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Recommended Citation

Weingartner, James J., "Murders, Memories, and Uncle Al's War: Reflections on the Killing of Prisoners of War in World War II" (2003). *SIUE Faculty Research, Scholarship, and Creative Activity*. 168.

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MURDERS, MEMORIES, AND UNCLE AL'S WAR: REFLECTIONS ON THE KILLING OF PRISONERS OF WAR IN WORLD WAR II

ABSTRACT

In 2003, I was invited to give a talk at the St. Louis Soldiers' Memorial Museum. The topic was war crimes, international law, and war crimes trials. It was conceived with the events of 9/11/2001 fresh in mind, but was focused on those subjects within the context of World War II, my area of expertise. Forgotten in the intervening 20 years, I rediscovered it recently while organizing my papers in preparation for donating them to the Southern Illinois University, Edwardsville archives. It's a simple story that blends some of my own childhood memories of World War II with bits of my much later research on battlefield criminality and its legal ramifications. It's a mercifully brief piece that I thought might be of interest to a broader audience than that which originally heard it. If I'm wrong, you won't have wasted much time in reading it.

As something created as an oral presentation, it lacks footnotes, but I refer readers who desire more information to my book, *Americans, Germans, and War Crimes Justice. Law, Memory, and "The Good War."*

I'm old enough to have personal memories of World War II. I was born in 1940, so these are memories from early childhood – of my mother saving bacon fat and flattening tin cans for the war effort, of my father's "victory garden" and the marble-sized potatoes it produced and of his working seven days a week on the night-shift at Bethlehem Steel's huge home plant where, among other war-related stuff, armor plate, forgings for big naval guns, and shells were produced for the U.S. and British navies. That made Bethlehem, Pennsylvania a plausible target for German bombers. Night-time air raid drills scared the hell out of me, as they required my mother (dad was, of course, at work at "the steel") to turn out all the lights and draw the curtains, while a siren screamed a few blocks away. In my 3 and 4 year-old innocence, I didn't realize then that there were other kids my age elsewhere in the world who had much more compelling reasons to be afraid of nighttime sirens.

I also remember the influence of the war on the nature of play among the boys in my neighborhood. What else would boys in an environment saturated by war play, but war? In my play cohort of six or eight kids I, along with another boy whom I only remember as “Mickey”, were the youngest and the smallest. We were completely dominated by our 7 or 8 year-old playmates. Our roles were assigned to us by them and Mickey and I were always – and I use the term that was almost universally used in those days – the “Japs.” Day after day, week after week, Mickey and I were slaughtered without mercy! This was so satisfying to the older kids that it continued long after V-J Day, which I also remember as the occasion for a brief truce as we marched around the block waving flags and blowing horns.

Those are some of *my* war memories. Others have different memories. Some of you may have seen on the front page of the October 3 issue of the *St. Louis Post-Dispatch* an article entitled “Salute to Those Who Suffered.” Accompanying the article was a photograph of an employee of Jefferson Barracks National Cemetery cleaning the marker over the grave of 123 American POWs who had been murdered by the Japanese in Palawan province in the Philippines in December 1944. There were some survivors, whose memories were of brutal treatment in a Japanese-run labor camp until the day in December 1944, when the prisoners were herded into a trench, doused with gasoline and set on fire.

I think it is safe to say that nothing outraged Americans during World War II more than incidents in which U.S. combatants, who had laid down their arms in the expectation of humane treatment by their captors, were then killed in violation of international law. News of the Palawan atrocity does not seem to have reached the American public until after the war, but American hatred of the Japanese, rooted in racism and enormously intensified by the attack on Pearl Harbor, the “Bataan Death March” of April 1942, in which close to 11,000 Filipino and American prisoners of war died or were murdered, and the (to Western eyes) repugnant Japanese methods of waging war – fighting to the death in hopeless situation and sometimes feigning surrender, then killing their captors with concealed weapons—produced a marked reluctance on the part of American soldiers to take Japanese prisoners even when the opportunity presented itself. Killing “Japs” held a particular satisfaction for many Americans, which may be why

Mickey and I seemed always to be cast in the role of Japanese, rather than Germans.

I have another but more somber memory of the war. It's of my mother sitting by the radio sometime during the winter of 1944-45 crying. I can't be precise about the date, but my memory of the event is very vivid because it's scary to a little kid to see a parent crying. My dad explained that mom was crying because Al, her brother, had been reported missing in action somewhere in Belgium. Mom had been upset for a long time about Al because his conscription had come as a shock. He was an older man, in his thirties, married and with a daughter, and had been drafted because he was an electrician and the Army needed men to rig telephone lines behind the front.

Belgium in the winter of 1944-45 brings to mind what we Americans remember as the "Battle of the Bulge," the result of the last major German offensive in Western Europe, intended by Hitler to recapture the critical port of Antwerp, divide American and British forces in northwestern Europe, and in some never well-defined fashion, salvage for Germany a war that was clearly lost. Although it caused considerable consternation among the Allies, the German offensive was a miserable failure, due to inadequate German resources, resolute American resistance, and Allied aerial supremacy. It was the biggest battle in which Americans had been engaged in Europe and the most costly to them, with over 80,000 casualties, approximately 19,000 of them battle deaths.

My Uncle Al was one of the non-fatal casualties. He had sustained a serious wound in which a bullet or piece of shrapnel had penetrated his chest and nicked a lung. He was taken prisoner and given some kind of medical care. My mother told me that when he was liberated in the spring of 1945, his wound had been found dressed with paper bandages which the hard-pressed Germans used in treating their own wounded. Uncle Al's treatment was, as far as I can tell, in at least rough compliance with the Geneva Convention of 1929 relating to the treatment of prisoners of war. Al's experience is in sharp contrast with what is the best-known event involving U.S. POWs during the Battle of the Bulge.

On December 17, 1944, at a road junction south of the Belgian town of Malmédy, a powerful motorized German formation racing to capture crucial bridges over

the Meuse River collided with the troops of Battery B of the U.S. Army's 285th Field Artillery Observation Battalion. The lightly-armed American force was no match for the German armor and after a brief fire-fight, the GIs surrendered. The Germans herded approximately 100 American prisoners into an adjacent field and opened fire with machineguns. Most were killed but approximately 30 survived to tell the tale.

What came to be known as the "Malmédy Massacre" was the single worst battlefield atrocity committed by German forces against American troops in World War II. Up until that time, Americans had relatively little reason to complain about German treatment of U.S. prisoners, most of whom were air crewmen who had been shot down over German-held territory. German conduct seemed much superior to that of the Japanese. When news reached the United States that Japan had executed three of the American fliers who had taken part in Jimmy Doolittle's bombing raid on Japan following a show trial in October, 1942, the *New York Times* observed in outrage that not even Nazi Germany had been guilty of killing uniformed men for doing their duty.

Matters had changed somewhat by 1944. American fliers downed over Germany could not be confident of lawful treatment as prisoners of war, due to the growing rage and desperation of a German population suffering increasingly under devastating Allied air raids and to a calculated decisions by Nazi officials to discourage military and police protection for them and to encourage civilian attacks. This occasionally produced incidents such as that on the North Sea island of Borkum where, on August 4, 1944, a B-17 of the U.S. Eighth Air Force was brought down by anti-aircraft batteries on the island. The crew was paraded by their German captors through the town, beaten by civilians, and finally killed by a German soldier who burst from a crowd of spectators firing a pistol and shouting that his wife and children had been killed in an air attack on Hamburg.

But Malmédy was much bigger and also more powerfully symbolic than Borkum or other similar cases. The German soldiers who had killed the American POWs were members of the Waffen-SS, the combat branch of the Nazi organization commanded by Heinrich Himmler that operated the concentration camps and included the Gestapo. Moreover, the killers belonged to a Waffen-SS division known as the *Leibstandarte Adolf Hitler*, which had its origins as Hitler's personal

guard and which retained close ties to the Fuehrer. The GIs who were murdered could be regarded as victims of the human core of the Nazi evil.

News of the Malmédy Massacre was widely reported in the American press and probably contributed to my Mother's anxiety in regard to Uncle Al. Malmédy lingered in the American collective memory long after the war as an extreme example of Nazi depravity. "There is nothing that any of us can recall in recorded history that approaches the unwarranted type of mass slaughter that occurred at Malmédy," said U.S. Senator Joseph McCarthy in 1949. But American shock and outrage over the Malmédy Massacre is actually evidence of a kind of American disconnect from the true dimensions of the Nazi evil. The Malmédy Massacre would have caused scarcely a ripple on the Eastern Front. In the course of the Russo-German war of 1941-45, Germany captured approximately 5,700,000 prisoners of whom roughly 3,300,000 or about 58% died, a holocaust in its own right and closely linked to what we normally think of as "the Holocaust." These figures do not include the indeterminate but undoubtedly very large number of Soviet prisoners shot out-of-hand immediately after surrender. In German eyes, they were *Untermenschen*, subhumans unworthy of the protection conferred by international law and common humanity that the Germans conceded to my Uncle Al. It is instructive to compare the 58% mortality rate among Russian prisoners with the 1-2% death rate among Americans in German captivity.

Germany was not alone in the selective dehumanization of its enemies. American characterizations of Japanese as apes, insects or poisonous snakes are not very different from German descriptions of Russians as "conglomerations of animals," "mad dogs," or "wild hordes and beasts." But there is a profound difference between the two, in that American racial hatred did not become the foundation of an official policy of genocide, as did German racism. German war crimes in Russia, therefore, were manifestations of the core of Nazi evil in a way that the Malmédy atrocity was not.

The much-publicized trial of 74 Germans accused of the Malmédy Massacre was conducted by the U.S. Army in 1946 at the site of the former Dachau concentration camp outside Munich. As a ritual to exorcise the Nazi demon, it was as much a failure as the German offensive that had given rise to it. In spite of prosecution efforts to portray the Massacre as an element in the vast conspiracy

of murder and destruction that was simultaneously being described at Nuremberg, the preponderance of evidence indicated that it was in fact not a very unusual war crime and one that had counterparts on the other side of the battle line. The most plausible explanation for the Malmédy Massacre is that the Germans, determined to capture the bridges over the Meuse on which the success of the offensive largely depended, concluded that they could not be burdened by prisoners and killed them. The decision may have been made easier by the fact the Waffen-SS unit involved had had long combat experience in Russia where the killing of prisoners was routine.

But a year-and-a-half earlier, troops of the U.S. 45th Infantry Division had killed an approximately equal number of Italian and German prisoners near an airfield at Biscari, Sicily. This seems to have been encouraged by a pre-invasion pep-talk delivered by Lieutenant General George Patton, who urged U.S. troops to kill resisting enemy soldiers who offered to surrender in order to terrorize the enemy and reduce the number of prisoners American troops would have to feed. Later, Patton wrote to his wife, "Some fair-haired boys are trying to say that I killed too many prisoners. Yet, the same people cheer at the far greater killing of Japs. Well, the more I killed, the fewer men I lost, but they don't think of that. Sometimes I think that I will quit and join a monastery."

To its credit, the U.S. Army tried two of its members for the massacre, although many more GIs had been involved. One was acquitted on the grounds that he was simply following what he could have reasonably believed to have been Patton's orders. Another was found guilty of murder and sentenced to life imprisonment but released after about a year. Patton was investigated but not charged.

We might categorize war crimes such as the Malmédy and Biscari massacres as pragmatically motivated, and were commonplace outcomes of total war. Revenge for real or imagined enemy atrocities, simple rage over the deaths of comrades or the situational insanity of combat were also universal motivations for the murder of prisoners. There is some evidence to suggest that men of Kampfgruppe Peiper might have been told in pre-attack pep-talks that they would now have the opportunity to avenge the bombing raids that were killing German women and children. Some American soldiers involved in the Biscari massacre claimed that Italian troops had fired on U. S. medics, and it is well-known that G.I.s commonly

killed Waffen-SS prisoners in retaliation for the Malmédy atrocity. In that other world of the Eastern Front, Russian troops repaid Germans in kind for their atrocities. Russian characterizations of Germans as “not humans but wild animals” and “mad dogs” for whom only a bullet in the head would suffice could have been plagiarized from Nazi propaganda.

In spite of the similarities of the two crimes, the outcome of the Malmédy trial was very different from that of the Biscari court martials. All of the defendants in the Malmédy case with the exception of one, a French national who was released to French custody (and then freed) were found guilty. Forty-three were sentenced to death and the remainder, to terms of imprisonment ranging from ten years to life. But in fact, none of those sentenced to death went to the gallows and, by the end of 1956, all had been released.

The nature and eventual outcome of the trial are more significant than the rather unexceptional war crime that gave rise to it. The Malmédy trial was one of hundreds of war crimes trials of Germans conducted by the United States after World War II and was an example of a large category of trials by military government courts that was distinct from the famous Nuremberg trials. The Nuremberg courts tried German leaders on charges that were novel under international law, including conspiracy to wage aggressive war and crimes against humanity. Military government courts, on the other hand, tried lower-ranking defendants for violations of well-established laws of war, embodied primarily in the Hague Conventions of 1899 and 1907 and the Geneva Convention of 1929.

The trial was held in an atmosphere of horror and outrage generated by the overwhelming evidence of Nazi criminality, of which the Malmédy Massacre was construed to be a part. The imperative of punishing the guilty and teaching the German people the error of their ways, it was widely held, had to take precedence over legal “technicalities.” Consequently, the defendants were declared to be “civilian internees,” thus depriving them of the protections due them as POWs under international law and subjecting them to sometime harsh conditions of pre-trial imprisonment, including solitary confinement, threats of summary execution and, allegedly in some cases, beatings, in order to extract the confessions on which the case against them was largely based. Certainly some, perhaps most, and conceivably all of the defendants were guilty as charged. But

the disturbing circumstances of the trial, combined with a defense attorney who led a ferocious ten-year campaign against the verdicts, resulted finally in freedom for all of the defendants, save one who had died in prison.

That attorney, Willis M. Everett of Atlanta, became a minor hero in the West Germany of the 1950s and was likened to Michael Kohlhaas, a legendary and tragic 16th century German fighter for justice in the face of great odds. While some Germans seized upon Everett's attack on the trial as a tool to question the validity of evidence of Nazi Germany's enormous crimes, others found in Everett's determination and freedom to challenge the U.S. Army on behalf of a hated enemy a validation of American democracy.

The American public was ignorant of the Biscari murders and trials, which were kept secret until long after the war, in part to avoid arousing "a segment of our citizens that are so distant from combat that they do not understand the savagery that is war." Many of those citizens regarded the release of the convicted Germans as a betrayal of the victims of the massacre and of the sacrifices of those who had fought to destroy the Nazi evil. But Everett had chosen to close his defense argument at the end of the trial with a statement made by Tom Paine, that radical of the American Revolution. It was a call to a higher patriotism as relevant today as it was then.

He that would make his own liberty secure must guard even his enemy from oppression, for if he violates this duty, he establishes a precedent which will reach himself.

It was a pinpoint of light escaping from the morally ambiguous darkness of Uncle Al's war.

