

JUDGMENT

WORLD WAR II ON TRIAL
AND THE MAKING OF
MODERN ASIA

AT TOKYO

GARY J. BASS

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*World War II on Trial and the
Making of Modern Asia*

GARY J. BASS

ALFRED A. KNOPF  NEW YORK 2023

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Library of Congress Cataloging-in-Publication Data

Names: Bass, Gary J., author.

Title: Judgment at Tokyo : World War II on trial and the making of modern Asia / Gary J. Bass.

Description: New York : Alfred A. Knopf, 2023. | Includes bibliographical references and index.

Identifiers: LCCN 2022061519 | ISBN 9781101947104 (hardcover) | ISBN 9781101947111 (ebook)

Subjects: LCSH: Tokyo Trial, Tokyo, Japan, 1946–1948. | International Military Tribunal for the Far East. | War crime trials—Japan—History—20th century. | World War, 1939–1945—Campaigns—Pacific Area—Atrocities.

Classification: LCC KZ1181 .B37 2023 | DDC 341.6/90268—dc23/eng/20230712

LC record available at <https://lccn.loc.gov/2022061519>

Ebook ISBN 9781101947111

Cover image: Tojo Hideki, former Japanese prime minister and army minister, at the International Military Tribunal for the Far East, Tokyo, Japan / Alpha Stock / Alamy

Cover design by Chip Kidd

Maps by Mapping Specialists, LTD

ep_prh_6.1_145164751_c0_r0

For Miriam

Where do murderers go, man! Who's to doom, when the judge
himself is dragged to the bar?

—Herman Melville, *Moby-Dick*

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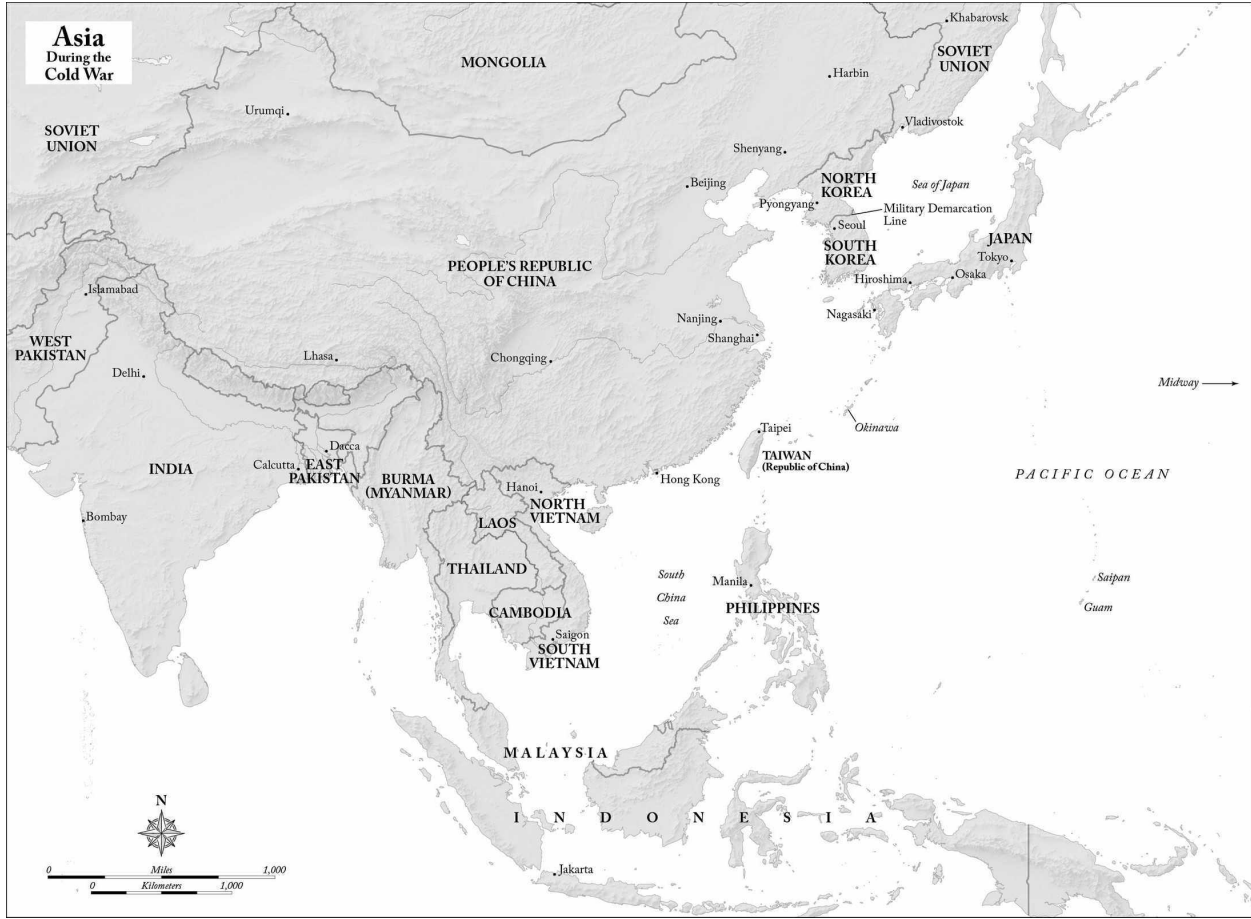
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Asia
During
World War II





Introduction

TOJO HIDEKI HEARD THE soldiers coming for him. At his simple cottage in Tokyo's suburbs, on September 11, 1945, he was making no attempt to hide. With his fastidiously cropped mustache, bald head, round tortoiseshell glasses, and the assertive bearing of a career general, the prime minister of Imperial Japan during much of World War II was unmistakable. His grotesquely caricatured features—eyes slanted, teeth sharpened, fingernails pointy—had been a staple of American propaganda encouraging war bonds, routinely paired with Adolf Hitler and Benito Mussolini.

It was just over a month since the detonation of the two atomic bombs, and less than a month since Japan had at last surrendered. The victorious Allied armies were in the early, uncertain days of their occupation of Japan. One of their first tasks was to round up suspected Japanese war criminals.

Tojo was perfectly aware that U.S. troops knew where to find him. The day before, an American wire reporter had had little difficulty locating him at home. When asked who was responsible for starting the war, the prime minister whose cabinet had ordered the attack on Pearl Harbor was unrepentant. “You are the victors and you are able to name him now,” he replied serenely. “But historians 500 or 1,000 years from now may judge differently.”^[1]

A small, nervous group of U.S. soldiers arrived at the cottage. At first Tojo refused to talk to them, and then, dressed casually in an open-collared white shirt, slid open a window to demand their credentials. For some unbearably

tense minutes, they were stalled by a servant, until their patience wore out. “Tell this yellow bastard we’ve waited long enough,” snapped the U.S. major in charge.

Soon after, the Americans heard a muffled gunshot from inside.

Startled, the soldiers kicked down the door. They burst into the house to find Tojo standing upright, reeling slightly. In his right hand was a smoking Colt .32-caliber pistol. His left hand was clutched to his chest, red blood streaming through his white shirt. He had made the efficient choice of a gun to kill himself, and an American-made one at that, instead of availing himself of any one of the three ceremonial Japanese swords in the room. The leading U.S. major, in the sights of the lurching pistol, screamed, “Don’t shoot!” and Tojo let his gun fall with a clatter. Knees buckling, he crumpled into an easy chair. His eyes drooped and he strained to breathe, sweating, coughing, moaning in agony.^[2]

Expert at dealing out death, Tojo botched his own. The bullet only grazed his heart, exiting his back at the left shoulder blade. American soldiers—one of them a Japanese American from the Bronx—bustled him out of the cottage and into a car, and raced him toward an American military hospital at Yokohama, south of central Tokyo.

They drove through a shattered, charred landscape. Six months ago, as many as a hundred thousand people in Tokyo had been, in the words of a U.S. general leading a massive incendiary bombardment, “scorched and boiled and baked to death” in a single night.^[3] The city’s rivers had boiled and liquefied glass had rained. The stench of burning flesh had been so intense that U.S. B-29 bomber pilots several thousand feet above had gagged.^[4]

What was left was a vast city of ashes. Much of Japan’s sprawling capital had been built with wood houses; those humble homes were now fine cinders. Tokyo was reduced to a series of shanties, endless rows of little shacks cobbled together from whatever scraps of metal or stone had survived the unnatural flames. The gloom was broken only by the occasional flower planted by the dispossessed residents of these huts, or a curtain hung over a makeshift window. Scoured by fire, sturdier buildings like factories were a mangled mess of steel girders. There were colossal piles of rubble strewn around

trashed streets. Tokyo was dark, filthy, and collapsing. It reeked. With every kind of infrastructure systematically wrecked by the bombings, there were urgent shortages of every kind: electricity, heat, food, water. The despairing residents were left burned, broken, scarred, bereaved, unwashed, ill-clothed, and underfed.^[5]

Tojo flickered between life and death. At the Yokohama hospital, a U.S. Army surgeon was unimpressed by the dire chest wound; he had seen hundreds of them. Lying on a simple cot, his shirt and trousers drenched in his own blood, the former prime minister grimaced in pain, groaning as he drew breath. Japanese and American doctors stitched him up and gave him plasma infusions. American soldiers watched his agonies with cool indifference; one shrugged that Tojo had earned himself a Purple Heart. Pulling through, he grew strong enough to lament that death was taking so long; he had meant to finish himself off with a single shot, he explained, rather than risking the delay of ritual disembowelment. He had chosen not to shoot himself in the head, he whispered to an interpreter, so that people could recognize his features and know that he was dead.



Tojo Hideki lies soaked in blood after shooting himself while American doctors try to save him on September 11, 1945.

Neither the fact of defeat, nor the devastation of his country, nor a fresh bullet hole through his chest were enough to make him question the rightness of his cause. “The Greater East Asia War was a justified and righteous war,” waged by Japan to free its Asian neighbors from the oppressive grip of European colonialism, he declared in what he hoped would be his deathbed statement. He expressed his regrets to the Japanese nation and “all the races of the Greater Asiatic powers,” although not to the Allied countries against which his cabinet had gone to war. Given the ruin all around him, he was not inclined to apologize to the bombers.

“I would not like to be judged in front of a conqueror’s court,” Tojo said. “I wait for the righteous judgment of history.”^[6]

This book is about that conqueror's court and the judgment of history. For two and a half years after his failed suicide, Tojo and twenty-seven other top Japanese wartime leaders were prosecuted by the Allies as war criminals—a trial that is the Asian counterpart to the more famous international war crimes tribunal at Nuremberg.

The Tokyo trial was a monumental accounting for the personal fates of Tojo and the other powerful Japanese defendants, who were viewed not just as defeated foes to be neutralized but as criminals accused of aggression and atrocity. Its unfolding drew in a host of household names, including Harry Truman, Emperor Hirohito, Chiang Kai-shek, Jawaharlal Nehru, Douglas MacArthur, and more, as well as lesser-known figures whose richly multifaceted life stories encompass much of their countries' modern histories: Mei Ruao, the cerebral, purposeful Chinese judge hoping to restore his war-torn country; Togo Shigenori, the peace-minded Japanese foreign minister who had struggled to prevent Pearl Harbor yet wound up on trial as a Class A war criminal; and Radhabinod Pal, the erudite Indian judge who is today a national icon in Japan for writing a blistering dissent that acquitted Tojo and all the defendants while denouncing the court itself as illegitimate.

It was, as the judges liked to call it, the “biggest trial of the world.”^[7] In a vast, echoing courtroom illuminated with sweltering klieg lights, the black-robed judges listened to the anguished testimony of Chinese survivors of the Nanjing massacre; heard nightmarish accounts of how British and Australian prisoners of war were worked to death in Thailand and Burma; recoiled at gruesome stories of Filipino civilians who had been bayoneted, beaten, tortured, and raped; eavesdropped on the secret plans being devised for aggression at Pearl Harbor; and gawped at the disgraced last Qing emperor of China, Puyi, who wound up as a star witness. As the Chinese judge wrote, “In my opinion, the Tokyo Trial, like the Nuremberg Trial, should also be considered as ‘the greatest thing that comes out from this World War,’ to borrow a phrase of President Truman.”^[8]

World War II was a war of atrocity, both in Europe and Asia. It is commonplace in wartime to denounce the bestial immorality of the enemy, but in the Pacific War the question of war crimes was fundamental. The war

was defined in Allied minds by Japanese-inflicted horrors: the death march of Filipino and American prisoners of war at Bataan, the captive Australians who perished while building the Burma–Thailand railway, the sack of Manila.^[9] More Australians died from being imprisoned by the Japanese than from combat against them.^[10] The Chinese, who had endured more from Japan than any country in fourteen years of war, remembered the devastating bombing of Chongqing, countless villages set ablaze, a renewed opium trade, and mass executions and mass rape—as many as twenty thousand cases of rape during the first month of the Japanese occupation in Nanjing alone.^[11] More than a million Filipinos were killed or wounded by their Japanese occupiers.^[12] For the Americans, the war itself was a crime against peace, the poisonous result of an illegal sneak attack on Pearl Harbor. In the registers of war crimes assembled by U.S. investigators, over and over they listed “Cannibalism”: some Japanese officers had believed they gained strength from eating the livers of American prisoners of war.^[13]

While the defeated Japanese would have no opportunity to put the victors on trial, their government had spurred on its soldiers and motivated the home front with tales of Allied barbarism. The Japanese people were warned, wrongly, of the terrors and mass rapes that would be inflicted by demonic American occupiers. They recoiled at the dehumanizing Allied custom of collecting Japanese skulls and bones as souvenirs. And they were traumatized by the firebombing of scores of their cities and towns, culminating in the incineration of Tokyo and finally the atomic bombings of Hiroshima and Nagasaki.^[14]

The Tokyo trial is the paramount historical event in Asia’s efforts to grapple with this terrible legacy. As its Australian chief judge wrote privately, “The Tokyo and Nuernberg War Criminals Trials are undoubtedly the greatest in all history; that cannot be contested.”^[15] Spectators peered into the innermost workings of governments and the souls of people under the most extreme circumstances. They heard the telling and retelling of the fateful decisions for war through the contradictory perspectives of Allied prosecutors, defense lawyers, and individual Japanese defendants—a kind of *Rashomon* for World War II.^[16] “The naivete I possessed at the time of leaving the homeland

has long since disappeared,” wrote a Japanese soldier in the Philippines in his diary, which was read aloud as evidence to a hushed auditorium. He admitted killing over a hundred guerrillas and Filipino civilians during a particularly violent campaign there. “Now I am a hardened killer and my sword is always stained with blood. Although it is for my country’s sake, it is sheer brutality. May God forgive me! May my mother forgive me!”^[17] From the Japanese island stronghold of Chichi Jima, the court heard a formal order to kill and eat an American prisoner of war: “The Battalion wants to eat the flesh of the American Aviator, Lieutenant (junior grade) Hall.”^[18] (Nine U.S. fliers bailed out during bombing raids at Chichi Jima. Eight of them were captured by Japanese troops and killed, with several of them partially eaten in early 1945. The ninth, who managed to escape, was a Navy pilot named George H. W. Bush.)^[19] The mesmerizing experience of the Tokyo trial was, as the Dutch judge privately wrote, “the situation in which one, every day, in the corridor meets the Emperor of China and says: ‘Hello, how are you this morning.’ I thought in former days that only in fairy tales do you meet the Emperor of China. And, still, I am not quite sure if that opinion was wrong.”^[20]

As law, the Tokyo trial had grand ambitions to establish international principles for a safer postwar world—a revived international law that outlawed aggression and atrocity. It sought to reestablish the battered authority of the old international laws of armed combat, such as the illegality of killing innocent civilians or abusing prisoners of war. It insisted that powerful persons had to face individual judgment for war crimes committed under their commands, rather than claiming immunity as generals and cabinet ministers.^[21] And like Nuremberg, it made a revolutionary attempt to enshrine aggressive war as the cardinal international crime, the one war crime that led to all the others.^[22] These legal aspirations were often frustrating to nonlawyers, with MacArthur complaining that the trial’s impending judgment “is like blowing up a ton of dynamite—one cannot possibly foresee what might happen.”^[23]

Beyond its legal significance, beyond the courtroom spectacular, the Tokyo trial was a political event. It was a measure of Asia’s colonial past and a prelude of its Cold War future. The forging of a new Asia required military,

political, economic, and territorial arrangements, but also a moral reckoning with the war and its causes. The Chinese judge hoped that the court's judgment would establish a historical record that would leave no room for future distortions of the truth.^[24] "This trial is of a special importance for the whole world," the Dutch judge mused, "not only for the facts proven, or the kind of judgment delivered. It is more or less the touchstone for the possibility of organized international justice."^[25]

This book is an attempt to tell the story of the Tokyo trial in the round, not just the drama in the grand courtroom but also its milieu in postwar Asia broadly. With prosecutors and judges drawn from eleven different Allied countries—including important Asia-Pacific powers such as China, India, the Philippines, and Australia—the Tokyo trial was a sweeping panorama of the making of postwar Asia.^[26] Despite the might of the United States, this book is both an American history and an international history. In its creation, its workings, and its aftermath, the Tokyo trial was a simulacrum of the tremendous military and political changes that shaped modern Asia, today the most strategically important region in the world.^[27] The unfolding of the trial in the pivotal years from 1946 to 1948 encompassed the founding of a new order in Japan, Communist revolutionary triumphs in the Chinese Civil War, the struggle for decolonization in India and elsewhere, and the onset of the Cold War.

These epic proceedings were meant to break from wartime hatreds to peacetime reconstruction. But the postwar peace was not so easily mastered. Instead of the tidy morality play that the United States wanted blaming Tojo and a small clique of militarists, the trial laid bare the underlying tensions of postwar Asia. Rather than solidifying the unity of the wartime Allies, the trial split them. The judges from China, India, the United States, the Soviet Union, Britain, France, Australia, and the Netherlands were frequently at each other's throats. The trial reveals some of the reasons why a liberal international order has not emerged in Asia, despite the wishes of some American strategists.^[28] The divisions among the Allies were not just about American dominance or Soviet ambitions but a splintering in multiple directions.

Far from marking a new ascendancy of American-supported liberal democracy in Asia, the Tokyo trial played out against a chaotic background of rising anticolonial nationalism in India, Indonesia, Vietnam, and elsewhere, and Communist revolutionary victories in China. The war had finished off the Japanese Empire, but millions of people across postwar Asia were still left to contend with poverty, malnourishment, illiteracy, corruption, and tyranny—as well as repressive European empires seeking to return to old habits.^[29] “America’s war had cut blindly across the course of the greatest revolution in the history of mankind,” wrote Theodore White, *Time*’s leading war correspondent, “the revolution of Asia.”^[30] Asian countries were whipsawed by the early days of the confrontation between the American and Soviet goliaths. Having done everything in their power to destroy Japan, the Americans now sought to rebuild it as a crucial bulwark against the Soviet Union and the Communist insurgents on the cusp of power in China. All these currents would undermine the tribunal and call into question its legacy.

For the American occupiers, the punishment of war criminals was an important element in their effort to draw the teeth of Japanese militarism. The edict from MacArthur, the supreme commander of the Allied powers, establishing the court was portentously numbered as General Orders No. 1.^[31] The United States was obviously first among unequals, having crushed the Japanese with a seemingly limitless arsenal of industry and technology. Yet with so many Allied countries prosecuting and judging, it was a unique opportunity for an international moral and legal reckoning.

The internationalism of the Tokyo trial is central to its significance.^[32] Combined, the eleven Allied governments represented a majority of the human race.^[33] While Nuremberg did not have a judge for the Jews or the Poles, Tokyo had three Asian judges—from China, India, and the Philippines—who were in a position to speak for some of the Asian victims. (In a glaring omission, there were no Korean or Taiwanese judges, since the court began its study of Japanese imperialism after their annexations.)^[34] Although the Americans skewed the trial toward aggression at Pearl Harbor, MacArthur rapidly lost patience with the tribunal, allowing it to be steered by the other Allied governments. Influenced by such Asia-Pacific powers as China and the