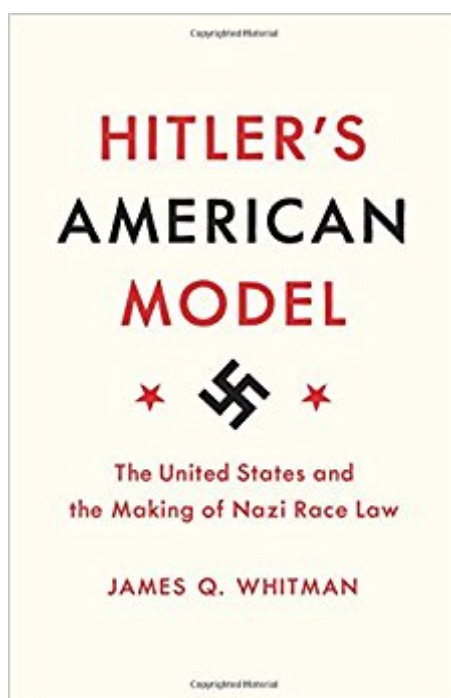


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Hitler's American Model: The United States And The Making Of Nazi Race Law



Synopsis

How American race law provided a blueprint for Nazi Germany. Nazism triumphed in Germany during the high era of Jim Crow laws in the United States. Did the American regime of racial oppression in any way inspire the Nazis? The unsettling answer is yes. In *Hitler's American Model*, James Whitman presents a detailed investigation of the American impact on the notorious Nuremberg Laws, the centerpiece anti-Jewish legislation of the Nazi regime. Contrary to those who have insisted that there was no meaningful connection between American and German racial repression, Whitman demonstrates that the Nazis took a real, sustained, significant, and revealing interest in American race policies. As Whitman shows, the Nuremberg Laws were crafted in an atmosphere of considerable attention to the precedents American race laws had to offer. German praise for American practices, already found in Hitler's *Mein Kampf*, was continuous throughout the early 1930s, and the most radical Nazi lawyers were eager advocates of the use of American models. But while Jim Crow segregation was one aspect of American law that appealed to Nazi radicals, it was not the most consequential one. Rather, both American citizenship and antimiscegenation laws proved directly relevant to the two principal Nuremberg Laws—the Citizenship Law and the Blood Law. Whitman looks at the ultimate, ugly irony that when Nazis rejected American practices, it was sometimes not because they found them too enlightened, but too harsh. Indelibly linking American race laws to the shaping of Nazi policies in Germany, *Hitler's American Model* upends understandings of America's influence on racist practices in the wider world.

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Customer Reviews

"Eerie. . . . [Whitman] illustrates how German propagandists sought to normalize the Nazi agenda domestically by putting forth the United States as a model."--Brent Staples, New York Times

"Hitler's American Model delivers a powerful and timely reminder that it is not only liberal legal orders that look abroad for normative instruction. Profoundly illiberal law travels just as well as liberal law."--Lawrence Douglas, Times Literary Supplement

"In his startling new history, Whitman traces the substantial influence of American race laws on the Third Reich. The book, in effect, is a portrait of the United States assembled from the admiring notes of Nazi lawmakers, who routinely referenced American policies in the design of their own racist regime. . . . Whitman's book contributes to a growing recognition of American influences on Nazi thought."--Jeff Guo, Washington Post

"A small book, but powerful all out of proportion to its size in exposing a shameful history."--Kirkus

"Interesting and eye opening. . . . In spite of the Nazis' disdain, to put it mildly, for our stated and evident liberal and democratic principles, they eagerly looked to the United States as the prime example for their own goals of protecting the blood, restricting citizenship, and banning mixed marriages. Reading this book could make many Americans doubt the possibility of ever forming a more perfect union with such a legacy."--Thomas McClung, New York Journal of Books

"The admiration for American immigration policy expressed in Mein Kampf was not a passing thought on the day's news . . . Nor a one-off remark. Its place in the full context of Nazi theory and practice comes into view in Hitler's American Model. . . . Many people will take the very title as an affront. But it's the historical reality the book discloses that proves much harder to digest. The author does not seem prone to sensationalism. The argument is made in two succinct, cogent and copiously documented chapters, prefaced and followed with remarks that remain within the cooler temperatures of expressed opinion."--Scott McLemee, InsideHigherEd.com

"Stunningly well-timed."--Tim Stanley, Daily Telegraph

"[This] new history argues convincingly that institutionalized racism and common-law pragmatism in the United States inspired Hitler's policies. . . . Historians have downplayed the connection between Nazi race law and America because America was mainly interested in denying full citizenship rights to blacks rather than Jews. But Whitman's adroit scholarly detective work has proved that in the mid-1930s Nazi jurists and politicians turned again and again to the way the United States had deprived African-Americans of the right to vote and to marry whites. They were fascinated by the way the United States had turned millions of people into second-class citizens."--David Mikics, Tablet Magazine

"Whitman argues convincingly that American jurisprudence-federal and state alike-provided both inspiration and a model for the most radical Nazi lawyers."--Matthew Harwood, Reason

"Hitler's American Model is overall, an erudite, well-researched, and thought-provoking study that raises important

questions about America's laws - and leaders - in the not-so-distant past."--Rafael Medoff, Haaretz

"In Hitler's American Model: The United States and the Making of Nazi Race Law, James Whitman . . . makes a stunning and unsettling claim about the Nuremberg Laws."--Glen Altschuler, Jerusalem Post

"Through intensive scrutiny of German language transcripts and other primary sources that he translated himself, Yale Law School professor James Whitman develops a story in Hitler's American Model: The United States and the Making of Nazi Race Law of unintended American inspiration for the infamous Nazi anti-Jewish laws. It's a story that will shock readers."--David Wecht, Pittsburgh Post-Gazette

"Whitman's book is not simply a history of the appalling treatment meted out to African-Americans in the southern states. He points out that by the late 1870s, US immigration and naturalisation law had become more racist, in particular against Asians."--Charlie Hegarty, Catholic Herald

"Brief but revealing. . . . Readers interested in history and justice should certainly engage with this volume, which illustrates how America's history of injustice inspired some of the worst atrocities imaginable."--Guy Lancaster, Arkansas Times

"Whitman's bracing and well-researched account should remind us that the nativism and racism on the rise in America today are in no way foreign to our traditions. Nor have they belonged mainly to the unwashed and poorly educated. On the contrary, it is only in the middle of the last century that the idea of racial equality began to enter the mainstream, and only in the post-civil rights era that at least some lip service to that ideal became mandatory in polite circles."--Jessica Blatt, Public Books

"In Hitler's American Model, Yale Law School Professor James Q. Whitman makes a credible case for his assertion that, by the 1930s, America was the obvious preeminent example of a 'race state'."--The American Interest

"The accepted assumption is that Nazism was the creator and master of the murderous enterprise, while the United States went to war to destroy it. Given such traditional impressions, Whitman tries to show that the racist legal activities against blacks in the United States, mostly in the South, provided inspiration for the Nazis, though they didn't influence the German anti-Jewish legislation."--Oded Heilbrunner, Haaretz

"Historians of the twentieth century often represent the New Deal-era United States and Nazi Germany as polar opposites. This unsettling book demolishes that orthodoxy. . . . Whitman is admirably careful not to exaggerate the influence of the U.S. model on Nazi Germany: he recognizes that twentieth-century American southern racism was decentralized rather than fascist and incapable of inspiring mass murder on the industrial scale of the Holocaust. Indeed, Nazi jurists criticized their American counterparts for their hypocrisy in publicly denying yet locally practicing systematic racism. Whitman reminds readers of the subtle ironies of modern history and of the need to be constantly vigilant against racism."--Andrew Moravcsik, Foreign Affairs

"Hitler's American Model is a breathtaking excavation of America's shameful contribution to Hitler's genocidal policies. This book is a profound testament to what the past can teach us about the present and is more timely than Whitman could possibly have imagined when he began this remarkable excursion into our nation's original sin and its surprising European legacy. A brilliant page-turner."--Laurence H. Tribe, Harvard Law School

"This is a brilliant, erudite, and disturbing book. By looking at the United States through the eyes of Nazi legal theorists in the 1930s, Whitman contributes to our understanding of this darkest chapter of German legal history. Moreover, he shines a light through this unlikely lens on the worst sins of our own country's past."--Lawrence M. Friedman, author of *A History of American Law*

"In *Hitler's American Model*, Whitman tells the deeply troubling story of how Nazi lawyers drew inspiration from the American legal system. He offers a detailed and careful reading of how U.S. immigration laws and antisegregation legislation gave the Nazi legal establishment the sense of remaining within the boundaries of respectable jurisprudence. Filled with novel insights, this is a particularly timely book given today's political climate."--Jan T. Gross, author of *Neighbors*

"This is a critical book for our difficult times. Whitman forces us to see America through Nazi eyes and to realize how profoundly white supremacy has shaped this country. Chilling in its details, the unsettling insights of *Hitler's American Model* jump from every page. A must-read!"--Eddie S. Glaude, author of *Democracy in Black*

"This is one of the most engrossing and disturbing pieces of legal history I've read in a long time. Whitman offers a sustained, systematic, and thoughtful look at how Nazi legal theorists and conservative German lawyers drew on American examples when crafting the Nuremberg laws--Germany's contribution to racial madness in the twentieth century. Whitman's book stands apart from, indeed above, everything I've read regarding America's influence on the making of the Nazi state."â •Lawrence Powell, Tulane University

"This spellbinding and haunting book shatters claims that American laws related to race and segregation had little to no impact on the shaping of Nazi policies. Whitman's readings of the Nuremberg laws and Nazi legal scholarship are astonishing--nimble, sophisticated, and nuanced. Speaking volumes, this book will change the way we think about Jim Crow, Nazis, and America's role in the world."â •Daniel J. Sharfstein, author of *The Invisible Line: A Secret History of Race in America*

The author, Professor of Comparative and Foreign Law at the Yale Law School, tells us in the Acknowledgments that Princeton U. Press received from some of its referees "suitably bilious responses", validating his decision to bypass commercial publishers. Still, James Q. Whitman

assures us time and again that he has nothing nefarious in mind, that Hitler's extermination ideology was not made in the USA, as the title may suggest. Instead, he brings to light the keen scholarly interest nationalist and Nazi German jurists took in contemporary American race legislation and Jim Crow practices. By separating the racist dimension of the "American Legal Realism" of the 1930s from its larger liberal context, Whitman arrives at the true nexus with its German counterpart. The "realists" of both countries shared the same eagerness to smash the obstacles that 'formalistic' legal science put in the way of 'life' and politics - and 'life' in both New Deal America and Nazi Germany did not include only economic programs (...). 'Life' also involved racism." (p. 156) The author's familiarity with both, the German and American legal landscapes of the 1930s and 40s and his painstakingly sober analysis, assure this reader that the book is exactly NOT "spellbinding and haunting", as one dust-cover reviewer sees it. The topic could be embedded in the larger history of the American eugenics movement, so carefully illuminated by Christine Rosen (*Preaching Eugenics* (Oxford, 2004) who cites this opinion of the great Oliver Wendell Holmes, abbreviated in our book: "It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. Three generations of imbeciles are enough." (p.150) As contemporaries of the Trump era, we may want to stop and reflect on Whitman's somber conclusion "(...) To have a common-law system like that of America is to have a system in which the traditions of the law do indeed have little power to ride herd on the demands of the politicians, and when the politics is bad, the law can be very bad indeed." (p.159) Professor Whitman summarizes his interpretation of recent literature that support his thesis as follows: "All of these works paint a darker picture of early twentieth-century American intellectual and political life than we might wish. So does this book." Makes it a timely one, doesn't it ?

James Q. Whitman's new book is called *Hitler's American Model: The United States and the Making of Nazi Race Law*. It is understated and overdocumented, difficult to argue with. No doubt some will try. In cartoonish U.S. historical understanding, the United States is, was, and ever shall be a force for good, whereas Nazism arose in a distant, isolated land that lacked any connection to other societies. In a cartoonish reversal of that understanding that would make a good strawman for critics of this book, U.S. policies have been identical to Nazism which simply copied them. Obviously this is not the case. In reality, as we have long known, the U.S. genocide of Native Americans was a source of inspiration in Nazi discussions of expanding to their east, even referring to Ukrainian Jews as "Indians." Camps for Native Americans helped inspire camps for Jews. Anti-Semites and

eugenicists and racists in the U.S. helped inspire those in Germany, and vice versa. U.S. bankers invested in the Nazis. U.S. weapons dealers armed them. Nazis borrowed from U.S. propaganda techniques developed in World War I. Admirers in the U.S. of Nazi Germany and fascist Italy attempted at least one coup against President Franklin Roosevelt. The U.S. refused to admit significant numbers of Jewish refugees or to help evacuate them from Germany. The State Department turned down Anne Frank's visa. The coast guard chased a ship of Jews away, sending them back to their fate. Et cetera. We have known all of this. We have known how the U.S. treated African Americans, Japanese Americans, and others at the time of World War II, how it experimented on Guatemalans even during the trials of Nazis for human experimentation, and continued to allow human experimentation in the U.S. for many years. And so forth. The good versus evil cartoon was never real. What Whitman's book adds to the complex story is an understanding of U.S. influences on the drafting of Nazi race laws. No, there were no U.S. laws in the 1930s establishing mass murder by poison gas in concentration camps. But neither were the Nazis looking for such laws. Nazis lawyers were looking for models of functioning laws on race, laws that effectively defined race in some way despite the obvious scientific difficulties, laws that restricted immigration, citizenship rights, and inter-racial marriage. In the early 20th century the recognized world leader in such things was the United States. Whitman quotes from the transcripts of Nazi meetings, internal documents, and published articles and books. There is no doubt of the role that U.S. (state, not just federal) legal models played in the development of the Nuremberg Laws. The 1930s was a time, we should recall, when Jews in Germany and primarily African Americans in the United States were lynched. It was also a time when U.S. immigration laws used national origin as a means of discrimination -- something Adolf Hitler praised in Mein Kampf. It was a time of de facto second-class citizenship in the United States for blacks, Chinese, Filipinos, Puerto Ricans, Japanese, and others. Thirty U.S. states had systems of laws banning interracial marriage of various sorts -- something the Nazis could find nowhere else and studied in comprehensive detail, among other things for the examples of how the races were defined. The U.S. had also shown how to conquer territories of undesirables, such as in the Philippines or Puerto Rico, and incorporate them into an empire but not give first-class citizenship rights to the residents. Up until 1930 a U.S. woman could lose her citizenship if she married a non-citizen Asian man. The most radical of the Nazis, not the moderates, in their deliberations were the advocates for the U.S. models. But even they believed some of the U.S. systems simply went too far. The "one-drop" rule for defining a colored person was considered too harsh, for example, as opposed to defining a Jew as someone with three or more Jewish grandparents (how those grandparents were defined as

Jewish is another matter; it was the willingness to ignore logic and science in all such laws that was most of the attraction). The Nazis also defined as Jewish someone with only two Jewish grandparents who met other criteria. In this broadening the definition of a race to things like behavior and appearance, the U.S. laws were also a model. One of many U.S. state laws that Nazis examined was this from Maryland: "All marriages between a white person and a Negro, or between a white person and a person of Negro descent, to the third generation, inclusive, or between a white person and a member of the Malay race or between a Negro and a member of the Malay race, or between a person of Negro descent to the third generation, inclusive, and a member of the Malay race . . . [skipping over many variations] . . . are forever prohibited . . . punished by imprisonment in the penitentiary for not less than eighteen months nor more than ten years." The Nazis of course examined and admired the Jim Crow laws of segregation as well but determined that such a regime would only work against an impoverished oppressed group. German Jews, they reasoned, were too rich and powerful to be segregated. Some of the Nazi lawyers in the 1930s, before Nazi policy had become mass murder, also found the extent of the U.S. segregation laws too extreme. But Nazis admired racist statements from contemporary U.S. pundits and authorities back at least to Thomas Jefferson. Some argued that because segregation was de facto established in the U.S. South despite a Constitution mandating equality, this proved that segregation was a powerful, natural, and inevitable force. In other words, U.S. practice allowed Nazis to more easily think of their own desired practices in the early years of their madness as normal. In 1935, a week after Hitler had proclaimed the Nuremberg Laws, a group of Nazi lawyers sailed to New York to study U.S. law. There, they were protested by Jews but hosted by the New York City Bar Association. U.S. laws on miscegenation lasted, of course, until the 1967 Loving v. Virginia ruling. Vicious and bigoted U.S. policies on immigration and refugees are alive and well today. Whitman examines the U.S. legal tradition, noting much that is to admire in it, but pointing to its political or democratic nature as something that the Nazis found preferable to the inflexibility of an independent judiciary. To this day, the U.S. elects prosecutors, imposes Nazi-like habitual offender (or three-strikes-you're-out) sentences, uses the death penalty, employs jailhouse snitches' testimony in exchange for release, locks up more people than anywhere else on earth, and does so in an extremely racist manner. To this day, racism is alive in U.S. politics. What right-wing dictators admire in Donald Trump's nation is not all new and not all different from what fascists admired 80 or 90 years ago. It's worth repeating the obvious: the United States was not and is not Nazi Germany. And that is a very good thing. But what if a Wall Street coup had succeeded? What if the United States had been bombed flat and faced defeat from abroad while demonizing a domestic scapegoat? Who can really say it couldn't

have or still couldn't happen here? Whitman suggests that Germans do not write about foreign influence on Nazism so as not to appear to be shifting blame. For similar reasons many Germans refuse to oppose the slaughter of and mistreatment of Palestinians. We can fault such positions as going overboard. But why is it that U.S. writers rarely write about U.S. influence on Nazism? Why, for that matter, do we not learn about U.S. crimes in the way that Germans learn about German crimes? It seems to me that it is U.S. culture that has gone the furthest overboard into a sea of denial and self-idolatry.

Excellent book. Interesting, well written and documented. Good history!

This is a brilliant study. Just one opening observation is that the reader will learn as much about American legal history as the German NAZI legalisms. The publisher selected title is unfortunate, to say the least. Professor Whitman is not suggesting that American racism, or religious bigotry was a direct inspiration for Nazi race theory, or anti-Semitic bigotry. Nor, as some have suggested, was the American eugenics movement. Eugenics was just a tiny part of the Nazi situation. Stefan Kehl has attributed a larger part to eugenics than anyone I can think of in his 2002 book *The Nazi Connection: Eugenics, American Racism, and German National Socialism* (Oxford University Press). In fact, the Nazi "Rassen Pope" Alfred Pöetz among others was influential in the 1905 founding of the Society for Racial Hygiene (Gesellschaft für Rassenhygiene). Pöetz was a believer in Nordic superiority, and he quickly formed a secret group of racists active within the Society. They were strongly influenced by the racial theories of Arthur Comte de Gobineau published in the early 1850s (well before Darwin's books, or the even later Eugenics movement). Gobineau followed the creationist theories of the "pre-Adamites" who went so far as to claim that Negroes had been created on the Genesis fifth day with "other beasts of the field." (More to follow)

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