The August Trials: The Holocaust and Postwar Justice in Poland. By Andrew Kornbluth. Cambridge, MA: Harvard University Press, 2021. ISBN 978-0674249134

Tomasz Frydel

Arguably the most significant public debate dealing with the Second World War in post-communist Poland was set off by the publication of Jan T. **Gross's *Neighbors*, a micro historical study that foregrounded the** participation of local Polish inhabitants in the Jedwabne pogrom of 1941.[1] Up to that point, claims of widespread Polish complicity in the Holocaust were hardly new, especially in accounts of Jewish survivors, but the force of Gross's book resided in their substantiation by newly unsealed case files of Polish participants in the massacre tried in 1949-1950. The so-called August trials (*sierpinówki*), named after a special statute for the prosecution of the crimes of war and collaboration (the Decree of August 31st of 1944), most of which took place from 1944 to 1953, had remained off-limits to researchers for the next 40 years of the Polish People's Republic.

The trials began to see the light of day in the two decades following the Jedwabne debate of the early 2000s, prompted by Gross's book, as historians Poland increasingly drew on the trials, today estimated at more than 32,000 (p. 7). The sources have given scholars of the German occupation a hitherto unprecedented look at ethnic Polish involvement in various aspects of anti-Jewish persecution. Yet much of the scholarship proceeded apace without a guiding interpretive work to help decipher the controversial trials, which took place, no less, in the midst of the Soviet-led Communist takeover of postwar Polish society and political repression of resistance to it. The August trials were largely viewed as reflective of, if not synonymous with, this process – essentially Stalinist show trials filled with forced confessions to fit a preconceived narrative – and on this basis were often dismissed as unreliable. Works that analyzed the trials as historical sources remained few and far between, leaving researchers drawing on the depositions found in them treading on shaky epistemological ground.

This complex and at times uncanny body of sources has finally found its historian in *The August Trials: The Holocaust and Postwar Justice in Poland* by Andrew Kornbluth, a Research Fellow at the Institute of Slavic, East European, and Eurasian Studies at the University of California, Berkeley. The monograph, based on the author's dissertation, appears amid a growing body of scholarship dealing with Poland's contribution to the prosecution of Nazi war criminals – including the outstanding work of leading lawyers such as Jan Sehn[2] and Tadeusz Cyprian[3] – and transitional justice behind the Iron Curtain more broadly.[4] The book is written against the misconception that the August Decree was an instrument of Soviet-style

Stalinist justice. Yet Kornbluth's momentous study is more than a welcome contribution or mere academic gap-filler, but an ambitious intervention aimed at revising the conventional understanding of the place of Poland – long regarded as 'the country without a Quisling' – in relation to the Holocaust.

The study is based primarily on the records of over 800 trials conducted between 1944 and 1952: 400 for Polish-on-Jewish crimes and 400 for Polish-on-Polish crimes adjudicated by the Special, Appellate, and District Courts of Siedlce, Kielce, Lublin, Warsaw, Radom, and Kraków. The geographical scope of the cases corresponds to four districts of the General Government, a quasi-colonial territory carved out of central Poland by the German occupation authorities. The Siedlce region in particular receives much attention. None of the cases therefore touch on Poland's multiethnic borderlands (*kresy*) such as Eastern Galicia, added in 1941. The analysis of the Special Courts, which operated from 1944 to 1946, is based on an examination of two (Kraków and Lublin) out of nine existing courts.

Other primary sources include postwar ministerial correspondence, contemporary legal periodicals, interviews, and memoirs and interviews. Prominent among the latter are the unpublished memoir of Władysław Grzymała, a prewar judge who obtained a job as the District Court prosecutor in Siedlce and later in Białystok; the published memoir of Leon Chajn, a prewar communist activist and lawyer of Jewish origin tasked with drafting a law dealing with collaborators, who would come to serve as de facto head of the Ministry of Justice; and personal interviews with Leszek Kubicki, a law student who began interning at the Ministry in 1952 and who would himself become Minister of Justice in post-communist Poland.

The August Trials presents a layered historical argument that can be broken down into three parts. First, dispensing with metaphors of Polish participation as representing the 'periphery of the Holocaust,'[5] the author argues that Polish crimes against Jews "bore the unmistakable hallmarks of a German-inspired, locally directed campaign of ethnic cleansing" (p. 18). The ideological lynchpin of this "programmatic" "agenda" aimed at "the despoliation and ethnic cleansing of the country's most hated minority" was the legacy of two decades of the Second Polish Republic, namely the propagation of political antisemitism by right-wing nationalist movements, most prominently the National Democrats, combined with a similar trend in the Polish Catholic Church (pp. 12-13, 19). The campaign against Jewish life, particularly from 1935 onward, came to resemble "the reality of apartheid," presumably paving the way for its wartime radicalization under German occupation, when solving prewar Poland's "Jewish problem" had shifted from voluntary emigration of all Polish Jews to their physical destruction (p. 13).

Second, the author locates the ethnic cleansing campaign as occurring in a period that Polish historians label as the 'third phase' of the Holocaust, referring to the period from mid-1942 to early 1945 when the Germans sought

to destroy the remaining Jews to have evaded the deportation and killing 'actions' (*Aktionen*) aimed at ghetto inhabitants. Local institutions such as the village self-government, the Polish 'Blue' Police, and the underground provided the necessary "genocidal infrastructure" for its implementation (p. 47). The core "mechanism" of surveillance, capture, arrest, and killing was a rural "genocidal conveyor belt" comprised of local headmen,[6] fire brigades, and watchmen (p. 18). The Germans had both "outsourced" the "remaining workaday business of genocide" and "crowdsourced" mass killing to segments of Polish society (p. 47). As the author writes, "ordinary people were invited to contribute as much or as little as they wanted to the larger project of ethnic cleansing" (p. 47). Though Poland lacked a collaborationist government or military formation, the Blue Police proved to be the most reliable collaborating force (pp. 158, 66-72). Most of the crimes associated with this system were able to take place without the express knowledge or direct proximity of the Germans.

Third, the basic role of the August trials in relation to the Holocaust was to memory-hole popular Polish involvement. The postwar judiciary laid the foundations for a "denialist and exculpatory memory of collaboration by ethnic Poles in the Holocaust," which prevails to the present day (p. 274). The "essence of the radical apologia," writes the author, "is that Poles were helpless to resist German commands regarding Jews," in effect eliminating the agency of local inhabitants (pp. 3, 134). The triumph of rewriting the narrative was accomplished with the help of a fiercely independent judiciary, even at the height of Stalinism in Poland. A key role in the dismissal of cases and the low conviction rate was played by recalcitrant prewar judges, survivors of the intelligentsia, who were shaped by the deeply nationalistic and antisemitic legal milieu of the Second Republic, which successfully resisted becoming a tool of the Communist regime (pp. 102-104, 160, 169, 245). In the conflict that erupted between the pro-regime prosecution and the judiciary, the young Sovietizing state ceded the terrain, brokering a version of the "useable past" that sought to appease and win over the public – a "tripartite arrangement" between state, society, and judiciary (pp. 4, 225). Postwar retribution largely came to an end with the process of de-Stalinization initiated by Poland's "thaw" of 1956, when the Holocaust reckoning of the August trials, however imperfect, became associated with the period of violent Sovietization and dismissed as illegitimate (p. 261).

The book contains a wealth of insights concerning the formation of critical legal concepts, the ideological and political backdrop, and the extrajudicial stage management associated with the trials. Contrary to popular assumptions, the author found no evidence of politically motivated prosecutions in his sample. Individuals accused of organized resistance were tried by military courts, which were entirely under the control of Soviet-backed security services. These indeed served as a weapon of the Sovietizing state. But it was not until 1950 that high-profile members of the anti-

Communist underground began to be tried on trumped-up charges under the August Decree outside of the military court system, which, at any rate, was limited to the explicitly political "secret section" of the Warsaw City Court, whose most notorious victim, among many others, was the Polish underground general August Emil Fieldorf, executed in 1953 (pp. 96, 132).

The August cases tried in civilian courts, by contrast, even in the most draconian application of the decree in the Special Courts, were "not scripted," their outcomes "not predetermined," and the process not steered in a "top-down effort" (p. 133). Kornbluth also discards the common perception of lay judges (*ławnicy*) as "pro-regime sympathizers" installed in a clear attempt to "stack the courts"; rather, the institution was an attempt to "democratize" the judiciary (two lay judges attached to one professional judge hearing a case) in a "populist move" to represent public opinion, which in reality contributed to a high rate of acquittal and opposition to what they saw as overly harsh penalties (pp. 109-111, 118). According to Kornbluth, the sources provide little evidence of centralized decision-making, as courts were largely permitted to issue their own judgments, which yielded a high degree of variation in sentencing.

The adjudication of the August trials was beset with problems. At the heart of the challenge was the wording of the decree. The key phrase "acting in the interest of" or "assisting" (*działając na rekę*) the German occupation authorities found in Article 1 was left deliberately vague to allow for a wide latitude in prosecuting broad categories of criminal behavior and determining the degree of guilt. All crimes adjudicated under the article were punishable by death. The decree contained no explicit catalog of war crimes; little guidance or consensus on its interpretation was provided. Judges would not have to differentiate between murder, manslaughter, and accessory to murder. The article was expanded in subsequent years to include other persecuted groups, including individuals sought by the authorities for political, religious, or racial reasons, Construction Service (*Baudienst*) conscripts, and forced labor deportees. The status of ethnic Poles under occupation had remained unclear. In all the permutations of the article, its ultimate interpretation was a "triumph of the principle of indirect responsibility" (p. 232).

The reality of postwar Poland presented another set of challenges. Personal score-settling clogged the system as thousands of denunciations poured into local Public Security (*Urząd Bezpieczeństwtwa Publiczengo*, UB) and Citizens' Militia (*Milicja Obywatelska*, MO) offices, leading to many false accusations. Virtually no forensic evidence was collected; exhumations were rare. Defense lawyers, who had the benefit of a superior prewar education and the advantage of experience faced down prosecutorial teams working within the UB and MO, who generally lacked training and expertise and botched cases. Jewish victims were peripheral to the postwar reckoning. The precious few Jewish survivors to appear in the trials generally faced a hostile environment with no guarantee of security. To strengthen the basis of

an investigation, some survivors were compelled to commit perjury by claiming to have witnessed crimes they only heard secondhand (pp. 224-225).

Witness tampering could appear under various guises. Witnesses could be encouraged, if not outright bribed, to whitewash and even praise the defendant in the hearing, especially in cases when communities circled the wagons around the accused. On the other hand, reports of coercion under investigation by the UB or MO were not uncommon. Activist prosecutors and judges could be seen carrying out their own agenda behind the scenes. In one striking case, Kornbluth cites the example of prosecutor Grzymała, who, as part of a broader effort to protect defendants, intervened on two separate occasions to disprove the accusations of Jewish survivors, which were allegedly based on hearsay (pp. 246-247). As a result, radically different, often competing, narratives emerged in depositions given before investigators from those in the main hearing. The author delves into numerous exculpatory motifs aimed at diminishing the agency of the accused in what ultimately amounted to a travesty of justice.

Scholars of the period will undoubtedly be impressed by the fluid historical synthesis presented in *The August Trials*. Yet the book is not without its share of challenges. Kornbluth certainly breaks new historiographical ground by identifying Polish participation in the "hunt for Jews" (*Judenjagd*) as an unambiguous case of ethnic cleansing. Conventionally, the category of ethnic cleansing is used in the historiography of wartime Poland to refer to the policies of Germanization in western Poland; the mass expulsion of Poles from the Zamość region in 1942-1943; or the massacres aimed at the Polish minority in Volhynia and East Galicia by Ukrainian nationalists from 1943 to 1945. Yet the thesis of an indigenous Polish ethnic cleansing campaign as largely synonymous with the German mop-up operation aimed at fugitive Jews fleeing Operation Reinhard remains highly debatable. First, it is not at all clear from the major studies dealing with Jewish survival on the 'Aryan side' that most inhabitants came into contact with fugitive Jews.[7] The author rightly identifies the rural "conveyor belt," comprised of specific village functions, as the core mechanism of capture and arrest. However, the scale of analysis is inflated by an order of magnitude with the frequent use of the term 'neighbors' throughout as a stand-in for Polish society. At one point, the author makes the dubious claim of "entire communities" taking part in crimes against Jews (p. 18) – this, in a part of the world where the population of a village could range anywhere from several hundred to several thousand inhabitants.

Second, the very same "conveyor belt of genocide" was not aimed primarily at Jews but was inherently multi-directional (p. 227). It was part of an evolving system of coercion first aimed at Polish rural society in the forced extraction of food and labor quotas, then expanded to ensnare ever broader categories of fugitive groups, including fugitive Soviet POWs. These comparative groups do not receive much attention in the book, though the

violent dynamics surrounding their capture bore remarkable similarities to that of fugitive Jews and were equally capable of operating without direct German oversight.

Third, the case for Polish intentionality in the ethnic cleansing is certainly made easier in the absence of a more ambiguous historical record. The same underground that contributed to the murder of Jews also played a key role in getting out news about the Holocaust to the West, established one of the largest Jewish networks in German-occupied Europe (Żegota) that gave assistance to Jews in hiding, and carried out death sentences on Polish blackmailers of Jews, however limited. The reason for this seeming contradiction, as Joshua Zimmerman notes, is that the underground was reflective of Polish society as a whole, which included socialists, liberals, peasants, and nationalists.[8] Likewise, Kornbluth makes little of the contradictory behavior of individual Poles within the described "conveyor belt," who acted as both helpers and perpetrators not only of Jews but all of the groups they were pressed into persecuting.

Indeed, most vexing is the author's treatment of voluntarism under totalitarian rule. In this study of collaboration, the universe of motivation is primarily colored by ethnic hatred, the desire for Jewish property, and the promise of rewards. The reader learns little of the pressures and disciplinary measures that shaped the decision-making process of individuals dragooned into the "conveyor belt." He notes that they were "obliged to report any strangers on their territory," but that "no occupation orders obliged civilians to denounce Jews," evoking the words of a survivor that all that was asked of individual Poles was their "inactivity" (pp. 6, 47).

Yet such a framing ignores everything that we know of the expected behavioral patterns of life under a sustained system of coercion and violence – here, the panoptical gaze of the village, a self-regulating dynamic of mutually reinforcing fears among those enforcing the new 'order,' and anticipatory obedience. It would be hard to expect communal neutrality in the face of the general 'Lucifer Effect' unleashed by the threat of collective punishment and unremitting German state terror. The sociology of self-preservation born of the occupation was hardly conducive to a 'For Whom the Bell Tolls' moral sensibility. The occasional Jews 'passing' as Poles in rural areas, who were roped into *ad hoc* search parties for fugitive Jews, such as the gamekeeper Tadeusz Juszczyk or the farmhand Szmulek Oliner[9] – registered their brief participation in the so-called hunt for Jews not as a phenomenon driven by ethnic hatred or greed, though these no doubt animated some, but of largely following orders from above in a social reality set in motion by the German occupation – a rural banality of evil, if you will. The high level of agency attributed to the meso-level actors operating within the village security system also goes against the general pattern observed in highly centralized and coercive states, where, in the words of two genocide

scholars, such actors "enjoy comparatively little autonomy in substantially changing or altering the trajectory of mass violence."[10]

A related weakness is the limited empathy extended to the "ordinary men and women," who stood accused before the new legal system (p. 62). The book is generally dismissive of the justifications offered by defendants as rarely rising above the level of cynical defense strategies. The vignettes of cases marshalled before the reader do not convey the genuine dilemmas faced by members of rural society during the war, though the judiciary frequently evoked the "impossible" demands placed on individuals *in extremis* (pp. 127-128). Interestingly, the first legal study of the August decree found that lay judges who began by considering a case from the perspective of a potential victim, "suddenly changed when sitting in judgment, instead looking at the crime through the prism of the perpetrator" (p. 118).

The general problem – perhaps unavoidable in a study focused on postwar justice – is that the picture of the German occupation derived from the case files remains disconnected from a corresponding micro historical backdrop of a given region, especially its topography of terror. The August trials offer a unique, though crooked, mirror of wartime behavior and the occupation. Symptomatic is the almost complete absence in the book of the local German police and civilian administration, especially the gendarmerie, in shaping local realities. Given the array of forces operating in the background of the trials elucidated by the author, it points back to the inherent challenge of constructing a theory of collaboration primarily on the same shaky basis. Here, it might also be productive to consider the question of collaboration through a colonial lens and forms of indirect rule in what was, in essence, the Third Reich's first colonial territory.[11]

The book also contains a minor error: The August Decree was revised a total of five, not three, times (p. 7). A missed opportunity in terms of sources is the memoir of Mark Verstandig, who served as a legal counselor for the Ministry of Public Security and, among others, objected to the decree's broad definition of collaboration.[12]

Despite just some of the critical issues raised here, *August Trials* stands as one the most important synthetic works dealing with Poland and the Holocaust to appear in recent years. Written with stylistic verve, it is a provocative, at times relentless book that must be reckoned with by students of modern Polish history. By locating a direct causal line between the prewar antisemitism of church and state, wartime ethnic cleansing, and postwar pogroms, it stakes out a maximalist view of Polish complicity (and its erasure) in the historiography of the Holocaust. Although it may not convince all in its argumentation, the author's findings regarding the nature of the trials will undoubtedly force those utilizing these sources to fundamentally re-evaluate the cases in light of the background forces and sentencing patterns uncovered by the author. Indeed, *The August Trials* comes on the heels of Roman Gieroń's study of the same body of sources, published a year prior, which

stands as something of a counterpoint to the book under review.[13] Where Kornbluth is most skeptical of testimonies given before judges during the main hearing, Gieroń is more distrustful of depositions given before investigators. Such differences have major implications. As Kornbluth notes, today's debate surrounding the Holocaust in Poland is "essentially a dispute about the credibility of the August trials" (273). Much hangs in the balance in their interpretation.

Endnotes

1 Jan T. Gross, *Neighbors: The Destruction of the Jewish Community in Jedwabne, Poland* (Princeton: Princeton University Press, 2001).
2 Filip Gańczak, *Jan Sehn: Tropiciel nazistów* [Jan Sehn: Nazi hunter] (Wołowiec: Wydawnictwo Czarne, 2020); see chapter entitled "My Brother's Keeper" in Andrew Nagorski, *The Nazi Hunters* (New York: Simon & Schuster, 2016), 63-88.
3 Agata Fijalkowski, "Tadeusz Cyprian: Polish War Crimes Prosecutor and Photographer," *Law and Humanities* 15, no. 1 (2021): 47-83.
4 See, for example, Gabriel N. Finder and Alexander V. Prusin, *Justice behind the Iron Curtain* (Toronto: University of Toronto Press, 2018); Andrzej Paczkowski, ed., *Sprawiedliwość, zemsta i rewolucja: Rozliczenia z wojną i okupacją w Europie Środkowo-Wschodniej* [Justice, revenge, and revolution: The settling of accounts with the war and occupation in East Central Europe] (Gdańsk: Muzeum II Wojny Światowej, 2016).
5 Jan T. Gross and Irena Grudzińska-Gross, *Golden Harvest: Events at the Periphery of the Holocaust* (Oxford: Oxford University Press, 2012).
6 The Polish original of *sołtys* is sometimes translated as village head or village elder.
7 Gunnar S. Paulsson, *Secret City: The Hidden Jews of Warsaw, 1940-1945* (New Haven: Yale University Press, 2002); Barbara Engelking and Jan Grabowski, eds., *Dalej jest noc. Losy Żydów w wybranych powiatach okupowanej Polski*, 2 vols. (Warsaw: Stowarzyszenie Centrum Badań nad Zagładą Żydów, 2018).
8 Joshua D. Zimmerman, *The Polish Underground and the Jews, 1939-1945* (Cambridge: Cambridge University Press, 2017).
9 Samuel P. Oliner, *Narrow Escapes: A Boy's Holocaust Memories and Their Legacy* (New York: Paragon House, 2001), 118; Tadeusz J. Juszczyk, "Z moich przeżyć okupacyjnych w Święcanach," in Tadeusz Ślawski, *Święcany. Zarys monograficzny* (Skołyszyn: Stowarzyszenie Miłośników Skołyszyna i Okolicy, 1995), 349-350, 346-347.

10 Evgeny Finkel and Scott Straus, "Macro, Meso, and Micro Research on Genocide: Gains, Shortcomings, and Future Areas of Inquiry," *Genocide Studies and Prevention* 7, no. 1 (2012): 59.
11 David Furber and Wendy Lower, "Colonialism and Genocide in Nazi-occupied Poland and Ukraine," in *Empire, Colony, Genocide: Conquest, Occupation, and Subaltern Resistance in World History*, ed. A. Dirk Moses (New York: Berghahn Books, 2010), 372-400.
12 Mark Verstandig, *I Rest My Case* (Evanston: Northwestern University Press, 2002), 206-218.
13 Roman Gieroń, *Półmrok: Procesy karne w sprawie przestępstw okupacyjnych popełnionych przez chłopów wobec Żydów w województwie krakowskim* [Twilight: Criminal trials for crimes committed by peasants against Jews under occupation in Kraków voivodeship] (Kraków: IPN, 2020).