

## After Nuremberg: American Clemency for Nazi War Criminals

**By Robert Hutchinson. New Haven: Yale University Press, 2022.  
Pp. ix + 340. Cloth \$45.00. ISBN: 978-0300255300.**

Tomaz Jardim

Toronto Metropolitan University

Robert Hutchinson's fine new book starts with a remarkably troubling statistic: of the 142 German war criminals convicted at the Nuremberg Military Tribunals, only 89 remained behind bars in 1951, and none beyond 1958. Those who walked free included SS men who had helped organize and carry out massacres of thousands of Jews in territories seized from the Soviets or had conducted murderous human experiments in the concentration camps. Others were military men who had orchestrated the killings of POWs or civilians as hostages. Yet, despite the death sentences or life sentences many had received, the vast majority of those convicted at Nuremberg received clemency or were paroled, sometimes decades before their sentences were due to expire. Making use of the previously underutilized records of the parole and clemency boards established by U.S. authorities in Germany, as well as the correspondence of those who created and staffed these boards, Hutchinson endeavors to answer two central questions: what was the rationale behind this program of clemency and parole, and how did this program ultimately impact the legacy of the Nuremberg Military Tribunals in the United States and in West Germany? In answering these questions, Hutchinson provides a compelling and disturbing look at how American officials unwittingly sabotaged the Nuremberg settlement in the interests of justice, and fell for the self-serving equivocations and justifications of those guilty of committing some of the twentieth century's most egregious crimes.

Chief among Hutchinson's contributions is his repudiation of the common contention that American clemency for Nazi war criminals resulted largely from Cold War pressures and a capitulation to West German attempts to tie its rearmament and prospective NATO membership to the release of those still incarcerated for Nazi crimes. Drawing upon the deliberations of the U.S. Advisory Board on Clemency for German War Criminals, Hutchinson shows that the decisions reached by the American jurists charged with reviewing the petitions submitted by the Nuremberg convicts were informed far more by legal than by political considerations. Indeed, Hutchinson points out that against the backdrop of the Korean War and fears of widening, potentially nuclear conflict with the Soviets, the war criminals issue was of minor diplomatic importance at best.

If Cold War politics does not explain the American rush to release the war criminals so recently convicted for heinous crimes at Nuremberg, what does? As Hutchinson convincingly argues, it was rather a profoundly misguided and ironically idealistic conception of American justice that led U.S. officials in Germany to extend clemency or parole to dozens of unrepentant mass murderers, plunderers, and slave drivers. These jurists, Hutchinson explains, struggled with how to conceive of the Nuremberg convicts, and whether these should be afforded the same rights and avenues for recourse as common criminals incarcerated back in the United States. In answering the latter question in the affirmative, these jurists concluded that fairness dictated that the Nuremberg convicts deserved such safeguards as the right to an appeal and the right to parole. Yet, as Hutchinson shows, this alleged fidelity to American justice ironically led to a situation where German war criminals were afforded the opportunity to challenge their convictions in a manner never permitted in the United States. No American appellate court or parole board provided what the Nuremberg convicts were granted: "an uncontested platform to challenge their sentences [and] present alternative narratives of prosecution,

victimhood, and innocence that could not readily be rebutted by prosecutors, judges, or evidence” (50). Those tasked with reviewing the petitions for clemency did not consider the trial record itself but, in the interest of expediency, only the summary judgments of the court and any new evidence accepted from the petitioner on an assumption of credibility. Under these conditions – immensely advantageous for the petitioners – the vast majority of applications were successful, and most who filed them soon walked free.

As Hutchinson illustrates, the consequences of the mass clemency granted to Nazi war criminals by the United States were far-reaching and devastating to the legacy of the Nuremberg Military Tribunals. In concluding that the punishment fit the crime in only thirteen of the eighty-nine cases it considered, the Advisory Board on Clemency for German War Criminals repudiated the factual findings of the tribunals and determined that their judgments were incorrect. As Nuremberg chief prosecutor Telford Taylor lamented, these commutations emboldened West German critics, who seized upon the clemency program “as tantamount to a confession that the trials were a product of Allied vengeance and hate rather than an embodiment of law” (181). If a desire to trumpet the even-handedness of American justice inspired the U.S. clemency and parole program, Hutchinson demonstrates that it failed miserably in its aim. According to public opinion polls, only 38 percent of West Germans viewed the Nuremberg trials as fair at the end of 1950, whereas a full 78 percent had held this view four years earlier, before the clemency and parole program was launched. And even as West German disapproval of the war crimes trials grew, Hutchinson underscores that, without the cooperation of American institutions in undermining Nuremberg, hostile sentiment meant little.

Robert Hutchinson’s excellent study should be read by all those interested in Nuremberg and its long-contested legacy. In addition, the numerous, sometimes exhausting, but ultimately essential profiles of dozens of trial convicts offered by Hutchinson grant the reader invaluable insight into the outlooks of Nazi perpetrators as they attempted to justify their actions and diminish their moral and criminal culpability. That the exculpatory and fraudulent tales of those incarcerated for Nazi crimes proved so successful in securing freedom from American custody is perhaps the most sobering and depressing chapter of this story.

doi:10.1017/S0008938924000219

## **Hochofen, Maloche und “Gastarbeiter”. Ausländerbeschäftigung in Unternehmen der Eisen- und Stahlindustrie des Ruhrgebiets in den 1950er bis 1980er Jahren**

**By Lena Foerster. Stuttgart: Franz Steiner, 2021. Pp. 306. Hardcover  
€63.00. ISBN: 978-3515131223.**

Nina Kleinöder

Otto-Friedrich-University of Bamberg

The case of “Gastarbeiter” (“guest workers”) is a specific phenomenon in the history of migration in Germany, and the word itself is a thoroughly problematic term from the historical sources. It initially addressed a mobile and flexible work force in a particular political program of the Federal Republic of Germany (FRG) between 1955 and 1973. This form of migrant labour shaped postwar (western) Germany and its economic development. It has