Remembrance, History, and Justice
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Germany’s dealing with its two difficult pasts—the East German state socialist dictatorship and, much more important, Nazism and the Holocaust—has almost globally been considered a success, even a model for others to emulate.¹ Human rights activists and politicians from South Africa, for instance, closely studied what the Germans had done by way of trials, public commemoration and schoolbooks; and the Chinese would at one point admonish Japan that, in dealing with World War II, it should adopt the “German model.” Not surprisingly perhaps, this Modell Deutschland was increasingly viewed with pride within Germany itself, especially, but not only, among the Left.² Some outside observers picked up on this peculiar form of pride—a kind of anti-nationalist nationalism—and gently mocked it: Timothy Garton

¹ This essay incorporates parts of a previous assessment of dealing with the East German past, “Just another Vergangenheitsbewältigung? The Process of Coming to Terms with the East German Past Revisited,” in: Oxford German Studies, vol. 38 (2009), 334–344. I am grateful to Helge Heidemeyer for a background conversation at what was then the Birthler-Behörde in February 2009, to Karen Leeder and the audience of the Special Taylorian Lecture in Oxford in May 2009, as well as the participants in the November 2010 conference on “Remembrance, History, Justice” for comments and suggestions. Thanks also to participants in the 2011 Berlin Princeton Global Seminar on “Memory, Democracy, and Public Culture” for stimulating exchanges.

Ash, for instance, spoke of *Deutsche Industrie-Normen* in “coming to terms with the past”; others crowned the Germans “world champions in remembrance.”

Today the picture appears to look a little different: not from the outside, where fears of a resurgent German nationalism have largely subsided, give or take the political and economic struggles about the Euro—but from the inside. Critics have charged that both “coming to terms with the Nazi past” and “overcoming the legacies of the GDR” might have been failures, after all—though for very different reasons: in the case of the former, the critics claim that Germans have essentially appropriated the victims of the Holocaust in order to feel good about their own efforts in remembrance.\(^3\) Yes, these critics admit, the centre of Berlin prominently features the Jewish Museum, the “Topography of Terror” (devoted mainly to exploring the workings of the Gestapo), and, above all, the Holocaust Memorial, a few steps from the Brandenburg Gate.\(^5\) But in their eyes, these are essentially tourist attractions that do not shake anyone up or make anyone think. Former Chancellor Gerhard Schröder inadvertently revealed their real meaning when he talked about a “memorial which one enjoys visiting.” The cheap cafes, souvenir shops, and beer halls now surrounding the Holocaust Memo-

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\(^3\) There are usually two blind spots in celebrations of the supposed “German model”: first, it is based on a historical situation where a country of perpetrators was completely conquered, and it might suit only post-dictatorship conditions—not post-civil war conditions. Second, de facto remembrance was preceded by forgetting or at least a widespread silence about the evil perpetrated under the Nazi regime (which is not to say that forgetting and silence were somehow historically necessary, as argued, most recently, by Christian Meier, *Das Gebot zu vergessen und die Unabweisbarkeit des Erinnerns: Vom öffentlichen Umgang mit schlimmer Vergangenheit* [Munich: Siedler, 2010]).


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Material are all-too-appropriate within this logic. So remembrance has been set in stone—but, as Robert Musil once remarked, “there is nothing in the world as invisible as a monument.” And nothing, one might be tempted to conclude, was better designed to ensure that memory no longer hurts than placing a memorial in the very middle of the new “Berlin Republic.”

In fact, then, the Jewish wisdom that the secret of memory is redemption—famously quoted in a speech by then President Richard von Weizsäcker in 1985—has been vindicated for the Germans, but with a perverse twist: whoever goes through the motions of remembrance, need not feel bad, let alone guilty. One enjoys visiting the Holocaust memorial not least because it makes one feel that one has done something—even if it is just getting upset about the teenagers sunbathing on the “steles” or tourists eating their sausages in what ought to be a sacred space.

How about the process of dealing with the East German past? Here critics claim that defenders of the old regime have been allowed to impose a very soft image of the dictatorship, more Goodbye Lenin than The Lives of Others. This is partly because everyone is so careful not to equate socialism and National Socialism (and thereby, the charge goes, ends up downplaying the evils of state socialism). And it is partly because the Left Party—die Linke—which has entertained an, to say the least, ambiguous relationship to the East German past has become a real force to be reckoned with—which is to say, a force that is courted by other parties and a force that can shape political outcomes, including symbolic representations of the past, to its liking. Former East German dissident Freya Klier has prominently warned that “their networks have not dissolved, but been strategically refined. . . . The supporters of the former dictatorship . . . sit in the

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6 See also Wolfgang Wippermann, Denken statt denkmalen: Gegen den Denkmalwahn der Deutschen (Berlin: Rotbuch, 2010).

Bundestag, in the media, in schools, in manifold commissions of our democracy. . . . They are aiming at the future."

Ironically, civil society is flourishing, just as political scientists wishing to promote democracy often argue is necessary for a proper consolidation of liberal-democratic regimes. Except the civil society that is flourishing is one of associations often with idealistic-sounding names (such as Gesellschaft für Bürgerrecht und Menschenwürde e. V.) which seem essentially devoted to rehabilitating the Stasi, to fighting for benefits for supporters of the regime, and to rather aggressive campaigning against commemorating the victims of the SED—all in the name of human rights (namely of those who see themselves on the losing side of history after 1990).


9 The “model institution” of coming to terms with the East German past— what used to be known as the Gauck authority but then became the “Birthler-Behörde” (named after Gauck’s successor as head of the authority, the East German dissident Marianne Birthler) and is now the “Jahn-Behörde” (named after its current head, a journalist—and Bürgerrechtler—from East Germany) has also been heavily criticized in recent years, not least after it had been revealed that the office actually kept employing a number of former Stasi-members (who, recently, had to be transferred to other administrative offices. See http://www.sueddeutsche.de/politik/bundestag-beschliesst-gesetzesanwendung-ex-stasi-mitarbeiter-muessen-jahn-behoerde-verlassen-1.1153748, last accessed October 31, 2011). In addition, the one-time model institution for dealing with an authoritarian regime’s secret service has been attacked for supposedly dragging its feet in addressing the question of Stasi informers in the West (West German parliamentarians in particular), and, generally, seeming arbitrary in its decision on what kind of information to release to historians and journalists. The privileged access to the files by a number of in-house researchers has also been subject to continuous criticism.
The upshot of all this is—once more—complacency about the past, though of a different kind. In the case of the Nazi past, remembrance is about the wrong kinds of emotions and attitudes; in the case of the GDR, remembrance is about the wrong kind of memory content, so to speak, and the problem that justice might not have been done properly at all in dealing with the legacies of the dictatorship. A further result, however, appears to be plain ignorance: in 2008 a highly controversial survey showed that especially—but not only—East German school children knew shockingly little about the GDR past; a majority thought the Stasi was an intelligence service like any other; many held that the West had erected the Wall and opined that the environment had been cleaner during state socialism.10

These two alleged failures of Germans in dealing with their pasts are distinct. Yet in one concrete way they might actually come together, at least according to an acute observer like Perry Anderson: namely, in the urban landscape of the “new Berlin.” There Anderson discerns an “ideological will to fix civic memory on images stamped by guilt or nostalgia—the element of guilt mostly coming from the West, the element of nostalgia (for the Palace of the Republic, etc.) from the East. The result is a kind of an antiquarian masochism—a clinging to what is aesthetically ugly, often because it was also morally and politically ugly, in the name of truth to history.”11 An exaggeration—and a slander of a city that tries ever so hard to combine hipness with historical consciousness? But how else, then, to be “truthful to history,” in public self-representations—and in patterns of remembrance more broadly?

This essay seeks to take stock of the two processes of what the Germans call either Vergangenheitsbewältigung or Aufarbeitung der Vergangenheit (actually, the latter term has become almost completely dominant in recent years, since it supposedly suggests less of a sense of closure, mastery, and “being done with the past” in the way the for-

10 Monika Deutz-Schroeder und Klaus Schroeder, Soziales Paradies oder Stasi-Staat? Das DDR-Bild von Schülern - ein Ost-West-Vergleich (Ernst Vögel, 2008). Pupils in East Berlin and Brandenburg knew least about the GDR; the report concluded that the more young people knew about the GDR, the more critical they tended to be. One should add that the report has been severely criticized for its methodology.

The essay’s central question is whether Germans are justified in their recent tortured self-criticism. Of course, this raises the question what ought to count as reasonable moral and empirical criteria of how processes of coming to terms with the past should unfold and when they could be considered a “success” (to be sure, there is something deeply problematic about the language of “success” in this context—but then again, it would be foolish to pretend that these processes cannot go more or less well). However, rather than putting forward a full justification of criteria here, I want to develop them through reconstructing recent debates in Germany. I will first engage with criticisms of the Bewältigung of the Nazi past; I shall argue that, while some critics of the process of coming to terms with the Nazi past no doubt are right that guilt has strangely (dialectically, some might say) turned into pride, it is still wrong to judge that process as a whole a failure. Second, in surveying debates both about the Nazi past and the East German state socialist past, I want to claim that there remain indeed curious blind spots—or, as the authors of the most trenchant critique of Vergangenheitsbewältigung have put it, “illusions”; the way many of these debates are structured and address questions of comparability in particular, is unhelpful, to say the least. This, however, is a different point than saying that the actual process of coming to terms with the state socialist past has been a failure; and thus, in the third, more empirically oriented part of the essay I argue that by any reasonable standard, the process of coming to terms with the East German past has been a success—and especially so in comparison with the experience of other post-communist countries. ‘Failure’ can only be diagnosed against the background of unreasonably high expectations.

Finally, I want to stress that the dialectics of remembrance can only be perceived as such a problem because German cultures of remembrance are so highly developed and firmly grounded in the country’s political culture in the first place. This is not a call for self-celebration or self-promotion—it is, I would submit, at this point simply a fact. Having said that, it is important to stress that recent critics do have a point: there is indeed a danger of remembrance degenerat-

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12 To be sure, the latter term has also had its critics—Theodor W. Adorno, for instance.
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...ing into a kind of routine; it is the case that a moral consensus about the past is not necessarily a good sign; and it is a real peril that public memory can foster a sense of forgiveness and reconciliation—when not the memory-fixated descendants of the perpetrators, but only the victims and their descendants are in a position even to broach the topics of forgiveness and reconciliation. Countering these tendencies ought to be a conscious and ever renewed effort—without aspiring to impossible standards of self-criticism and subversion. But there is no real way to institutionalize self-subverting memory, only a conscious and reflective way of engaging with—and passing on of—institutionalized memory.

Feel-Good Remembrance?

Remembrance has to hurt. This seems to be the underlying assumption of those who argue that the process of coming to terms with the Nazi past and the Holocaust has turned not so much into a spectacle as into a form of moral self-celebration for Germans—or, at least, a perverse identification with the victims (and therefore a convenient excuse for not thinking about one’s links with the perpetrators). Ulrike Jureit and Christian Schneider have coined the term “counter-identification” to capture what has happened with the generation of 1968 in particular: a more or less conscious identification with the Jews against their own fathers and mothers, hence a sense of exculpation, and, finally, a new form of pride in the “success” of Vergangenheitsbewältigung. In the model of “collective guilt” recently put forward by Bernhard Schlink, “collective guilt” has finally been overcome, because

13 More needs to be said here: nobody wants “routine remembrance”—but repetition and ritualization are in an important way integral to stabilizing meanings over time. Novelty—a different memory spectacle each time—is not automatically a good thing, and not all repetition means that remembrance has to turn into “myth” or “liturgy.” See also Aleida Assmann, Der lange Schatten der Vergangenheit: Erinnerungskultur und Geschichtspolitik (Munich: C. H. Beck, 2006), 217–234.

14 The origin of this thought can be found in Nietzsche, of course: “Nur was nicht aufhört, web zu tun, bleibt im Gedächtnis.”

15 Jureit and Schneider, Gefühlte Opfer.
all ties of solidarity with the perpetrators have been conclusively broken; the children and grandchildren and great-grandchildren of the perpetrators are safe from guilt because they engage in a permanent renunciation.\textsuperscript{16} Paradoxically, not guilt, but innocence, has been put in stone—forever.

For critics such as Jureit and Schneider, contemporary forms of Holocaust remembrance in Germany are all about reconciliation, self-affirmation and even—again, whether consciously or unconsciously—redemption. Intellectual and, above all, emotional contradictions and any sense of ambivalence cease to be part of the picture; the nation is truly united in the identification with its victims through a shared \textit{Gesinnungsästhetik} (an—untranslatable—combination of Max Weber’s \textit{Gesinnungsethik}—the ethics of conscience—and aesthetics). The upshot seems clear: what looks like earnest remembrance is in fact a highly sophisticated form of forgetting, not of the “facts” about the past, but about what the past should really mean in a country of perpetrators.

What could be the antidote to such a forgetting? One common answer is counter-monuments instead of monuments, “stumbling blocks” for feeling and thinking about the past, rather than props for present-day identities, let alone some form of pride (even if it is pride in “having-come-to-terms-with-the-past”). Counter-monuments question traditional conceptions of remembrance and complicate the viewer’s relationship to artifacts and their supposed “messages”\textsuperscript{17}; outstanding examples are the counter-monument by Renata Stih and Frieder Schnock at Berlin’s Bayerischer Platz (called a “Denk-Installation”\textsuperscript{18}) and the “stumbling blocks” in German (and now also other European) cities installed by the artist Gunter Demnig.\textsuperscript{19} The point is—literally—to unsettle, as the pedestrian trips over the slightly elevated or uneven stones with information about the victims engraved on them. Remembrance, here, destabilizes, or, at the limit, subverts itself entirely.

Another common answer is “commemoration through communication.” Especially with more distance to the acrimonious controver-

\textsuperscript{16} Berhard Schlink, \textit{Guilt About the Past} (Toronto: Anansi, 2010).
\textsuperscript{17} James E. Young, \textit{At Memory’s Edge: After-Images of the Holocaust in Contemporary Art and Architecture} (London: Yale University Press, 2000).
\textsuperscript{18} See http://www.stih-schnock.de/remembrance.html.
\textsuperscript{19} See http://www.stolpersteine.com/.
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sies of the 1980s and 1990s (such as the famous “historians’ dispute” of 1986–1987 or the “Walser-Bubis-debate” of 1998), many observers have concluded that the continuous debates—including the harshest controversies—over the moral meaning of history actually constitute the real achievement of (and the key to) the success of coming-to-terms with the Nazi past. For instance, it was often pointed out that the real Holocaust memorial in Berlin might not be the physical entity designed by Peter Eisenman, but the long-lasting, deeply self-searching and, not least, very painful debate which preceded its construction.

There clearly is something to this thought: arguing about the past keeps memory alive in a way that “routine remembrance” does not necessarily, because it forces participants and observers of these debates to think harder about the precise moral meaning of the past. But not all arguing is productive, and, in any case, arguments and debates cannot be generated artificially, especially not from on high: states can decree commemoration, but only individual politicians and intellectuals (in the broadest sense, including professional historians and journalists) can ignite individual debates (if they are sufficiently influential or lucky); there might be “Memory Ministries” now in many countries, but there aren’t (and there ought not to be) “Ministries of Public Controversies.” Conversely, only the state can institutionalize self-critical commemorations; and this is hardly a trivial fact—because there is always the option of doing nothing at all, or of reverting to more nation-affirming, less self-critical forms of remembrance.

It is true that, prima facie, forms of remembrance which stress ambivalence, and which provoke unexpected thoughts and feelings, are preferable to alternatives which suggest easy patterns of identification and closure. But there is no undisputed way of bringing about such kinds of remembrance, no “model” of how to make memory “cause pain.” And, furthermore, there is no way we can—or, for that

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matter, should—truly know (let alone somehow measure) the inner feelings and attitudes of those taking part in commemoration. To be sure, the rhetoric of elites is precisely not just rhetoric and can give crucial clues of how a culture of public remembrance as a whole is developing. But even agonizing and ambivalence can be faked by politicians, if need be.

In any case, the critics of Vergangenheitsbewältigung can only make the rather subtle claims they make because they can take a certain consensus about the meaning of the Nazi past and the Holocaust for granted. As previously mentioned, not all arguments about the past are productive: the fact that some arguments about the past—such as Holocaust denial—are nonexistent or marginal is an achievement, not an illegitimate silencing, or a false form of reconciliation. Would critics really want different forms of commemoration of the Nazi past—ones that celebrate aspects of that past—so that there would be more ambivalence? Are a few neo-Nazis a good thing to reinvigorate the official culture of remembrance and demonstrate its relevance? The answer, it seems to me, clearly has to be “no.”

Peculiarities of the German Debates on Coming to Terms with the Past

“Commemoration through communication,” then, is not some kind of political and social-psychological panacea. It might be crucial in arriving at a morally attractive consensus about the meaning of the past—but arguably it can also hinder or, in the worst case, destroy such a consensus. This problem seems particularly acute in debates about the East German state socialist past. On the one hand, there is the much-discussed and almost unanimously endorsed aim of creating something called “inner unity” among German citizens, that is to say, a feeling of shared values and common identifications among East and West German citizens. This, one might suppose, would also require some kind of shared image of the past—ein gemeinsames Geschichtsbild, as it is often put. But if “commemoration through communication” is to be real, then it is far from obvious that the closure implied by a consensual Geschichtsbild—as opposed to ongoing communication, including harsh disagreements—is as desirable as it is often made to seem. And
there is no way of resolving this tension in the abstract—all will depend on the particular questions at issue in a particular debate or particular decision (on memorials, for instance). But the tension itself is hardly ever recognized in German debates.

The general lack of what one might call meta-reflections on memory is clearly more pronounced in the discussions about dealing with the East German state socialist past: there has been a very strong focus on particular policies, or sometimes scandals—while there has been relatively little discussion about what in theory should be the prior question to be settled: which criteria and goals are appropriate for the Aufarbeitung of state socialism, and also which moral principles might guide both the process of Aufarbeitung in general, and more specific assessments of the aspects of the GDR past (both individual behaviour and more systemic features of the regime). Of course, one can object that this constitutes a very academic, or perhaps apolitical, expectation—first we ought to deliberate on reasonable criteria, and only then to argue about substantive questions. Still, what is striking is the relative paucity of a more general moral discourse, and also the relative absence of moral philosophers or legal theorists (as opposed to historians and politicians) from the debate. Relative, that is, to the historians’ dispute, in which the moral philosopher Jürgen Habermas played a leading role, or the general philosophical discourse about the Third Reich’s legacy (one might think of Karl-Otto Apel’s contributions in this context).22

Another peculiarity of the German debates have been the uses (and abuses) of comparison and as well as the general assumptions about historical (and moral) comparability underlying them. Of course, it might again be seen as a form of wishful thinking that the objective historian will parachute into the middle of a debate and decree wie es eigentlich gewesen. The politics of memory is always also—politics. Still, as said above, conflicts over the past can be more or less productive,

and arguably the controversies over the GDR in particular have been less so. This is true, it seems to me, in at least three respects.

Two debate-stoppers have dominated—and to a certain degree stalemated—what in the best of circumstances are likely to be highly complex conversations about the nature of the SED regime and GDR society: the concepts of totalitarianism and Alltagsgeschichte, or everyday history. Critics of the concept of totalitarianism have argued that the East German state, despite the supposed omnipresence of the Stasi, never controlled everyday life in the total way that many theories of totalitarianism seem to suggest; those who lived in East Germany also frequently insist that they had been able to lead perfectly normal lives outside politics, as opposed to the image of a complete politicization of society and even private life. A historical diagnosis of totalitarianism thus also seems to amount to an (or perhaps, yet another) act of dispossession vis-à-vis the East Germans: it robs them of their own past.

Conversely, a focus on everyday history—prominent in the last experts’ commission on GDR Aufarbeitung, which reported in 2006—is often immediately criticized as a form of Verharmlosung, of softening the image of the regime, and of automatically confirming Richard Schröder’s controversial claim: “Es gab ein richtiges Leben im falschen”—which is to say, one could lead a morally good life in a politically immoral context.

Yet, I would submit, this is a profoundly unhelpful, provincial, and, above all, theoretically impoverished polarization of positions. On the one hand, the critique of approaches informed by the concept of totalitarianism somehow seems to assume that all theories primarily

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23 I am not suggesting that the debate is entirely between these two positions. There have been many attempts at more nuanced conceptual approaches, from Fürsorgediktatur to durchherrschte Gesellschaft to the—in my view highly problematic—notion of a Konsensdiktatur. A more helpful map of GDR memories—with distinctions among a memory of dictatorship, a memory of “arrangements” (more or less opportunistic adaptations to the regime), and a memory of progress—has been put forward in Martin Sabrow, “Die DDR erinnern,” in: Martin Sabrow (ed.), Erinnerungsorte der DDR (Munich: Beck, 2009), 11–27.


concerned with institutions are inherently conservative;\footnote{On the overlapping of conservatism and institution-centred approaches and the Left and } they also misunderstand the more subtle theories of totalitarianism (such as those of the French Second Left; I am thinking of Claude Lefort in particular), which do not take regimes at their own word in such a way that critics then can immediately conclude that a particular state-cum-party apparatus could not actually achieve making total claims on its citizens. Such more sophisticated theories suggest that totalitarianism is about a particular social imaginary, a genuinely collective aspiration, as might have been the case with Nazism (or an aspiration promoted and to some extent realized from above, as in Stalinism). To be able to show that it was possible to escape these aspirations is important, but it says in itself nothing about the particular character of the aspirations in question. Now, this does of course not mean that serious historical investigations have to conclude that theories of totalitarianism best explain what happened after the period of high Stalinism—I have serious doubts that they could. But the argument has to be on a higher theoretical level than has been the case so far, and it cannot be cut short with the claim that a historical diagnosis of a totalitarian state implies an actually totalitarian society and therefore robs East Germans of their sense that decent lives were possible. Sophisticated theories of totalitarianism or authoritarianism do no such thing.

Conversely, a focus on lived experience, on day-to-day negotiations with political power-holders in particular, can unlock larger characteristics of a regime, rather than just foregrounding human interest stories and thereby soften the image of any regime by insisting that there was space for some form of normality—in particular the kind of tacit social contract that came to characterize so many societies in the Eastern bloc after the period of high Stalinism\footnote{Social contract is no more than a metaphor that approximates an idea of a more flexible relationship between state and society—society was obviously not free really to negotiate its side of the contract.}: political apathy in exchange for consumer goods; or, as the formula was sometimes summarized: we pretend that the regime is legitimate, and the regime pretends that we are working. Perhaps precisely because of the infor-
mal and fragile nature of this social contract, secret services were penetrating ever more areas of society, controlling the boundaries between apathy, cynicism, and some form of political dissent.\(^ {28}\) These are only sketchy thoughts, of course—put forward not to advocate a substantive historiographical position, but to suggest ways of escaping the fateful opposition of totalitarianism and everyday history, or, put with different, also frequently used categories: authoritarianism and some form of individual autonomy, or Eigensinn.\(^ {29}\)

Second, there have been repeated efforts to de-legitimize all attempts to talk of Nazism and real-existing-socialism in the same context. The charge against such talk is best summed up in the title of a book by the Berlin historian Wolfgang Wippermann: *Dämonisierung durch Vergleich*—in other words, the suggestion that comparisons between the GDR and the Third Reich primarily serve to demonize socialism.\(^ {30}\)

This, it seems to me, is a profoundly misguided approach to understanding not just the German experience. The fact is that the European twentieth century is incomprehensible without talking about varieties of dictatorship in a common context, making comparisons between them, and trying to delineate their underlying logics, social imaginaries, and public justifications (as opposed to actual practices). In particular—as the American historian Timothy Snyder has recently pointed out—the experience of Eastern Europeans who suffered (and collaborated with) the two extreme forms of dictatorship successively, and sometimes their cooperation, is incomprehensible without recognizing the fact that, as he put it, “in this part of Europe, comparison of the two systems was necessary in daily life, and thus banal.”\(^ {31}\) But

\(^{28}\) Such an approach has been most fruitfully pursued by Thomas Lindenberger. See for instance, Thomas Lindenberger (ed.), *Herrschaft und Eigen-Sinn in der Diktatur: Studien zur Gesellschaftsgeschichte der DDR* (Cologne: Böhlau, 1999).


\(^{30}\) Wolfgang Wippermann: *Dämonisierung durch Vergleich: DDR und Drittes Reich* (Berlin: Rotbuch, 2009).

such comparison does not have to deny that Nazism was a Zivilisationsbruch—a break with civilization and shared notions of humanity—in the way that dictatorship in the name of communism was not.\textsuperscript{32} One might have widely differing views on whether something like “a common European memory” of the atrocities of the twentieth century is possible or even desirable—but mutual comprehension surely is, and in the process of striving for comprehension comparison will sooner or later have to be an issue.\textsuperscript{33} As has been pointed out so many times—not least during the Historikerstreit—comparison does not mean equation or equivalence. Analytical rigour requires it in many cases; while the political and moral sensitivity of the questions inevitably raised by comparison makes it mandatory to pay especially close attention to nuances of style, tone, and context.

Having said that: it is striking how ubiquitous both historically sound as well as casual, sometimes all too casual, comparisons between National Socialism and the GDR dictatorship have been—and how few attempts there are seriously to compare post-1989 developments in Germany and other Central and Eastern European countries. This, one might have thought, for all the more or less obvious differences in context, might prima facie be a more fruitful area for comparing both the experience of dictatorship and the process of dealing with difficult pasts. What sometimes is labeled methodological nationalism—a more or less unthinking focus on one’s own nation or nation-state—seems to have been at work here yet again.

\textsuperscript{32} See also, Avishai Margalit, \textit{The Ethics of Memory} (Cambridge, MA: Harvard University Press, 2002), 79. It also often overlooked that the prohibition on comparison and the moral injunction “never again” are prima facie incompatible; as Schlink put is, “future generations can be warned by the Holocaust not to do something they are about to do only if what they are about to do is somehow comparable to the Holocaust.” See Schlink, \textit{Guilt the Past}, 28.

Coming to Terms with the East German Past: A Very Brief Reassessment

As previously mentioned, criticisms of the process of coming to terms with the Nazi past have largely focused on having the wrong emotional effects and resulting in the wrong attitudes to oneself and the political collective. To be sure, there is no lack of voices who would insist that the concrete political and judicial measures in the 1950s, 1960s, and 1970s were ruefully deficient—but disputes about them (a kind of Vergangenheitsbewältigung of Vergangenheitsbewältigung) have been less frequent (though witness the recent discussion of the role of the foreign office during the Third Reich, ignited by the report of a historical commission).

The case of coming to terms with state socialism is different: here the success or failure of the concrete political and judicial measures remains very much at issue. Hence, this section will take a close look at what is nowadays mostly termed Aufarbeitung (a concept not usually associated with reactions to the Nazi past). I shall focus on three mains goals (or criteria) of dealing with a dictatorship and its legacies: justice, democracy-strengthening, and social cohesion (or, if one prefers, some measure of inner unity). I recognize that these goals are often (and with good reasons) said to be in conflict. But their conflict is, for the most part, an empirical question—not a normative one. Under favorable circumstances—in particular political stability and little danger of a comprehensive backsliding to authoritarianism—it is far from obvious that there have to be significant trade-offs between them. And Germany, it is hard to deny, was lucky to experience such favorable circumstances.

Justice: It would be hard to argue that compared to experiences in other Central and Eastern European countries, united Germany really failed in its attempts to establish justice: lustration and purges were comparatively intensive and extensive, without deteriorating into the kind of witch hunts which for instance Poland experienced a few years back; restitution, while generating much resentment and frustration, was still largely successful.34 Compared to what theoretically united Germany might have been

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capable of—given the financial resources, the experienced administrative and legal personnel, and the fact that there was no real need to make concessions to former socialist political elites—the picture looks less impressive: many measures were delayed, the administration of justice was often underfunded, and the conviction rates look disappointing: 100,000 people were subject to preliminary judicial proceedings (Ermittlungsverfahren). But, according to what appear as the most reliable estimates, there were only 1,021 actual prosecutions, involving 1,737 defendants (these figures exclude prosecutions for espionage), and in fact just forty people ever served time in prison for what they had done during the GDR.35

Above all, the administration of justice appeared to be uneven. Some Länder undertook comprehensive investigations of public sector employees, for instance, and saw substantial number of dismissals; others hardly any. Record keeping, classifications and even criteria for judging injustice seemed arbitrarily to vary among regions; and to this day there are no commonly accepted figures about prosecutions and their success. Prima facie, the ideals of generality and evenness associated with the rule of law make such an outcome normatively very problematic. It has to be borne in mind, though, that the ultimate problem here is German federalism and the fact that the administration of justice is also subject to party-political vagaries: in Länder like Mecklenburg-Vorpommern and Brandenburg, long under the control of the Social Democrats and what is now Die Linke, understandings of justice differed from that in, for example, Saxony, long a stronghold of the Christian democrats.36 These facts do not remove the normative worries. But they point to a much larger conflict between the diversity inevitably brought about through federalism and the evenness demanded by the rule of law.

Bärbel Bohley famously observed: “We wanted justice, and we got the rule of law.” This statement is perhaps even more profoundly true than the former leading dissident realized when she made it. Even-


36 Even though there has been some homogenization over time, Brandenburg, the only land without a Stasi-Beauftragter, eventually felt the need for such a figure and, more broadly, the Aufarbeitung of its own previous Aufarbeitung of the state socialist past. In December 2009, former dissent Ulrike Poppe was appointed to the post. See http://www.auarbeitung.brandenburg.de (last accessed October 31, 2011).
tually members of the former regime (or those close to it), portraying themselves as victims of Vereinigungsunrecht (violations of the rule of law in connection with unification), made very skilled use of the Rechtsstaat: in particular, they appealed many of the measures taken to establish justice—especially the cutting of pensions (or what the subjects of such cuts derided as Rentenstrafrecht, a play on the words pension and criminal law, suggesting that pensions were illegitimately instrumentalized for political punishment). The courts, in fact, granted many of these appeals based on the right to property and the principle of equality (Gleichheitsgrundsatz) enshrined in the Basic Law.

In fact, the impression has taken hold that many perpetrators are today considerably better off than their victims. This is especially so because attempts to compensate victims for their suffering—and recognize dissenters for their courage—have been long delayed and rather paltry. Whoever was in opposition in the German parliament invariably called for Ehrenpensionen (pensions based on honor) as a sign of such recognition, but as soon as the same parties entered the government they apologized for not doing anything by pointing to supposedly empty coffers. Some measures were eventually passed in 2007, but they fell short of what victims’ representatives had demanded—and they connected what was now called Opferrente (pensions based on victimhood, not honor) to the social status of the victims, in a way that seemed illogical, even illegitimate, from any but a financial viewpoint.

**Strengthening of democracy.** Has Aufarbeitung helped to consolidate democracy? Of course, in an ideal world, all measures of transitional justice will do so; but, empirically, the connection is far from obvious. In the case of the GDR past, many observers have remarked on the apparent failure to have a symbolically charged moment or institution to explicate the normative transition to democracy—something comparable to the Nuremberg Trials (a comparison that does not imply an equivalence of Nazism and real existing socialism, one hastens to add). The Honecker trial had precisely that potential: after all, there—for first time since the creation of the Holy Roman Empire—a German ruler was taken to court for violating the rights of his own citizens. But, as is well known, the trial ended in failure. On the other hand, the conviction of Erich Mielke, the head of the Stasi, for a crime commit-

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37 Müller and Hartmann, *Vorwärts und Vergessen!,* 19.
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ted in 1931 (the shooting of two police officers) seemed arbitrary and slightly absurd in the eyes of many of his post-1953 victims.

Overall, the focus shifted relatively early on from the political leaders, the members of the Politbüro, to the Stasi as the central symbol of oppression as well as to the history of violence at the Wall—in the so-called Mauerschützenprozesse. To be sure, the opening of the files remains in many ways the great success story of the past two decades—despite the more recent criticisms to which I alluded earlier in this chapter. More problematic is the fact that the concentration on the Stasi and on the Wall in a sense narrowed an understanding of the GDR as a particular kind of dictatorship and a particular kind of society. As critics have rightly argued, the Stasi—even after its official dissolution—once more served according to its infamous self-description: “the shield and sword of the party.” In other words, the concentration on the Stasi diverted attention from the people who ultimately pulled the levers of power—the higher functionaries of the SED and, to some degree, the leaders of the so-called bloc parties.38 A focus on the SED would also have revealed a quite different pattern of complicity—after all, the party alone boasted 2.5 million members; every fifth adult was associated with it. But de-Stasification was given priority over decommunization, or in fact equated with decommunization.39

It is telling, then, that Marianne Birthler claimed in 2009 that the SED should have been officially outlawed.40 This clearly would have

38 Telling in this regard is also the fact that in the first years of the Gauck authority three times as many people applied to see their files than actually had one. See Inga Markovits, “Selective Memory: How the Law Affects What We Remember and Forget about the Past—The Case of East Germany,” *Law and Society Review*, vol. 35 (2001), 513–564.

39 And, one might say, not without good normative reasons: after all, the Stasi was exclusively an instrument of repression (and moral corruption), unlike other institutions of the GDR that played a more ambiguous role. See Gary Bruce, “Access to Secret Police Files, Justice, and Vetting in East Germany since 1989,” *German Politics and Society*, vol. 26 (2008), 82–111.

40 Marianne Birthler, “Man hätte die SED verbieten sollen,” *Frankfurter Allgemeine Zeitung*, May 216, 2009. One might also recall that the Greens in the last Volkskammer had tried to declare the Stasi a criminal association. Other parties opposed such a declaration. In general, there is something to be said for the argument that more Aufarbeitung should have been left to legislatures—as opposed to the courts who then de facto had to engage in a certain amount of retroactive legislation. On this point, see also Schlink, *Guilt About the Past*. 
been, above all, a symbolic act, or a measure associated with what the political theorist Peter Niesen has called “negative republicanism” (as opposed to the West German doctrine of “anti-extremism”): the symbolic repudiation of one particular political experiment or experience in the past, as for instance in the 1948 Italian constitution which prohibited the reestablishment of the Fascist Party (but did not generally ban extremist parties). The dominant German conception of anti-extremism or anti-totalitarianism—with its condemnation of a variety of historical phenomena and its openness to new political threats in the present—might have good normative arguments in its favor. But it might be less useful for preserving a historically specific understanding of oppression and other forms of politically caused suffering.

Social cohesion. Of course one can find many indicators for a continuing division between East and West Germany—and also for many divisions within East Germany itself. But, as I have already suggested—and want now to argue more explicitly—“inner unity” is not only an elusive ideal, but an inherently dubious one. All political cultures are split in one way or other; conflict and not even a certain degree of social disengagement are not necessarily “pathologies,” and, especially in Germany, with its long history of Gemeinschafts-ideologies, a desire for social Einheit should be viewed with a healthy dose of skepticism. To be sure, there are alarming statistics about the number of people especially—but not only—in the East who harbor serious doubts about democracy and the rule of law. But it would be very difficult to argue that these are directly the outcome of the failure of Aufarbeitung. Moreover, the figures in question and the general political divisions are hardly as alarming as some that can be found in other Central and Eastern European countries. The cold civil war in a country like Hungary, the rise of right-wing parties like Jobbik (also in Hungary) or the League of Polish Families, has no

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real equivalent in Germany. Obviously this is not a call for complacency about German political culture. But even the most cursory comparison suggests that political alarmism—and blaming the process of Aufarbeitung—are surely out of place.

What is not out of place either in Germany or elsewhere is a reminder that Vergangenheitsbewältigung is of course also Gegenwartsbewältigung as well as Zeitgeschichtsbewältigung (that is, coping with the present and the most recent past). While inner unity remains an impossible goal, it is important to counter attempts at creating artificial political cleavages based on false recent history. Concretely, it needs to be said time and again that the image of the West having unleashed a witch-hunt on the East in the name of Vergangenheitsbewältigung is fundamentally flawed: in fact the last freely elected Volkskammer (and the dissidents) wanted to make sure that justice would reign and that the files would be preserved and their content become known to victims; and it was East German prosecutors and judges who in 1990 began to hold the old elites accountable for corruption, election fraud, and abuse of office in particular.\textsuperscript{43} It was also East German civic committees who resisted the incorporation of the Stasi archives into the Federal Archives in Koblenz that West German politicians and bureaucrats were advocating at the time. The person who came closest to preventing an open Vergangenheitsbewältigung in this manner was in fact Helmut Kohl.\textsuperscript{44} Aufarbeitung was in one sense victors’ justice—namely that of the victorious dissidents. As Wolfgang Thierse, a Vice President of the Bundestag put it, the Stasi archive was “the fruit of the 1989 fall revolution” —and also remains a symbolic expression of that revolution.\textsuperscript{45}

\textsuperscript{43} The actual Stasi-Unterlagen-Gesetz passed by the Bundestag in December 1991 went further than the Volkskammer proposal in allowing victims to see documents directly. On GDR Strafverfolgung in the last months of the state, see Marxen, Werle and Schäfer, Die Strafverfolgung.

\textsuperscript{44} And the person who came closest to preventing unification and keeping the East Germans excluded or in some second-class status was, of course, Social Democrat leader Oskar Lafontaine, today one of the leaders of Die Linke.

\textsuperscript{45} Quoted by Bruce, “Access,” 83. To be sure, it is now certain that the Stasi materials archive will eventually be incorporated into the Federal Archives.
Conclusion

Recent criticisms of *Vergangenheitsbewältigung* seem based on largely unrealistic expectations—expectations that can only arise precisely because Germany’s memory culture is so highly developed and remains in many ways an exception, as far as both the fascist and the communist past are concerned.

In particular, it is simply implausible to claim that a form of remembrance could be institutionally secured which only and permanently causes pain and stimulates self-critical thought. One might get closer to such an ideal through counter-monuments, through approaches that create intellectual and emotional stumbling blocks, rather than props for present-day identities, let alone pride—but certain intellectual and emotional outcomes cannot be guaranteed through some kind of social memory engineering. What can be guaranteed, in addition to state-sponsored forms of public remembrance, are political and legal institutions that have absorbed the lessons from the past and that perpetuate a kind of morality that can be empirically observed—unlike the emotional states of individual citizens in their efforts at remembrance.\(^46\)

This is not to deny that memory can dialectically turn into forgetting—but in the absence of any sure way of preventing this, public remembrance supported by both the state and civil society is always preferable to its absence. “Destabilizing” only works if there is something to destabilize in the first place; one only stumbles if one wants to go somewhere; and subversion is only possible if there is some established position to subvert. One should remind oneself—and others—that in truth there is no final overcoming or mastering of the past—but there is what Schlink calls “living consciously with present-day questions and emotions that the past releases.”\(^47\)

It is also implausible to claim that compared to other Central and Eastern European post-communist countries, united Germany failed

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46 Schlink helpfully reminds us about the importance of institutional morality—as opposed to an exclusive emphasis on the individual or, for that matter collective, morality. See Schlink, *Guilt About the Past.*

47 Ibid., 38.
to establish justice for victims of the GDR, or that democracy and social cohesion were deeply damaged through Aufarbeitung. It is true that parts of die Linke are committed to fighting for a rosier picture of the East German regime—but the more important political fact is that Germany is still one of the few European countries without a successful populist right-wing party. This absence is least partially explained by the thorough discrediting of nationalism after Nazism and the fact that, unlike farther east, communist elites did not become corrupt novieux riches (and therefore the subject of a right-wing backlash, as in Hungary, for instance). There is no guarantee that things will stay this way—but for now, it remains plausible to claim that Aufarbeitung, for all its blind spots and failings, has fostered an antitotalitarian consensus and been a good thing for German political culture as a whole.

See also Stefan Troebst with Susan Baumgartl (ed.), Postdiktatorische Geschichtskulturen im Süden und Osten Europas (Göttingen: Wallstein, 2010).