

Doing Justice in Wartime

Multiple Interplays between Justice & Populations during the Two World Wars

International Conference, Cegesoma, Brussels, 3-4 December 2015

Call for papers – deadline: 22th July 2015

Periods of wars and foreign domination are of crucial importance in the history of justice. They have led to important shifts in the expectations, practices and actors involved in the field of justice. As a result of the often sudden change provoked by war, existing routines in the broad field of justice came under serious pressure. The disruption of predictable patterns stimulated inventiveness. The way in which actors of justice dealt with those sweeping changes is an important research question. Although different aspects of the impact of armed conflict on justice have been studied, the dominant approach of most of this work is top-down and highly institutional. As a result of this bias, the actual actors of justice and their practices and expectations in war settings have been largely neglected so far. Drawing from current trends in criminology and the social history of justice, this international conference starts from a grassroots perspective. It focuses on the impact of war on the complex interactions between different actors of justice (individuals and social groups on the one hand, 'the justice system' (police, judiciary and penitentiary professionals) on the other hand). The conference aims to highlight the emergence of new expectations of justice among these actors, resulting from the war. It also tackles justice practices, strategies to cope with the changing circumstances, new forms of negotiation, interaction, relationships between populations and the formal justice system in this particular context, and the impact of this renegotiation in the long run.

ACTORS

War led to the redefinition of the roles of the different actors involved in justice. New roles emerged and room to operate shifted. The claim of the professionals of the formal justice system on the monopoly of justice was of course to a large extent fictional even in peace time. 'Doing justice' is, even in a context of a consolidated state, always the outcome of a complex interplay of informal and formal actors of justice, as indicated for instance by the importance of the willingness to report crimes.

In war time, the balance in this interaction seems to have shifted at the expense of the formal justice system. Military justices experienced exceptional growth and their authority gradually extended at the expense of regular courts. In areas occupied by foreign armies, the impact on the judicial system was even more substantial. When they were not simply removed, the national courts had to coexist with those of the occupant; new bodies and players then competed with the traditional authorities of the judiciary. Moreover, people seemed to be more inclined to take justice into their own hands. Significantly, all major waves of informal justice in Europe during the last two centuries took place in wartimes and revolutions. The distinction between insiders and outsiders of the formal justice system tended to blur as a result of warfare. Informers of secret polices and political factions (like collaborators and resistance fighters) acquired a share of the power of constraint which was monopolized in peacetime by state agents. Unusual collaborations, sometimes at the margins of legality, were established between judges and civil society (like charity organizations). The proliferation of judicial actors altered the balance of power within the system. However, justice

officials did not passively undergo these changes. Even if their autonomy was reduced from above and rival forces gained power, judges retained discretion in the application and implementation of laws, and in a broader sense tried to cope with the changing circumstances.

EXPECTATIONS OF JUSTICE

Wars also changed the margins of tolerance of all the actors of justice mentioned above. This was marked by a blurring of the distinction between normal and abnormal, tolerated and prohibited behavior. New forms of ‘crime’ and new ‘criminals’ emerged. These shifts are particularly revealing in the frame of the expectations of justice of these actors. These expectations could converge, as shown by the generally shared ambition to see pro-German collaborators punished at the end of both occupations, but could also diverge. The reconstruction of the expectations of justice of different actors does not only constitute an access to the moral framework of these actors in the war context, but it is also revealing for the possible conflicts caused or intensified by the experience of the occupation.

As a result the concept of the transgressor was of course redefined. Specific categories of people facing sanctions emerged (i.e. the enemy, collaborators, foreigners, new citizens, Jews, minorities, black marketers), while existing categories extended due to the exceptional circumstances. Finally, certain categories of the population became subjects of increased surveillance, being considered dangerous in view of the continuing tension (e.g. juveniles, tramps, etc.).

PRACTICES

The diversification of the actors in the justice system and the shifting thresholds of tolerance had of course impact on the practices of justice. Indeed, we can observe a blurring of the borders between popular, criminal, military, administrative and colonial law. Criminal punishment was supplemented by non-standard popular, military or administrative practices. Exceptional measures were taken and often became semi-permanent, as for example the administrative internment of different types of ‘suspects’. Usual sanctions were equally transformed, as judges adapted penalties to the changing circumstances.

The relationship between the different (formal and informal) actors of justice could take different shapes, ranging from cooperation to hostility. In the occupied zone, through competition between domestic and foreign jurisdictions, lobbyists hoped to benefit from the most favorable jurisprudence. As far as the citizens, individually, were concerned, they were far from passive. Denunciations, a quintessential way for ‘weaker’ groups to be heard by the authorities, were growing exponentially.

A GRASS-ROOTS PERSPECTIVE

In order to reconstruct the complex landscape of actors of justice in war time, and their expectations and practices, a grass-roots approach imposes itself. For this approach to be feasible, it is essential to prioritize archives resulting from actual justice activities. Judicial archives form not only the main track, but also constitute an ideal observatory for the interactions between the different actors. Archives stemming from police operations, the prison system and administrative surveillance are equally suitable. The privileging of this kind of ‘operational sources’ of the criminal justice system in its broadest sense enables us to go beyond a top-down approach predominately based on policy sources.

BELGIUM AS A TEST-CASE

Due to the diversity of its war experiences in the twentieth century, Belgium is a particularly interesting case to study the impact of war on the relations between justice & populations. The Belgian army fought in both world wars, for five years in WWI and for 18 days in WWII. The vast majority of the Belgian population experienced both world wars as a period of occupation. Belgium as a colonial power mobilized its African empire as part of the war effort during both world wars, a mobilisation that influenced populations & justice relations.

*Candidates are invited to submit their paper proposal (between 500 and 1000 words) and a short biography to melanie.bost@cegesoma.be and antoon.vrints@Ugent.be the **22th of July 2015** at the latest. The conference will be conducted in English.*

Selected proceedings of the conference will be published.

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