Reviews in History

Published on *Reviews in History* (http://www.history.ac.uk/reviews)

Genocide on Trial: War Crimes Trials and the Formation of Holocaust History and Memory

Review Number:
288
Publish date:
Thursday, 28 February, 2002
Author:
Donald Bloxham
ISBN:
9780198208723
Date of Publication:
2001
Price:
£57.00
Pages:
300pp.
Publisher:
Oxford University Press
Publisher url:
http://ukcatalogue.oup.com/product/9780198208723.do
Place of Publication:
Oxford
Reviewer:
Wendy Toon

Throughout the Second World War Britons and Americans had contemplated the post-war future of Germany. There was consensus on only one point; that it had to be changed. They discussed a variety of alternatives ranging from punitive and vengeful policies, to those which were educational and advocated reform. The War Crimes Trials have conventionally been viewed as part of the first category. Thus it is refreshing to see the trials being regarded as part of the broad re-educative effort, rather than the usual perception of a purely retaliatory exercise motivated by a desire for punishment. Bloxham asserts ?the trials were the chief means by which Nazism was examined in depth; they were the scalpel to the bludgeon of the larger occupation and re-education policy, the foil to generalities.? (p. 80)

This examination of British and American war crimes policy stands as a contribution to the growing field of literature that considers the importance of memory and specifically Holocaust memory. The interesting facet of this book is that it considers the ?memory? promulgated by the British and Americans at the War Crimes Trials. The importance of both ?judicial? and ?collective? memory is stressed. It is within the ?collective? sphere that the prosecutors at Nuremberg failed. The trials can thus be seen to be as much about Allied

understanding of, and attitude toward, Nazi crimes, as they are a legal representation of Nazi criminality. Bloxham?s contention is an engaging and valid one. There is a general omission in the historiography of the occupation of Germany regarding the relationship between victors and vanquished. Studies have tended to see the process of change in a one-sided way, ignoring the fact that British and U.S. perceptions and attitudes towards the former enemy countries also developed and changed as a result of interaction between them. These trials had an important function not only in Germany, but also for the society that tried them. As a former American Occupationaire states, evaluation of the 'German and Japanese occupation experiences will tell us something not only about our impact on post-war German and Japanese history, but particularly our own.?(1) This study also aims to correct a failing in 'Nuremberg historiography'.

The book begins with an excellent introduction to the fundamental conception of and means of evaluation used in this study. It includes an explanation of the problems associated with the study of this topic and the essential problems faced in 1945. It is then divided into three parts. The first part is concerned with the implementation of the punitive aspects of the trials; and with British and American reaction to the immediate past. Trial policy thus stands as an example of *Vergangenheitsbewältigung* (the mastery of the past) in the wake of the Second World War. The second part concerns the representation of the past through the trials. It stresses their refractory nature, using the main metaphor of the courtroom as a prism. The third part considers the connections between the ?courtroom and posterity?. The major actors, such as American representative Justice Jackson, were acutely aware of their historical responsibility. They were under no illusions that what they were about to do was ?history?. Bloxham quotes Jackson thus: ?the documents make dull publicity, but they [seem] to me to make the sounder foundation for the case, particularly when the record is examined by the historian.? (p. 61)

The trials are placed in their legal and historical context. The expansion of the rule of international law provided the precedent for further international courts and tribunals and had a distinctly American flavour. American domination of the trials is reflected in the sometimes seemingly one-sided comparative aspects of this book. The British are shown to be less committed to the trials. This can be explained by the fact that Britain was labouring under great economic duress, in contrast to the United States. Thus the overriding influence of personnel and financial problems is shown to be particularly acute for the British. The proceedings are seen as an attempt at understanding Nazism and specifically Nazi criminality. ?The idea of legal redress for state crimes was novel and contentious.? (p. vii) This idea was also 'novel' because it concerned a country in which neither Britain nor America had a direct national interest. The historical context is the close of the Second World War and the abiding relevance of study of this immediate post-war period, despite the prolific amount of representations that have followed it, is correctly asserted.

This examination is an attempt to recontextualise the trials after the historiography has largely removed them from their contemporary context. The trials, as well as the occupation of Germany as a whole, have to be placed within the context of the burgeoning Cold War. Bloxham shows that the impact of the Cold War on the objectives of the trials was entirely negative. The effects of realignment were detrimental to the successful prosecution of Nazi crimes and pragmatic nation-state interests began to override foreign policy ideals. For example, the image of the *Wehrmacht* was cleansed by the impact of the Cold War. In addition, Bloxham argues that ?the Allies did not prepare the ground for acceptance of the true breadth of German guilt?. (p. 132) The fundamental problem faced by all of the occupation policies is that the Germans were primarily concerned with staying alive. The devastation, hunger and disease were not sound bases for the moral regeneration of German society. As Brecht put it, ?*Erst kommt das Fressen, dann kommt die Moral*.? (?First grub, then morality?: quoted p. 137)

This re-contextualisation also involves the notion of the use of the trials as a re-educational tool. The idea of using a legal trial served a re-educative function, as a fair trial exemplified the democratic system. ?The educational intent of the IMT project was established, but it does not appear that the teachers were particularly well informed about their subject matter.? (p. 63) This is attributed to ambiguities within British and American responses to the Holocaust, as its true nature unfolded. For example, the British were concerned only with crimes that related directly to British citizens, while the Americans feared the use of any ?atrocity? stories.

Nazi criminality was frequently discussed during the War and the idea that the Nazi party represented an organized form of gangsterism was prevalent, certainly within the U.S. The image of the gangster was a repeated one in the popular press and film. The impression that the Nazi party was a criminal organization was an enduring stereotype. It was rife even at the highest levels. For example, in an address of August 1943 Franklin D. Roosevelt stated ?we have been forced to call out ? the Sheriff?s posse ? that Gangsterism may be eliminated in the community of nations.(2) The decision to punish Nazi war criminals had been made early on in the war. Roosevelt announced his plan to try Nazi war criminals on 7 October 1942.(3) The trials were also concerned with the *causes* of Nazi criminality. This was the disease that had to be rooted out. Part of the cure was re-education.

During the prosecution of the trials, the Americans placed great emphasis on the idea of 'conspiracy'. The purpose of the War Crimes Trials was to prove this conspiracy theory. As a result, the Holocaust becomes merely a ?by-product of a monolithic German-Nazi conspiracy for European domination through war.? (p. 12) Bloxham asserts that this preoccupation accounts for the ?intentionalist? school and ?many of the blind alleys into which Holocaust scholarship has wandered.? (p. 12)

Bloxham?s major criticism of the trials is that, although they were successful in ?establishing a record of Nazi criminality and aggression? (p. vii), there was a failure to present the fate of the Jews as unique amongst Nazism?s other victims. In fact their fate was downplayed. Despite being seen as an end in itself, their extermination was tied to Nazi attempts at world conquest. The Allies were ?authors of subtle re-writings of the Nazi extermination projects.? (p. ix) Attention was focused away from the victims. Presentation of Nazi atrocities and specifically the Holocaust were used in a peculiar way as part of the punishment and re-education process.

There is a dichotomy between the guilt-evocation campaign and policies that seemed unwilling to deal with Nazi murder. For example, the showing of the film *Todesmühlen* (?The Mills of Death?, a montage of images of death in various Nazi institutions), the display of posters showing victims at Dachau declaring ? *Das ist Eure Schuld*? (?This is Your Fault?) and the forced viewing of recently-liberated camps by local populations, is at odds with the reluctance, during the war particularly, to use this type of atrocity story as propaganda, and with the separation of Germans from their Nazi leaders when considering responsibility for atrocities.

These contradictions are tied to the general ambiguities of American and British policy regarding possibilities for Germany's future. Is she a country that is capable of being re-educated, or is she a nation complicit in the crimes of the Nazis? Is there an 'other' Germany? Bloxham acknowledges the contradictory nature of assessments of culpability and efforts to differentiate between ?Nazis? and ?Germans?. Jackson would distinguish between Nazis and Germans in his opening speech of the trials; however, a question mark remained in general policy-making.

The question of German guilt or collective guilt (*Kollektivschuld*) is central to any discussion of the War Crimes trials as, of course, criminal proceedings are by their very nature based upon a premise of guilt and innocence. Attempts to prove the criminal nature of the regime seemed to declare all Germans equally culpable. Yet this is in direct contrast to wartime proclamations, such as 'we bring no charge against the German race, as such, for we cannot believe that God has eternally condemned any race of humanity.?(4) The trials themselves limited the guilt to a few individuals, thus implicitly exonerating the wider population.

In this reviewer?s opinion, however, war guilt is only part of the concept of re-education and Bloxham?s study is not clear about a definition beyond the assertion that ?introspection ? was the key aim of this ?re-education.? (p. 132)

Bloxham here is in agreement with contemporary commentators, who argued that the moral renewal of Germany had to be attained by individual introspection and self-examination.(5) The idea of collective German guilt was often viewed as the first step toward re-education. Contemporary critics, however, pointed out that the guilt-evocation campaign could not be this 'first step', ?because it skips over the prior need to start reversing the process of the demoralization of the Germans.?(6)The usefulness of the trials of Nazis as a re-educational tool was usually related to the prominence of the accused. The singling out of 'major' Nazi criminals is of interest, as it appears contrary to the policy of implicating the German people. This action exemplifies the ambivalent nature of postwar policy conclusions regarding the treatment of Germany and the Germans.

The discussion of German guilt began with the liberation of the concentration camps and ended in the Spring/Summer of 1947, with the announcements of the Truman doctrine and the Marshall Plan, which changed Germany?s role in the international system. The Germans were now separated from the crimes of the Third Reich, as they were now viewed as a trustworthy ally. As Bloxham acknowledges, this was pure political pragmatism. Finally on the question of guilt, he raises an interesting hypothesis that the ?supposed innocence of the German soldier was transposed to the whole of the German population.? (p. 12)

The trials are seen as falling short for a number of reasons. Bloxham shows that the British and American attempts to come to terms with Nazism failed and that this failure is exemplified perfectly by their inability to understand the Holocaust. The trial medium was also unsuccessful in capturing anybody?s imagination and later the western powers came up with sophisticated justifications for the release of war criminals. The primary reason for this seems to have been that the issue had become embarrassing. In addition, throughout the trial proceedings emphasis was permanently placed on the perpetrators of the crimes rather than the victims. Victimhood was not associated with the actual victims of the Nazi regime, as they were given little, to no, attention. By the 1950s, with Cold War alignments firmly established, the victims had become the German people as a whole. They were victims of a terrifying, all-seeing, all-knowing and brutal regime. The trials also failed, as their organisation meant that certain defendants were not tried. If a defendant?s profile did not fit a case, then it was possible for him to remain untried, despite the gravity of his crimes. Finally, the Allies were not concerned with motivations for these crimes. They contented themselves only with their causes. This can be seen as a serious omission.

Bloxham argues ?that the racial murders committed by the Third Reich were expressions of the essential quality of the regime, understanding those crimes was and is fundamental to understanding Nazism.? (p. viii) Through cataloguing British and American shortcomings in understanding these crimes, Bloxham thus demonstrates their failure to understand Nazism. The trials were also political trials, with proceedings affected by political biases, which in turn affected the representation of the past: ?Even in the courtroom the means and purposes of examining the past varied in accordance with the different political agendas of the period.? (p. ix)

In a further omission, the proceedings failed to distinguish between the camp systems according to function, leading to the longstanding confusion of concentration camps with extermination camps. The ?camp was the pre-eminent symbol of Nazi atrocity? (p. 11), but it was not properly defined. This explains the proliferation of the term 'concentration camp' as a generic term for Nazi atrocity. The Dachau trial was of particular importance in this sense, especially to American thinking. However, this exemplifies again the effect of these trials. An individual camp is taken out of context by not being located appropriately within the full system of genocide.

True understanding of the Holocaust was further hampered by Jackson?s belief in the documentary approach to evidence. This meant that journalistic interest was often not sustained and this contributed to the public?s lacklustre enthusiasm for the trials. In addition, the Tribunal maintained a continual suspicion of eyewitness

testimony, despite the fact that stories were often corroborated by documentary evidence. Therefore while some exaggerations originating with the trials have remained in the historical record, so have the omissions. (Bloxham gives the example of the murderous activities of some of the lesser-known police organizations.)

The trials' failure to assess the influence of certain groups -- for example, the Order Police -- meant that these groups were for many years excluded from historical accounts. As Bloxham observes, ?The scale of Nazi criminality ultimately made every trial programme a selective venture.? (p. 54) Legal strictures, such as limiting considerations to the period after American entry into the war, also had a particular effect in relation to deliberations on the fate of the Jews; for example**,** this specific decision excluded discussion of the development of the camp system prior to 1942. Concern regarding the Holocaust was not apparent and cases that could have highlighted it were not brought to the fore. This meant that the Shoah was not fully understood.

The concentration camp became the symbol of atrocity, but again the Jewish factor was downplayed or avoided, with prosecutors preferring to place emphasis on political prisoners. The murder of the Jews is given a diminished role in the dominant interpretation of Nazism, since ?the British and the American occupiers chose to build their re-educational edifices on the foundation-stone of ?Aryan? suffering.? (p. 80) Selective reporting of the trials cemented misrepresentations of the camps. Often reports made conditions seem worse than they were, while the actual worst examples were ignored. The trials were also tinged by preconceptions. For example, the trials perceived Nazism as an ideologically-driven monolithic system. This again prevented a true grasp of its crimes.

It seems that prosecutors were almost bored with the issue of the relationship between the Nazis and the Jews. There was a prevailing mood that this had already been dealt with 'exhaustively'. However, three of the four extermination camps (Belzec, Sobibor and Treblinka) were completely excluded from the proceedings. The problem was not one of lack of information. Instead it points to dysfuntional processing and analysis of this material. Important details were overlooked in the small number of eyewitness testimonies that were used. Research gathered seems to have been remarkably accurate but ineffectually exploited. It is only the number of victims that appears to have been largely overestimated and the exact murder methods slightly confused. The emphasis placed on gassing shows the ?persistent and peculiar misconceptions regarding the methods of killing.? (p. 117)

This monograph is clearly the product of a well-researched project and one of great interest. To see mention of the important idea of re-education is excellent. Bloxham asserts that the trials can be seen as ?a microcosm of the whole ?re-education? process? (p. 225); yet this conclusion is open to debate. If the trials are seen as a failure, does this mean that re-education was a failure also? This is a question not addressed by Bloxham. It would perhaps also have been illuminating to include discussion of the representations of leading Nazis and Nazism during the Second World War, if only as background. The important stereotype of gangsterism, for example, is not discussed.(7) He does, however, deal skilfully and thoroughly with the trials' impact on history and particularly the history of the Holocaust. Bloxham?s treatment of ?memory? is especially interesting, as despite the trials' contemporary failings to come to terms with the recent past, the Shoah has now taken centre stage in the popular memory of Nazi crimes -- perhaps even to the detriment of the other crimes committed by the Nazis. Overall, this study is a significant addition to our understanding of the preconceptions and purposes of the War Crimes Trials; but perhaps even more importantly, it addresses the origins of our understanding of the history of the Holocaust.

Notes

1. Robert Wolfe, ed., *Americans as Proconsuls - United States Military Government in Germany and Japan, 1944-1952* (Southern Illinois Press; Carbondale & Edwardsville, 1984), pp. xv-xvi.Back to (1)
2. Address at Ottawa, Canada, August 25, 1943, in Samuel I. Rosenman, ed., *The Public Papers and Addresses of Franklin D. Roosevelt: 1943 ? The Tide Turns* (Harper & Bros.; New York, 1950), p. 365.Back to (2)

3. Samuel I. Rosenman, ed., *The Public Papers and Addresses of Franklin D. Roosevelt: 1942 ? Humanity on the Defensive* (Harper & Bros.; New York, 1950), p. 410. This was a repeated aim. See also 'The President asks that frontiers be opened to victims of Nazi oppression and declares that war criminals will be tried and punished, March 24, 1944', in Samuel I. Rosenman, ed., *The Public Papers and Addresses of Franklin D. Roosevelt: 1944-45 ? Victory and the Threshold of Peace*, (Harper & Bros.; New York, 1950), p. 103.Back to (3)
4. Samuel I. Rosenman (ed.) *The Public Papers and Addresses of Franklin D. Roosevelt: 1944-45 ? Victory and the Threshold of Peace*, pp. 352-3.Back to (4)
5. Karl Jaspers, *The Question of German Guilt* (Dial Press; New York, 1947).Back to (5)
6. Percy Winner, ?The German road back: an inquiry into guilt, punishment and expiation?, *The New Republic* (4 June 1945), p. 779.Back to (6)
7. In an American training film, [*Here Is Germany*, War Department Orientation Film, O.F.-11, 1944] for example, the filmmakers did not miss the opportunity to present Hitler and his gang visually and verbally as an assortment of 'dope addicts, perverts, bullies and cranks'."Back to (7)

Other reviews:
H-Net Reviews
http://www.h-net.org/reviews/showrev.php [2]

Source URL: http://www.history.ac.uk/reviews/review/288

Links:
[1] http://www.history.ac.uk/reviews/item/2692
[2] http://www.h-net.org/reviews/showrev.php?id=8320