https://forhistiur.net
ISSN 1860-5605

Reviewed by: Julian Andre Hettihewa *

Stefan Ruppert, Recht hält jung. Zur Entstehung der Jugend aus rechtshistorischer Sicht: Deutschland im langen 19. Jahrhundert (ca. 1800-1919)

Lebensalter und Recht 9, Frankfurt am Main: Vittorio Klostermann 2023, XI + 439 p., ISSN 1610-6040, ISBN 978-3-465-04433-8.

Published on 16/12/2024

Recommended citation: Reviewed by: Julian Andre Hettihewa, Stefan Ruppert, Recht hält jung. Zur Entstehung der Jugend aus rechtshistorischer Sicht: Deutschland im langen 19. Jahrhundert (ca. 1800-1919), in forum historiae iuris, 16/12/2024, https://forhistiur.net/2024-12-hettihewa/

---

* Law Clerk, Higher Regional Court of Cologne, Email: julian.hettihewa@fu-berlin.de.

1 Stefan Ruppert dedicates more than 400 pages to a simple, yet crucial claim: law contributes to meanings of youth. Quite commonly, the notion of youth is misunderstood as biologically determined. Youth in that sense is nothing more than a specific period of time, a temporal section of a lifespan; youth petrifies into chronological age. But why is it that we accept certain age boundaries as a given? Why does it appear so self-explanatory that specific legal rights (e.g. the right to vote) and duties (e.g. mandatory military service) are connected to a certain chronological age? These questions have been widely neglected in the discipline of law. Ruppert convincingly embarks from the following point of departure: law regulates age, and therefore law informs societal understandings of age. His call to re-evaluate the role of law in the creation of age is intriguing, persuasive, and very welcome.

2 Ruppert's book, which was accepted as *Habilitationsschrift* at Goethe University Frankfurt in 2012, is the central output of a collective academic endeavour. Between 2005 and 2012, Ruppert led a junior research group on age and law (»Lebensalter und Recht«) at the Max Planck Institute for Legal History and Legal Theory (back then »Max Planck Institute for European Legal History«), which was also guided by Michael Stolleis.

3 Under the heading »Law keeps young« (»Recht hält jung«), Ruppert explores how law shaped and solidified youth as a social phenomenon in Germany from the beginning of the 19th century until the founding of the Weimar Republic in 1919. Having said that, Ruppert seems to restrain his task to description and explanation:

4 > *»Wann haben Gesetzgeber, Richter, Verwaltungen und Rechtswissen[*6*]schaftler bewusst oder als Begleiterscheinung begonnen, ›die Jugend‹ in ihrer heutigen Form zu normieren? Vor allem aber ist zu fragen, warum sie das taten.« (pp. 5-6)*[1]

5 The legal-historical analysis that follows spans twelve chapters, covering private law (Chapter II), freedom of religion (Chapter III), military service law (Chapter IV), education law (Chapter V), welfare law (Chapters VI, IX), labour law (Chapter VII), criminal law (Chapter VIII), voting law (Chapter X), as well as constitutional law (Chapter XI). Ruppert's decision not to confine himself to a specific branch of law enables him to engage with the regulation of youth more comprehensively. In doing so Ruppert seeks to understand how those different branches of law interlocked and contributed as a whole to the structuring of age (pp. 53-54). This also underlines one of Ruppert's central aims. Because age boundaries are a popular tool employed by legislators (to regulate biographies, distribute resources, increase predictability…), greater care should be taken with regard to the effect that those generalising age-based norms have on the life of individuals (p. 29).

---

1 »When did legislators, judges, administrations and legal scholars, either consciously or as a concomitant, begin to regulate ›youth‹ in its current form? Above all, however, one needs to ask why they did so.« Translated by the reviewer.

6 Of particular interest is Ruppert's desire to neatly divide the legal factors that influenced the creation of youth from the social-historical ones:

7 > *»In diesem Buch soll ein neu konzipiertes soziales Phänomen wie die Jugend auf die Frage hin untersucht werden, welchen Beitrag das Recht bei seiner Entstehung hatte. Dies führt zu einer vorrangigen Betrachtung der normativen Ebene. Diese ist dann aber immer wieder in Abgleich zu bringen mit allgemeinen sozialgeschichtlichen und demographischen Bedingungen, unter denen junge Menschen im 19. Jahrhundert lebten. Das ist nicht immer leicht und notwendig auch unvollkommen, bleibt aber das stete Interesse des Autors.« (p. 53)*[2]

8 Indeed, this aim is traceable throughout the book. In Chapter II, Ruppert highlights the role of Roman law for age boundaries in private law in Germany. While Roman law provided an important legal point of reference, certain age limits were lowered to account for changing societal living conditions and values. The beginning of religious maturity was fiercely debated amongst clerics and legal scholars alike – it was only decided through a law passed in the Weimar Republic in 1921 which by then was backed by general societal and political acceptance, as Ruppert chronicles in Chapter III. He thoroughly explains in Chapter IV that the introduction of mandatory military service in the wake of Prussia's defeat against Napoleonic France brought drastic and unprecedented changes to young men's biographies. This also had an impact on societal understandings of age as the completion of military service was regarded as the final stage of youth. That the nation-wide enforcement of compulsory schooling triggered by meticulous normative and institutional reforms in the 19th century shaped and standardised conceptions of youth is explained in great detail in Chapter V. Ruppert elaborately contextualises this with larger developments in pedagogy and literature which preceded the legal reforms as well as with Prussia's survival instinct amid French dominance. Adding to this, in Chapter VI, Ruppert points briefly to developments in childcare law which sustained the State's interest to school its young population. The slow onset of labour protection laws contributed to young people's education and gradually furthered – while not creating – the sense of youth as period of learning, not as one of working, as Ruppert explains in Chapter VII. This was encouraged, inter alia, by the State's interest to implement mandatory schooling, the crisis of pauperism, the advent of industrialisation, as well as social perceptions that deemed certain working environments, like factories, unsafe for young people. In order to strengthen the social norm of the educated young men, who found a constructive role in society, and to discipline or repair (to draw on Ruppert's apt notion of »Reparaturcharakter«, p. 291) those deviating from this ideal, juvenile law was introduced. Ruppert describes in Chapter VIII not only the debate on the legal age of criminal responsibility that was necessary to deliver the envisaged juvenile justice system, but also broader

2 »In this book, a newly conceptualised social phenomenon such as youth is to be examined with regard to the question of what contribution the law has made to its emergence. This leads to a prioritised consideration of the normative level. However, this must always be aligned with general socio-historical and demographic conditions under which young people lived in the 19th century. This is not always easy and necessarily imperfect, but remains the author's constant interest.« Translated by the reviewer.

legal academic discussions on the purposes of such a system as well as its institutional reforms (i.e. the invention of juvenile prisons and juvenile courts). It is especially in this field of law where Ruppert recognises a remarkable contribution of legal scholarship to understandings of youth. Preventing criminal ambitions of young people was the task of youth welfare law, as Ruppert explains in Chapter IX. This also hailed from the perception of a crisis of youth – this in turn was facilitated by new monitoring capabilities, such as factory inspectors and crime statistics. Chapter X adds to those positive descriptions of youth a negative one; those who are not young may vote. Ruppert documents how chronological age gradually became the determinant for the right to vote and how this shaped and was shaped by societal conceptions of youth's abilities. In Chapter XI, Ruppert very briefly acquaints the reader with another dimension to the presented complex interface of youth's regulation; the Weimar Constitution, which also prepared the ground for many innovations, for instance the mentioned juvenile courts.

9 Ruppert does not aspire to use his findings as a stepping stone for an inquiry into whether young people have been discriminated or marginalised through the legal regulation of youth. While this comes as no surprise, and certainly fits well with the rather descriptive approach of the author mentioned above, an engagement with and through the analytical framework of ageism might be missing. In fact, the term »ageism«, a notion created and developed in Gerontology,[3] a discipline focusing on old age and older adults, and increasingly used with respect to youth and young people,[4] cannot be found in this book. To clarify, proposing to operate with the framework of ageism does not constitute a call to evaluate or critique past laws with the wisdom of hindsight. Rather, it is to say that this framework might have yielded greater insights into the intentions of legislators. This would also fall squarely into the »why« question Ruppert seeks to answer; ageism might help to explain why certain ideas have prevailed, while others did not gain traction. It remains to be seen whether other scholars will make use of this monograph to explore the relevance of ageism with respect to young people from a legal-historical perspective. Opportunities to do so indeed present themselves – for instance, when Ruppert points towards the paternalistic rationales behind the reforms of youth criminal law in the late 19th century and early 20th century (cf. especially pp. 310-314, 327-328).

10 Chapter XII marks the end of Ruppert's monograph and is divided into eight key conclusions. First, the State emerged as an educator of youth in the 19th century (pp. 393-394). Second, age-based norms provided the framework for individual life choices (pp. 394-396). Third, the regulation of age in the 19th century was chiefly concerned with young men (p. 396). Fourth, the basic structure of youth's regulation developed in the 19th century was solidified in the 20th century (pp. 396-397). Fifth, generally speaking, youth as a period of protection was extended in the 19th century (pp. 397-399). Sixth, laws regulating youth divert in their conception of youth while they share the conviction that young people must be addressed differently from adults (pp. 399-400). Seventh, age-based regulations are part of a larger project of individualisation as

3 Coining the term: *Robert N. Butler*, Age-Ism: Another Form of Bigotry (1969) 9 The Gerontologist pp. 243-246.

4 See *WHO*, Global report on ageism (Geneva: 2021), pp. 81-91.

persons are no longer limited by certain markers such as societal status or profession (p. 401). The last conclusion, on which the book closes, relates to the summary of the different chapters provided above. As has become apparent, legal and (more general) societal developments and outlooks on age relate to each other in complex ways, which have to be disentangled for each case individually. To say that legal dynamics follow societal dynamics, or, in fact, that it is the other way around, is too simple (pp. 401-402, cf. also p. 6). In this relationship, law's contribution to understandings and the structure of age has so far been neglected (p. 402). This assessment, following 400 pages of in-depth analysis, is convincing and sound. In the end, the reader is left with a book that instils a hope that continuation awaits us.