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Barak Kushner, *Men to Devils, Devils to Men: Japanese War Crimes and Chinese Justice*. Cambridge, MA: Harvard Univ. Press, 2015. Pp. ix, 403. ISBN 978-0-674-72891-2.

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This book comes at a particularly pertinent time when Japan, Taiwan, and China are reassessing their relationships in the light of China's rising economic and military power. For this reason alone, readers will find much of interest as Barak Kushner (Univ. of Cambridge), a specialist in modern Japanese history, addresses the "lost narrative" of the immediate aftermath of the Pacific War. He concentrates on efforts to adjudicate Japanese war crimes committed in China as "a key element to understanding the full arc of postwar Sino-Japanese relations" (4). He devotes two chapters to the trials run by the nationalist Kuomintang (KMT) in 1946-49 and the Chinese Communist Party (CCP) in 1956.

Although there have been recent comprehensive studies¹ of the International Military Tribunal for the Far East (IMTFE), held in Tokyo in 1946-48, which tried "A" class crimes (against peace), the so-called "minor" war crimes trials are less well known. These trials, concerning crimes classified as either "B" (against humanity) or "C" (conventional war crimes), were conducted by several Allied countries in the Asia-Pacific region. As Kushner indicates with a map and related list (viii-ix), Britain and the Netherlands held trials at eleven and twelve locations respectively, Australia at nine locations² and the United States at five. Kushner offers a rare insight into a prosecution of Japanese by non-Western Allied states.³

Kushner identifies differences in the approaches to war crimes trials of Nationalists and Communists in the transition from war to peace, as each side strove to control China. Although summary executions were an option to avenge atrocities committed by the Japanese occupation forces during the war, the KMT government chose, Kushner writes, to pursue justice through international law "as a means to fortify [its] own fragile legitimacy" (31) both domestically and globally.⁴ However, Kushner argues, the CCP-run trials, held seven years after the establishment of the People's Republic of China (PRC), had a different purpose: the re-education of Japanese war criminals.

In his thought-provoking introduction, the author raises interesting questions about the role of legal memory and its transnational impact (22). He contends that the Dutch, French, British, and Australians (8) sought to use international law to perpetuate colonialism in the postwar era.⁵ More intriguing, however, is his triangular analysis of these historical issues from Japanese, Chinese, and Taiwanese viewpoints. The Japanese military forces, Kushner reminds us, were still present in great numbers in vast areas of China at the time of the August 1945 surrender and were occasionally even called upon to keep order. They had at their disposal military equipment coveted by both sides in China's Civil War. Throughout, the author highlights the complex ramifications of the volatile postwar situation for all the key players in the region.

Chapter 1, "Defeat in Denial: The Regional Impact of Japan's Surrender," explores the mechanics of surrender at several locations by the involved nationalities and forces, but also the Japanese denial of defeat. Kushner taps many unfamiliar sources in discussing Japanese views of war crimes and the transformation of

1. See, esp., Yuma Totani, *The Tokyo War Crimes Trial: The Pursuit of Justice in the Wake of World War II* (Cambridge: Harvard U Pr, 2008).

2. Kushner counts Ambon as a separate location, whereas I consider it a Morotai trial because it was transferred there in February 1946 for completion—see my "The Morotai Trials," in *Australia's War Crimes Trials 1945-51* (Boston: Brill Nijhoff, forthcoming).

3. Besides China and Taiwan, the only other Asian-run trials took place in the Philippines, independently of the American-run trials there.

4. Nationalist China was a permanent member of the UN Security Council.

5. The two successive Australian governments that held war crimes trials were, in fact, responding chiefly to domestic pressures.

the Japanese from “perpetrators” to “victims.”⁶ For example, he throws light on the Japanese imperial navy’s protection of its own from prosecution, quashing the myth of the navy’s “supposed altruistic ‘bushido’ behaviour”(55) during the war.

Chapter 2, “Devil in the Details: Chinese Policies on Japan’s War Crimes,” moves from describing the Chinese role at the IMTFE to explore the contrasting policies of the KMT and the CCP concerning the B and C class suspects. The KMT was more preoccupied with removing Japanese forces from China than locating war criminals; the CCP, on the other hand, was at pains in its areas of control to show a keen pursuit of justice. Kushner’s treatment of such local policy variations gives readers sharp insights into the complexities of a transitional period in Chinese history.

Chapter 3, “Flexible Imperial Identity: Administering Postwar Legal Guilt,” concerns the knotty problem of identity and the culpability of Taiwanese and Korean colonial subjects who, having been conscripted into the Imperial Japanese forces, participated in war crimes. This was one of the first issues that confronted Chinese officials in compiling lists of (particularly Taiwanese) suspects. Were they to be classed as collaborators with the enemy? Answering that question entailed “immense legal gymnastics and social engineering in pursuit of ... justice in contested areas” (112).

Chapter 4, “Chinese Nationalist Justice: The KMT Trials,” the longest in the book, is disappointing. Kushner chooses four trials he considers “representative” (139), but never states how they were typical of all 605 cases tried in KMT courts. Problematically, all his chosen cases were tried by the Nanjing Special Military Tribunal, consisting of five judges, presided over by Judge Shi Meiyu (156). He selects no cases from the other nine locations, where different sets of judges presided. Was Nanjing, so closely linked with one of the major wartime atrocities, truly “representative”?

Kushner states that each case represents “a certain genre of the sort of decision-making process the KMT had to make regarding Japanese war criminals” (139). However, he does not specify the relevant “genre” in each case. His first example, the trial of Lt. Gen. Sakai Takashi, seems to have been chosen because the accused was already in KMT hands, whereas the next case, concerning Lt. Gen. Tani Hisao, involved extradition from Japan to face charges for the actions of his troops during the Nanjing Massacre. These were “command responsibility” cases (although Kushner does not so describe them), while the third case involved the trial of two second lieutenants for their own personal actions in the “100-Man killing contest.” The final case seems to have been selected because it resulted in the release of the accused, Gen. Okamura Yasuji. As categories, these are neither very satisfactory nor representative of B and C class trials in general.

Unfortunately, Kushner too often accepts the assertions of other researchers without making necessary qualifications. For example, he repeats Hayashi Hirofumi’s finding⁷ [[source?]] that the KMT trials had a high acquittal rate (40 percent) compared with those held by other victorious states; he then argues that this statistic reflected the KMT’s desire to improve relations with Japan in preparing for its coming struggle against the CCP (140). But later in the chapter, Kushner refers to a report by the Foreign Affairs office of the KMT government which (more plausibly) noted that most cases ending in acquittals involved missing evidence (141). He also cites Ikō Toshiya’s finding⁸ that the investigations and collection of information did not meet international standards “and this weakness corroded many of the Chinese cases” (140). This, too, is a more likely explanation of the high acquittal rate.

Chapter 4 also suffers from poor organization. Too many digressions deflect the focus from the main subject, the KMT trials. Kushner wanders off into the IMTFE trials and the decision not to try the emperor (an A class matter belonging in chapter 2) and the Japanese attitude to war crimes trials (a topic more appropriate to chapter 1), before returning to the four Nanjing trials (141–47). Then in the middle of his account of the trial of Tani Hisao, Kushner jumps to discussing Lt. Gen. Isogai Rensuke, “who was equally important because he had committed a portfolio of crimes in Hong Kong” (158). But Isogai was tried at

6. Now a relatively familiar story; see Totani (note 1 above).

7. *BCKyū senpan saiban* (Iwanami, 2005) 102–3.

8. “Chūgoku kokumin seifu no nihon senpan shobatsu hōshin no tenkai (ge),” *Kikan sensō sekinin kenkyū*, dai 33gō (winter 2001) 73.

Nanjing in a separate case. In a paragraph detailing the efforts of the British to send their own prosecutor to the Isogai trial because they had been instrumental in collecting the evidence against him, Kushner misleadingly implies that the request for any sort of British participation was refused.⁹ He then returns to the trial of Tani. There is no indicated connection between the cases of these two Japanese officers except that both were of high rank and were being held responsible for war crimes committed by subordinates.

The next sections of chapter 4 elucidate the remaining two trials selected for discussion. Kushner doubts that the so-called “100-Man Killing contest” actually occurred and charts its gradual conversion into mythology in Japanese newspapers and textbooks. He presents a brilliant analysis of the strange acquittal of Gen. Okamura Yasuji, whom the CCP classed as a top war criminal for his role in the Expeditionary Army in China. It is a pity not all the case studies in this chapter are so well structured, especially since no English-language Law Reports of these trials have been published.¹⁰

Following chapters 5, “Taiwan: Political Expediency and Japanese Imperial Assistance,” on the postwar struggle of the KMT to assert control in Taiwan, and chapter 6, “An Unsatisfying Peace: Shifting Attitudes on War Crimes,” chapter 7, “Socialist Magnanimity: The CCP Trials,” examines the second set of war crime trials held in China in 1956 at Shenyang and Taiyuan. The CCP evidently achieved its re-education goal of transforming war criminals from “devils to men,” because every defendant admitted to committing crimes. Kushner believes their expressions of remorse were genuine and notes that they continued in Japan after their repatriation (249). He distinguishes three groups of Japanese war criminals in CCP hands (258) and discusses the changing criteria for selecting those to be tried. However, despite the chapter’s title, it gives short shrift to the actual trials (281) and their impact (293). Kushner is clearly more interested in the political and diplomatic contexts of the trials and the re-education techniques practiced on prisoners (273–80) than in the trials themselves.

Again in this chapter, Kushner wanders into diversions such as the Angus Ward diplomatic spy case (255–56) and the brainwashing of American POWs during the Korean War (280–81). These unnecessarily distract the reader from the account of how war crimes trials of the Japanese suited CCP policy, particularly in relation to the KMT. As often in this book, Kushner needed a competent editor to cut extraneous material.

The book’s conclusion offers glimpses of the memory of the B and C war crimes trials in Japan, mainland China, and Taiwan. After identifying the international and domestic considerations that fostered amnesia about the trials in those countries, Kushner outlines the checkered post-trial lives of some of the prosecutors in Chiang Kai-shek’s Taiwan and Mao’s PRC (304–5). He also points out that in Japan the temporary or permanent removal of war criminals created “political vacanc[ies] for new leaders to fill” (306) and that other Japanese, whether unindicted or released after conviction, served in senior posts. Kushner’s tantalizing suggestion that war crimes charges were “employed as political tools by Japanese ... politicians as a means to further their own careers or to sideline their opponents” (306) could be the basis for another book.

Apart from some minor inaccuracies,¹¹ *Men to Devils, Devils to Men* contains much valuable material on war crimes trials in Asia in the immediate postwar period. It also places a salutary emphasis on trials conducted by non-Western Allied powers. The reader must understand, however, that Barak Kushner regards the war crimes “as another space for wartime and popular memory to reside” (307) and does not aim to provide a history of actual trials.

9. British Capt. F.V. Collinson did in fact attend as an official observer and wrote a report now held in the UK National Archives: see Suzannah Linton, “War Crimes,” in Suzannah Linton, ed., *Hong Kong’s War Crimes Trials* (NY: Oxford U Pr, 2013) 119, 109n.

10. A brief report of the Sakai trial appears in UN War Crimes Commission, *Law Reports of Trials of War Criminals*, vol. 3 (London: HMSO, 1948) 1–7. Some translated reports of KMT trials are in the UK National Archives.

11. In the map and related list (viii–ix), Manus Island is wrongly positioned on the east coast of mainland Papua New Guinea rather than in the Admiralty Islands, the “out of sight, out of mind” location of Australia’s mandatory detention center for asylum-seekers. The USSR’s 1949 trials of Japanese medical experimenters at Khabarovsk are missing from both map and list. Some of the statistics provided in the table of B and C class war crimes (9) are erroneous: e.g., the first of Australia’s 300 (not 294) trials began in late November (not February) 1945, and 137 (not 153) men were executed—see Georgina Fitzpatrick, “Death Sentences, Japanese War Criminals and the Australian Military,” in *Australia’s War Crimes Trials 1945–51* (note 2 above). After the Labuan trials (121), 22 (not 7) of those convicted had their sentences commuted and the 2 who were hanged went to the gallows at Rabaul, not Morotai.