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Jernej Letnar Čerňič

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Recenzija

Suzannah Linton (ed.) Hong Kong's War Crimes Trials, OUP, 2013, 264 pp. (Jernej Letnar Čerňič)

Hong Kong's War Crimes Trials are some of the domestic war trials after the Second World War that have so far been forgotten by domestic and international researchers. They included the prosecution of individuals for violations of the law of armed conflict during the Second World War in South East Asia. More specifically, the Royal Warrant, the legal basis of British Military Courts in Hong Kong and elsewhere, included "a violation of the laws and usages of war committed during any war in which His Majesty has been or may be engaged at any time since the 2nd September 1939" (p. 200, footnote omitted). Geographically, the trials covered crimes committed in Hong Kong, Kowloon, the New Territories, China (including Taiwan) and Japan.

The British Military Courts conducted 46 trials of Japanese soldiers between 28 March 1946 and 20 December 1948. Most of these trials took place very quickly and, given that they were summary in scope, they were typically finished in a couple of days or even weeks. As for sentencing, the Hong Kong Military courts delivered 44 judgements against 108 individuals and issued death penalties by hanging or firing line against 21 of those 108 accused.

Edited by Suzannah Linton, the book offers a clear, authoritative and comprehensive introduction to the subject of Hong Kong's War Crimes Trials. The volume is divided into the introduction and six chapters by academics on different perspectives of Hong Kong's War Crimes Trials. Following the editor's introduction, in chapter 2 Alexander Zahar addresses the Trial Procedure in British Military Courts in Hong Kong and highlights procedural deficiencies in ensuring the fairness of proceedings. He interestingly notes in his final remarks that "we can also not entirely ignore the fact that the 22 Japanese national put to death in Hong Kong suffered, in a sense, disproportional punishment, when compared

with those of their compatriots who received life terms or lengthy sentences of imprisonment, only to be sent back to Japan, and be free, within a few years” and “their façade of judicial rectitude was taken down and mothballed in accordance with the dictates of international politics” (pp. 68-69). Further, in chapter 3 Yuma Totani deals with and analyses the prisoners of the War Crimes Trials. In chapter 4, Suzannah Linton addresses the substantial aspects of war crimes before the British Military trials, which was no easy feat given the lack of reasoned judgments. Nina H B Jørgensen discusses modes of participation and in chapter 5 attempts to answer whether the trials included the embryonic form of joint criminal enterprise. Bing Bing Jia studies the plea of Superior Orders as a defence or sentencing factor in the Hong Kong Trials in chapter 6, whereas in chapter 7 Roger S Clark summarises the book and offers some concluding thoughts.

For various reasons, many domestic war crimes in Asian countries have so far been overlooked and underexamined. Researchers have largely concentrated on investigating the workings and jurisprudence of the International Military Tribunal in Tokyo. This is despite the fact that many domestic war crimes across Asia may hold several insights for the development of international criminal law. However, as Suzannah Linton notes in the introduction, “In the Asia Pacific region, a new generation has recently been inspired to research the war crimes trials that were held all those years ago” (p. 5, footnote omitted). This edited book on Hong Kong’s War Crimes should therefore have already been published long ago. It offers a unique and comprehensive explanation and analysis of the key issues in international criminal law. Although such a book has been long awaited by scholars and practitioners, it can be noted that it was worth waiting for.

The editor and contributors have invested a lot of research, time and patience in preparing the book. As a result, their efforts are worthwhile and make the book a very interesting read. In this way, the book is clearly a step forward and an original, valuable and authoritative contribution in the area of domestic prosecutions of war crimes. The book is meant to be read together and complemented with other works on domestic war crimes in Asia after the Second World War published in the last few years. It is therefore an outstanding reference point for advanced research and academic work in relation to Hong Kong’s War Crimes Trials.

What is more, the book's editor should be commended for establishing an online database which includes scans of Hong Kong's War Crimes Database at <http://hkwctc.lib.hku.hk/exhibits/show/hkwctc/home>, thereby making such resources publicly accessible to anyone interested. However, as the editor observes in the introduction, "whether new and original research in Hong Kong has actually been inspired remains to be seen" (p. 3). Nonetheless, this book definitely offers an incentive for those Asian and other countries to make public their records of domestic post-Second World War trials that still remain hidden.