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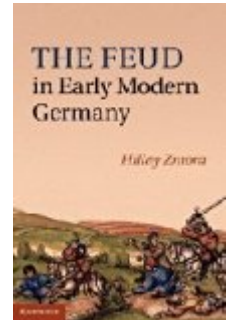
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Hilary Zmora. *The Feud in Early Modern Germany*. Cambridge: Cambridge University Press, 2011. xiv + 211 pp. \$99.00, cloth, ISBN 978-0-521-11251-2.



Reviewed by Stuart Carroll

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Commissioned by Amy R. Caldwell (CSU Channel Islands)

Modern interest in the feud has its origins in two divergent twentieth-century traditions. In most of western Europe the foundations were laid by the anti-Eurocentrist direction in anthropology. More controversially, in Germany it derived from the anti-modernist direction in constitutional history represented by Otto Brunner. Until recently, the two traditions developed independently and with little reference to each other. The German historiography is dominated by the debate over Brunner's Nazi past and the empirical shortcomings of his chief prosecutor, Gadi Algazi. Hilary Zmora is to be congratulated in integrating the German material more closely with the findings from other feuding societies.[1]

This concise and lucid book acknowledges its debt to the work of Brunner and Algazi, but carefully distinguishes how its approach differs. Zmora criticizes their reductive approaches: the former for being too narrowly focused on the question of legality and the latter, in his attack on Brunner, for reducing the feud to a social function. Zmora wishes to restore the role of the state,

stressing the relative neglect of feuds between princes and nobles, which he argues were as important as feuds between nobles. Not only was feuding widely seen as legitimate, it served as a tool of state-building. *Pace* Brunner and Algazi he seeks to expose the paradox of the feud: "the feud could shape social relationship [*sic*], in a variety of ways, binding *and* separating, strengthening *and* limiting power." The reason for this was that feuders knew each other. They were part of a moral community, which tended to limit violence and distinguished feuding from war: "Feuds ... were rooted in a type of reciprocal relationship which might be termed 'inimical intimacy'" (p. 50).

Feuds did not begin as disputes over honor; they were more often than not material disputes over resources, rights, and entitlements. However, once the dispute was under way, honor was then invoked and sustained the conflict. Feuding was shaped by the expectations of the moral community and so feuders explained and defended their actions to a public and were concerned to

show that they were acting in the right. The mutual dependence on each other explains why they acted with relative restraint and violence was directed against property and tenants rather than noble neighbors, relatives, and acquaintances. For these reasons feuds involved careful deliberation, reason, and calculation; they were strategic enterprises in which one's reputation was at stake. Zmora goes on to argue that feuding was also related to wealth and status. A reputation required defending and enhancing. For these reasons, feuders tended to come from wealthier lineages. Far from being "robber barons," they were more likely to be men seeking to indicate their wealth, personality, and fitness to rule-- qualities that were more likely to attract a good marriage.

The reasons for the rise and decline of the feud in Germany are to be found in the transformation of the state and the moral community in this period. Noble culture was changing in the fifteenth century as tournaments allowed men to secure and define a place in a conflict-ridden society without resorting to the feud. The tournament was another means for the wealthy to show off and for preening young men to demonstrate their prowess. However, feuds against princes, despite the *Ewiger Landfriede* of 1495, reached a peak in the early sixteenth century, as princes sought to consolidate and expand their rule. The abandonment of the feud thereafter has been variously attributed to the civilizing process, to confessionalization, or to social disciplining. But the chronology does not fit. Zmora is surely right to highlight noble agency and their self-conscious attempts to regulate their own moral community. Confraternities like the Franconian Knightage and the Rothenburg *Ganerbschaft* developed partly out of desire to regulate disputes more effectively. The Swabian League is a good example of the paradox at the heart of the feud: although it conducted feuds externally it controlled violence internally.

Zmora has ambitions beyond an introduction to the problem: he also seeks to establish a gener-

al interpretative framework for the feud. He sees noble behavior as being largely determined by three factors: the relationship of "inimical intimacy" among them and the concomitant preoccupation with reputation; their proximity to princes, which involved them as rivals of princely power; and the emergence of their self-perception as free lords, which was articulated in brotherhoods, leagues, and unions and which enabled them to balance solidarity and conflict. He derives his inspiration not from anthropology or from the recent historical writing it inspired, but from sociobiology and evolutionary psychology. According to this interpretation, feuding was the consequence of male reproductive urges.

Those historians inspired by the anti-Eurocentrist direction in anthropology will find a great deal that is familiar. There already exist, however, several general theories of the feud that are more comprehensive.[2] And the concept of "inimical intimacy" looks very much like John Bossy's "moral tradition," which draws on the work of Osvaldo Raggio on sixteenth-century Liguria.[3] The Lozi have known this for a long time and have a proverb for it: "He who kills me, who will it be but my kinsman." [4] As for Zmora's contention that feuding has a lot to tell us about state-building and the emergence of noble self-consciousness, I shall leave it to experts of the early modern German nobility. New research will undoubtedly test his hypothesis in other regions. Its wider applicability is, however, open to doubt since, although he is aware of the literature, he is concerned only with the nobility. The recent literature on non-noble feuders is very rich, but it is not easy to see how it fits with Zmora's schema.[5] Zmora's methodology raises two larger questions: one is the definition of the feud and what it meant for contemporaries and means for us; the second relates to Zmora's attempts to bolster his analysis with reference to the spurious theories of evolutionary psychology and sociobiology.

The first question derives from my ignorance about how the sources survive. Zmora's analysis rests heavily on 278 feuds from Franconia, which occurred mainly between 1460 and 1520. This begs the question of how the *Fehdeakten* (which are only found in some Italian and German archives) were collated. How and when were they created, by whom, and for what purpose? It is important to know this because it tells us who defined what was a feud and why it was worth recording. One of the great achievements of Christina Reinle has been to reconstruct peasant feuds using fragmentary sources, thereby showing how previous definitions of the feud have been distorted by the archival base. What did feud mean to contemporaries? Zmora admits that there was a close relationship between war and feud, but he also claims that there was a clear distinction between the two. This distinction was not one made by contemporaries. Götz von Berlichingen uses *Fehde* sparingly in comparison to *Krieg* and, in any case, the words are used interchangeably.[6] The Westphalian monk Brother Göbels records the "war" (*Krieg*) waged by the van Buren family against his monastery, but also recorded in 1521: "de keysser mit den koninghe van Franckrick in groter unspreckliker vede." [7] This reminds us that we should not get too hung up on the word's constitutional significance or its criminalization in 1495. Recognizing the word's elasticity enables us to expand Zmora's concept of "inimical intimacy" to look at all forms of *Feindschaft* that may include customary revenge and dueling. If we do this we shall need to change the scope and chronology of the feud. Zmora's tale of steep decline after 1520 may hold for the nobility, but it is not the case for other classes.[8] The noble disputes which Franck Dierkes has uncovered from the early seventeenth century do not look like the classic late medieval German *Fehden*, since they involved blood-letting, but they do meet the anthropological criteria for a feud.[9] Monika Momertz has collapsed the feud in the sixteenth-century Brandenburg Mark, the *Befhedunge*, into the

wider understanding of *Feindschaft*, permitting her to investigate feuding at the level of the village.[10] Investigation of the ways in which people conducted their disputes, despite the absence of a legal framework, has already been done for England, Italy, and France, where the terms *feud*, *faida*, and *faide* were not in widespread use in the late Middle Ages and early modern period, but where "inimical intimacy" was a dominant feature of everyday relationships.[11] And we can see a similar change in sixteenth-century Germany. The neo-stoic Cyriacus Spangenberg lamented: "es is leider bey vielen unter dem Adel dahin kommen das sie eine Menschen achten wie einen Hund/ und es daher auch für seine schlechte Sünde achten/ wenn sie kugel durch einen andern sagen/ oder (wie sie selbst pflegen zu redder) aus einem Schwertscheide machen." [12] But he recognized that a noblemen's profession often necessitated the use of force in response, so long as it was reasonable and not done in anger.

Bypassing the linguistic turn will not help us trace the transformation of the feud. Nor will evolutionary psychology or sociobiology help. Like the theories of Elias and Freud before them the level of abstraction is such that they cannot account for sharp rises and falls in the level of violence, or for significant differences between regions. It is one thing to say that feuds are rational and another to argue that this is driven by the male selfish gene. Reproductive success has nothing to tell us about why Franconia was more violent than, say, Saxony, where the demands for marriage partners was no less intense. It is not true that "the number of unmarried young men has proved to be a good predictor of violence." If fifteenth-century German noblewomen simply hankered after good providers, as evolutionary theory demands they should, why did they not choose the sons of wealthy burghers? Zmora thinks that "contests over women as a major cause of violence between men is a universal human theme. It is a matter of nature, not of nur-

ture. The reward of success is huge ... reproductive success” (p. 98). But the mind does not work like that.[13] Zmora is in danger of following Stephen Pinker and confusing biological potential with biological determinism.

He is on firmer ground with the politics. The American invasion of Iraq reminded us that levels of violence are closely related to the political culture of a state and to the existence of civil conflict in particular.[14] Thirty years ago Helgard Ulmschneider reminded us of the peculiar problems of finding legal redress in the fragmented polity of the Holy Roman Empire. The *Fehde* was directly related to the protection of property rights and enforcing contractual claims where a strong central authority was lacking; it was essential for the upholding of rights and therefore differed from the anthropological feud because it had one aggressor and was not about vengeance. Zmora’s claim that feuding contributed to state-building fits well with this model. Germans, like all other Europeans, craved legal redress and demanded greater access to the law courts, the consequence of which was an unprecedented boom in litigation during the sixteenth century.[15] This put a stop to the *Fehde*, but it did not put an end to “inimical intimacy.” Theologians and moralists condemned litigation as lacking in Christian charity; it was, they argued, a sign of enmity: the *Fehde* had turned into the feud.

Notes

[1]. For an excellent introduction to the historiography, see Jeppe Büchert Netterstrøm and Bjørn Poulsen eds., *Feud in Medieval and Early Modern Europe* (Aarhus: Aarhus University Press, 2007).

[2]. See for example: William Ian Miller, *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland* (Chicago: Chicago University Press, 1990), 180-81.

[3]. John Bossy, *Peace in the Post-Reformation* (Cambridge: Cambridge University Press, 1998), 3-4.

[4]. Stephen Wilson, *Feuding and Banditry in Nineteenth-Century Corsica* (Cambridge: Cambridge University Press, 1988), 129.

[5]. Christine Reinle, *Bauernfehden: Studien zur Fehdeführung Nichtadliger im spätmittelalterlichen römischen-deutschen Reich, besonders in den bayerischen Herzogtümern* (Stuttgart: Franz Steiner Verlag, 2003) is appraised favorably by Zmora. But there is also a mass of other material on non-noble feuding; see, for example, the detailed examination of the Kohlhasse case: Malte Dießelhorst and Arne Duncker eds., *Hans Hohlhasse: Die Geschichte einer Fehde in Sachsen und Brandenburg zur Zeit der Reformation* (Berne: Peter Lang, 1999).

[6]. Helgard Ulmschneider, *Götz von Berlichingen Mein Fehd und Handlungen* (Sigmaringen: Jan Thorbecke, 1981), http://de.wikisource.org/wiki/Mein_Fehd_und_Handlungenerlag. For example, see 68v: “Nun weitter vnnd zum ailfften, will ich antzaigen, wie ich mit dem stift Meintz inn *krieg* vnnd *vhedenn* khommen bin, vnnd ist dem nemlich allso.”

[7]. Henrich Rüthing, ed., *Die Chronik Bruder Göbels: Aufzeichnungen eines Laienbruders aus dem Kloster Böddecken, 1502 bis 1543* (Bielefeld: Historischen Kommission für Westfalen, 2006), 177.

[8]. The continuation of and evidence for a large numbers of feuds in the sixteenth century, despite the 1495 prohibition, is one of Reinle’s most significant contributions. *Bauernfehden*, 177.

[9]. Frank Dierkes, *Streitbar und ehrenfest. Zur Konfliktführung im münsterländischen Adel des 16. und 17. Jahrhunderts* (Münster: Aschendorff, 2007).

[10]. Monika Mommertz, “Von Besen und Bündelchen, Brandmahlen and Befehdungschreiben,” in *Streitkulturen. Gewalt, Kon-*

flikt und Kommunikation in der ländlichen Gesellschaft (16.-19. Jahrhundert), ed. Magnus Eriksson and Barbara Krug-Richter (Cologne: Böhlau, 2003).

[11]. For England and France: Paul Hyams, *Rancor and Reconciliation in Medieval England: Wrong and Its Redress from the Tenth to Thirteenth Centuries* (Ithaca NY: Cornell University Press, 2003); and Stuart Carroll, *Blood and Violence in Early Modern France* (Oxford: Oxford University Press).

[12]. Cyriacus Spangenberg, *Adels Spiegel. Historischer ausführlicher Bericht: Was Adel sey und heisse, woher er komme, wie mancherley er sey, und was denselben ziere und erhalte*, 2 vols. (Schmalkalden: M. Schmück, 1591), ii, 439.

[13]. Jerry Fodor, *The Mind Doesn't Work that Way: The Scope and Limits of Computational Psychology* (Cambridge, MA: MIT Press, 2000).

[14]. Stathis N. Kalyvas, *The Logic of Violence in Civil War* (Cambridge: Cambridge University Press, 2006). For a discussion related to early modern France, see Stuart Carroll, "The Rights of Violence" in *Ritual and Violence: Natalie Davis and Early Modern France*, ed. Graeme Murdock, Penny Roberts, and Andrew Spicer, Past and Present Supplement 7 (Oxford: Oxford University Press, 2012). For a more overarching theory linking homicide rates to political culture, see Randolph Roth, *American Homicide* (Cambridge, MA: Harvard University Press, 2009).

[15]. Ralph-Peter Fuchs, *Um die Ehre: Westfälische Beleidungsprozesse vor dem Reichskammergericht (1525-1805)* (Paderborn: Ferdinand Schöningh, 1999), 155.

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