

reflects on what Fraenkel's story tells us about the Nazi regime and the possibilities of resistance. "Perhaps," Morris speculates, "Fraenkel was able to survive only because he was one of a kind" (209). But it is precisely because he was an outlier that Fraenkel offers such an important perspective on the nature of the regime and the law under Nazism. Morris has offered us a close and sensitive reading of Fraenkel's remarkable years under Nazism, one that deepens our understanding of Fraenkel and of the Nazi criminal justice system in those first five years, but one that also invites reflection on what it means to pursue justice when the system no longer delivers justice.

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Justifying Injustice: Legal Theory in Nazi Germany

By Herlinde Pauer-Studer. Cambridge: Cambridge University Press, 2020. Pp. vii + 269. Cloth \$110.00. ISBN 978-1107159303.

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"With their seemingly innocent call for the unification of morality and law, NS jurists supported a major normative transgression: the state's deliberate demand upon its subjects' ethical self-obligation. NS legal theory required an individual not only to comply with legal norms, but to abide by the state's orders and legal rules out of inner ethical commitment" (213). This is the central finding of Herlinde Pauer-Studer's recent book, which is nothing less than a discourse history of the National Socialist conception and interpretation of the law.

The book sheds light on the sometimes bitter debates between contemporary legal theorists on the nature and legitimacy of the National Socialist regime and on the transformation of law and justice into its compliant instrument—debates that have received little attention in research to date. In doing so, the book's focus on the ethicization of law constructed by Nazi legal scholars, which in effect enabled state access to the most intimate private spheres, promises a new perspective on an old topic. The study is divided into eight chapters and builds on a publication of original documents and texts edited by Pauer-Studer and Julian Fink in 2014 (*Rechtfertigungen des Unrechts. Das Rechtsdenken im Nationalsozialismus in Originaltexten*).

After an introductory crash course on the basics of Nazi law and its theoretical masterminds, such as the founder and president of the Academy of German Law Hans Frank, the constitutional lawyer Ernst Rudolf Huber, and the legal philosopher Karl Larenz, Pauer-Studer proceeds chronologically. In chapter 2, she examines the transformation of legal concepts and interpretation in the Weimar Republic away from constitutional principles and toward the legitimization of the authoritarian state. This transformation was driven by university professors and constitutional lawyers such as Otto Koellreutter, Erich Forsthoff, and Carl Schmitt, all of whom rejected parliamentary democracy and incorporated *völkisch* ideas into their legal doctrine as early as the 1920s. Moreover, the crises of the republic and the following controversial debates over the powers of the Reich President (Article 48 of the Weimar Constitution) gave the enemies of the liberal constitutional state impetus and reach, thus paving the way for dictatorship in terms of arguments as well.

In chapter 3, Pauer-Studer shows that this path was not a straight one but rather a walk on a tightrope, for the legal-theoretical legitimization of the Nazi regime plunged constitutional lawyers into a dilemma after 1933. On the one hand, they had to emphasize the hard break with the Weimar Republic, although numerous continuities with it persisted—not only in the area of law—and the new rulers built in part on the Weimar Constitution (the Enabling Acts were made possible by Article 48). On the other hand, the National Socialist “revolution” was to be argumentatively deprived of its frightening, arbitrary, totalitarian character, thus maintaining the façade of law and order. This was important in order to bring large parts of a national-conservative judiciary into line, for whom Hitler’s ideas (and his anti-legal sentiments) appeared to be too radical.

Not (only) by coercion, but by an offer of communization, judges, prosecutors, and lawyers were to voluntarily place themselves in the service of the National Socialist regime. To this end, Koellreutter and Schmitt, among others, subjected normative concepts such as freedom and equality to a redefinition in light of the ideological construct of a National Socialist *Volksgemeinschaft* (represented by the *Führer*), which they placed at the center of the new legal understanding as the supreme source of law, thus legitimizing the restriction of individual rights and the abolition of the constitutional state. The “people’s community” as a social goal set out the guidelines and moral framework for how the courts were to sanction behavior that deviated from the politically prescribed norm: “By accentuating such concepts as the uniform political movement, the unified worldview, and the racially homogenous community, and by conflating the order of the *Volk* with the *Führer* order, NS legal thinkers helped validate the emerging totalitarian form of rule” (67).

Within this framework, the judiciary, in anticipatory obedience, transformed itself into a system-stabilizing instrument of Nazi rule. The arguments of the Nazi legal theorists went even further and made the political abuse of the law seem legal. In the name of the *Volksgemeinschaft*, every means was justified, and state power became almost limitless. Pauer-Studer empirically demonstrates this radicalization in the following four chapters, which revolve around criminal law, “racial legislation,” police law, and SS jurisdiction. The ideological penetration of the law would not have been feasible without the active participation of judges and prosecutors. Here—not least because of the only vaguely defined boundaries of the Nazi *Volksgemeinschaft* and the polycentrism of the Nazi state—there was room for maneuver. By having (local) courts determine what was ultimately sanctioned as deviant behavior or stigmatized as “alien” (and thus declared without any rights), National Socialist ideology was able to have a deep impact on society under the Nazi dictatorship as a social framework for action in the first place.

Due to her focus on legal theory, Pauer-Studer predominantly ignores the multiple dynamics and conflicts that arose during the implementation of theory in practice. Moreover, she refrains from taking a closer look at Nazi legal theorists as political actors with their own motivations, interests, and possibilities for action. Traces of this can be found in chapter 7, which is essentially devoted to two case studies (the SS judges Norbert Pohl and Konrad Morgen). However, the author leaves open to what extent the perspective of these two “men of practice” from a very specific area of law can be generalized. This is a pity, because in this her study does not reach too far beyond already existing findings.

Despite these points of critique, Pauer-Studer impressively shows that the path (of justice) to dictatorship, war, and genocide was not a straightforward process, but was always marked by differences of opinion about the correct interpretation of legal norms in the National Socialist sense. The interpretive struggles over concepts central to Nazi law, such as *gesundes Volksempfinden* (healthy *Volk*-sense) (Kai Ambos has worked on the dispute between the Kiel criminal law scholars Georg Dahm and Friedrich Schaffstein and their Marburg colleagues Erich Schwinge and Leopold Zimmerl) or *Volksschädling* (person harmful to the *Volk*), whose inflationary use and softening of content was repeatedly deplored by legal theorists

(as evident in the work of the Nazi jurist Johannes Nagler) also point to the limits of the moralization of law and thus of the National Socialist domination of society.

Herlinde Pauer-Studer gives us an answer to the question of what part legal scholars played in the formation of a political justice system, its radicalization, and their aiding and abetting of the murder of millions of people. However, this is far from the last word on the subject.

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Building Nazi Germany: Place, Space, Architecture, and Ideology

By Joshua Hagen and Robert C. Ostergren. Lanham, MD: Rowman & Littlefield, 2020. Pp. 510. Cloth \$130.00. ISBN 978-0742567979.

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The book's cover displays a familiar image of the Nazi era: Adolf Hitler carefully inspects a grandiose architectural model. And yet, *Building Nazi Germany* contains much more than first meets the eye, for the book incorporates over 130 images of diverse government construction projects ranging from the monumental to the mundane. These photographs, maps, and illustrations reflect the book's broad coverage as well as its scholarly contribution. Joshua Hagen and Robert Ostergren explore the immediately recognizable elements of Nazi architecture, but they also disrupt this iconography by offering a more comprehensive visualization of the regime's building efforts. Ultimately, the authors show how projects differed in substance, scale, and level of completion yet were nevertheless connected in unexpected ways.

The synthetic approach is critical for the authors' positioning of the book as a work of geography more so than architectural history. Hagen and Ostergren do not focus on one particular site, architect, or project type but rather aim for an overview of the "extent, variety, and cumulative effects of the Nazi building program" (xi). They argue that the wide-ranging projects aimed for a "comprehensive spatial reordering" of Germany's economy, culture, politics, society, and demographics. Yet contradiction and conflict were also among the overarching patterns in government construction. Hitler saw himself as an architectural savant and enthusiastically intervened in the design process, but he disregarded the details, especially finance. A polycratic tangle, rather than a well-oiled machine, underpinned construction efforts. Officials at all levels vied for favor and authority. Agencies had to piece together funding through various strategies: underreporting costs, appropriating membership dues, exploiting forced labor, seizing assets, deficit spending, raising taxes, controlling wages and prices, partnering with private business, and utilizing war booty. Ultimately, thousands of new public buildings populated the landscape during the Nazi years. They shaped Germans' lives and communal experiences and lingered long after. However, the most iconic structures in historical memory remain the ones that were never completed.

The chapters progress from the fantastical designs to the ever-grimmer realities of the regime. The first body chapter draws the informed reader onto well-traveled terrain, that is, the prestige projects in Berlin, Nuremberg, Munich, Hamburg, and Linz, and the prominent architects who designed them. Still, this coverage serves a purpose. As a kind of primer, the chapter brings together projects previously investigated by individual monographs. In doing so, the authors distill the emblematic features (e.g., grand boulevards and enormous