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Book Review: Law, History, and Justice: Debating German State Crimes in the Long Twentieth Century

Michael S. Bryant

Bryant University, mbryant@bryant.edu

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from Brazil. Even when banal, Rosenfeld argues, such works comprised a field of remembrance.

A chapter on recent German history brings the Fourth Reich idea up to the present. Postunification right-wing intellectuals floated the idea that the German Reich never ceased to exist in 1945 and that the postwar German states—all three of them—were illegitimate.

The Nazis are gone and always there. *The Fourth Reich* reveals how regularly, even continually, extreme rightists with fantasies of future dominion have surfaced in liberal democratic polities, though the book admittedly focuses mostly on Germany and the United States. A key contribution of *The Fourth Reich* is its insistence upon taking that fact seriously. As Rosenfeld and scholars like Kathleen Belew show, combatting Far Right movements means understanding the nature of the worlds their members want to create, the future realms they imagine, and the fantasies they project.

MONICA BLACK

University of Tennessee, Knoxville

ANNETTE WEINKE. *Law, History, and Justice: Debating German State Crimes in the Long Twentieth Century*. Translated by NICHOLAS EVANGELOS LEVIS. New York: Berghahn Books, 2019. Pp. viii, 331. Cloth \$135.00, e-book \$34.95.

Sometimes a book is about something other than its stated thesis. *The Adventures of Huckleberry Finn* was not just a yarn about a river voyage; *War and Peace* was not primarily about Napoleon's invasion of Russia. Although Annette Weinke's *Law, History, and Justice: Debating German State Crimes in the Long Twentieth Century* is ostensibly a history of international legal responses to state violence in the twentieth century, using Germany as its touchstone, her true thesis is that Germany should not be idealized as the model for transitional justice.

Weinke's book is a recent addition to the historical field documenting the rise of human rights and international humanitarian law—the Geneva and Hague conventions. This field explores the origins and progress of legal norms defining certain actions as international violations. Weinke's study places in the foreground twentieth-century “transnational debates” about the illegal violence perpetrated by German governments—Wilhelmine Germany, the Nazis, and the East German state. It is her belief that examination of such debates will reveal the “discursive strategies and social practices” of “actors” playing to international and national audiences (3).

The book is divided into an introduction, four chapters, and a concluding “Final Reflections.” The first chapter focuses on World War I and the eras immediately preceding and following it. Late nineteenth and early twentieth century efforts to control superfluous

violence in wartime via international treaties set the stage for accusations of war crimes against Germany during World War I. German reactions were hostile, giving rise to sham investigations by the postwar government designed to whitewash the army's crimes. In this campaign of self-exoneration, even renowned German intellectuals like Max Weber participated. World War II and its aftermath are the subjects of chapter 2, in which the author recounts the various interpretations of Nazi violence by jurists, intellectuals, and policy-makers. These range from the émigré Jewish scholars working for the Office of Strategic Services (OSS) during the war, who proposed the idea of a Nazi conspiracy to commit war crimes, to the inventor of the term “genocide,” the Polish jurist Raphael Lemkin, who ultimately convinced the Germans of the utility of the United Nations Genocide Convention for German national purposes. Chapter 3 describes the revulsion of the West Germans against the Nuremberg trials. Instead of accepting the principle of individual responsibility, prominent Germans found refuge in their belief in a “Hitler order” setting the Final Solution in motion—an idea, Weinke contends, that tended to restrict culpability to a narrow circle of high-level perpetrators. The construct of a Hitler order inured the Germans to the findings of the Eichmann trial. By then, the image of a “gray bureaucrat” dutifully carrying out his orders had become a dominant category of Nazi perpetration in the Federal Republic.

In chapter 4, the author considers the rise of the “transitology” movement—that is, study of the transition from authoritarian to democratic governments—with reference to the “Third Wave” theory of Samuel Huntington. For Weinke, Huntington's skepticism that criminal trials of human rights offenders would promote democratization was at odds with the global Zeitgeist of the 1990s, which, in demanding “individual accountability,” ultimately led to the formation of ad hoc tribunals such as those for the former Yugoslavia and Rwanda. The era was also notable for nonjudicial attempts like Truth and Reconciliation Commissions to “process” national crimes. Employed in Latin America and South Africa, these commissions became templates for emulation by the now reunified Germans, who established two Enquete Commissions in the 1990s to investigate the crimes of the defunct East German government with mixed results.

A productive approach to Weinke's book is to read it against the grain of its stated intent. While nominally a history of “why debates about illegitimate . . . violence arose at different times and . . . historical contexts” (4), the real driving force of the book is her view that the German experience is unsuitable as a model for transitology. Implicit in the evidence she marshals throughout her chapters, this thesis clearly emerges in her “Final Reflections.” In Weinke's eyes, Germany's numerous confrontations with its checkered past are

deeply flawed. After World War I, Germans organized to obfuscate their crimes; after World War II, they assailed the Allied prosecution of German war criminals for being “victors’ justice” and *ex post facto*. They adopted the Genocide Convention only when reassured no German would be tried for it by an international court and only when they were convinced the convention might be used against the Communist East. Similarly, the two Enquete Commissions quickly found themselves embroiled in politics; their report sought to legitimate the Federal Republic as a virtuous “foil” against the abusive East Germans.

Weinke has distinguished herself as a masterful historian in her previous works of scholarship. She should be praised here for tackling an immense topic with an erudite command of the secondary literature as well as staking a bold claim at odds with conventional wisdom. Such wisdom is often inaccurate, if not simply wrong. In this case, however, Weinke has not convinced this reader that the Germans’ deficiencies were as egregious as she thinks. While not perfect, Germany has emerged as a steadfast champion of human rights, one frequently at odds with the reputed archdefender of human rights, the United States. As other scholars have observed, in stark contrast with Weinke, the Germans have taken up the mantle of the Nuremberg legacy against a bumptious, unilateralist United States that invaded Iraq under false pretenses, condoned a secret torture program for years, and today praises and pardons American war criminals. When compared with many countries emerging from totalitarianism, or for that matter democracies facing their own state crimes, modern Germans have done remarkably well.

On a less substantive note, the translation of Weinke’s book leaves a lot to be desired. The prose is often opaque, tangled, and abstruse. Numerous words and terms are awkwardly rendered into English. This is a challenging book, but the reader should not be expected to slog through densely impacted paragraphs strewn with baroque phrases in order to decipher their meaning.

MICHAEL S. BRYANT
Bryant University

ANNIKA ELISABET FRIEBERG. *Peace at All Costs: Catholic Intellectuals, Journalists, and Media in Postwar Polish-German Reconciliation*. New York: Berghahn, 2019. Pp. 254. Cloth \$135.00.

For about two decades after the fall of the Berlin Wall, it looked as if Europe might truly become a light unto the world, pointing the way forward to a postnational, social-democratic future. This luster has dimmed considerably in recent years as a series of political, financial, and immigration crises have cast doubt on the wisdom and sustainability of the European experiment. This has led, in turn, to a historical reassessment of

some of the most cherished myths of recent European history. *Peace at All Costs*, Annika Elisabet Frieberg’s outstanding monograph, turns its sights on one of these: the reconciliation between Germany and Poland in the wake of the Second World War.

Frieberg’s goal is not exactly revisionist. She is clear that the reconciliation was largely successful and largely to be celebrated. And yet she is convinced the heroic and teleological story that began to circulate widely in the 1990s is in need of revisiting. Her book tells the story of German-Polish relations between 1939 and the present, focusing most of its attention on the 1960s. This story has been told before, of course. The innovation of her study is that she pays comparatively scant attention to high politics—in this case, Willy Brandt and *Ostpolitik*. That sort of account, Frieberg believes, distracts us from the important civil-society initiatives that made it possible and which have lessons for the present as well.

In place of Brandt and the diplomats, Frieberg tells a more colorful story of journalists and intellectuals, both German and Polish, who were committed for various reasons to an improvement of German-Polish relations. Many, but not all, had served in the war; many, but not all, were Catholic. Together they reached out to one another, in love and friendship, and in faith and community. To tell their story, Frieberg draws on an admirably extensive source base, in both German and Polish, including interviews, a wide range of printed material, and, most impressively, audiovisual media. It bears mentioning that the German side of her research feels deeper than the Polish side: she uses archival sources from one Polish archive and seven German ones.

The book is divided into seven chapters, which can be divided into three parts, and an epilogue. The first two chapters explain the background of her characters. She introduces a set of Germans, mainly religious and many from the borderlands, who became curious about Poland. She introduces readers, too, to the Catholic intellectuals in Poland who were committed enough to Rome and skeptical enough of Moscow that they could provide a convenient dialogue partner for the Germans. The clearest early result of this exchange was the appearance, in the late 1950s, of a number of books and articles in the German press that were uncharacteristically appreciative of Polish society.

The next two chapters focus on audiovisual media, and for this reader constituted the most interesting section of the book. Chapter 3 looks at Klaus von Bismarck and the West German radio. He was himself an expellee, mourning the loss of his land, but he transformed himself from, in his words, “Bismarck-East,” devoted to agriculture and aristocracy, to “Bismarck-West,” committed to journalism and peace. He began to visit Poland in a nonmilitary capacity in 1964, where he took advantage of preexisting intellectual ties to