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## Book Review

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FRANCINE HIRSCH, *Soviet Judgment at Nuremberg: A New History of the International Military Tribunal after World War II*. New York, NY: Oxford University Press, 2020, pp. 536, ISBN 978-0-19-937793-0, USD34.95 (hbk).

Our interest in the Nuremberg trials never seems to cease. But have we been looking at the right questions? The Nuremberg moment and the quest for international justice for the atrocities carried out by the Germans during WW2 has largely been defined through an Anglo-American lens. In total there were 13 trials carried out in the period 1945–1949. The trials provided a legal framework for the development of the so-called Nuremberg principles, which means accountability for international crimes. The evolution and application of the legal principles pertaining to the punishment of genocide, for example, continue to resonate. The 2010 European Court of Human Rights case of *Kononov v Latvia* [2010] ECHR 667, for example, showed what was at stake with respect to the legitimacy of the Nuremberg principles, in its application to the Allies (Mälksoo, 2011).

That we cannot learn much more about the Nuremberg proceedings is far from the truth. More recently, legal academics and legal historians have written about the individuals behind a specific legal principle, such as Rafael Lemkin and Hersch Lauterpacht (Sands, 2016). The restlessness on the part of some writers should be commended, as these authors have decided to challenge the myth of the Nuremberg moment. Francine Hirsch is one of these writers. Hirsch draws our attention to lesser-known persons who shaped key legal principles and defined crimes at Nuremberg. These lawyers are Soviet and, as Hirsch argues, their experience matters, never mind if the wider legal narrative is messy.

With *Soviet Judgment at Nuremberg*, Francine Hirsch delivers an engaging and invaluable study that fills a gap in scholarship about the role of the Soviet Union in shaping the Nuremberg trials and legal principles. Namely, Hirsch focuses on key events in the run up to Nuremberg, and on specific Soviet lawyers who were involved in the preparation of the trials, exploring the obstacles they faced and/or overcame as they attempted to come on board with the US, UK and French representatives. Hirsch unfolds for readers the ways the Soviets engaged with, and were marginalised from, the main discussions, using the experiences of the Soviet film director Roman Karmen, the Soviet photographer Evgeny Khaldei, and the Soviet caricaturist Boris Efimov to set the scene, as it were, effectively and affectively. Law is, after all, performative.

Hirsch contends that the main Soviet protagonists were influenced not only by time, resources, and distance, but also by internal politics and constraints put in place by the

Kremlin and the political realities of post-war Europe. Events in Europe were occurring quickly. In Poland, with the assertion of communist power and control in the country, there was mass repression and deportations. At the same time, the period offered a strange scope for freedom for its lawyers, who were vital to the gathering of evidence for the Nuremberg trials (Fijalkowski, 2021). Moreover, Hirsch discusses the Anglo-American perceptions of Soviet lawyers. For example, Robert Jackson, the Chief Prosecutor for the US at Nuremberg, sought to keep control of the 'bulk of the case in American hands' (p. 87). As she traces these stories of Soviet involvement during this period (broadly 1943–1954), Hirsch ultimately argues that while much has been written about the trials they are not fully understood until we accept the Soviet contribution to the proceedings, the definition of specific international crimes, and acceptance of the less than neat narrative. The spotlight on the legal developments enriches the context and informs our understanding about the Cold War. In other words, Hirsch reinserts the Soviet Union into the history of the Nuremberg Trials. As the legal and judicial officials began to take part in the process of setting up the International Military Tribunal, it is clear that at least one of the Soviet lawyers was light years ahead in terms of defining some of the key crimes. For example, the Soviet Jewish lawyer Amon Trianin was one of these individuals, who very early on in his legal career shaped the notion of crimes against peace.

Hirsch organises her book in chronological order, starting with a chapter that discusses the run up to the Nuremberg trials. Following this are, respectively, chapters that focus on the Prosecution and Defence cases, with analyses of events taking place in Moscow and London. The tale begins with Stalin's most trusted jurist Andrei Vyshinsky, whom Stalin admired for his ruthlessness. Vyshinsky repaid him with loyalty. That he offered a different perspective on international law is less known. In contrast to his colleague Evgeny Pashukanis, who saw international law as a ruse to mask the 'imperialist aims of capitalism' (p. 20), Vyshinsky viewed it through a pragmatic lens and one that the Soviet Union could use as tool of power and authority. Vyshinsky was a key player in the 1936 show trials, where he demonstrated his showmanship. He also had credentials as the Director of the Institute of Law in Moscow. It was clear that he would keep a close eye on events in Nuremberg. Hirsch sets out a fascinating account of his collaboration with Trianin, who was taken by Vyshinsky under his wing: their collaboration began at the Institute where Trianin began to write about 'persons violating peace'. One must not forget that the Soviets suffered devastating losses during WW2. As Hirsch notes, the soldiers saw the atrocities and damage inflicted by the Nazis. The documentation of the scale of violence was undertaken wherever possible and considered in the context of a premeditated plan. There was always going to be a search for a legal solution for holding those responsible for the crimes accountable.

The range of topics that Hirsch explores shows that the author has considered her subject matter in impressive depth and through various perspectives. Overall, *Soviet Judgment at Nuremberg* makes a compelling argument. Hirsch's choice to study Soviet and US archives, as well as her decision to include images, allows her to draw a clear trajectory of the Soviet involvement in the international criminal law timeline. The visual, broadly understood, had an important role to play at the Nuremberg trials.

Of particular interest is Hirsch's chapters on 'Stuck at the Sidelines' and 'The Katyn Showdown'. In the former, the author takes readers on a journey with Stalin's favourite caricaturist Efimov. The Jewish caricaturist was a seasoned war correspondent and was with the Red Army at the Majdanek and Treblinka concentration camps after their liberation. While in the bathhouses at Majdanek Efimov reflected 'What kind of human imagination is capable of visualising what happened here in these minutes?' (pp. 165–166). At Nuremberg he drew the defendants during the prosecutorial opening speeches, which formed part of a series of political cartoons for the Soviet newspaper *Izvestiia*. The images of 'diminished beasts' did not portray the realities in every case, 'like all propaganda' (p. 166).

In the chapter on Katyn, the author presents the responses of the Allies to the massacre that was discovered on Soviet soil by German officers. The trials were the ideal forum to promote Western values at the cost of turning a blind eye to the real perpetrators of the crime – known to all in Poland (the Stalinist oppression is starkly set out by Czeslaw Milosz in *The Captive Mind*). The Soviets succeeded in promoting their position within the international community, while the Germans failed in their defence case to use the secret history of Soviet-German collaboration effectively.

Through all of these texts, Hirsch argues that Soviet reactions to the discussions concerning the application of the law at Nuremberg depended largely on how well they were able to consider varying legal systems and cultures. For his part Trianin was committed to the pursuit of international justice and the further codification of international criminal law (p. 413). The latter goal would become 'frozen in the ice of the Cold War' (p. 413). On the other hand, the Anglo-American narrative and the strength of the argument of victors' justice became entrenched. With evidence from multiple contemporary texts, Hirsch goes on to revisit these points to challenge the myth of the Nuremberg moment and its celebration of US leadership and provide support for the position that the history of Nuremberg is in fact a history of both international rivalry and international cooperation.

Because Hirsch's purpose is to showcase the Soviet role at Nuremberg, considerations of the way that the Soviets defined the crimes at play and how these were constructed in Soviet law and applied in domestic trials in 1943, at Krasnodar and Kharkov, is logical. Hirsch's final chapter, 'Last Words and Judgments', focuses on questions about the way forward for international criminal law that merited answers in the post-Nuremberg period. The Nuremberg legacy was debated in the UN War Crimes Commission (UNWCC), which carried on its work until 1948. The Soviets did not participate in the UNWCC, but their subsequent efforts complemented that of the UNWCC, making this book a welcome contribution to that topic (Lewis, 2014; Plesch, 2017; Von Lingen, 2014). Hirsch recalls that the Soviets, British and Americans had different ideas about how to achieve post-war justice and the nature of the trials. In fact, it was the Soviets that suggested an international tribunal to try war criminals. It is ironic that the British were not interested in a trial but quick quasi-judicial style of dispensation of justice. Hirsch details the trajectories of the discussion to the US, the Soviet Union, and the UN. She shows how the narrative became appropriated by the Cold War and weaponised, eventually as part of the language of human rights. The chapter greatly adds to the value and scope of the book in its consideration of the Nuremberg legacy alongside national

discourses where the Soviet narrative would change upon Stalin's death in 1953, sealing the fate of Trianin and Vyshinsky.

In 15 chapters Hirsch engages her reader in a journey through Nuremberg itself. For socio-legal lawyers, like myself, the research methods are pertinent, for it reveals hidden actors and agendas that hitherto have been unknown to a wider audience. Significantly, socio-legal scholars working on legal/judicial biographies will find this work of great value, because of Hirsch's engagement with specific Soviet lawyers, like those mentioned above, and Roman Rudenko. Rudenko gained experience at the 1945 Trial of Sixteen. This 'uniformed toad with watering eyes' (Fijalkowski, 2014: 90) did not make a 'commanding first impression' (p. 80) but was, in fact, a talented orator. He would replace Iona Nikitchenko as the Soviet prosecutor, a card that Stalin held close to his chest. While the Soviets were in over their heads (and tried the patience of Jackson) at the same time, as Hirsch demonstrates, Nuremberg would not have happened without the Soviets.


Beyond the strength of her arguments, Hirsch's text is extremely well researched. This is clear in her detailed and invaluable notes for each chapter, as well as in the myriad of writers cited in the book and her comprehensive bibliography. In her research, Hirsch privileges Soviet and Russian scholars in Russia and the US. Hirsch worked very closely with archivists in Russia and the US, which also includes personal collections, giving the work a nice, authentic touch.

Hirsch's book is an important addition to scholarship. It provides a significant resource to anyone researching international criminal law and justice, international legal history, war crimes trials, and/or holocaust and genocide studies.

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