

Susanne Karstedt*

State Crime in Plain Sight: German Criminology and the Crimes of the National Socialist State – A Tribute to Herbert Jäger (1928-2014)

Throughout the Nuremberg Trials (1945-1949), state crime was in plain sight not only to the German public, but also to those whose profession it was to analyse crime and justice. However, German criminologists were notably absent. This contribution addresses the leading paradigm of criminology and the ensuing role of criminologists that had made them complicit in the crimes of the Nazi state, and after 1945 forestalled recognition and acknowledgment for nearly two decades. The article then pays tribute to criminologist Herbert Jäger, who was one of the first to confront his colleagues with a path-breaking account of the crimes of the Nationalist Socialist state, based on an exceptional methodology. His “Crimes under Totalitarian Rule” is a foundation for any criminology of state crime as he uncovers the core mechanisms of state crime “bottom-up”.

Keywords: bio-criminology, criminal-biology, criminal-biological service points, concentration camp, Holocaust, Nuremberg Trials, state crime, youth concentration camp

Sichtbar für alle: Kriminologie in Deutschland und die Verbrechen des NS-Staates – Hommage an Herbert Jäger (1928-2014)

Die Nürnberger Prozesse (1945-1949) gaben freie Sicht auf die Verbrechen des NS-Staates, nicht nur für die deutsche Öffentlichkeit, sondern auch für diejenigen, deren Profession die Analyse von Verbrechen und Strafe war. Allerdings glänzte die deutsche Kriminologie durch Abwesenheit. Dieser Beitrag untersucht, in welcher Weise die vorherrschenden Paradigmen, aber auch deren professionelle Anwendung Kriminolog*innen in Komplizenschaft mit Staatskriminalität unter dem NS-Regime brachten, und nach 1945 die Auseinandersetzung mit dieser Rolle erschwerten. In diesem Kontext wird Herbert Jägers Rolle und seine Analyse der NS-Verbrechen ins Gedächtnis gerufen, mit der er seine Kolleg*innen konfrontierte. Sein Werk „Verbrechen unter totalitärer Herrschaft“, in dem er auf der Grundlage einer bahnbrechenden Methodologie die Kernstrukturen staatlicher Kriminalität aufdeckt, kann auch heute noch als wegweisend gelten.

Schlagwörter: Holocaust; Jugendkonzentrationslager; Kriminalbiologie; Kriminalbiologische Dienste; Konzentrationslager; Nürnberger Prozesse; Staatskriminalität

* I am immensely grateful to Hendrik Scherer, University Kiel, for research and access to literature.

1. Noted Absence: Criminologists and Nuremberg

At the Nuremberg Trials – at the International Military Tribunal and the follow-up trials which took place in the same city until 1949 – the crimes of the Nazi state were exposed and made visible to the German population and to the world. The Nuremberg Trials had been explicitly designed to prosecute the crimes of the Nazi state through its leadership in government, the state bureaucracy and party organisations. The countless atrocities, the systematic and organised mass murder, the crimes against humanity, and genocide were linked to faces, names and organisations, as those who had committed, overseen, and orchestrated them were made accountable and adjudicated. The crimes thus were personalised, motivated by criminal masterminds, and, most importantly, they constituted individual guilt. The Nuremberg Trials – and all efforts to bring the perpetrators to justice ever since – were a heroic effort to prosecute the Leviathan through its members and rank and file, and to make individuals accountable for crimes that were collectively committed. Until this day, men and women are prosecuted and charged for taking part in these crimes, whether as bookkeepers or secretaries (e. g. Engelmann, 2018).

Hardly before the Nuremberg Trials the crimes of a state, its leadership and bureaucracy had been in such plain sight, and not often ever since. Besides those in Nuremberg, trials were conducted before Allied and German courts (e. g. Schilde, 2016), and perpetrators were extradited to those countries where they had committed the atrocious crimes, and where they were finally sentenced by national courts. Among the 206 individual defendants at Nuremberg, not one innocent man or woman was convicted (Priemel, 2016, p. vi), however, some who were not so innocent were acquitted or got away lightly, and many were never or much later charged. Nuremberg signified the start of a transitional process that extended beyond criminal justice alone. Adjudicating state crimes – and in this way acknowledging them – was part of a transition from “despotism to democracy”; further, these procedures were functional in this process and applied law and legal mechanisms that were transitional in themselves. In delivering the “justice” part of the whole transition the Nuremberg Trials have been the subject of praise (“glorification”, Priemel, 2016, p. vi), rejection and today most commonly of the accusation that legal justice could not be and never would be enough – an accusation levelled at nearly every contemporary transitional justice procedure. In the light of the unimaginable crimes that were adjudicated this was a widely shared sentiment among those who were present at the time – judges, prosecutors and observer-journalists (see Karstedt, 2021).

However, what was in plain sight was not easily to be seen, neither through the lens of jurisprudence nor “biocriminology” (“Kriminalbiologie”), the leading paradigm of the time. Gustav Radbruch (1946) was one of the first to give state crime a name. He coined the term “gesetzliches Unrecht” (“legal injustice”), mainly addressing the injustice and wrongs committed by the legal system itself and its functionaries under the Nazi regime. He denied the legal system of the Nazi state the capability to administer justice in the very basic sense of legality and pursuit of justice (“Gesetzmäßigkeit, Streben nach Gerechtigkeit, Rechtssicherheit sind die Erfordernisse einer Justiz”, Radbruch, 1946, p. 105). With his juxtaposition of “legal injustice” (“gesetzliches Unrecht”) and “supra-legal justice” (“übergesetzliches Recht”) he directly addressed the crimes that were on trial in Nuremberg (Cziznik, 2021).

Radbruch’s analysis was echoed by Telford Taylor, prosecutor, protagonist and chronicler at the Nuremberg Trials. In his words the trials told a “story of betrayal” (quoted in Priemel, 2016, p. 6): doctors who disregarded their professional ethics, civil servants who betrayed democracy

and democratic values, soldiers who had violated their code of conduct, and lawyers who had committed “treason against the rule of law” (ibid.). We can add to this list the organisations that were charged as “criminal organisations” at the IMT at Nuremberg, and here in particular the SS and Gestapo which as part of the state apparatus orchestrated and executed the Holocaust and thus epitomised “legal injustice”. Radbruch implicitly had drawn attention to those state institutions that executed the “legal injustice” as civilian police and prisons descended into becoming “atrocious organisations” (Karstedt, 2022). Together these actors, professions and institutions constituted the lawless state proper, and collaboratively executed the crimes that the Nazi state aimed to commit. For the first time, the Nuremberg Trials also addressed state-corporate crimes, and leading industrialists were charged with war crimes, including slave labour, looting and exploitation of occupied countries (Huisman et al., 2022).

Thus, the IMT and the follow-up trials at Nuremberg laid bare the structure and mechanisms behind the crimes of the NS state. In essence the trials captured the complexity of these crimes in terms of individual responsibility within a state machinery and collaborative complicity within a network of actors. However, criminologists as members of the scientific community in whose remit these crimes would fall for analysis, were not prepared to address and engage with them; this applies to German as well as international criminology (see also next section). Thus, prominent US criminologist Sheldon Glueck had identified the problems of prosecuting these crimes in March 1945 and had explored them in a lengthy treatise on “The Nuremberg Trials and Aggressive War” prepared for Chief Prosecutor Justice Jackson (Glueck, 1945, 1946). These were first, whether “high-place scoundrels” could be subjected to trial, including “heads of state” (1945, p. 277), and second, the thorny question of the responsibility of subordinates, which together continue to frame the difficulties of analysing state crime until today (Brants, 2007; Karstedt 2014a). Focussing on the burning legal problems and questions of the time, Glueck refrained from a more empirically oriented criminological analysis, for which the material was still mostly absent and just beginning to be unearthed in Nuremberg.¹

Franz Exner, a leading representative of contemporary German criminology, actually had a front seat in observing the “monumental spectacle” (Osiel, 1997) of perpetrators, mechanisms and organisations involved in Nazi state crimes. As defence lawyer for Alfred Jodl, Chief of Staff of the Armed Forces, as well as for the General Staff and High Command of the Army, which was one of the six “criminal organisations” charged at the IMT, he had privileged access to the documents and the accused. He was a proponent of the dominant paradigm of “biocriminology” (Rafter, 2008), had published an influential textbook with the title “Kriminalbiologie” in 1939, and became involved in drafting racist and exclusionary Nazi legislation during the war (Ambos, 2019; Menne, 2017, p. 114). In 1949, a new edition was posthumously published now with the title “Kriminologie”, but according to the author himself “the change of title” did not imply “anything new” and his work remained “nearly unchanged”; it had however been cleaned of four pages of antisemitic passages (Ambos, 2019, p. 304; Baumann, 2006, p. 151; Streng, 1993). There is no indication that his experience at the Nuremberg court had raised concerns or given cause for questioning the bio-criminological paradigm.

It took until the early 1960s that criminal lawyers and criminologists started to analyse the crimes of the Nazi state as genuine state crimes. As major trials took place internationally and

¹ Glueck’s student Benjamin Ferencz was part of the US prosecution team. He published a book on slave labour which highlights the complicity and interface between state and corporate crimes (Ferencz, 2002[1979]), and campaigned and worked for the establishment of the International Criminal Court.

in Germany, and prosecution had been taken up again since the late 1950s, these crimes entered the public, political and legal space of the young democratic state (Karstedt, 2009). In 1963, Claus Roxin published an influential article on “Straftaten im Rahmen organisatorischer Machtapparate” (“Crimes as Part of Organised Power Structures”, see Czisnik, 2021). As he probes into the question of responsibility and accountability of the perpetrators of these crimes, he analyses two problems of state crime from a dogmatic criminal law perspective: the independent functionality and executive power of the state and its bureaucracy as the *context* of state crimes, and the “lawlessness” of this apparatus or at least parts of it as their *precondition*.² True to the still prevailing general mood of amnesia at the time, the article was deemed “political” and as such rejected by a leading German law journal (Roxin, 2006, p. 293).

Herbert Jäger (1962) had published his “Reflections on the Eichmann Trial” in the previous year, a prequel to his seminal work on “Verbrechen unter totalitärer Herrschaft” (“Crimes under Totalitarian Rule”) first published in 1967 (Jäger, 1982[1967]). These two pioneers of the analysis of state crime nationally and internationally differ in important aspects. Roxin embeds his analysis in the edifice of criminal law and jurisprudence, and as such employs a “top-down approach” in order to subsume these extraordinary crimes into the framework of “crime as we know it”. In contrast, Jäger builds his analysis “bottom-up” from a wealth of empirical data, in particular perpetrator, victim and witness accounts, documents and information from bureaucrats. He distils these accounts into the distinctive characteristics of state crime, both overlapping with and differing from Roxin’s analysis, by which his own work was informed. I argue that his work pioneers the empirically driven engagement with state crime that is a defining feature of contemporary criminology in this area.

Why were criminologists absent in Nuremberg and afterwards? Even if they did not engage with state crime directly, the individual defendants at Nuremberg and their and the victims’ testimonies offered ample material even for the generally more individualised perspective on crime and criminals, as it was dominant then. Two issues need to be addressed in this context. The first concerns the genuine engagement with the crimes themselves, and the “paradigmatic blindness” of criminology at the time and in the decades after the war. The second concerns the involvement of criminology and criminologists themselves in the state crimes committed. Criminology’s history is here defined first by the complexity of its legitimising strands and second, by complicity, with the latter having undoubtedly a heavier weight (Wetzell, 2000; Ambos, 2019, p. 318; Menne, 2017, p. 120). Both were significant obstacles for criminologists’ engagement with the crimes of the Nazi state.

Notwithstanding Roxin and Jäger’s as well as subsequent attempts at analysing the crimes of the Nazi state, the situation changed only slowly. In the preface to the 1982 edition of “Crimes under Totalitarian Rule”, Jäger observed:

Never in the past years has there been any attempt to make the collective crimes against humanity (“Menschheitsverbrechen”) as Hannah Arendt aptly had called them, the subject matter of encompassing interdisciplinary research with a broad foundation, notwithstanding that these crimes are one of the major themes of the century (1982, p. ii, translation S.K.).

The role and involvement of criminology itself in these crimes became the subject of critical and soul-searching inspection only in the late 1970s. Since then and with increasing momentum, criminologists, criminal lawyers and historians have documented and analysed this role

² Roxin’s analysis was not only important in Germany, but also later played a crucial role in the trials against the Argentinian generals (Roxin, 2006; Czisnik, 2021).

from various perspectives, including among many others Streng (1993), Baumann (2006), Menne (2017), Ambos (2019), Rafter (2008) and Wetzell (2000).

I will first outline the perspectives and paradigms dominating criminology that blinded its protagonists for what was in plain sight. In the next section, I explore criminology's involvement and complicity in state crimes. I mainly rely on the above-mentioned authors and their accounts of the history of German criminology and their profound analysis of criminology under the Nazi regime and in the imminent post-war era. Against this backdrop, I look at Herbert Jäger's contribution as an early conceptual framing of state crime *avant la lettre*. I explicitly focus on "Crime under Totalitarian Rule", and do not discuss Jäger's later work on "Macro-Criminality" ("Makrokriminalität", Jäger, 1989), which has been much more influential in German criminology.³ Here, Jäger integrated both his initial and his subsequent research on terrorism under the umbrella term of "macro-criminality" with a clear focus on "collective criminality". In today's terminology, he jointly analysed both state and non-state actors and their crimes, thus moving the focus to forms of political crime more generally (see Neubacher, 2002, for an extended typology). I focus on his earlier work for two reasons: first, it is world-wide one of the earliest genuinely criminological analyses of state crime; second, and importantly, in the overarching framework of "macro-criminality" the distinct characteristics of state crime, namely the aspect of "rule", and the state as "organised actor" are drowned out and get lost.

2. Criminology's Paradigm: "Hereditary Disposition and the Environment"

During the first decades of the 20th century, the leading paradigm of German criminology did not differ substantively from what was accepted and acceptable in the international community of this young science. Debate and research were extensively informed by biological theories with a focus on identifying the "born criminal" (Rafter, 1997). "Criminal-biology" ("Biocriminology", Rafter, 2008) as criminology was widely known at the time focused on the criminal (person) and not on the crime. Though to varying extent, the bio-criminological paradigm was widely accepted as a scientific explanation of deviance and crime. This is evidenced by e. g. translations of the works of leading German-speaking scientists into English and published both in the United States and Britain (Rafter, 2008). The establishment of the International Society of Criminology in Rome in 1938 brought together national scientific communities under the auspices of this paradigm. Like their counterparts elsewhere in Europe German criminologists subscribed to the idea of the "born criminal" who as "incurable" remained socially dangerous and should be kept from contaminating others (Rafter, 2008, p. 290).

This was not without modifications, as the debate about hereditary disposition and environment demonstrated (Baumann, 2006, pp. 91). Nonetheless, any measures including punishment should address rather the "nature" of the criminal and not the crime itself, which by implication might be of a minor type (see Streng, 1993). However, the more radical bio-criminological positions were debated and subject to critique before and throughout the Nazi regime (Ambos, 2019; Menne, 2017; Wetzell, 2000). Nonetheless, leading criminologists engaged with and contributed to the radical programme of the NS state (Ambos, 2019, pp. 318). Even if

³ See e. g. authors in the Festschrift for Herbert Jäger (Böllinger & Lautmann, 1993), Walter (1993) and in particular Neubacher (2002).

the internationally dominant bio-criminological paradigm did not inexorably lead to atrocious policies and the excesses of the NS regime (Ambos, 2019, p. 320), the “belief in the need to sacrifice individuals for the benefit of society” was particularly anchored in (Nazi-)Germany (Rafter, 2008, p. 291). Ambos (2019, p. 318) therefore does not exonerate criminology and its protagonists from being the “legitimising science” (“Legitimationswissenschaft”) for state crimes committed within and by criminal justice institutions.

This role is particularly evident in the composition and position of the Criminal-Biological Association, the leading professional society of criminologists (“Kriminalbiologische Gesellschaft”, Ambos, *ibid.*). Already at the end of the 19th century, criminology had joined forces with another newly established science, and in this process defined itself as a “medico-psychiatric speciality” (Rafter, 2008, p. 291). Psychiatrists (who had medical training) in a successful move to expand the remit of their field had established themselves as authorities on social health and the regulation of deviance, including crime. In this way biological theories not only were easily integrated with psychopathological frameworks, but also facilitated a turn toward Darwinism and eugenics, which easily (and dangerously) connected with National Socialist ideology. Consequently, criminal-biology and psychopathology jointly contributed to a worldview, in which the biological health of the nation as a whole was placed above the welfare of individuals, “especially when [these] were undeserving criminals” (Rafter 2008, p. 291). The joint enterprise of anthropological-biological criminology and psychopathology was nowhere more visible than in the “Kriminalbiologische Gesellschaft” (Society of Criminal-Biology), where psychiatrists played a leading role (Baumann, 2006; Menne, 2017; Ambos, 2019) both before, during and after the National Socialist regime until it was renamed as “Gesellschaft für (die gesamte) Kriminologie” (“Society for All Criminology”) in 1968. Importantly, between 1933 and 1945, this moved criminology as a science and practice dangerously close to two sites of state crimes, right between the criminal justice system itself and the murderous programme of killing people with disabilities, a group into which those who had committed crimes could be and were easily counted (see next section).

It is highly improbable that crimes of the state and the widespread involvement of men and women from every corner and level of society – as was revealed at Nuremberg – could be framed and analysed within this psychopathological-biological paradigm to which criminologists adhered. State crime was located in their proverbial blind spot. Criminologists at the time were confident that they could exclude – with few notable exceptions – that the conceptual tools of psychopathology and the bio-criminological paradigm were applicable to these crimes and perpetrators. Until the 1950s, criminologists defined as “Nazi perpetrators” only a very small group, while the large group of all others, notwithstanding their equally deep involvement, defied their notions and typologies of genuine “criminals”; they simply did not seem to be predisposed as such.⁴ The bio-criminological paradigm of course turned out to be totally useless in the eyes of criminologists if the defendants in the trials had been colleagues at universities or in other (criminal justice) institutions, as e. g. those who were charged and sentenced in the Nuremberg Doctors’ Trial in 1946/47.

The general attitude and inaptitude of German criminologists towards state crime in the wake of the Nuremberg trials can be best described with the words of German poet Christian Morgenstern “weil nicht sein kann, was nicht sein darf” (that which cannot must not be). After the war the safest haven for German criminologists was the study of youth crime and young people committing crimes, which was furthered by continuity of criminologists in leading positions

⁴ See e. g. Exner’s typology in the posthumous edition of his textbook in 1949 (Menne, 2017, p. 124).

(e. g. Schaffstein, see Ambos, 2019; Menne, 2017, p. 126). Continuing and even enhancing this area of scientific activity allowed for a seamless transfer of the psychopathological-biological paradigm. Moreover, it allowed for the unquestioned continuation of established terminology and practices of identifying, treating and punishing those who were deemed “unreformable”. As will be shown in the next section these were practices honed within and in collaboration with the Nazi state. For the next two decades after 1945, youth crime dominated most of criminological research and debate, though at the end of this period criminologists moved towards a more sociological paradigm, partially under the influence of criminology in Britain and the United States (Baumann, 2006, pp. 235, pp. 269), partially as a result of observing crime during and in the aftermath of the war. However, in 1959 the leading criminological journal (“*Monatsschrift für Kriminologie und Strafrechtsreform*”) published an article in which the author suggested “concentration camps” for “incorrigible young offenders”. When attacked, he was defended by the doyen of criminology (Rudolf Sieverts) at the time (Baumann, 2006, p. 231) who noted that the dark sides of the regime did not need further attention, as they had been sufficiently addressed and were widely known. With this, he referred to the concentration camps for young offenders (“*Jugendschutzlager*”).

This statement was not correct, as any serious recognition and discussion of the role of criminal-biology and criminology more generally during the Nazi regime had not even begun at the time. Dominating among contemporaries was a consensual silence about this role, which was mainly projected on “the dark sides” of the regime and a few culprits and therefore could be easily ignored. However, it had been in this role that criminologists became complicit in and collaborators of state crimes and the atrocities committed within the criminal justice system under the Nazi regime. The paradigmatic tools that impeded criminologists from addressing the crimes of the National Socialist state that were in plain view, had made them also complicit in these crimes. This complicity extended far into the NS practice of persecution and extermination.

3. Criminology and the Nazi Regime: Close Encounters and Direct Complicity

Victor Klemperer, the diarist of life under the Nazi regime noted in 1946 that of the “three pillars” that had supported the regime – “the Junkers, the army and the universities” – “only the first two have fallen (with the Liberation)” (quoted in Neiman, 2019, p. 98). This dictum particularly applied to two faculties, the faculty of law and medical schools and faculties, to both of which criminology was closely connected. Besides direct connections to doctors and psychiatrists in the medical schools, this also applied to networks of professional connections and collaborations e. g. on the board of the “*Kriminalbiologische Gesellschaft*”, or in government institutions. The board of the *Gesellschaft* included several high-ranking members who at the time were already deeply involved in the so-called T4 programme, the mass murder of men, women and children with disabilities by the state.⁵

⁵ Generally, professional networks were most effective in shielding their members from prosecution, covering up their involvement in atrocity crimes and securing positions in universities, research institutions, or as experts in criminal trials after the war (e. g. Bauman, 2006, pp. 128). A network of high-level judges and prosecutors as well as university professors protected the man who had orchestrated the T4 programme against a pending arrest warrant from the Frankfurt prosecutor for more than ten years.

Like their colleagues in these two faculties, particularly doctors and psychiatrists, academic criminologists were mostly not motivated by a vulgar version of biological theories as in national socialist ideology, or by apparently unscientific ideas about eugenics (though these were also on display, Bauman, 2006, pp. 69; critical Ambos, 2019). Instead, like those academics they were involved in making these ideas manageable and practical through direct engagement with the Nazi state's most atrocious institutions (Baumann, 2006, p. 94; Menne, 2017, pp. 111-122). In this way, criminologists were part of the "betrayal" as Telford Taylor termed it: as doctors they had disregarded their professional oath, as lawyers the rule of law and the pursuit of justice in its most basic and human sense (Radbruch, 1946). Their complicity is apparent in the adoption and justification of the regime's policies, and in collaboration with criminal justice institutions, including the police and those involved in racial eliminatory policies. In these collaborative endeavours the bio-criminological paradigm was applied, made manageable and practical in the service of atrocious organisations, in particular concentration camps. This complicity finally constitutes the overall responsibility and accountability of criminology, as Ambos (2019) argues.

First, the more differentiated perspectives on criminal dispositions as described above were given up and crowded out in favour of a narrow view informed by crude eugenics argumentation. Early on, demands to draw the "right" conclusions from what was presented as robust results of research culminated in support for sterilisation of offenders (Baumann, 2006, p. 94; Menne, 2017, pp. 111). It was deemed the task of criminal policies that "dispositions" that led on to criminal behaviour should be eliminated from the population, and academics and practitioners signed up to this goal (Baumann 2006, p. 95; pp. 128). Next, this was soon translated into a range of new institutional mechanisms and devices, which built on the expansion, concentration and consolidation of existing ones. Criminologists were actively involved in this process, both establishing and running them. This involved a close connection with local health authorities ("Gesundheitsämter") which had a seminal role in the implementation of sterilisation and finally the murder of individuals with disabilities, ethnic minorities and "incorrigible" and undeserving deviants and criminals (ibid., p. 95).

Key institutional links were the Criminal-biological Service Points ("Kriminalbiologische Dienste"), which were connected to prisons and correctional institutions. They were particularly promoted by the "Kriminalbiologische Gesellschaft". Having been already established as Criminal-biological Collection Points ("Kriminalbiologische Sammelstellen") in the 1920s, they were now expanded and assigned a pivotal function. In 1937, they comprised of 73 "examination services" ("Untersuchungsstellen"), and nine higher-level collection points ("Kriminalbiologische Sammelstellen"), which were tasked with collecting and analysing the material of the examination services (Streng, 1993, p. 145) They collected criminal-biological reports and expert assessments for defendants at criminal courts, where they might then result in transfers to concentration camps as punishment. These reports were further shared with the local health authorities for the initiation of sterilisation of individual offenders, where such measures had been advised by a criminologist. Finally, on the national level the Reich Health Office ("Reichsgesundheitsamt") had established a Criminal-biological Research Institute ("Kriminalbiologische Forschungsstelle"), where criminologists collected data in support of the overarching national aim of implementing "eliminatory measures" suitable to achieve the German population's "hereditary health" (quoted in Baumann, 2006, p. 95).

Ninety-four of them were subjected to an inquiry, and half of them had not only knowledge of his false identity but also knew the reasons why he had assumed it (Karstedt, 2019, p. 305).

This institutionalisation of criminology and its biological paradigm provided the Nazi state not only with a quasi-scientific foundation for its murderous aims, which certainly was not essential for their pursuit, but foremost with personal data necessary for implementing them. Importantly, this expanded the remit of empirical criminological research and gave it a firm foundation, including positions for criminologists. As Baumann (2006, p. 95) notes “criminological science and the state administration ... profited from each other”, as they worked hand in glove. Direct involvement in atrocity crimes is rare, and different types of complicity are the norm (Huisman et al., 2022). Criminologists might not have been as directly involved as doctors in the atrocity crimes of the Nazi state, but they came close enough to become complicit in the aims and practice of implementation. How close they were is evidenced by the numerous professional connections and links, particularly in the “Kriminalbiologische Gesellschaft”, and the inclusion of leading bureaucrats and professionals who orchestrated the T4 programme on its board.

The reorganisation of the police and its integration with the SS engaged criminology and criminologists in further complicity. This process unfolded successively in the early years of the Nazi regime and became more radicalised with the beginning of the war; it changed the role of the police from a civilian force to a political one.⁶ Its organisational connection with the SS in the Reich Security Main Office transformed its task as part of the overarching crime policies from “general prevention of crime” to “racial general prevention” (Baumann, 2006, pp. 106). This connected criminology and criminal-biology with the policies and practice of annihilation by police and SS forces. (Bio-)Criminology and criminologists became part of the overall process of radicalisation, in its paradigms as well as in their policy propositions (Ambos, 2019; Menne, 2017, p. 119). Thus, ethnic minorities (e. g. Roma) were defined as “hereditary criminals”, and young and adult offenders, so-called “asocial individuals” and ethnic minorities were all targeted as a comprehensive group of outsiders (Wachsmann, 2001).

In this way, the biological paradigm underpinned and justified eliminatory practices directed against all “outsiders”, and leading criminologists (Mezger and Exner) participated in drafting respective legislation (which fortunately did not come into force anymore; Menne, 2017, p. 114). The expansion of police powers to include transfer to concentration camps, which particularly affected criminal offenders had been decided in 1942. Until 1943, more than 70,000 offenders had been interned in concentration camp. The majority of these did not survive, given the explicit criminal policy aim of “annihilation through work”, as had been issued by the Minister of Justice in 1942 (Baumann, 2006, p. 112), who regretted that this would only be a “small contribution to [their] extermination” (Jäger, 1982, p. 223). In 1943 alone, about 15,000 prisoners were transferred to concentration camps where they were murdered by exploitation, hunger and neglect. According to estimates, at least 14,000 of the offenders transferred to concentration camps were killed (Wachsmann, 2004).

Criminologists were in particular involved in their preferred field of research, youth crime and young offenders. In 1940, concentration camps for young offenders of both genders were established which were euphemistically named “Jugendschutzlager” (Youth Protection Camps). About 2,500 young offenders were held there under deteriorating conditions, and many of them perished (Menne, 2017, pp. 115). Criminologists had established close links between “asocial”, deviant and ethnic minority individuals (mainly Roma), thus paving the way toward these policies. They were working for the Reich Health Office as well as for police forces on a national level. For young offenders they developed a uniform classification scheme and were

⁶ For equivalent contemporary processes e. g. in Bosnia and Guatemala see Karstedt (2022).

directly involved in selections for sterilisation and concentration camps. On the basis of their reports, offenders were transferred to concentration camps for adults or to a psychiatric ward, which in both cases signalled imminent danger for their lives.

The close collaboration with these institutions and participation in their procedures, which included designing them, made criminologists directly complicit in the atrocity crimes committed by the Nazi regime.⁷ Taking the definition by the International Commission of Jurists (2008) as basis, we can identify criminologists in all three types of involvement in these atrocity crimes: they enabled them through research and applicable instruments, they exacerbated and facilitated them through actively participating in processes that brought criminal offenders into concentration camps and psychiatric wards or resulted in their sterilisation. All these professional functions had been included in criminologists' roles in the Weimar Republic and as part of the scientific endeavour; however, complicity evolved as part of the "order" and "smooth functioning" of the murderous institutions of the Nazi state, as Jäger (1982, p. 316) observes for doctors and lawyers. Moreover, it is highly probable that criminologists did not do this under a veil of ignorance. Given the fact that they openly endorsed the policy of racial general prevention, we have to assume that they had intimate knowledge of what was going on, of both the sterilisations and deadly conditions in concentration camps. As the T4 programme and the murder of disabled people became widespread public knowledge latest in the first years of the war, it is highly unlikely that criminologists were less informed, in particular as they had close professional links to the institutions and individuals who were deeply involved in it.

After the war, like doctors and psychiatrists as well as lawyers, criminologists were able to simultaneously distance themselves from the murderous Nazi ideology and seamlessly continue with the respective terminology. Criminal-Biological Service Points were discontinued, even if the protagonists tried to re-establish them (and briefly succeeded in some regions). However, the practice of such reports continued for a decade, as courts and correctional institutions continued to request them. In these reports, in other expert testimony and in the scientific literature the terminology lived on, including the label of "inferior" which had been the justification for mass murder, or the description "hereditary contamination" applied to criminal offenders (Baumann 2006, pp. 133). Further, the term "Sonderbehandlung" ("special measure/treatment") was uncritically and widely used; while a more innocuous concept during the Weimar Republic, the Nazi regime made it the code term for the mass murder of disabled people, Jews, minorities and criminal offenders. As we have seen above, as late as in the 1950s, the scientific literature uncritically referred to concentration camps and other organisations involved in state crimes. Courts in the late 1940s and early 1950s still referred to and implied a beneficial impact of concentration camps, when they argued that offenders were incorrigible even after they had spent years in the "extreme conditions" in concentration camps (Baumann, 2006, pp. 220-221). That this mindset excluded any recognition of them as victims of state crimes is self-evident; finally they were "undeserving criminals" anyway. Accordingly, it took decades until the German Federal Parliament finally acknowledged this group ("asocial" and "prolific offenders") as victims of the Nazi regime in 2020.

The close links between criminal-biology and national socialist criminal policies, and between criminologists and these institutions were white-washed as "abuse of scientific research and results" for "political propaganda", which had done "harm to the reputation of serious scientific research" (quoted in Baumann, 2006, p. 138). As criminology was described as being abused

⁷ See Karstedt (2022) for involvement of other organisations and professions in contemporary state crime, e. g. of personnel in hospitals and morgues in cases of enforced disappearances in Latin America.

by political power, the willing involvement of criminology and criminologists could be presented as the opposite – non-political and scientific (ibid.). The protagonists of bio-criminology were presented as late as 1959 as “courageous men ... who had worked in Youth Protection Camps according to humane principles” (ibid., p. 232). In the light of the actual extent of complicity statements as to the “perversion” or “abuse” of criminology “look absurd” (Menne, 2017, p. 120).

4. An Anatomy of the Crimes of the Nazi State: Herbert Jäger’s “Crimes under Totalitarian Rule”

Herbert Jäger was a brilliant young jurist when he started to write and publish on the crimes of the Nazi state, first in the *Monatsschrift* “Reflections on the Eichmann Trial” in 1962, and in 1967 with his major work on “Crimes under Totalitarian Rule”. At the time, it was a courageous endeavour to address these crimes as a young criminologist, and in particular to present it as a “Habilitationsschrift” (second doctorate) to the Law Faculty of the University of Hamburg. Herbert Jäger mustered the courage, driven by his observations of the Nuremberg and other trials by the Allies when he was a very young man. However, at the time of his publications, the consensus of silence about the role of criminology in the National Socialist state had come to an end and a debate had started among criminologists. Further, the Eichmann Trial in Jerusalem and later the Auschwitz Trial in Frankfurt were decisively changing public opinion and the public sphere in West Germany at the beginning of the 1960s (Karstedt, 2009). Both Claus Roxin and Herbert Jäger opened the door for subsequent generations of German criminal lawyers and criminologists to engage with the crimes of the Nazi state. However, as Jäger stated in the preface to the 1982 edition, even then an interdisciplinary and criminological approach to these crimes was still conspicuously absent (Jäger, 1982, p. i).

In his “Reflections on the Eichmann Trial” he had pointed out that the still dominant paradigm of personal deficits could not capture the nature of these crimes on a large scale. While this clearly broke with the paradigm of bio-criminology, in the 1982 preface to a new edition of “Crimes under Totalitarian Rule” he criticised contemporary criminology for the dominating (and “simplifying”) perspective on social conditions of crime (Jäger, 1982, p. i), which he deemed equally unsuitable to address these types of crime. As he had argued early and in 1982, none of the two paradigms could provide an adequate analysis of state crime: the first not because it neglected the role of the state, and ignored the widespread participation in these crimes, the second not, because it tended to ignore individual participation and accountability in these crimes, favouring a conceptualisation of collective guilt, which finally was without “commitment and consequences” (ibid.).

In hindsight it is astounding that he managed to avoid both analytical traps. Given the fact that even internationally no criminological conceptual framework for state crime existed at the time, it is hard not to overestimate the originality of his approach and analysis. Until today, this early treatise on state crime *avant la lettre* (he does not use the term, which is only introduced much later by Chambliss in 1989) is a unique, insightful and astute analysis of state crime. Even if it is exclusively based on perpetrators of the atrocity crimes of the Nazi regime, it dissects and presents all the core characteristics of this type of crime as we know it today (see e. g. Neubacher, 2002, 2006; overview Drenkhahn, 2016; Karstedt, 2014b). He himself saw his

work as a contribution to a general anatomy of “macro-criminality” and “collective destruction”. He insisted that his analysis did not retrospectively address a unique historical event – the crimes of the Nazi state – but should be read as a warning for future threats to humanity and a challenge for preventing crimes against humanity (Jäger, 1982, p. iii).

Jäger achieves this – paradoxically – through a methodology that is exclusively based on individual acts and actors. His empirical sources are court and prosecution files, statements by perpetrators, victim-witnesses and perpetrator-witnesses from a range of proceedings, starting with the Nuremberg Trials, and up to the Eichmann and Auschwitz Trials. He also uses testimony from court proceedings outside of Germany. As a lawyer he is intricately familiar with the court decisions and argumentation, including the “Bundesgerichtshof” (Federal Court). Taken together this material provides a panopticon of the crimes of the Nazi state and gives insights into the mindsets of perpetrators, lawyers and courts, both from the time when the crimes were committed and when they were remembered, presented, justified and adjudicated during the first decades after the war. In this way, Jäger approaches state crime not top-down but bottom-up in two ways. He neither approaches his subject through a dogmatic lens nor with a focus on supra-level governmental and bureaucratic structures. Instead, he develops these features of state crime from the perspective of individual participation and victimisation. In this way the structures and mechanisms of state crime emerge with a rare clarity and sharpness.

Three chapters constitute the core of his analysis of state crime. He starts with a “typology of participation”, then proceeds to the question of “acting under superior orders”, followed by an analysis of “mens rea” and the consciousness of perpetrators. A final fourth chapter is dedicated to war and genocide, foreshadowing his later work on macro-criminality. The focus here is on the first three chapters, which each explore one of the legal problems that occupied (West) German courts at the time. Jäger identifies three types of participation which are types of crimes (and not of perpetrators), here following dominant legal interpretations at the time: excessive acts of violence, acts by individual initiative, and crimes following commands and orders. Analysing the consciousness of perpetrators, he focuses on the institutionalised lawlessness of the Nazi regime and the respective mindsets of perpetrators, a path opened up by first Radbruch (1946) and then Roxin (1963). Starting from individual crimes and perceptions of these crimes and their contexts, he distils three crucial characteristics of state crime that evolve from the interplay between individuals and structural contexts. I deem these the defining features of state crime generally.

First, his typology and deep description of modes of participation bring to the fore the space for and role of individual initiative. Jäger’s core argument here is that modern states, and even totalitarian ones, do not have the capacity to direct all action in minutely detailed ways. To the contrary, they rely on the initiative of all rank and file to assess situations and execute tasks, develop blueprints for action and cooperate in ways that promote the common goals of specific organisations or government agencies. Consequently, a substantive proportion of the atrocity crimes – his estimate is 20 % (1982, p. 76) – are based on the initiative of individuals. This involves issuing orders, developing procedures and mechanisms or dealing with emerging problems. In addition to the space provided within hierarchical and organisational structures, state crimes generally open up space for individual acts of violence beyond the imminent tasks. Such excessive violence is committed within and as part of campaigns of state violence, including killing and torturing prisoners, giving orders which result in individual or group excess, or

even leading such excesses (for which Jäger and later historical research provide ample examples). Numerous cases demonstrate how prevalent such excesses were during the Holocaust, in concentration camps and as part of police action, involving lowest to the highest ranks. As these to some extent demonstrated unwelcome individual initiative, the Nazi state and its agencies tried to restrict, regulate and even prosecute such violence. Jäger (1982, p. 77) estimates this group at another 20 %. Further, he concludes from his analyses of the pressure from superior orders that only very few perpetrators acted under such direct distress.

The Nazi state was unique in many respects, however the interaction between the modes of governance and individual violence is equally well documented for state crime in Latin America and Asia. It is a core mechanism of contemporary state crime (Karstedt, 2022). These meticulous analyses enhance existing doubts about the role of orders and obedience in the execution of state crimes by rank and file, as it has been suggested by the Milgram experiments, the Stanford Prison Experiment or by Hannah Arendt's terminology of the "banality of evil". Importantly, all of them referred to the Holocaust as their model. From the same event, Jäger uncovers individual accountability, intentionality und intentions, and deliberate and conscious engagement, in sum the human face of state crime.

Next, Jäger analyses the ways in which the Nazi state became "lawless", when the rule of law was invalidated and substituted by "the rule by laws", and unchecked administrative orders. Here he builds upon Radbruch (1946) and Roxin's (1963) analyses of "legal injustice" and a state apparatus operating outside of accepted law and legal principles.⁸ Essentially, law was subordinated to what was propagated as the superior laws of nature, and the natural laws of peoples in line with racist Nazi ideology. In the words of Nazi jurist Roland Freisler, the law of the NS state was a "Combat Law" (Kampfrecht, quoted in Ambos, 2019, p. 319; also Whitman, 2017, chapter 2). A prerequisite for any state crime, this established a "law above laws" which would then be used to cover any action by the Nazi regime and its agencies. The Nazi party and finally each of their functionaries acted as sovereign and imposed their own norms following their interpretation of the law of nature; in the words of Jäger (1982, p. 200) it was the "seizure of power by a political subculture". These norms could be imposed and enforced in a completely arbitrary way and applied when it was deemed opportune; penal laws became disposable and subject to any purpose of action, be it individual interest, in the course of terror actions or as justification for mass murder. The process of the usurpation of law by the Nazi party and its terror agencies was facilitated by a widespread contempt for the rule of law and codified law, which the Nazi functionaries propagated and which many shared. Nonetheless the penal code continued to exist in this dual legal order, and consequently, atrocities committed by the state could be in conflict with existing norms. Jäger (1982, pp. 227) argues that the fact that the Nazi regime went at quite a length to keep the Holocaust, or the murder of disabled people a secret and obfuscate responsibilities, demonstrates that the extreme forms of terror did not seamlessly correspond to widely held moral values in the population.

This allowed the Nazi regime to "cloak their activities in a mantle of pseudo-legality that ... [made them] appear ... to follow legitimate patterns of violence" as has been noted for repressive regimes in the second half of the 20th century (Ron, 1997, p. 298). The pseudo-legality derived from the "moral" imperatives of Nazi ideology offered those involved in the mass murder the justifications that they needed. Importantly, pseudo-legality provided a sense of impunity and security from prosecution for the perpetrators. Together with the terminology of codes

⁸ This included public opinion on justice, which criminologist Exner saw as impediment to advancing NS criminal policies and therefore in need of education (Streng, 1993, p. 158).

used in the Holocaust, and the cover-up of the mass murder it relieved from conscious deliberation on the rights and wrongs of participation, reducing the role of actual ideological motivation and fervor for many (Jäger, 1982, p. 256). Their sense of impunity was further reinforced by the fact that they could expect to be rewarded for their actions and fast-tracked in their careers (see also Roth, 2009). However, impunity was predicated on the stability of the system that guaranteed impunity. Consequently, those who were deeply implicated and had furthered the murderous goals of the Nazi regime had most to fear from the demise of the system (Jäger, 1982, pp. 284-285).

Jäger's analysis provides a first analysis of the pseudo-legality that facilitates large scale and violent state crime. Perhaps more than he himself was aware, he foreshadowed later and future state criminality. The processes of abolishing the rule of law, making laws disposable in the administration of tasks and goals of state action, subjecting laws to state power, and establishing a network of atrocious organisation characterise state crime and violence in the second half of the 20th as well as in our century.

Jäger's (1982, pp. 315) third contribution to a criminology of state crime is his analysis of "institutionalisation" of mass atrocities and violence. This is the process in which existing government agencies and bureaucracies are subjected to new goals and tasks, are merged or new organisational devices are added on. Thus police, criminal justice and health services continue to exist and allow for a sense of bureaucratic normality and functioning. However, under the cloak of pseudo-legality they increasingly become operative in atrocities and descend into what I have termed "atrocious organisations" (Karstedt, 2022). Jäger (1982, pp. 316) analyses this as the "smoothness of functioning" that he observes in the narratives and mindset of perpetrators. Even years later when on trial, they refer to the imperatives of the functional order rather than to directly "following orders" issued to them by others. These functional imperatives required their cooperation and initiative in performing tasks and solving problems. Thus, committing atrocities in a perverted way corresponds to the "normal bureaucratic apparatus" (ibid., pp. 315-316): Police organise torture and participate in the mass murder Jews, doctors kill patients or subject them to deadly experiments, bureaucrats orchestrate "extermination" and lawyers select offenders for concentration camps. The involvement and complicity of criminologists as described above can be included here. These professionals and higher functionaries of the NS-bureaucracy often were staunch supporters of the specific Nazi ideologies that delineated their tasks.

Jäger's analysis is prescient as he distils this characteristic of state crime from the unique historical event of the Holocaust. As is evident from cases of mass atrocity crimes in Asia, Latin America and Europe in the second half of the 20th century, "smooth functioning" of government agencies and organisations – police, prisons, detention camps – is invoked as justification of mass killings, enforced disappearances and other atrocity crimes (see Neubacher, 2002; Drenkhahn, 2016; Karstedt, 2022).

5. The Legacy

Herbert Jäger was conscious that his analysis was based on a unique historical event and the testimony of men and women who participated in it. Nonetheless he wanted to demonstrate that this was not an "accident of world history" but that these crimes threatened humanity "at present and in the future" (Jäger, 1982, p. iii). When he researched and wrote in the early

1960s, such crimes were perpetrated around the globe, and little was done to prevent them. His task had been to contribute to a criminology of such crimes, and to close the yawning gap that his criminology colleagues had left open. His analysis indeed laid bare the core structures and mechanisms of state crime and contributed to both, a criminology of state crime and genocide. Importantly, he does this through an empirical criminological lens.

His pioneering work was never translated into the contemporary vernacular of criminology. Chambliss was the first to introduce the concept and terminology of “state crime” or “state-organised crime” into criminology in 1989. A critical engagement of criminologists with the crime of genocide took a further decade. John Hagan and his colleagues (Hagan et al., 2005; Hagan et al., 2009) were decisive in promoting a criminological analysis, this time mainly based on the voices of victims rather than perpetrators as Jäger had done. Presently a growing body of research using criminological theories is evidence of this engagement (overview Karstedt et al., 2021). In Germany, Jäger’s “Macro-Criminality” (1989) was more influential and started a thorough engagement with a range of crimes, including crimes of the powerful and elites (e. g. Walter, 1993; also Sessar, 1997). A most comprehensive typology of “political crimes” has been developed by Neubacher (2002), and an ambitious theoretical framework and programme of state crime research by Drenkhahn (2016).

Herbert Jäger was one of the first to confront his criminology colleagues with an analysis of the crimes that had been in plain sight, and that then and even now still are uncovered in courtrooms in Germany. His analysis of state crime was avantgarde then and is still important today as it provides an anatomy of state crime applicable across time and space. The complicity of criminologists in such crimes and the role of criminology as “legitimising science” has been brought to light ever since he opened the gates. Criminologist Nicole Rafter (2008) made the international scientific community aware of what Jäger had called the “inherent perils” in professional mindsets, including our discipline. Perhaps this is the most important legacy for contemporary criminology from a pioneer in our field.

References

- Ambos, K. (2019). NS-Kriminologie – Kontinuität und Radikalisierung. In Dessecker, A., Harrendorf, S. & Höffler, K. (Hrsg.). *Angewandte Kriminologie – Justizbezogene Forschung*. (pp. 299-322). Universitätsverlag Göttingen.
- Baumann, I. (2006). *Dem Verbrechen auf der Spur. Eine Geschichte der Kriminologie und Kriminalpolitik in Deutschland 1880 bis 1980*. Wallstein Verlag.
- Brants, C. (2007). Gold-Collar Crime. In Geis, G & Pontell, H. (Eds.), *International Handbook of White-Collar and Corporate Crime* (pp. 309-326). Springer.
- Böllinger, L. & Lautmann, R. (Hrsg.). (1993). *Vom Guten, das noch stets das Böse schafft. Kriminalwissenschaftliche Essays zu Ehren von Herbert Jäger*. Suhrkamp.
- Czisznik, M. (2021). Claus Roxins Aufsatz “Straftaten im Rahmen organisatorischer Machtapparate” aus dem Jahr 1963 als Beitrag zur juristischen Aufarbeitung des NS-Gewaltverbrechen”. *Zeitschrift für Internationale Strafrechtsdogmatik*, 5, 310-317.
- Drenkhahn, K. (2016). Why do people engage in state crime? – Some thoughts about criminological theory. In: Neubacher, F. & Bögelein, N. (Hrsg.), *Krise – Kriminalität – Kriminologie* (pp. 303-316). Forum Verlag.
- Engelmann, R. (2018). *Der Buchhalter von Auschwitz: Die Schuld des Oskar Gröning*. Cbt.
- Exner, F. (1939). *Kriminalbiologie*. 2nd Ed. 1944; 3rd Ed. Kriminologie. 1949.

- Ferencz, B. (2002 [1979]). *Less Than Slaves: Jewish Forced Labor and the Quest for Compensation*. Cambridge MA.
- Glueck, S. (1945). Justice for War Criminals. *American Mercury*, 274-280.
- Glueck, S. (1946). *The Nuremberg Trial and Aggressive War*. Alfred A. Knopf.
- Hagan, J. & Rymond-Richmond, W. (2009). Criminology confronts genocide: whose side are you on? *Theoretical Criminology*, 13(4), 503-511. <https://doi.org/10.1177/1362480609344031>
- Hagan, J., Rymond-Richmond, W. & Parker, P. (2005). The Criminology of Genocide: The Death and Rape of Darfur. *Criminology*, 43(3), 525-561.
- Huisman, W., Karstedt, S. & van Baar, A. (2022). The Involvement of Corporations in Atrocity Crimes. In Hola, B., Nyseth Brehm, H. & Weerdesteijn, M. (Eds.), *Oxford Handbook on Atrocity Crimes*. Oxford University Press (advance publication online).
- International Commission of Jurists (2008). *Corporate Complicity and Legal Accountability*. <https://www.icj.org/report-of-the-icj-expert-legal-panel-on-corporate-complicity-in-international-crimes/>
- Jäger, H. (1962). Betrachtungen zum Eichmann-Prozeß. *Monatsschrift für Kriminologie und Strafrechtsreform*, 45, 73-83.
- Jäger, H. (1982[1967]). *Verbrechen unter totalitärer Herrschaft. Studien zur nationalsozialistischen Gewaltdelinquenz*. Suhrkamp.
- Jäger, H. (1989). *Makrokriminallität. Studien zur Kriminologie kollektiver Gewalt*. Suhrkamp.
- Karstedt, S. (2009). The Life Course of Collective Memories: Persistency and Change in West Germany between 1950 and 1970. *Polish Sociological Review*, 165, 27-38.
- Karstedt, S. (2014a). Organizing Crime. The State as Agent. In Paoli, L. (Eds.), *Oxford Handbook of Organized Crime* (pp. 303-320). Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780199730445.013.031>
- Karstedt, S. (2014b). State Crime. The European Experience. In Body-Gendrot, S., Hough, M., Kerezi, K. & Lévy, R. (Eds.), *The Routledge Handbook of European Criminology* (pp. 12-153). Routledge.
- Karstedt, S. (2019). "Like Mirrors of Morality": Social support for Nazi War Criminals in Post-war Germany 1945-1990. In Smeulers, A., Weerdesteijn, M. & Hola, B. (Eds.), *Perpetrators of International Crimes: Theories, Methods and Evidence* (pp. 296-314). Oxford University Press.
- Karstedt, S. (19 October 2021). The Nuremberg Legacy: 'Normal Criminals', not 'Ideal Perpetrators'. Special series to commemorate the 75th anniversary of the Nuremberg Tribunal. Leuven Transitional Justice Blog. <https://blog.associatie.kuleuven.be/ltjb/the-nuremberg-legacy-normal-criminals-not-ideal-perpetrators/>
- Karstedt, S. (2022). Detention, Torture, Disappearance: The Crimes of Atrocious Organizations. In Hola, B., Nyseth Brehm, H. & Weerdesteijn, M. (Eds.), *Oxford Handbook on Atrocity Crimes*. University Press (advance publication online).
- Karstedt, S., Nyseth Brehm, H. & Frizzell, L.C. (2021). Genocide, Mass Atrocity, and Theories of Crime: Unlocking Criminology's Potential. *Annual Review of Criminology*, 4, 75-97. <https://doi.org/10.1146/annurev-criminol-061020-022050>
- Menne, J. (2017). *Lombroso redivivus*. Mohr Siebeck.
- Neiman, S. (2019). *Learning from the Germans. Confronting Race and the Memory of Evil*. Allen Lane.
- Neubacher, F. (2002). Politik und Verbrechen. Zur Terminologie und Typologie staatlicher bzw. gegen den Staat gerichteter Kriminalität. *Monatsschrift für Kriminologie und Strafrechtsreform*, 85(4), 290-300.
- Neubacher, F. (2006). How Can it Happen that Horrendous State Crimes are Perpetrated? An Overview of Criminological Theories. *Journal of International Criminal Justice*. 4(4), 787-799.
- Osiel, M.J. (1997). *Mass Atrocity, Collective Memory and the Law*. Transaction Publishers.
- Priemel, K.C. (2016). *The Betrayal. The Nuremberg Trials and German Divergence*. Oxford University Press.
- Radbruch, G. (1946). Gesetzliches Unrecht und übergesetzliches Recht. *Süddeutsche Juristen-Zeitung*, 1(5), 105-108.

- Rafter, N. (2008). Criminology's Darkest Hour: Biocriminology in Nazi Germany. *The Australian and New Zealand Journal of Criminology*, 41(2), 287-306.
<https://journals.sagepub.com/doi/pdf/10.1375/acri.41.2.287>
- Rafter, N. (1997). *Creating Born Criminals*. University of Illinois Press.
- Ron, J. (1997). Varying methods of state violence. *International Organization*, 51(2), 275-300.
- Roth, M. (2009). *Herrenmenschen. Die deutschen Kreishauptleute im besetzten Polen: Karrierewege, Herrschaftspraxis und Nachgeschichte* (2. Aufl.). Wallstein Verlag.
- Roxin, C. (1963). Straftaten im Rahmen organisatorischer Machtapparate. *Goltdammer's Archiv für Strafrecht*, 193-207.
- Roxin, Claus (2006): Organisationsherrschaft und Tatentschlossenheit. *Zeitschrift für Internationale Strafrechtsdogmatik*, 7, 293-300.
- Schilde, K. (2016). *Frühe Novemberprogrome und das erste Opfer Robert Weinstein*. Hentrich & Hentrich.
- Sessar, K. (1997). Zu einer Kriminologie ohne Täter. Oder auch: Die kriminogene Tat. *Monatsschrift für Kriminologie und Strafrechtsreform*, 80(1), 1-24.
- Streng, F. (1993). Der Beitrag der Kriminologie zu Entstehung und Rechtfertigung staatlichen Unrechts im "Dritten Reich". *Monatsschrift für Kriminologie und Strafrechtsreform*, 76(3), 141-168.
- Wachsmann, N. (2001). From indefinite confinement to extermination: 'Habitual criminals' in the Third Reich. In Gellately, R. & Stolfus, N. (Eds.), *Social outsiders in Nazi Germany* (pp. 165-191). Princeton University Press.
- Wachsmann, N. (2004). *Hitler's Prisons*. Yale University Press.
- Walter, M. (1993). Zur Reichweite des Konzepts Kriminalität – Einige Überlegungen zur "Makrokriminalität" Herbert Jägers. *Kriminologisches Journal*, 25(2), 117-133.
- Wetzell, R. F. (2000). *Inventing the Criminal. A History of German Criminology, 1880-1945*. University of North Carolina Press.
- Whitman, J.Q. (2017). *Hitler's American Model. The United States and the Making of Nazi Race Law*. Princeton University Press.

Kontakt | Contact

Prof. Dr. Susanne Karstedt | Griffith University | School of Criminology and Criminal Justice | s.karstedt@griffith.edu.au