

Universal Jurisdiction as Iustitia ex Machina: Speaking Justice for the Victims of ISIS and the Syrian Civil War in Germany

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Abstract

This article offers a brief survey of four cases that were at the centre of public attention over the course of 2020 and 2021 in Germany. These cases dealt with ISIS foreign terrorist fighters [FTIs] and former Syrian officials who worked for the Syrian intelligence service and are relative to charges of genocide, torture, or crimes against humanity. The paper will sketch out the inherent importance of these cases for German public discourse as well as some underlying societal issues they touch upon. It will discuss how universal jurisdiction, which plays a crucial role for all four trials, transcended its technical function in international law and transformed into a concept with broader societal ramifications for the German public. I show how these trials can be understood as a form of *Gegenwartsbewältigung* that purports a reaffirmation of German identity in the present. Lastly, the article will provide a brief problematisation of the trials' legal basis and their public reception from a postcolonial perspective.

Nec deus intersit, nisi dignus vindice nodus inciderit

- Horace, *Ars Poetica*, verses 191-92.

Introduction

With the alleged defeat of ISIS in the Middle East, European countries are currently facing the question of how to deal with former foreign terrorist fighters [FTFs] who participated in the fighting in Syria and Iraq (OSCE, 2018; UNODOC, 2019; Eurojust, 2020). This question produced a variety of responses that differ substantially from country to country. Although Germany produced only a modest number of FTFs compared to France or the UK, the topic of the so-called *Rückkehrer*² was and still is a hot topic in the German public discussion. German courts have already trialled several former combatants by now, but German society is currently

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² I.e., FTFs who returned to Germany.

facing the challenge of dealing with former female ISIS members.³ Since women were usually not conceptualised as combatants, their trial required a differing set of legal responses (UNSC, 2019). In a similar fashion, whereas German mainstream society has commonly understood refugees from Syria and Iraq as victims and not perpetrators, now the question arises of how to deal with those who have committed crimes in the name of oppressive regimes.

This article offers a brief survey of four cases relevant to these issues that were at the centre of public attention over the course of the last two years in Germany. It will first describe the cases of Jennifer W., a former female ISIS member and *Rückkehrer*, her husband Taha al-J., an Iraqi national who is charged among other things on accounts of genocide, as well as Eyad A. and Anwar R., who worked for the Syrian intelligence service and were involved in torturing protestors as well as opposition members in 2011 and 2012. The paper will sketch out the inherent importance of these cases for German public discourse as well as some underlying societal or legal issues they touch upon. The main research question of this paper, however, inquires how universal jurisdiction, which plays a crucial role for all four trials, transcends its technical function in international law and transforms into a concept with broader societal ramifications for the German public. I show how these trials can be understood as a form of *Gegenwartsbewältigung* that purports a reaffirmation of German identity in the present. Lastly, the article will provide a brief problematisation of the trials' legal basis and their public reception from a postcolonial perspective.

Universal Jurisdiction and the 'Responsibility to Prosecute'

The concept of universal jurisdiction poses a challenge to positivist theories on a legal system's claim to authority. Since universal jurisdiction cases deal with crimes that were perpetrated by non-nationals on foreign ground, national legislation does not suffice to legitimate authoritative jurisdiction in these cases. Instead of positivism's emphasis on source and/or geography-based approaches, universal jurisdiction should rather be characterized by exploring its intended purpose. While the legal development of universal jurisdiction moved from the exercise of domestic sovereignty to interstate and later international comity, it now not merely serves as a tool to settle matters of states, but focuses on individuals and more specifically victims (Hovell, 2018). Indeed, the role of victims for initiating universal jurisdiction cases worldwide indicates that the concept ensures a now more and more recognized universal right to legal process regarding crimes that are generally abhorred by the international community. The principle of 'responsibility to protect' [R2P] is related to our post-WWII conception of universal jurisdiction (Feierstein, 2019), while the consolidation of international law and the establishment of institutions such as the international criminal court formed R2P into a 'responsibility to prosecute' (Turan, 2016). This development is apparent in Germany's incorporation of universal jurisdiction. As Germany has been a fervent proponent of the International Criminal Court and the Rome Statute it not only incorporated extensive mechanisms for ensuring universal jurisdiction through international institutions but went as far as to legally oblige federal authorities to investigate, prosecute and exercise jurisdiction

³ From a legal perspective, gathering evidence against FTFs, albeit male or female, is a general challenge for European jurisdictions (UNODOC, 2019). What I denote here is that on top of this legal problem, a societal issue arises, namely the social conception of female ISIS members not merely as passive followers or even victims but as active combatants or participants in the oppression of civil society.

over international crimes (Rankin, 2019). The ‘responsibility to prosecute’ within the German context and Germany’s adherence to universal jurisdiction through national and international institutions has been interpreted as a way to assume more global responsibility while respecting the legacy of the Nuremberg Trials (Eikel, 2018). This paper builds on these considerations and offers a case study that reflects more on societal than legal ramifications emerging from recent universal jurisdiction cases in Germany. Lastly, I also intend to offer a first postcolonial perspective on Germany’s growing reliance on universal jurisdiction.

The Cases⁴

In September 2014 the mother of Jennifer W., a young woman in her early twenties from Löhne, Niedersachsen, informed the German authorities that her missing daughter had probably joined ISIS in Syria and Iraq. Later that same year W. informed her mother that she was living in a women’s shelter of the terrorist organisation in Raqqa, where she eventually met her prospective husband, Taha al-J.. In 2015, she moved with him to Fallujah where she became firmly integrated into the militant structures of ISIS. She participated in patrols of a women’s vice squad in Fallujah and Mosul carrying various firearms, as well as an explosive belt, to enforce ISIS’s radical understanding of sharia law in public life. In 2016, she was arrested in Ankara after filing an application for a new German passport and was deported to Germany. Back at home, she would bear a child and start advocating for ISIS on social media, while her activities were monitored by the national authorities. Eventually, she tried to return to Iraq and contacted an alleged trafficker for that purpose. The trafficker, however, was an undercover FBI agent who worked with the German authorities. In a recorded conversation with the agent, W. stated her continued affiliation with ISIS and her intent to rejoin its ranks. Furthermore, she talked about the crimes committed by her husband, mentioned further below, and her complicity if not even pride in them. Eventually, this conversation would become a legal cornerstone for the prosecution against her and her husband. In 2018 she was arrested in Bavaria on her way back to the Middle East and a bill of indictment was filed at the 8th senate of the Higher Regional Court in Munich. She now faces charges for participation in a terrorist organisation, violation of the German War Weapons Control Act, participation in war crimes and homicide by omission. The first hearing took place in February 2019 and the trial was expected to end in 2020. Due to several juridical matters and the impact of the Covid-19 pandemic, however, the case is still ongoing.

On February 5, 2020, a bill of indictment was filed at 5th senate of the Higher Regional Court at Frankfurt/Main against Taha al-J., Jennifer W.’s former husband and an Iraqi national who was arrested in Greece⁵ in May 2019 upon an international warrant issued by the German Federal Court of Justice. According to the bill, al-J. served as ISIS’s chief of the bureau for “sharia exorcism” in Raqqa and has repeatedly visited women shelters of ISIS, where he eventually met Jennifer W..

⁴ Detailed information on the cases can be found in the relevant documentation provided by the Higher Regional Courts of Frankfurt/Main, Koblenz and Munich. (Oberlandesgericht München, 2019; Oberlandesgericht Frankfurt am Main, 2020; Oberlandesgericht Koblenz, 2020, 2021).

⁵ So far there is no official statement on the reasons why al-J. went to Greece, however some unofficial sources claim that he fled to Europe because he deemed it too dangerous to stay in Syria or Iraq. This information would correspond to what Jennifer W. described in her recorded conversation with the FBI agent. See (Felden and von Hein, 2019).

His commitment to the terrorist organisation, however, had already started in 2013 when he offered to construct and store explosives at his house in Iraq. Presumably prior to his engagement with W., al-J. participated in ISIS's human trafficking activities and bought two Yezidi women, a mother⁶ and her daughter, as slaves for his personal household. The women had to suffer from constant malnutrition and were repeatedly brutalised by al-J.. Sometime between July and September 2015, he punished them due to the daughter allegedly having wet her bed. The mother was forced to walk outside barefooted during the day with temperatures over 50 degrees Celsius, resulting in serious bodily harm. After that, al-J. chained the already weakened daughter in the air under the open sun for at least 30 minutes where she apparently died of thirst under the eyes of her helpless mother and Jennifer W.. Afterwards, upon realising that the girl fell unconscious al-J. drove her to a hospital and disappeared for a few days. After his return, the matter was not mentioned again according to both W. and the mother. Today, al-J. faces charges for membership in a terrorist organisation, (participation in the) genocide against the Yezidi people, crimes against humanity, war crimes, human trafficking, and forceful exploitation as well as the murder of the 5-year-old girl. The first hearing took place in April 2020 and the trial is expected to end in the first half of 2021.

On October 18, 2019 a bill of indictment was filed against two Syrian nationals, Anwar R. and Eyad A., at the first senate of the Higher Regional Court of Koblenz. Both defendants have previously been members of the Syrian intelligence services. Anwar R. allegedly led the investigation and interrogation division of the infamous "al-khatib" Department 251 and its adjacent detention section in the governorate of Damascus. According to the charges, the division under his leadership was responsible for murder and torture in at least 4000 cases starting from April 29, 2011 to September 7, 2012. The division used physical, sexual, and psychological violence as well as malnutrition, lack of space and hygiene to intimidate, extract confessions and gain information on Syria's growing opposition movements at the time. At least 58 people have died because of the ongoing torture in Department 251 in 2011 and 2012. Anwar R. was responsible for managing the Department, i.e. coordinating personnel and shifts as well as ordering and overseeing the interrogations and ongoing torture of the prisoners.

Eyad A. worked as a subordinate officer for the Department. Among other things, his team was responsible for brutal crackdowns on protesters in the area. In autumn 2011 for instance, he participated in the arrest of at least 30 protestors, their deportation to Department 251, and torture in the prison facility. Presumably by the end of 2012 both defendants left Syria and fled for Germany. There, Anwar al-Bunni, a Syrian human rights lawyer and refugee himself, who has been detained at Department 251, recognised Anwar R. in a refugee accommodation. At that point, Anwar R. has contacted the German authorities and testified about his former activities in the Syrian intelligence services in fear of being watched by the Syrian regime and apparently unaware

⁶ The mother has been located by the NGO Yazda in a refugee camp in northern Iraq and plays a central role as key witness and joint plaintiff in both al-J.'s and W.'s cases (Yazda, 2020). She is now legally represented by the law office of the distinguished human rights lawyer Amal Clooney. Her testimony, however, only raised more questions, as she repeatedly contradicted herself on the issue and mentioned that she herself did not think that her daughter would die. In that case, it could be argued that Jennifer W. and Taha al-J. might have thought the same, although in her latest statement W. mentioned that she noticed the girl's bad state and tried to intervene (DPA, 2021). Furthermore, trial observers have reported difficulties in translating the mother's Kurmanji Kurdish dialect during the trial hearings. (Lang, 2020)

of facing potential legal consequences in Germany. As several NGOs and individuals have spread public awareness and showed clear documentation of the torture regime in Syria, German investigators turned their attention to Department 251 which then led to the arrest of Anwar R. and later of Eyad A., who testified his previous activities for the Syrian intelligence services to the German authorities in 2019. The former is trialled for complicity in crimes against humanity, murder in 58 cases, rape and severe sexual harassment, whereas the latter was trialled for aiding and abetting crimes against humanity. The first hearing took place on April 23, 2020 and the case has gained considerable attention in German and international media since then, dubbing it the “al-khatib” case. The hearings took place in over 50 days with victims, former Syrian intelligence agents and outside experts as witnesses, including a forensic expert who worked on the documentation provided by the Caesar-Files Group. On April 24, 2021 the Higher Regional Court of Koblenz convicted Eyad A. of all charges for 4 years and 6 months in prison, lowering the expected punishment of 5 years due to mitigating circumstances in which Eyad A. had allegedly acted in a strictly hierarchised and oppressive state structure and repeatedly showed his willingness to contribute to a full uncovering of all activities of Department 251 in 2011 and 2012. The case of Anwar R. is still ongoing and expected end by October 2021.

The Trials and Public Discourse

Jennifer W.’s case provides an interesting study for the specific issue of FTFs. German jurisdiction has now already convicted several male ISIS combatants who returned to Germany. Although, nominally speaking, legal prosecution should be impartial to the indicted’s gender, social connotations of gender roles are now changing in the aftermath of these cases. The issue of female *Rückkehrer* is moving to the forefront of German public discourse (Schirrmacher, 2018). Most women who joined ISIS have been indicted with charges for participation in a terrorist organisation, whereas they were often depicted as mislead or unwillingly seduced by the organisation’s projected utopia for pious Muslim women (PRIO, 2017; Patel and Westermann, 2018). With Jennifer W.’s case, however, the role of women in the organisation is re-negotiated in public discussions and, to a limited degree, legal discourses as well (Felden, 2019). Whereas female FTFs were oftentimes seen as passive adherents to ISIS’s regime, stemming from a specific and perhaps misinformed conception of gender roles in conservative Islamic societies (Handle *et al.*, 2019), Jennifer W. shows how women actively participate in the organisation’s terror if not even acts of genocide (von Hein, 2020). This new perspective on gender roles could carry consequences for German jurisdiction and the broader public discussion, especially at a time when the German Ministry of Foreign Affairs had invested efforts in extracting German female FTFs from Kurdish prison camps in Northern Iraq (Auswärtiges Amt, 2020).

Jennifer W.’s case is of course inherently linked to her former husband’s trial. With the tragic murder of the 5-year-old Yezidi girl and her enslavement in the household of W. and al-J., the genocide against the Yezidi people moved to the forefront of German discourse. Several legal observers of al-J.’s case have emphasised the difficulties in providing proof for the charges of genocide (HAWAR. help e.V., 2020). Although NGOs and international organisations have used ISIS propaganda and its activities in social media to showcase the organisation’s genocidal intention, there are no official orders, or something similar as such, which would provide a clear

basis for proving genocidal intent (AFP Deutschland, 2020). As our present understanding of the charges of genocide within international law stems from post-WWII experiences as well as the civil war in Rwanda and former Yugoslavia in the 1990s, a re-evaluation of legal proof for genocide needs to adapt to present circumstances. In addition, even though there is consensus on the occurrence of genocidal intent, the prosecution would have to show that al-J.'s participation in ISIS's system of human trafficking is indicative of his explicit personal motivation to contribute to the extermination of the Yezidi people (Duran, 2020). Of course, from a legal standpoint, this task is a delicate matter and, so far, it seems to be in no way guaranteed to be accepted by the court. Nonetheless, the trial has sparked considerable hopes for Yezidi activists and civil organisations (HAWAR. help e.V., 2020; Yazda, 2020) to provide a first step not only for the international recognition of the genocide but also of the legal status of the Yezidis – after all the German term for genocide, *Völkermord*, requires some recognition of a genus or *Volk*.

The al-khatib cases are probably the most widely discussed trials of all four. The judgement of Eyad A. has enjoyed considerable international attention especially in terms of the development of universal jurisdiction discussed further below. What it brought to the forefront in German public discourse is the uncovering of the systematic torture committed by the Assad regime through extensive official documentation, testimonies by victims and perpetrators, as well as the horrifying evidence through leaks such as the one of the Caesar-Files Group. It also led to a new awareness of sexualised violence related to war crimes, crimes against humanity and its systematic function within oppressive regimes. Here, the case of rape and sexual harassment had so far been dealt with as individual crimes – an issue that has been widely criticised by German legal experts (Kaufmann, 2020; LTO, 2021) – however, the prosecution has forwarded a motion to include those within the charges of crimes against humanity (ECCHR, 2020). An interesting reaction in German public discourse surrounding the trials was the discussion about the mitigating circumstances that both defendants acted within the oftentimes paradoxical structures of an oppressive regime. Some reporters have emphasised how Anwar R. and Eyad A. had ultimately deserted from the ranks of Assad's henchmen, sometimes served as counsellors to Syrian opposition groups after 2012 and with that, shared the conception that their cases would lead to a prosecution of all who turn their backs to the Syrian regime (SJAC, 2019; Baumstieger, Kampf and Steinke, 2020). Lastly, the al-khatib trials sparked a discussion of the internationalisation, or rather lack thereof, in German jurisdiction. Several observers have criticised the exclusivity of the trials and their treatment as common murder cases. As such, it took an intervention from the German constitutional court to offer an Arabic translation for Syrian journalists, whereas official press releases or the application process for press accreditation are still mostly in German (SJAC, 2021). Even despite the trials' importance for universal jurisdiction, the Higher Regional Court itself did not allow for any audio recordings (Kaufmann, 2020).

Universal Jurisdiction and German *Gegenwartsbewältigung*

This last issue brings us back to the concept of universal jurisdiction and its now overwhelming presence in the public discussion of all four trials. Universal jurisdiction serves as the main legal basis for all cases as the crimes were not only committed in Syria and Iraq, but also partly by Iraqi and Syrian nationals. Germany introduced universal jurisdiction in its *Völkerstrafgesetzbuch* or

International Criminal Code with the incorporation of the Roman Statute in 2002. Its first paragraph allows for the prosecution of crimes committed by non-nationals on non-German ground, even if the crime has no connection to Germany itself. There are only a handful of cases in Germany so far that were based on the mechanisms appertaining to universal jurisdiction in the *Völkerstrafgesetzbuch*. Usually, courts relied on the National Criminal Code as these crimes would be easier to prove than the ones stated in the International Criminal Code. The high hurdle of proof however is now more and more mitigated through the activity of several NGOs and national as well as international organisations that work tirelessly on providing evidence for the crimes committed in the Syrian Civil War (Baier, 2020). Furthermore, the concept of joint plaintiffs in the German legal system, together with strategic litigation by civil institutions and the increasing organisation of victims, has led to a facilitation of the application of universal jurisdiction (Mégret, 2015; Hovell, 2018). Over the course of the last years, Germany has shown an extensive increase in the use of legal, as well as institutional resources, for the purposes of universal jurisdiction (Palet, 2019).

Since the more prominent institutions within international law such as the UN Security Council, ICC or ICJ are perceived to be unable to deal with the crimes committed during the Syrian Civil War due to their inherent institutional flaws, now German or sometimes European jurisdiction is portrayed as *Iustitia ex Machina*⁷ — the missing link which ensures that international law can finally deliver justice to the people of Syria and Iraq (Salahi, 2020; Hamdoun, 2021; Khattab, 2021). Many observers even saw these trials as the legal basis for a future international criminal tribunal that could hold judgment over the atrocities committed in Syria and Iraq since 2011 (Ergin, 2020; IGFM, 2020; Stewens, 2020; Tekkal and Schwarz, 2020).

The discussion surrounding all cases prominently features a public re-negotiation of notions of agency or non-agency, personal responsibility for atrocities committed under the rule of oppressive regimes, as well as genocide and their reprocessing within international law, i.e. through the application of universal jurisdiction or an international criminal tribunal. Of course, these issues are highly reminiscent of the German post-WWII experience in the era of de-Nazification, the Nuremberg Trials and the coming to terms with the atrocities committed in the name of the German nation. As such, a subliminal though ever-present feature of the discourse is an instinctive allusion to German history or rather a demarcation of today's Germany from the national-socialist regime of the '30s and '40s. In a way, it is this *coming to terms with the past*, or *Vergangenheitsbewältigung* — perhaps even *Geschichtsbewältigung* in German (König and Kohlstruck, 1998), that now resurfaces in public discourse as the legal and societal coming to terms with atrocities committed in the present. As it were, *Vergangenheitsbewältigung* becomes *Gegenwartsbewältigung*⁸ and the demarcation from past evil

⁷ I coined this phenomenon as *Iustitia ex Machina* alluding to the classical dramaturgical concept of *Deus ex Machina* ("god out of the machine"). In classical Greek drama some irresolvable plot constellations would be resolved through the sudden and unexpected appearance of a divine figure in the piece – usually brought on stage by a crane or similar contraption, hence the *machina*. Through this intervention, the previously hopeless situation usually unravels into a favorable conclusion. (Appleton, 1920; Moore, 1974). The Latin quote at the beginning of this article is a cautionary remark in Horace's *Ars Poetica* about the excessive reliance on the *Deus ex Machina*.

⁸I.e. the *coming to terms with the present*. Here, I am relying partially on the analysis of the relationship between these two concepts provided by the artist and political commentator Max Czollek. Czollek has shown how the German experience of *Vergangenheitsbewältigung* serves the function of producing a specific collective identity that, through its determined demarcation from the past, forms a new, however still problematic, concept of German society. (Czollek, 2018, 2020)

turns into the responsibility to act in the face of crimes committed in the present. Political reactions to the trials expressed the re-occurring theme that Germany is now finally stepping up after the West's perceived inaction upon what happened in Syria and Iraq until 2011. Claudia Roth, a prominent figure of the German Greens, summarised the intention of the trials in a clear message to all victims of the Syrian Civil War: *Wir haben euch nicht vergessen* - "We did not forget you" (Kaufmann, 2020).

The overwhelming enthusiasm for the principle of universal jurisdiction and for Germany delivering justice in cases committed by and against non-German nationals on foreign ground can be interpreted as a new affirmation of German identity in the world. Under the rallying cry of "no safe haven for perpetrators!" German society expresses its newfound will to take up international responsibility in the framework of international law. From a constructivist perspective in international relations theory, the trials have as much to do with legal proceedings as with state and societal identity. Especially the public discussion surrounding the cases exhibit a strong normative tendency to appreciate the application of universal jurisdiction in Germany with no trace of any discussion about the perhaps problematic nature of this aspect of international law.

A Postcolonial Perspective on Germany's Enthusiasm for Universal Jurisdiction

As such, strong enthusiasm usually carries its caveats. The concept of universal jurisdiction has experienced a sharp increase in usage over the last few years (Jeßberger, 2018). Legal observers have stressed how nations with capable jurisdiction, an influx in refugee communities, and strong civil society organisations — such as it is the case in Western Europe — are predestined to become venues for universal jurisdiction cases in the future (Derohannesian, 2020). However, as most European nations have proposed universal jurisdiction as an ideal way to ensure global accountability in cases where perpetrators are not expected to be trialled under national jurisdiction, the Global South and predominantly Sub-Saharan Africa have repeatedly voiced contention over this aspect in international law (Canefe, 2018; Varney and Zduńczyk, 2020). Considering that most cases of universal jurisdiction resulted in the indictment of people hailing from the Global South before European courts, albeit national or international courts, one might conceptualise international law as a neo-imperial structure of Western hegemony (Ba Oumar, 2017). Research emphasised how the oftentimes indeterminate legal basis for universal jurisdiction and postcolonial experiences spread mistrust in the system of international law (Ifeonu, 2015). Indeed, from a postcolonial perspective, it seems that former colonial or neo-imperial powers set up a legal system, i.e. post-WWII international law, that purports to perpetuate Western hegemony on a theoretical, legal as well as institutional basis. Even advocates of international law might perceive the recent increase in universal jurisdiction cases in Europe as a neo-imperial means to enforce national jurisdiction under the umbrella and with the legitimacy of international law.

Even though I am not advocating against the intention and proceedings of the four cases that I have described here, it is nonetheless troublesome that while universal jurisdiction was at the centre of the public discourse, a critical discussion of the concept itself was missing in every instance of media coverage as well as legal or scholarly postprocessing of the trials. By not addressing the

postcolonial perspective on universal jurisdiction, states, civil societies, as well as scholars give the floor to actors such as the Syrian regime to dismiss these judicial proceedings as illegitimate, neo-imperialist modes of domination.

To end on a normative note: was it good that justice has been or will be brought to the victims of the Syrian Civil War in Germany? In my opinion and relative to these specific cases, yes. However, in an attempt to broaden our perspectives and distance ourselves from the specificities of these cases, all is not well. The lack of discussion about the manifold issues that might appertain to the application of universal jurisdiction should be worrisome for any advocate of international law. The overwhelming disregard for the postcolonial perspective on international law, especially at a time when universal jurisdiction cases are at a sharp rise in Europe, is an aspect that has to be problematised in order to ensure not only the adherence to international law within the Global South, but also to show sensibility for processes of decolonisation with a simultaneous consolidation of world-wide accountability in international law.

Conclusion

The trials of Jennifer W., Taha al-J., Eyad A. and Anwar R. carry profound importance for Syria and Iraq, the Yezidi people, Germany, Europe, and international law. They could serve as a potential legal basis for delivering justice to the victims of the Syrian Civil War and its aftermath since 2011. They are a strong signal for spreading world-wide accountability through universal jurisdiction, the legal status of the Yezidi people and our legal conception of genocide as well as the potential establishment of international tribunals to deal with war crimes and crimes against humanity.

Besides these aspects, the four cases serve a specific function for re-affirming the new identity of today's Germany. Emanating from the concept of *Vergangenheitsbewältigung* or the *coming to terms with the past*, the process of what I called *Iustitia ex Machina* purports a certain form of *Gegenwartsbewältigung* and a way to come to terms with the present. As such, Germany affirms its demarcation from the past and consolidates its new role as a responsible actor within the global order under the guidance of international law.

Unfortunately, however, this occasion is not taken as an opportunity to engage in a meaningful discussion about universal jurisdiction and postcolonial perspectives on international law. To ensure the global consolidation of international law and the spread of accountability, these perspectives should be addressed in a meaningful way by the international community and on a national level such as in today's Germany.

Future research could pick up this responsibility and explore postcolonial notions of international law, national legal proceedings and the application of universal jurisdiction in Europe. Other studies might broaden their perspective and pursue a comparative analysis of how different European societies come to terms not only with their past, but also with the present. Finally, this article has shown that research in international relations could utilise the methods of constructivist theory to explore cases of national jurisdiction.

All in all, even though justice has or will be delivered *ex Machina*, it is exactly this notion that we should further engage with, scrutinise and perhaps even criticise. In the end, such an endeavour would indeed conduce to the ambition to be able to deliver justice anywhere and everywhere.

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