

Klaus Marxen

Weiheraum. Roman
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Weiheraum is a novel written in Walter Scott's style by a renowned German lawyer Klaus Marxen, a retired judge and professor of Humboldt University of Berlin. In his novel Marxen tells the story of two families: Czech and German, that is set between 1880 and 1959. Distinct lots of main characters inevitably approach a tragedy. This is a leading plot, complicated and full of unexpected turning points, but historical background and authentic events occurring between 1901 and 1950 are equally important. Everything is spanned by fundamental issues related to the purpose, principles and procedure of criminal proceedings, the system of punishment and administration of justice. Distinct fortunes of the novel's characters are intertwined with real events and legal issues which decide about a final solution of the fictitious plot.

Marxen presents a nature of hearings before the Nazi People's Court in Vienna (Volksgerichtshof) in 1943. It was a special court that operated beyond the constitutional legal framework. It was "an instrument of terror to execute Nazi tyranny" while the scope of its cognition and jurisdiction was strictly connected with the protection of a national socialist state. The Court's organization and trial itself served to pursue ad hoc and single-tier proceedings. The court sentenced eighteen thousand people, most often to death penalty. Until 1945 there were app. 5200 executions. Legally valid judgments of the People's Court were annulled as late as in 1998. One of the characters depicted in the novel is Roland Freisler and his appointment to preside over the People's Court in 1942. Roland Freisler was NSDAP member and Nazi criminal. He was a jurist and attorney at law. It was just him who insisted on making the laws stricter and increasing a role of special courts as "ad hoc courts of internal frontline". As a judge he ruled in over 1200 trials of political

opponents which most often finished with death penalties. This is why he was called “the hanging judge”. Trials presided by him were extremely brutal. As a rule, defendants were insulted and threatened during hearings in the People’s Court. Fundamental principles of fair play of a fair trial such as presumed innocence and the right to defence were an illusion. Marxen intertwines the thread of Reinhard Heydrich’s assassination in a very interesting way. A goal of this military action was assassination of Reich Protector of Bohemia and Moravia – SS-Obergruppenführer. Assassination was carried out in Prague by the soldiers of Czechoslovakia’s government in exile in May 1942 under the code name Operation Anthropoid. It was extremely risky and ensued brutal German repressions against civilians. Two soldiers, who were friends, were assigned to this operation: a Slovak Gabčík and Czech Kubišz, who attacked Heydrich in Prague on 27 May 1942 as planned. SS-Obergruppenführer used to drive in Prague without military escort in his Mercedes with the registration plate SS – 3 (which meant he was the third figure after Hitler and Himmler). This hated Protector of Bohemia and Moravia was wounded. He died in hospital of septicemia a few days after the assassination.

Yet the thread of the so called Waldheimer Trials in DDR in February 1950, which started the second phase of bringing Nazi criminals to justice and making them accountable for their crimes, deserves special attention. At that time DDR and West Germany perceived one another as allies of the anti-fascist movement. In both countries Nazi criminals were arrested, detained and prosecuted. In the Soviet occupation zone in Germany, they were also often deported to Siberia. At the beginning of 1950, Soviet detention camps located in East Germany were liquidated and the criminals detained there were handed over to the DDR courts. A court competent in these cases was a special court in a small Saxon town of Waldheim, which was composed of twelve great and eight small criminal divisions. It was formally subject to the state court (Landesgericht) in Chemnitz. Until the end of June 1950, criminal divisions of this court passed verdicts in the cases of 3324 defendants. The proceedings were accelerated and closed to the public. Notwithstanding the fact whether the defendants in the so called Waldheimer Trials actually committed acts they were charged with or not, they were most often sentenced to from fifteen to twenty years of harsh imprisonment, sometimes from ten to fifteen years imprisonment, and to death penalty in thirty two cases, which was executed in twenty four of them. These court proceedings were called “trials against Nazi and war criminals”.

The novel also depicts the issue of a subjective theory in sentencing during the Third Reich, which justifies the extension of penalty onto the phase preceding a commission of an act (perpetration). According to the objectives of this theory, punishable attempts were justified by a risk posed by the perpetrator’s will from the moment they univocally revealed their malice. Marxen also presents German care and charity association “Lebensborn e.V.”, which operated within SS organizational

structures and had an extensive network of its centres. It was established in 1936 by the order of SS Reichsführer Heinrich Himmler within the framework of demographic and political assumptions of Nazi racial policy. A main purpose of Lebensborn was “restoration of German blood” and “breed of a Nordic race of superior men” through appropriate selection of women and men designated for breeding. Moreover, Lebensborn’s activity was to counteract an increasing number of abortions, which were illegal. Yet officially, it was affirmed that these charity centres were to support racial and biologically and inherently valuable large families, take care of racial and biologically and inherently valuable pregnant unmarried women, carry out the so called racial research of reproductive mothers and fathers’ families (e.g. members of German police or SS), help mothers give births, and issue “legal” documents to new born children, e.g. to single mothers giving birth to illegitimate children of Wehrmacht soldiers – the so called “Besitzer-Kinder”, who could this way escape revenge from their compatriots if only they satisfied racial criteria. After giving birth, these children could be adopted by SS families who wanted to adopt a child. Furthermore, Lebensborn persuaded fathers of illegitimate children to take over responsibility for the child and get married.

Marxen’s novel is composed of three parts characterized by a distinct perspective but including common retrospectives spanning all of them. Already at the beginning of his novel, Marxen explains its title underlying that reality is useful only to find clues or directives while the truth must be established. Weiheraum is a room in a Vienna state court (Landesgericht) where criminal cases were tried and where 1184 victims of this Nazi, inhuman and unlawful justice were prosecuted. The room where people were deprived of life during Nazi terror. The trial before the Nazi People’s Court in Vienna in 1943 connects entirely distinct fortunes of main characters and, at the same time, it is the beginning of a tragic end. The characters’ lives evoke inevitable questions of a purely legal nature, and yet not only this.

Friedrich Liedke, born in Jüterborg in 1901 on the day of birth of German emperor Wilhelm II is actually a sensitive man. He works in the People’s Court as a prosecutor. His superior is Oberreichsanwalt Ernst Lautz. Friedrich Liedke is not a Nazi by conviction but he wants promotion. He knows very well that his father is against him joining NSDAP as he believes that Adolf Hitler is too apodictic. Prosecutor Liedke avoids unnecessary interest in his person. He does not want to complicate his simple and organized life. Thanks to conformist attitude and despite occasional doubts, he becomes First Prosecutor and Division Chairman. He finds a sense of security and quiet being close to the power he is constantly striving for. And yet he is a common coward. Liedke believes in Hitler. He believes that the system of justice and criminal prosecution during war must be merciless, and he is doing his very best to fulfil his professional tasks of a prosecutor to achieve full satisfaction. The only thing he needs to be fully happy is a child. A decision to adopt a child for a well-organised First Prosecutor Liedke is extremely difficult. He is even more tormented

and frustrated by the thought that a mother of the adopted child is a young woman whose death he himself contributed to. He believed that pregnant Helena Cermak deserved death for helping her heavily wounded brother considered “a public enemy”.

The Czech family is different from a well-organized German one. This family starts with Olga and Janek Cermak who are parents of six children including the above mentioned Helena. Janek is neither a mature husband nor father but he is doing his best, yet to little effect. Olga runs a bar. When it is hard and they are short of money, Olga's parents, who live in the countryside, help them. Her daughter Helena (Lenka) Cermakova is born in the south Moravia in Breclav near Brno in 1918, in the year when Czechoslovakia was established. Twenty years later Breclav becomes Lundenburg and Helen's identity card is issued in the name Cermak because the ending *-ova* in the Protectorate of Bohemia and Moravia created in 1939 by the German Reich was forbidden. Helena needs such an identity card very much because she wants to visit Tomasz in secret. Her older brother argued with the family and left to England, where he completed military training, and as a partisan returned to his homeland in 1942 with airborne landing force to fulfil military orders and fight against the occupier. Tomasz is a proud Czech who refuses to accept German occupation. He is heavily wounded in a guerrilla fight and Nazis want him badly. His hideout is discovered and Tomasz is executed. His mother Olga and Helena who supplied him with food and medicine are betrayed and imprisoned. The mother dies in Gestapo custody of pneumonia and Helena is sentenced to death penalty. On 23 August 1943, shortly before her death, she gives birth to a daughter. Prosecutor Liedke did not know where the child was taken. A few months later he and his wife adopted the girl from one of SS Lebensborn houses naming her Ingrid.

After the war, Friedrich Liedke was arrested and detained in Sachsenhausen camp for five years. This imprisonment is twice as hard for a former prosecutor also due to constant remorse. Was a pregnant woman he sentenced to death the mother of his adopted daughter? Was his activity legal? Or perhaps he was a criminal who failed to recognize lawlessness or ignored it adjusting himself to the predominant ideology. At that time Liedke also lost his wife, who died in 1948 in Jüterborg, where she was taken care of by his sister Elisabeth who also looked after her niece. Ingrid loves her aunt and feels good at her house. But her adoptive father, whom she actually did not get to know, is sentenced in Waldheimer trial to death penalty.

Prof. Klaus Marxen's novel is impressive and worth recommending for many reasons. Apart from undeniable historical and legal merits, it invokes reflection on human life and its most important values. The author esteems the characters' mentality, inner experience and emotions. The novel's mood and symbolic representation are created by details. Ingrid has a beloved cat Jasmin. As a child, Prosecutor Liedke also had a cat he called Jasmin. The cat is by all means a symbol of bonds between the adoptive father Liedle and his adoptive daughter Ingrid, who knows him only from her mother's stories. What is more, the cat also symbolizes

a link between the past and the future. The effects of past events befall in the future. The mother saying that the father was deported by the Soviets during the war is also very meaningful.

Marxen depicts the connection between universal values, human nature, professional life and decision-making process very clearly. In his opinion, human life is a sum of all decisions taken by man in different situations. Being a lawyer means for Friedrich Liedke unreflective application of valid legal norms. His intellectual and emotional horizon is merely limited to studying next case files. Marxen warns against such mindless or ideology-driven interpretation and application of law. He underlines that certain neutral legal solutions applied at the time of domination of a specific ideology lead to total unlawfulness. Deadened remorse return with double force. Acting as a prosecutor, Liedke defies only once in the first interrogation before the People's Court; but during a break in the hearing he is rebuked and since then he does not make any deliberations or reflections at all. "Law is Führer's word" and "obedience from top to bottom; responsibility from bottom to top". Only one case constantly bothers him. Where was the child of the convicted pregnant woman taken to after her execution? This mystery is explained at the end of the novel. A lack of thorough reflection and violation of the so called meta-values must always come to a bad end.

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