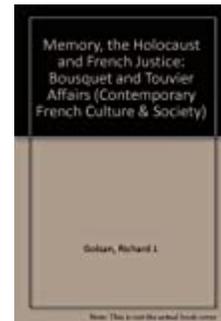


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Richard J. Golsan, ed. *Memory, the Holocaust, and French Justice: The Bousquet and Touvier Affairs*. Hanover, N.H and London: University Press of New England, 1996. xxxiii + 217 pp. \$24.95 (paper), ISBN 978-0-87451-741-5; \$42.00 (library), ISBN 978-0-87451-733-0.



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It may be that the famous Vichy Syndrome is about to be resolved. A few years ago the President of the Republic acknowledged the complicity of the French state in the Holocaust. More recently, France's Catholic bishops asked forgiveness for their failure to act more vigorously against the persecution and murder of Jews. The last of the great postwar trials—of Maurice Papon, *secrétaire général* of the *prefecture* of the Gironde (1942-44), accused of signing deportation orders for thousands of Jews—is currently underway in Bordeaux.

On the other hand, all this beating of breasts and these belated acts of conscience remind us once more of the difficulty the French have had in settling accounts with the past. Papon is the perfect example. He did not need to be chased out of hiding or kidnapped in South America—like Klaus Barbie, the German war criminal. He has been in the public eye all along, a career functionary who served, inter alia, as Charles de Gaulle's prefect of police and Valéry Giscard d'Estaing's budget minister. Indeed, it is precisely what has happened since the war that gives the trial its significance, for in the docket alongside Papon sits the system which ignored his crimes and promoted him for over fifty years.

Le proces Papon marks the third occasion this decade that prosecutions for Crimes Against Humanity have reached their climax. Richard J. Golsan's book looks at

the first two cases—the “*Affaires*”—of Rene Bousquet and Paul Touvier. Golsan explores their tawdry saga of war crime and punishment through an apt collection of short journalistic pieces, most of which first appeared in the French daily, *Liberation*. Robert Paxton provides background information on Vichy policy and responsibility. Denis Peschanski fills in the details of Bousquet's career and describes the collaboration of high officials in Vichy crimes. Annette Levy-Willard discusses the difficulties of bringing Bousquet to justice and offers brief portraits of two of the principals in the Touvier trial: Jacques Tremolet de Villers, the defense attorney, and Arno Klarsfeld, son of the celebrated “Nazi hunters” and counsel for one of the civil parties to the trial. Pierre Laborie asks the question, “Was the France of 1940-1942 anti-semitic?” Jean-Denis Bredin analyses the controversial Appeals Court decision of 1992 that briefly interrupted Touvier's prosecution, and Sorg Chalandon, who covered the Touvier trial for *Liberation*, gives readers a guided tour of the proceedings. These short pieces are framed by two longer, synthetic essays: an introduction by Golsan and an afterword—“Who Were the Guilty and Should they be Tried?”—by Bertram Gordon.

The most distinctive voices in the collection belong to Henry Rousso and Tzvetan Todorov. Each contributes several pieces to the book, and together they make a sort

of chorus of historically informed morality. Rousseau reflects on the meaning and contemporary relevance of the postwar purges. Todorov, in two of the longer essays, considers the Touvier Affair in a more philosophical light, focusing on the absurdities of the trial and its unsatisfying lessons.

Briefly, these are the two stories: Bousquet had been a promising young official with a soft-left bent, whose career continued to flourish after the fall of the Republic. In April 1941, Pierre Laval named him secretary general of Police in the interior ministry. It was in this capacity that Bousquet began helping the Germans round up and deport Jews, most infamously during the *rafle* at the Velodrome d'Hiver, in July 1942. Bousquet soon fell out with the Germans, however. He lost his post at the end of 1943 and was even arrested by the Gestapo on the eve of the Normandy landings. This gave Bousquet the perfect alibi, and in 1949 a purge court, noting that he had "rendered important services to the Resistance" (p. 16) effectively dismissed the charge of treason. The court "dealt only marginally with his role" in the Final Solution; it was not interested. Thus whitewashed, Bousquet went on to a brilliant business career, before his past caught up to him in the late 1970s.

If Bousquet was a gentleman, Touvier was a thug—a cynical and corrupt member of the *Milice*. This was not in and of itself a crime against humanity. However, on 29 June 1944, Touvier ordered the execution of seven hostages, in reprisal for the Resistance's assassination of Philippe Henriot, Vichy's propaganda minister. At the Liberation, Touvier—more obviously compromised and less well-connected than Bousquet—was convicted of treason and sentenced to death in abstenia, since he was already in hiding. That the victims of the "massacre at Rillieux" were chosen precisely for being Jews is what later opened Touvier to the charge of crimes against humanity. But, as in Bousquet's hearing, the Liberation court hardly noted the specifically anti-Jewish element of the crime.

What links these two dissimilar criminals together, and in fact gives their experience its importance are the reluctance and obstructions which allowed them to escape justice for over forty years. Bousquet's role in the *Vel d'Hiv* roundup became general knowledge in 1978. Shielded by his Friends in High Places, however, most notably by President Francois Mitterand, Bousquet was indicted for crimes against humanity only in 1991. Touvier's Friends, principally among the conservative elements of the Lyonnais church, hid him from Republican

authorities and even managed to secure a pardon from President Georges Pompidou in 1973. Touvier was first accused in 1973 and then indicted on the imprescriptible charge of crimes against humanity in 1981. The police did not arrest him until 1989, and they released him again in 1991. In April 1992, the Paris appeals court issued its scandalous decision of "non-lieu", or acquittal before trial. The criminal chamber of the supreme court soon reversed this decision and allowed the trial to proceed. The complicity of the System is manifest in the interminable delays in bringing these criminals to justice.

The judicial process also disappointed those who had hoped it would shed new light on Vichy, on the Final Solution, or on the banality of evil. On the contrary, the two accused men—Bousquet in his letter to the appeals court, reproduced in this collection, and Touvier at his trial—offered precisely the alibis we have come to expect from war criminals: Bousquet copped the classic plea that he had been a "small cog" in an essentially German machine. Touvier maintained that he was a misunderstood patriot, who had often helped the Resistance and, in any event, had executed the hostages on orders from above. Both came to see themselves as victims. At least these two stories leave us with some sense of even imperfect justice having been rendered. Bousquet was assassinated on the eve of his trial. Touvier was convicted in April 1994 and sentenced to life in prison, where he died shortly thereafter.

As a collection of disparate pieces, this book is exemplary. Each article is exactly relevant and economical; each makes a measured and measurable contribution to the story as a whole. The detailed chronology of the Bousquet and Touvier Affairs from 1939 to 1994, the lucid introduction, the accessibility of all the essays, and the nice balance between reportage and reflection—these all make the book an excellent primer on the genesis and the course of the Vichy Syndrome. In fact, only two hundred pages long and in paperback, *Memory* could be quite useful for undergraduate students, who might well be stimulated by the issues it raises. What constitutes a crime against humanity? Why do societies find it so hard to punish these sorts of malefactors? How useful is it to prosecute old men for crimes committed in their youth?

The book also illuminates a number of matters of concern to a more professional audience. First, the actions of Bousquet and Touvier reinforce the by now standard position that the Vichy regime had some latitude and showed considerable initiative in anti-Jewish policy. Second, the judicial history of their cases shows quite starkly

why the French had such trouble bringing these sorts of criminals to book after the war. Bousquet was a good bourgeois and a high official, who enjoyed the protection of the Establishment from beginning to end of his “troubles.” He benefitted further from France’s ideological and political turmoil. By the time he faced purge authorities in 1949, France was confronting a whole new pack of troubles. The resistance alliance between communists and nationalists had disintegrated and many people thought that prosecuting men like Bousquet could only aid France’s new enemies. Touvier, for his part, always depended on the help of those who sympathized with the *Milice* war against “unFrench” elements.

The purge experiences of Bousquet and Touvier were different in all respects save one: in neither case did the question of what had been done to the Jews play a significant role. The purge courts (and in this I suspect they reflected popular consciousness) focused less on what defendants had done than whether their heinous acts had been carried out in concert with the Germans. Those who had done terrible things, but who either had no contact with the Occupiers or in fact irritated them—for instance, Xavier de Vallat, Vichy’s first commissioner of Jewish affairs—received much more lenient treatment. In Liberation France, it was much worse to have called for a German victory on the radio than to have murdered innocent people.

The book’s treatment of the prosecutory drama also helps to clarify French legal procedures for an Anglo-Saxon audience. I was in Paris in April 1992, when the court of appeals decided, on what amounted to a technicality, that Touvier could not be tried for crimes against humanity. I understood the outlines of the scandal: a man who had done unspeakable things would continue to

escape punishment. But the archaic operations of French jurisprudence remained obscure to me. No more. Golsan’s volume elucidates the tortured elaboration and difficult application of French law on crimes against humanity. It exposes the legal and logical absurdity of the Touvier trial, where the state had to prove, in order to convict him, that the *Milice* chief was obeying German orders—which would, in effect, mitigate his personal guilt and which was, in fact, untrue.

The Touvier trial also revealed how poorly the demands of law and history fit together, to the chagrin of those who had anticipated a grand public lesson in the history of Vichy. As Tzvetan Todorov writes, determining the guilt or innocence of one man on a precisely defined charge did not serve very well “the ends of memory” (p. 175). This was so for two reasons. First, because the statute defining “crimes against humanity” required action “in the name of a State practicing a politics of ideological hegemony,” the prosecution was forced to argue what it knew to be false; that is, Touvier was an agent of German policy. Second, because Touvier’s legal responsibility could not simply be deduced from Vichy’s guilt, the testimony of historians—Robert Paxton among them—did not speak directly to the main issue. The Papon trial promises to be no more satisfying on this count.

In sum, Golsan has done a service for both professional and general audiences by putting together this wonderful new book which tells a depressing old story. As a cautionary tale of history and justice, it deserves to be widely read.

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