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Aleksandar Jokic, ed. *War Crimes and Collective Wrongdoing: A Reader.* Malden: Blackwell Publishers, 2001. xiii + 313 pp. $59.95 (cloth), ISBN 978-0-631-22505-8.

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Philosophy of Crime and Punishment

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It is enough to read the news to understand why there has been an increased interest lately in questions related to war crimes and crimes against humanity. The legal conflict about jurisdiction over the Pinochet regimêÒs abuses involved Chile, Spain, Britain, and a former official of the United States before the former dictator was finally declared unfit to stand trial in July 2001. In June, a Belgian court convicted two Rwandan nuns on charges of genocide. In July, Slobodan Milosevic, the only former head of state ever to be brought before an international human rights tribunal, was formally charged in open court with war crimes and crimes against humanity. And of course, the events following the terrorist attacks in the United States in September have raised questions of the participation of the United States in the proposed International Criminal Court and about the possibility of charges of crimes against humanity. The controversy over the number of civilian victims of the military campaign in Afghanistan has also renewed concerns over the conduct of war.

These events are the late-ripening fruit of decades of legal and political effort which activists and international organizations have pressed forward since the adoption of the International Declaration of Human Rights in 1947 and the Genocide Convention in 1948. The first conviction on charges of genocide by an international court was handed down by the International Criminal Tribunal for Rwanda (ICTR) in 1998, when Jean-Paul Akayesu was found guilty. In the few years since, the authority of international bodies to try such crimes seems to have become rapidly accepted, and if the proposed International Criminal Court (ICC) is established the principle of international authority to try such crimes will become a permanent feature of international governance. Having long been dismissed as an overly radical or idealistic prospect, international authority is increasingly coming to be regarded as a given.

Aleksandar Jokic is a philosopher, and so he asks why any political proposal ought to be regarded as a given. He has assembled a collection of fourteen essays, twelve of them by philosophers, each seeking to illuminate some aspect of the moral ground behind different responses to war crimes. Although the recent literature has seen a wide variety of legal [1], political [2] and historical [3] analyses of responses to war crimes, Jokic is taking a step backward and filling an obvious void. The collection includes essays which present moral grounds for defining war crimes and treating them as a unique category, as well as essays which present some of the theoretical and political problems with such an effort. Since moral concerns are at the heart of the ongoing political effort, the collection is designed to offer students and researchers some ways of approaching the moral issues involved as philosophical problems rather than as presuppositions.

One set of issues has to do with theories of the conduct and causes of war generally. Alan GewirthÒs contribution offers a succinct history and definition of the principles of *jus ad bellum* and *jus in bello*, tracing the development of the category of war crimes to the long-pursued need to develop moral standards on the justifications for and conduct of war. Richard Miller opens the question of whether nationalism necessarily involves a set of values which lead to the commission of crimes against humanity in an essay which summarizes the cases for and against "nationalist morality." James Nickel takes the goal of nationalist projects to transform populations as a given, then contrasts four strategies which

states might use to achieve these goals: genocide, "ethnic cleansing," forced assimilation and expulsive succession. A detailed legal analysis by Alfred Rubin evaluates the legality and morality of claims to secession and self-determination. Taken together, these essays offer an overview of some of the most controversial questions at stake in most contemporary wars.

The collection includes more and wider material on responses to war. In a typically magisterial analysis, Richard Falk offers a brief history of "the Nuremberg idea" and a critique of its reception. The essay is well complemented by an exchange between Burleigh Wilkins (against) and Anthony Ellis (in favor) on the question of whether international trials for violations of humanitarian law are legitimate. David Crocker picks up the threads of the discussion by categorizing and describing the goals and processes involved in what is increasingly coming to be called "transitional justice." The cumulative effect of these essays is to present a diverse understanding of the moral issues at stake in the trials and truth commissions which are becoming a larger part of the international political landscape.

The final section of the book offers one of the first major reelaborations of concepts related to "collective guilt" since Karl Jaspers [4] introduced the category in 1946. David Cooper outlines a series of contemporary variants on the concept of "collective responsibility" in a succinct essay which concludes by relating the reciprocal acceptance of "collective responsibility" to prospects for reconciliation. Margaret Gilbert carries the argument further in a strikingly original article on "collective remorse," in which she artfully combines insights from research in philosophy, psychology and group behavioral dynamics. Finally, J. Angelo Cortlett applies these varied approaches to collective recognition to a concrete case, demonstrating the implications of each for the question of reparations for Native Americans. These essays offer ground for making projections about the possible moral and political consequences of an international ethic of responsibility.

Like any edited collection, JokiĉÒs volume suffers to a degree from uneven quality. Richard Miller and Michael Slote offer applications of philosophical approaches to concrete issues in ways which seem more like technical exercises than analyses of the situation. Jovan Babic makes an effort to distinguish "political" crimes from "moral and legal" ones in what seems to be an effort to undermine the category of "war crimes." Since most observers already know that international law is made up of political agreements between political entities defining the import of political acts, and enforced by political institutions, concluding that war crimes are a "political" category does not have the discrediting effect that Babic supposes. The major assumption Babic makes and does not examine is the use of "political" as a synonym for "meaningless." It is well answered by the political histories and political analyses in the essays on responses to war and the processes of transitional justice.

Unfortunately, one of the weakest essays is the first in the collection, and so the risk exists that readers might be put off at the beginning and never read the far better contributions that follow. Peter French bases his discussion of "unchosen evil" on a postulate of his own invention, declaring the existence of "average Balkan war criminals." He defines these as "the ordinary folks, farmers, trades people workers, etc., whose very characters, in fact, have been formed and nurtured in cultures that are utterly imbued with hatred, distrust, and suspicion of members of all other cultural or ethnic groups in their geographic region" (p. 29). The essay could stand as an example of how an uninformed initial postulate can defeat an entire argument. FrenchĥÒs postulate: 1) defines war criminals as "ordinary folks," and traces their status as war criminals to their "characters," in stark contrast to the legal definition, which defines war criminals as people who have committed war crimes, 2) traces war crimes not to military or state agencies but to "cultures," offering a global characterization of what they are uniformly "imbued with" without a shred of evidence; and 3) presents as an initial assumption the existence of an "average." Regardless of all the information which is lost by presenting in an initial postulate what researchers would be inclined to offer in a conclusion, it is unclear what is gained by postulating (or even finding, if such a thing is possible) the existence of an "average" type, unless there is some conceivable advantage to characterizing some war criminals as above average or below average. If FrenchĥÒs intent is to describe a social process which could lead to the commission of war crimes, there already exists substantive research on the topic by investigators like Gerard Prunier [5], Christopher Browning [6] and Anthony Oberschall [7], among others. None of this research relies on postulating the existence of "cultures that are utterly imbued with hatred."

Critical comments on individual contributions aside, the collection is clearly designed for course use, and its potential uses are apparent. The initial explorations on the moral origins and foundations of human rights law will be useful for instructors in laying the ground in the

initial weeks of a course, before moving on to the historical development of concepts and practices of human rights. The history and debate on international trials and transitional justice offer a useful introduction or accompaniment to an empirical exploration of recent or ongoing trials. And the material on issues of collective guilt/responsibility/remorse provides a rich backdrop for investigations of the cultural and political dilemmas facing postwar societies. Instructors will also appreciate the additional material. The introduction by Anthony Ellis summarizes each of the articles while providing a road map to the controversies that divide the authors. And the editor, Aleksandar Jokic, provides brief essays at the end of each section which highlight the important points of each article and suggest further reading.

In general, this is an enlightening and provocative collection. Jokic performs an important service by reminding readers that the political current toward the inclusion of human rights in international governance relies on philosophical and moral postulates which are far from settled, and offers a collection of essays which outline well what the controversies are. Teachers and instructors will appreciate his having gathered the material in one place. Researchers and activists will be grateful to Aleksandar Jokic for organizing this collection which helps to remind them why they do what they do in the first place.

Notes

[1]. For example, Ruti G. Teitel, *Transitional Justice* (New York: Oxford University Press, 2000).

[2]. See Priscilla B. Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York: Routledge, 2000).

[3]. For example, Gary Jonathan Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton University Press, 2000).

[4]. Karl Jaspers, *The Question of German Guilt.* E.B. Ashton trans (New York: Fordham University Press, 2001).

[5]. Gerard Prunier, *The Rwanda Crisis* (New York: Columbia University Press, 1997).

[6]. Christopher R. Browning, *Ordinary Men: Police Battalion 101 and the Final Solution in Poland* (New York: Harper Perennial, 1993).

[7]. Anthony Oberschall, "From Ethnic Cooperation to Violence and War in Yugoslavia", in Daniel Chirot and Martin Seligman, eds. *Ethnopolitical Warfare: Causes, Consequences, and Possible Solutions* (Washington: APA Books, 2001).

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