The scholarship devoted to the complicity of German physicians in the Holocaust is rich and detailed, but there remains, as Michael Bryant demonstrates, still more to learn. It is well established that the techniques employed by the Nazis to exterminate Jews and others in concentration camps were first applied to people in state hospitals who were deemed mentally disabled or terminally ill. What has been less thoroughly investigated is the postwar response of both the Allies and the Germans to these atrocities. Bryant fills the gap with a systematic account of the judicial proceedings against those charged with killing the disabled. In so doing, he expands our knowledge of the dynamics behind these horrendous activities and explains, albeit not altogether convincingly, why the outcomes of these trials fundamentally changed over the years 1945 to 1953.

Physicians were implicated in almost every aspect of Nazi euthanasia — a misnomer, of course, because these were outright murders, not “good” deaths. The order to kill came in 1939, directly from Adolf Hitler — who wanted it kept secret for fear of adverse reactions from the Catholic church and other countries — but it was doctors who selected the victims, screened them, arranged for their transport, lied to their families about their cause of death, and in many instances, committed murder by injecting the victims with morphine or other deadly substances.

The behavior of one figure, Dr. Hermann Pfanmuller, can represent the many. Pfanmuller, who headed the Eglinger-Haar mental hospital from 1938 until the end of the war, unswervingly instructed his colleagues on “the need for us doctors to grasp the importance of eradicating life unworthy of life.” Those who were “perfectly useless for social membership in the human community,” he stated, “must be subjected to rigorous eradication.” Pfanmuller also insisted that it was wrong to fill hospitals with “living corpses for the sake of a high principle of medical care” when hospital beds were needed for wounded German soldiers — “the best, blooming youth.” Toward this end, Pfanmuller ordered his staff (after swearing them to secrecy) to identify patients they deemed curable and those they deemed incurable; he then sent the evaluations to Berlin, and when the word came back, he arranged to transport the “incurable” patients to killing centers. (Pfanmuller himself made sure to destroy his institution’s records as the Allied forces approached.) He also established a killing ward for children at his own institution; those whom he found “unworthy of life” were given over to a staff doctor to be “euthanized.” Parents were informed that their child had succumbed to infection and were not permitted to reclaim the body.

How did these doctors fare when they were later brought to trial? At first, both Allied and German judges handed down death penalties or long prison sentences to those convicted of killing or abetting in the killing of the disabled. Bryant meticulously traces the legal reasoning that the courts applied and concludes that the initial applications of justice were credible and impressive. The U.S. tribunals, recognizing that German domestic law did not define the actions as criminal and not wanting to be accused of ex post facto judgments, carefully spelled out what constituted a war crime (departure from the law and custom of war) and what constituted a crime against humanity (atrocities against civilian groups on the basis of race or religion) and then based individual verdicts of guilt on one definition or the other. German courts, for their part, often invoked “laws of nature,” whose principles not only trumped domestic law but also served to rebut the defense of merely following orders. Judges carefully distinguished between perpetrators, who embraced the killings and “inwardly approved” of them, and accomplices, who were one step removed from the actual killing. The perpetrators received capital punishment, the accomplices, prison terms.
After 1948, however, German courts relaxed their standards: persons who had committed murder during the war were found innocent or received short prison terms, terms that many of those convicted did not even have to complete. The most complicated cases involved physicians who argued, with some justification, that they remained in their posts in order to save some lives, even at the cost of sacrificing others. (Documentation, it should be noted, was often scarce because so much of the evidence had been destroyed.) Had they resigned, they said, the Gestapo would have appointed successors who were ready to kill everyone, systematically and efficiently. By staying on the job, these silent protesters sabotaged German plans; they were able to rescue numerous inmates by moving slowly, by discharging them, or by exaggerating their curability or their capacity for work. As Bryant shrewdly notes, the utilitarian judgment that it was better to sacrifice the most disabled so that the less disabled might live is not without profound problems of its own. But rather than tackle this issue, courts simply handed down acquittals if defendants could make the case that they had managed to rescue some percentage of patients.

The new judicial leniency also meant that outright murderers escaped justice. A Munich court found it relevant to note that Pfannmüller’s family history and professional experiences made him a true believer in euthanasia; it sentenced him to 5 years and then reduced the sentence to 2 years for time already served. In this same spirit, the German government in 1949 passed an amnesty that freed all Nazis who had been sentenced to jail terms of 6 months or less. Two years later, the United States gave amnesty to Nazis serving jail terms of less than 15 years.

The crucial question is why rigor gave way to leniency. Bryant attributes the change on the part of the United States to an increased commitment, for both itself and Germany, to the principles of national sovereignty. The United States had become increasingly apprehensive about setting precedents that justified international involvement in the internal affairs of other nations, as it had in the war crime trials. It also wanted Germany, seemingly purged of its past, to serve as a democratic ally in the new cold war. Bryant’s claim is not implausible, but he fails to marshal compelling documentary evidence to support it. Moreover, there are less abstract reasons for the change. A national and international fatigue with atrocities was setting in, diminishing the tolerance for more nightmarish stories. Indeed, the Holocaust itself entered a period of obscurity that persisted well into the 1960s. The 1948 Nuremberg Code would have to be rediscovered, as would the fact of Nazi euthanasia.

Looking back, what may be most remarkable is not the repression of the stories of horror but the ongoing exploration of them now, 60 years later. Courtesy of scholars such as Robert Lifton, Robert Proctor, and Michael Kater, many aspects of the role of Nazi doctors have been ably analyzed. Bryant does not measure up to them, but he, too, enhances our understanding of what can happen when a profession violates its abiding principles.

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OATH BETRAYED: TORTURE, MEDICAL COMPLICITY, AND THE WAR ON TERROR


A 2004 POSTING OF THE “INTERROGATION Rules of Engagement” at the Abu Ghraib military prison stated that the following techniques required the approval of the commanding general: dietary and environmental manipulation, “sleep adjustment, isolation for longer than 30 days, presence of military working dogs . . . sensory deprivation, [and] stress positions.” A central strategy of human rights work is to expose and document violations of human dignity. Steven Miles, the author of Oath Betrayed, is a physician, bioethicist, and human rights activist who has worked against torture in Turkey, the former Soviet Union, South Africa, Cuba, and the United States. He begins his discussion by asking, “Where were the doctors and nurses at Abu Ghraib?” The audience for the book is not confined to medical professionals, however. The book grew from an article on the same subject published in the August 21, 2004, issue of the Lancet, which drew a large response from the international media. According to Miles, the book is based on approxi-