The trial of major Japanese war criminals at the International Military Tribunal for the Far East (IMTFE, 1946–1948), which is commonly known in Japan as Tōkyō saiban ("Tokyo Trial"), was a watershed moment in the history of modern Japan and a landmark in the field of international law. By modeling on the trial of major German war criminals at the International Military Tribunal at Nuremberg (IMT, 1945–1946), the Allied Powers sought to establish at Tokyo accountability for aggression and atrocities that the Japanese had committed since around the time of the invasion of Manchuria in northeastern China in 1931 through the end of World War II in the Asia-Pacific region in 1945. Just like the Nazi German leaders who were accused at Nuremberg, some two-dozen wartime Japanese leaders faced charges based upon the crime of aggression (then known as “crimes against peace”), war crimes, and crimes against humanity. All but one were convicted of crimes against peace, and ten were found guilty of war crimes. Seven of those who were found guilty of war crimes were sentenced to death by hanging. The rest received life or limited terms of imprisonment.¹ The death sentences were carried out in the early morning of 23 December 1948, shortly after the United States Supreme Court’s dismissal of an argument made by the defense counsel that the IMTFE should be subject to the American Supreme Court’s judicial scrutiny. Five of those who served their sentences at Sugamo Prison in Tokyo, Japan, died of illnesses, while all the others were set free in the 1950s. A few returned to public life after their release, including Shigemitsu Mamoru, who rose to once again hold the position of the Foreign Minister (1954-1956).

Of the two trials, the one at Nuremberg gained overnight recognition as a historic trial that advanced the cause of international justice. According to a 1992 retrospective account of the Nuremberg trials by Telford Taylor, who was a leading member of the American prosecution team at the IMT trial and the chief prosecutor at the twelve subsequent proceedings at the Nuremberg Military Tribunal (NMT, 1946–1949), it

¹ The number of defendants was initially 28, but it was subsequently reduced to 25 due to one case of mental unfitness to stand trial and 2 deaths from illnesses. The person who was acquitted of crimes against peace, General Matsui Iwane, was convicted of war crimes in connection with the “Rape of Nanking,” an episode of mass atrocities committed by the Japanese troops of the Central China Area Army in occupied Nanjing in December 1937–February 1938. Matsui was commander-in-chief of the area army.
The book under review, Judgment at Tokyo: World War II on Trial and the Making of Modern Asia by Gary J. Bass, is a welcome addition to the existing historical literature on the Tokyo Trial not only because it carries forward into the twenty-first century the tradition of narration for the benefit of the Western reading public, but also because it raises the standard in the craft of narrating to a new level. This book, to begin with, adopts an ambitious framework in both time and space when treating the Tokyo Trial as a contested space of international relations during Asia's transition from the era of colonialism to an uncertain, prolonged postwar nationalist struggles. While the framework of international relations has precedents in the existing historical literature, this book adopts a broader timeframe and regional scope in underscoring the trial's significance for the postwar political reckoning by the new and old powers in the Asia-Pacific region. 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,” the author thus writes. “With prosecutors and judges drawn from eleven different Allied countries—the Tokyo trial was a sweeping panorama of the making of postwar Asia” (8). Second, the sources consulted by the author are unprecedented in terms of their breadth and diversity. Not only was the author guided by the latest research by historians, legal scholars, and international relations experts, but he also makes extensive use of archival documents and oral history materials he collected from multiple sites in Australia, China, France, India, Japan, the

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3 The pathbreaking research piece that has analyzed the Tokyo trial as a contested space of international relations is Higurashi Yoshinobu, Tōkyō saiban no kokusai kankei: kokusai seiji ni okeru kenyoku to kihan (International relations of the Tokyo Trial: Power and norms in international politics) (Tokyo: Bokutakusha, 2002).
Third, the broad framing and wide-ranging sources enable the author to weave a richly textured epic-scale story of the Tokyo Trial against the historical backdrop of Asian decolonization. This book is particularly adept at bringing to light the competing visions of Asia’s past, present, and future that informed the thoughts and behavior of key trial participants—especially the judges representing China, India, and the Philippines as well as the individual Japanese defendants—and that continue to inform the political discourses on war memory in present-day Japan and Asia. Above all, *Judgment at Tokyo* makes the Tokyo Trial accessible to general readers by virtue of the author’s superb storytelling skills that vivify the court proceedings and behind-the-scenes drama.

The narrative that frames the Tokyo Trial as a contested space for the postwar remaking of Asia, however, has certain drawbacks. First, it tends to downplay the fact that the participants in the IMTFE proceedings—namely, the members of the prosecuting agency, the defense, and the judges—looked to the IMT trial for precedents and guidance, and that, at the end of the day, there emerged a significant area of convergence as well as differences in the final decisions arising from the two tribunals. It is noteworthy, in particular, that the majority of the justices at Tokyo generally regarded the Nuremberg decision as authoritative, and that they concurred with the main part of the Nuremberg judgment. The area of convergence includes the following: (a) that the international-law instruments culminating in the Pact of Paris in 1928 made aggressive war a punishable offense under international law; (b) that the application of the doctrine of criminal conspiracy was lawful with regard to the charges of crimes against peace; (c) that those who committed crimes against peace, war crimes, and crimes against humanity were individually and criminally liable under international law; and (d) that neither the acts-of-state doctrine nor superior orders constituted a valid defense although the latter may be considered in mitigation of punishment. The principles of individual criminal liability that Tokyo upheld, in other words, were the same as the ones advanced by Nuremberg. The fact that the two tribunals were in agreement on core legal issues, in this reviewer’s opinion, ought to have been highlighted in *Judgment at Tokyo*, so that readers would have had the opportunity to determine whether the Tokyo Tribunal alone deserved the criticisms of being flimsy in its legal arguments as the author suggests, or whether these criticisms should apply equally to its predecessor at Nuremberg. Similarly, if one were to agree with the author’s assessment that the exclusion of Emperor Hirohito enfeebled the legitimacy of the Tokyo Trial, one would need to ask whether the same should be

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4 For concise statements and lists of sources the author has used for *Judgment at Tokyo*, see “Notes” (695-8) and the endnote no. 26 of “Introduction” (699). Nariaki Nakazato’s *Neo-nationalist Mythology in Postwar Japan: Pal’s Dissenting Judgment at the Tokyo War Crimes Tribunal* (Lanham, MD: Lexington Books, 2016) is not mentioned in *Judgment at Tokyo* although this may be by an oversight. Nakazato’s work offers an authoritative account of the intellectual biography of the Indian member of the IMTFE and is an indispensable source and guide for researching about him in India.

said of Nuremberg given the exemption from trial of a number of Nazi doctors and rocket scientists even though they were suspected of committed heinous crimes.6

Second, by focusing on the delineation of the competing ideas on law, politics, ideology, ethics, and morality of diverse trial participants, the author is able to tell the story of how the Tokyo Tribunal ended up delivering split judgments—a majority decision supported by eight justices, two separate concurring opinions, and three separate dissenting opinions—instead of reaching a unanimous decision as was the case at Nuremberg.7 Yet this type of narrative tends to relegate the substance of the justices’ actual legal and factual findings into the realm of incidental importance, and it, in turn, leaves the question unresolved as to what, in the final analysis, one should understand were the Tokyo Tribunal’s accomplishments and shortcomings in establishing accountability. This constitutes a missed opportunity of Judgment at Tokyo because the story of the Tokyo Trial is incomplete without an analysis and assessment of its legal and jurisprudential legacies.

It is worthwhile pointing out that the accomplishments and shortcomings of the Tokyo judgment are many. On the one hand, the majority opinion—which was adopted as the judgment of the Tokyo Tribunal—can be credited for strengthening the international criminal justice norms by way of upholding the Nuremberg principles. The majority also set forth novel theories of government responsibility that helped establish the individual criminal liability of not only military commanders but also government officials for the crimes perpetrated by the members of their national armed forces. The Tokyo majority’s theories can be regarded as an important jurisprudential contribution to the present-day international criminal tribunals where the prosecution, the defense, and the judges continue to grapple with the question of senior political and military leaders’ responsibility for international offenses.8 On the other hand, the majority opinion suffered a number of glaring shortcomings that undercut the significance of the Tokyo Trial as “the other Nuremberg.” The most egregious one is its failure to provide a reasoned legal and factual basis on which to support the findings of guilty and not guilty. The majority justices generally gave short shrift to the individual defendants’ cases. The verdicts were characteristically brief (a little over one page per defendant in the print edition), the analysis of admitted evidence was often superficial and contradictory, and the application of the criteria of responsibility was markedly inconsistent. The majority

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7 The judge representing the Soviet Union at Nuremberg, while supporting the tribunal’s decision, also submitted a separate opinion.

8 The Tokyo majority’s theories on government responsibility may be controversial because the majority ruled that, with regard to the members of the cabinet, the principle of collective responsibility should apply. For more discussion and analysis, see David Cohen and Yuma Totani, The Tokyo War Crimes Tribunal: Law, History, and Jurisprudence (Cambridge University Press, 2018), 340–8.
justices in the end acquitted more than a half of defendants on charges of war crimes even though they had documented inculpatory evidence in the main part of the judgment.  

The majority opinion’s central shortcoming as briefly outlined above stands in stark contrast with a 658-page draft judgment produced by Sir William F. Webb, the Australian member and the president of the Tokyo Tribunal. On the last day of the trial, Webb revealed the existence of a separate judgment which he had drawn up because he had been “unable to agree with a majority of the Tribunal on the law and on the method of approach to the ascertainment of the facts.” He went on to disclose that more than 380 pages of his judgment were devoted to “the individual cases including some preliminary observations on the Indictment, the imputing of knowledge of the accused, and the considerations bearing on punishment.” It is a matter of conjecture as to why Webb ultimately joined the majority while withdrawing his judgment except of a small portion of it (which he submitted as the separate opinion of the president) even though he must have been aware that his judgment was vastly superior to the majority opinion and all other separate opinions for its sound reasoning and case analyses. Judgment at Tokyo touches on the existence of Webb’s judgment and the circumstances of its withdrawal, but it states little else about its historical significance. In this reviewer’s opinion, Webb’s last stand as manifested in the 658-page judgment would have made a great story and, more importantly, would have enabled the readers to be better equipped to assess the trial had Judgment at Tokyo given the Webb judgment much fuller treatment. It is hoped that, when the next-generation authors undertake a book project on the Tokyo Trial in the future, they will build on the accomplishments of Judgment at Tokyo while also illuminating the trial’s legacies in law and jurisprudence. Such a book will be able to deliver through the lens of Tokyo a larger story about the historical development of international criminal justice norms and practices in the twentieth and twenty-first centuries.

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9 Those who were found not guilty of war crimes were nevertheless convicted of the charges of crimes against peace. For individual verdicts in the majority opinion, see Neil Boister and Robert Cryer, eds., Documents on the Tokyo International Military Tribunal: Charter, Indictment and Judgments (Oxford, UK: Oxford University Press, 2008), 598-626.

10 Boister and Cryer, Documents on the Tokyo International Military Tribunal, 631.