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François Ewald, *The Birth of Solidarity: The History of the French Welfare State*, Timothy Scott Johnson, trans., Melinda Cooper, ed. Durham: Duke University Press, 2020. ix + 276 pp. Notes, bibliography, and index. \$104.95 U.S. (cl) ISBN 9781478007715; \$27.95 US (pb) ISBN 9781478008231.

Review by Amelia H. Lyons, University of Central Florida.

With the omnipresence of the pandemic in our lives, it is no wonder that reading Melinda Cooper and Timothy Scott Johnson's newly edited translation of Ewald's classic book, *The Birth of Solidarity: The History of the French Welfare State*, helped me reflect on the nature of the social contract and our understanding of our rights and responsibilities to one another—issues I have been thinking about a great deal since March 2020. When examining the expansion of insurance in the nineteenth century, Ewald noted that “I am a risk, in an active sense, to the extent I create risks for others and, in a passive sense, to the extent I am a risk that others must bear. Each person's being is thus fundamentally a being for others, a social being” (p. 133). Thinking about why and how we present a risk to one another, and how we mitigate those risks is just one of the reasons it matters that Cooper and Johnson have provided us with an abridged English-language version of a work originally published in French in 1986. As a result, François Ewald's *L'État providence* will continue to be useful to specialists of France, and find a new, broader, anglophone audience.

While the translation's publication is timely, I nevertheless found it a daunting task to craft a review of a classic work, one that has influenced my own, as it has no doubt influenced many that are reading this review. Ewald is well known, not only for his own contributions but, of course, as well, for being Michel Foucault's student, assistant, and legacy-keeper. As Michael Behert's thoughtful essay on Ewald pointed out, his work “on what he called ‘insurance society’ exemplified Foucault's claim that modern power forms are characterized by ‘juridical regression’—that is, the declining importance of law and, with it, of the state conceived as a juridical phenomenon.”[1] Cooper likewise points out in her introductory essay, that of all Foucault's students, Ewald “delivered the most sustained and important inquiry into the problematic of social security as the guiding framework of the twentieth-century welfare state” (p. xv). And, despite being one of the few works by a prominent Foucault student that has not been previously translated into English, Ewald has nevertheless influenced English language scholarship on “the relations between risk, law, and governmentality” as well as recent French welfare state historiography (p. xxv). Since Johnson and Cooper's opening essays provide excellent context and summaries, what, then, is left for me? I have sought to provide an analysis of Ewald's goals for those who have not read the book, or as Johnson put it, for “a younger generation” (p. x).

Reading this abridged translation now, nearly forty years after its initial publication, few will be surprised that Ewald did not integrate the implications of race or gender, both of which are highly relevant to how the welfare state developed and for whom it extended benefits. Johnson, not surprisingly, addressed the question of empire on the first page of his preface. The work, Johnson noted, has “no reference” to the French empire or its role in “the development of the modern welfare state funding and functioning.” Ewald’s “theoretical framework,” (p. ix) nevertheless inspired others, including myself, to think about how both race and gender have been integral to France’s welfare state. Just as we saw with Foucault’s work, scholars of gender and empire have and will use Ewald’s framework to analyze power in a way that incorporates gender and race to better understand the goals and operation of the welfare state. [2] For Ewald, not surprisingly, given when and where he wrote his book, class is central. As he put it, France’s democracy, with its social policies that regulate the workplace and beyond, was possible “thanks to the heroic struggles of the working class” (p. 2). Moreover, it seems clear that Ewald understood this rather narrowly—that for him and his sources the universal Frenchman was indeed white and male. These blind spots, however, do not prevent scholars from using race and gender to consider where we find the limits of solidarity and paint a more nuanced picture—one that acknowledges the boundaries of a “(national) social insurance” program for working women and people of color (p. xxv).

Ewald’s work then, is an effort to trace the epistemological shift that allowed for the development of the welfare state in France. For him, and to better understand the English-language title, the doctrine of solidarity slowly replaced liberalism in nineteenth-century France. The book is divided into three sections, which are roughly, though not exclusively chronological in nature. One soon realizes that Ewald moves back and forth in time in each section to build his larger framework. Readers need a bit of patience to understand fully how each section fits together to construct Ewald’s overall argument, even if Johnson’s abridged translation and Cooper’s editing and introductory essay ease our journey through Ewald’s overall project. The book’s fulcrum is the 1898 law that insured workers against workplace accidents. As Cooper tells us, when Ewald discovered it, he found that it “completely reorient[ed] his research interests over the next decade” (p. xv). For Ewald, the law brought together all the concepts he traces—the shift away from the liberal ethos, the struggle between workers and employers to deal with injuries sustained at work, and the shift away from the juridical approach for dealing with this social problem and toward state policy and law. If centrally, the book traces how France shifted away from the liberal ethos and toward the birth of solidarity over the nineteenth century, Ewald argues that the 1898 law acted as the tipping point. Most of the book examines the gestation of solidarity, if I can be forgiven for taking the title metaphor too far. Ewald examines what led to the 1898 law, which “with one stroke” replaced the Civil Code with “a statutory regime of socialized insurance” (p. xvi). Once in place, the welfare state, expanded in the first half of the twentieth century—making way for the massive social legislation of the Popular Front and beyond.

The book opens with an exploration of the liberal era, beginning in the Enlightenment and centering on the nineteenth century liberal philosophy of individual responsibility, embodied in the 1804 Civil Code, in which each man depends only on himself. Instead of the early modern, Christian notion of charity for the poor who will always be with us, liberalism focused on the causes of poverty and the need for assistance out of poverty, which encouraged personal responsibility. New benevolent practices, Ewald explained, could not be obligatory, instead they

had to be a moral duty, from which emerged “a new politics of poverty” (p. 37). Increasingly, the struggle between the rich and the poor, the employer or *patron* and the worker, centered on liberal rationality’s inability, via the 1804 Civil Code (which created the legal framework for workplace relations) to find a solution to the central problem of workplace accidents—which were viewed as inevitable—and their consequences.

Since the liberal doctrine of individual responsibility did not result in the disappearance of workplace accidents, the Civil Code via the courts adjudicated fault. So, Ewald spent a great deal of time laying out the ways in which nineteenth-century French society sought to remedy the problem. The courts played a central role, but eventually, even the *Patronat*, the employers association, welcomed the social legislation, as Ewald explained, because it provided a better solution for dealing with accidents than the “courts’ arbitrariness” or, even more, the trials themselves—which by the very nature of the worker’s accusation “had a defamatory character” (pp. 156-7). Since the courts, in Ewald’s analysis, did not create a favorable solution for workers or employers, social legislation became the best way to manage risk and compensation. Before the 1898 law, others, including the Child Labor law of 1841 began to provide social policy, which had not been achieved through judicial interpretation of the Civil Code. Moreover, for Ewald, the 1841 law fractured two liberal concepts: the freedom of business and the authority of the male-headed household. Despite these cracks, France, had not yet given up on liberalism via the juridical interpretation of the 1804 Civil Code. Furthermore, the 1841 law “explained the *patron’s* responsibility through his *power*” (p. 155). In other words, starting with the child labor law, and then increasingly with other social legislation, the *patron* had to use his influence in a balanced way. He continued to produce goods, that is he created wealth for himself and his employees in the form of wages, but at the same time had to ensure worker safety.

Following the courts’ failures, Ewald analyzed insurance as the primary response to liberalism’s ineffectual reaction to risk in the industrial era. In fact, his analysis of the development of the insurance industry and risk assessment is arguably one of his most enduring contributions. Insurance became the indispensable tool to mitigate risk with actuarial logic—a way to balance the needs of workers, who suffered injury and needed protections, with the needs of employers, who did not want to face uncertain liability. Much of part two focuses on the origins and development of insurance to combat risk. In France, the struggle between employers and workers over the issue of accidents chipped away at the liberal ethos in a couple of ways over the course of the nineteenth century. Since the Civil Code, interpreted through courts, found no adequate solution for either the workers’ suffering or the employers’ efforts to avoid responsibility for inevitable accidents, Ewald traced legal, juridical, and social policy approaches that sought to solve this conundrum. If no one was responsible for an accident, and employers did not want to pay for damages, or be held responsible, was it moral for a worker’s life to be destroyed, for he and his family to suffer? The heart of Ewald’s analysis traced the struggle over this issue—how to protect workers from accidents, and to compensate them when they occur, while protecting employers’ rights and ensuring they not be held liable if they took precautions to prevent the accidents that everyone agreed were inevitable anyway.

Early on, insurance took the form of relief funds, followed by private liability insurance for employers and personal or collective injury insurance for workers. In Ewald’s analysis, the courts dithered, making private insurance unworkable until the French legislature acted in 1898. Nevertheless, understanding insurance and its role in the conceptualization, tabulation, and management of risk is so important to Ewald’s overall analysis because, unlike the Civil Code

and the lawsuits issued from it, which dealt with individual cases, it could see both workers and employers as a collective, making way for a new kind of political association. Like every part of Ewald's story, this took time. Insurance did not work—it favored either the employer or the worker. The courts, which became involved repeatedly, could not find a satisfactory resolution for either side. As a result, Ewald argued, only legislation which realized “universal insurance, with guaranteed social security as its program” made “it possible to rethink the social contract” and create a new way to regulate risk in an industrialized society (p. 75).

In some respects, Ewald's analysis is a traditional account of class struggle and the French democracy's attempts to find a solution to the conflict between workers and employers over the long nineteenth century. But, of course, his book has been translated into English forty years after its initial publication because it does much more. His study interpreted the 1898 law as an instance of Foucauldian governmentality; it traced “an instance of governmentality [which] could yield a theory of modernity freed from the assumption of revolutionary politics.”<sup>[3]</sup> When the French Parliament sought to end the conflict over risk, Ewald explained, it no longer took a juridical approach, but rather created a method of managing professional risk via the creation of institutions, initially by sanctioning the private organizations that used experts to manage social insurance. In so doing, the law paved the way for universal social insurance, just a half-century later, with the 1946 social security administration. While Ewald may have admitted that the employers won, he was more interested in showing that the birth of solidarity made it possible, through the management of risk and in a democracy that still championed individual rights, to balance the needs of the community and the needs of the individual—worker and employer.

## NOTES

[1] For more on Ewald's life and legacies see Michael C. Behrent, “Accidents Happen: Ewald, the ‘Antirevolutionary’ Foucault, and the Intellectual Politics of the French Welfare State,” *The Journal of Modern History*, 82, no. 3 (2010): 585-624. Quote from page 588.

[2] I am thinking, of course, about Joan Scott's seminal essay and other early scholarship on gender and empire, as well as a growing body of recent scholarship. Joan W. Scott, “Gender: A Useful Category of Historical Analysis,” in *The American Historical Review*, 91, no. 5. (1986): 1053-1075. For early work on gender and the welfare state see Elinor Accampo, Rachel Fuchs, Mary Lynn Stewart, *Gender and the Politics of Social Reform in France, 1870-1914* (Baltimore: Johns Hopkins University Press, 1995), which provides an excellent sampling of work by key scholars. On Foucault and gender in the empire, see Ann Laura Stoler, *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things* (Durham: Duke University Press, 1995).

[3] Behrent, 607.

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