the evidence adduced by those with whom he disagrees. For all its merits, Gruner’s book should be approached with a degree of caution.

Note
1. Terms such as “Jewish Catholic” or “Jewish Lutheran” refer to those individuals who considered themselves Christian, but who were Jewish according to the logic of the Nuremberg Laws.

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Confronting the “Good Death”: Nazi Euthanasia on Trial, 1945–1953, Michael S. Bryant (Boulder: University Press of Colorado, 2005), x+267 pp., $34.95.

In his important new book, Michael Bryant makes it depressingly clear that after the immediate postwar period, bringing Nazi perpetrators to justice was not a priority for either the United States or West Germany. His study chronicles the initially sincere attempt by the US and later the West Germans to prosecute participants in the “T-4” euthanasia program (code-named by the Nazis after the program’s office address in Berlin at Tiergartenstrasse 4), as well as the rapid degeneration of these trials. Bryant’s is the most comprehensive and nuanced analysis of these trials to date; he outlines not only the history of the trials, but also the legal issues surrounding the prosecution of euthanasia crimes, the history of euthanasia in Germany, and the T-4 program’s relationship to the “Final Solution” during the Second World War. Bryant links these interrelated questions seamlessly, drawing for the reader a clear picture of the contingencies that led eventually to the “spectacular failure” of the euthanasia trials.

Bryant aims to show that “despite the sincere desires of many policy-makers, jurists, and politicians to punish the crimes of euthanasia ... the matrix of power relationships in the immediate postwar era played havoc with the prosecution of euthanasia killers” (p. 2). He argues that the American authorities did not sufficiently address the crime of euthanasia because they “over-identified [the euthanasia program] with military conquest”; prosecuting the euthanasia program without a link to war, they reasoned, would set a dangerous precedent for international law and could ultimately undermine America’s own sovereignty. Bryant points out that such concern on the part of the US should not come as a surprise, as the history of American foreign policy in the first half of the twentieth century was one of safeguarding US national interests—especially with regard to international criminal law.
The Germans, too, were concerned with issues of sovereignty. Serious trials took place in the occupation zones in 1946 and 1947, but as the Cold War began to take shape, there was a shift in legal proceedings against Nazi perpetrators. Judges began to devise innovative interpretations of the law that were beneficial to defendants. In order to strengthen their alliance with the Americans, the West Germans would have to integrate the many hundreds of thousands of former Nazis still living in West Germany into a united front against communism (p. 128); punishing Nazis was no longer a priority. Bryant stresses not the causes but the interconnected factors that shaped the dismal legal record in euthanasia trials: social, geopolitical, and cultural forces such as German disenchantment with denazification; demands for a general amnesty; fears about Soviet encroachment; and US interests in defending principles of national sovereignty (p. 11). The absence of any one of these contingencies might have led to a different outcome.

Among the many important contributions that Bryant makes in this study is the link between the euthanasia program and the death camps in the East. Bryant first fleshes out the genesis of the euthanasia program in Germany in the 1920s. Next, he argues that after it became policy under the Nazis in the 1930s, eugenics quickly evolved into a sophisticated program of murder with a "bureaucratic configuration [that] largely shaped how Nazi mass murder developed between 1939 and 1945" (p. 19). Bryant documents the connections between the gas chambers created at euthanasia facilities such as Hadamar and Grafeneck and the gas chambers that would be built later in the death camps. He notes also that many of the personnel who began as directors and doctors in the euthanasia centers would later appear as commandants in the death camps of Operation Reinhard (p. 60).

The bulk of the book is dedicated to the trials of euthanasia perpetrators, from the first US Army trials—particularly the Hadamar trial held in October 1945—to the Medical Trial, part of the subsequent Nuremberg Trials convened by the US. Bryant shows that while their goal was to expose the horrors of Nazi criminality, the American authorities engaged in one misrepresentation after another in their effort to safeguard American sovereignty. In the Hadamar trial, this concern took the form of trying defendants only for the murders of healthy people—which missed the point of the euthanasia program entirely (p. 80). This policy resulted from military prosecutors' wrong-headed assumption that there had been a legal basis for killing the handicapped in Nazi Germany. In fact, the program was based on a 1939 Hitler decree that was never made law. Later US trials recognized this error, but presented a new set of distortions. In the Medical Trial at Nuremberg, conducted between November 1946 and August 1947, American prosecutors linked euthanasia to aggressive war. They de-emphasized the racial component, characterizing euthanasia as merely a "byproduct" of military conquest—a characterization that historians now recognize to be erroneous (p. 100).
West German trials of euthanasia perpetrators were no better. Bryant shows that while at first West German courts found the doctors who participated in the program guilty of murder, judges soon began to interpret the law in the defendants’ favor. The most shocking examples of these legal maneuverings were, first, the judges’ acceptance of the “collision of duties” defense, in which defendants argued that they had participated in the program in order to minimize the number of killings (p. 147); and second, their even more dubious acceptance of the “exertion of conscience” defense. Here, the judges took the defendants at their word when the latter asserted that they had searched their consciences and found that they had no choice but to participate. In these trials, defendants were elevated from killers to moral heroes for (allegedly) choosing to work in the euthanasia program in order to sabotage it from within. In reality, there was little evidence that any of these defendants had averted more deaths. But, as Bryant sagely remarks, “the outcomes of these trials were conditioned less by the neutral application of legal theory to the facts than by the court’s preexisting will to acquit” (p. 198).

Although this work constitutes a splendid analysis of postwar trials, it has a few limitations. In my opinion, Bryant focuses too narrowly on the “extra-legal” forces that shaped judicial outcomes. In fact, as the creators and implementers of Nazi law, the judges themselves—one hundred percent of them in some states—were deeply implicated in Nazi crimes. Many judges wanted to “normalize” the crimes of the Nazi elite, to erode the public will to prosecute professionals, and to avoid finding their own heads on the chopping block. Bryant concurs with Norbert Frei, who argues that the path chosen by Adenauer and the West German judiciary was the only viable way to prevent left- and right-wing authoritarianism from gaining strength. In doing so, Bryant gives the judiciary too much credit for a calculated approach to rebuilding postwar Germany. In fact, many of these officials simply wanted to avoid standing trial themselves. Finally, it would have been useful to see some supporting contemporary evidence—for example from the press, parliamentary speeches, or scholarly debates—for Bryant’s explanation for the lenient treatment of euthanasia defendants.

Nevertheless, this is a masterful work that enriches tremendously the growing body of literature on postwar trials of Nazi perpetrators. Bryant’s expert juggling of legal, political, and historical complexities provides the reader with an excellent introduction to the euthanasia program, the Final Solution, early postwar American and West German law, and the ultimate victory of national interests over justice.

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