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The Epoch of *Westintegration*

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schen Vorschläge zum »planetary thought« im Lichte aktueller Strömungen in Geographie, Philosophie (Heidegger, Sloterdijk!), politischer Theorie und Umweltforschung (253 f.). Alle diese Zugänge seien mit dem recht jungen Ansatz vom Anthropozän und der Erforschung des Klimawandels zu verbinden (254 f.) sowie zur Analyse der aktuellen (Außen-)Politik der USA – vor Präsident Trump – heranzuziehen (255 f.).

Quid novus?

Vor allem der penetrant häufig vorgebrachte Anspruch, als erste eine systematische Analyse aus geographischer Perspektive der Raumvorstellungen Carl Schmitts (»the first comprehensive account of Schmitt's spatial thought«) und ihrer Rezeptions- bzw. Wirkungsgeschichte vorgelegt zu haben (246 und öfters), reduziert sich bei genauer Lektüre auf den englischsprachigen Raum bzw. die in englischer Übersetzung vorliegenden

Studien, wie die beispielsweise in der Bibliographie aufgeführte Biographie Carl Schmitts von Reinhard Mehring aus dem Jahre 2009, übersetzt von Daniel Steuer, 2014 (von den Autoren zur Kenntnis genommen, aber nicht mehr verwendet, vgl. 39 Anm. 1). Und genau hier liegt auch das Defizit des Buches von Minca und Rowan, denn die meisten ihrer Ergebnisse zu »Schmitt and Space« lassen sich in älteren deutschen, italienischen oder französischen und gar in englischen Untersuchungen finden.

Dennoch bietet der Band einen Zugang zum Werk Carl Schmitts für englischsprachige Leser bzw. jeden, der sich damit auseinandersetzen möchte und einen Einstieg sucht. Erleichtert wird dieser Zugang durch ein systematisches Register.



Felix Lange

The Epoch of *Westintegration**

Today Wilhelm Grewe's (1911–2000) famous interpretation of the history of international law since the Middle Ages as a succession of a Spanish, French, British, Anglo-American and Anglo-Soviet era provokes different reactions. For some, his book on the *Epochs of International Law* constitutes the best scholarly account of the history of international legal norms and their political implications. For others, its realist perspective is not only misleading and Eurocentric, but also comes with the conceptual baggage of the writings of Carl Schmitt. A key accomplishment of the study under review is that it does not engage with this ongoing debate but is dedicated to a less-known side of Wilhelm Grewe's vita: his involvement in Konrad

Adenauer's policies of integration into the West after the Second World War.

As the title indicates, the dissertation focuses on Grewe's »contribution« to West Germany's restoration of sovereignty and West integration in the years between 1948 and 1955. On the basis of archival sources Lambertz-Pollan aims to answer three questions. How did the foreign policy negotiations look at ground level? How did Grewe shape the negotiations despite his limited room for manoeuvre as a »second-string« actor? And how did Grewe understand the relationship between international law and politics?

The (short) methodological jaunt in the introduction reveals that Lambertz-Pollan writes as a

* RUTH LAMBERTZ-POLLAN, Auf dem Weg zu Souveränität und Westintegration (1948–1955). Der Beitrag des Völkerrechtlers und Diplomaten Wilhelm Grewe, Baden-Baden: Nomos 2016, 780 p., ISBN 978-8487-2899-2

political historian in a rather traditional way. Even though she attacks classical diplomatic history for focussing on »great men« and neglecting men on the »second string«, she does not embrace the type of »new diplomatic history« that highlights cultural aspects of foreign policy, like the gradual building of trust between negotiators from different national backgrounds.¹ Furthermore, unlike many biographical studies of 20th century international lawyers written by lawyers, she is not primarily interested in the intellectual history of Grewe's scholarly oeuvre. This does not mean that Lambertz-Pollan's approach does not have its merits. Political history still matters, especially if it deals with government experts who have been neglected in the history of foreign policy. Also, the scholarship written by lawyers sometimes misses the interlinkages between legal conceptions and political practice, whereas Lambertz-Pollan aptly emphasizes the relationship. However, Grewe's work underrepresents the intellectual-history dimension. Even though Lambertz-Pollan claims to be interested in Grewe's conception of the role of international law in global politics, she does not study his article on *Macht und Recht im Völkerleben* published in 1948 or his *Epochen der Völkerrechtsgeschichte*, written in 1944, to shed light on Grewe's approach to this question.

After the introduction, the study opens with a preliminary chapter of about 50 pages on Grewe's career as a lawyer »in the shadow of the Third Reich«. Lambertz-Pollan describes Grewe as an anti-parliamentary *Junkkonservativen* who believed in rule by conservative elites and was rather sceptical of the masses and National Socialism. She concludes that Grewe, like the many »*Mitläufer*« (»bystanders«) tried to »come to terms with the regime in a sometimes questionable manner without being absorbed too much« (96; all trs. by myself). This reading can be challenged. While Stefan Breuer's classification of Grewe as belonging to the »*Generation des Unbedingten*« (»uncompromising generation«),² a terminology developed by Michael Wildt for the leaders of the *Reichssicher-*

heitshauptamt (a security agency headed by the infamous SS-commander Heinrich Himmler),³ seems to be too critical, Grewe played a more active role, at least in the early 1930s, in the regime than Lambertz-Pollan suggests. Grewe not only argued in favour of Hitler as *Reichspräsident* in the second ballot in 1932 in order to preserve the National-Socialist momentum, he also stressed that the *Artgleichheit des deutschen Richtertums* (»internal purity of the German judiciary«) would guarantee a *völkisch* (»ethno-national«) interpretation of the legal order.⁴

The main part of the study under the heading »In Service of Germany and the Law« is structured in three chapters. The first chapter explores Grewe's insistence on an Occupation Statute as the legal basis to govern the relationship between the occupation powers and Germany in the context of the discussion about Germany's discontinuity or continuity as a state (1948–1950). The author demonstrates that Grewe belonged to the group of West German lawyers who used a variety of creative legal arguments to claim that Germany possesses legal rights vis-à-vis the Allied Powers. In the second (and longest) chapter, Lambertz-Pollan highlights that Grewe, despite his position as head of the German delegation on the General Treaty (1951–1952), had limited room to develop his own ideas because the self-confident and mistrustful Konrad Adenauer dominated decision-making. For instance, Adenauer did not inform Grewe that the chancellor was conducting secret negotiations with the Americans parallel to the official discussions. However, Grewe was able to influence some aspects of the negotiation strategy. His approach to regain German supreme authority by guaranteeing some special rights to the Western Allied Powers came to shape the German perspective on the treaty. The third chapter demonstrates how Grewe gained greater influence as a government official between 1952 and 1954. Grewe had much leeway when defending the legality of German rearmament and the General Treaty against sceptical voices from the SPD before the legal committee

1 For such a perspective on the SALT-Treaty, see ARVID SCHORS, *Der doppelte Boden. Die SALT-Verhandlungen 1963–1979*, 2016.

2 See STEFAN BREUER, *Carl Schmitt im Kontext. Intellektuellenpolitik in der Weimarer Republik*, 2012.

3 See MICHAEL WILDT, *Generation des Unbedingten. Das Führungskorps des Reichssicherheitshauptamtes*, 2002.

4 See WILHELM GREWE, *Zwischen den Wahlen*, in: *Die junge Mannschaft. Blätter der deutschen Wehrjugend*

1931, Heft 10, 84 (87); *ibid.*, *Generalklauseln und neues Recht, Deutsches Volkstum* 1934, 146.

of the Bundestag and before the *Bundesverfassungsgericht* (Constitutional Court). Furthermore, even though Adenauer continued to put more trust in his political advisor, Herbert Blankenhorn, Grewe's memoranda on German foreign policy came to be increasingly influential. His proposal of summer 1954 to focus on German NATO-membership in case the European Defense Treaty was to fail (which it did) later came to be the basis for the German position.

Despite the new empirical insights contained in the main part of the study, some arguments are not convincing. What is the explanatory power of using the subtitle of a Festschrift dedicated to Grewe as heading for the main part of the dissertation? Does »in Service of Germany and the Law« really capture Grewe's approach? As the study pointedly demonstrates, Grewe used law as a means to advance the policy of West integration, just like the German opposition used the law instrumentally to question this policy. If law can be used for both ends, how can Grewe's position be described as »in service of ... the law«? Moreover, at times the author's terminology can be confusing to a lawyer. For instance, Lambertz-Pollan dubs Grewe's approach to law and politics »Interessen-

jurisprudenz« (»interest-based jurisprudence«), because he used law to promote his political goals. In contrast, in the legal context Philipp Heck's *Interessenjurisprudenz* deals with how judges come to a decision by taking the interests of the legal community into account. Furthermore, the study would have benefited from more streamlining (the study extends to more than 700 pages). As an example, it seems that the development of the positions of the various Allied Powers could have been presented more concisely.

Nonetheless, Lambertz-Pollan's dissertation provides a detailed and insightful discussion of the political context of Grewe's actions. It becomes quite clear how the changing positions of the Allied Powers on Western Germany's role in Europe were influencing the rhetorical space open to the German delegation on the General Treaty. Also, she helps us to get a sense of the (limited) capacity of a government official to shape the broader policy direction. While Lambertz-Pollan does not rewrite the history of West German foreign policy after 1945, she adds another piece to the puzzle.



Karin van Leeuwen

Unity Through Law: Revisiting the Constitutionalisation of Europe*

In spite of the failed attempt to provide the European Union (EU) with a formal constitution, the definition of the Union as a *de facto* constitutional construction nowadays hardly raises any doubts. That the Union, celebrating its 60th birthday this year, was not born with these constitutional features is well known, and so are the most crucial steps in the »miraculous« transformation

from the common market that was set up in 1957 to the present settlement, of which the 1963–1964 landmark cases of the European Court of Justice (ECJ) are the most prominent. Yet, the why-question behind this unprecedented history has so far remained unanswered. Retelling the »constitutionalization story« by focusing on the lawyers who were most engaged in its development, Vauchez

* ANTOINE VAUCHEZ, *Brokering Europe. Euro-Lawyers and the Making of a Transnational Polity*, Cambridge: Cambridge University Press 2015, 264 p., ISBN 978-1-107-04236-0