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Richard J. Golsan, *Justice in Lyon: Klaus Barbie and France's First Trial for Crimes against Humanity*. Toronto: University of Toronto Press, 2022. xii + 317 pp. \$95.00 U.S. (hb). ISBN 978-1-4875-0644-5; \$39.95 U.S. (pb). ISBN 978-1-4875-4559-8; \$39.95 U.S. (epub). ISBN 978-1-4875-3417-2; \$39.95 U.S. (pdf). ISBN 978-1-4875-3416-5.

Review by Julian Jackson, Queen Mary University of London.

Between 1987 and 1998, three individuals were tried in France for crimes against humanity: the former German Gestapo officer Klaus Barbie in 1987, the former French *milicien* Paul Touvier in 1994, and the former Vichy functionary Maurice Papon in 1997-1998. Richard Golsan, who has written and edited books on the cases of Touvier and Papon, as well as more generally on the memory of the Vichy period, has now turned his attention to the trial of Barbie.^[1] We already have some journalistic accounts of the Barbie trial, but this is the first academic treatment. It is a judicious, clearly written, and well-researched study which will now become the standard work on the subject. The first three chapters present the background and preparation of the trial and the next four give a detailed account of the events in the courtroom.

Although the Barbie trial was the first of three to take place in France, in some respects it bears more comparison with the trial of Adolf Eichmann in Jerusalem in 1961. Both Eichmann and Barbie had been living in exile in South America, and in both cases their defence lawyers argued that the defendants had been extradited illegally. In both trials, the greatest impact came from the harrowing testimony of witnesses recounting their suffering. In both cases, there seemed to be a strange disjuncture between the defendants and the horror of their crimes: Eichmann played the role of an obedient functionary remote from the crimes being described (Hannah Arendt was taken in by the performance); Barbie was an old man to whom it was hard to relate the sadist being described in court as he sat behind a glass partition reminiscent of the glass box that had been created for Eichmann (with the difference that after three days Barbie refused to attend the court proceedings). In both cases, medical experts had studied the victims intensively to try and penetrate their psychology. The results were inconclusive, but one thing was clear: both had been Nazi believers and continued to be so after the collapse of Hitler's Reich.

Barbie had already been tried in absentia by two French military tribunals in 1952 and 1954. He had been sentenced to death, but the twenty-year statute of limitations on war crimes committed in France had run out in 1974. What made it possible to try him again was that in 1964 the French parliament had voted to remove any statute of limitations on crimes against humanity as defined by the Nuremberg Charter. They had become "imprescriptible" in French law.

Barbie had been tracked down in Bolivia by the lawyer, activist, and historian Serge Klarsfeld and his wife Beate. Klarsfeld's parents had died in Auschwitz, and he devoted his life to recovering the memory of every Jew from France who had been deported during the Occupation and pursuing those who had been responsible for their deportation. After ten years of efforts by the Klarsfelds to overcome foot-dragging by successive French governments, Barbie was brought back to France in February 1983. The first stage of the judicial process against Barbie was the *instruction*: the preparation of the case by an examining magistrate. This process involved multiple interrogations of the accused with his lawyers present; confrontations between Barbie and witnesses to, or victims of, his crimes; and the gathering of documentary material. To avoid any suspicion of double jeopardy, it was necessary to ensure that none of the crimes for which Barbie had been previously convicted were included in the new indictment.

For many years after the liberation, the crime for which Barbie was most remembered was the torture and murder of the resistance leader Jean Moulin. But during the 1980s, French memory increasingly focussed on crimes committed against Jews as opposed to those committed against resisters. The two categories had not previously been distinguished from each other. Regarding the persecution of Jews, one of Barbie's most horrific crimes had been the arrest of forty-four children and five adult supervisors from the Jewish orphanage at Izieu near Lyon on 6 April 1944. All those arrested were deported to Germany. None returned.

While preparing the case against Barbie, the examining magistrate took the position, supported by his superiors at the Ministry of Justice, that Barbie's actions against resisters, could not be included in the case against him since they were war crimes rather than crimes against humanity perpetrated against innocent civilians. Including resisters in this category would deprive them of their hard-won claim to be recognised as combatants. Despite this last point, Resistance organisations appealed against their exclusion from the crimes attributed to Barbie. Their objections were vindicated in a bombshell ruling from France's highest appeal court, the Cour de cassation, on 20 December 1985. It defined crimes against humanity as acts of persecution carried out "in the name of a regime practicing a policy of ideological hegemony...not only against persons because of their appurtenance to a racial or religious collectively, but also against adversaries of this policy, whatever the form of their opposition" (p. 104). This Cour de cassation ruling made it possible to include two new crimes in the case against Barbie, both against former resisters. One concerned Maurice Gompel, a Jew who had been tortured to death by Barbie—but for his activities as a resister. The other was that of Lise Lesèvre, a resistance courier who had been tortured by Barbie before being deported to Ravensbruck—and then rescued by American troops during a death march from the camp.

The Court's controversial ruling gave rise to a debate in the press between, on the one side, Serge Klarsfeld, and on the other, Henri Noguères, a former resister. Klarsfeld criticised the Cour de cassation ruling because it took no account of the category of "innocent" victims of the Nazis. Noguères riposted that the term "innocents" created a false dichotomy while also implying that resisters were in some way "guilty under French law" (p. 105). For Noguères, the key component of crimes against humanity was not the identity of the victims but the ideological aims of the state that destroyed them. This controversy rumbled on into the trial itself because Noguères and Klarsfeld each went on to act as lawyers for different civil parties in the trial.

The trial finally opened on 11 May 1987. The prosecution's plans were thrown into disarray when after three days Barbie announced that he would no longer attend court on the grounds

that he had been illegally extradited from Bolivia. The president of the court, André Cerdini, was criticised for allowing Barbie to absent himself but many lawyers, including Klarsfeld, felt that his absence made their task easier since many of the witnesses who had to confront him during the *instruction* had been traumatised.

One hundred and seven witnesses testified between 14 May and 15 June. They included legal experts, psychiatrists, historians, and (over eleven days) former witnesses or victims of Barbie's crimes. Some of these witnesses strayed off the point; some were overcome by grief and could not finish; one, now living in New York, provided what would have been crucial evidence linking Barbie to a round-up of Jews in September 1943 but turned out to be embroidering the truth, and the prosecutor told the jury that his testimony had to be discounted. But overall, the impact of these personal testimonies was the most intense and harrowing part of the trial. Especially moving was the testimony of Simone Kadosche-Lagrange who had been arrested as an adolescent along with her parents. She had seen her father killed in front of her and her mother was gassed on the day Paris was liberated. What made her account so striking was that it conveyed a sense of what it had been like for a child to live through these terrible events whereas none of the children of Izieu had survived to tell their story. As one observer wrote: "No sooner do those of us in the audience feel that, word by word, we have reached the limits of the nightmare than we realise we have been optimistic. It has no limits" (p. 151).

Some of the witness testimonies undermined the definition of crimes against humanity which had underpinned the indictment. This was the case of the journalist and former resister André Frossard, who testified on 25 May at the request of the daughter of Maurice Gompel, whose death he had witnessed in Lyon's Montluc prison. Frossard told the court that in his view a "crime against humanity has been committed when one kills a human being simply for being born, for coming into the world"—which contradicted the Cour de cassation ruling. So too did the testimony of Elie Wiesel, for whom the "ontological character of the Holocaust" rendered it unique.

Throughout the trial there was some tension between those of the thirty-nine civil party lawyers acting for resistance victims and those acting for Jewish victims. But in the end, this did not prove too divisive because the cumulative impact of the witness testimonies was to make these distinctions seem redundant. This was especially true when the court heard about the last convoy of victims that had been despatched from Montluc prison on 11 August 1944. Half of them had been deported as Jews and half as resisters. The train had divided at the German frontier, sending the Jews to Auschwitz and the others to the camps of Struthof or Ravensbruck. But the courtroom testimonies showed that the experience of resisters incarcerated in these two camps went beyond what might normally be considered a war crime.

In Golsan's view, the most outstanding lawyer for the civil parties was Klarsfeld, representing the children of Izieu. Thanks to his unmatched knowledge of the historical documents, Klarsfeld was able to disprove Barbie's claim that a telex he allegedly sent to superiors announcing the Izieu roundup was a forgery. Klarsfeld had managed to locate the original document and it was presented in court on the fifth day (15 May). Klarsfeld's final summing up was a tour de force. He briefly recounted his own experience of the occupation, explaining that he had only been saved from deportation by hiding behind the false back of a wardrobe that his father had constructed. Despite his pre-trial controversy with Noguères, Klarsfeld made a point of addressing *all* Barbie's victims, both Jews and resisters. But the most moving part of his speech

was the solemn reading out of the name and age, one by one, of each of the children of Izieu. Where possible Klarsfeld also read out, a passage from the last letter the child had written to their parents. After naming each child he ended every time by stating that she or he “never came back” (p. 190). Even Barbie’s defence counsel Jacques Vergès seemed destabilised by this performance. One observer wrote: “Vergès is tense...He studies the public trying to decipher their faces. This is not the time for a smile. Nor even for breathing. Vergès absorbs the blow” (p. 190).

This was a rare moment of discomfiture for Vergès, whose defence strategy had been based on what he called a *procès de rupture*, creating incidents in court at every opportunity and throwing out endless innumerable provocations. Vergès, who had been brought up on the island of Réunion by a French father and Vietnamese mother, had started his career by defending Algerian freedom fighters. What motivated him above all was rage against white European colonisers. The thrust of his defence was that Barbie was being singled out for prosecution by a French state that had committed no less terrible crimes itself in Algeria.^[2] The Barbie trial was, in this view, a hypocritical farce because it glossed over the crimes of the West in colonies.

If Klarsfeld and Vergès are generally remembered as the two dominant personalities of the trial, the unexpected hero of Golsan’s book is Pierre Truche, the public prosecutor who argued effectively that Vergès was trying to make the trial about anything else but the crimes of the accused. Truche presented his arguments in a calm and un-histrionic style which made him a kind of anti-Vergès. Since Truche had himself previously been on the record as favouring that distinction between resisters and Jews which had been rejected by the Cour de cassation, he returned to the issue in his summing up by comparing the case of a small Jewish child who had found himself on a deportation train simply because he had been born, and resister on the same train for acts they had committed. But Truche then squared the circle, so to speak, by making the point that if for a Jew the “plunge into inhumanity” was predestined from birth, the resister too “plunged into inhumanity” once he or she entered the universe of the Nazi camps.

It was no surprise when, on 4 July, Barbie was sentenced to life imprisonment. He died in prison four years later. After the trial, Alain Finkielkraut wrote a polemical book arguing that Vergès had succeeded in using the trial to relativize and diminish Nazi crimes. For him a key moment occurred when Nabil Bouaïta, one of Vergès’s two co-defenders, made the claim that that Israel was the new Nazi Germany. For Golsan, however, Vergès never succeed in making the colonial past the central issue of the trial. It was only in the late 1990s that this issue came more and more to haunt French memory—and this development had little to do with Vergès’s provocatively tendentious arguments in defence of Barbie. In the end, Golsan concludes that “the trial was a success. It did serve justice, in that Barbie was prosecuted fairly” and it “also served history to the extent that through all the distractions a clearer understanding of Barbie’s and Nazism’s world view and the nature and specificity of their crimes emerged” (p. 19).

NOTES

[1] Richard J. Golsan, ed., *Memory, the Holocaust, and French Justice: The Bousquet and Touvier Affairs* (Hanover, N.H.: University Press of New England, 1996); Richard J. Golsan, *The Papon Affair: Memory and Justice on Trial* (New York: Routledge, 2000); Richard J. Golsan, *The Vichy Past in France Today: Corruptions of Memory* (Lanham, Md.: Lexington Books, 2017).

[2] There is one sentence on page 215 where a typo inverts the meaning: “For Vergès crimes against the Resistance in WWII were *war* crimes, just like the crimes committed by [this should surely read “against”] Algerian resisters.”

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