

Abominable lawyers

Few have done more than Ingo Müller to shed light on the history of lawyers and legal thinking in Germany. Müller, himself a lawyer, vehemently challenged the *Stunde Null* narrative, the idea that after the defeat of National Socialism the West German elite underwent a complete transformation, suddenly becoming democrats and contributing to the democratic triumph of the German state.

After the war the allies, in particular the US prosecutors in the Nuremberg trials, made ambitious plans to prosecute leading figures of commerce along with other supporters of the Nazi regime including doctors and lawyers. A number of remarkable and groundbreaking judgments, still influential today, were issued in cases against a small number of defendants. Before long, however, West Germany – in its new role as a bulwark against communism during the Cold War – began to let the pace of prosecutions slip. When the trials of Nazi legal officials were finally held, even the most bloodthirsty wartime judges as well as the judges at Hitler's *Volksgericht* were let go unpunished.

This is the history so forcefully examined in Ingo Müller's powerful book *Furchtbare Juristen* ("Abominable Lawyers" – published in English under the title *Hitler's Justice: The Courts of the Third Reich*) which has recently been reissued in Germany. In it, Müller describes the horrific acts of the German judiciary between 1933 and 1945.

Yet it wasn't these crimes themselves that so stoked our rage as young law students reading Müller's book when it appeared in 1987. It was the perfectly uninterrupted careers of the lawyers that he described. Like that of Hans Puvogel, author of a work calling for "inferior persons" to be killed and eliminated, who went on to be appointed minister of justice of Lower Saxony as late as 1976 (!). Or of Hans Filbinger, minister president of Baden-Württemberg, who had served as a naval judge and convicted a soldier of insubordination on 29th May 1945, three weeks *after* the end of the war. The soldier had removed the Nazi emblems from his uniform on 1st May, a week before the war ended, an act which, according to Filbinger, showed a high degree of "corruption of principles".

In 1978 Filbinger came in for intense criticism from author Rolf Hochhuth for the death sentences the judge imposed during his time on the bench. 30 years after the acts in question, Filbinger readily defended these judgments and indeed his entire generation. Hochhuth

subsequently branded him a “*furchtbarer Jurist*”, a characterization adopted by Müller in the title of his book.

Müller describes the special treatment enjoyed by some perpetrators, allowed to draw large pensions due to the high-ranking positions they once held. He writes of the victims who were never compensated after being convicted under racial defilement laws. He describes the 125,000 prosecutions undertaken against communists and how in some cases the defendants were prosecuted by the same lawyers that had pursued them for their role as resistance fighters prior to 1945 (on which see also Alexander von Brünneck “*Politische Justiz gegen Kommunisten in der Bundesrepublik Deutschland 1949 – 1968*”).

The book is essential reading – at the very least for any lawyer. While the judiciary and legal scholarship of today cannot be compared with that of the post-war period, the purging of liberal, left-leaning and Jewish lawyers during the Nazi period came at a great cost to our legal culture, a loss that continues to be felt to this day.