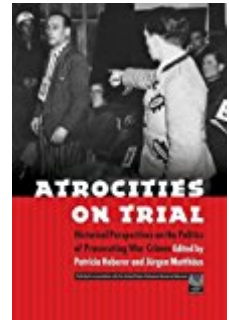


Patricia Heberer, Jürgen Matthäus, eds.. *Atrocities on Trial: Historical Perspectives on the Politics of Prosecuting War Crimes*. Published in association with the United States Holocaust Memorial Museum. Lincoln: University of Nebraska Press, 2008. xxx + 327 pp. \$29.95, paper, ISBN 978-0-8032-1084-4.



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The revival of international legalism in the mid-1990s has witnessed a parallel growth of interest in the history of trials for mass atrocities. While the International Military Tribunal (IMT) at Nuremberg has long attracted attention, the panoply of other proceedings against the crimes of the Axis after World War II, whether in the Allied military courts in Europe, in German domestic courts, or in the Far East, have only recently become the topic of substantial and sustained historical investigation. The present volume makes a valuable addition to this burgeoning literature. Focusing on trials for Nazi atrocities, it examines trials conducted by the Allied military authorities beyond the IMT trial and by the Germans themselves, as well as some of the longer-term legacies of these proceedings.

The book takes as its starting point the "duality" of trials for state-sponsored crimes, by which the editors mean that such trials possessed both "potential and danger" (p. xv). The potential lay in the possibility of gathering and disseminating evidence beyond the scope of individual effort, while

the danger was that "in the context of a specific legal framework, these same proceedings tend to isolate the crimes at hand and to stress the importance of individuals over other, group-related or societal factors" (p. xv). At the same time, while stressing the evidentiary potential of such trials for historians, the editors also emphasize the need to treat them as historical events in their own right. The individual essays that follow, most of them quite strong, take up these themes and make them concrete.

The book is divided into four main parts. The first part concerns itself with precedents and early instances of trials for Nazi atrocities. Jürgen Matthäus sets the stage with a concise but cogent survey of the Leipzig trials for German atrocities after World War I. The widely perceived "failure" of these led the Allies, the Americans in particular, who had opposed international trials after the First World War, to conclude that only the victors could adequately judge wartime atrocities the second time around. Patricia Heberer and Lisa Yavnai examine the history of some of the earliest

U.S. efforts at justice for Nazi crimes; Heberer studies the Hadamaar "Murder Factory" case, while Yavnai looks at the U.S. Army's Dachau trials. Yavnai's contribution in particular is valuable for the reams of information it provides about American military justice in the immediate aftermath of the war. This is a topic of obvious contemporary relevance, but one about which very little has been known until now.

American and British trials, including the so-called successor trials at Nuremberg, form the focus of the second section of the book. Jonathan Friedman offers an overview of the successor trials. Then follow case studies of a particular trial or complex of trials, by Michael Marrus (on the Nuremberg Doctors' Trial), Ulf Schmid (on the British Ravensbrück trials), and Jonathan Friedman (on the Sachsenhausen trials in West and East Germany). These chapters are some of the most compelling in the book because, as case studies, they possess a level of specificity often lacking in the more synthetic chapters. What emerges most clearly in them is the difficulty of trying to use legal forums to understand complex historical events. With respect to the Doctors' Trial, Marrus states, "by ignoring a searching inquiry into this question [why Nazi medical crimes] and by limiting the focus to largely unrepresentative criminality, the trial may even have facilitated the evasion of responsibility that has characterized much postwar German medicine" (p. 119). One could question Marrus's contention that this unfortunate result was largely due to strategic choices by the judges and the prosecution, rather than to any inherent limitations of the law, but he and the other authors in this volume amply demonstrate the inability of these trials to understand adequately the atrocities that they sought to judge.

The third section of the book deals with German and Austrian trials of Nazi perpetrators. Matthäus offers a particularly compelling and disturbing case study about Georg Heuser, a wartime

Gestapo officer responsible for massacres in Minsk and Slovakia during the war, who not only rejoined the police in the 1950s, but rose to become the "director of the criminal investigative office in Rheinland-Pfalz," a case of "setting the fox to guard the henhouse" (p. 192). While Heuser, unlike some of his equally unsavory compatriots, was eventually convicted for his crimes, he ultimately served only a small portion of his fifteen-year sentence, which itself had already amounted to less than half a day's prison time for each demonstrated victim. In December 1969, Heuser was released after serving only a little over six-and-one-half years of his sentence.

Rebecca Wittmann, in her brief but sweeping overview of German Nazi prosecutions from 1960 to 1980, points to what she sees as a generational conflict between "young, and eager prosecutors and older, more conservative, largely former Nazi judiciary" (p. 211). In a context where the legislature failed to provide an adequate or clear statutory basis for prosecuting Nazi crimes (and indeed, with legislative reform concerning the statute of limitations in 1969, actually effected a *de facto* amnesty for many Nazi criminals), conservative judges triumphed over activist prosecutors. The result was a largely exculpatory jurisprudence in which only the most extreme and sadistic Nazi defendants faced anything like adequate punishment for their crimes.

The final section deals with the legacy of the early Nazi trials for the present. Richard Golson addresses trials for crimes against humanity in France, Donald Bloxham examines the lasting impact of Nuremberg, and John Roth discusses the ethical implications of trying atrocities from a philosophical perspective. The upshot of all three chapters (and of Golson's and Bloxham's in particular), is that the ambiguous duality of such trials persists well into their afterlife. Recent attempts to mobilize this earlier history, whether in the work of the new International Criminal Court or

in the trial of Saddam Hussein in Iraq, ignore that ambiguity at their peril.

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