

Jonathan Waterlow and Jacques Schuhmacher (eds), *War Crimes Trials and Investigations: A Multi-Disciplinary Introduction* (Palgrave Macmillan, Basingstoke, 2018, 338 pp., £101 hardback).

In a previous issue of this journal, my co-editors and I highlighted that '[a]s academics, we strongly believe[d] in the free circulation of thoughts and ideas' and that the present journal had as its overarching objective the *pursuit of a dialogue* – initially launched in a research programme – between academics and practitioners with various expertise on human remains in contexts of mass violence all over the world.¹ The focus on such an inter-disciplinary dialogue throughout Jonathan Waterlow and Jacques Schuhmacher's volume on the investigation and prosecution of mass atrocities thus particularly resonated with me. As they eloquently explain, '[i]n discussing [their] work on war crimes trials and investigations, [they] repeatedly found [them]selves at the limits of [their] discipline's knowledge and expertise'.² The unavoidable limits of each discipline are the very rationale behind this inter-disciplinary work and the reason why it constitutes an important addition to the existing literature, too often confined within disciplinary boundaries.

Law is certainly no exception, mostly when issues of investigation and prosecution are at stake. The kind of 'terminology disclaimer' in the editors' preface thus refreshingly recalls the semantic challenges that any scholar working on mass violence, regardless of his or her discipline, invariably faces – or will face – when it comes to adequately using terms such as 'war crimes' or 'atrocities'. Yet, the editors convincingly make the point that 'these terms may have a firmer, stricter legal definition, but they are also so widely used in the general and academic population that they continue to be surprisingly flexible'.³ As a legal scholar myself, I have to confess that I first approached the idea of a flexibility of terms which have a clear legal definition with suspicion and, on a number of occasions, I can certainly plead guilty to the 'frustration', pointed to by the editors, expressed by criminal lawyers 'at the imprecise way that everyone outside their discipline uses terms like 'crime against humanity''.⁴ I am, however, fully convinced by the editors' argument that 'it is deeply limiting to think that they can *own* such terminology'.⁵ And it is precisely here that the strength of this volume lies: in its refusal to limit the study of war crimes trials and investigations – which, by their very essence and terminology, refer to legal and judicial concepts – to an unnecessarily strict legal approach. Law does not *own*

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such domains and, as the different chapters of this inter-disciplinary volume overwhelmingly show, it most definitely should not. If anything, law should integrate, collaborate and co-exist with these various disciplines if the challenges faced by such trials and investigations are ever to be overcome.

Among important and critical chapters pertaining to the fields of history, international relations, global politics (responsibility to protect), violence studies, moral philosophy and anthropometrics is a contribution on forensic anthropology which, for the purposes of this review, particularly caught my attention. This chapter – entitled ‘Forensic Anthropology: Whose Rules Are We Playing By? Contextualizing the Role of Forensic Protocols in Human Rights Investigations’ – fits in perfectly with the volume’s overall emphasis on the necessity of an inter-disciplinary dialogue. And indeed, the chapter’s authors stress the risk of a *dialogue de sourds* when forensic anthropology is resorted to in post-mass violence contexts. As they explain, the ‘level of interpretation within forensic anthropological practice is often overlooked by those outside the discipline. The forensic expert offers *opinions* based on what he or she examines – not the kind of black-and-white statements which those outside the discipline frequently expect.’⁶ This observation certainly holds true when it comes to the evidentiary value of human remains of victims of mass violence. Lawyers and judges will often expect definite answers when these might simply be impossible to give. Based on different case studies (Argentina, Guatemala, former Yugoslavia, Spain), this chapter explores the investigation of mass atrocities and the challenges posed by the internationalisation of forensic work and the consequent transplants of international protocols (notably the 1991 Minnesota Protocol on summary executions and the 1999 Istanbul Protocol on Torture and Cruel, Inhuman and Degrading Treatment) in different local contexts to ultimately explain what human remains can and cannot tell; a crucial evidentiary point when it comes to investigation for the purposes of prosecution before a court of law. This chapter, however, does not feature in a vacuum: it is part of a volume which integrates several disciplines all focusing on the investigation and prosecution of mass violence and should be read as such. The aim of the editors to achieve a dialogue between these different disciplines is definitely successfully reached. Just as law is not – and cannot – be omnipotent, forensic anthropology also knows its limits. It is only via the cross-fertilisation of ideas and knowledge between disciplines that the field of mass-violence investigations and prosecutions will advance. This book is a big step in this direction.

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Notes

- 1 E. Anstett, J. M. Dreyfus and C. Fournet, ‘Editorial’, *Human Remains and Violence*, 3:1 (2017), 1.
- 2 J. Waterlow and J. Schuhmacher, ‘Preface’, in J. Waterlow and J. Schuhmacher (eds), *War Crimes Trials and Investigations: A Multi-Disciplinary Introduction* (Basingstoke, Palgrave Macmillan, 2018), p. ix.

- 3 J. Waterlow and J. Schuhmacher, 'War Crimes Trials and Investigations: Major Trends and Disciplinary Challenges', in J. Waterlow and J. Schuhmacher (eds), *War Crimes Trials and Investigations: A Multi-Disciplinary Introduction* (Basingstoke, Palgrave Macmillan, 2018), p. 5.
- 4 *Ibid.*
- 5 *Ibid.*
- 6 T. Thompson, D. Jiménez Gaytan, S. Bedoya Sánchez and A. N. Pleitez Quiñonez, 'Forensic Anthropology: Whose Rules are We Playing by? Contextualizing the Role of Forensic Protocols in Human Rights Investigations', in J. Waterlow and J. Schuhmacher (eds), *War Crimes Trials and Investigations: A Multi-Disciplinary Introduction* (Basingstoke, Palgrave Macmillan, 2018), p. 62. Emphasis in original.

Diane M. Nelson, *Who Counts? The Mathematics of Death and Life after Genocide* (Duke University Press, Durham, NC, 2015, 328 pp., \$99.95 hardback, \$25.95 paperback).

In this book, Diane M. Nelson proposes a deep reflection concerning number and counting the dead after a genocide. This book relies on a case study: the genocide of the Maya population in Guatemala perpetrated between 1980 and 1983. Diane M. Nelson explains the development of accounting necessity in a mass murder context and 'how number and quantification were made into hard-to-question facts because it helps us understanding what has been both lost and gained in these processes and to follow number as an actant traversing different terrains of life'. Nelson defends a ground approach of this problem mixed with a method that changes scales and focus. She shows – one of the aims of the book – how subalterns can be considered in the aftermath of genocide 'more as collective than individuals'. Following the chapters, we understand that in this matter mathematics are certainly not an exact science. If 'it often feels like an asymptomatic curve, never reaching its goal', as the author expresses, the book tries to make us approach/appraise the question of counting the dead from another point of view. From this perspective, the question of who counts becomes inexorably more important than how many dead are counted. From a mathematical point of view, the problem changes into an anthropological, then a political issue, and this is exactly what Diane M. Nelson says when she argues 'that counting is also qualitative – deeply connected to experiences of space, time, subjectivity, the body, the sacred, relationality, the collective, justice, exchange, and power' (Ch. 1). For decades and centuries, we know that the cold results of war and massacre are more than algebra, Diane M. Nelson reminds us that behind the numbers are flesh, bones and human souls. If it makes sense for science to produce a credible number, the road to this goal is strewn with pitfalls. In this connection the author discusses the importance of mixing a traditional quantitative approach and the forensic sciences (Ch. 2). It is a first step to give an identity to the person that numbers can hide from our eyes. From mathematics, the focus of the book slips into anthropology, biological anthropology drives to social anthropology. In fact, for Nelson there is no way to count and to question who counts

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the Maya dead without a mention of the way the Maya are counting their own dead. Following the Malinowski method, Nelson practises a field anthropology and reminds us that 'while Westerners tend to see numbers as neutral tools, for many Maya they have symbolic or metaphoric significance'. Western or Maya, the number put into the light is changed into an argument to provide reparations for victims: 'in the wake of subtraction and division, addition and multiplication are needed to rectify loss'. Then the question of who counts moves into the question of who pays and to whom. At this moment the aim of the book is political. The following chapters, in our opinion are less interesting. They concern the situation of the Maya population in Guatemala until the genocide and turn to a classical study of domination reports in a subaltern studies perspective. To conclude, we can say that the main contribution of Nelson's book is certainly concentrated in the first part of this reflection. This book encourages the community of specialists of mass murders and violence to question their object with a perpetual concern to connect approaches (historical, bio-anthropological, social anthropological, legacy) and methods. To question who counts is certainly relevant. Behind the struggle to say how many dead, we can sense another fight to indicate who should pay and what the price of a genocide is.

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Christopher E. Mauriello, *Forced Confrontation. The Politics of Dead Bodies in Germany at the End of World War II* (Lexington Books, Lanham, MD, 2017, 252 pp., \$100 hardback).

This book by American historian Christopher E. Mauriello is in many ways original. Original because it presents a brand new research and also because the themes it develops have never been considered in any previous academic work. The topic may at first appear to be focused and limited: the author describes how some American troops arriving in German towns and villages in 1945 encountered fresh mass graves and the cadavers of concentration camps victims, and how they forced the local German population to also encounter those corpses, to visit the sites where they were murdered and to bury them. Mauriello explains that he got the idea for this important book in remembering his own father's journey through Germany in spring 1945, as an American soldier. Only the encounters of American soldiers with those corpses are described: no mention is made of similar events with French, British or Soviet troops, and a comparative approach is thus absent. Mauriello has identified forty such events and insists that his book is not about the encounters with concentration camps or even death camps: encounters that have been described in other, older books such as the seminal *Inside the Vicious Heart. Americans and the Liberation of Nazi Concentration Camps*, by Robert Abzug (Oxford University Press, 1985). In those experiences, GIs discovered the sites of concentration, with corpses lying most of the time inside the limits of the camps, and survivors guiding them and explaining to them the mass shootings that had happened just before their

arrival. Patton notably prescribed visits of the camps both for American troops and for Germans living nearby. The forced confrontations that Mauriello describes are with corpses lying in forests, in villages, the remains of prisoners assassinated on their evacuation routes, on death marches. The author wants those encounters to have laid the foundation for the politics of collective guilt in Germany after 1945, a politics that would have been imposed by the Allies. This last point is the least convincing aspect of the book.

The National Archives and Records Administration, the US National Archives at College Park, Maryland, holds a curious, till now unexplored file with many horrific photos taken by American soldiers. Those photos document piles of emaciated corpses, strange ceremonies with civilians marching to local cemeteries, the funerals of dozens of victims at the same time. Mauriello was astute enough to find some private documents sent by American soldiers – often by military doctors – to their families in America describing those strange ceremonies: displays of corpses, showing of the new power of the occupiers, and at the same time funerary rituals. The descriptions of those confrontations are also based on very fine field research, as anthropological as historical. Those visits to small towns in Germany permit Mauriello to give very fine descriptions of four such encounters: in Schwarzenfeld, Neunburg vorm Wald, Nammering and Ludwigslust. This micro-history approach is very fruitful: it allows showing the dynamics at play, the powers at stake in a few hours, sometimes a few days, the moment GIs arrived in those specific places. Even in such a remote village as Schwarzenfeld, the dynamic was complex, with the presence of a local, American-born Catholic priest, a Nazi mayor, devout Catholics in the town, a Jewess in hiding and numerous forced labourers. The SS, with their Hungarian auxiliaries, killed almost 200 deportees marched into the town from the Flössenburg camp. The author demonstrates the agency of dead bodies in the confrontation, the fear, sometimes the revenge towards Nazi crimes in what are described as liminal spaces: Germany discovered by American troops who had to act as ‘occupiers’, not ‘liberators’, according to Eisenhower’s instructions. Mauriello describes what he calls the ‘forced witnessing’ of crimes and relates decidedly local events, to draw a wider image of the role of corpses in 1945 Germany. Putting dead bodies at the centre of his description, Mauriello discloses the complexity of the situation at the time and lays the ground for further explanation of the way that (West) Germany confronted or denied its past. The GIs generally behaved correctly even if they were shocked by what they saw. The forced burials and funerals impressed the local memory in those places – till today. The ceremonies were collective and performative; Germans who were forced to carry, to bury the dead, were prevented from wearing gloves, as if the physical contact with those corpses would make the lesson even more impressive. All those processes were photographed, sometimes in detail, and the visual aspect is an important part of the book (many photos are reproduced). It is striking to read that those forced confrontations were all the result of local initiatives by military officers, and never an official policy (quite the opposite of the guided tours of concentration camps). The book may unwittingly open a new field of research about post-war Germany. Opening the last chapter ‘Human Remains: The Enduring Politics of Dead Bodies in the Postwar Era’, the author writes: ‘Dead

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bodies continued to provoke contested political meanings in the immediate post-war years and into the Federal Republic of Germany. The physical remains of Nazi victims buried in town cemeteries of newly constructed military cemeteries throughout Germany were localized public reminders to ordinary Germans about their town's role in the crimes of the Nazi regime, World War II and American occupation.'

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