

Michael S. Bryant. *Confronting the "Good Death": Nazi Euthanasia on Trial, 1945-1953.* Boulder: University Press of Colorado, 2005. x + 269 pp. \$34.95 (cloth), ISBN 978-0-87081-809-7.



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Unpunished and Unreformed

Michael S. Bryant's *Confronting the "Good Death"* is a legal history of the postwar Nazi euthanasia trials conducted from 1945 until 1953 by U.S. and German courts in what would become the Federal Republic of Germany. In the Nazi context, euthanasia, of course, meant the murder of mentally and physically ill people without their request or consent. Meaningful legal confrontation after the war, Bryant shows, was short-lived and seriously flawed. His thesis is that the reason for the failure of various courts to punish the killers lies in the fact that "[f]or both Americans and West Germans, concerns about preserving or recuperating sovereign power consistently bedeviled the neutral quest for justice" (p. 2).

In the first chapter, Bryant provides a concise history of the Nazi euthanasia program and its administration. The chapter begins by describing the ways in which competition for scarce material and human resources during the First World War devalued the lives of mental patients, and extends beyond the Nazi killing of the mentally ill and weak to the elimination of any "life unworthy of life," including German women traumatized by allied bombing, tubercular Russian laborers, Jews, and Gypsies.

This background chapter, based on existing historiography, emphasizes continuities in personnel, technologies of killing, victim control techniques, and rationalization processes that extended the moral possibility of mass murder from euthanasia to the Holocaust.

Bryant underscores the economic rationale behind the destruction of those who euthanasia proponents regarded as "useless eaters." This was indeed a critical consideration, particularly in connection with allocating resources in anticipation for and during war. However, since both the allied and German courts took pains to consider the motivations behind the perpetrators' actions, it would have been helpful if Bryant had given more attention to the larger racial ideology behind eugenics. The mentally ill and retarded were deemed not only useless, but also genetically dangerous, and this was important to the medical killers who saw themselves as physicians to the nation first and to the individual patient only secondly. Racial ideology, not merely "uselessness," was even more of a factor in the deaths of other groups that Nazis marked for mass murder. A more extensive treatment of ideological motives could have set the stage

for a useful discussion of comparisons between racial hygiene programs targeting “worthless” Germans and those aimed at perceived racial outsiders. Most outsider groups were, as Bryant points out, able-minded and able-bodied who could, and often did, contribute useful work to the Nazis and their war effort.

Bryant’s own research forms the basis of chapters 2 through 5, which treat the U.S. euthanasia trials from 1945 through 1947 and the German trials in three different phases from 1946 through 1953. The study focuses narrowly on a close reading of the texts created by the trials themselves—transcripts and verdicts—in search of evidence of extrajudicial influences on their outcomes.

Bryant describes two sets of U.S. euthanasia trials. The United States Army conducted the first set in October 1945 against members of the medical staff of the Hadamar killing center in Hesse-Nassau. The second set was part of the Nuremberg medical trials between November 1946 and August 1947. In both instances, the defendants were charged with war crimes, crimes against peace, and crimes against humanity. The last category was not defined until the Allies created and agreed to the London Charter in August 1945. Unlike German courts that began trying euthanasia cases in 1946, U.S. courts apparently had few qualms about invoking an *ex post facto* law against Nazi murderers. However, they were extremely hesitant to put Germany’s internal domestic affairs on trial, because, Bryant claims, they did not want to establish a precedent that in the future could subject the United States to a similar international tribunal which would undermine its sovereignty. To get around the sovereignty issue, the United States interpreted euthanasia (as well as other National Socialist atrocities) as an extension of aggressive war by claiming that disabled persons were killed in order to dedicate medical supplies, hospital spaces, and personnel to a grand plan of subjugating the people of Europe. To attach this war-related motive to individual perpetrators, they then adopted the

questionable tactic of holding all members of criminal organizations (like the Nazi Party) jointly and severally liable for the same grand conspiracy against peace.

Bryant’s thesis is difficult to prove with the types of sources he uses. None of the trial records or the correspondence between various actors actually states that the main reason for the circuitous prosecution strategies chosen was to preserve or regain state sovereignty. However, it is plausible enough in the American case, given the U.S. history of avoiding such challenges to its autonomy from international organizations. It is less convincing for the Germany, where there were simply too many additional motives, and too many personal and group interests militating against conviction to assign precedence to national sovereignty. Among other factors, the author lists confusion over investigative and court jurisdictions, statutes of limitations, the feeling among many Germans that Allied war crime trials were enforcing a mere “victor’s justice,” the desire of both Germans and Americans to tie Germany firmly to the West during the Cold War, and Konrad Adenauer’s insistence on reintegrating former Nazis into the German civil service, including the judiciary.

Reservations aside, *Confronting the “Good Death”* is an important book that deserves a wide readership. Despite the fact that Americans and Germans started out determined to see Nazi atrocities revealed and punished, both quickly abandoned vigorous prosecution. The contorted legal logic that ultimately led courts to exonerate and even commend men and women, who in some cases had murdered hundreds of helpless patients with their own hands, is astounding. Anyone interested in broad issues surrounding the administration of international justice; medical ethics; human rights; tensions between morality, law, and politics; or the ways that societies retrospectively deal with wartime atrocities will find a compelling case study in Bryant’s work.

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