Africa or Asia, or alternatively, of the German *Bürgerliches Gesetzbuch* in both Europe and Japan, would have enriched the global outlook. The book would still have been short, but less United States-centric.

Having said this, I stress that its very narrowness makes Herzog's interpretation so effective. The book delivers successfully almost everything it promises. Its readers will indeed get a relatively rigorous and easily digested overview of two millennia of law-changing mechanisms in selected parts of Europe.

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Jens Meierhenrich, *The Remnants of the Rechtsstaat: An Ethnography of Nazi Law*, New York: Oxford University Press, 2018. Pp. ix + 437. $61.00 hardcover (ISBN 9780198814412).
doi:10.1017/S0738248019000877

Ernst Fraenkel's *The Dual State* (1941) described how Nazism combined the rule of law with extralegal violence and concentration camps. Fraenkel argued that Nazism divided the state into a prerogative side that carried out emergency measures and a normative side that made use of law. Meierhenrich's volume explores the contexts, method, and arguments of *The Dual State*. He argues that Fraenkel's approach offers a better and more accurate description of Nazi law than either neo-Marxist or idealist approaches, both of which denied that law was part of National Socialism. Second, he contends that the German tradition of the *Rechtsstaat* is an essential context for understanding how Nazism reshaped law. Third, he argues that Fraenkel's method was at its core an ethnographic analysis of law. Finally, Meierhenrich suggests that Fraenkel's method is useful for describing authoritarian legalism today.

Fraenkel's *The Dual State* was one of several books from the years between 1940 and 1950 that sought to capture the concept of law under the Nazis. His former colleague Franz Neumann published *Behemoth* in 1944, which argued that Nazism was an irrational system driven by the contradictions of monopoly capitalism and tending toward the destruction of both law and the state. The former minister of justice and legal positivist Gustav Radbruch developed a postwar argument that law was based on principles such as legal certainty and perduring natural law values. With this definition, Radbruch argued that much of Nazi era law was in fact "not legal" (*ungesetzliches Recht*). Meierhenrich engages in a spirited argument with both,

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noting that Neumann's functionalism could not explain the unpredictable results of legal processes, and that Radbruch's turn against positivism ended up providing an alibi for judges who had in fact participated in the Nazification of law. Fraenkel, he argues, offered a more realistic description of Nazi law.

Meierhenrich dives into the German tradition of the *Rechtsstaat* in order to contextualize the law that Fraenkel saw at work in the mid-1930s. At its core, the idea of the *Rechtsstaat* involves a state (whether authoritarian or democratic) that acts within a framework of rights and statutes. Hitler's ideology negated this idea. And yet, a theoretical debate ensued from 1933 to 1935 within the Nazified legal profession that sought to reconcile the *Rechtsstaat* and Nazi law. The Nazi debate was almost entirely empty talk, but it was important for reflecting what Fraenkel saw in everyday legal practices: how procedural remnants of the *Rechtsstaat* continued to shape courts' actions alongside the law-free realm of the camps. Neumann's functionalist view of state power as servant of monopoly capital could not describe this contradictory system, and neither could Radbruch's substantive definition of law.

It is important to Meierhenrich to present Fraenkel's method as an "ethnography" of the *Rechtsstaat* under Nazism. However, Meierhenrich does little to show how Fraenkel describes the construction of symbolic meaning at a local level through spatial organization, clothing, and the symbols and rituals of law. It is true that Fraenkel, as a working lawyer, analyzed that contradictory legal world from the point of view of its practice, but that does not add up to an ethnography. Meierhenrich does point to a strength and weakness of Fraenkel's book. Its strength lies in describing how a legal system oriented toward calculability and procedure clashed with a dictatorship whose very nature negated both. Fraenkel's weakness, which Meierhenrich underplays in my estimation, lies in explaining the regime. The 1937 draft of the book still employed a functionalist understanding of Nazi law informed by Weber and Marx, related to the contradiction between capitalism's need for calculability and monopoly capitalism's need for state violence to maintain itself. The 1941 version was less secure in providing an explanation, perhaps not just because Fraenkel was breaking with Marxist assumptions, as Meierhenrich supposes, but because Nazi Germany after 1937 became increasingly radical and economically irrational. Commenting on increasingly radical policies toward the Jews, for example, Fraenkel notes that a legal system without ethics will eventually drag the entire population toward catastrophe. Here he seems to suggest, I think, that the "dual state" was not a stable system, but rather a transitional moment.

This point is relevant to Meierhenrich's other major claim: that Fraenkel has provided a model for thinking about how authoritarianism and the rule of law could coexist. Yet developing an institutional model is different from describing legal practice or engaging in ethnography: the final chapter on the "authoritarian rule of law" thus presents a qualitatively different

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kind of argument. Although there are some practical insights in Fraenkel's work that remain useful for describing, for example, the realities of Soviet planning, I am not convinced that Fraenkel produced a generalizable institutional model of authoritarian legalism rather than a heuristic guide for interpreting capricious states that make use of legal forms (as even North Korea does).

These problems get to the heart of *The Dual State*, still one of the most important works we have on law in dictatorship. Meierhenrich's achievement is to put its problems into focus.

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Philip Girard, Jim Phillips, and R. Blake Brown, *A History of Law in Canada-Volume One-Beginnings to 1866*, Toronto: The Osgoode Society for Canadian Legal History and University of Toronto Press, 2018. Pp xvii + 904. $120.00 (Canadian) hardcover (ISBN 9781487504632).
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The authors set themselves a daunting task in this admirable book, the initial offering in a longer ambitious project on the history of law in Canada. This volume provides a survey of northern North America's legal history, emphasizing its mixture of First Nations/Indigenous elements, European influences, post-Conquest and post-Revolutionary adaptations, and, finally, the evolutions of second empire British North America to 1866, while offering impressions of "Canada's" legal cultures up to the eve of Confederation a year later. Their success is measured in an engaging and accessible argument that raises important questions about the colonial legacies that continue to shape and inform contemporary debate, policy, and interpretation of the law in Canada, especially at it relates to the country's First Nations peoples. In that sense, *A History of Law in Canada* is a cogent reminder that historical analysis represents a way of thinking about how the present came to be.

It is a physically large book (more than 900 pages), organized chronologically into four parts that are thematically subdivided. For example, Part One: Introduction (1–25) contains four chapters, the first of which sets out methodological, theoretical, interpretative, and historiographical frameworks, followed by distinct chapters on the Indigenous, French, and English legal traditions. From the outset, the authors' layered methodology provides insights into how, by accident and design, these traditions became interwoven. Here

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