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Pamela Budinger  
CSUSB

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## **Book Review: *Judgment at Tokyo: World War II on Trial and the Making of Modern Asia***

By Pamela Budinger

Gary J. Bass, professor of politics and international relations at Princeton University, has written a detailed history of the International Military Tribunal for the Far East (Tokyo trial or Tokyo War Crimes Tribunal) (1946-1948) and the Japanese military leaders tried as war criminals after World War II (1939-1945) in his book *Judgment at Tokyo: World War II on Trial and the Making of Modern Asia*. This 892-page book, published by Alfred A. Knopf Publishing Company in 2023, is the subject of this review. As the title indicates, this book outlines the history and various historical contexts surrounding the trial of the selected Japanese officers charged for war crimes. Bass examines how the Tokyo trial shaped Asia from that time forward.

In *Judgment at Tokyo*, Bass documents how the Tokyo trial evolved. He discusses in detail many points of law and politics that contributed to the long shadow the trial created. To understand the Tokyo trial, Bass sets the trial in the broader contexts of Asian and global history including the anticolonial nationalism of India, the economic and political geography of Asian countries, the Chinese revolution (1927-1949), and the beginning of the Cold War (1947-1991).<sup>1</sup> Bass' thesis is that, whereas the Nuremberg trials (1945-1946) had been touted as having moral clarity and could be seen as a metaphor for ethical purity, the Tokyo trial was more interesting given its many controversies and the way World War II was

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<sup>1</sup> Gary J. Bass, *Judgement at Tokyo: World War II on Trial and the Making of Modern Asia*. (New York: Alfred A. Knopf, 2023), 13.

viewed by the victors.<sup>2</sup> To illustrate his thesis Bass has divided his book into three themes: A Clash of Armies; Clash of Empires; and Clash of Ideals.

Part one, “Genesis,” includes chapters one through nine and examines the theme “A Clash of Armies.” In it, Bass explores the dynamics of the various military forces, and their strategies and tactics, especially when the armies collided. Bass illustrates brilliantly how clashes were seen in a broad historical context.

The Tokyo trial can be seen both as an act of war-making and peacemaking. “The proper starting point for understanding the Tokyo trials is not the elevated principles of international law but the bloody realities of the final months of World War II....it relied on the force of Allied arms to make good its promises of Justice.”<sup>3</sup> The Cold War was just beginning as the Tokyo trials commenced. Unlike its European counterpart, the Nuremberg trials in Germany, which did not have any official Jewish representation and perspectives, the Tokyo trials did have Chinese representation.<sup>4</sup> According to Bass, China was an important country because it was a victim of Japan’s crimes against humanity.<sup>5</sup> With a judge from China on the Tokyo trial bench there was a chance that a verdict for international justice could be made, because the Chinese had suffered so much at the hands of the Japanese.<sup>6</sup> The Chinese judge was appointed by Chiang Kai-shek (1887-1975), the leader and representative for a government that was about to be abolished by the communist party. Prosecuting Japanese war criminals was not seen as a high priority given the threat of a civil war in China. Even though Chiang Kai-shek was one of the victors of World War II, he soon would become a loser in the Chinese Civil War.<sup>7</sup>

“Catharsis,” part two of *Judgment at Tokyo*, examines the theme “Clash of Empires” by looking specifically at the Japanese

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<sup>2</sup> Bass, *Judgement at Tokyo*, 12.

<sup>3</sup> Bass, *Judgement at Tokyo*, 14.

<sup>4</sup> Bass, *Judgement at Tokyo*, 16.

<sup>5</sup> Bass, *Judgement at Tokyo*, 16.

<sup>6</sup> Bass, *Judgement at Tokyo*, 16.

<sup>7</sup> Bass, *Judgement at Tokyo*, 16.

military leaders on trial for war crimes. “Clash of Empires” also gives reference to the Nuremberg trial in Germany and how it can be juxtaposed to its Asian counterpart, the Tokyo trials. Part two also examines: the courtroom battles, the larger contexts of World War II, and the sociopolitical and economic geography of the overall Asian-Pacific region. This is certainly the longest and most detailed part of *Judgment at Tokyo*. It starts with “The Anatomy of the Tokyo Trial” and continues through the final chapter of Catharsis, “Tojo Takes the Stand.” Regarding Nanjing Massacre (1937-1938), Bass writes:

To be sure, the Tokyo court could not get a complete and evidentiary accounting of every substantial instance of Japanese killing of Chinese civilians; that would have taken many years. Yet it did get a compelling sampling about the massacres, rapes, and plunder in Nanjing, which showed distinct patterns of military conduct that strongly suggested an underlying method and the culpability of commanders. New Zealand’s judge was persuaded that it was arguable that the abuse of prisoners and civilians in China was “the responsibility of General Masui Iwane (1878-1948) directly and of other defendants indirectly.”<sup>8</sup>

Part three of *Judgment at Tokyo* is titled “Nemesis.” It develops the theme “Clash of Ideals” as it emerged in the courtroom battles. The Allies wanted justice and accountability for war crimes. The military leaders of Japan argued that their actions were noble because they were fighting against Western imperialism.

Idealism at the end of World War II was brief and imperfect. After Nazi Germany surrendered, President Truman (1884-1972) stated: We must heal the wounds of a suffering world to build peace that is rooted in justice and law.<sup>9</sup> These were legal aspirations that would usher in new forms of world organizations

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<sup>8</sup> Bass, *Judgement at Tokyo*, 256.

<sup>9</sup> Bass, *Judgement at Tokyo*, 22.

and international cooperation. The Allies would now use criminal law to prosecute war crimes instead of using retaliation as punishment for war crimes. This was the practice of countries during the eighteenth and early nineteenth centuries.<sup>10</sup> The men behind the Tokyo trial wanted to use international law to show the Japanese people that a war of aggression was not a lawful act of war but a crime against humanity; the laws of war should not be violated. Because Japan had violated these laws, the crimes committed against China, the Philippines, and other countries needed to be vindicated. Under the precepts of international law, Japan's ministers and generals needed to be tried for war crimes as individuals, rather than as "officers of the state."<sup>11</sup>

### ***Historical Content***

Eleven judges sat in judgment of Japan. The judges came from the countries that fought in the Pacific theater. These countries were Australia, Canada, China, France, India, the Netherlands, New Zealand, the Philippines, the Soviet Union, the United Kingdom, and the United States.

An Australian chief judge wrote privately, "The Tokyo and Nuremberg Trials are undoubtedly the greatest in all history; that cannot be contested."<sup>12</sup> The judges at the Tokyo trial hoped to build on the accomplishments of the Nuremberg trial. The Tokyo trial lasted for more than twenty-four months spanning across 1946, 1947, and 1948; the Nuremberg trial was accomplished in eleven months, in 1945 and 1946. "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

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<sup>10</sup> Bass, *Judgement at Tokyo*, 22.

<sup>11</sup> Bass, *Judgement at Tokyo*, 23.

<sup>12</sup> Bass, *Judgement at Tokyo*, 7.

war.”<sup>13</sup> The Tokyo judges hoped to lay a wider foundation for international law. This did not happen. Bass points out that the Tokyo trial was a political event that measured Asia’s colonial past and was the precursor to its Cold War future.<sup>14</sup> Prior to the publication of *Judgment at Tokyo*, the main thing people remembered from the Tokyo trial was that the East Indian judge, Radabinod Pal (1886-1967), had rejected the tribunal and most of the evidence. Pal was not the only judge who dissented. In the end, the final judgments and verdicts came from a slim majority of jurists composed of the Australian Judge William Webb (1816-1899) and in alliance with the British Commonwealth judges. As Gary Bass describes it, the prosecution in the trial was headed up by American Judge Joseph Keenan (1888-1954). “The top British diplomat in Japan privately called him “an ambitious but inefficient and vulgar man”, hectoring toward others, often visibly “very much the worse for drink.”<sup>15</sup> The Japanese defendants were poorly represented by Japanese lawyers who were aided by American attorneys brought in to help with language difficulties. The judge from the Soviet Union treated the defense attorneys as though they themselves were defendants and chastised them as propagandists or capitalists of imperialism. In the end, the court sentenced seven of the twenty-eight defendants to death by hanging.

The War in the Pacific (1941-1945) ended very differently from the war with Nazi Germany. The Nazis were defeated through battle, while in the Pacific, Japan surrendered to a negotiated proposal after the atomic bombing of Hiroshima and Nagasaki (1945). The process left in place some of the basic constructs of Japanese society and governments. Importantly, the position and status of the Japanese Emperor Hirohito (1901-1989), was maintained. Still, the Allies wanted to punish selected Japanese officers as war criminals. General Douglas MacArthur (1880-1964) ordered the arrests of the selected officers and

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<sup>13</sup> Bass, *Judgment at Tokyo*, 8.

<sup>14</sup> Bass, *Judgment at Tokyo*, 8.

<sup>15</sup> Bass, *Judgment at Tokyo*, 138.

established the International Military Tribunal of the Far East. MacArthur also included liberal reforms on Japanese society including freedom of speech, freedom of organization, women's rights, and the abolition of the Shinto cult.

MacArthur originally wanted to have an American trial that would focus on the 1941 Pearl Harbor attack; the dead Navy service members would be considered murder victims. This plan was overruled by President Harry Truman (1884-1972) and the whole matter was widened into an international examination of Japan's crimes against humanity. President Truman's thinking was, "We have set out on a path of establishing *international* responsibility for the type of conspiracy which resulted in the attacks on Poland by Germany and on Pearl Harbor and the Malay by Japan. Joining with the allies, Truman believed in a global vision of outlawing war."<sup>16</sup> The attorneys for the prosecution went back to 1931 the year of the Japanese invasion of Manchuria, then the 14-year war with China (1937-1945; including the Nanjing massacre), and the entire Pacific War that exploded after the Japanese attack on Pearl Harbor on December 7, 1941.

John Dower, in his book *Embracing Defeat: Japan in the Wake of World War II*, considers Japan's transition from wartime militarism to a democratic and peaceful society. Dower argues that Japan's political transformation was due to its defeat in World War II and its subsequent occupation by allied forces headed by the United States. Dower states:

defeat and occupation forced the Japanese, in every walk of life, to struggle, in exceptionally naked ways, with the most fundamental of life's issues—and that they responded in recognizably human, fallible, and often contradictory ways that can tell us a great deal about ourselves and our world in general.<sup>17</sup>

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<sup>16</sup> Bass, *Judgement at Tokyo*, 139.

<sup>17</sup> John W. Dower, *Embracing Defeat: Japan in the Wake of World War II* (New York: W.W. Norton & Company, 1999), 29.

The occupation of Japan by the US military made the citizens of Japan take a hard look at themselves.

One of the questions that Dower asks is whether Emperor Hirohito should be held accountable for Japanese aggression and war crimes during World War II. If Hirohito were not held accountable for the role he played during the War in the Pacific, then what role would the emperor play in reforms to Japanese society? It was decided that the emperor's subordinates would be investigated, charged, tried, and some executed for their war crimes, while the emperor remained free.<sup>18</sup> Because of this double standard, the Japanese people saw justice as being arbitrary. Dower states that "Serious engagement with the issue of war responsibility was deflected: if the nation's supreme secular and spiritual authority bore no responsibility for recent events, why should his ordinary subjects be expected to engage in self-reflection?"<sup>19</sup> Bass states that if the emperor was to be indicted, there would be consequences.<sup>20</sup> "He is a symbol which unites all Japanese. Destroy him and the nation will disintegrate.' In prose that was purple even by MacArthur's standards, he direly warned that almost all Japanese venerated the emperor and believed that the Allies had committed to keep him on the throne.... Hirohito was spared, at least for now."<sup>21</sup>

When Dower looks at the Tokyo Trial, he argues that the trials were more about race, power, and powerlessness because of the judge's perspectives of the world at the time.<sup>22</sup> "The trial was fundamentally a white man's tribunal."<sup>23</sup> It would be the Judge from India that would highlight the double standards of the Tokyo Trial. Justice Pal stated that, "It would be pertinent to our memory that the majority of the interests claimed by the Western

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<sup>18</sup> Dower, *Embracing Defeat*, 277-278.

<sup>19</sup> Dower, *Embracing Defeat*, 278.

<sup>20</sup> Bass, *Judgement at Tokyo*, 163.

<sup>21</sup> Bass, *Judgement at Tokyo*, 163.

<sup>22</sup> Dower, *Embracing Defeat*, 469.

<sup>23</sup> Dower, *Embracing Defeat*, 469.



Prosecuting Powers in the Eastern Hemisphere including China...were acquired by such aggressive methods.”<sup>24</sup>

Bass states in *Judgment at Tokyo: World War II on Trial and the Making of Modern Asia* that empire making, or “the history of empire,” is really about the “history of racism and that the imperialism of the Europeans and Americans needed to believe that the Asian people were inferior.”<sup>25</sup> Bass agrees with Dower that the Tokyo tribunal or trial was not only unjust, but racist. It was a White man’s court sitting in judgment of those that they found inferior.<sup>26</sup> The trial demonstrated White supremacy, rather than justice. The trial also demonstrated how race and racism stayed in the background of the day-to-day proceedings of the court; American reporters were able to mock the defendants, the justices knew that they could not say aloud what the American reporters were saying.<sup>27</sup>

### ***Effectiveness of Argument and Evidence***

*Judgment at Tokyo* provides the reader with a comprehensive examination of the Tokyo Trials that took place after World War II. Bass questions the effectiveness of the Military Tribunal of the Far East. To answer this question, Bass looks at issues such as victors’ justice, the contextualizing of the trial, on points of law,

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<sup>24</sup> Dower, *Embracing Defeat*, 471. Pal would also comment “on the ways in which the positive rhetoric of imperialism and colonialism of the Europeans and Americans became transmogrified when associated with Japan: As a program of aggrandizement of a nation we do not like, we may deny to it the terms like ‘manifest destiny,’ ‘protection of vital interests,’ ‘national honour’ or a term coined on the footing of ‘the white man’s burden,’ and may give it the name of ‘aggressive aggrandizement’ pure and simple.”

<sup>25</sup> Bass, *Judgement at Tokyo*, 20.

<sup>26</sup> Bass, *Judgement at Tokyo*, 20.

<sup>27</sup> Bass, *Judgement at Tokyo*, 21. “By the end of the war, American hatreds were so intense that the U.S. secretary had to urge Truman to disavow the annihilation of the Japanese race. That is why the Potsdam Declaration, laying out the terms for Japan’s unconditional surrender just before the atomic bombs fell, menacingly states, ‘We do not intend that the Japanese shall be enslaved as a race or destroyed as a nation.’”

politics, and the long shadows the trial subsequently generated.<sup>28</sup> To determine how the Tokyo Trials evolved, Bass demonstrates how the trial attempted to avoid victors' justice and used the Cold War as a backdrop for context.

Trying to avoid the bias of victors' justice during the Tokyo trials was hard to do because the victors set the mandate, populated the judge's bench, and exempted themselves from having their own conduct examined. First, there were no charges brought against the Americans for their conduct, such as the bombing, and fire-bombing of Japanese cities, or for the dropping of the atomic bombs. Secondly, there were no Japanese judges, the victors alone populated the judges' bench; and third, the courtroom proceedings showed the wartime resentments and bigotry of the victorious nations regarding Japan.<sup>29</sup> "Many of the deepest fissures on display in the courtroom were about empire...European imperialism did much to tarnish the legitimacy of the Tokyo tribunal."<sup>30</sup> However, if it were to be true victors' justice, the Emperor would have been put on trial but Hirohito's salvation was done for political reasons. By not putting the emperor on trial and having him remain on the throne with his conservative elites, forever muddled the postwar debates regarding Japan's responsibility as there was a sense that Japan might have fought a patriotic war, even a legitimate war.<sup>31</sup>

To properly contextualize the Tokyo Trial, it is necessary to remember that the postwar period was also the beginning of the Cold War with the Soviet Union:

While the Tokyo trial was wrapping up, the Truman administration was taking a hard look at its Japan policy. With tension escalating fast with the Soviet Union, officials in Washington realized how strategically useful an anti-

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<sup>28</sup> Victors' justice refers to the distorted application of justice to the defeated party by the victors after an armed conflict.

<sup>29</sup> Bass, *Judgement at Tokyo*, 14.

<sup>30</sup> Bass, *Judgement at Tokyo*, 17-18.

<sup>31</sup> Bass, *Judgement at Tokyo*, 15-16.

Communism Japan could be. Maybe Japan was the price after all, not China...the Cold War necessitated a new realpolitik-minded strategy there—what became known as the “reverse course.”<sup>32</sup>

During the Cold War, Japan was important to the United States because of its geographical location. The United States would also gain an important ally in Japan. President Truman’s realpolitik strategy became the Cold War policy of the United States to contain the spread of Communism.<sup>33</sup>

Bass proves that the Tokyo Trial was political and full of hypocrisy. Out of the eleven judges that sat on the bench during the trial, only three were from Asian countries: China, India, and the Philippines. South Korea and Taiwan were not represented. This was a glaring omission. The Tokyo trial looked at Japanese imperialism after Japan had acquired these countries.<sup>34</sup>

The Americans dropped incendiaries and the atomic bombs on Japanese cities. They were not scrutinized for their crimes against humanity. The head of the Japanese biological weapons operation, General Ishii Shiro (1892-1959) was never prosecuted for crimes against humanity. Nor were the Soviets who were also guilty of aggression and crimes against humanity.<sup>35</sup> Furthermore, the victors of World War II made no effort to scrutinize their conduct during World War II, nor did they uphold themselves to the legal standard set forth at the Nuremberg trial.<sup>36</sup>

In conclusion, *Judgement at Tokyo* is a must have book for historians and avocational historians of the United States, Asian, and Japanese histories.

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<sup>32</sup> Bass, *Judgement at Tokyo*, 487.

<sup>33</sup> Bass, *Judgement at Tokyo*, 487.

<sup>34</sup> Bass, *Judgement at Tokyo*, 10.

<sup>35</sup> Bass, *Judgement at Tokyo*, 29.

<sup>36</sup> Bass, *Judgement at Tokyo*, 29.

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### **Author Bio**

Pamela Budinger is a current graduate student at California State University, San Bernardino. After working in the departments of anthropology and paleontology at the San Bernardino County Museum, Pamela Budinger enrolled at Chaffey College to pursue a growing interest in photography. While working toward an A.A. degree, she came upon Daniel Loomis' history classes. A latent interest in history, especially American history, was rekindled by taking those classes. Her friendship with Loomis continues today. In 2019, Pamela enrolled at California State University, San Bernardino to pursue a bachelor of arts degree in history. She completed her bachelors' program in the Spring of 2022. That fall, she enrolled in the M.A. program for American history. She has enjoyed classes with Dr. Jeremy Murray and Dr. Ryan Keating. Her thesis concerns How Harper's Weekly Reported on Andersonville. Pamela is currently finishing her master of arts degree and will graduate in December 2024. Pamela is married to Archaeologist Fred E. Budinger, Jr. They live in San Bernardino with two wonderful dogs and two cats. She keeps busy.