

West Germany Confronts the Nazi Past: Some Recent Debates on the Early Postwar Era, 1945–1960

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Consider the following counterfactual scenario: as the Allies closed in on Germany late in 1944, bands of German partisans, communists, social democrats, and other leftists—the friends and relatives of victims of Nazi persecution—formed throughout the Reich to wreak revenge upon local Nazi bosses and police personnel. The result was a death toll exceeding ten thousand.¹ In the western zones of occupation, the purge was completed by the victorious Allies. Acting in close coordination, the American, French, and British administrations implemented a policy of ruthless ‘denazification’. All compromised individuals were permanently removed from public office and deprived of active citizenship rights. The result was a new bureaucracy, a new judiciary, and new universities and schools, run by people who were younger and less experienced on average than their predecessors, but untainted by collaboration with the criminal regime of the Third Reich. While these measures were under way, persons deemed guilty of criminal acts were pursued and rounded up with energy and determination. In this task, the Allied military police were assisted by a wave of denunciations from the German populace. A special penal code was drawn up by a purged judiciary determined to answer the unexampled criminality of the old regime with exceptional laws designed to deal specifically with crimes committed in the name of the National Socialist state. The prisons quickly filled with Gestapo thugs, SS cadres, *Wehrmacht* officers, administrative personnel, senior Nazis, and concentration camp guards, who could expect long sentences for their services to Nazism.

Counterfactuals, even when they depart as comprehensively from the historical record as the one sketched here, have the virtue that they make us reflect upon the reasons things turned out as they did. But they also deserve our attention because of the role they play in underpinning (whether or not they are made explicit) critical judgments about the past. There was no spontaneous uprising in Germany against the Nazi regime and no thoroughgoing and permanent purge of Nazi personnel after its demise. The identification and prosecution by the German authorities of Germans guilty of crimes against humanity was undertaken with little enthusiasm and yielded unimpressive results. Far from reviling and denouncing them, the Germans of the postwar era displayed a striking degree of solidarity with the servants of the former regime. For these and other reasons, it has often been asserted that Germans in the Federal Republic failed adequately to address or come to terms with the moral legacy of National Socialist rule. The result, some have argued, was a



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past that remained 'unmastered', with dire longer-term consequences for German political culture in the postwar era.

Focusing on the territory of the Federal Republic, we shall pursue and evaluate this line of argument by examining four areas of recent historical debate. The first concerns the implementation and ultimate failure of the policy known as 'denazification'; the second relates to the claim that the 1950s were a period of forgetfulness and moral insensitivity to the enormity of National Socialist criminality; the third concerns the procedures adopted to punish, or pardon, the perpetrators of national socialist crimes; the fourth reviews the policies put in place to meet the obligations of the Federal Republic to the victims of national socialist persecution.

In view of the consensus among the victorious powers regarding the need for a political purge of some kind in defeated Germany, it is striking that the policy of political cleansing and reconstruction known as 'denazification' was launched in the four zones of occupation without any prior detailed agreement among the Allies as to the scope or ultimate objectives of such a policy. In the Soviet zone, where the removal of former Nazis from positions of responsibility was swift and comprehensive, denazification was instrumental not only in effecting the extirpation of national socialism as a political movement, but also in facilitating the violent social and economic transformation required to establish the 'dictatorship of the proletariat' as represented by the Moscow-backed Socialist Unity Party.² Denazification in the Soviet zone was thus a political process *sui generis*, whose role in the Stalinization of the Soviet zone did little to bolster the moral legitimacy of the project in the eyes of critical western observers. But there were also inconsistencies among the western zones: whereas the Americans approached the task of political cleansing (initially at least) with crusading fervour, the French, as one would expect in view of their closer acquaintance with the moral complexities of collaboration, took a more latitudinarian view. The British, who tended to take their cue from the Americans, were somewhere in between. Moreover the administration in the respective zones often spoke with more than one voice—in the French zone, there were disputes over the energy with which denazification should be pursued between Gaullists and resistance communists; there was no central zonal coordination of policy, with the result that the severity of denazification measures varied from district to district.³ In the U.S. zone, likewise, Patton and Eisenhower publicly disagreed on the wisdom of pursuing a rigorous purge policy.⁴ These disagreements resulted in inconsistencies at the level of implementation from one region to the next. More importantly, they saddled the entire process from the outset with a credibility deficit in the eyes of the defeated population.

The need to reconcile positions of principle with administrative realities in the occupied zones resulted in sudden changes of course. In the American zone, where the effects of denazification have been most thoroughly researched, the occupation authorities began by adopting a categorical approach: all 'active' national socialists—in other words, all those who had been more than merely nominal members of the party or of affiliated organizations—were removed from public office and important positions in public and private enterprise. By late 1945 the result of this policy in practice was the wholesale depopulation of all administrative structures. In Bavaria, some 100,000 officials had been purged from the municipal administrations, the postal and telephone services and other branches of the

state bureaucracy by August 1945.⁵ Many districts were left without mayors; schools suffered severe shortages of teaching staff. 'Full internment camps and empty offices' were the order of the day.⁶

The chaos brought on by wholesale denazification and the impossible burden it placed on the occupation authorities led to a change of procedure throughout the western zones: in the spring of 1946, responsibility for the administration of political cleansing passed to the German authorities. Special 'denazification tribunals' (*Spruchkammern*) were established under Allied supervision, whose task was to investigate the political history of every adult German, using detailed questionnaires in which respondents provided information under 131 distinct rubrics. At the height of their activity there were 545 such courts in operation, employing some 22,000 staff. Working on the basis of directives from the Allied military governments, the *Spruchkammern* deployed five categories of political complicity: major offenders, offenders, minor offenders, fellow travellers (*Mitläufer*), and non-offenders. The new procedure offered the hope of a fairer and more differentiated approach to individual guilt and responsibility. Thirteen million forms were filled out in the American zone alone; of these, some 3.5 million were deemed to require investigation by the tribunals.⁷ But this policy, too, eventually had to be abandoned. One of the foremost reasons for this change was the changing international context. The emergent Cold War with the Soviet Union and its satellites cast denazification policy in a less advantageous light. By 1947, U.S. policy was drifting away from punitive settlements, favouring instead the economic reconstruction of the western zones in the interests of West European security; denazification was now seen as a hindrance to political consolidation. It was largely for this reason that the new American secretary of defense, James Forrestal, ordered the occupation administration in August 1947 to scale down denazification procedures in Germany with a view to terminating them in spring 1948.

It would be misleading, however, to see denazification as an essentially successful pedagogical measure that fell victim to international pressures. For denazification had never succeeded in acquiring moral legitimacy in the eyes of most Germans in the western zones. Although there was widespread popular support for a political purge of some kind in the weeks and months immediately following the surrender,⁸ the tone of German commentary on this dimension of Allied policy soon became increasingly critical. Among the most influential voices heard denouncing it were those of church leaders (including prominent figures from the 'Confessing Church') who accused the tribunal judges of sowing hate and division instead of dispensing justice.⁹ While it is true that the motives for such outbursts had less to do with strictly ethical considerations than with the churches' need to repair and consolidate their shattered constituencies after twelve years of national socialist dictatorship, it is also clear that the inability of categorical denazification procedures to discern crucial nuances in the kind and degree of political complicity undermined the credibility of the entire enterprise. The fact that the Allied authorities focused on party and organisational membership as such, rather than seeking to establish the complicity of specific individuals in specific criminal acts, left the process vulnerable to the objection, forcefully articulated by the historian and publicist Eugen Kogon in 1947, that what was being punished was not criminality as such, but 'political error': 'To have erred politically is not to be guilty. To commit a crime . . . is to be guilty. . . . But political error belongs neither before courts nor before denazification tribunals'.¹⁰ Despite their more differentiated

approach, the tribunals did little to restore public confidence in Allied purge policy. Tribunal personnel were often untrained in legal procedures and sometimes personally unsuited for the work involved; it was widely recognized that the dependence of the system upon affidavits and character references left it open to corruption and falsification. The work of the tribunals was dogged throughout by notorious instances of forgery, deception, and bribery, and it was well known that in some localities a discreetly presented lump of butter or bag of flour sufficed to purchase an advantageous judgement.¹¹ Critics also pointed to the exploitation of denazification proceedings to settle private scores or to serve partisan political objectives; an example is the Hessian minister Gottlob Binder, who complained in September 1946 that the parties were employing the instrument of denunciation 'to shoot down each other's leading figures and candidates'.¹²

It is clear that denazification failed in its fundamental objective, namely to identify and remove formerly active supporters of the Nazi regime from public life. In a monumental study of American policy in Bavaria, the historian Lutz Niethammer was able to show that there were more party members in the civil service of the *Länder* of the U.S. Zone in 1947 than there had been under Adolf Hitler. He concluded that, far from purging and stigmatizing ex-Nazis, denazification procedures provided them with opportunities to obfuscate their backgrounds and eased their re-entry into civil society.¹³ Some achieved this result by falsifying their questionnaires (this was especially easy for expellees from the eastern provinces or for people who had been bombed out of their original place of residence and whose records were no longer readily accessible). Many of those who came before tribunals benefited from networks of local and institutional solidarity; testimonies to good character were obtained from friends, colleagues, and sympathetic clergymen, with the result that seriously compromised personnel succeeded in having themselves classified as 'fellow travellers'. Even the former Gestapo man could count on his ex-colleagues to testify to his well-known courtesy in the interrogation of political opponents.¹⁴ The denazification apparatus thus became, in Niethammer's famous formulation, a *Mitläuferfabrik*, a factory for the mass production of 'fellow-travellers', a means of obscuring or erasing, rather than coming to terms with, complicity in the criminality of the Nazi regime. 'What had begun as the misguided incrimination of an entire population ended as mass exculpation'.¹⁵ This observation is clearly borne out by the figures: of 950,126 persons who were actually dealt with by the denazification tribunals, only 23,776 (just under three percent) were classed within the two categories of substantial co-responsibility for the criminal policies of the regime (main offenders and offenders).¹⁶

Niethammer's conclusions for Bavaria have been underscored in a local study of the district of Eichstätt by the German historian Elmar Ettle which demonstrates, on the basis of a closely woven analysis of local conditions, how the 'intellectual elite' of the region (doctors, clergymen, high-school teachers, and senior administrative officers) profited from the mass 'downgrading' of culpability by the district's denazification tribunals.¹⁷ A similar picture emerges from Hans Woller's local study of denazification in the Bavarian region of Ansbach-Fürth. Here, as in Eichstätt and Bavaria as a whole, 'dismissed officials and employees poured back into their posts'. A 'local fabric of neighbourly relations and friendships', with which the personnel of the denazification tribunals were themselves interwoven, shielded local notables from incrimination, and ensured that such penalties as were imposed were indulgent in the extreme. There thus seems little doubt that the tribunals failed to purge former Nazis from public life, or to stigmatize them in the eyes of the local population. In-

stead they functioned as mechanisms for the rehabilitation of former party comrades. In Ansbach, the leadership of the local Protestant churches capitalized on the moral bonus they enjoyed in the postwar era (a distinction to which leading clergymen were in many cases very questionably entitled) in order to provide the testimonies of good character and behaviour known as 'Persil-certificates' (*Persilscheine*) for ex-Nazis. Woller's analysis of Ansbach-Fürth even suggests that, after 1948, past membership of a denazification tribunal was in many respects a worse stigma than former membership of the NSDAP. Former tribunal-members tended to be rejected for public employment by the cities and communes; a number of them found it impossible to make a new start and ended up on welfare.¹⁸ In the words of one senior German official entrusted with denazification in Bremen: 'Our office is not popular. We are even more unpopular than the proverbially unpopular tax department. . . . We are sitting ducks for anyone who attacks us and we put up with it.'¹⁹

The failure of denazification thus resulted, quite apart from hiccups and U-turns in Allied policy and inauspicious changes in the global political climate, from the stubborn resistance of close-knit local networks. Nonetheless, Niethammer's conclusion that denazification failed utterly as a means of setting ethical and political standards and penalizing complicity with the former regime requires some qualification. Firstly, the return of the majority of national socialists to their old posts did not, generally speaking, mean the return of gravely compromised, leading Nazis to key positions in public life. There was no mass comeback for party comrades who had held senior positions during the 'Third Reich'. A characteristic figure in this respect was Richard Hänel, former district leader (*Kreisleiter*) of the NSDAP and ex-lord-mayor of the city of Ansbach. After his emergence from prison in 1949, Hänel rarely encountered open hatred, but nor did he succeed in making a new start; after a period spent on welfare, he found a poorly remunerated post as a salesman for a timber yard. In this case as in many others, it appeared that the much-maligned purge launched by the Americans was not entirely without effect (though one can argue over whether denazification as such, or simply the catastrophic military collapse of the regime did more to discredit such formerly prominent figures). Moreover, many of those minor party comrades who were eventually rehabilitated as 'fellow travellers' had in the meantime suffered quite serious penalties. Perhaps a third of those processed by the denazification tribunals had been subjected to the loss of their political rights and significant loss of income; around a fifth experienced internment, most for two to three years, before they acquired amnesties or fellow-travellers' certificates. Therein, Hans Woller has argued, lay the true 'lesson' for the hosts of fellow travellers and minor offenders: with its combination of 'palpable punishment and generous indulgence', denazification was balanced in such a way that it encouraged critical reflection on the anti-democratic experiment of the recent past and the ideology that sustained it without hindering the creation of new loyalties to the democratic state. It is quite possible that a course of action approximating more closely to the counterfactual scenario sketched at the outset would have created an army of 'denazification victims' who might, in the longer term, have posed a threat to the new political order.²⁰

The first one-and-a-half postwar decades in Germany have often been regarded as a period of oblivion, materialism, and complacency in which the dominant mode of 'coming to terms' with the past was silence and the collective repression of memory. In a famous and influential treatise published in 1967, two psychiatrists set out to describe and account

for what they called the Germans' 'Inability to Mourn' using the categories of Freudian psychoanalysis. They argued that the Federal Republic suffered from a form of collective neurosis generated by a failure to reach an understanding of their profound attachment to Hitler and the 'ethnic community' that his movement represented. This failure to resolve the sense of loss brought on by the destruction of this 'collective ego-ideal' had resulted in an inability to come to terms with, or even clearly to remember, the Nazi past. Weaving between individual case studies and collective diagnoses, they argued that 'two decades of self-censorship have excluded from our consciousness a memory too painful to be borne, which may at any time return unbidden from the past, for it does not belong to a past that has been "mastered". . . . Without the painful work of recollection this can never be achieved, and the old ideals, which in National Socialism led to a fatal turn in German history, will continue to operate within the unconscious'.²¹

These arguments, and particularly the methodology used to support them, have been challenged,²² but broadly speaking, their account of the postwar period as an era of forgetfulness characterized by a conspiracy of silence and a refusal to face up to the immensity of the moral challenge posed by the events of the recent past, has established itself as the consensus view among historians, particularly since the early 1980s. Thus, to cite just two examples, Alf Lüdtke has suggested that 'in the 1950s and early 1960s, the majority of (West) Germans colluded in forgetting if not repressing those recollections of fascism that might recall its violent and murderous practices',²³ and Wolfgang Benz has written that 'National Socialism was treated by a whole generation with collective silence, . . . widespread amnesia' and 'a rejection of what had happened'.²⁴ Historians have offered a range of explanations for this failed encounter with the past: Anselm von Doering-Manteuffel sees in it an outgrowth of the superficiality and materialism of the *Wirtschaftswunder* (this connection is also made by the Mitscherlichs),²⁵ and Rudolf Morsey has suggested that the ideological primacy of anticommunism during the Adenauer era made a potentially divisive confrontation with the crimes of the Nazi era inopportune.²⁶

More recently, however, this view of the 1950s as an era of silence and forgetfulness has come in for criticism from several distinct angles. In an insightful discussion of public recollections of the war and the suffering associated with it, the American historian Robert G. Moeller has taken issue with the view that the citizens of the Federal Republic 'largely avoided all memories of the years of Nazi rule' during the immediate postwar era.²⁷ There was, on the contrary, an abundance of public reflection on the suffering generated by the war, albeit with an emphasis on the sufferings of the Germans themselves, rather than on those inflicted by Germans on other Europeans. (In this respect, Moeller's findings underscore the conclusions of other scholars who have highlighted a tendency towards 'embarrassing bouts of self-pity' in German literature of the early postwar era.)²⁸ Whereas the interest of the reading public in concentration camp memoirs had dwindled by the late 1940s, there was a profusion of books and films on themes relating to the experiences of German expellees and POWs still languishing in the Soviet Union (some three million German soldiers spent time in Soviet captivity). In an analysis that covers the entire postwar era, Moeller shows that public recollections of the Nazi era tended, implicitly or explicitly, to blur the distinction between German and non-German 'victims', equating the fate of the German expellees from eastern and central Europe (whose deaths numbered in the millions) with that of the millions who had perished in the concentration camps.²⁹

Of course it is also important to note that, beyond the circles of the expellees themselves, the citizens of the Federal Republic responded to the loss of the centuries-old regions of German settlement in central Europe with an astonishing *sang-froid* (Alfred Heuss once remarked that it was 'as if a Frenchmen were reflecting on the loss of Indochina').³⁰ It seems that the violent and permanent amputation of the historical terrain of German settlement in central and eastern Europe since the high Middle Ages was a 'price' most Germans in the west were prepared to pay. Nor did the detachment (ranging from coolness to contempt) with which many West Germans greeted resettled expellees suggest a mood of universal solidarity with the most harrassed members of the 'folk community'. Indeed one could read the plethora of official and officious evocations of the expellees' fate as attempts to marshall popular support for the substantial fiscal burdens incurred by the enormous costs of resettlement and integration. More generally, it is questionable whether the recollection of one's own (past) suffering and the necessarily more or less abstract awareness of the wrongs inflicted upon others are categorically comparable in any meaningful way. But Moeller's astute analysis of postwar discourses certainly demonstrates how unhelpful the notion of collective amnesia is for an understanding of popular and official memory in postwar West Germany.

A more categorical refutation of the amnesia and sublimation thesis has been formulated by the German historian Hermann Graml.³¹ Far from being a 'period of hesitant and even evasive encounter with the phenomenon of the Third Reich', Graml argues, the fifties were a decade characterized by a continuous confrontation with the moral and legal implications of the recent past. The immense administrative and financial problems inherited by the Federal Republic and the extensive bureaucratic work involved in producing and operating legislation to liquidate the enormous obligations incurred by the crimes of the previous regime were in themselves enough to ensure that the political classes and the informed public were never able to 'dodge' issues raised by the Nazi era.³² Moreover, the literary sensations of the early and mid 1950s reflected a deep and widespread readiness to reflect upon the moral legacy of Nazism—an example is the national commotion that greeted the publication of the diary of Anne Frank; between 1950 and 1958 this book sold over 700,000 copies, while a dramatized version played to packed theatres across the Federal Republic. As for the Prisoner-of-War memoirs which sold so well during the early 1950s, Graml finds in these extensive evidence of a critical engagement with the values of national socialism and militarism.³³ The chief hindrance to a more profound encounter with the criminality of the regime, he argues, lay simply in the relatively poor state of historical knowledge. But this gradually improved during the 1950s, most notably through the efforts of the historians employed at the Institute for Contemporary History founded in Munich in 1949 or 1950, whose meticulous research soon produced an impressive corpus of pioneering monographs, as well as synthetic works for the general public.³⁴

Perhaps the most vehement assault on the received wisdoms of the amnesia school (leaving aside a radical right-wing fringe that has denounced the entire activity of 'coming to terms with the past' as an outgrowth of Allied reeducation propaganda)³⁵ has been that of Manfred Kittel. Kittel's energetic monograph on 'Mastering the Past in the Adenauer Era' is based on a sweeping, if unsystematic, survey of journals, newspapers and parliamentary debates. Kittel's long trawl through public debates over resurgent anti-Semitism, the question of collective guilt, the moral status of the Waffen-SS, and compromised personnel in

government posts culminates in the announcement that the 1950s can be construed 'in large part [as] a single endeavour to master the mental and material legacy of the Third Reich'; indeed, he proposes that the history of the early Federal Republic should be written under the motto: 'In the beginning was *Vergangenheitsbewältigung* [mastering the past]'.³⁶ One of Kittel's central contentions is that the radicalization of the debate over the Nazi past since the mid 1960s, in the course of which the style and content of discussion became increasingly shrill, denunciatory, and politically destabilizing, has made observers in the 1990s insensitive to the more discreet, differentiated, and *sotto voce* tones of earlier discussion.

As the revisionist ardour and occasionally scornful tone of Kittel's narrative suggest, this book has more than a merely scholarly case to make. It is above all a political assault upon what Kittel sees as a left-liberal campaign to co-opt and instrumentalize *Vergangenheitsbewältigung* for partisan purposes. By reclaiming for the Adenauer era the moral authority of an accomplished encounter with the legacy of Nazism, Kittel rejects the notion that an unflinching and critical engagement with the past has always been the exclusive province of the political left, and thus undermines the putative claim of left-liberal intellectuals in today's Federal Republic to occupy the high moral ground in matters concerning the legacy of national socialism.³⁷ In this respect, Kittel's account reflects the way in which the political perspectives of left and right have more generally infiltrated discussion of the Nazi legacy and the history of the way it has been treated in the Federal Republic, especially since the 1960s. While some commentators on the left came to see the legacy of the Nazi era as a boundless moral and political contamination that placed the entire West German political order in question, others on the right have accused the exponents of a more rigorous self-criticism of seeking to stimulate a sense of malaise in order to heighten the susceptibility of the German public to a variety of left-wing critiques of the capitalist social order. The result has been a protracted scuffle over the meaning of the Nazi past, which has generated a great deal more political heat than historical light.³⁸

Quite apart from its susceptibility to politicization, the debate over forgetfulness versus earnest reflection suffers from serious methodological limitations. Is it not problematic to draw conclusions about the mental climate of a nation—assuming for the moment that there can be such a thing—from those compilations of newspaper articles, parliamentary debates, and literary sources that have often been selected so as to confirm prior moral and political judgements? Certainly it is easy to see the potential for an endless and ultimately circular maneuver, in that each of two opposing schools seeks to outflank the other with longer and longer lists of articles and statements betokening the moral seriousness (or lack thereof) with which Germans contemplated the Nazi era. Moreover, how does one decide what, if anything, is representative about particular utterances and debates? Is it fruitful to formulate arguments about the encounter with National Socialism around moral and psychological categories, and if so, how can 'guilt' and 'shame' be measured, and when should they be deemed 'adequate' to the challenge posed by the events which gave rise to them? What does emerge from the analyses we have discussed here is the still only very partially understood diversity of experiences that shaped encounters with the past in the Federal Republic during the 1950s.

Motivated in part by methodological scruples like these, the German historian Norbert Frei has published an ambitious empirical study of the policies embarked on during the early Federal Republic to manage the legacy of national socialism.³⁹ His book is an attempt to de-

tach the debate over 'coming to terms with the past' from unverifiable moral judgements about the repentance (or otherwise) of 'the Germans' after 1945. The aim is thus not to measure the temperature of the public sphere through samples from journalism and political speeches but to examine the 'decision-making processes and structures of influence' that determined the formulation of what Frei calls *Vergangenheitspolitik* (policy relating to the Nazi past)—in other words to bring the techniques of political history to a debate whose contours have been blurred by moralizing and emotive language. As the term 'policy' implies, the focus is on legislation, since it was above all by means of new laws that the new Federal Republic articulated and managed its relationship with the National Socialist past.⁴⁰

Frei's study brings to light the phenomenal scale and success of the campaigns in the early Federal Republic to reverse the effects of sanctions imposed on former National Socialists by the western occupation administrations and to expedite the comprehensive rehabilitation of former party comrades into West German society. In the course of five years, from the 'Federal Amnesty' of 1949 to the federal government's request for an end to denazification in 1950, to the law reinstating dismissed civil servants in 1951, and the first and second 'laws of pardon' in 1949 and 1954 respectively, the overwhelming majority of Germans who had been penalized for their role in the Nazi regime were freed of any remaining disabilities. A number of these initiatives went to the limit of what the western Allies were prepared to countenance. The 'pardon law' of 1949, for example, which explicitly amnestied (in addition to a mass of minor nonpolitical offenders) all those who had chosen to evade internment or denazification after 1945 by adopting a false identity, had to be hurried through against the objections of the Allied authorities. The law reversing measures against dismissed civil servants brought about the reinstatement in former ranks with associated pension rights and legal privileges of some 300,000 'suppressed officials' and former professional soldiers. Among the lesser-known beneficiaries of this law were the majority of former Gestapo officers, who managed to get themselves reinstated with full privileges and pension rights (despite a passage in the preamble explicitly excluding them) on the grounds that they had not 'volunteered' for Gestapo service, but had been 'officially transferred' from positions in the *Kriminalpolizei*.⁴¹

The extraordinary generosity of these regulations justifies the view that these were not merely administrative measures, but political signals aimed at the integration of compromised personnel and the milieus they represented into the postwar political community, and specifically the electoral constituency of the governing coalition under Konrad Adenauer.⁴² The need for such integrative maneuvers was urgent, especially in the early years of the Federal Republic, when the Christian Democrats and their partners and to an extent even the Social Democrats faced electoral competition from parties on the extreme right (specifically from the *Deutsche Partei* and the then still heavily Nazi-infested FDP), whose efforts on behalf of interned war criminals were unremitting.⁴³ Since some six-and-a-half million Germans were party members by the end of the war, the community of those potentially affected by anti-Nazi legislation (if we take account of close relatives) amounted to around twenty-five percent of the entire population.⁴⁴ It was thus vitally important to win the battle for the hearts and minds of the great horde of former party comrades.

By contrast with many other surveys of postwar policy regarding compromised personnel, Frei's analysis does not focus on the failure to come to terms with the past, but rather on the success of an aggressively pursued and self-conscious policy of rehabilitation,

which embraced not only the bulk of minor offenders but also known war criminals. It was a policy driven not merely, or even chiefly, by government, but by a complex array of interlinked campaigns run by networks of activists. A well-organized and centrally coordinated ring of lawyers, for example, some of whom had acquired their expertise as defense advocates at Nuremberg, worked to develop strategies for the exculpation of 'main offenders'; a loose coalition of clergymen, lawyers, comrades, and kinfolk lobbied the Allied and German authorities and mounted petition campaigns and public demonstrations at the few remaining Allied internment camps—most famously at Landsberg in the American zone where some of the most repugnant malefactors were incarcerated—with a view to reversing the verdicts of 'the victors' justice' and securing their pardon or at least their release on parole. 'An effective, finely-spun network of organisations and persons . . . saw to it that the issue was taken up by political circles'.⁴⁵ The assiduity with which such objectives were pursued stands in crass contrast with the halfhearted efforts made on behalf of the victims of these perpetrators. Frei points to the emblematic fact that, whereas it was only in 1958 that the German authorities got around to founding an institute for the proactive investigation of national socialist crimes, a 'Central Office for Legal Aid', designed to provide German internees with expert assistance and counsel, existed from 1949 or 1950.⁴⁶

In the light of Frei's survey, which confirms in many respects Moeller's view that Germans of the early postwar era saw themselves first and foremost as victims, it is hardly surprising that prosecutions for crimes related to National Socialism proceeded in such lacklustre fashion after the foundation of the Federal Republic and the transferral to German courts of full responsibility for the investigation and prosecution of suspect persons. The numbers tell a clear story: Until 1950, when trials for war crimes were held under the authority of the individual Allied military governments, there were 5,006 convictions in the western zones, of which 794 resulted in death sentences (308 of these were subsequently commuted). Thereafter, there was a steep decline in the numbers of convictions obtained by German courts: 809 in 1950, 123 in 1953, and only 44 in 1954. Historians have offered a variety of explanations for this striking state of affairs. The most critical have seen in the 'self-imposed restraint' of the German judiciary clear evidence of the indifference of judicial personnel to the moral burdens weighing on the post-Nazi state, a problem rooted in the failure to purge the courts of even the most notoriously compromised Nazi personnel. It is hardly surprising, the German historian Gotthard Jasper has argued, that 'Nazi judges' failed to invest much effort in the pursuit of Nazi criminals; after all, 'one crow doesn't peck another crow's eyes out'.⁴⁷ By contrast, other accounts have insisted on a more differentiated reading of attitudes within the judiciary and pointed to the influence of factors beyond the agency of individual judges, such as the pressure of public opinion (which, by and large, was convinced that the important perpetrators had already been identified and punished and that the matter should be put to rest), the difficulty of acquiring and sorting through the evidentiary material and the supposed immunity from prosecution of persons who had already been amnestied.⁴⁸

A further significant structural constraint on the successful prosecution of National Socialist offenders was the lack of an institution with the means and technical competence to initiate investigations. In the early and mid-1950s, when the numbers of prosecutions were falling so dramatically, it was necessary for someone to register a complaint against a

suspected offender in order to initiate legal proceedings against him (or her). Prosecutions thus depended upon the happenstance of denunciations by specific victims of specific perpetrators. These arrangements obviously militated against the efficient identification of perpetrators, because most of the most serious crimes had taken place in remote locations, and the witnesses were either dead, sealed off from relevant information in Soviet-bloc states, or dispersed across the world. All this changed after the so-called Ulm death-squad trial of 1958. The trial was the result of investigations carried out against an SS commander who was responsible for the mass murder of Jews in Lithuania in 1941. In 1956, as a resident of the city of Ulm (Baden-Württemberg), he applied to have himself reinstated in his former public service rank (as a civilian before the war he had been chief of police in the city of Memel). An announcement to this effect in the local press caught the attention of a reader who remembered the man in his wartime role and denounced him to the authorities.

The trial that resulted produced a sharpened awareness of the inadequacy of the judicial instruments in place to deal with former Nazi criminals. The result, after discussions between senior public prosecutors and the Minister of Justice of the *Land* Baden-Württemberg, was the establishment in Ludwigsburg near Stuttgart of the Central Office of *Land* Justice Departments in 1958. The *Zentralstelle* was entrusted with the task of researching major war crimes and identifying perpetrators where possible. By the late 1960s, it employed over 120 persons including nearly fifty judges and prosecutors. Its effect on the rate of criminal investigations into Nazi offenses was electric. In 1959 alone, 400 investigations were launched. By 1970, the annual figure was around 4,000.⁴⁹ Many concentration camp guards and commanders as well as personnel from the Reich Security Main Office were brought to trial, with the result that the 1960s became the 'classic' decade of war crimes trials. The most famous of these was the Frankfurt 'Auschwitz' trial of 1963, which found 16 former SS staff officers and a former overseer guilty on charges of mass murder and torture at the concentration camp (the verdicts were published in 1965). It was during this trial that the word 'Auschwitz' came to be used as a metonym for the Nazi genocide against the Jews.

Inevitably, perhaps, the trials of the 1960s failed to resolve doubts about the adequacy of the German judiciary's belated responses to the immense and singular crimes under investigation. Historical assessments of the trials launched by the Ludwigsburg *Zentralstelle* divide along the same fault-line as do judgements about the apathy of the German judiciary during the 1950s. Some have highlighted the mildness of the penalties imposed and regretted the more controversial acquittals (particularly of some camp personnel involved in the Maidanek trial of 1976–1981), seeing in these shortcomings the hallmarks of a mealy-mouthed and morally apathetic judiciary inadequate to the task before it.⁵⁰

Others have emphasized the structural constraints that slowed the progress of trials and greatly reduced the likelihood of successful prosecutions, the complexity and corporate character of many of the most culpable acts, the difficulties involved in identifying and finding witnesses capable of linking a specific individual incontrovertibly with a specific crime, the inaccessibility of the documentary material held by states that refused to cooperate with the Federal Republic, the failing health of elderly defendants, and so on.⁵¹ And, of course, one can set the issue in the more general context of an (ultimately futile?) confrontation between crimes of monstrous scale and complexity sanctioned by a totalitarian regime and the judicial norms characteristic of constitutional states, which forbid or

hinder, among other things, the retrospective application of law. Certainly, the comparison with similar prosecutions for National Socialist offenses in neighbouring Holland reveals 'astonishing similarities' in judicial practice, and underscores the generic constraints that bind a state based upon the disinterested application of constitutional and legal principles in its encounter with the regime-endorsed crimes of a predecessor.⁵² Perhaps, as Martin Broszat has suggested, the significance of the prosecutions and the trials of this era lies less in their punitive or corrective function than in the concrete glimpses they provided of what happened in the camps and beside the killing pits, and in the vast mass of documentary material, which, having been assembled by lawyers and research assistants for the prosecution, has provided historians with an invaluable resource for the reconstruction of National Socialist criminality.⁵³

In addition to deploying law (with dubious success) in the prosecution and punishment of political offenders, the government of the early Federal Republic launched a series of legislative initiatives aimed at the compensation of those who had suffered at the hands of the Nazi regime and its servants. Of these the most important was the Reparations Treaty signed with Israel on 10 September 1952 by which Germany agreed to pay Israel \$845 million in goods in annual installments over a period of fourteen years. At the time, the Treaty was historically unique; there was no model for restitution agreements of this kind and thus no formal obligation under international law.⁵⁴ Some scholars have argued that the reparations agreement was forced on the Federal Republic by the Americans and thus cannot be regarded as an authentically German initiative. The Israeli historian Yeshayahu A. Jelinek, for example, has highlighted the reluctance and indifference of the German authorities to Jewish claims, the pressure exerted by key figures in the U.S. occupation administration, and the self-interested political calculation that finally prompted German concessions.⁵⁵ While this account sheds light on important aspects of the decision-making process, a rigorous comparative analysis of the relevant documents supports an alternative view, namely that it was the Germans, and specifically Chancellor Konrad Adenauer, who pressed ahead with the treaty, in the face of reluctance and skepticism from the Allies. All three of the western Allies were wary of the financial consequences of a settlement with Israel and feared for their own very sizeable claims against the defeated Reich; the Americans in particular were concerned that massive transfers from the dislocated West German economy would break the bank of the Federal Republic and ultimately have to be financed by the American taxpayer. The response of the western occupying powers to Israeli initiatives in this area was thus less than enthusiastic (the Russians, for their part, made no response whatsoever).⁵⁶

By contrast, the Germans were accommodating from the outset. That it proved possible, after only six months of negotiations, to reach an agreement was largely the achievement of Konrad Adenauer. He reacted positively to Israeli approaches and issued, without consulting his Cabinet, a formal declaration to the *Bundestag* on 27 September 1951, stating that the German government would seek 'together with representatives of Jewry and the state of Israel' to find a solution to the 'problem of material restitution'.⁵⁷ In December of that year, Adenauer met the President of the World Jewish Congress, Nahum Goldman, in London and agreed to accept the Israeli figure of one billion U.S. dollars as the point of departure for further negotiations. It was at this meeting that Adenauer made his famous declaration: 'Herr Goldman, those who know me know that I am a man of simple words

and that I hate big phrases. So you will appreciate it if I say to you that as we have spoken I have felt the wings of world history in this room. My will to make restitution is upright. I see it as a moral problem and a debt of honour for the new Germany. You have not been mistaken in me. I am prepared to take upon myself the responsibility for the declaration you request'.⁵⁸

Adenauer's adherence to this commitment is all the more striking for the fact that he had to defend it against determined opposition (on financial grounds) within the cabinet,⁵⁹ in the face of a very mixed reception from his party, and from German public opinion.⁶⁰ The ratification of the Treaty in the Bundestag on 21 March 1953 was only possible with the support of the Social Democrats, whose leader, Kurt Schumacher, had also been committed to restitution from the outset.⁶¹ In other words, the restitution agreements stemmed from a German commitment to an Israeli initiative; they were achieved despite, not because of, international pressures. The importance of the resulting treaty and of the system of laws later put in place to handle claims from other groups that had suffered from the Nazis should not be underestimated. While it is true that the apparatus established to mete out compensation payments suffered in the early years from serious flaws—a cumbersome and reluctant bureaucracy, the exclusion of certain categories of victim, and a pedantic and insensitive approach to applicants—there was enough flexibility in the system to permit it to respond to an ever larger and more diverse pool of claimants.⁶² These measures played a crucial role in rehabilitating the Federal Republic in the eyes of the world.⁶³

But they also sent out an important moral signal. We should not forget that of the three 'Germanys' that succeeded the Third Reich, only one was prepared to declare itself the legal successor of Nazi Germany and accept juridical responsibility for the misdeeds of the Third Reich. Austria, of course, had the good fortune to be classified as the 'first victim' of National Socialist aggression in the Moscow Declaration of 1 November 1943 and has since embraced this status with understandable enthusiasm, notwithstanding the important role played by Austrian Nazis and SS-men in the occupation and mass-murder apparatus of the Third Reich.⁶⁴ As for the German Democratic Republic, after the socialisation of the economy in the Soviet Zone and a brief and violent period of denazification, during the course of which a number of obstreperous Social Democrats and other malcontents were also incarcerated and executed, moral confrontation with the past came to a halt, except of course for the obligatory and increasingly formulaic 'antifascism' professed by all tolerated social organizations. The comparatively few antifascists who had actually withstood or fled from the Nazi regime were declared—under the motto 'we have fulfilled their legacy'—to be the forefathers of the German Democratic Republic; their struggle, as one East German writer has put it, 'was declared to be constitutive of one's own past'.⁶⁵ The historians and political leaders of the GDR held the view that fascism, of which they took National Socialism to be an example, was little more than a peculiarly aggravated and brutal form of capitalism. Since it had broken firmly with capitalism, the German communist state had broken with the social structure within which it had been possible for Nazism to germinate. Under such auspices there could be no question of an official acknowledgement of responsibility for the evils committed under Nazism, and the GDR never responded to Israeli requests for negotiations over reparations. Not until after the collapse of the Honecker government in 1989 did the political leadership offer an official acknowledgement of moral co-responsibility for the atrocities of the Nazi era. Notwithstanding the undeniable shortcomings of West Ger-

man endeavours in the sphere of *Wiedergutmachung*, these comparisons with the other 'successor-states' of the Third Reich cast the historical significance of the legal arrangements entered into by the Federal Republic in the 1950s more sharply into relief.

The approach adopted by West Germans to the legacy of the National Socialist era departed in almost every particular from the pattern set out in the scenario with which we began this essay. Denunciation, exclusion, and punishment were eschewed by the great majority of Germans; the rehabilitation and reintegration of former activists and party personnel were the central achievements of the 1950s. There could be no *épuration* as in France, because German society under the Third Reich had not been divided against itself. Indeed one could argue that it was more unified through the experiences of dictatorship and war than it had been at any time since 1871. And there could not, for the same reason, be any definitive and categorical self-dissociation by the majority of Germans from the personnel of the Hitler regime. Hence the phenomenal solidarity of the German public in the face of attempts to purge or to punish former National Socialists. The highly successful and popular campaigns mobilized against purge policies or in support of compromised personnel were evidence not only of moral insensitivity (though they were evidence of that as well) but also of an instinctive and virtually universal awareness of complicity in the failures and misdeeds of a German regime.⁶⁶

However, it is important to remember that this instinctive solidarity did not imply a continuing allegiance to the Hitler movement. Perhaps the most extraordinary thing about the transition from 1945 to the 1950s is that the rehabilitation of so many former party comrades was not accompanied by a rehabilitation of the values and ideology of Nazism. Indeed some have argued that the suppression of mutual recrimination and the concomitant 'aporia of memory' that characterized the 1950s may have played an important role in enabling the peaceful transition to democracy. Martin Broszat has suggested that the apathy and apparent complacency of the fifties provided the people of the Federal Republic with a period of 'salutary quarantine' in which to find their orientation within a new political order;⁶⁷ in an influential and provocative essay published in 1983, the philosopher and political scientist Hermann Lübbe concluded, in a similar vein, that the 'peace and quiet' of the immediate postwar era was the 'politically and socio-psychologically necessary condition for the transformation of our post-war population into the citizenry of the German Federal Republic'.⁶⁸ In the recognition that a public moral reckoning could only disturb and divide institutions, organizations, and social networks, West Germans practised a form of 'asymmetrical discretion' in the name of which former victims and uncompromised citizens consciously renounced their claim to make recriminations. 'Through this discretion, the institutions within which one found common bonds could be reconstructed, and after ten years, nothing had been forgotten but at least a certain amount of healing had taken place.'⁶⁹

As a consequence, to paraphrase Broszat, the Nazi past was categorically left behind, while the subjects who had inhabited it were successfully integrated into the postwar democratic state. It need hardly be emphasized that this was a development of the greatest importance for the fledgling Federal Republic and for the future of Europe and the world. Those who remained inwardly attached to the regime were constrained to hold their peace. In a very few cases, this encouraged the maintenance of parallel public and 'private' political allegiances (an example is Ferdinand Maunz, one of the leading jurists of the Federal Republic after 1945, who was posthumously unveiled as the pseudonymous author of ar-

ticles published during the postwar era in a radical right-wing journal). But Maunz was the exception that proves the rule. For, if it is true that the values of a political culture have less to do with what a specific group of people may think than with what can and cannot be said in public without fear of political and social isolation, then National Socialism was well and truly dead in Germany after 1949.⁷⁰ The political culture of the republic founded in that year was centred on the unequivocal rejection of National Socialist values and doctrine, and the acceptance of (an initially rather abstract and attenuated) responsibility for the murder and destruction it wrought upon the Jews and other peoples of Europe. Herein lay the enormous symbolic importance of the treaties and bureaucratic apparatus established to handle restitution payments and compensation cases.

The unequivocal renunciation of Nazism, the clear orientation towards western democracy, and the transpartisan domestic support these positions commanded throughout the 1950s were founded on the success of the moderate social-conservative parties (supported at crucial moments by the SPD) in gathering in the German electorate and preventing the crystallization of a substantial neo-Nazi or ultra-nationalist constituency. And this consensus, in turn, was purchased through the renunciation of a more rigorous reckoning with the appalling crimes committed by Germans in the name of the Third Reich. At the same time, in paradoxical fashion, the public unanimity of that renunciation of Nazism made the tasks of recrimination and self-criticism seem less urgent.⁷¹ Sickened as we must be by the thought of so many crimes unpunished, there is little reason to suppose that the scenario sketched at the opening of this essay would have provided a better point of departure for the establishment of democracy in postwar Western Germany.

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NOTES

1. Some ten thousand Italian Fascists are thought to have been killed during the *epurazione* in Italy; in France, between eleven and twelve thousand died in summary executions or were sentenced to death by military and civilian courts. H. Rousso, *The Vichy Syndrome: History and Memory in France since 1944*, trans. A. Goldhammer (Cambridge, Mass., 1991), p. 8. For an overview, see K.-D. Henke and H. Woller (eds.), *Politische Säuberung in Europa. Die Abrechnung mit Faschismus und Kollaboration nach dem Zweiten Weltkrieg* (Munich, 1991).
2. H.A. Welsh, *Revolutionärer Wandel auf Befehl? Entnazifizierung und Personalpolitik in Thüringen und Sachsen 1945–1948*, (Munich, 1989), p. 167.
3. F.R. Willis, *The French in Germany, 1945–1949*, (Stanford, 1962), pp. 83–85; K.-D. Henke, 'Die Trennung vom Nationalsozialismus. Selbsterstörung, politische Säuberung, Entnazifizierung, Strafverfolgung' in Henke and Woller (eds.), *Politische Säuberung*, pp. 21–83, here p. 81; R. Grohnert, *Die Entnazifizierung in Baden. Konzeption und Praxis der 'Eparation' am Beispiel eines Landes der französischen Besatzungszone* (Stuttgart, 1991), especially pp. 215–216.
4. L. Niethammer, *Entnazifizierung in Bayern. Säuberung und Rehabilitierung unter Amerikanischer Besatzung* (Frankfurt, 1972); reprint 1982 under the title, *Die Mitläuferfabrik*, pp. 229–236.
5. J. Weber, *Auf dem Wege zur Republik 1945–1947. 30 Jahre Bundesrepublik*, vol. 1 (Munich, 1978), p. 58; Niethammer, *Entnazifizierung in Bayern*, esp. pp. 147–158, 178–190; C. Kleßmann, *Die doppelte Staatsgründung* (Göttingen, 1982), p. 87.

6. M. Kittel, *Die Legende von der 'Zweiten Schuld'. Vergangenheitsbewältigung in der Ära Adenauer* (Berlin, 1993), pp. 31–32.
7. For a useful summary of denazification policy and its impact, see D.L. Bark and D.R. Gress, *A History of West Germany*, vol. 1, *From Shadow to Substance*, 2nd ed. (Oxford, 1993), pp. 74–89.
8. P. Steinbach, *Nationalsozialistische Gewaltverbrechen. Die Diskussion in der deutschen Öffentlichkeit nach 1945* (Berlin, 1981), p. 33.
9. C. Vollnhals, *Evangelische Kirche und Entnazifizierung 1945–1949. Die Last der nationalsozialistischen Vergangenheit* (Munich, 1989), pp. 281–282; id., *Entnazifizierung und Selbstreinigung im Urteil der evangelischen Kirche. Dokumente und Reflexionen 1945–1949*, especially pp. 25–26, 230–231.
10. Cited in Fürstenau, *Entnazifizierung*, p. 197.
11. I. Lange, *Entnazifizierung in Nordrhein-Westfalen. Richtlinien, Anweisungen, Organisation* (Siegburg, 1976), p. 41.
12. Cited in Kittel, *Legende*, p. 34.
13. Niethammer, *Entnazifizierung*, p. 665.
14. *Ibid.*, p. 615.
15. J.H. Herz, 'Bürde der Vergangenheit oder: Wie die Deutschen mit der Nazi-Hinterlassenschaft fertig wurden', *Tel Aviver Jahrbuch für deutsche Geschichte* 19 (1990), pp. 13–32; here p. 16.
16. P. Graf Kielmansegg, *Lange Schatten. Vom Umgang der Deutschen mit der nationalsozialistischen Vergangenheit* (Berlin, 1989), p. 35.
17. E. Eittle, *Die Entnazifizierung in Eichstätt. Probleme der politischen Säuberung nach 1945* (Frankfurt/Main, Bern, and New York, 1985), p. 190.
18. H. Woller, *Gesellschaft und Politik in der amerikanischen Besatzungszone. Die Region Ansbach und Fürth* (Munich, 1986), pp. 125–127, 156–157, 160–162.
19. W. Richter, 'Dr Alexander Lifschütz, Senator für politische Befreiung in Bremen' in W.U. Drechsel and A. Röpcke, 'Denazification'. *Zur Entnazifizierung in Bremen* (Bremen, 1992), pp. 40–55; here p. 51.
20. Woller, *Gesellschaft*, pp. 163, 316–317.
21. A. and M. Mitscherlich, *Die Unfähigkeit zu trauern: Grundlagen kollektiven Verhaltens* (Munich, 1967), pp. 43, 82–83.
22. See especially H. Lübke, 'Verdrängung oder die Heilmethode kritischer Nationaltherapeuten', in id., *Zwischen Trend und Tradition. Überfordert uns die Gegenwart?* (Zurich, 1981), pp. 22–37.
23. A. Lüdtke, "'Coming to Terms with the Past": Illusions of Remembering, Ways of Forgetting Nazism in West Germany', *Journal of Modern History* 65 (1993), pp. 542–572; here p. 554.
24. W. Benz, 'Postwar Society and National Socialism: Remembrance, Amnesia, Rejection', *Tel Aviver Jahrbuch für deutsche Geschichte* 19 (1990), pp. 1–12; here pp. 2, 12.
25. A. v. Doering-Manteuffel, *Die Bundesrepublik Deutschland in der Ära Adenauer. Aussenpolitik und innere Entwicklung* (Darmstadt, 1983), p. 210; Mitscherlich and Mitscherlich, *Unfähigkeit*, p. 19.
26. R. Morsey, *Die Bundesrepublik Deutschland. Entstehung und Entwicklung bis 1969* (Munich, 1987), p. 85.
27. R.G. Moeller, 'War Stories: The Search for a Usable Past in the Federal Republic of Germany', *American Historical Review* 101 (1996), pp. 1008–1048.
28. See, for example, J. Hermand, 'Unbewältigte Vergangenheit. Westdeutsche Utopien nach 1945', in J. Hermand, H. Peitsch, and K.R. Scherpe (eds.), *Nachkriegsliteratur in Westdeutschland 1945–1949* (Berlin, 1982), pp. 102–128; especially p. 104.
29. Moeller, 'War Stories', especially pp. 1017, 1028, 1030–1032.
30. A. Heuß, *Versagen und Verhängnis. Vom Ruin deutscher Geschichte und ihres Verständnisses* (Berlin, 1984), p. 143.
31. H. Graml, 'Die verdrängte Auseinandersetzung mit dem Nationalsozialismus', in M. Broszat (ed.), *Zäsuren nach 1945. Essays zur Periodisierung der deutschen Nachkriegsgeschichte* (Munich, 1990), pp. 169–183.
32. *Ibid.*, pp. 174–175.
33. *Ibid.*, pp. 176–178.
34. *Ibid.*, pp. 179–180.
35. See especially C. v. Schrenck-Notzing, 'Die Umerziehung der Deutschen. Das Experiment der

- Auferlegung einer politischen Kultur', in B. Willms (ed.), *Handbuch zur deutschen Nation*, vol. 1, *Geistiger Bestand und politische Lage* (Tübingen, Zurich, and Paris, 1988), pp. 363–381; A. Mohler, 'Im Dickicht der Vergangenheitsbewältigung. Analyse eines deutschen Sonderweges' in B. Willms (ed.), *Handbuch der deutschen Nation*, vol. 2, *Nationale Verantwortung und liberale Gesellschaft* (Tübingen, Zurich, and Paris, 1988), pp. 35–107; id., *Der Nasenring. Die Vergangenheitsbewältigung vor und nach dem Fall der Mauer* (Munich, 1991).
36. M. Kittel, *Die Legende von der "Zweiten Schuld". Vergangenheitsbewältigung in der Ära Adenauer* (Berlin, 1993), p. 387.
 37. The book's title (in English, 'The Legend of the Second Guilt') refers to a work published in the 1980s that argued that the Germans suffered from a two-fold sense of guilt; first because of the crimes committed by Germans under the Nazi regime, and second because of the failure of the (West) Germans in the postwar era to come to terms with the legacy of Nazi criminality. See R. Giordano, *Die Zweite Schuld oder Von der Last Deutscher zu sein* (Hamburg and Zurich, 1987).
 38. The disproportion between heat and light is reflected in the historical dispute known as the *Historikerstreit* that raged during the mid 1980s, in which historians and social scientists of left and right accused each other of deploying representations of the past for political ends. A good sample of the positions adopted can be found in R. Piper (ed.), '*Historikerstreit*'. *Die Dokumentation der Kontroverse um die Einzigartigkeit der nationalsozialistischen Judenvernichtung* (Munich, 1987). See also C.S. Maier, *The Unmasterable Past: History, Holocaust and German National Identity* (Cambridge, Mass., 1988); R.J. Evans, *In Hitler's Shadow: West German Historians and the Attempt to Escape from the Nazi Past* (London, 1989).
 39. N. Frei, *Vergangenheitspolitik. Die Anfänge der Bundesrepublik und die NS-Vergangenheit* (Munich, 1996).
 40. *Ibid.*, p. 12.
 41. *Ibid.*, p. 19, note 27.
 42. *Ibid.*, p. 53.
 43. *Ibid.*, p. 67–68; on the reinstatement of civil servants, pp. 69–99; on the 'amnesty law' of 1949 and 1954, pp. 29–53, 100–131.
 44. Kielmansegg, *Lange Schatten*, p. 15.
 45. Frei, *Vergangenheitspolitik*, p. 134.
 46. *Ibid.*, pp. 21, 164.
 47. G. Jasper, 'Wiedergutmachung und Westintegration. Die halbherzige justitielle Aufarbeitung der NS-Vergangenheit in der frühen Bundesrepublik', in L. Herbst (ed.), *Westdeutschland, 1945–1955. Unterwerfung, Kontrolle, Integration* (Munich, 1986), pp. 183–202; here pp. 188, 193. For a highly critical account of the issue of personnel continuity within the judiciary before and after 1945, see, e.g., I. Müller, *Furchtbare Juristen. Die unbewältigte Vergangenheit unserer Justiz* (Munich, 1987).
 48. For a useful outline and evaluation of these arguments, see C. Hoffmann, 'Die Justitielle "Vergangenheitsbewältigung" in der Bundesrepublik Deutschland. Tatsachen und Legenden', in U. Backes, E. Jesse, R. Zitlmann (eds.), *Die Schatten der Vergangenheit. Impulse zur Historisierung des Nationalsozialismus* (Berlin, 1990), pp. 496–521.
 49. Hoffmann, 'Justitielle "Vergangenheitsbewältigung" in der Bundesrepublik', p. 507. By 1990, a total of 98,042 investigations and prosecutions had been launched and 6,486 persons had been convicted; Henke, 'Die Trennung vom Nationalsozialismus', p. 81.
 50. See especially Müller, *Furchtbare Juristen*, pp. 250, 252; J. Friedrich, *Freispruch für die Nazijustiz* (Reinbek, 1983), pp. 375–408.
 51. See Hoffmann, 'Justitielle "Vergangenheitsbewältigung" in der Bundesrepublik', p. 509; also A. Rückerl, *NS-Verbrechen vor Gericht. Versuch einer Vergangenheitsbewältigung*, 2nd ed. (Hamburg, 1984), pp. 261–274.
 52. See C.F. Rüter, 'Die strafrechtliche Ahndung von Staatsverbrechen, begangen durch Militär und Polizei. Über die Beschränkung der Justiz', in J. Friedrich and J. Wollenberg (eds.), *Licht in den Schatten der Vergangenheit. Die Enttabuisierung der Nürnberger Kriegsprozesse* (Frankfurt Main and Berlin, 1987), pp. 67–82, here p. 79.
 53. M. Broszat, *Nach Hitler, Der schwierige Umgang mit unserer Geschichte* (Munich, 1988), p. 100.

54. See L. Herbst, 'Einleitung', in L. Herbst and C. Goschler (eds.), *Wiedergutmachung in der Bundesrepublik Deutschland*, Schriftenreihe der Vierteljahrshefte für Zeitgeschichte (Munich, 1989), pp. 7–31, here p. 16.
55. Y.A. Jelinek, 'Political Acumen, Altruism, Foreign Pressure or Moral Debt: Konrad Adenauer and the "Shilumim"', *Tel Aviver Jahrbuch für deutsche Geschichte*, 19, 1990, pp. 77–102, especially pp. 79, 81, 86–87, 100–103.
56. K. von Jena, 'Versöhnung mit Israel? Die deutsch-israelischen Verhandlungen bis zum Wiedergutmachungsabkommen von 1952', *Vierteljahrshefte für Zeitgeschichte*, 34, 1986, pp. 457–480, here p. 464; Herbst, 'Einleitung', p. 23; M. Wolffsohn, 'Globalentschädigung für Israel und die Juden? Adenauer und die Opposition in der Bundesregierung' in L. Herbst and C. Goschler (eds.), *Wiedergutmachung in der Bundesrepublik Deutschland*, Schriftenreihe der Vierteljahrshefte für Zeitgeschichte (Munich, 1989), pp. 161–190, here pp. 165, 171.
57. Wolffsohn, 'Globalentschädigung', p. 163; Jena, 'Versöhnung mit Israel?', p. 463.
58. Jena, 'Versöhnung mit Israel?', p. 466.
59. On opposition within the cabinet, see Wolffsohn, 'Globalentschädigung' p. 161, 164; Jena, 'Versöhnung mit Israel?', p. 467.
60. On public attitudes to the indemnity question (with opinion poll data), see M. Wolffsohn, *Deutsch-Israelische Beziehungen. Umfragen und Interpretationen, 1952–1983* (Munich, 1986); id., 'Globalentschädigung', p. 170.
61. Herbst, 'Einleitung', p. 22.
62. See the following articles in Herbst and Goschler (eds.), *Wiedergutmachung*: W. Schwarz, 'Die Wiedergutmachung nationalsozialistischen Unrechts durch die Bundesrepublik Deutschland. Ein Überblick', pp. 33–54; U. Herbert, 'Nicht entschädigungsfähig? Die Wiedergutmachungsansprüche der Ausländer', pp. 273–302; H. Langbein, 'Entschädigung für KZ-Häftlinge? Ein Erfahrungsbericht', pp. 341–350; G. Niederland, 'Die verkannten Opfer. Späte Entschädigung für seelische Schäden', pp. 351–359; G. Jasper, 'Die disqualifizierten Opfer. Der Kalte Krieg und die Entschädigung für Kommunisten', pp. 361–384; A. Spitta, 'Entschädigung für die Zigeuner? Geschichte eines Vorurteils', pp. 385–401.
63. For the effect of the Reparations Treaty and other compensation agreements on West German international prestige, see N. Frei 'Die deutsche Wiedergutmachungspolitik gegenüber Israel im Urteil der öffentlichen Meinung der USA', in Herbst and Goschler (eds.), *Wiedergutmachung*, pp. 215–230, here p. 230.
64. Examples are Ernst Kaltenbrunner, Odilo Globocnik, Adolf Eichmann, Franz Novak, Anton and Alois Brunner, Erich Rajakowitsch, Franz Stangl, Hans Rauter, Artur Seyß-Inquart, Edmund Glaise-Horstenau and Otto Wächter. Simon Wiesenthal estimates that Austrians were responsible for the deaths of some 3 million of the 6 million Jews murdered by the Nazis and their auxiliaries; see A. Maislinger, "'Vergangenheitsbewältigung" in der Bundesrepublik Deutschland, der DDR und Österreich, Psychologisch-Pädagogische Maßnahmen im Vergleich', in Backes, Jesse, Zitelmann (eds.), *Die Schatten der Vergangenheit*, pp. 479–496, here p. 482.
65. Cited in Welsh, *Revolutionärer Wandel*, p. 168.
66. Frei, *Vergangenheitspolitik*, p. 399. On the sense of co-responsibility for the crimes of NS as 'a constituent of our [the German] societal identity', see C. Meier, *40 Jahre nach Auschwitz. Die Geschichtserinnerung heute* (Munich, 1987), p. 8.
67. M. Broszat, *Nach Hitler*, p. 287.
68. H. Lübbe, 'Der Nationalsozialismus im deutschen Nachkriegsbewußtsein', *Historische Zeitschrift* 236 (1983), pp. 579–599; here p. 585.
69. *Ibid.*, p. 587.
70. This argument is made in H. Lübbe, 'Verdrängung? Über eine Kategorie zur Kritik des deutschen Geschichtsverhältnisses', in H.H. Wiebe, *Die Gegenwart der Vergangenheit. Historikerstreit und Erinnerungsarbeit*, Zeitkritische Beiträge der evangelischen Akademie Nordelbien (Bad Segeberg, 1989), pp. 94–106, here p. 98.
71. Kielmansegg, *Lange Schatten*, p. 67.