement enabled the US to take full advantage of the military exploitation of the territory. And, above all, placing strategic trusteeship not under the jurisdiction of the General Assembly of the UN, but under the Security Council, enabled the US to veto unfavourable decisions made against American rule of the trust territories. One may see a parallel between the Security Council and the PAAP (Principal Allied and Associated Powers), the residual concept of the Supreme Council of the victorious Powers at the Paris Peace Conference of 1919. However, as regards trusteeship, it was devised that 'states directly concerned' were to have the final say in the matter of administration of the territories, excluding the intervention from other Powers in the Security Council.

American maneuvers regarding the control of the Japanese mandated islands at that time were often criticized as an act of 'Security Imperialism'. However, the fact that the conquered Pacific islands had been under the League of Nations mandates system, not proper territory of Japan, together with the Allied principles declared in the Atlantic Charter and the Cairo Declaration, deterred the US from annexing the Japanese mandated islands outright. In that sense, it may be argued that the idea of mandate/trusteeship did play a certain role in denying the concept of the 'right of conquest', although this may be too idealist a point of view. In the Cold War context the Kuriles, counterpart of the mandated islands in terms of wartime Allied conquest of Japanese territories, remained, and still remains in the hands of a conqueror, the Soviet Union and its successor state the Russian Republic.