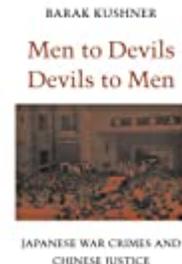


Barak Kushner. *Men to Devils, Devils to Men: Japanese War Crimes and Chinese Justice.* Cambridge: Harvard University Press, 2015. 416 pp. \$45.00 (cloth), ISBN 978-0-674-72891-2.



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The plot of Dorothy Sayers's 1935 mystery *Gaudy Night* turns on the suicide of a literary historian whose magnum opus was destroyed by the discovery of a single document that refuted his entire thesis. Every historian lives in some dread of the next archival discovery that could consign years of work to the dustbin. None perhaps are more vulnerable than those who study China, an ancient civilization and vast nation, with a modern history disrupted by colonialism and civil war and then wrapped in government secrecy. After the 1949 creation of the People's Republic of China (PRC), Westerners with an academic interest were often reduced to decoding propaganda, tracking leadership turnover, or hoping that visiting Chinese colleagues would speak in confidence, without incriminating the speaker or the listener. Since the 1990s, with the PRC government more open, access to information has improved and, with the end of martial law in Taiwan in 1987, researchers have better access there as well. Young Asian and Western scholars are greatly enriching our understanding of China, not as a nation apart but in its regional and world relationships. Their transnational frameworks for analysis and perhaps their factual discoveries may unsettle their professors.

Barak Kushner, University Senior Lecturer in Modern Japanese History at Cambridge University, is part of

the new, linguistically prepared generation enjoying this liberal phase. In his new book, *Men to Devils, Devils to Men*, he shows exceptional acumen in analyzing the difficult period just after World War II when China, victoriously allied with the West, sought justice for war crimes committed by the leaders of defeated Japan. The author has mined invaluable postwar sources in the original Chinese and Japanese and added to them references to the writings of contemporary Asian commentators, also untranslated and difficult for the ordinary reader to check—although nearly everything these days can be found on the Internet.

In 1945, a small group of American lawyers working under secretary of war Henry Stimson created the codes and specified the legal process for bringing top Nazi war criminals to justice (the alternative had been to shoot them). The innovations challenged and sometimes confused the Allies and led to years of legal quarrels. The Nuremberg Charter, for example, introduced two new definitions of war crimes—the crime of aggressive war and crimes against humanity. The Four Powers (the United States, Great Britain, the Soviet Union, and France) were entitled to hold a military tribunal to prosecute a small, representative number of defendants.

The subject of Kushner's book is what happened when these innovations, through US influence, made their way into Chinese law, shaped Nationalist China's war crimes tribunals (more than 600 by late 1949), and affected relations with Japan. The Class A Japanese war criminals, mostly those held responsible for waging aggressive war, were put on trial in Tokyo in 1946 at the International Military Tribunal for the Far East (IMTFE). A corollary to the International Military Tribunal at Nuremberg, with a nearly identical charter, the Tokyo trial was the most international of any international criminal tribunal before or since; it assembled judges and prosecutorial teams from eleven Allied nations: the Four Powers plus China, Australia, Canada, New Zealand, the Netherlands, India, and the Philippines. Of these, China had the longest and most brutal history of Japanese armed invasion and oppression.

In his introduction, Kushner points out the well-known distinction in Western law between *jus ad bellum*, the rules guiding the initiation of war, and *jus in bello*, the customs of law that impose limits on its conduct. The crime of aggressive war (designated a Class A crime) referred to the illegal initiation of war, as in Japan's attack on Pearl Harbor or its 1937 provocation of the Sino-Japanese War. Crimes committed in war, for example, abuses of prisoners of war, and destruction of enemy property and the environment were classed as Class B war crimes. Class C war crimes referred to atrocities, especially violence to civilians; the thought in mind in Nuremberg was the Nazi mass murders of Jews, Poles, and Russians.

The remaining seven chapters of *Men to Devils* take on complicated history episodes with admirable clarity. In the first chapter, the tumult of the Japanese surrender is covered in fine detail, with an important corrective. General Douglas MacArthur, leader of the US occupation in Tokyo and the Harry Truman administration in Washington both believed that the Japanese surrender had been speedily accomplished after the signing of the Surrender Instrument on September 2, 1945. Japan itself was calm. Kushner points out that the Japanese Empire stretched across the Asia-Pacific region and took time to disintegrate. In China and Manchuria, the largest affected area, Japanese soldiers and the civilians who had been living there for years were swept up in the chaos of the war's end and in China's continuing civil war with the Chinese Communist Party (CCP). Kushner dismisses historian John Dower's account of the rapid Japanese accommodation to the occupation (their embracing defeat) as too focused in Japan's four home islands and its relationship with the United States, at the

expense of comprehending how Japan, the colonial hegemon, related to its East Asian neighbors (p. 67). He also makes no reference to Dower's 1986 book *War Without Mercy: Race and Power in the Pacific War*, which documents American wartime stereotypes of the Japanese and would have made a good basis for comparison, especially for the devilish images and Japanese wartime propaganda, about which Kushner has written an earlier book (*The Thought War: Japanese Imperial Propaganda*, 2005).

Chapter 2 offers a fascinating view of the Chinese struggle to affirm its national sovereignty through its handling of war crimes tribunals and Japanese prisoners. Chapters 3 and 4, the heart of the book, follow through with how the Chinese administered justice in competition for jurisdiction with the Allies, especially the United States. Given the over 600 war crimes trials that the Chinese held and the often fragmentary nature of their records, it is to the author's credit that he makes sense of this period and the demands on the Chinese to select defendants, provide for prisoners, and decide between acquittal and punishment, which tended to be lenient. The fifth chapter, on Taiwan, adds a note of complexity. The training of Nationalist troops by a contingent of former Imperial Japanese officers—a surprising alliance—illustrated the respect with which certain high-ranking military were held, if and when they could give an advantage in battles against the CCP forces.

The defeat of the Chinese nationalists in 1949 and the re-establishment of their government in Taiwan leads to chapter 6 and the Cold War context for war crimes adjudication, which markedly slowed, not only in Asia but in Europe. The Nationalists with defeat curtailed their tribunals; the People's Republic was more preoccupied with its own domestic reorganization and the purges of counterrevolutionaries and spies. The PRC involvement in the Korean War was a further distraction. In 1951, the San Francisco Peace Treaty gave Japan back its autonomy (with provisions attached) and with it the Japanese retrieved some control of the fate of war criminals still imprisoned. Here the book's discussion shifts to the growing cynicism of the Japanese population about so-called war crimes and the legitimacy of the IMTFE and the hundreds of other trials of Japanese war criminals. By 1955, all those convicted at the Tokyo trial, even those given life sentences, were freed from prison. What, then, was the meaning of justice? Kushner adds new detail and nuance to the Japanese shift towards seeing themselves as victims, not perpetrators, of the dreadful war.

Chapter 7 is the best in the book. In about 50 pages,

the author covers what happened to Japanese prisoners of war still captive in the People's Republic in the early 1950s or delivered there from the Soviet Union. Benevolence was the policy and education the goal. Trial transcripts and personal remembrances add to the drama of this chapter, in which the CCP aim of maximizing political impact is not forgotten. One thinks back to the 1979 book by Philip R. Piccigallo, *The Japanese on Trial*,

with its brief but very good overview of the Chinese war crimes trials, and cannot help but be grateful for Kushner's revival of a time otherwise erased from history and still needing more investigation and thought. It is often said that, compared to the Nuremberg trial, little attention has gone to the prosecution of the Japanese. *Men to Devils* helps right the balance.

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