Bryant’s book deserves much praise and some criticism. It contributes to the already vast and still growing historiography on the adjudication of Nazi crimes in postwar trials and the early Federal Republic’s peculiar form of Vergangenheitsbewältigung. Although primarily a legal history, the book allows the all-important nexus of politics and justice to take center stage, as the author makes a strong (although not entirely unproblematic) case that the issue of national power drove U.S. and West German prosecutions in Nazi euthanasia proceedings. This monograph will be of interest to various readerships, including historians, ethicists, lawyers and physicians. It is a must-read for specialists on Nazi euthanasia, recent German legal history and the Federal Republic’s efforts to bring Nazi perpetrators to justice.

After a very competent, but necessarily brief, introduction to the history and administrative structure of Nazi euthanasia, Bryant turns his attention to U.S. and West German trials of those responsible for planning and executing the euthanasia program. The latter were tried in the Medical Case (U.S. v. Brandt), one of the Nuremberg Nachfolgeprozesse and in U.S. v. Alfons Klein et al. (the so-called Hadamar trial of October 1945). Since the vast majority of the program’s victims were German citizens, it also occupied postwar West German criminal courts.

Bryant posits that the issue of national sovereignty served as the common denominator in both the U.S. prosecutions and the German cases. The traditional determination to prevent others from interfering in its domestic affairs dominated U.S. planning for and execution of Nazi war crimes trials. For this purpose, the United States held that the many different forms of Nazi criminality constituted parts of a conspiracy to wage aggressive war, which it considered a clear violation of established international law. Yet, the Hitler regime resorted to euthanasia to eliminate what it considered lebensunwerte Leben and not to defeat foreign enemies militarily. Nonetheless, after the war, U.S. military officials involved in the Hadamar case tended to view the killing program as legal and were concerned that prosecutions of the "mercy killings" of mentally-ill German patients amounted to interference—albeit after the fact—in the domestic affairs of a sovereign state. The preoccupation "with defending state power" (p. 80), the assumed legality of Hitler’s 1939 euthanasia order and the prosecution’s conspiracy claim ultimately prevented the Hadamar trial from arriving at the truth and instead led to serious misrepresentations of that institution’s recent tragic history. The conspiracy theory also dealt a blow to the traditional emphasis on individual responsibility and the assumption of innocence in U.S. law.

During the Nuremberg Doctors’ Trial, U.S. prosecutors also employed the theory that crimes against humanity and war crimes occurred because the Nazi leadership had conspired to unleash a war of aggression. This proceeding focused primarily on the medical experiments in the concentration camps; euthanasia was not a main concern. As a result, only four of the twenty-three defendants were indicted for their involvement in the euthanasia program. The indictment charged them with murdering German nationals and the citizens of Allied countries. The tribunal agreed with the prosecution’s claim that the euthanasia program was directly linked to Hitler’s war of aggression, as the killing of mental patients and other helpless victims freed up food and other resources for the German war machine. By insisting on the program’s connection to the war, the court thus reaffirmed the U.S. determination to protect the
principle of national sovereignty. U.S. officials certainly wanted to punish Nazi perpetrators, but they had an even greater interest in ensuring that international bodies would not be able to interfere in the domestic affairs of the United States.

The issue of sovereignty also influenced German prosecutions of euthanasia killers. In December 1945, the Allied Control Council authorized German courts to try cases involving Nazi crimes against German citizens and stateless persons. The euthanasia program would be the subject of several trials. Initially, German judges showed little or no mercy to euthanasia defendants. This punitive phase did not survive past 1947. The intensifying Cold War encouraged German ambitions to regain self-determination, a feat accomplished in several steps between the establishment of the Federal Republic in 1949 and its attainment of full sovereignty in 1955. This urge to recoup national power, the author argues, impacted attempts to bring the perpetrators to justice. Indeed, Bryant stresses that "it is the main argument of this study that the trend line from punishing euthanasia killers to extenuating their crimes and, finally, acquitting them was driven by a nationwide yearning to recoup German sovereignty after years of military occupation" (p. 108).

Bryant traces the evolution of the West German approach to euthanasia cases with remarkable dexterity. His discussion of the different legal doctrines and their application is excellent. Taken together, they gave the defendants every opportunity to reduce their individual responsibility and hence their culpability. They also enabled the courts to hand down ever more lenient judgments within a remarkably short span of time. By the early 1950s, judges not only acquitted the physicians in the dock, but even went so far as to portray them as heroes who had killed to save lives.

This development, Bryant insists, resulted from the desire of West Germans to close the books on the recent past and to recover as quickly as possible the national power they had lost in total defeat. The judiciary was eager to assist; it "became an auxiliary of the nation's willed amnesia" (p. 144). The author does allow for other factors—cultural, psychological, legal—to explain the overall poor record of West German euthanasia prosecutions. However, such explanations are clearly subordinate to the issue of sovereignty. In a way, Bryant takes an approach similar to that of U.S. officials preparing for Nuremberg. The latter tied the war crimes and crimes against humanity counts of the IMT indictment to the aggressive war charge. Bryant appears to subordinate all possible causes to his national power argument.

This approach strikes me, however, as somewhat problematic. First, recent historiography suggests that the recouping of traditionally privileged positions in postwar Germany was just as important to elites (if not more so) as the regaining of national self-determination. These groups, which included members of the judiciary, were primarily interested in recovering their accustomed leadership positions at home. Second, Bryant fails to do justice to the astounding personnel continuity within the judiciary from the Third Reich to the Federal Republic. Judges who had faithfully served Hitler had no desire to portray doctors who had done the same as ruthless criminals. Aside from such solidarity between the implicated elites, one also has to assume that it took a long time, perhaps decades, for the judicial establishment’s mindset to change and see euthanasia for what it truly was: the systematic killing of utterly helpless and defenseless individuals. The members of the once thoroughly nazified judiciary could not have made the switch from thinking of euthanasia victims as lebensunwertes Leben to considering them persons with a constitutionally-protected right to life quickly and easily. Third, one may question to what extent the sources on which the author relies for the most part—the judgments of German courts—support the sovereignty argument. Judges certainly did not write that they made decisions to support a nationwide quest for power. Hence, their judgments just as easily allow for interpretations and conclusions emphasizing factors other than sovereignty.

With respect to sources, there are some holes in Bryant’s bibliography. The works of Joachim Perels, Annette Weinke, Marc von Miquel, Robert Sigel, Peter Reichel, Kirsten Freudiger, Michael Greve, Holger Lessing and Ulrich Brochhagen receive no mention. Their inclusion would have provided a broader historiographical context for this study.

In conclusion, Michael Bryant has produced a solid book. By focusing on the euthanasia trials, he has exposed the deficiencies in the punishment of Nazi perpetrators, particularly in German courts.
Readers will learn that members of a profession that traditionally vowed to do no harm became enthusiastic and officially sanctioned mass murderers. They will also find that those entrusted with the task of bringing such doctors to justice by and large failed. Neither the physicians nor their judges—all highly educated, trained and presumably cultured individuals—lived up to the ethical demands of their professions.