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The Law in Nazi Germany: Ideology, Opportunities and the Perversion of Justice (Book Review)

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of the "Jewish Question." Shoulson's close readings of the works of early modern poets, essayists, and playwrights, as well as his discussion of the discourses of transformation, offer an interdisciplinary exploration of the implications of the "Jewish Question." *Fictions of Conversion* is necessary reading for scholars interested in examining the intersections of the cultural, religious, and political forces that shaped and were shaped by early modern English texts.

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The Law in Nazi Germany: Ideology, Opportunities, and the Perversion of Justice

Edited by Alan E. Steinweis and Robert D. Rachlin. New York: Berghahn Books, 2013. 246 pp.

Nazi law should strike most as oxymoronic; the destruction wrought by Hitler's empire bespeaks lawlessness or even the forceful rejection of the rule of law that governs civil societies. In some respects, this is true. Hitler encouraged thuggery and unbounded violence against political opponents, Jews, homosexuals, and other marginalized groups. Part (but by no means all) of the reason for contemporary denials of the Holocaust can probably be linked to the reticence of Nazis in documenting the horrors that they systematically undertook. At the same time, many aspects of Nazism, from the mundane to the horrible, were shaped by and through the institution of law; by legislation, judges, and lawyers. *The Law in Nazi Germany* explores the Nazi's lawlessness as well as the disquieting legalities that framed justice, or more aptly (as recited in the text's subtitle), the perversion of justice.

The book is a collection of seven essays, bracketed by an introduction by its two editors and an appendix. Five of the essays are based on lectures delivered at the fifth annual Carolyn and Leonard Miller Center for Holocaust Studies at the University of Vermont in 2009. Two additional essays on civil service lawyers and the *Volksgerichtshof* court round out the collection. The outstanding appendix of some forty pages includes German laws, decrees, and trial transcript excerpts in translation.

Respected Vermont attorney (and co-editor) Robert Rachlin's contribution describes the judicial extremism of Judge Roland Freisler, a dedicated Nazi whose partiality and savagery "were extreme even by the standards of the Third Reich" (63). Judge Freisler is infamous for his humiliation of the defendants tried

before him following the July 1944 assassination attempt on Hitler by Claus von Stauffenberg and others now known by the misnomer "Operation Valkyrie." The judge's hectoring and antics were so degenerate that he even embarrassed some Nazi leaders.

Although Judge Friesler retained the veneer of justice in his robe, the bench, and the customary formalities of courtroom procedure, he abandoned measured dispensation for savagery. Hitler once predicted that the crime of treason would be "annihilated (*ausgebrannt warden*) with barbaric ruthlessness" (65). Under Friesler, it was. He denounced reliance on written laws and instead summoned morality as "a suite of norms deriving from the '*Volk* conscience,' however that was to be ascertained" (70). Over one thousand death sentences were handed down by the *Volksgerichtshof* court in 1942 alone and fifty percent of defendants received the death sentence. Judge Friesler's barbarism represented a rejection of normative commitment to statutes.

At the same time that law was being outlawed, the terror of Nazi Germany found expression within and by means of legislation. Historian and criminal defense attorney Douglas Morris's essay examines the fate of Jewish lawyers under Nazism with "the creation of a new anti-liberal Nazi legal order" (107). As Morris explains, "Many Nazi power-brokers realized that using the legal system could secure the new government's legitimacy and advance its goals more systematically, consistently, and thoroughly" (111). To do so, liberal laws had to be replaced with Nazi laws, and the regime set about doing so. Beginning in 1933, the Nazi government systematically and progressively removed Jews from the legal profession, while also eliminating the possibility of representation of Jewish clients.

Under two early Nazi laws, Jews were barred from being admitted to the bar, Jewish lawyers could be disbarred, and Jewish judges were forced into retirement, but an exception was provided for World War I veterans. Within a few months, the number of Jewish lawyers in Germany dropped by over 30 percent, although many more than expected fell within the veteran exception. Some emigrated. Others—in Bavarian and Prussia—had their licenses suspended en masse and were forced to reapply, waiting for hours in the rain in front of a bar association building under the watchful eyes of SA thugs.

Although the WWI veteran exception to disbarment suggested that at least some Jews could be courageous, patriotic members of society, it also suggested that these attributes had to be proven by Jews, while they could be assumed for non-Jews. Some Jewish lawyers used the first implication to try to convince

Nazis that Jews could assimilate into the German national economy. The veteran exception also allowed the Nazi government to soften the economic impact of simply stripping all Jewish lawyers of their profession at once. Meanwhile, the law allowed the Nazis to consolidate power, atomize Jewish lawyers from other lawyers, and implement hierarchies based on whether one was Aryan or Jewish. The exception, however, was "bound to be temporary because it was inherently unstable" (117). Next, Jewish lawyers were ejected from bar associations. The final step of prohibiting the remainder of Jews from the practice of law altogether was a short one.

The excellent essays in *The Law in Nazi Germany* contrast the simultaneous use of the law and disregard of legality to accomplish discrimination, segregation, and ultimately genocide. The voices of the contributors are both accessible and precise. It is a short, readable collection attractive to specialists and general readership alike.

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A Thousand Darknesses: Lies and Truth in Holocaust Fiction

By Ruth Franklin. Oxford University Press, 2011. 272 pp.

The scholar James E. Young once observed, in speaking about representations of the Holocaust: "if there is a line between fiction and fact, it may by necessity be a winding border that tends to bind these categories as much as it separates them, allowing each side to dissolve occasionally into the other." If a critic accepts Young's claim, as many would, where is she left? How is she to read the work of, say, Primo Levi or Elie Wiesel simultaneously as fiction and memoir? Is it her task to distinguish falsifications of the historical record born of intellectual or aesthetic exigency from self-serving omissions and embellishments? What, moreover, about Holocaust literature that comes from authors who aren't witnesses? Those authors often see themselves as having special obligations to their material; do we agree? Does the Holocaust somehow complicate the relationship between historical fact and historical fiction?

Ruth Franklin doesn't ask her readers to take Young's words to heart until the half-way-point of her important, if very uneven new book, but they would have been an apt opening; for the questions that Young raised make up the thematic core of *A Thousand Darknesses*. Instead, Franklin opts for a somewhat