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Emigration and the Foundation of West Germany, 1933-1963

By

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Committee in charge:

Professor Martin Jay, Chair

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## Abstract

Emigration and the Foundation of West Germany, 1933-1963

By Noah Benezra Strote

Doctor of Philosophy in History

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Professor Martin Jay, Chair

This dissertation traces the development of German national life from the disintegration of the Weimar Republic in 1933 to the end of the foundational period of the Federal Republic of Germany in 1963. Charting the alliances between previously hostile groups formed in emigration in response to National Socialism, I offer a way of understanding the ideological strength of reconstruction and nation-building after Hitler. The study covers four principal areas of activity: law and politics, humanistic culture, higher education, and religion. It takes as representative case studies the careers of young Weimar-era leaders who fled the Nazi regime in the 1930s and returned to help build the infrastructure of the Federal Republic after 1945. Extensive use is made of their personal papers and other archival material from the institutions with which they were affiliated. Examining the legal, cultural, intellectual, and theological response to the failure of Germany's first democracy, I challenge arguments that have privileged economic success as the driving cause of postwar democratization in West Germany. Instead, the dissertation points to the indispensability of social and ideological reconciliation as preconditions for development.

To my parents

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## Introduction

“Two thousand years ago, the proudest boast was ‘I am a Roman citizen.’ Today, in the world of freedom, the proudest boast is ‘I am a Berliner.’” To audiences watching on television or listening on radio as U.S. President John F. Kennedy proclaimed those words in 1963, it was a clear moment of Western triumph in the longest and most hotly contested battle of the Cold War: the struggle over Germany. Seventy-five percent of Germans now lived in a country allied with the West in the fight against the spread of communism in Europe. For many whose memories stretched back to World War II, the fact that the hearts and minds of Germans—or at least most of them—had been won for liberal democracy was an admirable feat. When Kennedy closed the speech by saying, “I take pride in the words ‘I am a Berliner,’” he was boasting not only for the people of that city but for the ability of the West to promote stabilization, liberalization, and democratization.<sup>1</sup>

Ever since, Western leaders have held up Germany as the great success story of post-crisis development. In the 1970s and 1980s, theorists pointed to the market welfare system of the Federal Republic as the solution for struggling South American countries on the verge of Marxist revolution.<sup>2</sup> Upon the sudden collapse of the Soviet Union in 1989, policy makers again looked to the experience of post-Nazi Germany for strategies to transition Eastern Europe away from command economies and one-party politics toward a Western paradigm of pluralism. And after 2001, American leaders utilized the history of their country’s occupation of Germany from 1945 to 1949 as a kind of primer for incubating democracy in the Middle East. Noah Feldman, a specialist in Islamic law who served as a constitutional adviser to the American authorities in Iraq, remembered that as he made his way on a government plane to Baghdad in 2003 his colleagues were “without exception reading new books on the American occupation and reconstruction of Germany and Japan.”<sup>3</sup> Reproducing the “miraculous” rise of German liberal democracy elsewhere has been an American foreign policy goal for a half-century.

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<sup>1</sup> John F. Kennedy, “Ich bin ein Berliner” (1963), reprinted in *My Fellow Americans: The Most Important Speeches of America’s Presidents*, ed. Michael Waldman (Naperville, IL: Sourcebooks, 2010), 183-84. To those German-speakers outside of Berlin, Kennedy was of course also unintentionally saying that he was a type of jelly doughnut (known as “Berliner”).

<sup>2</sup> When the U.S. supported anti-Marxist opposition in Latin America, it was often in anticipation of a promised “economic miracle” on the order of West Germany in the 1950s. See Mike Mason, *Development and Disorder: A History of the Third World since 1945* (Hanover, NH: University of New England, 1997), 80.

<sup>3</sup> Noah Feldman, *What We Owe Iraq: War and the Ethics of Nation-Building* (Princeton, NJ: Princeton University Press, 2006), 1. For the policy uses of German history in Iraq, see James Dobbins et al., *America’s Role in Nation-Building: From Germany to Iraq* (Santa Monica, CA: RAND, 2003).

Meanwhile, the views of historians who research the factors responsible for that rise have changed. For many years—especially during and just after the Cold War—scholars emphasized the centrality of security and economics. Despite internal disputes about its mechanics, most agreed that the establishment of a strong market under the auspices of the Western occupying powers had been the bedrock of German democratization.<sup>4</sup> More recently, however, historians have shown that regime change and economic development were necessary, but insufficient, conditions for the sustainability of West German liberal democracy.<sup>5</sup> They have demonstrated that police power and prosperity alone cannot account for what became, in the words of Tony Judt, the “most dramatic instance of political stabilization in post-war Europe.”<sup>6</sup> Furthermore, it is now clear that though many West Germans watched John Wayne films and listened to “Voice of America” radio in the 1950s, opinion polls, newspapers, and university lectures consistently revealed their resistance to what were considered peculiarly American styles of thought.<sup>7</sup> Instead of focusing on “Americanization,” then—as one tended to do in the 1980s and early ‘90s—historians are now moving toward examination of the indigenous cultural, institutional, and generational conditions that facilitated the creation of a stable West German nation.<sup>8</sup>

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<sup>4</sup> The disputes typically revolved around the decisiveness of foreign intervention in the so-called economic miracle of the 1950s. Werner Abelshauser in his essay “West German Economic Recovery, 1945-1951: A Reassessment,” *Three Banks Review* 135 (September 1982), 34-53, downplayed the significance of stimulus such as the Marshall Plan, while Henry Turner in his *The Two Germanys Since 1945* (New Haven: Yale University Press, 1987) and Charles Maier in his *In Search of Stability: Explorations in Historical Political Economy* (Cambridge: Cambridge University press, 1988) tended to play it up. See the controversy in the collection edited by Charles Maier and Günter Bischof, *The Marshall Plan and Germany* (Oxford: Berg, 1991), 116. Policy makers of different political orientations in turn mined these conflicting interpretations for historical evidence to support their cases, with Keynesians arguing for a Marshall Plan-like infusion of stimulus to stabilize the former Soviet bloc, while free-market theorists disputed the effectiveness of such aid. See Jeffrey Sachs, *Macroeconomics in the Global Economy* (Prentice Hall, 1993), 754, and Doug Bandow, “Cato Institute Policy Analysis No. 226: A New Aid Policy for a New World” (May 15, 1995), 11. The free-market theorists won the debate in the (non-)planning of the post-Soviet era; see Naomi Klein, *The Shock Doctrine: The Rise of Disaster Capitalism* (New York: Henry Holt, 2007), 310-31.

<sup>5</sup> Perhaps most importantly the integration of former Nazi collaborators as a stabilizing force for the new democracy, such as Norbert Frei, *Vergangenheitspolitik. Die Anfänge der Bundesrepublik und die NS-Vergangenheit* (München: C.H. Beck, 1997).

<sup>6</sup> Tony Judt, *Postwar: A History of Europe since 1945* (New York: Penguin, 2005), 265.

<sup>7</sup> See Dan Diner, *America in the Eyes of the Germans: An Essay on Anti-Americanism* (Princeton, NJ: Markus Wiener, 1996), Steven Remy, *The Heidelberg Myth: The Nazification and Denazification of a German University* (Cambridge, MA: Harvard University Press, 2002).

<sup>8</sup> See the shift in lens from studies such as Volker R. Berghahn, *The Americanisation of West German Industry* (Cambridge: Cambridge University Press, 1986), Ralph Willett, *The Americanization of Germany 1945-1949* (New York: Routledge, 1989), Hermann-Josef Rupieper, *Die Wurzeln der westdeutschen Nachkriegsdemokratie: der amerikanische Beitrag 1945-1952* (Opladen: Westdeutscher Verlag, 1993), and Michael Ermarth, *America and the shaping of German society, 1945-1955* (Providence, RI: Berg, 1993), to those by Axel Schildt, *Zwischen Abendland Und Amerika: Studien Zur Westdeutschen Ideenlandschaft*

Political and social theorists often distinguish usefully between two different types of nation building in post-conflict situations. “Reconstruction,” as Francis Fukuyama recently explained, is the historically proven ability of outside powers to help restore damaged societies to their “pre-conflict situation” with material and technical support. “Development,” meanwhile, which he described as “events that transform the society open-endedly into something that it has not been previously”—i.e., the creation of new institutions and communities bound together by shared history, ideology, and culture—is “much more problematic” for foreigners to effect.<sup>9</sup> Development was nowhere more problematic than in postwar Germany, where Western occupation authorities provided billions of dollars to restore the old infrastructure but failed miserably in their attempts to re-mold the education system and the civil service.<sup>10</sup>

In this dissertation I suggest that while economic success provided the necessary condition for reconstruction in Germany, it could not sustain liberal democracy without accompanying transformations in political, educational, intellectual, and religious culture. The West German nation was financed with the help of American capital, but it was designed and built by Germans who identified the precariousness of democracy in their own country and developed solutions to stabilize it.

Like an earthquake, Germany’s first republic (1918-1933) exposed a deep and dangerous ideological fault zone within its population. The Nazi regime that grew out of it ruthlessly exploited democratic crisis by forcing Germans to make a decision: either hang on to a strong leader for dear life, or be exposed as an enemy of the people. Those who opted for the National Socialist promise committed themselves to ridding their land of the elements that had allegedly caused the insecurity to begin with. The groups who refused, or were not allowed, to pledge their unquestioning loyalty—a heterogeneous bunch, many of whom had been the bitterest of rivals—suddenly found themselves pushed collectively into submission or emigration. Only those who escaped the country entirely, I attempt to show, were able to begin imagining a future foundation stable enough to survive on German ground.

This project contributes to and challenges three separate sets of historiographies. First, though scholarship on the rise of Nazism fills entire libraries, it has often failed—at least since the pioneering efforts of George Mosse long ago—to analyze Nazi culture as a

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(Oldenbourg: Wissenschaftsverlag, 1999), Jan-Werner Müller, ed., *German Ideologies since 1945: Studies in the Political Thought and Culture of West Germany* (New York: Macmillan, 2003), Christina von Hodenberg, *Konsens und Krise. Eine Geschichte der westdeutschen Medienöffentlichkeit 1945 – 1973* (Göttingen: Wallstein, 2006), and Dirk Moses, *German Intellectuals and the Nazi Past* (Cambridge: Cambridge University Press, 2007). Most recently see the forum edited by Moses, “The Intellectual History of the Federal Republic,” *German History* 27, no. 2 (April 2009), 244-58.

<sup>9</sup> Francis Fukuyama, “Nation-Building and the Failure of Institutional Memory,” in *Nation-Building: Beyond Afghanistan and Iraq*, ed. Fukuyama (Baltimore, MD: Johns Hopkins University Press, 2006), 5. On Germany and Japan, see Fukuyama, *State-Building: Governance and World Order in the 21<sup>st</sup> Century* (Ithaca, NY: Cornell University Press, 2004), 38.

<sup>10</sup> For an in-depth examination of the successes and failures of the American occupation, see James Tent, *Mission on the Rhine: Reeducation and Denazification in American-Occupied Germany* (Chicago: University of Chicago Press, 1982).

serious intellectual project that emerged out of the tensions of Weimar thought.<sup>11</sup> It is my argument that in order to map correctly the reconstruction and development of German life after 1945, one must first identify the pressures that led to its fissure. In the context of Weimar democracy, this means returning to the historical place of greatest stress within the German population: the question of the Jewish minority. Instead of focusing on race science and the well-known Nazi taxonomy of full Jews and mixed-breeds, the dissertation follows the more capacious discourse of the “Judaic spirit” (*jüdischer Geist*), which grew out of the Weimar fault zone and provided racial antisemitism with its real intellectual force. Most important, understanding how Nazi theorists could deem all enemies of their regime “Judaic”—even when they had no Jewish blood—allows us to see what Jewishness had come to mean in democratic Germany.

Second, the copious literature on the German emigration has traditionally ignored one of the most pressing political concerns and achievements of the people who were deemed “Judaic” by the Nazi regime. While much admiring, indeed often hagiographic, ink is still spilled on the impact of German refugees in American and British business, film, finance, literature, and the sciences, few have attempted to understand the way that those who returned to Europe in the late 1940s influenced the first generation of young West German elites.<sup>12</sup> With few exceptions, this scholarship has been inattentive to the emigration’s most profound contribution to postwar German history: namely, the way that emigrés on both the left and the right theorized the political, intellectual, and spiritual foundation for the emergence of German life in Western democratic form after 1949.<sup>13</sup>

Finally, this dissertation shows that the central institutions that sustained the stability of the Federal Republic in the 1950s and early 1960s relied on a conceptual infrastructure designed in emigration. While often alert in theory to the contributions of

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<sup>11</sup> George Mosse, *The Crisis of German Ideology: The Intellectual Origins of the Third Reich* (New York: Grosset & Dunlap, 1964), and idem., ed., *Nazi Culture: intellectual, cultural, and social life in the Third Reich* (New York: Grosset & Dunlap, 1966). When intellectual historians take Nazi culture seriously today, it is typically in the context of explaining individual thinkers and groups rather than the Nazi ideological movement as a whole. See Richard Etlin, ed., *Art, culture, and media under the Third Reich* (Chicago: University of Chicago Press, 2002), and Anson Rabinbach and Wolfgang Bialas, eds., *Nazi Germany and the Humanities* (Oxford: Oneworld, 2007).

<sup>12</sup> Most recently see Richard Bodek and Simon Lewis, *The Fruits of Exile: Central European Intellectual Immigration to America in the Age of Fascism* (Columbia: University of South Carolina Press, 2010).

<sup>13</sup> The exceptions to this general rule are now long outdated: Joachim Radkau’s pioneering study of the conservative turn of emigrés in the United States, *Die deutsche Emigration in den USA. Ihr Einfluss auf die amerikanische Europapolitik 1933-1945* (Düsseldorf: Bertelsmann, 1971), contained only hints regarding the transfer of their ideas in the Federal Republic, and the scope of Alfons Söllner’s excellent *Zur Archäologie der Demokratie in Deutschland. Analysen politischer Emigranten im amerikanischen Geheimdienst*, 2 vols. (Frankfurt am Main: Europäische Verlagsanstalt, 1982), which was a crucial corrective to Radkau’s neglect of jurists and economists on the political left, was limited to those emigrés in the Office of Strategic Services who had minimal influence on the institutions of the Federal Republic. Michael Neumann’s essay, “Lektionen ohne Wiederhall. Bemerkungen zum Einfluß von Remigranten auf die Entwicklung der westdeutschen Nachkriegssoziologie,” *Exilforschung* 2 (1984), 339-357, was suggestive but inaccurate in its argument that the remigrés’ ideas were “lessons without resonance.”

returning emigrés, historians of the “foundations” of West Germany typically begin their story too late, that is, after 1945, attempting to explain nation-building attempts to “re-educate,” “re-orient,” or “re-civilize” Germans without properly contextualizing the preparatory work that preceded them.<sup>14</sup> Mining the work of the “re-educators” and “re-civilizers” themselves provides the pre-history necessary to appreciate the success of such efforts.

A thorough archaeology of the West German foundation, which emigrés began to conceive soon after 1933 but which could only be laid after the defeat of Nazism, exposes an architecture of *alliances* between social groups that had been at odds with each other in the Weimar Republic. Together, these previously unthinkable alliances formed the basic pillars that supported (and still support) the Federal Republic. They consisted of a constitutional welfare system that developed out of a surprising consensus between the Social Democratic Party and the various Christian parties; an educational ideal that retained its distinctive German character but shifted from an attitude of hostility toward “the West” to one of amity; a new intellectual class which, instead of directing its critiques toward provoking a proletarian revolution (as it often did during the Weimar period), now worked with liberal groups to protect the existing liberal state; and finally, a historic cooperation between Christians and Jews, which required social reconciliation and an unprecedented revision of Christian theology.

To trace the ideological transformations and compromises necessary to bind these groups together, this dissertation examines the works and activities of people who fled the Germany of Adolf Hitler (chancellor from 1933-1945) and returned to the Germany of Konrad Adenauer (chancellor from 1949-1963). Rising young leaders at the close of the Weimar Republic, these figures were united by their common persecution during the Nazi attack on the “Judaic spirit” and by their shared desire to build a more secure foundation for a post-Nazi democratic household. Jurists, educationalists, critical theorists, and theologians who refused to see eye to eye with each other in the 1920s shifted their priorities and re-thought their idealism when the Nazi regime declared them all enemies. Because they were old enough in 1933 to respond to the collapse of Weimar, and yet young enough in the 1950s to return to the Federal Republic and exert influence there, their lives and work illuminate the development of German national paradigms over the long mid-century.

Tracking the fate of prominent figures returning from forced emigration is highly revealing of the nature of the societies from which they emigrate and to which they return. It is especially instructive in the case of modern Europe, whose populations have long defined themselves in opposition to the types of people they expel. Though mass

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<sup>14</sup> This problem besets the otherwise excellent studies by Monika Boll, *Nachtprogramm. Intellektuelle Gründungsdebatten in der frühen Bundesrepublik* (Berlin: LIT, 2004) and Konrad Jarausch, *After Hitler: Recivilizing Germans, 1945-1995* (Oxford: Oxford University Press, 2007). The important work of Clemens Albrecht et al., eds., *Die Intellektuelle Gründung der Bundesrepublik: eine Wirkungsgeschichte der Frankfurter Schule* (Frankfurt: Campus, 1999) and Jens Hacke, *Philosophie Der Bürgerlichkeit: Die Liberalkonservative Begründung Der Bundesrepublik* (Göttingen: Vandenhoeck & Ruprecht, 2006), both of which do trace the development of foundational ideas from Weimar to the Federal Republic, only follow one thread—in the case of Albrecht’s study the critical theory of the Frankfurt School, and in Hacke’s the philosophy of bourgeois liberalism. My study aims at a more comprehensive approach.

emigrations have occurred throughout history, part of what has made modern Europe *modern* and *revolutionary* is that it has been an age of political, as opposed to religious, exile. The first mass political emigration occurred during the first truly modern European revolution, when roughly ten thousand loyalists fled newly republican France across the English Channel between 1789 and 1794. The fact that almost all of them returned when Napoleon granted them amnesty in 1802 exposed more about the transformation of French political authority from divine right to emperorship than about the emigrés themselves.<sup>15</sup> Likewise, the experience of the diverse group of hundreds of thousands of landed Russians fleeing the communist revolution in their country from 1917 to 1921—the vast majority of whom could not return, though they had hoped to—revealed above all the resilience of Soviet collectivist ideology. The prominent figures who did return, such as Maxim Gorky, Boris Pasternak, Aleksei Tolstoi, and Sergei Prokofiev, were never welcomed back with open arms *qua* exiles.<sup>16</sup>

The emigration of roughly 300,000 Jews and other “Judaic” undesirables fleeing Nazi-controlled Europe from 1933 to 1939 presents an unprecedented case in the history of modern European revolutions. The Nazi revolution lasted only twelve years, and was almost universally regarded as evil upon its collapse, even before the full extent of its atrocities was exposed.<sup>17</sup> It has been estimated that the number of those who returned permanently from exile to Western Germany was a mere fraction: less than five percent.<sup>18</sup> But unlike the French and Russian cases, the post-Nazi period saw the “homecoming” of German Jewish emigrés publicly celebrated by the new authorities as the very symbols—the “acid test” and the “touchstone”—of German democratic development.<sup>19</sup>

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<sup>15</sup> In the words of one scholar, the French emigrés were “far from holding a unified view of almost anything,” united primarily by the revolutionaries’ common persecution of the privileged classes, clergy and aristocracy. Toby Benis, *Romantic Diasporas: French Emigrés, British Convicts, and Jews* (New York: Macmillan, 2009), 8-9. See also Simon Burrows, *French Exile Journalism and European Politics, 1792-1814* (Woodbridge: Boydell, 2000).

<sup>16</sup> Robert C. Williams, “The Emigration,” in *Critical Companion to the Russian Revolution, 1914-1921*, ed. Edward Action et al. (Indiana University Press, 1997), 513. See also Marc Raeff, *Russia Abroad: A Cultural History of the Russian Emigration, 1919-1939* (Oxford: Oxford University Press, 1990), 4.

<sup>17</sup> Claus-Dieter Krohn et al., *Handbuch der deutschsprachigen Emigration 1933-1945* (Darmstadt: Primus, 1998), 1.

<sup>18</sup> Henry Turner’s statement that most emigrés “looked back with revulsion at the country that had scorned them and resolved never to return” might have been extreme, but current evidence suggests it is more true than not. Turner, *Germany from Partition to Reunification* (New Haven, CT: Yale University Press, 1992), 7. The scholarly literature on “remigration” has nevertheless mushroomed over the past twenty years, with the German journal *Exilforschung* and the *Leo Baeck Institute Year Book* dedicating special issues to it in 1991 and 2004, respectively. For introductions see Marita Krauss, *Heimkehr in ein fremdes Land: Geschichte der Remigration nach 1945* (München: Beck, 2001), Irmela von der Lühe and Axel Schildt, eds., *“Auch in Deutschland Waren Wir Nicht Wirklich Zu Hause”: Jüdische Remigration nach 1945* (Göttingen: Wallstein, 2008).

<sup>19</sup> In 1949, the U.S. High Commissioner for Germany John McCloy urged German Jews to return and declared their reacceptance the “acid test of democracy.” Quoted in Kauders, *Democratization and the Jews: Munich 1945-1965* (Lincoln: University of Nebraska Press, 2004), 5-6. Such sentiments could also

Though they sometimes met with muted hostility among their own generational cohorts, the small group of former emigrés in the Federal Republic stepped into a role of what one scholar recently called “paramount importance” for the first political generation of young Germans in the West.<sup>20</sup> Eager to disassociate themselves from their country’s Nazi past, members of the “45er generation”—those born in the 1920s and 1930s who came of age in the postwar period—were drawn to former emigrés precisely because their teachers who had remained in Germany and accommodated with the revolutionary regime had lost much of their moral authority.<sup>21</sup> From the late 1940s to the early 1960s, the pages of the premier periodical edited by West German doctoral students, the *German University Newspaper*, were dominated not by former collaborators but by former emigrés. The highest proportion of emigrés who returned was in the educational and academic realms.<sup>22</sup> Jürgen Habermas (b. 1929), one of the best-known members of the 45er generation, has indicated that for people like him “the lack of such an intellectual influence would have made an extraordinary difference – actually ‘all the difference in the world.’”<sup>23</sup>

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be found in German organs: see W.E. Süßkind, “Judenfrage als Prüfstein,” *Süddeutsche Zeitung* (August 13, 1949).

<sup>20</sup> Moses, *German Intellectuals and the Nazi Past*, 72. Many other historians of contemporary Germany have recognized their “great influence on the first postwar generation, the majority of which had participated in the war and had returned home disillusioned and to a degree with a shattered worldview.” Werner Weidenfeld and Karl-Rudolf Korte, eds., *Handbuch der deutschen Einheit 1949-1989-1999* (Frankfurt am Main: Campus, 1999), 466. Other authors have mistakenly claimed that the 1968 generation was the first to “discover” this “other Germany” that had been persecuted and exiled. See especially Claus-Dieter Krohn, “Die Entdeckung des ‘anderen Deutschland’ in der intellektuellen Protestbewegung der 1960er Jahre in der Bundesrepublik und den Vereinigten Staaten,” in *Exilforschung* 13 (1995), 16-51. On the negative reception of emigrés among their own generational cohort, see Sven Papcke, “Exil und Remigration als öffentliches Ärgernis. Zur Soziologie eines Tabus,” *Exilforschung* 9 (1991), 9-24.

<sup>21</sup> Observing in 1962, the West German correspondent for *Harper’s Magazine* Norbert Muhlen noted that “former refugee’ professors enjoy high standing in the German academic community. Among their guilt-ridden colleagues who surrendered to the Nazis, their reputations are enhanced because they were resolute enough to leave or because they were forced to.” Muhlen, *The Survivors: A Report on the Jews in Germany Today* (New York: Crowell, 1962), 51.

<sup>22</sup> Manfred Görtemaker, *Geschichte der Bundesrepublik Deutschland: von der Gründung bis zur Gegenwart* (München: C.H. Beck, 1999), 216. The precise numbers differ. Görtemaker estimated that of 5,500 emigrés from the cultural realm (presumably still living in 1945), thirty-two percent returned either to the Federal Republic or Austria, with the highest proportion of those being university professors. For slightly different calculations, see Mitchell Ash, “The ‘Brain Drain’ from Germany and the Impact of the Returning Emigrés,” in *The United States and Germany in the Era of the Cold War, 1945-1990*, eds. Detlef Junker et al. (Cambridge: Cambridge University Press, 2004), 419-20, and Marita Krauss, “Die Rückkehr einer vertriebenen Elite. Remigranten in Deutschland nach 1945,” in *Vertriebene Eliten. Vertreibung und Verflogung von Führungsschichten im 20. Jahrhundert*, ed. Günther Schulz (München: Oldenbourg, 2001). Doctors and natural scientists as a general rule did not return.

<sup>23</sup> Jürgen Habermas, personal letter, April 21, 2008. His original German was “sogar einen ‘Unterschied ums Ganze’, wie Adorno gesagt hätte.”

The influence of former emigrés on West German university life began in earnest only after 1947, when material conditions improved and it became increasingly evident to Western occupation officials that with the exigencies of the emergent Cold War the military governments lacked the resources, not to mention the knowledge of German language, culture, and history, necessary for continuing the German “education for democracy.”<sup>24</sup> With the end of occupation in 1949, Western authority transitioned to public diplomacy.<sup>25</sup> One of the most significant results of that move was an expanded support for the return of political exiles to Germany, especially their placement in the reopened German universities in the West.<sup>26</sup>

When they finally returned, there was no task that preoccupied the emigrés more than the education of German youth. During the decade following 1946—the year in which the Allies amnestied all Germans aged twenty-seven and younger, enabling them to attend university and serve in the civil service—nearly every student entering higher education had spent at least one of his or her formative years in National Socialist schools or in the Hitler Youth. “Anyone who is seriously engaged with the German people,” wrote one editor in the first postwar years, “should be clear that today our most difficult

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<sup>24</sup> Charles Biebel, “American Efforts for Educational Reform in Occupied Germany, 1945-1955. A Reassessment,” *History of Education Quarterly* 22, no. 3 (Fall 1982) 278. In the early occupation period, Allied authorities rarely granted entry permission to the many emigrés who requested it. See Möller, “From Weimar to Bonn: The Arts and the Humanities in Exile and Return, 1933-1980,” in *International Biographical Dictionary of Central European Émigrés 1933-1945*, eds. Herbert Strauss et al. (Munich: Saur, 1983), lxiv.

<sup>25</sup> Tent, *Mission on the Rhine*, 307-309.

<sup>26</sup> See Dizard, *Inventing public diplomacy*, 41-42.. The “cultural exchange” program that had already been developed in the State Department under the leadership of the German emigré Henry Kellermann, which brought rising German elites to the United States and visiting experts (primarily emigrés) to Germany, became the focus of the new policy. By 1952, Kellermann’s budget for the cultural exchange program was nearly half of the entire budget for the Office of the High Commissioner for Germany. See Lamberti, “Returning Refugee Political Scientists and America’s Democratization Program in Germany after the Second World War,” 266., and Rupieper, *Die Wurzeln der westdeutschen Nachkriegsdemokratie*, 34. High Commissioner McCloy saw the mobilization of returning exiles as a powerful intellectual weapon against the potential Sovietization of Germany. The former emigrés themselves welcomed the opportunity to exert influence on the theoretical foundations of the new German democracy while maintaining (temporarily) their newly acquired American citizenship. They were to exert influence in periodicals (for example in *Die Neue Zeitung*, “an American newspaper for the German population” published in Munich with an estimated eighteen million readers, and in West Berlin’s anti-communist journal *Der Monat*), on the radio (such as Radio in the American Sector, a 100,000-watt radio station broadcasted from West Berlin), in U.S. information centers (by 1954, an estimated 750,000 West Germans had visited “America Houses” to see American films and listen to lectures in more than twenty-five urban centers), and in academic institutions (above all the Free University of Berlin, established in 1948 partially with American funds and the employer of the many refugee intellectuals). On the America Houses, see Merritt, *Democracy Imposed: U.S. Occupation Policy and the German Public, 1945-1949* (New Haven, CT: Yale University Press, 1995), 284-285; on the creation of the Free University, see James Tent, *The Free University of Berlin: A Political History* (Bloomington: University of Indiana Press, 1988).

problem—whose solution is our mission—is the question of the German young.”<sup>27</sup> The majority of the first crop of university students consisted of soldiers returning from defeat on the front, precisely the demographic that had formed the vanguard of anti-democratic thought after 1918. In addition, a steady stream of what many emigrés considered “politically suspect” refugees fleeing the Soviet sector, as well as millions of ethnic German expellees from Eastern Europe, flowed into the Western German universities.<sup>28</sup> Wary, the international press began scrutinizing the intellectual development of German youth. A headline of the *New York Times* read in 1949,

GERMAN YOUTH: SKEPTICAL, CYNICAL, YET BOLD; “SHOCK TROOPS” OF  
THE EAST-WEST STRUGGLE, THEY REPRESENT A GREAT UNPREDICTABLE  
FORCE.<sup>29</sup>

This study seeks to establish how emigrés went about harnessing that “force”: how they understood “Western values” and how they attempted to protect and transmit them during the Adenauer era (1949-1963).

Above all, the project attempts to show how the alliances first formed in emigration came to be embraced by that skeptical and unpredictable youth generation. The fault zone in German democracy that emigrés held responsible for Weimar’s instability was the ground upon which they helped lay the foundation of post-Nazi Germany, and the first postwar generation learned to avoid stepping foot on the high-pressure points. The four pillars of German society that I examine here are the welfare state, Western-style education, critical theory, and “Judeo-Christian” values. Though not an exhaustive or fully commensurable list of features, they emerged in the eyes of the next generation, I argue, as the sturdiest and most flexible foundation upon which to shape future national structures.

The reliability of these four pillars did not make the contradictions and internal tensions that existed within and between each one disappear. In a slightly different context, Jacques Maritain accurately described the mid-century Western consensus as a “practical agreement among men who are theoretically opposed to one another.”<sup>30</sup> The

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<sup>27</sup> Quoted in Jaimey Fisher, *Disciplining Germany: Youth, Reeducation, and Reconstruction after the Second World War* (Detroit: Wayne State University Press, 2007), 66. See also Arthur Lee Smith, *The War for the German Mind: Re-educating Hitler’s Soldiers* (New York: Berghahn Books, 1996).

<sup>28</sup> So the emigré Sigmund Neumann described the millions of expellees during a conference organized by Henry Morgenthau, Jr. in 1950: “crisis stratum Number One in Western Germany today [...], painful reminders of those who once before led Germany and Europe to National Socialism and the Second World War. You see the same sunken faces, you hear the same harsh voices and you recognize the same bitter frame of mind [...]. In a way it all looks so frightfully familiar, that like a nightmare, we cannot shake off the apprehension that this is where we came in and everything that happened before will happen again.” Sigmund Neumann, unpublished presentation at the Norman Wait Harris Memorial Foundation Institute (University of Chicago) conference on Germany, 1950, unclassified folder, Sigmund Neumann Papers, Deutsches Exilarchiv, Deutsche Nationalbibliothek-Frankfurt.

<sup>29</sup> *New York Times*, March 22, 1949.

<sup>30</sup> Maritain, *Man and the State* (Chicago: University of Chicago Press, 1951), 78.

process of German liberalism's transformation from Weimar to Bonn, I argue, was defined by the realism of the engineer rather than by the idealism of the social architect. A thriving debate between Social Democrats and Christian Democrats persists in the Federal Republic; anti-Western elements, primarily in the form of anti-Americanism, still define German cultural discourse; critical theorists still stand in opposition to the *status quo*; and tensions between Christians and Jews cause unrest in the Federal Republic. However, beginning after 1933 in exile, these groups began to approach each other as Western *neighbors* rather than as enemies locked in pitched battle. Practical rapprochements of this sort could only occur in face of a greater enemy. Coming from the most rationalized society in the West, German emigrés came to believe that their idealism had led to what Maritain called “irreconcilable differences,” solved only by the Nazi divorce from Western civilization altogether.

The following chapters are organized thematically to explore the various aspects of these rapprochements. The first chapter charts the shift in political culture and justice that occurred from Weimar to Bonn. In light of failed coalitions throughout the Republic, the apparent intractability of the conflict between Social Democracy and political Christianity was perhaps the single greatest factor preventing a liberal alliance against the rise of National Socialism in 1933. Focusing on competing concepts of the “rule of law” (*Rechtsstaat*), the chapter examines the careers of two emigré legal theorists, Ernst Fraenkel and Gerhard Leibholz, as prototypes for the reconciliation of Social Democrats and Christian democrats in exile. Bitter enemies in the 1920s, leading members of these two large political blocs found common ground in the concept of natural law and the institution of judicial review, largely in conversation with the theories of Carl Schmitt.

The second chapter reveals the transformation of German liberal humanism (*Bildung*) from a culture of anti-Western nationalism in the Weimar era into a bulwark of “Western civilization” in exile, focusing on the work of the sociologists Helmuth Plessner and Arnold Bergstraesser. Originally supporters of the conservative revolution in 1933, many liberals like Plessner and Bergstraesser proudly cultivated the anti-Western roots of German culture (famously defined against Western “civilization”) in the wake of the Versailles Treaty, before they realized that Nazi theorists were declaring German liberalism itself infected by Western ideas through “Judaic” influence. Forced into emigration because of their partial Jewish heritage, they redefined their version of German humanism to fit it squarely into the Western paradigm.

The third chapter shows how the “critical theory” of society, which by the 1960s had become perhaps the most influential foundation of West German education, evolved in the work of the so-called Frankfurt School from a Marxist critique of bourgeois practice into a bourgeois practice itself. Originally devastating critics of the Weimar state, many independent socialists such as Max Horkheimer and Theodor Adorno came to hold their own anti-liberal leftist milieu partially responsible for the inability to cultivate resistance among German youth against National Socialism. As a result, “critical theory” moved from being a redemptive Marxist project to destroy liberalism into an educational technique of self-knowledge that aimed to maintain the Western Enlightenment heritage of the liberal state without allowing it to degenerate (“dialectically”) into barbarism. For that reason, the members of the Frankfurt School supported—albeit cautiously and only in public—the statist Adenauer regime from 1949 to 1963.

The fourth and final chapter charts perhaps the most dramatic rapprochement of all: the overcoming of the confessional divide that had riddled German society for hundreds of years. In the 1920s, many Christian conservatives not only defined their own identities in opposition to the “Judaic spirit,” but they also declared the Weimar Constitution itself a product of that spirit. Such characterizations were founded in deep roots of theological anti-Judaism in Germany, especially in the Christian imagination of the nature of Jewish law. But when Nazi leaders began persecuting the Christian churches and declaring them irremediably infected by Judaism, Christian theologians entered into conversation with Jewish thinkers in exile. Jewish scholars of Christianity, the emigrés Hans Joachim Schoeps and Jacob Taubes, became two of the most influential interlocutors in the emerging Christian-Jewish religious alliance against totalitarianism and the first two professors of Jewish studies in post-Nazi Germany.

Revolutions and military defeats often provoke drastic change in the way governments educate their youth.<sup>31</sup> In the German case, the rise and fall of Nazism provoked an examination of the tensions that had undermined Germany’s first attempt at democracy. In 1937, the emigré F.W. Foerster spoke for many when he called for members of the Western democracies to “understand their own values” in order to counteract the Nazi threat.<sup>32</sup> When the Catholic lawyer Konrad Adenauer became first chancellor of the Federal Republic upon the country’s foundation in 1949, he designed an education system founded precisely on the reintroduction of “Western values” and a political apparatus that protected against their disintegration.

Bonn was not Weimar, but not for the reasons historians have often given. There was strong institutional continuity between the first and second republics: the key voting blocs and the legal institutions built to protect their interests already existed in the Weimar Republic; the educational model of classical humanism, which is based on a tracking system that American authorities considered elitist and anti-democratic, was reintroduced in exact form after the war; the Institute for Social Research was reestablished; and the organization of church life remained largely the same. What changed in the interim through the experience of resistance to or disillusionment with National Socialism, however, was the cultural foundation that underpinned those structures. The emigrés who had the resources in exile to plan for nation-building provided the language for that culture. This is why Adenauer found returning exiles so valuable for the regime he led from 1949 to 1963 – not simply for the purposes of window-dressing or alibi-giving, but for the necessity of national continuity.

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<sup>31</sup> See Wolfgang Schivelbusch, *The Culture of Defeat: On National Trauma, Mourning, and Recovery*, trans. Jefferson Chase (New York: Henry Holt, 2006), 241.

<sup>32</sup> Foerster, *Europe and the German Question* (London: Allen & Unwin, 1941), 324-25, originally published in 1937.

## CHAPTER ONE

### **Christianity, Social Democracy, and the Foundation of the West German State**

In the summer of 1945, a surprising alliance formed between two lawyers with completely different backgrounds: one an American Catholic conservative known for his enforcement of prohibition laws in the 1920s and then as chief of U.S. intelligence during World War II, the other a German Jew who had served as lead counsel of the German Social Democratic Party in the Weimar Republic before becoming a leading expert on National Socialism in American exile. As part of preparations for the Nuremberg War Crimes Trials, Major William Joseph Donovan entrusted the emigré Franz Leopold Neumann with the task of interviewing European religious leaders and preparing a report on the Nazi persecution of the Christian churches. The leadership of a Jew in this project was curious on a number of counts.<sup>33</sup> Some have suggested that Neumann's theory of Nazi ideology—which explained antisemitism primarily as a “spearhead” for more universal terrorism—might have been attractive for Christian American prosecutors. Others have speculated that Neumann's ethnicity might have given “the appearance of an enhanced impartiality based on his perceived freedom from intra-Christian sectarianism.”<sup>34</sup>

Whatever the reason, *The Nazi Master Plan: The Persecution of the Christian Churches*, written by Neumann's team of mainly German emigrés, established the churches alongside the German Social Democratic Party and the trade unions as the primary political agents of resistance against National Socialism. Although the authors recognized that

the principal Christian Churches of Germany had long been associated with conservative ways of thought, which meant that they tended to agree with the National Socialists in their authoritarianism, in their attacks on Socialism and Communism, and in their campaign against the Versailles treaty, their doctrinal commitments could not be reconciled with the principle of racism, with a foreign policy of unlimited aggressive

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<sup>33</sup> Perhaps most striking was the fact that Neumann would soon be under FBI investigation for suspected communist sympathies. See M. Stanton Evans, *Blacklisted by History: The Untold Story of Senator Joe McCarthy and His Fight Against America's Enemies* (New York: Random House, 2007), 47.

<sup>34</sup> Barry Katz, *Foreign Intelligence: Research and Analysis in the Office of Strategic Services* (Cambridge, MA: Harvard University Press, 1989), 55-57; Claire Hulme and Michael Salter, “The Nazi's [sic] Persecution of Religion as a War Crime The OSS's Response within the Nuremberg Trials Process,” *Journal of Law and Religion* 3 (Winter 2001), <http://www.lawandreligion.com>.

warfare, or with a domestic policy involving the complete subservience of Church to State.<sup>35</sup>

Another memorandum appended to the report held that “the churches have furnished the political resistance movement with spiritual and religious weapons” and “have carried the idea of the resistance against Hitler into the large masses of the people.”<sup>36</sup>

If from today’s vantage point the authors seem to have neglected the more compromising aspects of the churches’ involvement in the Nazi regime, it was because their more immediate goal was to foster the cooperation between Christianity and German Social Democracy in the reconstruction of German political life.<sup>37</sup> The idea of a common purpose uniting these two groups would have been barely conceivable during the Weimar Republic. From the Wilhelmine era to the mid-1920s, a majority of Social Democrats had adopted a strict ideology of non-cooperation with religious groups, prompting Christian workers to form their own trade unions.<sup>38</sup> By the late 1950s, however, SPD leadership had adopted a position of “embracement” or “rapprochement” toward the Christian Democratic Union, all but unanimously removing Marxism from its party platform and assuring Christians that it was “ready for cooperation with the churches and religious communities in the sense of a free partnership.”<sup>39</sup> From the other side of the aisle, many left-wing Christian Democrats reached out to rally around a common opposition to communism and unrestricted capitalism.<sup>40</sup> This important reconciliation laid the foundation for a *modus vivendi* between the Federal Republic’s two largest voting blocks, whose ideological conflict in the Weimar era had in many ways undermined the stability of Germany’s first democracy.

This chapter traces the bridge that was laid between German Social Democrats and Christians in emigration and how it unfolded back in Germany during the first decade of the Federal Republic. Because the original conflict between the two groups was ideological in nature, its resolution depended on a common theoretical apparatus as well

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<sup>35</sup> *The Nazi Master Plan*, published in the *Rutgers Journal of Law and Religion* (Winter 2001), 5.

<sup>36</sup> Memorandum appended to *The Nazi Master Plan* from Fabian von Schlabrendorff to Donovan, October 25, 1945, 3.

<sup>37</sup> On the belief among emigrés in the importance of the churches for reconstruction, see Jürgen Heideking and Christoph Mauch, eds., *American Intelligence and the German Resistance to Hitler* (Oxford: Westview, 1996), 10.

<sup>38</sup> Even their most conciliatory party platform in the Weimar Republic demanded the complete removal of church influence from the German school system *Das Heidelberger Programm: Grundsätze und Forderungen der Sozialdemokratie* (Berlin: Vorstand der Sozialdemokratischen Partei Deutschland, 1925). William Patch, *The Christian Trade Unions in the Weimar Republic, 1918-1933: The Failure of Corporate Pluralism* (New Haven, CT: Yale University Press, 1985), 3.

<sup>39</sup> *Grundsatzprogramm der Sozialdemokratischen Partei Deutschlands. Beschlossen vom Außerordentlichen Parteitag der Sozialdemokratischen Partei Deutschlands in Bad Godesberg vom 13. bis 15. November 1959* (Bundesrepublik Deutschland, 1959).

<sup>40</sup> James van Hook, *Rebuilding Germany: The Creation of the Social Market Economy, 1945-1957* (Cambridge: Cambridge University Press, 2004), 113.

as a common enemy. The winding path from active hostility in 1933 to tentative cooperation by 1959 comes into clearer focus through an examination of two leading emigré legal thinkers: the Social Democratic secular Jew Ernst Fraenkel (1898-1975) and the religious Christian idealist Gerhard Leibholz (1901-1982). In emigration, Fraenkel and Leibholz arrived at the common belief that the active cooperation of religion and secularism was necessary for the protection of the Federal Republic as a “social *Rechtsstaat*,”

The word *Rechtsstaat* is notoriously difficult to translate. When emigrés introduced it into English in the 1930s, they often chose the phrase “rule-of-law state,” but that remained confusing. Grammatically, *Rechtsstaat* is the equivalent of *Staat des Rechts*, “state of the law,” where the state is understood literally as “belonging to” the law.<sup>41</sup> When this idea emerged in practice during the era of Frederick the Great (r. 1740-1786), professors in Prussian law faculties prided themselves on the knowledge that the legitimate authority of their leader derived not from divine election or brute force, but from the rational and ethical generality of his laws.<sup>42</sup> Then, in the mid-nineteenth century, the concept was given what one scholar called its “most influential interpretation [...] in the subsequent history of Germany” by the Prussian monarchist Friedrich Julius Stahl (1802-1861).<sup>43</sup> A conservative Lutheran who had converted from Judaism, Stahl maintained that the sole task of the jurist was to clarify and apply the “positive” content of laws created by the state.<sup>44</sup> According to him, the concept of a *Rechtsstaat* implied only that the means of carrying out the will of the state should take the form of general laws. Out of Stahl’s definition, a strong German tradition developed that soon became known as “legal positivism” (*Rechtspositivismus*).<sup>45</sup>

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<sup>41</sup> The hierarchy of the words was significant, for if rulers were subordinate to law, a state could not logically exist outside of a legal, i.e. constitutional, framework. See Katharina Sobota, *Das Prinzip Rechtsstaat: Verfassungs- und verwaltungsrechtliche Aspekte* (Tübingen: Mohr Siebeck, 1997), 19-21.

<sup>42</sup> For introductions to the *Rechtsstaat* concept, see Michael Stolleis, *The Eye of the Law: Two Essays on Legal History* (New York: Birbeck, 2008), 1-52, as well as Gustavo Gozzi, “*Rechtsstaat* and Individual Rights in German Constitutional History,” in *The Rule of Law: History, Theory, and Criticism*, eds. P. Costa and D. Zolo et al. (Springer, 2007), 237-59.

<sup>43</sup> Hajo Holborn, *A History of Modern Germany, 1840-1945*, vol. 3 (Princeton: Princeton University Press, 1982), 40.

<sup>44</sup> The star student of the father of German historical jurisprudence, Carl Friedrich von Savigny, Stahl argued that though the true source of law was rooted in the spirit of individual peoples (*Volksgeist*), it was not the jurist’s place to deal with metaphysical questions. For Stahl’s involvement in the creation of a conservative coalition after 1848, see Wilhelm Füssl, *Professor in der Politik: Friedrich Julius Stahl* (Göttingen: Vandenhoeck & Ruprecht, 1988), 121-255. On Stahl’s importance for the codification of the Prussian state’s relationship to the Jews, see Jacob Katz, *From Prejudice to Destruction: Anti-Semitism, 1700-1933* (Cambridge, MA: Harvard University Press, 1980), 198-202.

<sup>45</sup> For a description of the development of legal positivism out of historicism through Stahl, see Warren Breckman, *Marx, the Young Hegelians, and the Origins of Radical Social Theory* (Cambridge: Cambridge University Press, 2001), 80-89.

At first glance, the Nazi characterization of the *Rechtsstaat* idea as fundamentally “liberal” and “Judaic” in 1933 seems almost baffling. But it was true that there was a deep-seated connection between this classically Prussian tradition and the small Jewish minority of less than one percent of the German population. The community of Jews in Prussia and later united Germany—perhaps more than any other individual social or religious group—embraced the idea that a polity in which behavior was justified through reason and codified in written law was vastly superior to a realm in which absolute leaders made decisions by fiat. As many historians of German Jewry have shown, the affinity of German Jews with the *Rechtsstaat* concept traces back to the political alliance of emancipationists with German liberals against the feudal corporate order. One historian recently called German Jews before 1933 the “bourgeois champions of the *Rechtsstaat*.”<sup>46</sup>

It was thus not a coincidence that the most influential theorists of the German state in the nineteenth century were disproportionately Jewish.<sup>47</sup> Jewish students (including Jewish converts to Christianity) who excelled in the legal field were attracted to the *Rechtsstaat* concept because it represented an end to the worst forms of discrimination and a potential overcoming of the separation of their families from the norms of the larger non-Jewish society. Even Karl Marx (1818-1883), who radically critiqued any conservative or liberal version of the state that prevented the achievement of “true law” (*wahres Recht*), economic equality, heralded the advance of the *Rechtsstaat*’s principle of “equality before the law” as unequivocal progress on the road

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<sup>46</sup> Peter Pulzer, *Jews and the German state: The Political History of a Minority, 1948-1933* (Detroit: Wayne State University Press, 2003); Zvi Gitelman, *The Quest for Utopia: Jewish Political Ideas and Institutions through the Ages* (Armonk, NY: M.E. Sharpe, 1992), 109; Albert Lindemann, *Esau’s Tears: Modern Anti-Semitism and the Rise of the Jews* (Cambridge: Cambridge University Press, 2000), 113; Marion Kaplan, *Between Dignity and Despair: Jewish Life in Nazi Germany* (Oxford: Oxford University Press, 1999), 20. An analogous process could be observed in France, where the revolution of 1789 forged a commitment of Jews to revolutionary ideals by burning into their collective memory the seemingly logical connection between secular republicanism and emancipation. See Jay Berkovitz, *Rites and Passages: The Beginnings of Modern Jewish Culture in France* (Philadelphia: University of Pennsylvania Press, 2004), 230-31.

<sup>47</sup> Scholars have long squabbled over how to account for this fact. Many have proposed an evolutionary-psychological explanation, claiming that centuries of “Talmudic” reasoning somehow trained Jewish minds for legalistic thinking. This idea in part underlies one recent narrative, Gunther Kühne, “The Contribution of Jewish Lawyers in Germany to the Development of German Law,” *Justice* (Autumn 1999), 15-20. According to that (troublingly popular) theory, Jewish thinkers were biologically predetermined to thrive in the modern age. While it is true that the concentration of Jews in the study of law had something to do with modernity, there is no need to look beyond the sociological position of Jews in the German states for an answer to the vexing question. The extension of partial legal equality to Jews and their increasing conversion to Protestantism in the early 1800s allowed a growing number of Jewish students to attend German universities, where a high percentage studied in the legal faculties in accordance with the academic trend. See Konrad Jarausch, “Jewish Lawyers in Germany, 1848-1938: The Disintegration of a Profession,” *Leo Baeck Yearbook* 36 (1991), 171-190. See also Tillmann Krach, *Jüdische Rechtsanwälte in Preussen: über die Bedeutung der freien Advokatur und ihre Zerstörung durch den Nationalsozialismus* (München: C.H. Beck, 1991), and Joerg Schadt, introduction to Max Hachenburg, *Lebenserinnerungen eines Rechtsanwalts* (Düsseldorf: Neue Brücke, 1927).

toward the proper organization of society.<sup>48</sup> By the Weimar Republic, legal scholars of Jewish descent composed roughly a third of the law professoriate, and a German Jew, Hugo Preuss (1860-1925), was selected to draft a constitution for the new democratic state when the German monarchy fell in 1918.<sup>49</sup>

In what follows, I begin by sketching out the battles between Social Democratic and Christian conservative jurists in the Weimar Republic that proceeded from Preuss. The second part of the chapter examines how National Socialist theorists, in particular the “Nazi crown jurist” Schmitt, attempted to prove that both the liberal *Rechtsstaat* tradition represented by Preuss *and* the conservative tradition of Stahl were fundamentally “Judaic.” The third and final part investigates how émigré jurists mobilized theories of “natural law” to defend the *Rechtsstaat* against the Nazi attack, and how they rebuilt the theoretical foundations of a German *Rechtsstaat* upon their return to (West) Germany with the help of intellectual and institutional alliances formed over the course of their emigration.

### I. The Dispute over Law and Guardianship of the State under the Weimar Constitution

It is impossible to tell in retrospect whether the new republican constitution would have enjoyed more legitimacy in the eyes of the German population had its author not been Jewish. Among its critics, the Weimar Constitution was commonly characterized as the culmination of nineteenth-century liberalism and the founding document of a “Jew’s republic” (*Judenrepublik*) or “Jew’s state” (*Judenstaat*).<sup>50</sup> There is no doubt that Preuss’s ethnic identity facilitated the ultra-nationalist depiction of the Constitution as an “un-German” and foreign imposition after the humiliating defeat of World War I. But these epithets expressed more than hostility toward Jews: They were central to the entire philosophical discussion about the foundations of law in Weimar Germany.

Replacing the *Reichsverfassung* of 1871, the Weimar Constitution drafted by Preuss and approved by the individual German states in August 1919 represented a compromise between the Marxist Social Democratic Party, the new liberal German Democratic Party, and the Catholic Center Party. It posited the parliament as sovereign and established means “to further social progress” through the protection of trade unions and the development of social law, but it also provided multiple checks against the arbitrary will of the people to infringe on personal freedoms.<sup>51</sup>

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<sup>48</sup> Jacob Toury, *Die politische Orientierungen der Juden in Deutschland*, 38-40. The best articulation of the orthodox Marxist tradition is Evgeny Pashukanis, *The General Theory of Law and Marxism*, trans. Barbara Einhorn (New Brunswick, NJ: Transaction, 2007).

<sup>49</sup> Krach, *Jüdische Rechtsanwälte in Preussen*, 414, Konrad Jarausch, “Jewish Lawyers in Germany,” 181, and Hans-Peter Benöhr, “Jüdische Rechtsgelehrte in der deutschen Rechtswissenschaft,” in *Judentum im deutschen Sprachraum*, ed. Karl E. Grözinger (Frankfurt a.M.: Suhrkamp, 1991), 280-308.

<sup>50</sup> Eric D. Weitz, *Weimar Germany: Promise and Tragedy* (Princeton, NJ: Princeton University Press, 2007), 333.

<sup>51</sup> Preamble of the Weimar Constitution, translated in Elmar M. Hucko, ed., *The Democratic Tradition: Four German Constitutions* (New York: Berg, 1987), 149.

Beyond the incitement of hot emotions among the population, one of the most significant effects of the new constitutional reality was the realignment of German legal and political discourse. On one hand, traditional positivism continued its dominance in the majority of law faculties in Weimar. Respected self-declared positivists, such as Gerhart Anschütz (1867-1948), Richard Thoma (1874-1957), Gustav Radbruch (1878-1949), and Walter Jellinek (1885-1955) adapted easily to the new system; to them, positive law created by a sovereign parliament was as valid as the law of the sovereign Kaiser. On the other hand, the sudden collapse of the monarchy shook the logical foundations of a legal philosophy on which the Prussian state had been built for hundreds of years. The debates on the metaphysical sources of law returned after having been repressed since the professionalization of jurisprudence in Stahl's day.<sup>52</sup>

If the authority of law derived solely from the general will of the people as represented in parliament, as the Weimar Constitution held, the question became: What would be the role of the individual judge in cases where parliament did not provide sufficient basis in positive law to make a decision? Amidst the ensuing lack of consensus, Weimar jurisprudence fell into what some called a "crisis in state theory" and a "controversy over orientation and method."<sup>53</sup> At the same time, the power of the courts grew with the increasing frequency of parliamentary paralysis in the 1920s.<sup>54</sup> Increasingly, jurists asked each other whether parliament could be the proper representative and guardian of the general will at all. When an Association of German State Law Teachers was created in 1922 to convene yearly meetings where the best legal minds of Weimar offered competing theories of constitutional interpretation, it quickly became clear that judicial discretion was on the rise precisely as the faith of constitutional thinkers in parliamentary democracy was on the decline.<sup>55</sup>

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<sup>52</sup> Erich Kaufmann, "Otto Mayer," *Verwaltungsarchiv* 30 (1925), 377.

<sup>53</sup> See Wolfgang März, "Der Richtungs- und Methodenstreit der Staatsrechtslehre, oder der staatsrechtliche Antipositivismus," in *Geisteswissenschaften zwischen Kaiserreich und Republik. Zur Entwicklung von Nationalökonomie, Rechtswissenschaft und Sozialwissenschaft im 20. Jahrhundert*, eds. K.W. Nörr et al. (Stuttgart, 1994), 75-133. Most historians of German state law agree that this "crisis" began around 1911 or 1912, with the publication of Hans Kelsen's *Hauptprobleme der Staatslehre* (1911), Erich Kaufmann's *Das Wesen des Völkerrechts und die clausula rebus sic stantibus* (Tübingen: Mohr, 1911), and Carl Schmitt's *Gesetz und Urteil. Eine Untersuchung zum Problem des Rechtspraxis* (Berlin: Liebmann, 1912). See Michael Stolleis, *Geschichte des öffentlichen Recht in Deutschland*, vol. 2 (Munich: Beck 1992), 448f. In 1911, the jurist Fritz Stier-Somlo could write, "There is no recognized concept of the *Rechtsstaat* in scholarship. Stier-Somlo, "Rechtsstaat, Verwaltung und Eigentum (Schluß)," *Verwaltungsarchiv* 19 (1911), 43.

<sup>54</sup> Unlike the British and American legal systems, Germany's courts did not function on a common law model where precedent could set limits to the spectrum of possible decisions in a case.

<sup>55</sup> For an introduction to the debates in the *Vereinigung* and its legacy for the early Federal Republic, see Ulrich Scheuner, "50 Jahre deutschen Staatsrechtswissenschaft im Spiegel der Verhandlungen der Vereinigung der deutschen Staatsrechtslehrer," *Archiv des öffentlichen Rechts* 97 (1972), 349-74, and David Dyzenhaus, *Legality and Legitimacy: Carl Schmitt, Hans Kelsen, and Hermann Heller in Weimar* (Oxford: Oxford University Press, 1999).

The Austrian jurist Hans Kelsen (1881-1973) had already recognized the potential for a new subjectivism in legal matters already before World War I and had attempted to ensure the “value neutrality” of legal thinking by outlining a “pure science of law” buttressed by the philosophy of neo-Kantianism. However, Germany’s most innovative legal thinkers increasingly portrayed positivism as a rear-guard movement that was better suited to liberal monarchy than to democracy.<sup>56</sup> Kelsen’s ideas failed to attract a younger generation of jurists who increasingly regarded the liberal tradition he represented as bloodless.

In the sunset of positivism, two major “schools” of jurisprudence developed within the Association over the subsequent decade: one associated with the Social Democratic Party, the other known as “idealist” and Christian and associated more with the conservative German National People’s Party. Both were liquidated by National Socialist jurists after 1933 but rehabilitated by returning refugees after World War II as the dual foundations of the *Rechtsstaat* in the Federal Republic.<sup>57</sup> They held two fundamentally anti-positivist principles in common against their mutual theoretical enemy, Kelsen: first, that legal thinking must move beyond a literalist interpretation of law to take into consideration social realities; and second, that the *Rechtsstaat* idea must have a “material,” as opposed to merely “formal” (Stahlian) basis. Both schools advocated a return to “natural law” theory. They disagreed, however, regarding the nature of natural law (in itself an incredibly malleable term), the proper sociological methods for defining social reality and for reaching a just decision when the wording of a statutory law did not suffice, and on which institution—the parliament or the judiciary—should serve as the ultimate “guardian” (*Hüter*) of the legal order.

Theorists in the Social Democratic school attempted to ground legal thinking not only in the immanent logic of the Constitution.<sup>58</sup> Jurists such as Hugo Sinzheimer (1875-1945), Hermann Heller (1891-1933), and their most successful students Franz L. Neumann and Ernst Fraenkel (1898-1975)—all of whom were of Jewish descent—pointed to the “social principles” enshrined by the German states.<sup>59</sup> In particular, Article 165 of the Constitution, authored by Sinzheimer himself, guaranteed the free labor

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<sup>56</sup> By 1926, the professor of state law Heinrich Triepel (1868-1946) could reflect on the movement away from positivism in his rectoral address at the University of Berlin. See Ralf Poscher, “Heinrich Triepel: Introduction,” in: *Weimar: A Jurisprudence of Crisis*, eds. Arthur Jacobsen and Bernhard Schlink (Berkeley: University of California Press, 2000), 173.

<sup>57</sup> For another description of the development of these two schools, see Peter Caldwell, *Popular Sovereignty and the Crisis of German Constitutional Law: The Theory and Practice of Weimar Constitutionalism* (Durham, NC: Duke University Press, 1997), 120-144.

<sup>58</sup> See Joachim Blau et al., *Hermann Heller, Ernst Fraenkel, and Otto Kirchheimer. Sozialdemokratische Staatslehre in der Weimarer Republik*. Marburg: Verlag Arbeiterbewegung und Gesellschaftswissenschaft, 1980).

<sup>59</sup> Preuss, “The Significance of the Democratic Republic for the Idea of Social Justice” (1925), trans. Christoph Schoenberger, in *Weimar: A Jurisprudence of Crisis*, 119.

contract.<sup>60</sup> According to these thinkers, the goal of the Weimar state was not to give written expression to the “legal feeling” (*Rechtsgefühl*) of an abstract national community, but rather to facilitate and protect the fairness of the “jural relations” that developed spontaneously in German civil society outside of the state, especially between employers and employees.<sup>61</sup> The role of judges in cases of indeterminacy would be to ensure that the state intervened when private jural relations became lopsided or exploitative. In what would become an important turn of phrase in the future Federal Republic, Heller argued that the Constitution had created a “social *Rechtsstaat*” – a constitutional state that strove (without revolution) toward “social justice” (*soziale Gerechtigkeit*).<sup>62</sup> However, these Social Democratic thinkers significantly rejected the institution of constitutional review and thus the idea that the judiciary, not the parliament, was sovereign. They were weary of granting power of the ultimate decision to the highest courts, which were staffed with conservative and anti-parliamentarian judges.

These judges whom the Social Democrats feared typically emerged from a Christian idealist school that gathered around the conservative professor of law at the University of Berlin, Rudolf Smend (1882-1975). Like Social Democrats, idealists, too, held that the authority of law originates in the will of the people. But they called themselves “idealists” because they either rejected or held themselves above the “materialistic” legal tradition associated with the Roman-Western rationalist “natural law” tradition that allegedly raised human reason and the state to the status of a God. Instead they shared an idea of “organic [or historical] natural law” (as opposed to abstract law in the “Roman spirit”) that stemmed from the Hegelian tradition through Gierke to Preuss. Idealists asked jurists to use imagination, not pure reason, to “feel their way into” and “understand” (*verstehen*) the “general will” (*Gemeinwille*) through the help of hermeneutic or historical methods. Typically defining “German culture” implicitly or explicitly as the social teachings of Lutheranism, the Weimar-era thinkers most associated with this position were often heavily involved in the culture of the Lutheran church.

Unlike Social Democrats, idealists typically considered an independent judiciary with the power of judicial review indispensable for protecting the values of traditional culture against the potential destruction of Christianity *via* the constitution itself, which Smend called a “foreign body” of “passive-legal standardization” that would be trumped by true “integration” of the “political spirit.”<sup>63</sup> The young jurist Gerhard Leibholz (1901-

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<sup>60</sup> Ibid., 119-20.

<sup>61</sup> See for example Sinzheimer, “Die Theorie der Rechtsquellen und das Arbeitsrecht” (1934), in *Arbeitsrecht und Rechtssoziologie. Gesammelte Aufsätze und Reden*, vol. 1 (Frankfurt am Main: Europäische Verlagsanstalt, 1976), 79-94.

<sup>62</sup> Heller, *Rechtsstaat oder Diktatur?* (Tübingen: Mohr, 1930).

<sup>63</sup> Smend, *Verfassung und Verfassungsrecht* (Leipzig: Duncker & Humblot, 1928), 96. Smend held that the task of the judiciary and the civil service was to “integrate” citizens into the popular will and to make decisions based on the “values” of the people without relying on the precise wording of the constitution. See also Kaufmann, “On the Problem of the People’s Will” (1931), trans. Stephen Cloyd, in *Weimar: A Jurisprudence of Crisis*, 197, 206. Leibholz’s teacher Heinrich Triepel wrote in 1933, “God alone knows

1982), though considerably more democratic than his colleague Smend, inherited from Preuss's idealism an idea of "general will" of organic-traditional culture that must be guarded at all costs.<sup>64</sup>

Though they were not racial antisemites—indeed, many of them (such as Kaufmann and Leibholz) were of Jewish descent themselves, and others (such as Leibholz's teacher Triepel) had Jewish spouses—there was a strong element of anti-Judaism in idealist jurisprudence. Just as counter-revolutionary thinkers had accused French liberals of "deifying" the secular *state* into a secular religion by raising human reason to a sovereign power in 1789, idealists charged German Social Democrats of deifying secular *society* and attempting to (either immediately or gradually) destroy the religiously founded state. Importantly, this paralleled precisely the critique Lutheran theologians often leveled against "late" Judaism in their scholarship on the Old Testament.<sup>65</sup> Smend, in his contributed to a collection of Protestant and Catholic theological writings in the book *Crisis* (1932), wrote that unlike Social Democrats who (Judaically) glorify positive law—as evidenced through the positivism of the SPD Minister of Justice Gustav Radbruch—the "Protestant church submits to the democratic state not out of special inclination, but because it—like all states—was appointed by God."<sup>66</sup> In such critiques idealists joined legions of Catholic social legal thinkers: Theodor Brauer, a leader in the consumer fairness movement who declared Social Democracy's Marxism a proselytizing "ersatz religion" that could not tolerate any higher law than

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how sour it was for us to have to think our way into a constitution whose spirit we inwardly rejected." Quoted in Lothar Becker, "*Schritte auf einer abschüssigen Bahn*". *Das Archiv des öffentlichen Rechts und die deutsche Staatsrechtswissenschaft im Dritten Reich* (Tübingen, 1999). 71.

<sup>64</sup> Already in his dissertation, Leibholz attempted to show how despite German liberalism's imitation of American and Swiss model of democracy, German democratism was still rooted in the "ideational world of German classical philosophy." Gerhard Leibholz, *Fichte und der demokratische Gedanke. Ein Beitrag zur Staatslehre* (Freiburg: Julius Boltze, 1919), 1. Leibholz shared his admiration of Fichte's thought with Preuss and many other Germans who advocated the adoption of democracy but aimed to distinguish a German version from the Western, especially in the wake of the Versailles Treaty. See Preuss, *Das deutsche Volk und die Politik* (Jena: E. Diederichs, 1915).

<sup>65</sup> Not coincidentally, Smend's critique of liberalism *vis-à-vis* a truly integrated Christian state paralleled precisely the reading of Mosaic law *vis-à-vis* New Testament law advocated by his father of the same name (1851-1913), a scholar of the Old Testament in Göttingen. In his *Lehrbuch der alttestamentlichen Religionsgeschichte* (Freiburg: J.C.B. Mohr, 1899), Rudolf Smend the elder wrote that "Yahwe seeks horrible revenge against every affront on his majesty" in the form of "breach of the ban" (read: positive law), etc. He also took revenge when "foreigners touched his servants, as Avimelech did Abraham or the Pharaoh Israel." "But regarding affronts of man against on him himself [lower case *ihn* in the original], he was the offended party [der Beleidigte] and not the judge." Smend, 103.

<sup>66</sup> Smend, *Protestantismus und Demokratie* (Weimar: Lichtenstein, 1932), cited in Axel-Johannes Korb, *Helsens Kritiker: Ein Beitrag zur Geschichte der Rechts- und Staatstheorie (1911-1934)* (Tübingen: J.C.B. Mohr, 2010), 258. Smend's text was also published in the collection *Krisis. Ein politisches Manifest*, eds. Oscar Müller et al. (Weimar: Lichtenstein, 1932), which called for a Christian state to abolish the Weimar Republic.

human reason, and Josef Schmitt, the state president of Baden, who called for the “displacement of state powers to the religious societies.”<sup>67</sup>

Some Social Democratic thinkers in the late Weimar Republic did respond to these challenges, but it was not a unified movement. Some of the more conciliatory Social Democratic thinkers, such as Heller, Sinzheimer and his protégé Fraenkel, attempted to break out of the SPD’s isolation via a rapprochement with Christian socialism, in concert with the “Young Socialist” group of “outsider” Social Democrats such as the theologian Paul Tillich, but the materialist philosophy of history demanded by even a reformed version of Marxism presented a high wall built by years of German Social Democratic anti-Christianity.<sup>68</sup> In the eyes of a majority of Germans they still stood on one side of the fight of “Christianity against Marxism” – what one Protestant author called in 1929 the “cultural struggle of our time.”<sup>69</sup>

These two “schools” competed with each other in journals and public conferences throughout the late 1920s and early 1930s. The only aspect that united all three was their common defense of the *Rechtsstaat* concept *in general* against the theoretical attack launched by National Socialist theorists after 1933. In particular the common enemy became Carl Schmitt, recognized as the greatest and most dangerous legal mind of the interwar period, who throughout the 1920s had attempted to undermine the very *idea* of the *Rechtsstaat* since the Enlightenment: the sovereignty of law over men. After 1933, he did more than undermine it logically. Drawing on nineteenth-century stereotypes, he presented all defenders of the *Rechtsstaat*, including Christian conservatives, as representatives of the “Judaic spirit.”

### III. The “Judaic Spirit” and the Dethroning of Law in Nazi Ideology

It is well known that the battle to eliminate the Jewish influence from German public life was crucial to the National Socialist narrative of its own world-historical mission, but the centrality of *law* in this narrative, and its relationship to alleged Judaic “styles of thinking” (*Denkarten*), have often been overlooked. In one of the founding documents of National Socialist ideology, Carl Schmitt blamed the “destruction” of the “great tradition of the German bureaucratic state” on the increasing influence of Jews in German jurisprudence from the years 1848 to 1933. “The extraordinary political success that Bismarck achieved from 1866 to 1871,” he wrote,

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<sup>67</sup> Theodor Brauer, *Der moderne deutsche Sozialismus* (Freiburg: Herder, 1929), 326; Schmitt, *Die Ablösung der Staatsleistungen an die Religionsgesellschaften* (Freiburg: Herder, 1921).

<sup>68</sup> Fraenkel published his *Sociologie der Klassenjustiz* (1927) in the Schriftenreihe of the Young Socialist group, and Sinzheimer joined the advisory board of the religious socialist publication, *Neue Blätter für den Sozialismus*. On this development see Martin Martiny, “Die Entstehung und politische Bedeutung der ‘Neuen Blätter für den Sozialismus,’” *Vierteljahrshefte für Zeitgeschichte* 25, no. 3 (July 1977), 373-419. See also William Patch, *The Christian Trade Unions in the Weimar Republic: The Failure of Corporate Pluralism* (New Haven, CT: Yale University Press, 1985), 230-31.

<sup>69</sup> Karl Veidt, *Der Kulturkampf unserer Zeit. Christentum gegen Marxismus* (Berlin: Deutsche Nationale Schriftenvertriebsstelle, 1929).

was able to conceal the fact that intellectually, after 1848, the German bureaucratic state was completely on the defensive. Neither the mixture of rhetoric and sophistry that Friedrich Julius Stahl—his real name is Joll Jolson—purveyed to the Prussian conservatives, nor the cynical positivism of a Laband was a *German* theory of state and law; despite all of the apparent divergences, they [German jurists of Jewish descent] were all, in the end, simply pioneers of the encroaching political forces and powers of liberal democracy and its immediate successor, Marxism, in the name of the “*Rechtsstaat*.”<sup>70</sup>

The figures to whom Schmitt purposefully referred, Stahl and Paul Laband, were loyal monarchists and Jewish converts to Lutheranism. Throughout the 1930s, Schmitt and his students took it upon themselves to “unmask” them and the many legal scholars like them still living in Germany as fundamentally “Judaic thinkers” despite their assimilation or conversion to Christianity. This was meant simultaneously as an unmasking of Christianity *itself* as having been corrupted by Judaic conceptions of law.

The self-described task of the Nazi movement in the 1920s was to complete the revolution against “obligation-ridden law” without making Christianity’s original mistake of retaining Judaic universalism.<sup>71</sup> In the Nazi worldview disseminated by Alfred Rosenberg, the concept of the *Rechtsstaat* was characteristically Judaic because it raised law over personality. The same was true of Marxism, despite its hostility to the *Rechtsstaat* idea. Yet as any reader of *The Myth of the Twentieth Century* knows, Nazi ideologues such as Rosenberg were not intellectually equipped to assemble a convincing case connecting the Jews and the *Rechtsstaat* without the support of minds trained in jurisprudence. In 1933, there was no lack of German state law theorists who favored authoritarianism and demonstrated an antisemitic bent. What made Schmitt stand out to Nazi leadership was his willingness to synthesize his hostility toward all forms of liberalism with a totalizing anti-Judaic worldview.<sup>72</sup> His enthusiasm for creating an intellectually coherent foundation for the political theology of National Socialism

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<sup>70</sup> Carl Schmitt, *Staat, Bewegung, Volk. Die Dreigliederung der politischen Einheit* (Hamburg: Hanseatische Verlagsanstalt, 1935), 30. Emphasis mine. First edition printed 1933. This pamphlet was the first in a series edited by Schmitt entitled “The Present-day German State” (*Deutsche Staat in der Gegenwart*) and recognized by both Nazi leadership and intellectual historians of National Socialism as the kernel of the Nazi theory of the state. See the introduction in George L. Mosse, ed., *Nazi Culture* (New York: Grosset & Dunlap, 1966), 319-20.

<sup>71</sup> Alfred Rosenberg, *The Myth of the Twentieth Century: An Evaluation of the Spiritual-Intellectual Confrontations of Our Age*, trans. Vivian Bird (Torrance, CA: Noontide, 1982), 8, 61. Originally, *Mythus des 20. Jahrhunderts: Eine Wertung der seelisch-geistigen Gestaltenkämpfe unserer Zeit* (München: Hoheneichen, 1930). Rosenberg argued that Martin Luther had “Germanized” Christianity by removing some of its universalistic elements but had not gone far enough.

<sup>72</sup> The question of the relevance of Schmitt’s antisemitism to the creation of his legal theories in the Weimar Republic remains unresolved. Raphael Gross has argued that it was constitutive, while others claim that his antisemitic theories in the 1930s were motivated more by opportunism. See Gross, *Carl Schmitt and the Jews: The “Jewish question,” the Holocaust, and German Legal Theory*, trans. Joel Golb (Madison: University of Wisconsin Press, 2007), and Gopal Balakrishnan, *The Enemy: An Intellectual Portrait of Carl Schmitt* (New York: Verso, 2002).

solidified Schmitt's position in the eyes of both the Nazi leadership and those emigré thinkers who knew his work most intimately.<sup>73</sup>

Schmitt's theory of the state in the Weimar era rested on a rejection of all ideas (both traditional and modern) relating to the inviolability of law, the central feature of the *Rechtsstaat*. According to Schmitt's secularization thesis, the *Rechtsstaat* concept was the logical result of the transformation of Christian universalism into rational natural law theory. Early modern thinkers, he argued—beginning with René Descartes—had simply replaced “God” with “reason” in claiming that there were absolute laws governing and limiting proper human behavior.<sup>74</sup> According to Schmitt's version of intellectual history, theories of absolute values based on reason grew out of French thought, gained in popularity among legal thinkers in the seventeenth and eighteenth centuries, and finally found expression in the development of written constitutions guaranteeing the protection of property, the sanctity of contracts, and the freedom of trade (“bourgeois liberties”). To Schmitt, the Weimar Constitution represented the culmination of this liberal tradition.<sup>75</sup> The problem with arguing from absolute principles of law, whether rooted in religion or in reason, he showed, was that that no one agreed what they were. He wrote in 1932,

The term “*Rechtsstaat*” can mean as many different things as the word “law” itself and, moreover, just as many different things as the organizations connoted by the term “state.” There is a feudal, an estate-based, a bourgeois, a national, a social, and further a natural-law, a rational-law, and a historical-legal form of *Rechtsstaat*. It is conceivable that propagandists and advocates of all types could claim the word for their own purposes, in order to denounce the opponent as the enemy of the *Rechtsstaat*. The following saying applies to the *Rechtsstaat* and concept of law: “Law should above all be what I and my friends value.”<sup>76</sup>

According to Schmitt, all theorists of the state who seek sovereignty in any type of legal order and not in the individual wills of human beings—both “natural law” and “positive law” theorists—misunderstand the nature of decision-making.<sup>77</sup>

Schmitt's rejection of the inviolability of law dovetailed perfectly with the ideology of Nazi leadership, whose first act after the Reichstag fire of February 27, 1933 was to revoke *nulla poena sine lege*, the principle prohibiting penalty for actions not explicitly punishable by law at the time of commission – probably the most constitutive

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<sup>73</sup> Joseph Bendersky, *Carl Schmitt: Theorist for the Reich* (Princeton, NJ: Princeton University Press, 1983).

<sup>74</sup> Schmitt, *Politische Romantik* (München: Duncker und Humblot, 1919), 77.

<sup>75</sup> Idem, *Verfassungslehre* (München: Duncker und Humblot, 1928), 30.

<sup>76</sup> Idem, *Legality and Legitimacy*, trans. Jeffrey Seitzer (Duke University Press, 2004), 14. Originally *Legalität und Legitimität* (Leipzig: Duncker & Humblot, 1932).

<sup>77</sup> Idem, *Politische Theologie. Vier Kapitel zur Lehre von der Souveränität* (München: Duncker & Humblot, 1922), passim.

legal axiom of the German *Rechtsstaat*.<sup>78</sup> According to Schmitt, the National Socialist state had freed itself from the shackles of formal legality characteristic of a *Rechtsstaat* to become a “just state” (*gerechter Staat*).<sup>79</sup> Schmitt’s finest protégés—not coincidentally the legal thinkers who enjoyed the lengthiest and most successful legal careers in the Nazi regime—echoed their mentor’s hostility to all state systems based on the sovereignty of law. Ernst Forsthoff (1902-1974) declared the *Rechtsstaat* a “state bare of honor and dignity,” and Ernst Rudolf Huber (1903-1990) called it a form of state in which “a supra-national and unpolitical law persists.”<sup>80</sup>

Schmitt believed that to avoid “confusion,” racially Jewish jurists must be removed from the legal faculties along with any other non-Jewish professor who “thought Judaically.” “Do not forget,” Schmitt told a conference of Nazi law professors in 1936, “what it means that year to year, semester to semester, for almost a hundred years, thousands of young Germans, future judges and lawyers, have gone through the school of Jewish law professors, that standard textbooks and commentaries on important legal fields are written by Jews, that influential legal journals are run by them.”<sup>81</sup> The elimination of Jewish influence from German intellectual life from 1933 to 1935 was in no discipline as vicious and systematic as it was in jurisprudence under Schmitt. He personally ensured that he took over the University of Berlin chair of his former colleague in Bonn, Erich Kaufmann, who had served as foreign policy adviser to Weimar governments in the Stresemann era.<sup>82</sup> Schmitt then helped furnish replacements for the

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<sup>78</sup> Schmitt’s attack on the traditional ban on retroactive laws is most clearly stated in his essay “Nationalsozialismus und Rechtsstaat,” *Juristische Wochenschrift* 63 (1934), 713-718. The debate over whether the new Nazi state was a *Rechtsstaat* began when the new Minister of Justice for Bavaria Hans Frank (1900-1946) stated in 1933 that “Hitler’s state is a *Rechtsstaat*.” Frank’s redefinition of a *Rechtsstaat* was so absurd that it could not be taken seriously by a thinker as serious as Schmitt. Frank could claim identity between a *Hitlerstaat* and a *Rechtsstaat* only by naming Hitler the embodiment and enactment of law defined as the “original right” (*Urrecht*) of every people “to shape its state institutions in a way that suits it for its existence.” See Hans Frank, *Rechtsgrundlegung des nationalsozialistischen Führerstaates* (München: F. Eher, 1938), 1. On the debate sparked by Frank’s statement, see Michael Stolleis, *The Law under the Swastika: Studies on Legal History in Nazi Germany*, trans. Thomas Dunlap (Chicago: University of Chicago Press, 1996), 103-105.

<sup>79</sup> Schmitt, “Neue Leitsätze für die Rechtspraxis,” *Juristische Wochenschrift* 62 (1933), 2792.

<sup>80</sup> Ernst Forsthoff, *Der totale Staat* (Hamburg: Hanseatische Verlagsanstalt, 1933), 30; Ernst Rudolf Huber, “Gerhard Leibholz, *Die Auflösung der liberalen Demokratie und das autoritäre Staatsbild* (1933),” *Archiv für öffentliches Recht* 24 (1934), 248.

<sup>81</sup> Quoted in Hugo Sinzheimer, *Jüdische Klassiker der deutschen Rechtswissenschaft* (Frankfurt a.M.: Vittorio Klostermann, 1953), 4. The resolution was this conference on “Jewishness in Jurisprudence” held by the University Instructors Group of the National Socialist Lawyers Union on October 3 and 4, 1936 was to affirm Schmitt’s proposal to create a bibliography of all legal works authored by Jews (in the recent Nuremberg definition) and require all Nazi authors to provide caveats when citing such texts. For a more in-depth discussion of the conference see Gross, *Carl Schmitt and the Jews*, 68-76, and Max Weinrich, *Hitler’s Professors: The Part of Scholarship in Germany’s Crimes against the Jewish People* (New York: YIVO, 1946), 39-40.

<sup>82</sup> On Schmitt’s campaign against Kaufmann, see Gross, *Carl Schmitt and the Jews*, 26.

most prominent of the roughly 120 professors of law forced out of their positions.<sup>83</sup> The Nazi leadership appointed Schmitt president of the newly created Academy of German Law, chief of the leading Nazi legal journals, as well as editor of an important series of pamphlets entitled “The Present-day German State” (*Der deutsche Staat der Gegenwart*).

Over the next five years, Schmitt and his students argued an elaborate case in front of the Nazi leadership and the German people. They submitted the following argument: The idea of the *Rechtsstaat* since the Enlightenment had not only been shaped by Jews, but by the “Judaic spirit” (*jüdischer Geist*).<sup>84</sup> Schmitt attempted to show that, while *prima facie* the Jewish classics of German jurisprudence had been enemies of one another—Preuss had regarded Stahl as the “inverter of science,” and Kelsen, Kaufmann, and Heller had butted heads in the legal journals of Weimar—there existed a deeper intellectual unity among them behind their assimilatory masks. As we have seen, Schmitt was right when he claimed that what united them was a basic faith in the *Rechtsstaat*. They all insisted that the state remain bound to “general laws” in its administration of society, and that all state actions be *formally legal*, grounded in some version of legitimacy prior to, or standing above, the will of the political leadership. That also united them with the entire tradition of German jurisprudence since its foundation as a science in the nineteenth century. By attacking the *Rechtsstaat* idea at its foundation, Schmitt found a rhetorical strategy to link Jewishness to the entire development of German jurisprudence since “Stahl-Jolson.”<sup>85</sup> He “unmasked” the Catholic Kelsen as Judaic in his Pharisaic fetishization of positive law; the atheist Marx as Judaic in his prophetic demand for “true law.” The conclusion of this line of argumentation was that the *Rechtsstaat* idea *as well as* its Marxist antithesis—the two expressions of Jewishness in modernity—both

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<sup>83</sup> It has been calculated that of the 378 law professors in Germany in 1932, the Nazi regime removed 120, the vast majority of whom were of Jewish descent. Ingo Müller, *Hitler's Justice: The Courts of the Third Reich* (Cambridge, MA: Harvard University Press, 1990), 69.

<sup>84</sup> Claiming later to be interested not in racial theory *per se* but rather in secularized forms of religious mentalities, Schmitt preferred the term “critical of the Jews” (*judenkritisch*) to “antisemitic.”

<sup>85</sup> He not only presented these arguments himself but delegated them to his doctoral students, who then mimicked his arguments in their dissertations. See for example Günther Krauss, *Disputation über den Rechtsstaat* (Hamburg: Hanseatische Verlagsanstalt, 1935), especially 14-22 on Jolson (Stahl), with introduction and after-word by Schmitt and published as volume 17 the “Der deutsche Staat der Gegenwart” series. Other legal theorists critiqued “Stahl-Jolson” and his positivist successors from a different standpoint. The specialist in church law Johannes Heckel (1889-1963) accused Stahl of having theorized a “typically Judaic” version of the German state in which mere *accordance* with state law was substituted for a sincere *commitment* to state and Christian values. See Heckel, “Der Einbruch des jüdischen Geistes in das deutsche Staats- und Kirchenrecht durch Friedrich Julius Stahl,” *Historische Zeitschrift* 155 (1937), 50-541, and an earlier version of the same article in *Forschungen zur Judenfrage* 1 (1937), 110-136. On the context of Heckel’s research see Alan E. Steinweis, *Studying the Jew: Scholarly Antisemitism in Nazi Germany* (Cambridge, MA: Harvard University Press, 2006), 109-110.

attempted to *destroy* the strong state.<sup>86</sup> The logical consequence was that the Nazi state must defend itself against the attack.

Schmitt's portrayal of the *Rechtsstaat*, Marxism, and the Judaic spirit as a secularized version of the Unholy Trinity was not the only anti-Judaic theory of the state circulating in Nazi Germany, but it was the best fit for the original legitimization of the Nazi consolidation of power. In constructing a total anti-Judaic, anti-legalistic theory of the state, Schmitt outperformed his competitors from the conservative wing of the idealist school who merely intensified the anti-Western strain of the Weimar jurisprudence retaining the *Rechtsstaat* concept. In a protracted campaign against Schmitt, jurists such as the Munich Professor of Law Otto Koellreutter described German political life as an organic evolution from a "liberal-bourgeois" to a "national" and finally to a "national socialist" *Rechtsstaat*.<sup>87</sup> They regarded the primary enemy of a Germanic state theory to be Roman, not Judaic, in origin, though antisemitism was consistent with their critique insofar as it was common during the Weimar Republic to associate the "Judaic" and "Roman" legal mentalities ("Judeo-Roman law").<sup>88</sup> Koellreutter's campaign against Schmitt within the Academy of German Law was partially successful, but conservative jurists were eventually forced to abandon what one legal historian described as the widespread "illusion that the new regime, once the initial revolutionary phase was over, would establish itself as a 'national *Rechtsstaat*.'" <sup>89</sup> Schmitt's linkage of the *Rechtsstaat* with an enemy Judaic spirit was far more pleasing to the Nazi leadership, which defended Schmitt against accusations of relativism.<sup>90</sup>

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<sup>86</sup> Schmitt eventually came to see Baruch Spinoza (1632-1677), whom he called "the first liberal Jew," as the thinker who translated Cartesian philosophy into modern "anti-state" political-legal thought against the "failed attempt" of Thomas Hobbes to provide the intellectual foundations of the strong state. See Schmitt, *Der Leviathan in der Staatslehre des Thomas Hobbes. Sinn und Fehlschlag eines politischen Symbols* (Hamburg: Hanseatische Verlagsanstalt, 1938).

<sup>87</sup> On Koellreutter's hostility toward Schmitt, see Schmidt, *Otto Koellreutter, 1883-1972*, 53-59. Koellreutter praised Schmitt's *Verfassungslehre* of 1928 for demonstrating that the true, "absolute constitution" (as opposed to the "relativistic [liberal] constitution") determines the "concrete total condition of the political unity and social order of a specific state," but he insisted that the goal of the state is not only to "bring into constitution" (*in Verfassung bringen*) the political unity of the people, but also to bring it "into legal form" (*in rechtliche Form bringen*) in a *Rechtsstaat*. Koellreutter, *Grundriß der Allgemeinen Staatslehre* (Tübingen: Mohr, 1933), 83-84.

<sup>88</sup> Nicolai, *Der Staat im Nationalsozialistischen Weltbild* (Leipzig: Hirschfeld, 1934), 18-20. Nicolai, who considered himself the "guardian of the *Rechtsstaat*" during the Nazi period, argued that in the Roman system "law stands under the state," while in truly German law it "stands over the state," expressed through the "legal feeling" (*Rechtsgefühl*) of the people. See Martyn Housden, *Helmut Nicolai and Nazi Ideology* (New York: St. Martin's Press, 1992), 171.

<sup>89</sup> Michael Stolleis, *A History of Public Law in Germany, 1914-1945*, trans. Thomas Dunlap (Oxford: University of Oxford Press, 2004), 250, and L. Gruchmann, *Justiz im Dritten Reich 1933-1940: Anpassung und Unterwerfung in der Ära Gürtner* (Munich: Oldenbourg, 1988).

<sup>90</sup> Under pressure, Schmitt resigned as president of the Academy of German Law in 1936, but he continued to enjoy political support from Nazi leadership and retained his Berlin professorship for the duration of the regime.

### III. The Rapprochement of Christianity and Social Democracy in Emigration

The most influential constitutional theorists of the Weimar period who were forced into exile from 1933 to 1935 because of their Jewish ancestry quickly set out to analyze what had gone wrong. Some did not survive the flight: Hermann Heller, for example, the man who would have been most equipped to take stock after defeat, died after fleeing to Spain in 1933 at the age of just forty-two. Erich Kaufmann and Hugo Sinzheimer fled to the Netherlands, where they were forced into hiding when the country was occupied in 1940. Hans Kelsen escaped to Geneva, Prague, and finally to the United States. The most promising of the young generation of public law thinkers—Ernst Fraenkel, Franz L. Neumann, and Gerhard Leibholz—found refuge in England and the U.S.<sup>91</sup>

Schmitt's theory of the Nazi state was so thoroughly adopted in the beginning years of the Nazi state that many of the most incisive analysts of National Socialism in exile—many of whom had been admirers or even friends of Schmitt in the 1920s—mistakenly conflated his cynical use of the “Jewish Question” to undermine the theory of the *Rechtsstaat* with the place of antisemitism in Nazi ideology as a whole.<sup>92</sup> Even with full knowledge of the Holocaust, Social Democrats such as Ernst Fraenkel and Franz L. Neumann could argue in 1945 that racial antisemitism in Nazi propaganda, like anti-Freemasonry in fascist Italy, had served the primary purpose of creating a mythical and permanent “enemy” to justify the continuing suspension of justice and the rule of law. Idealist legal thinkers such as Leibholz, on the other hand, tended to emphasize the attack on *Christian* values of equality and love in their interpretations of Schmitt's antisemitism.

It has not previously been shown how the Nazi attack against the *Rechtsstaat* brought together an alliance of otherwise extremely diverse legal thinkers.<sup>93</sup> From the 1930s into the 1950s, jurists from both the liberal Social Democratic school and the Christian idealist school took up a common defense against Schmitt's prosecution under the common banner of “natural law.” This new allied group consisted primarily of legal

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<sup>91</sup> Reinhard Mehring described these three men, along with Schmitt's students Ernst Friesenhahn (1901-1984) and Otto Kirchheimer (1905-1965), as the most important of the student generation. Mehring, “The Decline of Theory,” in *Weimar*, 314.

<sup>92</sup> Among the most trenchant, Franz L. Neumann, *The Governance of the Rule of Law* (London, 1936), and Karl Loewenstein, “Law in the Third Reich,” *Yale Law Journal* 45 (1936), 779-815.

<sup>93</sup> Few scholars have examined the influence of emigration on the development of state law theory between Weimar and the Federal Republic. The one exception perhaps is Söllner, *Zur Archäologie der Demokratie in Deutschland*. However, Söllner did not contextualize the emigrés sufficiently in their various Weimar and Nazi-era milieus. Dian Schefold was correct to write that “research on the continuities between the 1920s and the 1950s cannot leave out the period in between, but rather must ask how the treatment of state law in the first republic reacted to its demise and what consequences it had for the second republic.” Dian Schefold, “Geisteswissenschaften und Staatslehre zwischen Bonn und Weimar,” in *Erkenntnisgewinne, Erkenntnisverluste: Kontinuitäten und Diskontinuitäten in den Wirtschafts-, Rechts- und Sozialwissenschaften zwischen den 20er und 50er Jahren* (Stuttgart: Steiner, 1998), 588, 573.

thinkers of Jewish descent – not because of any inherent “Jewish” or “Judaic” psychological characteristics, as some continue to claim, but because German scholars in emigration were able to create intellectual and cultural networks that would have been impossible for jurists remaining in Nazi Germany to pursue. Section three examines the development of these networks in exile.

### *IIIa. The Social Democratic School’s Response to National Socialism*

Sinzheimer, Heller, Fraenkel, and Neumann stood witness in May 1933 as social law was beaten to a pulp when the National Socialist regime seized the offices and possessions of labor unions and abolished the free labor contract.<sup>94</sup> Among the representatives of Social Democratic jurisprudence who soon found themselves in exile, Sinzheimer was the first to make a sustained counter-argument to Schmitt from the perspective not only of German legal history but of German *Jewish* legal history. His *Jewish Classics of German Jurisprudence*, published in Dutch exile in 1938, was an attempt both to disprove Schmitt’s narrative of negative Jewish influence and to replace it with a counter-narrative that would serve what he considered the inevitable post-Nazi era.

Surveying the thought of twelve of the most important legal scholars of Jewish heritage in Germany, beginning with Friedrich Julius Stahl, Sinzheimer aimed to recover the “specific intellectual structure of Jewish legal scholars.” There could be no doubt as to the Jewish influence in Germany, Sinzheimer wrote. “*The question is, what was the content of this influence?*”<sup>95</sup> The commonality among Jewish legal thinkers, he argued, lay not in their attachment to legal positivism but in their fusion of the *historical school* and *natural law* traditions in German jurisprudence.<sup>96</sup> Sinzheimer admitted, with Schmitt, that all Jewish legal thinkers from Stahl to Philipp Lotmar shared the “*notion of the individual rights of man,*” whether they grounded them in “metaphysical,” “social-ethical,” or “sociological” ideas. “The result is always the same,” he wrote. “There can be no moral form of community without the recognition of the intrinsic value of men. In contrast, however, neither can there be a moral form of the individual without a recognition of the intrinsic value of the community.”<sup>97</sup> Sinzheimer showed that Schmitt himself had recognized the contribution of Jews to overcoming positivism before 1933 and cynically associated all Jewish thinkers with Kelsen.

Amazingly, Stahl—who had opposed full Jewish emancipation in 1848 and was perhaps the greatest theoretical enemy of progressive jurisprudence before 1933—emerged in Sinzheimer’s new intellectual genealogy during emigration as a German

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<sup>94</sup> For a good introduction to what happened to social law after 1933, see Marc Linder, *The Supreme Labor Court in Nazi Germany: A Jurisprudential Analysis* (Frankfurt am Main: Victorio Klostermann, 1987).

<sup>95</sup> Sinzheimer, *Jüdische Klassiker der deutschen Rechtswissenschaften* (Amsterdam: Hertzberger, 1938), 1, 5-7. Emphasis in the original.

<sup>96</sup> *Ibid.*, 238. Emphasis in the original.

<sup>97</sup> *Ibid.*, 242.

Jewish great-grandfather of the natural law renaissance in Weimar.<sup>98</sup> Schmitt was right, then, to speak of a “specific Jewish spirit” in German jurisprudence, Sinzheimer argued – but it was “neither specific, nor Jewish.” “*The spirit of the Jewish classics of German jurisprudence is simply the scholarly spirit,*” he concluded. This spirit was steadily unfolding over the course of the nineteenth and twentieth centuries in the direction of “social law.”<sup>99</sup>

Sinzheimer would gain his own “classic” place in post-WWII Germany as the established father of German labor law, but he never again worked on German soil, dying just months after coming out of hiding in Amsterdam in 1945.<sup>100</sup> The scholar who carried his legacy into exile and eventually returned it to Germany was Sinzheimer’s closest student and former assistant Ernst Fraenkel (1898-1975).<sup>101</sup> Sinzheimer considered Fraenkel his “intellectual successor,” and Fraenkel called *Jewish Classics of German Jurisprudence* “perhaps Sinzheimer’s most accomplished book.”<sup>102</sup> Fraenkel is now considered even more of a “classic” in German political thought than his mentor.<sup>103</sup> But the question of why Fraenkel would have considered *Jewish Classics* above all of Sinzheimer’s majestic oeuvre the most “accomplished” has never been addressed.

Born in turn-of-the-century Cologne but raised largely in Frankfurt, Fraenkel was typical of the large set of “German Jews beyond Judaism” who had come to associate their Jewishness more with an *intellectual* tradition of left-liberal Enlightenment values than with religious orthodoxy.<sup>104</sup> Like many in his generational and social cohort who

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<sup>98</sup> Ibid., 246-47.

<sup>99</sup> Ibid., 244.

<sup>100</sup> Though Sinzheimer survived hiding in the Netherlands, he died several weeks after the end of World War II with much unpublished material in his literary estate.

<sup>101</sup> Fraenkel is not to be confused with two other German scholars of Jewish origin who shared his name and his fate as an exile and returnee - the economist Ernst Fraenkel (1891-1971), who taught in Frankfurt after the war, and the linguist Ernst Fraenkel (1881-1957), who led the seminar for comparative linguistics in Hamburg from 1945 to 1954.

<sup>102</sup> Sinzheimer’s widow Paula wrote to Fraenkel’s sister Marta just after Sinzheimer’s death in September, 1945: “My mother once spoke of the divergence of generations, that one cannot understand the other. There Hugo said, ‘That is not so. I am truly of a different generation than Fraenkel and still I know, he is completely in line with me [*ganz in meiner Linie*]. He thinks as I do. We understand each other always.’ He considered your brother as his intellectual successor.” Paula Sinzheimer to Marta Fraenkel, October 20, 1945, Leo Baeck Institute, Marta Fraenkel Collection, 4348, I, Folder II. For Fraenkel’s thoughts on Sinzheimer’s *Jüdische Klassiker*, see Fraenkel, *Reformismus und Pluralismus. Materialien zu einer ungeschriebenen politischen Autobiographie* (Hamburg: Hoffmann und Campe, 1973), 134.

<sup>103</sup> See Buchstein, “Ernst Fraenkel als Klassiker,” *Leviathan* 26, no. 4 (1998), 458-482, and Bleek, *Klassiker der Politikwissenschaft: von Aristoteles bis David Easton* (München: Beck, 2005).

<sup>104</sup> George Mosse, *German Jews Beyond Judaism* (Bloomington: University of Indiana Press, 1985). Fraenkel wrote in his political autobiography, “My education was carried out under the sign of the Enlightenment, which also characterized the position of my family toward Jewishness.” Fraenkel, *Reformismus und Pluralismus*, 14.

came of age at the dawn of the Republic, Fraenkel grew up largely indifferent to Zionism and unmoved by the romantic yearnings of the German youth movement. Like others, he volunteered at a young age to fight in World War I, “deeply convinced that the war signified the end of German antisemitism.” The disillusionment from that conviction in the later stages of the war formed what Fraenkel later called his “political *ur*-experience” and the emotional kernel of his later theory of pluralism.<sup>105</sup> Returning from the front injured and with a medal of honor, he gained his degree in law at the University of Frankfurt with Sinzheimer, whose assistant he became in 1921. In the later years of Weimar, Fraenkel moved to Berlin to found a law firm with his friend and fellow Sinzheimer student Franz L. Neumann and became general council for the largest labor collective in Germany, the German Metal Workers’ Union. Together with the slightly older Hermann Heller, Fraenkel and Neumann were the rising stars in social democratic jurisprudence and according to many headed for top positions in a future SDP-led government. Nazism’s destruction of social democracy destroyed these prospects when Fraenkel was thirty-five years old.

Unlike Neumann, however, Fraenkel was a decorated war veteran and married to a Christian woman, which meant that while the former fled Germany in 1933, Fraenkel remained in Berlin as a practicing lawyer for members of the resistance until 1938. The end of Weimar also marked a theoretical break between Fraenkel and Neumann. Angered with the failure of the Social Democrats to form a united leftist front with the Communist Party against Nazism, Neumann was radicalized; emigrating in 1933, he turned away from the strict study of jurisprudence to write a dissertation on the rule of law under the Marxist political scientist Harold Laski in London before joining Max Horkheimer’s Institute for Social Research in New York.<sup>106</sup> Fraenkel, meanwhile, remained firmly ensconced in legal questions, but his interest turned from private to public law. From 1933 to 1938, he researched and wrote the book for which he is best known in the United States: *The Dual State: A Contribution to the Study of Dictatorship*. Written in German but first published in the United States in 1941 with an English translation by the Chicago sociologist Edward Shils, it is the only extant analysis of National Socialist legal theory and practice written by a jurist in the German resistance residing in Nazi Germany. Fraenkel intended it as a guidebook for the reestablishment of the *Rechtsstaat* after Nazism.<sup>107</sup>

The major argument of *The Dual State* can be outlined as follows. Based on a close reading of Schmitt and his competitors in Nazi jurisprudence (such as Koellreutter), Fraenkel observed that the Nazi party’s monopoly over decision-making was

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<sup>105</sup> Fraenkel, *Reformismus und Pluralismus*, 14-15.

<sup>106</sup> See Martin Jay, foreword to Neumann, *The Rule of Law*.

<sup>107</sup> Fraenkel to Wolfgang Krueger, Oct. 26, 1952: “I wrote the *Dual State* fifteen years ago [...] not for an audience of American university professors and graduate students but rather—so I hoped then—for German readers, once they were once again able to break through toward the truth.” NL 274/7, Ernst Fraenkel Papers, Bundesarchiv, Koblenz.

fundamentally incompatible with the German civil service's demands for legal predictability. The party was hostile to all formal rules and interested only in "material or substantive justice," i.e., the strengthening of the Aryan race. As a result, Fraenkel demonstrated, Hitler often encountered stubborn resistance from conservative legal thinkers who demanded the codification of rules – even if those rules amounted to legalized discrimination, such as in the Nuremberg Laws of 1935.<sup>108</sup> Schmitt, whom Fraenkel called "the most brilliant political theorist of post-war Germany," had solved this vexing conflict between "decisionism" and "normativism" by suggesting a third type of legal thinking based on a "concrete theory of order" (*konkretes Ordnungsdenken*), according to which decision-makers find at least *some* basis within the written legal codes for their actions.<sup>109</sup> The problem nevertheless persisted and created a "dual state": on one hand a "normative state," a flimsy version of a *Rechtsstaat*; and on the other a "prerogative state," the *Hitlerstaat*, the true sovereign that easily overrode the former. Several emigré critics of Fraenkel's work noted that the Nazi party increasingly abandoned even the *pretenses* of legality.<sup>110</sup> Nevertheless, in terms of empirical accuracy for the period during which the book was researched, 1933 to 1938, Fraenkel's analysis has stood the test of time.<sup>111</sup>

Perhaps even more important than Fraenkel's study of the existing Nazi legal system, however, were his reflections on the meaning of Nazism's "campaign against natural law" for the post-Nazi reconstruction and potential Social Democratic cooperation with Christian groups. Neumann, understandably embittered by the memory of how Smend's idealist school had undermined social law and served the interests of monopoly capitalism in Weimar, refused after 1933 to accept *any* version of natural law in his study of 1936.<sup>112</sup> Fraenkel, on the other hand, followed Sinzheimer and Heller to parse the

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<sup>108</sup> Fraenkel, *The Dual State* (New York: Oxford University Press, 1941), 47.

<sup>109</sup> See Schmitt, *Über die drei Arten des rechtswissenschaftlichen Denkens* (Hamburg: Hanseatische Verlag, 1934), and Fraenkel, *The Dual State*, 131, 142.

<sup>110</sup> R.W. Kempner, review of *The Dual State* in *Annals of the American Academy of Political and Social Science* 216 (July 1941), 183. Neumann and Kelsen argued after reading *The Dual State* that if the notion of "the state" had been defined since Hegel through the rule of law, i.e., as a *Rechtsstaat*, Hitler's Germany could not be called a state at all. The question of whether Nazi Germany could be called a "state" depended on an interpretation of its compatibility with Hegel. The distinction was of more than merely academic importance when the Allies demanded unconditional surrender from the German army and prepared for the prosecution of German war criminals.

<sup>111</sup> On the continuing relevance of *The Dual State* in Germany, where it was published *Der Doppelstaat* (Frankfurt am Main: Europäische Verlagsanstalt, 1974), see Wildt, "Die politische Ordnung der Volksgemeinschaft. Ernst Fraenkels *Doppelstaat* neu betrachtet," *Mittelweg* 36, no. 2 (2003), 45-62.

<sup>112</sup> Matthias Ruetze, introduction to Neumann, *Rule of Law*, xxiii. Neumann's destruction of natural law theories made it difficult for him to justify theoretically resistance to unjust laws. See Neumann, "On the Limits of Justifiable Disobedience," in *Conflict of Loyalties*, ed. R.M. McIver (New York: Harper, 1952), 49-56.

ideals of natural law as a counter-argument against Schmitt.<sup>113</sup> By characterizing Social Democratic legal thought as part of the natural law renaissance of the 1920s—what he called “proletarian natural law”—Fraenkel provided a theoretical basis for an alliance of Christianity, Judaism, and labor against Nazism. He was careful, however, to distinguish between what he considered pernicious and productive versions of natural law. This section of the book bears the strong methodological imprint of Max Weber’s historical sociology of law, minus Weber’s notorious “value neutrality.”

Fraenkel distinguished between two types of natural law thinking since the seventeenth century: first, the traditional Christian system, which survived in Germany through the various churches, especially Catholicism and the Jehovah’s Witnesses, and according to which the “laws of nature” were equivalent to the will of God; and second, “secular Natural Law” (his capitalization), which developed in the seventeenth century to form the basis for the *Rechtsstaat*. So far, his analysis mirrored Schmitt’s, though with an important caveat.<sup>114</sup> Within the secular tradition, Fraenkel demonstrated two further distinctions that Schmitt had conflated. Drawing on the sociology of Weber and Ferdinand Tönnies, he called them respectively the “societal” (*gesellschaftlich*) and “communal” (*gemeinschaftlich*) ideal types of natural law. According to Fraenkel, “societal natural law” conceived the social unit as a plurality of individuals who constructed law rationally to avoid anarchy, whereas “communal natural law” conceived the social unit as an already harmonious but partially irrational ethnic organism whose natural *byproduct* was law. Fraenkel portrayed the latter, organic version of natural law, whose influence in the twentieth century he traced back to Otto von Gierke, as the forerunner of racialized law.

As others later pointed out, Fraenkel’s use of Tönnies’s categories was partially a false dichotomy. It was true that many Nazi jurists—mainly Schmitt’s conservative competitors—claimed to be heirs to Gierke’s historicist tradition, but Fraenkel downplayed Gierke’s foundational importance for liberal democratic and Social Democratic jurists in the pre-WWI period as well as for monarchists.<sup>115</sup> If Fraenkel’s obfuscation was purposeful, it was for political reasons. By salvaging a rationalist natural law tradition for social democracy at precisely a moment when many influential leftist

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<sup>113</sup> For a comparison of Fraenkel’s and Neumann’s analysis, see William Scheuermann, “Social Democracy and the Rule of Law: The Legacy of Ernst Fraenkel,” in *From Liberal Democracy to Fascism: Legal and Political Thought in the Weimar Republic*, ed. Peter Caldwell and William Scheuermann (Brill, 2000), 73-105.

<sup>114</sup> Fraenkel did not agree with Schmitt that the classical age of secular natural law initiated by Descartes and Grotius was merely a “secularization” of Christian ideas. “While it is true that the Christian religion is both historically and doctrinally bound to Natural Law, rationalistic Natural Law is not necessarily dependent on the Christian notions with which it has often been associated.” Fraenkel, *The Dual State*, 122. Hans Blumenberg would later take up and develop Fraenkel’s line of argument in his *Die Legitimität der Neuzeit* (Frankfurt am Main: Suhrkamp, 1966).

<sup>115</sup> The most obvious examples being Hugo Preuß, but also his own teacher Sinzheimer, who, before the fascist revolutions in Italy and Germany, considered Gierke a *sine qua non* of the evolution of German social law. See Sinzheimer, “Otto von Gierkes Bedeutung für das Arbeitsrecht,” *Arbeitsrecht* (1922), 1f.

émigré jurists were dismissing it as groundless, Fraenkel created a basis for political cooperation with Christian resistance groups. In the immediate wake of the Hitler-Stalin pact, this was an eminently practical position, though it meant that Fraenkel had to downplay his own (and Sinzheimer's) Marxist materialism.

As we have seen, the Social Democratic milieu from which Fraenkel emerged had long been hostile to cooperation with Christian groups, and vice versa. The battle of Marx and Engels against "Natural Law Socialism," not to mention their strict historical materialism, had prevented the cooperation of Marxist social democracy and Christian socialism. It was finally the failure of democratic groups to form a united front before it was too late in 1933 that led Fraenkel to seek out the theoretical foundation that could animate a fight of German labor and Christianity against National Socialism.<sup>116</sup> He found it in "societal" or "proletarian" natural law theory. This transformation in Social Democratic theory, however, would not be possible *in spite* of Marx and Engels; he would have to read them against the grain.

In *The Dual State*, Fraenkel argued that despite Marx and Engels' proper hostility to *premature* utopianism, such as pacificism, the two founders of atheistic socialism shared a belief in the category of natural law:

Marxian theory is characterized both by the rejection of all utopian applications of Natural Law for the duration of the class struggle, and by the vision of an order governed by Natural Law following the termination of class conflict. If this interpretation of Marxism is correct, there can be no objection to the affiliation of the German Marxists with the United Front, which is composed of groups whose ethical demands are based on Natural Law. The Marxists, however, insist that their opposition to National-Socialism is owing primarily not to its suspension of the inviolability of law for a limited period, but rather to the refusal of National Socialism ever to subordinate its state to a legal ideology derived from absolute values.<sup>117</sup>

For five years Fraenkel observed firsthand as National Socialist courts persecuted Marxists, Jews, and practicing Christians alike – the latter despite the Catholic and Protestant churches' official accommodation to Nazism. He represented all of these groups in front of Nazi courts. However, it is clear that Fraenkel, in contrast to his former colleague Neumann, preferred a coalition of German labor with the Christian resistance to a front with atheistic socialist groups such as *Neubeginnen*.

The most telling evidence of Fraenkel's decision to ally labor with Christianity against Nazism was his reliance on the authority of the late work of the Protestant theologian Ernst Troeltsch (1865-1923) in *The Dual State*. According to Fraenkel, Troeltsch had been the first in Germany to recognize that the natural law tradition to

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<sup>116</sup> Fraenkel, *The Dual State*, 127: "This discussion of the interrelationships between Socialism and Natural Law raises the question as to what extent the remnants of proletarian Socialism can co-operate with groups believing in rationalist Natural Law in a common front against National-Socialism."

<sup>117</sup> *Ibid.*, 129.

which Christianity was heir had found its purest secular expression in social democracy, which “was now the bearer of the traditions of the sects.”<sup>118</sup>

When he fled to the United States in 1938 with no clear job prospects It seems that Fraenkel chose the University of Chicago in particular to study for a second law degree in large part because of the legal ecumenism for which it had become known. The president of Chicago, former dean of Yale law school Robert Hutchins, had recently undergone his own transformation from a “legal realism” at Yale—heavily influenced by Social Democratic and other sociological jurisprudence in pre-Nazi Germany—to a “natural law” theory upon which he was shaping the curriculum of his adoptive university. While at Chicago, he helped the American Catholic social thinker James Luther Adams translate the Protestant Tillich’s German essays “The Religious Symbol” into English in 1941. The following year in New York, he explained his symbolic position as a willing “slave” for two organizations, the American Federation of Jews from Central Europe led by the German Social Democratic lawyer Rudolf Callmann and the Selfhelp for Emigrés from Central Europe led by the theologian Tillich:

Both masters are reasonable men and are living in different spheres: the one in the realm of physics, the other in the realm of metaphysics. Since my Jewish boss [Callmann] is an expert in the field of “Unfair Competition” and my Gentile boss is primarily concerned with the questions how the “Demonic” can be replaced by the power of “Love” in man – my position is rather easy as far as the synchronization of the two organizations is concerned. I am serving as a sort of interpreter in order to explain to both of them that “Unfair Competition” is “demonic” – “fair competition” is “love” and that the alien problem is exactly the same from both points of view.<sup>119</sup>

In other words, Fraenkel’s self-declared role in American exile as “mediator” was self-consciously “Judeo-Christian”: between Social Democracy, which he obviously considered somehow a Jewish legacy, and Christian Socialism.

Fraenkel had abandoned two aspects of his Reform Marxism of the Weimar period: its hostility toward religion and its idea of the eventual dictatorship of the proletariat. Pointing to rationalist natural law as the common ancestry of both Social Democrats and Christians, Fraenkel illuminated a common goal for the two groups in the reconstruction of what Heller had called the “social *Rechtsstaat*.” In a memo for the U.S. State Department entitled “The New Construction of the *Rechtsstaat* in Post-Hitler Germany,” Fraenkel insisted in 1943 on only three founding prerequisites for the reestablishment of continuity in the German legal tradition. First, he wrote, there must be an “education of the people toward the consciousness of law.” Second, labor must be encouraged to reorganize. And finally, “the reconstruction of the *Rechtsstaat* necessitates the protection of religions. *Religion teaches the unending worth of each individual’s soul.*” This was an important shift for a former Marxist. He assured his mainly Christian readers that it was not Social Democracy *per se* but rather “dictatorship” that represented

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<sup>118</sup> Ibid., 126.

<sup>119</sup> Fraenkel to Otto Kahn-Freund, June 20, 1942, quoted by Simone Ladwig-Winters, *Ernst Fraenkel. Ein politisches Leben* (Frankfurt am Main: Campus, 2009), 366.

a “deification” of the state that “suffers no God next to itself.”<sup>120</sup> For this reason Fraenkel would later be able to point to religious freedom—not the nationalization of industries—as the primary touchstone of dictatorship in the Soviet Union and its satellite in East Germany.

Fraenkel’s second turn in exile was his appreciation for American legal culture, and in particular the U.S. Supreme Court’s use of judicial review. This transformation will be discussed further below.

### *IIIb. The Christian Idealist School’s Reaction to National Socialism*

A fusion of theoretical horizons analogous to Fraenkel’s was simultaneously taking place in exile with the German emigré jurist Gerhard Leibholz. Three years Fraenkel’s junior, Leibholz was born in 1901 to Jewish parents in Berlin. His mother, though, had become a practicing Lutheran, whose faith the young Leibholz adopted in lieu of his ancestral Judaism. In the 1920s, Leibholz’s intellectual brilliance catapulted him to a full professorship in state law at the University of Greifswald in 1929, and three years later at the even more prestigious University of Göttingen, the birthplace of classical German idealism.

Leibholz’s jurisprudence in the Weimar era combined a committed democratic theory with an idealist philosophy that prevented him from mourning the collapse of the Weimar Republic in 1933. Like many young law students returning from action in the Great War, he was drawn to professors who sought a more organic and communitarian—that is, *Germanic*—style of democratic rule of law than the “Western” examples afforded.<sup>121</sup> Such a conception of law derived above all from Hegel’s *Philosophy of Right*, which held up Christianity as the “foundation” of organic law but ultimately subordinated the church to the state, which would serve as the true expression of the “Christian spirit” in the secular sphere. It followed naturally that Leibholz considered Marxist Social Democracy, with its anti-Christian ideology, inimical to German values. Though an early supporter of the Republic and an intermittent member of the German Democratic Party Hugo Preuss had helped found, Leibholz demonstrated that he was a willing enough supporter of an authoritarian version of democracy if it meant protecting the German idea of the state against communism.<sup>122</sup>

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<sup>120</sup> Fraenkel, “Der Neuaufbau des Rechtsstaats in nach-Hitlerischen Deutschland,” 4. Italics mine. Reprinted in Fraenkel, *Gesammelte Schriften*, ed. Gerhard Göhler, vol. 3 (Baden-Baden: Nomos, 1999), 78-81.

<sup>121</sup> For example his mentor at the University of Berlin, Heinrich Triepel, was known to be critical of the jurisprudential legacy of Grotius and Pufendorf, the “conceptual realism of scholasticism” and the “abstracting tendency of the Enlightenment and of Kantian and post-Kantian idealism. Triepel, “Law of the State and Politics,” translated in *Weimar*, 184.

<sup>122</sup> Leibholz, *Die Auflösung der liberalen Demokratie in Deutschland und das autoritäre Staatsbild* (Berlin: Duncker & Humblot, 1933). On Leibholz’s ambivalence see Manfred H. Wiegandt, “Antiliberal Foundations, Democratic Convictions: The Methodological and Political Position of Gerhard Leibholz in the Weimar Republic,” in *From Liberal Democracy to Fascism: Legal and Political Thought in the*

A belief that the conservative parties might help return Germany to a *Rechtsstaat* after the rise of National Socialism in 1933 was Leibholz's likely justification for remaining a professor of law in the new regime, but this would not last long. Like Fraenkel, he was temporarily allowed to retain his civil service post because of his status as a veteran of the Great War, but only until the passage of the Nuremberg Laws in 1935.<sup>123</sup> Feeling physically endangered in 1938, Leibholz was rescued by the pacifist Anglican Bishop of Chichester George Bell, who was arranging the flight of leading Lutheran theologians in the anti-Nazi resistance including Martin Niemöller and Leibholz's brother-in-law, Dietrich Bonhoeffer.<sup>124</sup> Bishop Bell helped arrange for a lectureship at the University of Oxford.

Leibholz's case provides solid evidence that the specific circumstances of one's emigration played an important role in how individual emigrés developed their thought in exile as they imagined a post-Nazi order. Leibholz was literally saved by a Western Christian. It was in England that Leibholz revised his previously ambivalent stance toward the "Western" concept of the rule of law and its relationship to Christianity.<sup>125</sup> Instead of positing an antagonistic relationship between the two, as he had done in the early Weimar period, in British exile he observed in the year of the Hitler-Stalin pact that "totalitarianism" was a far graver threat to Christianity than "Western materialism."<sup>126</sup> "Christianity and modern Western civilization hold common ground today," he declared in 1942. Drawing on the analysis of Max Weber and others, Leibholz held that ground to be "natural law."

However—perhaps also inspired by Weber—Leibholz was prepared to accept "Western civilization" and its legal foundations only on the condition that it understood the proper relationship of Western politics to Christianity. Westerners, he argued, must

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*Weimar Republic*, ed. Peter C. Caldwell and William E. Scheuermann (Boston: Humanities Press, 2000), 106-135.

<sup>123</sup> Leibholz resigned preemptively in the knowledge that he would be stripped of his citizenship. See Wiegandt, "Antiliberal Foundations, Democratic Convictions," 113.

<sup>124</sup> It was also thanks to Bell that Leibholz was released from "enemy alien" internment when war broke out between England and Germany.

<sup>125</sup> See Ernst-Albert Scharffenorth, "Die Aufgabe der Kirche in Kriegszeiten. Der Einsatz von George Bell und Gerhard Leibholz für eine konstruktive Deutschlandpolitik Großbritanniens 1941-1943," *Kirchliche Zeitgeschichte* 1, no. 1 (1988), 94-115.

<sup>126</sup> He had already begun to recognize this shift in the last years of the Weimar Republic, but had not yet developed a solution. In the final issue of the publication for the Association of German State Law Teachers before the Nazi takeover, Leibholz wrote that "the true struggle today is no longer the struggle of the liberal, if also strongly social, not to say socialistic forces [i.e. the Social Democratic school] against the socially oriented conservative powers [i.e. the idealist school], but rather the struggle between the forces that affirm mass democracy and the intrinsic value of individual character and the mythically established movements that aim to transcend freedom of the individual in a more or less radical collectivism." Leibholz, "Die Wahlrechtsreform und ihre Grundlagen," *Veröffentlichungen der Vereinigung der Deutschen Staatsrechtslehrer* 7 (1932), 230.

do more than recognize the “roots” of their political system in the church, as theorists from Hegel to Weber to Schmitt had done; they must also recognize the unending *political* task of the church. In a series of lectures delivered at Oxford in 1942 and published as *Christianity Politics and Power*, Leibholz asserted what he considered the pressing Christian task in political life. Leibholz was invited by Anglican priests interested in learning about the German Lutheran theological approach to law and political philosophy.

In a critique of the idealist jurisprudence of the Weimar era—to which he himself had been party and which, largely in line with the dominant Lutheran theology of Weimar, posited a strict separation of the political and religious spheres—he argued that in addition to preaching the gospel, Lutheranism’s postwar responsibility would be “to take care that the fundamental teaching of Christian morality and Christian faith as contained in the Gospel controls the life of the nations.”<sup>127</sup> This responsibility, he said, must outstrip the *basic* duty in Luther’s theology “to resist in the political field if the State claims to reign over souls and conscience and in this way intrudes on the spiritual affairs of the Church,” and instead take a more positive, active guardianship over the political order – similar to that which the Vatican had taken since the late nineteenth century.<sup>128</sup>

When Leibholz ended his lecture series calling for a unified Christian church to “re-christianise the world,” he was not advocating a new role for missionary work nor advancing a vague call for world love and brotherhood, but rather denying the ability of secular philosophy—in either its idealist or rationalist forms—to provide the ultimate foundations for the rights of the individual. Clearly an astute reader of Schmitt’s exposition of the concept of sovereignty in *Political Theology* (first published in 1922), Leibholz concluded in light of the intervening twenty years that “he who decides on the state of the exception” must be the church alone. Though he wholeheartedly adopted the rationalist natural law foundations of Western liberalism and democracy in exile, he also held that “without the Christian faith, liberal belief in reason loses its ground.” “This was possible because the Liberal, unlike the Christian, does not distinguish right and wrong, because, according to his optimistic creed, man is, by his nature, reasonable and, therefore, never wrong,” he said.<sup>129</sup>

He further outlined this new theory of Christianity and the state in a lecture entitled “The Foundations of Justice and Law in the Light of the Present European Crisis,” delivered at a conference on “natural law” in 1943. Accepting Schmitt’s argument that the only legitimate state is the “just state” (*gerechter Staat*) and not a state based on the formalistic and dogmatic idea of legal positivism, he argued against Schmitt

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<sup>127</sup> Leibholz, *Christianity Politics and Power* (London: Sheldon Press, 1942), 4.

<sup>128</sup> He distinguished “true Lutheranism,” which justified resistance against the state, from the “radical” version of theologians such as Paul Althaus, who Leibholz claimed had helped paint a caricature of Lutheranism in the Western imagination. *Ibid.*, 17-18, 63.

<sup>129</sup> *Ibid.*, 54.

that a state whose sovereign was law was the *prerequisite* for justice, provided that law was guarded by an active Christianity:

Without law the State runs the risk of finding itself in a permanent condition of confusion and disorder. Only by the State subordinating itself in its political sphere at the same time to the rule of law does it rise out of the sphere of mere politics and enter the sphere of the spirit. Only by this means can legality be brought into line with legitimacy. Only by this means does a State become a Constitutional State, a *Rechtsstaat*, or, what is the same, a just State.<sup>130</sup>

Leibholz's analysis of Nazism's disordered and unanchored relationship to law mirrored Fraenkel's in *The Dual State*, but from the Christian as opposed to a rationalist point of view. Like Fraenkel's and other Social Democratic theorists' use of anti-positivist natural law theory in exile, Leibholz mobilized the concept to argue that the true *Rechtsstaat* was not merely a state ruled under law, but a state that maintained *just* law.

Schmitt's anti-Judaic anti-legalism led Leibholz to the conclusion that there were certain lines that positive law could not cross without becoming "un-law" (*Unrecht*) and losing all binding force. This did not mean a rejection of *all* unjust law, as Leibholz explained at length:

Where there are differences of opinion as to the question whether the basic principles of Christian Natural Justice have been infringed by positive law—in other words, in all genuine questions of doubt, when it is difficult to discriminate what is just and what is unjust, one must, for the sake of security and order, comply with the act which claims to be law, even if it possibly conflicts with the permanent principles of Natural Law. For the same reason, 'propter vitandum scandalum vel turbationem', Thomas of Aquinas and the scholastic doctrine of Natural Law demanded obedience to the 'leges injustae' if it was not certain that they were in conflict with the 'bonum humanum'. [...] On the other hand, in all extreme cases if there is no possibility of justifying the rule laid down and if, from the Christian view of common good, there is no serious doubt as to the 'crying injustice' (as the scholastic doctrine of Natural Law would say) of the human 'law', Justice takes precedence over security and the existing authority. Then Natural Law overrules human law and 'legi humanae non est parendum.' A law which expressly or implicitly or implicitly infringes in a manifest manner upon the ordinances of God and the existence of the eternal principles of Natural Law is—as Calvin would say—a bad law. In truth, it is no law at all and has no binding force whatsoever.<sup>131</sup>

Leibholz's political-theoretical use of "Western Christians" Calvin and Aquinas marked his definitive break with the Lutheran idealist tradition of Kaufmann and Smend and their focus on "unwritten law" outside of the constitution. It was not the judge's role to interpret the will of the people, Leibholz argued, but rather to serve as the final guardian

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<sup>130</sup> Gerhard Leibholz, "The Foundations of Justice and Law in the Light of the Present European Crisis," in *Justice and Law* (Leyden: A.W. Sythoff, 1965), 265. The lecture was delivered at St. Deiniol's Library, Hawarden, and first published in *The Dublin Review*, Jan. 1943.

<sup>131</sup> Leibholz, "The Foundations of Justice and Law in the Light of the Present European Crisis," 268-69.

of *only* those foundational values rooted in Christianity, without which there is “crying injustice.”<sup>132</sup>

Born in the same Weimar milieu, German Social Democratic and German Christian jurisprudence eventually allied on the common ground of natural law in Western emigration, but it took the common enemy of Nazism and its founding legal theorist, Schmitt, to get there. Though they were unaware of each other’s activities in exile, by 1945 both were willing to “renounce” the immediacy of their Weimar ideals of justice—Fraenkel the elimination of class inequality, Leibholz the social values of Christianity—in order to secure guarantees that positive law could not violate natural law in a future *Rechtsstaat*. They came to agree that the state’s attempt to effect social justice could be pernicious if not coupled with the protection of individual and social rights rooted in rationalist natural law. The unresolved question then became *how* to combine these two imperatives in a “republican, democratic, and *social Rechtsstaat*” – which is what the authors of the Basic Law claimed the Federal Republic to be in 1949.<sup>133</sup>

#### IV. Remigration and the Foundation of West German Social Rule of Law

When occupation officials sought to reopen German legal faculties cleansed of Nazi influence, they found that the German legal faculties were among the most compromised of all university departments from 1933 to 1945. As in other faculties, the former Weimar authorities were restored to positions of academic power in the immediate postwar period. They were literally the “old deans”: Gustav Radbruch, age sixty-seven, acquired deanship of the first legal faculty to open after 1945 at the University of Heidelberg; Rudolf Smend, age sixty-two, took over in Göttingen; and Erich Kaufmann, age sixty-five, returned immediately in 1945 from Dutch exile to take over Koellreutter’s deanship at the reopened University of Munich. At the same time, the founders of the Free University in West Berlin who set out in 1948 to staff their faculty exclusively with opponents of the Third Reich were able to secure only three suitable full-time professors of law by 1951.<sup>134</sup> While Schmitt as well as most of his students and top competitors at the top universities were banned (at least temporarily) from teaching,

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<sup>132</sup> Leibholz argued that the political task of the Church was not “to look after all kinds of state affairs,” but rather to influence “the specific substance and the concrete existence which define the whole character and the very soul of the state.” Quoted in Hans Klein, “Gerhard Leibholz,” in *Rechtswissenschaft in Göttingen*, ed. Fritz Loos (Göttingen: Vandenhoeck & Ruprecht, 1987), 541.

<sup>133</sup> Article 20.1 of the Basic Law: “The Federal Republic of Germany is a democratic and social federal state” (*Der Bundesrepublik ist ein demokratischer und sozialer Bundesstaat*). Article 28.1, which stipulates that individual federal states comply with the federal constitution, reads: “The constitutional order in the [individual] states must conform to the principles of the republican, democratic and social legal state, within the meaning of the Basic Law” (*Die verfassungsmäßige Ordnung in den Ländern muss den Grundsätzen des republikanischen, demokratischen und sozialen Rechtsstaates im Sinne dieses Grundgesetzes entsprechen*).

<sup>134</sup> Fraenkel, “Report on activities 24. April 1951 to 5. August 1951” to John Brown Mason (HICOG), Berlin, Sept. 14, 1951. NL 274 / 71, Fraenkel Papers.

the “denazification” of legal faculties was also plagued from its inception by administrative and political problems. Above all, it was the dearth of reputable personnel that led to the “multiple restorations” of the immediate postwar period, both of Weimar- and Nazi-era elites.<sup>135</sup>

But denazification also had real consequences that are rarely acknowledged in the scholarship on postwar German intellectual history.<sup>136</sup> The removal of top Nazi jurists meant that scholars returning from forced emigration, even more than scholars who could claim “inner emigration” or persecution within Germany under the Nazi regime, took over official responsibility for reconstructing German political theory and institutions. Leibholz returned from English exile in 1947 to regain his Göttingen chair as a “visiting professor,” but gave it up in 1951 to join the far more influential Federal Constitutional Court in Karlsruhe and to edit the premier journal of jurisprudence in the Federal Republic, the *Yearbook of Public Law*. Fraenkel returned in 1951 from war-torn Korea, where he had been chief legal counsel to the American occupation since 1946, to join a group of former emigré jurists in West Berlin.<sup>137</sup>

Other returnees of Jewish heritage took up the most prestigious chairs in legal faculties. Nineteen years after being stripped of his teaching post in Frankfurt (where he had been a student of Sinzheimer’s), Ernst Hirsch (1902-1985) returned from Turkish exile in 1952 to become full professor in the legal faculty and rector of the Free University from 1953 to 1955.<sup>138</sup> The scholar of private law Fritz Neumark (1900-1991),

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<sup>135</sup> Jeffrey Herf, “Multiple Restorations: German Political Traditions and the Interpretation of Nazism, 1945-1946,” *Central European History* 26, no. 1 (1993), 21-55; Steven Remy, *The Heidelberg Myth. The Nazification and Denazification of a German University* (Cambridge, MA: Harvard University Press, 2002), 116. Official bans did not halt the influence of the “Schmitt School” in the postwar period. See Jan-Werner Müller, *A Dangerous Mind: Carl Schmitt in Post-War European Thought* (New Haven, CT: Yale University Press, 2003).

<sup>136</sup> For one exception to this general rule, see Bernd Weisbrod, “The Moratorium of the Mandarins and the Self-Denazification of German Academe: A View from Göttingen,” *Contemporary European History* 12, no. 1 (2003), 47-69.

<sup>137</sup> For a full description of this group, see Katrin Krehan’s *Die Reintegration von Juristen jüdischer Herkunft an den Berliner Universitäten nach 1945* (Berlin: Wissenschaftlicher Verlag, 2007), which includes chapters on Fraenkel, Ossip Flechtheim, Ernst Eduard Hirsch, and many others.

<sup>138</sup> See his autobiography, Hirsch, *Aus des Kaisers Zeiten durch die Weimarer Republik in das Land Atatürks. Eine uneitgemäße Autobiographie* (München: J. Schweitzer, 1982), especially 345-51. As an indicator of the important role returning legal scholars played for the postwar student generation, Hirsch was the model for an important character in Bernhard Schlink’s popular novel *Der Vorleser* (1995), in which the protagonist, a young man growing up in postwar Germany and confronting the past for the first time at university, remembers his experience in the legal faculty (based on Schlink’s experience in West Berlin). Schlink’s narrator remembers, “Our professor, one of the few at that time who were working on the Nazi past and the related trials, made it the subject of a seminar,” exploring the questions: “What is law? Is it what is on the books, or what is actually enacted and obeyed in a society? Or is law what must be enacted and obeyed, whether or not it is on the books, if things are to go right. The professor, an old gentleman who had returned from exile but remained an outsider among German legal scholars, participated in these debates with all the force of his scholarship, and yet at the same time with a detachment that no longer relied on pure scholarship to provide the solution to a problem.” Schlink, *The Reader*, trans. Carol Brown Janeway (Random House: New York, 1997), 90-91; personal email correspondence, March 17, 2009.

too, returned from Ankara and became dean of the legal faculty and rector of the University of Frankfurt.<sup>139</sup> Walter Jellinek regained his chair and judgeship in Heidelberg and sat on the small preparatory committee for the postwar constitution of the state of Hesse. Hans Nawiasky (1880-1961) returned from Switzerland in 1946 and helped shape the constitution of Bavaria as professor of state law in Munich, where he joined Leo Rosenberg (1879-1963), who had also regained his position in 1946 after surviving the war in hiding in the Bavarian alps.<sup>140</sup> Schmitt complained to his former student Forsthoff that the planned reintegration of exiled legal thinkers was part of what he sneeringly considered an intellectual version of the Morgenthau Plan.<sup>141</sup>

The founding years of the Federal Republic in the 1950s were indeed defined by a unified spirit among returning jurists, but it was neither an American “Morgenthau” or British “Vansittarist” plan. Despite their fundamentally divergent worldviews and cultural milieus, Leibholz could write to Fraenkel in 1953 about their “common work” (*gemeinsame Arbeit*) returning from American and British exile to the Federal Republic.<sup>142</sup> Both Fraenkel and Leibholz sought to affirm and buttress the theoretical and historical foundations of the new constitutional order in “natural law” against Schmitt.<sup>143</sup> Both agreed that the organization of Weimar legal-political thought had been fundamentally flawed. As returning emigres, they sought to strengthen new institutions, inspired by their experience in exile, which they believed could aid Germany in the avoidance of another crisis in the theory of the state.

It is well known that jurists in the Federal Republic held up the natural-law theory of the *Rechtsstaat* established in the Basic Law as the foundational difference between West and East Germany after 1949. What is less often noted is that the renaissance of natural law also provided the theoretical reconciliation that eventually found political

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<sup>139</sup> Neumark, *Zuflucht am Bosphorus. Deutsche Gelehrte, Politiker und Künstler in der Emigration 1933-1953* (Frankfurt: Josef Knecht, 1980).

<sup>140</sup> Others, whose “influence” was more diffuse but who became popular lecturers among postwar German students, returned as American citizens to teach as guest professors throughout the late 1940s and 1950s: the labor lawyers Heinrich Hoeniger (1879-1961) and Heinrich Kronstein (1897-1972), the professors of comparative law Max Rheinstein (1899-1977) and Ernst Joseph Cohn (1904-1976), the legal sociologist Otto Kirchheimer (1905-1965), the comparative constitutionalist Karl Loewenstein (1891-1973), the professor of administrative law Fritz Morstein Marx (1900-1969), and many others.

<sup>141</sup> Schmitt to Forsthoff, September 3, 1949, in *Briefwechsel Ernst Forsthoff - Carl Schmitt* (Berlin: Akademie, 2007), 52: “It is sad to see the zeal with which German university professors execute the Morgenthau Plan, which could not be carried through in the industrial-economic sector but can in the intellectual and academic realm.”

<sup>142</sup> Leibholz to Fraenkel, August 23, 1953. NL 274 / 10, Fraenkel Papers.

<sup>143</sup> Peter Stirk has noted that “although Leibholz and Fraenkel differed on the fundamental nature of parliamentary party democracy, both sought to legitimate the role of political parties. Fraenkel’s account was ultimately more realistic and more influential, but the disagreement was about how to best understand, and legitimize, the democratic order of the Federal Republic.” Stirk, *Twentieth-century German Political Thought* (Edinburgh: Edinburgh University Press, 2006), 146.

expression in the rapprochement of the reconstituted German Social Democracy Party and the newly ecumenical Christian Democratic Union. The first sign of this was the famous “conversion” of the former Social Democratic minister of justice in the Weimar Republic, Radbruch.<sup>144</sup> A well-known legal positivist in the 1920s, Radbruch argued in 1946 that preference should always be given to “positive law,” but

where there is not even an attempt at justice, where equality, the core of justice, is deliberately betrayed in the issuance of positive law, then the statute is not merely ‘false law,’ it lacks completely the very nature of law. For law, including positive law, cannot be otherwise defined than as a system and an institution whose very meaning is to serve justice.<sup>145</sup>

Radbruch’s conversion was an important turning point in the history of Social Democratic jurisprudence, but Radbruch died in 1949. Smend, Radbruch’s Christian interlocutor, retired in 1951.<sup>146</sup>

It was therefore left largely to the younger Fraenkel and Leibholz, as the primary links to the Weimar discourse, to oversee the practical institutionalization of the theory of natural law in the Federal Republic.<sup>147</sup> Their “common work” in separate spheres established a theoretical and practical connection between the pragmatic wing of the SPD and the trade unionist wing of the CDU. This final section describes their innovations from 1951 to 1959.

#### *IVa. Ernst Fraenkel and the “Ascendancy of the Pragmatic Reformers” in the Bonn Republic*

Fraenkel’s transformation from Weimar to Bonn—from a Reform Marxist union attorney to a pragmatic Social Democratic “political scientist”—was of more than purely biographical significance. Indeed, his contribution to the institutional establishment of “political science” as a legitimate discipline *outside of German legal faculties* was

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<sup>144</sup> See Gustav Radbruch, “Gesetzliches Unrecht und übergesetzliches Recht,” first published in the *Süddeutsche Juristen-Zeitung* 1 (1946), 105-108. This shift also launched a foundational debate in Anglo-American legal scholarship on the nature of positive and natural law. For a good introduction to the debate between the British legal philosopher H.L.A. Hart and the American Lon Fuller, see Stanley Paulson, “Lon L. Fuller, Gustav Radbruch, and the ‘Positivist’ Theses,” *Law and Philosophy* 13, no. 3 (August, 1994), 313-359.

<sup>145</sup> Quoted in *ibid.*, 317.

<sup>146</sup> The only other jurist in postwar Germany who could be said to have exerted a similar amount of influence on the theoretical reconstruction of the *Rechtsstaat* was Smend, who had maintained a low profile during the Nazi period by publishing only on the history of church law.

<sup>147</sup> Kaufmann was also such a link, but his preference for a monarchical solution seems to have remained relatively unchanged by the experience of National Socialism, making him suspect in the eyes of the Allies but perhaps ideal for Adenauer. Box 10: 5/291-3/10, Stack area 360, row 46, compartment 12, shelf 5, Gen. Corr. Vol VI A., Education and Cultural Relations office – Education Branch, RG 260, Project Number: NND 775052, OMGUS Files, National Archive, College Park, Maryland.

intimately bound up to the establishment of natural law theory in the Federal Republic. The circumstances of his return in this connection are also important in understanding the rapprochement of Social Democracy and Christianity.

Fraenkel made the decision to return to Germany in 1951 at the persistent requests of his former colleague in labor organization, Otto Suhr (1894-1957). As a Jew, he initially refused the request in 1946 to contribute to the reconstruction of Germany. But when he was forced to evacuate Korea in 1950, he tentatively reconsidered.<sup>148</sup> His arrival in West Berlin at age fifty-three initiated what many regarded as his most productive intellectual period.<sup>149</sup> The democratic theory of “pluralism” he systematically outlined during the 1950s has secured him a place in the history of postwar German political and jurisprudential thought as a “classic,” and his works of political science are still taught in today’s German high schools. Chancellor Helmut Kohl—significantly, the Christian Democratic politician who would become chancellor in the 1980s—noted that Fraenkel “theoretically re-founded pluralistic democracy.”<sup>150</sup>

But Fraenkel was not a political scientist in the American sense of an empirical analyst of trends in public opinion and domestic and international affairs. Indeed, Kahn-Freund described Fraenkel’s *Politologie* as “enlightened theory of the state.”<sup>151</sup> His main interest lay in philosophical questions relating to the law, especially during the foundational years of the Federal Republic, to the question of sovereignty in a *Rechtsstaat*.<sup>152</sup> The passionate advocacy of Fraenkel and other jurists returning from exile

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<sup>148</sup> Suhr attempted to lure Fraenkel back directly after the war to no avail. Fraenkel wrote him in 1946, “Now that 5,000,000 [sic] Jews have been murdered, I feel solidarity with the Jews – and only with them. ... I was in Germany long enough [until 1938] to know that a considerable proportion of the German population endorsed Hitler’s measures against the Jews. After this campaign has led to massacre, it is not permissible for me as a Jew ever again to make the cause of this people my own.” Fraenkel to the Suhr family, March 23, 1946, published in *Gesammelte Schriften*, Bd. 3, ed. Gerhard Göhler (Baden-Baden: Nomos, 1999), 389-395. On Fraenkel’s tenure as legal adviser in South Korea from 1946 to 1950, see the chapter on Fraenkel in Udi Greenberg, “Cold War Weimar: German Emigre Intellectuals and the Origins of the Cold War” (Ph.D. Dissertation, Hebrew University - Jerusalem, 2010).

<sup>149</sup> Quoted from Otto Kahn-Freund’s speech at Fraenkel’s burial, April 8, 1975, NL 274/195, Fraenkel Papers.

<sup>150</sup> Helmut Kohl to Fraenkel, Dec. 26, 1973, AR 4348, folder III, Marta Fraenkel Collection, Leo Baeck Institute Archive, New York.

<sup>151</sup> Otto Kahn-Freund, “Grabrede für Ernst Fraenkel,” April 8, 1975, NL 274/195, Fraenkel Papers. Also see Susanne Benzler, “Aufgeklärtes Staatsrecht – Ernst Fraenkel,” in *Judentum und politische Existenz. Siebzehn Porträts deutsch-jüdischer Intellektuellen*, eds. Michael Buckmiller et al. (Hanover: Offizin, 2000), 327-358.

<sup>152</sup> As Frieder Günther has noted, Fraenkel’s theory of pluralism was increasingly adopted by professors of state law in German legal faculties in the 1960s. Günther, “‘Staatsrechtslehre’ between Tradition and Change: West-German University Teachers of Public Law in the Process of Westernization, 1949-1970,” presented at a Conference at the German Historical Institute, Washington, D.C., March 25-27, 1999: “The American Impact on Western Europe: Americanization and Westernization in Transatlantic Perspective,” 17.

for the development of a “science of politics” (*Wissenschaft von der Politik*) in the 1950s can only be understood as a step in the evolution of German *legal* thought.<sup>153</sup>

Practically, Fraenkel intended for new chairs of political science in the philosophical faculties to replace the “theory of the state” (*Staatslehre*) chairs in the legal faculties. According to him, this institutional shift offered a way out of the pitched battle that had riddled German idealist jurisprudence since Kant and Hegel. As long as the legal faculty was solely responsible for theorizing the state, and the philosophical faculty solely responsible for theorizing civil society, he held, the Weimar-era antinomies—such as those between “the spirit” and materialism, between religion and Social Democracy—were bound to reemerge.<sup>154</sup> Fraenkel looked to his experience in the U.S. for a solution: in the creation of a political science department that would address questions of the state. He had no intentions however of a simple adoption of the American educational system, which he considered inapplicable in many respects with the German historical tradition:

Nothing lies further from my mind than the proposal to reconstruct German universities after the American model. American Law Schools are schools for lawyers, while German legal faculties are above all geared toward training future civil servants and judges. ... The central problem for the handling of Poli Sci in German universities is therefore the relationship between a future science of politics (*Wissenschaft von der Politik*) and what has up till now been carried on as the General Theory of the State and state, administrative, and international law in jurisprudence.<sup>155</sup>

Fraenkel suggested that German students be able to graduate with a degree in political science, as one would in economics or psychology. Constitutional and political theory would in this way develop institutionally independent from the practice of applying constitutional law, as it did in the United States.

But what did this have to do with natural law and the *Rechtsstaat*? Fraenkel answered that question in two West Berlin radio lectures in 1953 entitled, respectively, “Natural Law and Positive Law” and “The Principles of the *Rechtsstaat*.” These lectures, broadcast over the American station RIAS (Radio in the American Sector) to a large

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<sup>153</sup> Alfons Söllner has identified this as the common thread running through the work of returning exile scholars working as “political scientists” in the Federal Republic. As he notes, there was no “common political or even theoretical orientation in our group. Rather, the contrary was the case,” clearly shown by a comparison of the “conservative” (ultimately religious Christian) positions of Leibholz, Eric Voegelin, and Arnold Bergstraesser with the left-liberal ideas of Fraenkel and Neumann. Söllner, “From Public Law to Political Science? The Emigration of German Scholars after 1933 and Their Influence on the Transformation of a Discipline,” in *Forced Migration and Scientific Change: Émigré German-speaking Scientists and Scholars after 1933*, ed. Ash and Söllner (Cambridge: Cambridge University Press, 1996), 246-272, here 264.

<sup>154</sup> Fraenkel to Suhr, Feb. 8, 1952, NL 274 / 8 fol. 1, Fraenkel Papers. Franz L. Neumann, who was active in the foundation of the Free University where Fraenkel now taught, was also adamant on this point, suggesting that “the anchoring of political science in the legal faculty is the end of political science.” Quoted in Söllner, “Die Gründung der westdeutschen Politikwissenschaft - ein Reimport aus der Emigration?” 262.

<sup>155</sup> Fraenkel to Suhr, Feb. 8, 1952.

German audience in the West and parts of the East, were pedagogical in tone and carefully constructed for clarity. What they lacked in theoretical nuance (with which Fraenkel's writings were usually blessed), they gained in perfect lucidity. Thus for the intellectual historian, they are useful as statements of Fraenkel's postwar thought *in nuce*.

Both lectures stated the fundamentals of an anti-positivist critique of a purely formalistic conception of the *Rechtsstaat* against Stahl and Kelsen. Legal positivism suffered from a basic *aporia*, Fraenkel argued:

When the application of laws not only in exceptional cases, but rather over and over again contradicts that which strikes our consciences, our instinctual legal feeling (*Rechtgefühl*), as just and fair, it is then that an inner conflict arises in the organs that protect the law, and a tension that is unsustainable in the long run is created between the lawgiver and those subject to it.<sup>156</sup>

Quoting Radbruch's statement that the "tragedy of the individual judge" was the tendency "always to ask whether something is law – and never to ask whether it is just," Fraenkel suggested that the positivist revolution in the nineteenth century had been responsible not only for the defenselessness of the legal profession (as outlined in *The Dual State*) but of the German people in general. Unlike in England, he argued, where the "heroic struggle" for the rule of law was waged against the absolutist tendencies of the English royalty, in the German states the *Rechtsstaat* idea had developed in harmony with absolutism and had therefore come to mean "above all not the goal or content of the state, but rather only the form and character of their realization."<sup>157</sup> Precisely as the idea of *Rechtsstaat* was emptied of its normative content as defense against unjust and arbitrary rule and translated instead into an apolitical, value-free formal category, so, too, did the entire German population "learn" to ask *what* law was rather than whether it was "natural," i.e. "just." he suggested. The analysis suggested that Germans could just as easily un-learn that style of thinking given the correct educational institutions.

The legal faculties were the proper place for defining what and how law *is*, he argued, whereas the political science department in the philosophical faculty should be the venue for asking how law *ought* to be and whether existing law is just.<sup>158</sup> The "struggle between positive law and natural law," he said, was a "human problem that will always remain an uncompleted task." "Rigid legal positivists" read slavishly only in the fine print, while "uncritical natural law theorists" in Weimar believed "they could brush aside positive law with a wave of the hand."<sup>159</sup> A middle path was the only solution for German jurisprudence, whereby an individual judge must first and foremost act in accordance with the letter of the law, and then, if only as a second consideration, check it against "our conscience – *whether on the basis of religious or moral commitments*,"

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<sup>156</sup> Fraenkel, "Naturrecht und Positives Recht," in *Gesammelte Schriften*, vol. 5, 367-68.

<sup>157</sup> Quoted in Fraenkel, "Die Prinzipien des Rechtsstaates," in *ibid*, 357.

<sup>158</sup> Fraenkel, "Naturrecht und Positives Recht," in *ibid*, 367.

<sup>159</sup> *Ibid.*, 369.

which are rooted in the idea of universally valid “natural law.”<sup>160</sup> But this of course begged the question: What “conscientious” literature should judges read to supplement the fine print of the legal codes?

Recognizing the impossibility of battling legal positivism on its own turf in the legal faculties, Fraenkel assigned to *political scientists and sociologists* the task of defining these “natural” fundamentals of law and “guarding” the natural law tradition against the inflexibility of legal positivism. He argued that the concept of the inviolability of law, the foundation of the *Rechtsstaat*, was only “beneficial” when liberated from its isolation in legal formalism—what his colleague Neumann called “constitutional fetishism”—and understood in its “basic political meaning” with the aid of political science:

The science of politics will not quibble with jurisprudence’s position as guardians of the formal principle of the inviolability of law. Jurisprudence, for its part, should recognize that it is the task of a science of politics to prevent the slide of the *Rechtsstaat* idea into legal formalism *through an emphasis of the material principle of justice in applied law*.<sup>161</sup>

Whereas in Weimar Fraenkel had sought (like his Social Democratic colleagues Heller and Sinzheimer) to overcome positivism within the legal faculties themselves, Fraenkel now suggested an institutional division of theoretical labor as a compromise. The postwar legal faculties could remain “guardians” of legal formality if political science were created as a preserve for natural law thinking, as a kind of check and balance against the former, he said.

In this context it becomes clear why Fraenkel insisted that the new discipline remain “normative” and resist the major trend in American political science toward “value freedom” in the 1950s. It also explains why Fraenkel would have turned down an offer in 1954 to become Sinzheimer’s successor as professor labor law in Frankfurt, in order to instead continue his “task” of establishing political science as a respected and autonomous discipline in the Federal Republic.

Fraenkel’s idea of political science as a natural-legal check against the German science of positive law opened the new discipline up to attacks that it could not be both normative and scientific at the same time.<sup>162</sup> Furthermore, because political science chairs were supported by the American occupation of Germany as part of its “reeducation” policy, many critics derided the new discipline as an imposition of Allied reeducation and

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<sup>160</sup> Ibid., 368.

<sup>161</sup> Fraenkel, “Die Prinzipien des Rechtsstaates,” in *ibid*, 363-64. Emphasis mine.

<sup>162</sup> *Introduction and Development of Political Science in German Universities: Abstract of the Discussion in the Conference at Schloß Waldleiningen, Sept. 10-11, 1949* (Frankfurt am Main: Institut zur Förderung öffentlicher Angelegenheiten, 1949). On the problem that this created for the development of the discipline, see Marsen, *Zwischen Reeducation und politischer Philosophie. Der Aufbau der politischen Wissenschaft in München nach 1945* (München: Fink, 2001).

even lambasted Fraenkel in particular as a “cultural commissar” of the Americans.<sup>163</sup> But this was a deeply inaccurate portrayal of Fraenkel’s motivations, which ultimately diverged from those of Cold War hard-liners in the American state department.<sup>164</sup>

Fraenkel’s increasingly successful attempt over the course of the 1950s to usurp authority over political theory from the legal faculties led inevitably to an antagonistic relationship with jurists in the Federal Republic. When he finally managed to integrate the German Academy for Politics (*Deutsche Hochschule für Politik*), the premier extra-academic institution of political science in Germany since the Weimar Republic, into the philosophical faculty of the Free University in 1959, it was not before facing virulent opposition from legal faculties from all over Germany and especially from the dean of the FU faculty, Wilhelm Wengler (1907-1995).<sup>165</sup> “I belong to the philosophical, not the legal faculty,” Fraenkel told fellow emigré jurist Karl Loewenstein in 1958. “Jurists are against political science – above all Wengler, with whom one can simply not get along.”<sup>166</sup> The objection of the legal faculties in the first decade of the Federal Republic sprang from deep-seated hostility toward the American occupation and the democratic natural law renaissance it supported. During an address in 1959 at the Free University, he railed against the “wild disrespect for judicial autonomy” that he believed characterized the 1950s.<sup>167</sup>

But jurists could not curb the movement of state theory into the philosophical faculties in West Germany. When the German Academy for Politics became the Otto Suhr Institute for Political Science of the Free University in 1959, it became a model and

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<sup>163</sup> Jürgen von Kempfski, “Politologie: Eine Art Tribunal,” *Der Spiegel* 49 (1966), 167-69. See also Kempfski, “Wissenschaft von der Politik – sozusagen,” in *Merkur* Jg. 20, Heft 5 (May 1966), 454.

<sup>164</sup> See Lamberti, “Returning Refugee Political Scientists and America’s Democratization Program in Germany after the Second World War.” Indeed, the first senate of the Free University entertained doubts about political science, expressing concerns that it was an American import; it even held a vote to reject a “mere imitation” of the American version of the discipline. Gerhard Göhler, “Die Wiederbegründung der Deutschen Hochschule für Politik. Traditionspflege oder wissenschaftlicher Neubeginn?” in: Göhler and Bodo Zeuner, eds., *Kontinuitäten und Brüche in der deutschen Politikwissenschaften* (Baden-Baden: Nomos 1991), 158.

<sup>165</sup> “The fostering of a science of politics, which examines, like a social psychoanalysis, the religious, moral, and socio-economic foundations of political thought,” Fraenkel told a West German radio audience, “is plainly a vital necessity for a democracy that will never again be willing to capitulate before the *grands simplificateurs terribles*.” Fraenkel, untitled mss. for RIAS lecture, probably 1953/54, NL 274/ 11, Fraenkel Papers.

<sup>166</sup> Fraenkel to Loewenstein, Nov. 22, 1958, NL 274/30, Fraenkel Papers. See Wilhelm Wengler, “Die Nichtanwendung nationalsozialistischen Rechts im Lichte der Rechtsvergleichung und der allgemeinen Rechtslehre” (1949) in *Schriften zur deutschen Frage 1948-1986*, ed. Gottfried Zieger (Berlin: Walter de Gruyter, 1987), 14.

<sup>167</sup> Probably with Fraenkel in mind, Wengler spoke out against “the public opinion of the free world [that] tends, grotesquely, toward bringing the judge into the same position that he was accorded in the totalitarian state: [that] he should be a kind of seismograph, who should only respond to the prevailing forces of society.” Wengler, “Über die Unbeliebtheit der Juristen,” *NJW* (1959), 1707.

headquarters for the fastest growing discipline of the 1960s. Returning emigrés who taught in this new discipline of political science were responsible for the intellectual development of the Federal Republic's most influential political thinkers in that decade – Hennis, Jürgen Habermas (b. 1929), Kurt Sontheimer (1928-2005), and Karl Dietrich-Bracher (b. 1922), to name just a few.

As much as it must be stressed that West German political science was not an imposition of American reeducation but rather an institutional expression of an internal German intellectual development, it is also important to note that Fraenkel's postwar political theory represented a major transformation from the Social Democratic jurisprudential thought of the Weimar era. Fraenkel posited continuity with Weimar Social Democracy, but he also whitewashed both its Marxist and idealist roots in order to form alliances with left-leaning Christian democratic thinkers.<sup>168</sup> It was telling that one of his closest colleagues in the 1950s was the "inner emigré" and Christian Democrat Otto Heinrich von der Gablentz (1898-1972), whereas in Weimar it had been the atheist Franz Neumann.

Postwar alliances such as Fraenkel and Gablentz provided the model for large-scale organizational cooperation between the SPD and the CDU. It was no coincidence that the famous "Bad Godesberg Program" that SPD leadership accepted as its party platform to replace the antiquated Heidelberg Program of 1925 included the following language in its section on "religion and church": "Socialism is no replacement for religion," its authors assured Christian voters. The party, it continued, "welcomes individuals who, from out of their religious affiliation, affirm a duty toward social action and toward responsibility in society."<sup>169</sup>

#### *IVb. Gerhard Leibholz and the New Militancy of German Constitutional Democracy*

The story of Leibholz's contribution to the institutionalization of natural law theory in the Federal Republic is far more dramatic than Fraenkel's. Leibholz was similarly reluctant to return to Germany when the rectors of the reopened universities in the British zone passed a resolution in October, 1945 to recuperate German professors living in exile.<sup>170</sup> Though he had not found a permanent position in England, the betrayal

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<sup>168</sup> After reading Fraenkel's memorial speech in 1958, his fellow Sinzheimer-protégé Otto Kahn-Freund (1900-1979) criticized Fraenkel for neglecting the idealist and Marxist background of their teacher. Kahn-Freund to Fraenkel, February 15, 1958, NL 274/24, Fraenkel Papers. In Fraenkel's defense, Sinzheimer himself distanced himself from Gierke's tradition after 1933, arguing that a biologicistic conception of the free organization of labor was no longer possible as "heterogenous" (i.e. pluralistic) society replaced unified communities in the twentieth century. Sinzheimer, "Das Transformationsproblem in der Soziologie des Rechts" (1938), in *Arbeitsrecht und Rechtssoziologie*, vol 1, 159.

<sup>169</sup> *Grundsatzprogramm der Sozialdemokratischen Partei Deutschlands. Beschlossen vom Außerordentlichen Parteitag der Sozialdemokratischen Partei Deutschlands in Bad Godesberg vom 13. bis 15. November 1959.*

<sup>170</sup> George Bell to Gerhard Leibholz, October 31, 1945, in *An der Schwelle zum gespaltenen Europa : der Briefwechsel zwischen George Bell u. Gerhard Leibholz, 1939-1951* (Stuttgart: Kreuz, 1974), 238; Leibholz to Bell, November 2, 1945, in *ibid*, 239.

he had experienced in 1935 was not easily forgotten: Smend, the primary author of the aforementioned resolution, was also the man who had taken over Leibholz's chair in state law just ten years earlier.<sup>171</sup> Most of Leibholz's colleagues, including Reinhold Niebuhr, urged him not to return permanently to Germany and "go out of his way" to remind himself of what unspeakable things had happened to his family there.<sup>172</sup> Though he gave guest lectures beginning in 1947 and advised the authors of the planned Basic Law, Leibholz only made the decision to return when he was offered a seat on a new Federal Constitutional Court (FCC) in Karlsruhe.<sup>173</sup> He finally relocated to Germany permanently in the same year as Fraenkel, 1951, the year of the court's creation.

Over the following twenty years, Leibholz was the "dominating personality" of the theory of the state in the Federal Republic.<sup>174</sup> The influence of his ideas on the form and powers of the FCC has drawn comparisons with the analogous efforts of Justice John Marshall in the early years of the U.S. Supreme Court.<sup>175</sup> Ernst Benda (1925-2009), who served as president of the FCC after Leibholz's tenure, wrote in 1981 that Leibholz continued to "tower over his colleagues in stature."<sup>176</sup> Benda named him the intellectual successor to Hugo Preuss.<sup>177</sup> Indeed, one way to measure the transformation in German political theory from Weimar to Bonn is to compare Leibholz to Preuss. Both were German nationalists who felt stigmatized in Germany for their Jewishness and in the West for their Germanness. As democrats, highly aware of the precariousness of basic rights, both arrived at fateful decisions to the fundamental administrative question of democracy: Which institution(s) would serve as the ultimate "guardian of the constitution": the parliament (legislature), the head of state (executive), or a supreme court (judiciary)?

Preuss had envisioned the German parliament, the idealized representation of the general will, as both sovereign and guardian. Even the Weimar Constitution's notorious Article 48, which granted emergency powers to the Reich president, stipulated that

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<sup>171</sup> Leibholz to Bell, November 2, 1945, in *ibid.*, 239-40.

<sup>172</sup> Leibholz to Bell, January 13, 1947, in *ibid.*, 266.

<sup>173</sup> Leibholz to Bell, October 2, 1948, in *ibid.*, 283; Wiegandt, "Antiliberal Foundations, Democratic Convictions," 113.

<sup>174</sup> Frieder Günther, "'Staatsrechtslehre' between Tradition and Change: West-German University Teachers of Public Law in the Process of Westernization, 1949-1970," 12. See also his *Denken vom Staat her: Die bundesdeutsche Staatsrechtslehre zwischen Dezision und Integration* (München: Oldenbourg, 2004).

<sup>175</sup> Schefold, "Geisteswissenschaften und Staatslehre zwischen Bonn und Weimar," 588.

<sup>176</sup> Benda, "Gerhard Leibholz als Bundesverfassungsrichter," in *Der Gleichheitssatz im modernen Verfassungsstaat. Symposium zum 80. Geburtstag von Bundesverfassungsrichter i.R. Professor Dr. Gerhard Leibholz am 21. November 1981*, ed. C. Link (Baden-Baden: Nomos, 1982), 19.

<sup>177</sup> Benda, "Hugo Preuß und Gerhard Leibholz. Von der Weimarer Verfassung zum Grundgesetz."

emergency legislation was subject to annulment through parliament. The notorious problem with this constitutional arrangement, as Preuss himself recognized after the first round of economic and political crises in the Republic between 1920 and 1923, was that *Reichstag* members were “still not sufficiently conscious of its heightened position of united responsibility as guardian of the constitution, and of the legal limitations that the constitution composes.”<sup>178</sup> As further economic crisis paralyzed parliament and created a *de facto* presidential autocracy near the end of the Weimar Republic, the question of guardianship moved to the forefront of debate within the Association for German State Law Teachers, where Leibholz was one of the youngest members.<sup>179</sup>

In his first publications, Leibholz agreed with Preuss’s notion that the parliament should be “bound” to the constitution as a “mouthpiece” of the nation, but he held that it was up to an independent judiciary to guard the most essential idea that animated all modern democratic constitutions – the clause stipulating “equality before the law.”<sup>180</sup> Thus, like Preuss, Triepel, and Kaufmann, he advocated the strengthening of judicial powers in the State Court of the German Reich created in 1921.<sup>181</sup> The problem with strengthening judicial review at that point in Germany history, however—as Sinzheimer and his students Fraenkel and Neumann argued in their opposition to Leibholz—was that the Weimar judiciary apparatus was set up in such a way that conservative judges hostile to social law (and often enough opposed to the Weimar Constitution itself) composed the Constitutional Court.<sup>182</sup> It took the common experience of studying judicial review in British and American exile to bring Leibholz and Fraenkel to an agreement on the proper solution to this conflict between parliamentary and judicial guardianship.

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<sup>178</sup> Hugo Preuss, “Verfassungsändernde Gesetze und Verfassungsurkunde” (1924) in *Gesammelte Schriften*, vol. 4, ed. Detlef Lehnert (Tübingen: Mohr Siebeck, 2008), 550.

<sup>179</sup> The debate began at an Association conference in 1928 with the theme “Staatsgerichtsbarkeit” led by Triepel. See Triepel, “Wesen und Entwicklung der Staatsgerichtsbarkeit,” *VVDStRL*, vol. 5 (Berlin, 1929). See the debate between Carl Schmitt, *Der Hüter der Verfassung* (Tübingen, 1931) and Hans Kelsen, “Wer soll der Hüter der Verfassung sein?” *Die Justiz* 6 (1931), 576-628. For a brief introduction to the Weimar debate, see Robert Christian van Ooyen, “Die Funktion der Verfassungsgerichtsbarkeit in der pluralistischen Demokratie und die Kontroverse um den ‘Hüter der Verfassung,’” introduction to Hans Kelsen, *Wer soll der Hüter der Verfassung sein?* (Tübingen: Mohr Siebeck, 2008), VI-XXIII.

<sup>180</sup> Leibholz, *Die Gleichheit vor dem Gesetz. Eine Studie auf rechtsvergleichender und rechtsphilosophischer Grundlagen* (Berlin: O. Liebmann, 1925). It is telling that Schmitt’s definition of the *Rechtsstaat* in his *Verfassungslehre* (1928) drew directly on Leibholz’s dissertation of 1925. Citing Leibholz, Schmitt wrote, “Equality before the law is immanent to the *Rechtsstaat* concept of the law.” Schmitt, *Constitutional Theory*, trans. Jeffrey Seitzer (Durham, NC: Duke University Press, 2008), 194. Emphasis in the original.

<sup>181</sup> *Ibid.*, 124. On Triepel’s contribution to “opening the way to judicial review (modeled after the U.S. Supreme Court) and to theories of natural law,” see Peter Caldwell, *Popular Sovereignty and the Crisis of German Constitutional Law*, 149.

<sup>182</sup> See Hugo Sinzheimer, “Chronik,” *Die Gesellschaft* 4 (1928/29), 642-643, and Wiegandt, “Antiliberal Foundations, Democratic Convictions,” 117-118.

Leibholz and Fraenkel supported the postwar reconfiguration of the ineffectual Weimar constitutional court. The Weimar-era State Court had been an amorphous institution – the product of difficult compromises. There were no standing justices on the Weimar court. Each time it was called into session, its fifteen members were chosen *ad hoc* based on a complicated formula.<sup>183</sup> Furthermore, the court’s jurisdiction was limited to disputes between state organs.<sup>184</sup> As demonstrated in its decision in 1932 to uphold the Reich’s usurpation of Prussian state autonomy—a case in which Hermann Heller argued for the Social Democratic Prussian regime against Schmitt, representing the Federal Government—the constitutional court had fallen under the influence of antidemocratic forces in large part because it was composed of politically motivated members who did not feel it was their primary calling to guard the constitution.

Under pressure from American officials after the war, the composition and jurisdiction of the court were transformed. Closer to the American model, the members of the new court would be appointed solely by the legislature for standing terms (twelve years), and in addition to disputes between state organs, they would also be responsible for judicial review of parliamentary statutes and of cases where individuals claimed that their constitutional rights had been violated by a public agency. But the Basic Law of 1949 was ambiguous as to the autonomy, and thus to the sovereignty, of a new constitutional court. As the FCC prepared to open its doors in 1951, the Federal Ministry of Justice still retained authority over the organization and procedures of the FCC based on a clause in the Basic Law that granted parliament power over the court.

This is where Leibholz put his stamp on the future of political thought in the Federal Republic. In July, 1951, he drafted a memorandum in the name of the name of the FCC “demanding” complete autonomy from the ministry of justice, including control over procedure, budget, and clerk appointments.<sup>185</sup> Reminding the government of the Weimar experience, Leibholz’s memo stressed how imperative it was that justices of the new FCC *not* be considered civil servants—and thus subject to traditional supervision by the state—but rather “supreme guardians of the Basic Law.” The opinion of Leibholz, who had witnessed directly how the composition of the *Staatsgerichtshof* with civil servants in the Weimar Republic had contributed directly to the collapse of Weimar and to his personal exile, carried special weight in Bonn, especially among Social Democrats. As Donald Kommers has shown, over the course of the 1950s, “all of the ‘demands’ articulated in the Leibholz memorandum had been met.”<sup>186</sup> Leibholz’s hard-fought battle

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<sup>183</sup> It consisted of the president of the *Reichsgericht* (the highest criminal and civil court in Germany), one member each from the three highest *Länder* courts chosen by their respective executive committees, a lawyer chosen by the Chamber of Lawyers in the *Reichsgericht*, and ten further members appointed by the *Reichstag* and *Reichsrat*.

<sup>184</sup> *Gesetz über den Staatsgerichtshof vom 9. Juli 1921*, § 1-4, published in *Reichstags-Handbuch VII. Wahlperiode 1932* (Berlin: Reichsdruckerei, 1933), 94.

<sup>185</sup> Donald Kommers, *The Constitutional Jurisprudence of the Federal Republic of Germany* (Durham, NC: Duke University Press, 1989), 16.

<sup>186</sup> *Ibid.*, 16.

for the FCC's status as supreme "guardian of the constitution" found final expression when official American sovereignty over West Germany finally ended in 1968, and an amendment to the Basic Law was added to ensure that even in a state of emergency, "the function of the Federal Constitutional Court and its justices must not be impaired."<sup>187</sup> That was a final victory over Schmitt and his students, who continued to fight against the ultimate sovereignty of law.

Significantly, the Social Democratic legal thinkers Fraenkel and Neumann changed their opinion from Weimar regarding the desirability of judicial review. This shift was evident in an influential lecture entitled "Labor Law as a Constitutional Problem" that Fraenkel delivered in 1951 to 400 members of the Cologne legal faculty, where the first chief justice of the FCC Hermann Höpker-Aschhoff (1883-1954) was also present.<sup>188</sup> Fraenkel deeply regretted the fact that he had not known enough about the American case when he opposed judicial review in labor law during the Weimar Republic. Pointing to the eminently *political* function of a constitutional court, he explained how a group of progressive justices of the U.S. Supreme Court in New Deal America had transformed the American *Rechtsstaat* into a "social *Rechtsstaat*" by steadily interpreting the Constitution in terms of social law until the idea was finally legislated in 1947 in the Taft-Hartley Act.<sup>189</sup>

The new postwar consensus between thinkers such as Fraenkel and Leibholz on political science and judicial review was rooted in their common turn in exile toward "Western" natural law theory. Leibholz perhaps best summarized this consensus in 1956 in his foreword to the German translation of Leo Strauss's *Natural Law and History*, which he claimed would be "of great importance for the still young German science of politics." "The book is of special importance for the natural-legal conversation," he wrote,

which, precisely in Germany came into play already under the Weimar Constitution with the progressive disintegration of formal-legal legal positivism, experienced an upswing after the collapse of the National Socialist regime, and that found a positive expression in

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<sup>187</sup> Ibid., 16.

<sup>188</sup> Fraenkel to Hans Carl Nipperdey, Nov 11, 1951, NL 274 / 5 fol. 1, Fraenkel Papers.

<sup>189</sup> Fraenkel, "Das richterliche Prüfungsrecht in den Vereinigten Staaten von Amerika. Eine Untersuchung unter besondere Berücksichtigung des Arbeitsrechts" (1953), in *Gesammelte Schriften*, vol. 4, eds. Hubertus Buchstein und Rainer Kühn (Baden-Baden: Nomos, 2000), 49-141. A close colleague on the FCC informed Fraenkel that Hoepker-Aschoff had been extremely influenced by the lecture and had given a detailed report on it to the other members. Fraenkel to Charles Robson, Dec. 23, 1951, NL 274 / 5 fol. 1, Fraenkel Papers. In preparation for an academic return to Germany, Franz Neumann, too, attempted to make up for his opposition to judicial review in Weimar by editing an influential legal treatise on "basic rights" with the new president of the Federal Labor Court Hans Carl Nipperdey (1895-1968), who had advocated for more judicial power in the 1920s before accommodating to the National Socialist regime in the 1930s. Franz Neumann, Hans Carl Nipperdey, Ulrich Scheuner et al., *Die Grundrechte. Handbuch der Theorie und Praxis der Grundrechte*, 3 vols. (Berlin: Duncker und Humblot, 1954-1959). Neumann was able only to work on the first volume before he died in a car accident in 1954.

the theory and philosophy of law [political science] as well as in the practice of the highest court.<sup>190</sup>

As an example, he cited the Federal Constitutional Court's first decision in October 1951, which established the court as solely competent to strike down law that violated the principles of "justice" established in the constitutional document.<sup>191</sup> Indeed, the Court in the 1950s took liberal advantage of that sovereignty—which, not being bound to precedent, was even greater than the U.S. Supreme Court. The right-wing Socialist Reich Party and the Communist Party of Germany were banned in 1952 and 1956, respectively, under their new decisive powers, and in large part due to the influence of Leibholz, the FCC became what the postwar Social Democratic lawyer Arno Arndt called the "epicenter" of the natural law renaissance in Germany.<sup>192</sup>

#### V. Conclusion: Christianity, Social Democracy, and the Jewish Question

On the most basic level, returning emigrés seemed to prove Schmitt right when they made it their mission in the postwar period to re-legalize the German state. "Jewish" thinkers and the even the Jewish community as a whole resumed their role as guardians of the *Rechtsstaat*.<sup>193</sup> The memory of emancipation in the nineteenth century had already attached German Jews—even those who were only ethnically Jewish—to the *Rechtsstaat* concept more than any other individual group in Germany. The experience of forced emigration, and above all the horror of the Holocaust, made this group more aware than ever of the necessity of securing the *Rechtsstaat* against its internal collapse. The fact that a majority of emigré jurists embraced the concept of "militant democracy" after the war must also be seen in this light. Common persecution suffered by ethnic Jews and religious Christians also created the ground for the development of a "Judeo-Christian" front against Schmitt's "nihilistic" legacy.

In another sense, however, the success of Fraenkel and Leibholz was a product not of their ethnicity at all but of their experiences in exile. On one hand, their exile presented physical proof that they had been victims and opponents of National Socialism. To a postwar generation eager to reject its Nazi past, the returning legal scholars offered an alternative to professors who had been more or less compromised by remaining in Germany. It also mattered that they were arriving back to Germany from the countries toward which the Federal Republic hoped to "orient" itself after 1949. Unlike exiled scholars who returned to Germany from elsewhere in continental Europe or the Near East, Fraenkel and Leibholz brought back important innovations in political science and

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<sup>190</sup> Leibholz, "Vorwort," in Leo Strauss, *Naturrecht und Geschichte* (Stuttgart: K.F. Koehler Verlag, 1956), vii.

<sup>191</sup> *Ibid.*, viii, xi.

<sup>192</sup> Quoted in Helmut Ridder, "In Sachen Opposition: Adolf Arndt und das Bundesverfassungsgericht," in: Horst Ehmke, Carlo Schmid, Hans Scharoun, eds, *Festschrift für Adolf Arndt zum 65. Geburtstag* (Frankfurt am Main: Europäische Verlagsanstalt, 1969), pp. 323-348.

<sup>193</sup> See Kauders, *Democratization and the Jews*, passim.

judicial review along with the financial and intellectual support of organizations from the Allied countries.

In the final analysis, the lasting significance of the remigration in jurisprudence lay in the bridge it created between Weimar and the Federal Republic. The return of German jurists of Jewish descent to Germany gave the lie to Schmitt's accusation that the Jewish contribution to German legal-political thought had been solely in the service of developing a "formal" "positivistic," "relativistic" *Rechtsstaat*. The work of Fraenkel and Leibholz, in particular, demonstrated that, on the contrary, "Jewish" jurists were the primary links to an anti-positivist tradition that had originated around the turn of the century in Germany and flourished in Weimar. Schmitt had emerged out of this same tradition but had rejected it. As a result, the returning emigrés were able to present themselves not only as more civilized, but more *German*—which to them was the same—than Schmitt. It was perhaps for this reason that they took pains not to draw attention to their Jewishness in the 1950s. They were well acquainted with the potential that their attempt to repatriate old German traditions could be construed as somehow inauthentic if they were perceived too obviously as returning *Jews*.

In his *Theory of Communicative Action*, Jürgen Habermas traced the intellectual-political evolution of the "development toward the welfare state" in Germany, locating "four epochal processes of juridification [*Verrechtlichung*]." The first was the era of the *bourgeois state*, which emerged in Western Europe during the early modern period. The *bourgeois state* was followed by the *Rechtsstaat*, he explained, "which found exemplary form in the monarchy of nineteenth-century Germany," and by the *democratic Rechtsstaat*, a product of the spread of French revolutionary ideas. "The last stage (to date)," Habermas wrote, "led finally to the *social and democratic Rechtsstaat*, which was achieved through the struggles of the European workers' movement in the course of the twentieth century and codified, for example, in Article 21 of the Constitution of the Federal Republic of Germany."<sup>194</sup> That Germans of Jewish descent stood at the forefront in this "chain of juridification thrusts" was not a coincidence of biology or history, but rather a consequence of the borderline role that Jews played in the social constitution of German life in the modern period.

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<sup>194</sup> Habermas, *The Theory of Communicative Action*, vol. 2, trans. Thomas McCarthy (Cambridge: Polity, 1987), 357.

## CHAPTER TWO

### The “Westernization” of German Liberal Humanism

*The Call*, a long forgotten West German film written by the Weimar actor Fritz Kortner (1892-1970), begins at an intimate cocktail party in a small Los Angeles home, set presumably in 1948. Surrounded by a coterie of admiring American students, several German emigré intellectuals are merrily celebrating their fifteenth year in the United States. But when the topic of conversation shifts from Goethe to the letter of invitation Professor Mauthner (played by Kortner) has just received from a German minister of culture to return to post-Nazi Germany and assist with the “regeneration of German youth,” the mood turns dark. “First they throw you out, then he invites you back. Please say no!” Mauthner’s friend Fraenkl urges, calling the “people over there ... cannibals.” But Mauthner replies coolly, “There’s neither a race of criminals nor a race of heroes.”<sup>195</sup>

The following scene finds Mauthner on a transatlantic ship as he recites to himself the famous first stanzas of the epic poem *Germany, A Winter’s Tale*:

It was in November, that dreary month,  
the days were growing shorter;  
the wind ripped all the leaves from the trees,  
and I came to the German border.

And as I reached the borderline  
a stronger pulse began  
to throb within me; down my cheeks  
I think some teardrops ran.<sup>196</sup>

*Im traurigen Monat November war’s  
Die Tage wurden trüber,  
Der Wind riss von den Bäumen das Laub,  
Da reist ich nach Deutschland hinüber.*

*Und als ich an die Grenze kam  
Da fuehlt ich ein stärkeres Klopfen  
In meiner Brust, ich glaube sogar  
Die Augen begunnen zu tropfen.*

These lines would not have been lost on postwar German audiences. Heinrich Heine, the Jewish-born writer who composed them in 1843 upon his own return to German lands after twelve years in French exile, had become a symbol of the Jewish contribution to German culture and of what had been lost during the Nazi years. Many real-life versions of Professor Mauthner claimed to have preserved and strengthened that culture in Western exile as it was suppressed in Nazi Germany from 1933 to 1945.<sup>197</sup>

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<sup>195</sup> Josef von Baky, *Der Ruf* (1949), screenplay by Fritz Kortner. It was released in the United States as “The Last Illusion.”

<sup>196</sup> Heinrich Heine, *Germany: A Winter’s Tale*, trans. Aaron Kramer, in *Poetry and Prose*, ed. Jost Hermand and Robert C. Holub (New York: Continuum, 1982), 231.

<sup>197</sup> See, for example, the recollections of George Mosse, Peter Gay, and others in *The German-Jewish Legacy in America 1938-1988: From Bildung to the Bill of Rights*, ed. Abraham Peck (Detroit, MI: Wayne State University Press, 1988).

The fate of liberals of Jewish descent from exile to return both mirrored and helped shape the development of German liberal humanism from Weimar to Bonn. The liberal humanism that eventually emerged in the Federal Republic during the 1950s was not the same as its predecessor in the Weimar years. Observers noted that “it is a wiser and more activist liberal humanism,” one “essentially purged of antisemitism,” which survived National Socialism.<sup>198</sup> The most apparent change was the reorientation of German liberalism *westward*.<sup>199</sup> “That the Germans [in the Federal Republic] belong to the West, to the Atlantic world even, seems to them self-evident in the last decades,” Klaus Mehnert wrote in 1967. “And yet this is a fully new appearance in their recent history, if one excludes the short-lived highpoint in the Stresemann era [c. 1925-1929].”<sup>200</sup> This chapter examines the intellectual roots of this “new appearance” by exploring the careers of two returning émigrés and their own transformation from a non-Western cultural outlook in the Weimar period to a decidedly pro-Western one in exile.<sup>201</sup> No one was better suited for Germany’s Cold-War-era turn westward than those German thinkers who had become intimately familiar with the “Western” version of liberal humanism and returned as cultural intermediaries after the war.<sup>202</sup>

Mehnert recalled of his youth in the 1920s and ’30s that “Germans in their great majority were non-Western [*nicht-westlich*], if not anti-Western [*anti-westlich*],” even when they considered themselves part of the “Occidental” (*abendländisch*) tradition of European Christendom. During the period between the outbreak of the First World War and the Nazi rise to power, many Germans pointed to a “special path” their people had followed – purportedly paved by ideas about culture that were different from those that governed the evolution of France, the Netherlands, Great Britain, and the U.S. These so-called “special” German ideas were said to be best expressed in the word *Bildung*, which

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<sup>198</sup> Willson Coates and Hayden White, *The Ordeal of Liberal Humanism: An Intellectual History of Western Europe*, vol. II: Since the French Revolution (New York: McGraw-Hill, 1970), 455.

<sup>199</sup> Heinrich August Winkler, *Germany: The Long Road West, 1933-1990*, trans. Alexander Sager (New York: Oxford University Press, 2007), 586. “The anti-Western *Sonderweg* of the German Reich came to an end in 1945.”

<sup>200</sup> Klaus Mehnert, *Das deutsche Standort* (Stuttgart: Deutsche Verlagsanstalt, 1967), 211.

<sup>201</sup> I use the term “Westernization” (in German *Verwestlichung* or *Westernisierung*) instead of “Americanization” because recent research has shown that while Germans living in the Federal Republic did adopt many aspects of American culture they often did so selectively and critically. Most West Germans would have been uncomfortable with calling their democracy “American,” but that they belonged to a community of “Western nations” was far less controversial. See Anselm Doering-Manteuffel, *Wie Westlich sind die Deutschen? Amerikanisierung und Westernisierung im 20. Jahrhundert* (Göttingen: Vandenhoeck und Ruprecht, 1999).

<sup>202</sup> Konrad Jarausch writes of returning émigré intellectuals as “among the more important cultural intermediaries ... who returned to help build a new and better Germany,” but his analysis of the intermediaries themselves is cursory. See Jarausch, *After Hitler: Recivilizing Germans, 1945-1995*, trans. Brandon Hunziker (New York: Oxford University Press, 2006), 108. To date there has been little research in English on the transnational exchange of ideas back to Germany via reemigration.

is used here as shorthand for the German (i.e., non-Western) version of liberal humanism as it was conceived during the Weimar Republic.

*Bildung* was composed of three main aspects. The first was neo-humanism: a direct engagement with the thinkers of classical antiquity, especially the ancient Greeks. It was typical for nineteenth-century German classical historians to depict Roman civilization as only a popularization and pale imitation of Greek culture. The Greeks, they claimed, had invented philosophy and the very concept of humanity; the Roman Empire's world-historical contributions were (merely) practical techniques of rhetoric and administration. G.W.F. Hegel (1770-1831), who did much to shape the *Bildung* concept and whose thought experienced a renaissance during and after World War I, famously pointed to the superiority of the "Greek spirit" over the "Roman spirit."<sup>203</sup> Though Hegel himself cautioned against drawing parallels between the spirits of ancient and modern nations, it was difficult when reading his works through a nationalist lens to avoid the conclusion that the "German spirit"—which he called the "new world spirit" to spread the "Christian idea"—preserved more Greek elements than Roman.

The second aspect of German *Bildung* that nationalists typically held up in contrast to "the Roman West" was its Lutheranism. Derived from the Greek term for "image" or "form" (*eidōs*; in German, *Bild*), the word *Bildung* itself referred to a human's creation in the image of God through the direct penetration of divine spirit into flesh.<sup>204</sup> This was an idea common to all Christians, but it was given its particularly German Protestant cast through a belief that individuals did not have to rely on the mediation of a priest (as Catholics presumably did) to preserve their souls' communion with God. *Bildung* is therefore sometimes translated as the "self-cultivation of the soul's innate powers" or the "self-formation of the soul."<sup>205</sup>

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<sup>203</sup> In his definition of the "elements" of these spirits, the "family love" that allegedly bonded together the inhabitants of ancient Greek city-states was contrasted with the "abstract universality" and "stern inflexibility" of the Roman Empire, which coerced its subjects solely through "law and mandate." G.W.F. Hegel, *Werke*, vol. 9 (Berlin: Duncker & Humblot, 1837), 6, 225-26, 283, 286-88, italics in the original. German philhellenism since the eighteenth century underlay the (perhaps exaggerated) *Kultur/Zivilisation* dichotomy pointed up by Norbert Elias in *The Civilizing Process*, trans. Edmund Jephcott (New York: Blackwell, 1994), 5-30, and subsequently by Fritz Ringer in *The Decline of the German Mandarins: The German Academic Community, 1890-1933* (Cambridge, MA: Harvard University Press, 1969), 86-88. There was an aesthetic, in addition to social, dimension to German philhellenic neo-classicism. See Eliza Butler, *The Tyranny of Greece over Germany: A Study of the Influence Exercised by Greek Art and Poetry over the Great German Writers of the 18th, 19th and 20th Centuries* (Boston, MA: Beacon Hill, 1935), *passim*.

<sup>204</sup> The neo-Platonic theologian Eckart von Hochheim (1260-1328), known as the progenitor of "image-of-God" (*imago dei*) theology in the German language, defined *Bildung* as the process by which the divine architect shaped all individual human beings as he shaped that of Jesus. See E. Lichtenstein, *Zur Entwicklung des Bildungsbegriffs von Meister Eckhart bis Hegel* (Heidelberg: Quelle & Meyer, 1966). On the etymology see also Geuss, "Kultur, Bildung, Geist," *History and Theory* 25, no. 2 (May 1996), 151-64, and Reinhart Koselleck, "Zur anthropologischen und semantischen Struktur der Bildung," in *Bildungsbürgertum im 19. Jahrhundert*, vol. 2 (Stuttgart: Klett, 1990), 11-46.

<sup>205</sup> G. Felicitas Munzel, "Kant, Hegel, and the Rise of Pedagogical Science," in *A Companion to the Philosophy of Education*, vol. 27, ed. Randall R. Curren (New York: Blackwell, 2003), 116.

Third, German *Bildung* was defined by its “idealism.” In philosophy, idealism was contrasted with the so-called “materialism” or “positivism” of common-sense philosophy dominant in France, England, and the United States.<sup>206</sup> The foundational figure in this development was the Prussian professor Immanuel Kant (1724-1804), whose system formed the building block for the majority of academic pursuits in Germany until 1914. Transposing the categories of Lutheran pietism onto the study of philosophy, Kant proposed that a) humans are incapable of knowing “things as they really are” (*die Dinge an sich*); b) therefore the only process worth philosophizing about is the perception of the phenomenal world, not the essence of reality; and c) humans should nevertheless strive to obey universal laws of ethics, which concerned their noumenal being. Though difficult to master, Kant’s idealism became a foundation for educational thought in Prussia (and later united Germany) in large part because its ethical imperative could be held up as superior to the “pragmatic” and “utilitarian” sciences of the Roman West, especially France.<sup>207</sup>

Together, these three aspects of nineteenth-century German liberal humanism (philhellenism, Protestantism, and idealism) dominated German liberal thought.<sup>208</sup> It is therefore difficult to understand at first glance why the “Jewish question” would have become so central to the debate on German *Bildung* in the twentieth century. But emancipated Jews—including those who converted to Christianity—embraced these values with perhaps more zeal than any other identifiable group in German-speaking Europe.<sup>209</sup> An important element of their social integration throughout the nineteenth century, *Bildung* was by the 1920s, according to one distinguished scholar, for many non-practicing German Jews “synonymous with their Jewishness.”<sup>210</sup> But Jews were also considered, and often considered themselves, the demographic in Germany most oriented “westward,” at least politically.<sup>211</sup> That combination of identities was less controversial

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<sup>206</sup> For a description of the role of idealism in German liberal humanism and its sometimes vague opposition to what nationalist scholars called “materialism” or “positivism,” see Ringer, *Decline of the German Mandarins*, 92-97, and 297-99.

<sup>207</sup> On the importance of the concept for Prussian educationalists, see David Sorkin, “Wilhelm von Humboldt: The Theory and Practice of Self-Formation (*Bildung*), 1791-1810,” *Journal of the History of Ideas* 44, no. 1 (Jan-March, 1983), 55-73.

<sup>208</sup> For a concise contemporary description of the three foundations of German liberal humanism, see Ernst Troeltsch, “Deutsche Bildung” (1918), in *Deutscher Geist und Westeuropa. Gesammelte kulturphilosophische Aufsätze und Reden*, ed. Hans Baron (Tübingen: J.C.B. Mohr, 1925), 178-79.

<sup>209</sup> For the central importance of *Bildung* in the nineteenth-century process of Jewish acculturation in Germany, see David Jan Sorkin, *The Transformation of German Jewry, 1780-1840* (Oxford: Oxford University Press, 1987).

<sup>210</sup> George Mosse, *German Jews Beyond Judaism* (Bloomington: University of Indiana, 1985), 4.

<sup>211</sup> The fact that German-speaking Jews called themselves “Western Jews” (*Westjuden*) to distinguish themselves from Yiddish-speaking “eastern Jews” (*Ostjuden*) in Poland and Russia contributed to the perception of their Western orientation. See Georg Hermann, “Zur Frage der Westjuden,” *Neue jüdische Monatshefte* 3, no. 19 (July 10, 1919), 399-405. The relationship of “Western Jews” to “Eastern Jews,”

before World War I, when the divergence between Germany and “the West” did not seem so pronounced and German Jewish leaders were largely kept out of public influence. It was only after 1914, when German nationalists began attempting to demonstrate in earnest the distinctiveness of German liberal humanism from the Western model—and especially after democrats formed what many saw as a Western-style republic in 1918—that antisemitism reemerged as a hot-button political issue in twentieth-century Germany.<sup>212</sup> The subsequent Nazi attempt to remove the “Judaic spirit” from German *Bildung* stood in direct continuity with this Weimar crisis, as an effort to sever all lingering cultural ties Germany had with “the West.” The crucial step National Socialist ideologues took was to depict liberal humanism *in any form* as Western, and Jewish thinkers as the primary carriers of the liberal “mentality.”

This chapter demonstrates how the terms of the debate evolved in the Weimar Republic, how scholars of Jewish descent were targeted as a Westernizing force in German culture, how they were forced into exile, and how some of them returned to help define and normalize the belonging of German liberal humanism in a Western tradition. Significantly, the two men who laid the firmest foundations for the Westernization of German *Bildung* went through a kind of conversion process of their own as a result of their exile. Critical of Western ideas and partisans of German particularity during the Weimar Republic, Helmuth Plessner (1892-1985) and Arnold Bergstraesser (1896-1964) not only changed their minds about the West when they fled—to Holland and the U.S., respectively—but they set out to harmonize *Bildung* with the Western political ideals of republicanism as well. After 1945, in concert with other returning exiles and “internal emigrés” who supported the integration of Germany into the Western Bloc during the Cold War, Plessner and Bergstraesser attempted to overcome the anti-Western legacies of their Weimar-era colleagues and Nazi opponents.

### I. The Roman West, the Occident, and the Crisis of *Bildung* in Weimar

Perhaps nothing was as controversial and eventually did more to undermine the legitimacy of the Weimar Republic than the relationship of its leaders with “the West” in the wake of defeat in 1918. Over four brutal years, the war had produced a library of anti-Western propaganda in which German writers hailed their nation’s culture of benevolent

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however, was a very complicated one, marked at times by disdain and at others by solidarity. See Steven Aschheim, *Brothers and Strangers: The East European Jew in German and German Jewish Consciousness, 1800-1923* (Madison: University of Wisconsin Press, 1982). Also, German Jews often held a great aesthetic and cultural appreciation for “oriental” Jewish forms. See John Efron, “Orientalism and the Jewish Historical Gaze,” in *Orientalism and the Jews*, ed. Ivan Kalmar and Derek Penslar (Waltham, MA: Brandeis, 2005), 80-93. Nevertheless, the idea of assimilated Western Jews’ sharing affinities with the east or the Orient did not prevent them from being identified primarily with a Western political outlook.

<sup>212</sup> I write “reemerged” because political antisemitism targeting Jews as representatives of Western liberalism had already existed in Germany in the late nineteenth century. See Peter Pulzer, *The Rise of Political Anti-Semitism in Germany and Austria* (Cambridge, MA: Harvard University Press, 1964), and Paul Massing, *Rehearsal for Destruction: A Study of Political Anti-Semitism in Imperial Germany* (New York: Harper & Brothers, 1949), passim.

authoritarianism as superior to the selfish capitalism and mass democracy of “Western civilization,” often in direct response to the anti-German propaganda of the Allied Powers.<sup>213</sup> So when Germany lost the war, the Kaiser was deposed, and a republic—modeled in part after Anglo-American and French examples—was installed in place of the monarchy, the stage was set for a domestic debate over the compatibility of German *Bildung* with “Western ideas.”<sup>214</sup> The Treaty of Versailles, which raised anti-Westernism to a fever pitch in many circles, turned the issue into a national crisis.

Most German thinkers agreed that German liberal humanism had grown out of a common medieval “Occidental” heritage with the Anglo-Saxon and French world but had diverged paths. To describe the “foundational outlooks” of Germans of all classes, religions, and regions, the Prussian ministry of culture’s Chief of Higher Education Carl Heinrich Becker (1876-1933) pointed in 1919 to the definition of German culture given by the theologian Ernst Troeltsch (1865-1923). During the war, Troeltsch said in a famous speech,

we [Germans] became self-conscious of an idea that is in fact different from the peoples of the West, that is as dissimilar from the individualism of the English gentleman as it is from the enthusiastic [French and American] idea of equality in the rights of man [...]. It is the freedom of an autonomous and conscious affirmation of the supra-individual spirit of togetherness, connected with the living participation in it, the freedom of a voluntary beholdenness to the whole and a personal-living originality of the individual within the whole, the freedom of common feeling and discipline, both based upon the giving over of the self to the ideas and therefore closely connected with our entire ethical-religious essence that is so different from the English and French [...]. It is precisely here that the [German] ideas of 1914 are today sharply and clearly, but also productively, contrasted with those [Western ideas] of 1789, not as their abrogation and annihilation, but as an entirely different way of striving toward freedom and honor, substance and the profound life of the person.<sup>215</sup>

Troeltsch encapsulated the distinction by pointing to a fundamental distinction in the “Western” and “Germanic” concepts of freedom and law. Whereas the Western idea of freedom emerged out of a “natural law” (*Naturrecht*) tradition based on universal reason applicable to all humans, he said, the “Germanic” idea was rooted in a more organic, “irrational” or “romantic” connection to historical belonging, neatly summarized with the opposition of Western “civilization” and Germanic “culture.”<sup>216</sup> He explained in 1918 that

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<sup>213</sup> See, for just two of many famous examples, the “Aufruf an die Kulturwelt” (1914), the so-called “Manifesto of 93” reprinted in *Aufrufe und Reden deutscher Professoren im Ersten Weltkrieg*, ed. Klaus Böhme (Reklam, 1975), and Werner Sombart, *Händler und Helden. Patriotische Besinnungen* (Berlin: Duncker & Humblot, 1915).

<sup>214</sup> There was also a debate on *Bildung*’s compatibility with “eastern,” i.e. Russian, ideas—stemming largely from an interest in the works of Dostoevsky and Tolstoi. I argue however that the Westernness of *Bildung* was more controversial in Weimar political discourse.

<sup>215</sup> Troeltsch, “Die Ideen von 1914,” in *Deutscher Geist und Westeuropa*, 48-49.

<sup>216</sup> Troeltsch, “Naturrecht und Humanität in der Weltpolitik” in *Kritische Gesamtausgabe*, vol. 15, ed. Gangolf Hübinger (Berlin: de Gruyter, 2002), 493-512.

“the Germanic element has remained intact more strongly with us and the Scandinavians, forming something unique in comparison with the people who have till today been overwhelmingly formed by the Renaissance.”<sup>217</sup>

The driving argument among liberal political theorists in the Weimar Republic, then, was not about whether Germanic ideas were *different* from Western ones but about whether the two sets of ideas should be reconciled – in other words, whether Germany should draw closer, ideologically, to the West. Troeltsch noted that though Germans were the historical carriers of the “Germanic element” in Europe, they were also in national “form and lifestyle more insecure and inchoate” and more open to absorbing elements from their neighbors. “In that sense we struggle with an age-old and constantly returning problem of German essence,” he wrote: “its interrelation with the Roman spirit and, precisely through it, with antiquity and the Renaissance.”<sup>218</sup>

Early Weimar democrats such as Becker, the sociologist Max Weber (1864-1920), and the republic’s first Minister of the Interior Hugo Preuss (1860-1925) answered that Germany should incorporate aspects of “the West” without losing its specific national character. Weber advocated the weaving of a postwar German culture “between the regulation of Russian bureaucrats on the one hand and the conventions of Anglo-Saxon ‘society’ on the other, perhaps with a dose of Latin ‘raison’ [...]”<sup>219</sup> Preuss, in what one of his biographers later called a book “full of heretical ideas,” even held the anti-Western tendency in German culture co-responsible for the Empire’s collapse. The hostility latent in the *Bildung* ideal toward the “practical,” “political” sciences of the West, he claimed, had stunted the development of responsible leadership in Germany by siphoning off Germany’s best minds from civic engagement and leaving the dirty work of political power to traditional authorities.<sup>220</sup> The Prussian ministry of culture’s promotion of sociology in the universities and the opening of the an academy in Berlin for the training of democratic leaders modeled explicitly after the Free School for Political Sciences in Paris were meant to support a new ideal of “political *Bildung*” to correct this

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<sup>217</sup> Troeltsch, “Deutsche Bildung,” in *Deutscher Geist und Westeuropa*, 207. Troeltsch’s distinction corresponded with the influential scholarship of the sociologist Max Weber, who held that the entire Occident knew “national economy” but “only the West has known ‘natural law,’ and with it the complete elimination of the system of personal laws and of the ancient maxim that special law prevails over general law.” Weber, *Economy and Society*, ed. Guenther Roth and Claus Wittich (Berkeley: University of California Press, 1978), 883.

<sup>218</sup> Troeltsch, “Deutsche Bildung,” 207, and idem, “Die Ideen von 1914,” 56.

<sup>219</sup> Weber, “Zwischen zwei Gesetzen,” in *Zur Politik im Weltkrieg: Schriften und Reden*, ed. Wolfgang Mommsen (Tübingen: Mohr, 1988), 39.

<sup>220</sup> According to Preuss, the goal of a new German “political *Bildung*” in a republic was to “drag the autonomous free personality [the ideal of traditional *Bildung*] into the state and thereby cultivate the autonomy of a political people.” Preuss, *Das Deutsche Volk und die Politik* (Jena: Eugen Diedrichs, 1915), 92. See Ernest Hamburger, “Hugo Preuß: Scholar and Statesman,” *Leo Baeck Institute Yearbook* 20 (1975), 185.

historical wrong.<sup>221</sup> As a docent at the academy, Troeltsch before his death 1923 abandoned his anti-Westernism to argue along the lines of Weber and Preuss that the republic's new leaders should adopt aspects of the "West European natural law tradition" that would provide a stable theoretical foundation for the democracy.<sup>222</sup>

But Westernization was not an easy sell with popular anti-Western sentiment growing in the wake of Versailles.<sup>223</sup> Anti-republican political thinkers decried the encroachment of the "ideas of 1776 and 1789" into German thought. In immediate response to the opening of the French-style German School, a group calling for a "conservative revolution" opened a rival School for National Politics (soon to be renamed Political College) aimed at promoting a "German lifestyle" in direct opposition to the West. This group of intellectuals—those associated with the industrialist Hugo Stinnes, Martin Spahn, and Arthur Moeller van der Bruck—typically agreed with liberal democrats that *Bildung* in the Wilhelmine era had been too "unpolitical" (*unpolitisch*) in its privileging of aesthetic and technical knowledge over action and engagement, but they also held that Western-style political freedom, with its atomization of individuals in a "civil society," was irreconcilable with Germanic ideas of "political community" (i.e., the "ideas of 1914").<sup>224</sup> Writing for many conservatives, Georg Friedrich Jünger (the brother

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<sup>221</sup> The *Deutsche Hochschule für Politik* was opened in October 1919. Becker wrote, "we need an 'École Libre des Sciences Politiques' *outside of* the university. It must be given responsibility for all the areas of political knowledge, with no regard for party orientation." Becker, *Gedanken zur Hochschulreform* (Leipzig: Quelle & Meyer, 1919), 29, italics in the original. For more on the modeling after the French system see Paul Rühlmann, "Eine freie Hochschule für politische Wissenschaften in Berlin," in *Wege zur Staatsgesinnung* (Charlottenburg, 1919), 156-160, and Wolfgang Schivelbusch, *The Culture of Defeat: On National Trauma, Mourning, and Recovery*, trans. Jefferson Chase (London: Granta, 2003), 241-46.

<sup>222</sup> Troeltsch, "Naturrecht und Humanität in der Weltpolitik" (1922), in *Deutscher Geist und Westeuropa*, 13. For a good analysis of this speech and Thomas Mann's review of it in context of both men's turn toward republicanism, see W.H. Bruford, *The German Tradition of Self-Cultivation: "Bildung" from Humboldt to Thomas Mann* (Cambridge: Cambridge University Press, 1975), 235-38 and 248. Troeltsch's turn toward the republican ideas of the "Roman West" stemming from the Italian Renaissance was carried on by his primary student, Hans Baron (1900-1988), who, after editing his mentor's collected works went on to introduce the term "political-civic humanism" (*politisch-bürgerlicher Humanismus*) in his edited volume *Leonardo Bruni Aretino. Humanistisch-philosophische Schriften* (Berlin: B.G. Teubner, 1928). Baron, who was born Jewish, fled Germany for the United States in 1933 but did not return after the war.

<sup>223</sup> Despite the existence of popular anti-Western sentiment, there was also a new interest in American culture beginning in the 1920s. See Elisabeth Glaser-Schmidt, "Between Hope and Skepticism," in *Transatlantic Images and Perceptions: Germany and America since 1776*, eds. David Barclay and Elisabeth Glaser-Schmidt (New York: Cambridge University Press, 2003), 191-216.

<sup>224</sup> See Berthold Petzinna, *Erziehung Zum Deutschen Lebensstil: Ursprung Und Entwicklung Des Jungkonservativen "Ring"-Kreises 1918-1933* (Berlin: Akademie, 2000). It testified to the increasing difficulty of a pro-Western stance in the late Weimar Republic that the German School for Politics and the Political College officially merged in 1930. On this convergence see Rainer Eisfeld, "German Political Science at the Crossroads: The Ambivalent Response to the 1933 Nazi Seizure of Power," in *Political Science and Regime Change in 20<sup>th</sup>-Century Germany*, eds. Rainer Eisfeld, Michael Th. Greven, and Hans Karl Rupp (New York: Commack, 1997), 17-53.

of Ernst) argued in 1930 that Germany's defeat in the Great War had been a product of its becoming too much a "part of the West."<sup>225</sup>

Between those two groups—the pro-Western and the extreme anti-Western—there was a sizable and influential cross-section of Weimar academics, journalists, and clerics who considered themselves politically distinct from "the West" but inseparable from the "Occidental" tradition. According to them, "the Occident" consisted of "those areas of Continental Europe regarded as the cradle of humanist civilization, distinct from the Anglo-American world," while "the West" referred to the countries geographically west of Germany, including England and the U.S., which had separated church and state and stood at the vanguard of liberal democracy.<sup>226</sup> This German distinction between the West and the Occident is entirely lost in English translation, thereby confusing much of the scholarship on this issue.<sup>227</sup> Advocates of European unity, the self-declared Occidentalists who formed the European Cultural Union and wrote for German-language publications such as the *European Review*, *The Occident*, and *Highlands* supported reconciliation with their former Continental enemies based on a common socialistic program to revitalize European Christianity. With their emphasis on the Roman Catholic historical tradition, Weimar Occidentalists demonstrated a clearly pan-Europeanist, anti-Bolshevik, anti-capitalist, and not uncommonly antisemitic bent, often with explicit attacks on the "Western" ideas of 1776 and 1789, bringing it into harmony with the politics of the Vatican.<sup>228</sup> The idea of the Occident was particularly popular during the

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<sup>225</sup> Georg Friedrich Jünger, "Krieg und Krieger," in *Krieg und Krieger*, ed. Ernst Jünger (Berlin: Junker & Dünhaupt, 1930), 53-67.

<sup>226</sup> Ronald J. Granieri, *The Ambivalent Alliance: Konrad Adenauer, the CDU/CSU, and the West, 1949-1966* (New York: Berghahn, 2004), 15. In the Weimar Republic the members of this orientation called themselves "Occidentalists" (*Abendländer*) to distinguish themselves from both the Anglo-American "West" and the "Russian" and Oriental "East." Weimar representatives of the "Occidental idea" included those in the literary circle around Max Scheler in Cologne, the Center Party leader Heinrich Brüning, the Catholic theologian and youth leader Romano Guardini, the Catholic political theorists Waldemar Gurian and Carl Schmitt, the Romanist Ernst-Robert Curtius, and many other prominent thinkers. For a more inclusive list and a description of their common program see Reinhard Richter, *Nationales Denken im Katholizismus der Weimarer Republik* (Münster: LIT, 2000), 141-54.

<sup>227</sup> The common conflation of these two terms when discussing German history is demonstrated by a recent publication by Ian Buruma and Avishai Margalit, *Occidentalism: The West in the Eyes of Its Enemies* (New York: Penguin, 2004). Conceived as an answer to Edward Said's *Orientalism* (New York: Vintage, 1979), Buruma and Margalit's book opens with a definition of "Occidentalism" as a discourse that emerged from within the Enlightenment tradition (especially in Germany and Russia) that imagined "the West" as a soulless and de-humanized *enemy*, to be fought at all costs. As Akeel Bilgrami pointed out in a review, the authors trace a tendentious genealogy of that discourse from Germany to contemporary anti-Western political Islam. Bilgrami, "Occidentalism, the Very Idea: An Essay on Enlightenment and Enchantment," *Critical Inquiry* 32, no. 3 (2006), 381-411. Bilgrami could have added a philological critique: The very term "Occidentalism" was coined (as a self-description) not by *extreme* enemies of the West but by a wide segment of German thinkers, many of whom offered criticisms of Western liberalism but opposed Hitler's rejection of the Occidental tradition.

<sup>228</sup> Conceived and built during the red scare of the early 1920s by the Catholic-Austrian Prince Karl Anton Rohan, the European Cultural Union (*europäische Kulturbund*) became by the end of the decade what one

highpoint of hope for postwar European reconciliation under the leadership of chancellor and foreign minister Gustav Stresemann (1923-1929).

Before their activities were cut short by the rise of Nazism, the major intellectual contribution of the Weimar Occidentalists consisted in a defense of “Christian” political values against the twin dangers of racialism and communism. In a small book entitled *The Limits of Community* (1924), Helmuth Plessner defined the Occidental political idea as the command to “render unto Caesar what is Caesar’s and unto God what is God’s.” German youth leaders who protested against the depersonalization of modern life by denigrating all values of bourgeois “society” (*Gesellschaft*) and raising the togetherness of political “community” (*Gemeinschaft*) to the status of an idol, he argued, were “Asiatic” and “exoticist.”<sup>229</sup> According to Plessner, the “Occidental idea” valued the positive aspects of “distance,” “indirectness,” tact, and politesse against the false redemption of collectivism. As he remembered later in his memoirs, *The Limits of Community* was “not aimed against the community idea” *per se*. On the contrary, he urged German youth to seek community as long as it was liberal, in tune with the modern development of the Occident.<sup>230</sup> He specifically did not use the word “Western” (though in the English version of the book *abendländisch* is incorrectly translated that way).<sup>231</sup> Instead, Plessner called for a “new knight who is prepared to sacrifice everything for the Occidental idea, for the realization of the utopia out of the spirit of the machine.”<sup>232</sup>

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historian has called the “most important intellectual network on the continent,” a “who’s who of European celebrities.” See Guido Müller, “France and Germany after the Great War: Businessmen, Intellectuals, and Artists in Non-Governmental European Networks,” in *Culture and International History*, ed. Jessica Gienow-Hecht and Frank Schumacher (New York: Berghahn, 2004), 104. One of Occidentalism’s greatest advocates in Germany, the philosopher Max Scheler, converted from Protestantism to Catholicism largely in support of a unified Christian Europe. For evidence of the distinction between “the West” and “the Occident” in their advocacy, see Rohan, “Westeuropa,” *Europäische Revue* 5, no. 1 (1929), 298. For evidence of antisemitism in the group, see Josef Nadler, “Die Juden und die Literatur,” *Europäische Revue* 8 (1932).

<sup>229</sup> Plessner, *Die Grenzen der Gemeinschaft. Eine Kritik des sozialen Radikalismus* (Bonn: Friedrich Cohen, 1924), 36. For an excellent placement of this text in the context of Weimar, see Helmut Lethen, *Cool Conduct: The Culture of Distance in Weimar Germany* (Berkeley: University of California Press, 2002), *passim*.

<sup>230</sup> Plessner, “Selbstdarstellung,” in *Gesammelte Schriften* 10, ed. Guenther Dix, Odo Marquard, and Elisabeth Stroeker (Frankfurt am Main: Suhrkamp, 1985), 323.

<sup>231</sup> Unlike in the English version of the book, which unfortunately uses “Western” where it should be “Occidental,” Plessner did not use the word “Western” (*westlich*) in 1924. See Plessner, *The Limits of Community: A Critique of Social Radicalism*, trans. Andrew Wallace (Humanity Books, 1999).

<sup>232</sup> Plessner, “Die Utopie in der Maschine” (1924) in *ibid*, 38, cited here in translation by Müller, “The Soul in the Age of Society and Technology: Helmuth Plessner’s Defensive Liberalism,” 148., italics mine. It would have had a very different meaning—one that would not have made sense to Weimar youth at all—to call for a knight sacrificing for the “Western idea.” Plessner’s thoughts were not *sui generis* but part of the “new objectivity” (*neue Sachlichkeit*) movement in the 1920s that proclaimed a “return to order” after the chaos of the post-revolution years. See for example Adolf Caspary, *Die Maschinenutopie. Das Übereinstimmungsmoment der bürgerlichen und sozialistischen Ökonomie* (Berlin: David, 1927).

Six years later but in a similar vein, Curtius and Bergstraesser co-published two widely read studies aimed at German youth entitled *French Culture* and *The Sense and Limits of Understanding Between Nations* (1930). Curtius acknowledged that “we [Germans] place culture over civilization” while “France values civilization more highly than culture,” but he noted that the word *civilisation* itself was undergoing a radical change in meaning in French thought, away from the dogmatic laicism of the Third Republic back to the medieval tradition of Catholic authority. “Civilization—since the calamitous year 1789, that was the nebulous utopia of freedom for a modern world ripe for decline,” Curtius wrote. “But now the same word bespeaks consciousness of origins,” an amelioration he hoped would help “bury the struggle between culture and civilization.”<sup>233</sup> Bergstraesser, who had been a youth leader before turning away from the increasingly racialized movement in 1923, argued that an engagement with the Latin High Middle Ages in lieu of the dangerous obsession with Greece would satisfy youth’s “irrational” yearnings for socialism and national community but root them in a rationalist tradition of Christian civilization that they shared with all of Europe.<sup>234</sup>

Plessner, Curtius, and Bergstraesser represented the German liberal humanist attempt in the waning years of Weimar to pull German youth back from the brink of extreme anti-Westernism. But they were still opponents of “the West” insofar as the phrase connoted liberal capitalism and the ideas of 1776 and 1789. Their sympathy toward the Action Française and the young conservative movement in Germany during the crisis years after 1929 provided ample proof of that. The Nazi leaders who eventually emerged victorious after the crisis were not interested in cooperating with Occidental humanists in a coalition against Bolshevism and Western-style liberalism. Instead, they interpreted attempts to reveal Germany’s common medieval heritage with Western Europe as telltale evidence that the true “German spirit,” which they insisted was purely Greek in origin, had long been polluted through its contact with the “Western spirit.” The primary carriers of that contact were said to be Jews.

## II. The De-Liberalization of German Humanism in Nazi Ideology

To fully appreciate the force of the Nazi worldview, one must understand Nazi antisemitism not only as a struggle against a social group—the Jews—but against what was understood as the “Judaic spirit” in its relationship with the Occident. The many calls for Germany’s “recovery” or “healing,” largely through an elimination of ethnic Jews from cultural life, cannot be separated from the Nazi attempt to expel “Roman” influence

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<sup>233</sup> Curtius, *Die französische Kultur. Eine Einführung* (Stuttgart: Deutsche Verlags-Anstalt, 1930), 3-4, 19, 27. Since 1906 (when France officially separated church and state), he wrote, “the intelligentsia turns away from the ideologies of the Republic, that is, from democracy, parliamentarianism, laicism” and “in its stead rises an organologic thought that calls upon soil and ethnicity [*Volkstum*], tradition and authority.” *Ibid.*, 18.

<sup>234</sup> Bergstraesser, *Sinn und Grenzen der Verständigung zwischen Nationen* (München: Duncker & Humblot, 1930), 91.

within its own borders. Distinguishing it from racial science, Saul Friedlander correctly identified the “redemptive antisemitism” of Nazi ideology as a worldview that placed “the struggle against the Jews [as] the dominant aspect of a worldview in which other racist themes are but secondary appendages.”<sup>235</sup> The “Judaic spirit” against which they struggled, however, was not directed only against the Jews but also against any defender of German *Bildung*, which Nazi theorists claimed had long been defined by “Judaic intellectualism.”

Adolf Hitler declared his National Socialist movement to be a reaction against “Judaic intellectualism” because “intellectuals” allegedly put ideas above family, and reason above blood. The word suggested more a hierarchy of values than a description of profession. Long before 1933, intellectualism—or in its more positive expression “intellectuality” (*Geistlichkeit*)—was commonly referred to in popular German culture as a central characteristic of the Jewish “style of thinking”; in fact, it was a source of ethnic pride for many Jews and of scientific inquiry for psychologists and sociologists.<sup>236</sup> The particular Jewish cultural genius had long been said—at least since Richard Wagner’s antisemitic tract on “Judaism in Music” in 1850—to be intellectual “imitation,” “mediation,” “synthesis,” and “circulation” rather than originality.<sup>237</sup> Drawing on those widespread stereotypes, Nazi thinkers painted Jewishness in German political and cultural life as any intellectual stance that attempted to synthesize or mediate between the Germanic and the non-Germanic – especially between the Germanic and the “Western.”<sup>238</sup> Nazi chief theorist Alfred Rosenberg identified Alfred Baeumler (1887-1968), who in the Weimar years had dedicated himself to locating and overcoming the

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<sup>235</sup> Saul Friedlander, *Nazi Germany and the Jews*, vol 1: The Years of Persecution, 1933-1939 (New York: HarperCollins, 1997), 73-112.

<sup>236</sup> The prominent sociologist Leopold von Wiese, for example, could write in 1917 that “the Jew, as a rule, utilizes his intellect [*Verstand*] in a more or less different and much more intensive fashion than the scion of the Caucasian race,” while “the German—by which I mean shorthand for Germans of non-Semitic ancestry—as a rule use their intellect much more naively, laboriously, and slowly.” Leopold von Wiese, “Deutschtum und Judentum,” *Neue jüdische Monatshefte* 14 (April 25, 1917), 402-3. See Sander Gilman, *Smart Jews: The Construction of the Image of Jewish Superior Intelligence* (Lincoln: University of Nebraska Press, 1996).

<sup>237</sup> German Jews prominent in political life contributed to this portrayal of the Judaic spirit. Eduard Bernstein, “Vom Mittlerberuf der Juden,” *Neue jüdische Monatshefte* 14 (April 25, 1917), 398.

<sup>238</sup> For an excellent discussion of the relationship between the Jewish question and Germany’s hostility to the West (especially France) see Peter Pulzer, *Jews and the German State: The Political History of a Minority, 1848-1933* (Detroit, MI: Wayne State University Press, 2003), 20-22. It was characteristic that one of the most enduring antisemitic images of Hugo Preuss in late Weimar was a political cartoon depicting him as a tailor of ideas, patching together the fabrics of the French and American constitutions, English parliamentarianism, and Marxism to make an ill-fitting gown for *Germania*. Printed on Constitution Day, August 11, 1929 (the 10-year anniversary of its approval by the German federal states), the gown embodied in a female figure, Germania, who says: “Well, the old dress made of good German fabric suited me better!” reproduced in W.A. Coupe, *German Political Satires from the Reformation to the Second World War*, 3 parts., part III: 1918-1945: Plates (White Plains, NY: Kraus International Publications, 1985), p. 286. Commentary in Part III: 1918-1945: Commentary, p. 166f.

intellectualistic influences in German *Bildung*, as the thinker in Germany best able to lay the foundations for a new German humanism along anti-Western and anti-Judaic lines.<sup>239</sup>

Baeumler's narrative of European history was based on a theory of a recurrent pattern in which the Germanic peoples of the north were locked in constant struggle with the Roman Empire and its successors, who occupied and colonized them. Through these occupations, he held, German culture had absorbed aspects of the Roman:

At the beginning of our history stands the clash with a people [the Romans] who in their origins were heroic themselves but who, like all peoples of the Mediterranean, finally fell to the destiny of *the city*. From the *urbs roma*, the city, which formed the center of the empire, the center of late antique civilization, we get our word "urban." The clash of Roman-urban civilization and heroic German force is not a one-time occurrence of our history: in always new forms, urbanity becomes our ruler, with the original force always finding new ways of breaking through.<sup>240</sup>

Many German nationalists during the Weimar Republic spoke of "heroic German force" and the struggle of "Greek" German culture against the Roman spirit of "civilization." Baeumler stood out, however, in his willingness to weave the story of that struggle together with a redemptive antisemitism that promised a more authentically Greek *Bildung*. "A new epoch is beginning," Baeumler told a group of students dressed in SA uniforms at the University of Berlin on May 10, 1933. "You are going out now to burn books in which a spirit foreign to us has partaken of the German word in order to fight against us."<sup>241</sup> In a lecture that Nazi students gathered to hear as a rallying cry for their revolution "against the un-German spirit," Baeumler marked his accession to a newly created chair for "political pedagogy and philosophy" at the university by promising that German humanism would be "reborn."<sup>242</sup>

From 1934 to 1938, Baeumler oversaw the removal of the ethnically Jewish guardians of nineteenth-century-style *Bildung* and the sidelining of the non-Jewish ones. In Göttingen, the historical center of neo-humanism, the Christian philosopher of Jewish descent Georg Misch (1878-1965) was removed in favor of Hans Heyse (1891-1976); in Heidelberg, the headquarters of Weimar neo-idealism, the Christian philosopher of

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<sup>239</sup> Alfred Rosenberg soon made Baeumler chiefly responsible for the "ideological supervision" of the Nazi party. In the 1920s, Baeumler warned that youth was abandoning "the precious assets of German idealism," leaving teachers "the choice either to win back the content of humanity that lies decidedly in German *Bildung* or perhaps to lose it forever." Baeumler, *Kants Kritik der Urteilskraft. Ihre Geschichte und Systematik* (Halle: M. Niemeyer, 1923) vii-viii. Baeumler's attempt to distinguish German *Bildung* from the Roman West won him praise from such literary masters as Thomas Mann, at least before the latter's turn toward a more pro-Western stance midway through Weimar. See Herbert Brunträger, *Der Ironiker und der Ideologe: die Beziehungen zwischen Thomas Mann und Alfred Baeumler* (Würzburg: Königshausen & Neumann, 1993).

<sup>240</sup> Baeumler, "Der Sinn des Großen Krieges," in *Männerbund und Wissenschaft* (Berlin: Junker und Dönhaupt, 1937), 10.

<sup>241</sup> Baeumler, "Antrittsvorlesung," Baeumler, *Männerbund und Wissenschaft.*, 137.

<sup>242</sup> *Ibid.*, 127.

Jewish descent Ernst Hoffmann (1880-1952) was replaced by Hubert Schrade (1900-1967); and in Kiel, the Christian philosopher of Jewish descent Richard Kroner (1884-1974), was replaced by Ferdinand Weinhandl (1896-1973).<sup>243</sup> In Berlin, Baeumler promoted his rabidly antisemitic colleague, the professor of German literature Franz Koch (1888-1969), to dean of the humanities faculty.<sup>244</sup> As the age differences make clear, these replacements were meant to symbolize a youth movement of “German force” in its latest “breaking through” of Roman domination: both practically, with the removal of purportedly Romanizing Jews, and theoretically, with the shift in the German study of man from idealism to “heroic realism.”

Baeumler and his new academic comrades in arms proceeded with blitzkrieg precision on a campaign to reveal how Jewish thinkers from antiquity to the present had been peddling ideas to contaminate the true Greek spirit and support Roman domination. The original contamination, they claimed, took place precisely during the years that historians considered the transition from Greek to Roman antiquity in the first century A.D. Koch showed how at the eastern edge of the Roman Empire, the influential Greek-speaking philosopher known as Philo the Jew (20-50 A.D.) had claimed to be a Platonist when in fact he was introducing a “complete novelty, in its origins perfectly foreign to Greek thinking.” It was the peculiar Jewish genius of Philo, Koch argued, to copy the elementally Greek-Platonic concept of *nous* (the highest, rational part of the soul) and synthesize it with the Judaic concept of monotheism and the “Oriental” belief in a force consisting in divine fiery breath (*pneuma*; in German, *Geist*) that penetrated forms to give them life.<sup>245</sup> In this narrative it was Philo, not Plato, who founded idealism by presenting

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<sup>243</sup> Heise’s book on *The Concept of Wholeness and Kantian Philosophy* (1927) garnered praise in the late 1920s for “having prepared the end” for idealism. Christian Tilitzki, *Die deutsche Universitätsphilosophie in der Weimarer Republik und im Dritten Reich* (Berlin: Akademie, 2002), 297. On Kroner see “Idealismus verboten. Der Präsident des Hegel-Bundes muss gehen,” *Neuer Vorwärts* 53 (February 11, 1934). The president of the Hegel Society and editor of the neo-Kantian journal of philosophy *Logos*. Baeumler’s main theoretical influence after Nietzsche, however, was Martin Heidegger, whom he called a “philosophical genius” and whom he attempted to recruit to Berlin as the second chair in philosophy. Safranski, *Martin Heidegger*, 267. During the summer of 1933, the two men collaborated on the “special political task” of reorganizing German universities at Heidegger’s cabin retreat in Todtnauberg. See *ibid.*, 237, 248, and Werner Brauning, “Ich wollte nicht daneben stehen...” *Lebensentwürfe von Alfred Baeumler bis Ernst Junger* (Graz: Ares, 2006), 34-35. On the points of connection in Heidegger and Baeumler’s work in these years, see Emmanuel Faye, *Heidegger: The Introduction of Nazism into Philosophy in Light of the Unpublished Seminars of 1933-1935*, trans. Michael B. Smith (New Haven, CT: Yale University Press, 2009), 151-72.

<sup>244</sup> Koch was a member of the advisory council for the Research Department on the Jewish Question (*Forschungsabteilung Judenfrage*). He located the “Judaic” influence in German *Bildung* beginning with his *Goethe and Plotinus* (1925), then *Deutsche Kultur des Idealismus* (1935), *Geschichte deutscher Dichtung* (1937), and *Goethe und die Juden* (1937).

<sup>245</sup> Koch, *Goethe und Plotin* (J.J. Weber, 1925). Baeumler characterized the philosophy of Plotinus as consisting of “some concepts of Plato, mixed with the main concepts of Aristotle, fused together through a foreign, heartfelt fiery breath of life in a spirit that was unknown in true Greek culture [*Griechentum*].”

the divine as the highest rational being, undivided, and life animating.<sup>246</sup> From there it was relatively easy to trace the intellectual genealogy from Philo to Plotinus to the Christian idea of the trinity that the Roman Empire eventually adopted, and finally to Kant, Hegel, Goethe, and the modern representatives of German *Bildung*.

According to Baeumler, the original transvaluation of Plato's *nous* concept into the divine ideal of rationality led not only to the world domination of the "peoples of the book" in the Roman Empire, but also to the creation of an effete class of "Judaic intellectuals" who had claimed to speak in Germany's name and held up their noses at the "uncultivated" (*ungebildete*) German farmers and soldiers. Furthermore, idealism had actively prevented political unity in Weimar Germany.<sup>247</sup> *Ideas* alone, he claimed in his inaugural lecture at the University of Berlin—the "ideas of 1789," the "Occidental idea," even the "ideas of 1914"—were incapable of uniting a people.<sup>248</sup> With all respect to the founders of German nationalism who inspired the "ideas of 1914," Baeumler found them insufficient as a foundation of German unity. He saw in the idealism of Fichte and Hegel

one of the boldest thrusts of the German spirit against every bond inflicted on us from the outside, a breaking forth of that Ghibelline nature that runs so deeply in our blood and that means the fear of every priestly rule. But it is not German, it is not Ghibelline, to hunker down with one idea. Fichte would not, today, speak as he did in his speeches to the German nation [in 1808]. Today we give full respect and honor to those men who created the University of Berlin, but we go forth from the same Ghibelline spirit that played within them, on a different path. The systematic critique of the idealist tradition belongs to our future work.<sup>249</sup>

The idealist tradition had resulted in a *Bildung* ideal that privileged rationally cultivated individuals (*Gebildete*), but these individuals were incapable of willing a true national community.

"The idealistic-humanistic philosophy of *Bildung* has claimed to be Greek," Baeumler said, but "precisely the Greeks did not train toward harmonious individuals." In his *Aesthetics* (1934), he offered a new theoretical foundation for the Nazi state. He argued there that the "true" Plato understood the divine not as pure thought, but as the

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<sup>246</sup> The main German-Jewish publishing house, the publication wing of the Central-Verein deutscher Staatsbürger jüdischen Glaubens, was named after the same Philo. Dedicated to debunking myths and spreading knowledge about Jews and Judaism, the Philo-Verlag ran from 1919 to 1938. See Susanne Urban-Fahr, *Der Philo-Verlag 1919–1938. Abwehr und Selbstbehauptung* (Hildesheim, NY: Olms, 2001).

<sup>247</sup> Baeumler, "Antrittsvorlesung," 133, 136-37.

<sup>248</sup> Baeumler wrote, "It is not about semantics. It is not a matter of indifference whether one says "Hitler" or "the idea." Everywhere where one plainly says "spirit" (*Geist*) and "idea" (*Idee*), we may deduce the philosophy of nonpictorial (*bildloses*) idealism, that philosophy which holds that the idea in itself (*an sich*) is more than a man, more than a realization (*Verwirklichung*)." Baeumler, "Antrittsvorlesung," 127. It is not improbable that political thinkers in exile, such as Max Horkheimer, would have had Baeumler's attack in mind when they made a virtue out of the *Bilderverbot* where Baeumler held it responsible for decline. See Horkheimer, "Die Juden und Europa," *Zeitschrift für Sozialforschung* 8 (1939), 115-37.

<sup>249</sup> *Ibid.*, 125.

“order” defined by the laws (*nomoi*) and rhythm (*rhythmos*) of the natural-biological world.<sup>250</sup> The authentic Greek spirit had expressed itself most elementally in the Spartan principle of orderly “training” (*Erziehung*), preserved in modern Germany through the Prussian General Staff.<sup>251</sup> Baeumler and the other educational theorists of the Third Reich devoted their first five years of Nazi service toward breaking the supremacy of the *Bildung* concept in German pedagogy and replacing it with the *Erziehung* concept.

Once Nazi leadership declared the removal of “Judaic intellectualism” from German thought complete, however—and a new generation of teachers had been trained under the new system—*Bildung* was allowed to be “reborn,” cleansed of all Western influence. Baeumler explained in 1939 that “this concept was most intimately connected with liberal individualism, and it would have led to dangerous misunderstandings had National Socialism spoken of *Bildung*.” Now that “the struggle is over and the time of construction long begun,” *Bildung* could retake its place among the “fundamental concepts for a National Socialist science of education.”<sup>252</sup> *Bildung* would be “one way the community trains” its students for “individuality” – not with the goal of self-perfection, as in the era of idealism, but rather of helping an individual maximize the “unfolding of his forces [*Kräfte*].” “The pedagogy of individualism saw in *Bildung* a goal,” he concluded, whereas the “National Socialist science of education recognizes in *Bildung* the way to achievement [*Leistung*].”<sup>253</sup>

It might be said that the “soldierly” and “political” student who emerged in the 1930s was a product of German liberal humanism, but like a jealous son sought to destroy it. Nazi educational theory inherited all the philhellenic and anti-Western, anti-democratic aspects of *Bildung* that had been brought to the fore during and after the Great War, but Baeumler and his colleagues departed radically from their fathers’ tradition, replacing idealism with a “heroic realism” that posited the ultimate supremacy of biological over intellectual community and order over democratic dialogue. Only in that way did they believe they could save their mother *Germania* from rapacious Roman hands by expelling the Judaic middlemen.

### III. The Westward Turn of German Liberals in Emigration

When National Socialists stigmatized liberal humanism in Germany, some liberal thinkers reconciled themselves with the new regime, while others entered what they later

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<sup>250</sup> Neo-Platonists focused on Plato’s early works (*Symposium* and *Phaidros*), the “true” Plato of the mature works *Politeia* and *Nomoi* emphasized not the penetration of divine spirit into the world, but rather the importance of the laws (*nomoi*) and rhythm (*rhythmos*) of the natural world. Baeumler, *Aesthetik* (München: Oldenbourg, 1934), 17-19.

<sup>251</sup> Baeumler, “Antrittsvorlesung,” 128.

<sup>252</sup> Baeumler, “Bildung” (1939) in *Bildung und Gemeinschaft* (Berlin: Junker und Duennhaupt, 1942), 111.

<sup>253</sup> *Ibid.*, 114-15.

called “inner emigration,” refusing to teach or publish.<sup>254</sup> Those with Jewish ancestry, however, were not generally allowed that choice. In exile, the latter group examined the elements within the tradition of *Bildung* that they believed had been responsible for the premature death of the Weimar Republic and the rise of National Socialism. For Helmuth Plessner and Arnold Bergstraesser—the two emigrés who returned and were most influential in the first decade of the Federal Republic—this meant confronting the anti-Western elements in their own thought.

### *IIIa. Helmuth Plessner’s Turn Away from Organicism (Life Philosophy)*

Helmuth Plessner (1892-1985) was one of the most celebrated young political philosophers of the Weimar Republic. He was born in the Rhineland and raised Protestant, his father—an internist specializing in neural medicine—having renounced a prestigious Jewish lineage in the name of assimilation into German culture.<sup>255</sup> As a student in Heidelberg, Plessner was known in the circle around Max Weber as a *Wunderkind*. It was rare that a German scholar would be as expert in biology as he was in philosophy and literature. After carrying out his civil service during the Great War, Plessner taught from 1920 to 1934 in Cologne, where he developed a self-consciously “Occidental” political theory under the influence of his older colleagues Max Scheler and later Carl Schmitt.

After having offered an Occidentalist critique of “Oriental” political communitarianism during the Stresemann era (in *The Limits of Community*), Plessner turned to an Occidentalist critique of “Western” politics during the final crisis years of the Weimar Republic. In a short book entitled *Power and Human Nature* (1931), he argued that “in an age when dictatorship has become a living power, in which Russia and Italy have proclaimed the gods of freedom dead, one should beware of thinking about politics with the principles of classical [i.e., Western] liberalism.”<sup>256</sup> Instead of conceiving political actors as abstract and reasonable individuals, as the French and Anglo-American liberal traditions allegedly held, Germans must understand political action as emerging primarily from the largely unconscious and organic belonging within a “people” (*Volk*),

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<sup>254</sup> For an interesting new interpretation of how some Weimar liberals from the Friedrich Naumann circle ended up reconciling themselves with the national revolution in 1933, see Eric Kurlander, *Living with Hitler: Liberal Democrats in the Third Reich* (New Haven, CT: Yale University Press, 2009).

<sup>255</sup> Among them Salomon Plessner (1797-1883) of Posen, a preacher and kabbalist.

<sup>256</sup> Plessner, *Macht und menschliche Natur* (1931), in *Gesammelte Schriften* 5, 191-200, 141. Schmitt, not known for his liberal dispersal of praise, called Plessner “the first modern philosopher who has dared to advance a political philosophy of a grand style.” Schmitt, *Der Begriff des Politischen* (Berlin: Duncker & Humblot, 1932), 60. On Plessner and Schmitt see Rüdiger Kramme, *Helmuth Plessner und Carl Schmitt: eine historische Fallstudie zum Verhältnis von Anthropologie und Politik in der deutschen Philosophie der zwanziger Jahre* (Berlin: Duncker & Humblot, 1989) and Helmut Lethen, *Cool Conduct*, 88-95. The correspondence between these two theorists, however, should not be overestimated. See Axel Hönneth’s review of Kramme in *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 43 (1991), 155-58.

Plessner wrote.<sup>257</sup> Accepting Carl Schmitt's argument that the separation of peoples into "friends" and "enemies" constituted one of the only firm foundations of international politics, he argued that "peoplehood" (*Volkstum*)—defined by culture, language, and ancestral connection to land—was one of the few "essential human traits."<sup>258</sup> It was not entirely out of character, then, that Plessner supported an authoritarian solution to Germany's political crisis, throwing his support (with Schmitt) to the "conservative revolution" and the anti-parliamentary German National People's Party when communist and Nazi party members together accounted for more than half of parliamentary seats in 1932.<sup>259</sup>

Plessner was like many Weimar liberals in the sense that he was neither militantly anti-Western nor pro-Western. The fact that he could support an authoritarian solution to the political crisis of Weimar in the name of German national unity, as many other national liberals (such as Gerhard Leibholz) did in the period directly preceding National Socialism, is surprising to those unfamiliar with modern German history primarily due to a confusion in the word "liberalism." To be a liberal in Weimar, just as in Wilhelmine, Germany was not necessarily to be wedded to the parliamentary democracy that defined the liberal political tradition of "the West"; mainly, it meant defending private property and the rule of law against the dual threat of communism and racialism.<sup>260</sup> It was therefore no contradiction to be a Weimar liberal and accept an authoritarian solution as long as it preserved the ideals of *Bildung* and the *Rechtsstaat*. Once the Nazis rose to total power through the ensuing conservative coalition, however, Plessner's lectures were boycotted, and in 1934 he emigrated from Germany, disillusioned, briefly to Turkey and then to the Netherlands.<sup>261</sup>

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<sup>257</sup> Plessner certainly conceived of German politics as distinct from "Western" politics. The advertisement in the *Zeitschrift für Politik* for Plessner's *Macht und menschliche Natur* began with the not altogether pro-Western words, "The historical fact that the Western peoples have been leading the development of democracy has unintentionally brought men under its influence as the agents of politics and history. The implementation [*Verwirklichung*] of democracy in Germany brings German political theory, too, before the problem of philosophy." Advertisement for Plessner, *Macht und menschliche Natur* in *Zeitschrift für Politik* 21 (1932), 432.

<sup>258</sup> In one of the tragic ironies of intellectual history, the half-Jewish Plessner accused the soon-to-be Nazi Martin Heidegger of failing to recognize the importance of *Volkstum* in the latter's conception of man. See Rüdiger Safranski, *Martin Heidegger: Between Good and Evil*, trans. Ewald Osers (Cambridge, MA: Harvard University Press, 1999), 208.

<sup>259</sup> Plessner's political stances appear in the documents concerning his consideration for a philosophy professorship in Hamburg to replace Ernst Cassirer (until Plessner's own Jewish ancestry was revealed). He received recommendations from Hans Freyer and Schmitt. See Tilitzki, *Die deutsche Universitätsphilosophie*, 168-69.

<sup>260</sup> See James Sheehan, *German Liberalism in the Nineteenth Century* (Chicago, IL: University of Chicago Press, 1978).

<sup>261</sup> Privately, Plessner mourned the fact that the Jews of Germany had not done as his father and converted to Christianity to avoid the problem of dual peoplehood. Plessner to Josef Koenig, August 9, 1934, cited in Carola Dietze, *Nachgeholtes Leben: Helmuth Plessner 1892-1985* (Göttingen: Wallstein, 2006), 116.

In exile, Plessner was the first philosopher to offer an insiders' perspective on "the ideological background" of National Socialism. In a collection of lectures given at the University of Groningen, published in Switzerland as *The Fate of the German Spirit at the Close of the Bourgeois Era* (1935), Plessner essentially attempted to explain where modern German thought had gone wrong. The work is better known by its later title *The Belated Nation: On the Political Seduceability of the Bourgeois Spirit* and is generally regarded as one of the most brilliant products of the intellectual emigration.<sup>262</sup> Less often noted—probably because Plessner himself chose not to note it—is the fact that the study was also a self-analysis and a confession on behalf of German liberal humanism.

The first part of Plessner's book traced Germany's "protest against the political humanism of Western Europe." Germans, he wrote, were among those peoples, along with the Spanish and Italians, who did not take part in the modern consciousness of the state after the seventeenth century because they felt themselves "victims of the Holy Roman Empire."<sup>263</sup> Fallen into decline, foreign rule, or civil war, they developed their notions of peoplehood in conscious opposition to the idea of a "sphere of publicity, citizenship, and community in the spirit of law [*Recht*]."<sup>264</sup> But while the *pueblo español* and the *popolo italiano* were reminded daily (by the very architecture of their cities) of the "tradition of the *populus romanus*, and therein, the latent republican idea of the state," the *deutsche Volk* was "real but unseeable" – an imagined ideal of an "original people" (*Urvolk*) that was never truly Romanized.<sup>265</sup> In the eyes of German thinkers, Plessner argued, Rome became the "opponent" in several different ways:

as the cultivating world power, which in her expansion pulled Germans into the circle of light of history and which Christianized them as the Roman-Catholic church. A part of the people freed itself from this Romanization during the Reformation. The presence of the Roman Church on German ground remains however a persistent danger; as Italian humanism and Italian Renaissance, which still today has an interfering influence in German intellectual and artistic vision; as—through Roman law and the ideal of the republic reawakened in the Renaissance—the modern idea of the state, which makes man for man's sake the carrier of the free order, that is, the idea of the state of Western Europe and—in face of the conflictual possibilities [*Konfliktmöglichkeiten*] of Germany—especially France.<sup>266</sup>

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<sup>262</sup> See Sven Papcke, *Deutsche Soziologie im Exil. Gegenwartsdiagnose und Epochenkritik, 1933-1945* (Berlin: Campus, 1993), 170.

<sup>263</sup> Italics mine. I quote from the 1959 edition, *Die verspaetete Nation. Über die politische Verführbarkeit bürgerlichen Geistes* in *Gesammelte Schriften*, vol. 6, ed. Guenther Dux, Odo Marquard and Elisabeth Stroeker (Frankfurt am Main: Suhrkamp, 1982), 58-59.

<sup>264</sup> *Ibid.*, 58.

<sup>265</sup> *Ibid.*, 59.

<sup>266</sup> *Ibid.*, 60.

Such a narrative was important not as much for its precision—historians have since nuanced Plessner’s sweeping claims, though not rejected them—as for its rhetorical force.<sup>267</sup> In the 1930s Germans *and* non-Germans alike, for instance the original Dutch audience of his lectures, could understand immediately the idea that German consciousness had been defined historically through “protest” against the West and through the development of an organic concept of peoplehood. The question was whether one imbued that protest with a positive or negative valence.

Whereas just four years earlier Plessner had lauded Germany’s historically defined national consciousness, here in 1935 he held it responsible for the rise of National Socialism. This was a serious confession for any German liberal, let alone for “Germany’s representative of philosophy abroad.”<sup>268</sup> Plessner explained how the *Bildung* ideal had been overly rationalistic and individualistic in the late nineteenth century, necessitating a “fundamental corrective in the form of a Copernican turn” to account for the role of unconscious categories in the functioning of the human mind, and how that turn inspired a healthy reaction of sons against fathers and a reasonable appreciation for biological-psychological reality at the turn of the century.<sup>269</sup> But the next generation of German thinkers (himself included, he implied) erred by attempting to translate their new appreciation for the unconscious into an exact science of the human organism.<sup>270</sup> He and his Weimar colleagues had exaggerated “the narrowness of human objectivity,” and thus, in an age in which many German thinkers had become alienated from the reason of religion, Germans developed a “total suspicion” against the objectivity of consciousness:

...on the scale that balances consciousness with action [i.e., theory with praxis], action began to predominate. Only action no longer stands under religious, rational, and moral principles applicable for all humans, as it did with Kant and the great idealist tradition. [...] Instead, praxis may receive its orientation and bond [*Bindung*] only from that stratum which in its role as a determining base factor tips the balance in the life of men. And at the level of extreme suspicion, this stratum is biological vitality, the system of drives, and the unit of race.<sup>271</sup>

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<sup>267</sup> Plessner’s “belated nation” thesis should not be confused with the *Sonderweg* theory of Hans-Ulrich Wehler, who held that Germany’s *late economic modernization* was responsible for many of the occurrences of the twentieth century. Plessner never voiced that view, instead focusing only on the world of ideas. See Hans-Peter Krüger, *Philosophische Anthropologie als Lebenspolitik. Deutsch-jüdische und pragmatistische Moderne-Kritik* (Frankfurt am Main: Akademie, 2009), 125.

<sup>268</sup> Dietze, *Nachgeholttes Leben*, 450. Indeed it earned him the epithet reserved for critics of Germany’s anti-Westernism: “German-hater.” See Helmut Schelsky, *Rückblicke eines “Anti-Soziologen”* (Opladen: Westdeutscher, 1981), 139. Hugo Preuss received the same after the publication of his book *Das deutsche Volk und die Politik* (1915).

<sup>269</sup> *Ibid.*, 147-48.

<sup>270</sup> *Ibid.*, 148. He wrote, “man cannot look into the cards during the play of his categories without ruining the game.” See also Plessner’s related critique of Ivan Pavlov, “Die physiologische Erklärung des Verhaltens. Eine Kritik an der Theorie Pawlows” (1935), in *Gesammelte Schriften*, vol. 8, 7-32.

<sup>271</sup> Plessner, *Die verspätete Nation*, 159.

In the final paragraph of the book, Plessner wrote contritely that the “fruit” of life philosophy (*Lebensphilosophie*), which he had helped cultivate in the Weimar years, had been “bound to mature” into something “crude, flat, and massive” once it entered political culture, losing the subtlety and rich potential it contained in its genesis.<sup>272</sup> Nazism’s antisemitic “biological authoritarianism” was not an aberration of German liberalism, he suggested with his book’s title, but the “fate” (*Schicksal*) of the German idea of organic unity – a reaction against the Western form of the state, taken to its absolute logical extreme.

Plessner shifted his attention after 1935 to the historical and contemporary points of contact and cooperation between German and “Western” thinkers that he believed would form the intellectual basis for pulling Germany back into the tradition against which it protested. When he joined the faculty at the new social scientific institute at the University of Groningen, however, Plessner entered an atmosphere of Dutch anti-German sentiment that had not abated since World War I. Despite their linguistic affinity with their eastern neighbors, Dutch citizens typically felt more in common with French culture. (As Plessner later put it, Holland—“in opposition to the German states”—had followed France and England in its style of nation-building.<sup>273</sup>) Plessner’s inaugural lecture of 1936 on “The Tasks of Philosophical Anthropology” acknowledged that German thought had followed a different path from its Western counterpart, but stressed the paths’ common starting point and their occasional intersections. The Young Hegelians Ludwig Feuerbach (1804-1872) and Lorenz von Stein (1815-1890), he said, provided a critique of Christian idealism as the basis for the study of man as beholden to natural laws.<sup>274</sup>

From 1936 until he was forced into hiding in 1940, Plessner began to reconstruct what he believed constituted the *Western*—not Occidental—philosophical foundations of German liberal politics. He no longer wrote of the holistic national organism, but rather of the laws that govern universal human nature. He had actually begun this project already during the Weimar period with an essay co-written with the Dutch biologist Frederik Buytendijk (1887-1974) entitled “The Interpretation of Mimic Expression” (1925). In that work, the two authors had aimed to demonstrate that all human expression beginning from birth is “naturally artificial” and imitative – an argument they believed had (justly) inspired Occidental culture since the Greeks and guarded against dangerous notions of radical authenticity.<sup>275</sup> In the 1930s, the issue took on a new urgency, as the Nazis stigmatized “imitation” and “representation” as “Western” and “Judaic.”

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<sup>272</sup> Ibid., 211.

<sup>273</sup> Quoted in Dietze, *Nachgeholtes Leben*, 345.

<sup>274</sup> Plessner, “Die Aufgabe der philosophischen Anthropologie,” in *Gesammelte Schriften*, vol. 8, 34, 38.

<sup>275</sup> Plessner and Buytendijk, “Die Deutung des mimeschen Ausdrucks: Ein Beitrag zur Lehre vom Bewusstsein des anderen Ichs,” *Philosophische Anzeiger* I (1925/26), 72-126. Plessner’s work was a major influence on the work of Walter Benjamin (1892-1940), and most likely through the latter on Horkheimer and Adorno’s theory of mimesis and antisemitism in *Dialektik der Aufklärung*. See Frederic Schwartz,

### *IIIb. Arnold Bergstraesser's Turn Away from Classical Antiquity*

As Plessner fled Cologne for Groningen, the professor of foreign affairs Arnold Bergstraesser (1896-1964) was preparing to leave Heidelberg.<sup>276</sup> A comparison of these two figures provides further insight into the predicament of Weimar-generation liberals and their transformation in exile. Bergstraesser was everything Plessner was, only more so: born in the same Western region of Germany of mixed Christian and Jewish ancestry, groomed to be an elite member of the Protestant *Bildungsbürgertum*, inspired by the mood of the youth movement and the Great War, a student of Max Weber and Ernst Troeltsch, committed to the “Occidental idea” against communism and racial nationalism. In the end, Bergstraesser participated even more actively in sacrificing parliamentary democracy on the altar of national unity – and he turned even more sharply toward “the West” after regretting his choices.

Though a critic of the “overheated nationalism” of the Weimar youth movement and an early supporter of the Weimar Republic, it became clear that Bergstraesser privileged his commitment to national unity over his obligation to the “Western” path of democracy.<sup>277</sup> In an address he gave in 1932 on “the spiritual [*geistige*] foundations of German national consciousness in the present crisis,” he told a group of German

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*Blind Spots: Critical Theory and the History of Art in Twentieth-Century Germany* (New Haven, CT: Yale University Press, 2005), 212-38.

<sup>276</sup> Alfred Weber said of Bergstraesser that “such a type did not *exist* before [in Germany] - all this is hopeful and good.” Alfred Weber to Else Jaffé, April 19, 1924, quoted in Eberhard Lemm, *Von der Weimarer Republik zur Bundesrepublik. Der politische Weg Alfred Webers* (Duesseldorf: Droste, 1999), 46-47. The dominant school of liberal sociology in the Weimar Republic—the Institute for Social and State Sciences (as it was named in 1924) under the leadership of Alfred Weber (1868-1958)—was known for its neo-Kantianism, its proximity to Becker’s efforts to create a democratic cultural-political idea, and its attempt to reintegrate Germany into the international community after the Great War. Reinhart Blomert et al. eds., *Heidelberger Sozial- und Staatswissenschaften. Das Institut für Sozial- und Staatswissenschaften zwischen 1918 und 1958* (Marburg: Metropolis, 1997), 12.

<sup>277</sup> Bergstraesser, “Die Jugendbewegung und die Universitäten,” in *Jugendbewegung und Universität* (Karlsruhe: Braun, 1927), 25-26, and idem, “Erinnerung des deutschen Krieges,” *Europäische Revue* 5, no. 3 (June 1929), 148. A prominent figure in the youth movement—a member of the *Wandervogel* before becoming influential in the student groups in Heidelberg from 1919 to 1923—and an enthusiast of the poet Stefan George, Bergstraesser promoted a type of socialism directly inspired by the “ideas of 1914” and rooted in the communal “spirit of awe and service” that many in his generation of Germans had found on the battlefield. As a representative on the eldest council of the German student groups, he unsuccessfully defended the “citizenship principle” (*Staatsbuergerprinzip*) against the proposition to make membership dependent on racial qualifications in 1922. Horst Schmitt, “Ein ‘typischer Heidelberger im Guten wie im Gefährlichen’. Arnold Bergstraesser und die Ruperto Carola 1923-1936,” in *Heidelberger Sozial- und Staatswissenschaften*, 168-69. In the Stresemann era, he defended the Republic against authoritarians who called Weimar an interregnum, arguing that parliamentary democracy offered a “path toward the unity of the German people in a nation state” if only German youth were willing to take it. Bergstraesser, “Der Preusse oder der Deutsche?” *Europäische Revue* 2, no. 12 (March 1927), 386: “This is not the time of the interregnum. Today history has given us—for how much longer?—the path toward the unity of the German people in a nation state.”

exchange students that the time had come for them to find their own form of state in light of all the examples of their neighbors: “Western democracy, English parliamentarianism, Italian fascism, the Russian socialist state.” He pointed them in a decidedly non-Western direction in a history lesson that is worth quoting at length:

While in England, the relationship to classical antiquity—the foundations of our Occidental cultural existence—is still shaped by the humanism of the sixteenth century, and in France humanism still holds the classical form of the seventeenth century, in Germany the encounter with the Hellenic-Roman world, with the “archai,” occurs unmediated and with great jolts [*Stöße*]. [...] I only want to awaken in you memories of figures that speak to us from the past and could transform our relationship to our own country into a richer and fuller one. Therefore I want to point—and this is the nerve center of my speech—to how the awakening of our unique cultural essence occurred through the poetry and education of the turn of the eighteenth century. The pages about German customs and art that then blazed this path carry the names Möser, Herder, and Goethe. [...] They first enabled us to find the force of resistance also in the political sphere [when France invaded]. [...] In all the people who consciously and actively take up life here, the justification of resistance against Napoleon rests in the certainty that in Germany a spiritually defined existence is led, which has its own law [*Recht*], which is newly formed out of its original relationship [*Urverhältnis*] to the world, which may also defend its external existence and is legitimized therein through its eternal maintenance.<sup>278</sup>

This was something Plessner—but *not* Baeumler—could plausibly have said in 1932. Bergstraesser spoke positively of the common “Occidental cultural existence” with England and France and of the medieval “fusion” (*Verschmelzung*) of Germanic and Roman culture. The divergence from “the West,” according to Bergstraesser, occurred *within* the Occidental tradition in the German people’s relationship to antiquity. While France and England relied on received tradition in their relationship to ancient wisdom, Germans such as Martin Luther and Wilhelm Windelband returned “unmediated” to the Greek and Christian sources themselves, enabling them to lead true ancient culture into the modern world.

By the time he received the most prestigious Heidelberg chair of social sciences in 1932, such ideas had brought the liberal Bergstraesser toward the conservative revolutionary Ring Circle and turned him into a guru of nationalist youth.<sup>279</sup> By most

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<sup>278</sup> Bergstraesser, *Geistige Grundlagen des deutschen Nationalbewußtseins in der gegenwärtigen Krise* (Stuttgart: Deutsche Verlags-Anstalt, 1933), 3, 17-18.

<sup>279</sup> Indeed, some of Bergstraesser’s doctoral students—for instance Friedrich Wagner (SD control of scholarship) and Franz Alfred Six (high-ranking officer in SS)—went on to notorious careers in the Nazi regime. Also, in a controversial case of academic politics that would haunt him in exile, he took the side of militant Heidelberg student groups in the dismissal of a pacifist professor (of Jewish descent) in the math department who had allegedly insulted the memory of German soldiers in the Great War. See Arthur Brenner, *Emil J. Gumbel: Weimar German Pacifist and Professor* (Boston, MA: Humanities, 2001), 115-42. Lest Bergstraesser be confused for a Nazi himself, one should note in the block text quotation above that Bergstraesser’s idea of German peoplehood was explicitly anti-racialist in his formulation “all the people who take up life here,” though he also spoke at times of “blood” in the metaphorical sense of a Möser or Herder. Especially useful in contextualizing Bergstraesser’s turn right is Rainer Eisfeld, “German Political Science at the Crossroads: The Ambivalent Response to the 1933 Nazi Seizure of Power,” in *Political Science and Regime Change in 20<sup>th</sup> Century Germany*, 17-54.

accounts, he awaited an important political post in a post-Weimar regime, as a close adviser of General Kurt von Schleicher.<sup>280</sup> In 1933, Bergstraesser was willing to accept the decision of a majority of German youth groups and greet “the German national revolution as a *new foundation of the state*” in which the “dominance of rational forms of being in society” could be overcome “by the awareness and reanimation of the forces of community.”<sup>281</sup> There is little reason to doubt Bergstraesser’s later statement that he was an anti-Nazi who had mistakenly believed there was still a chance “to support the return to what we called ‘*Rechtsstaat*’”; on the other hand, it was understandable that many of his former colleagues never forgave him for encouraging student leaders away from Western democracy during the crisis years.<sup>282</sup> In any case, he was no longer permitted to work in Germany after the Nuremberg Laws of 1935 annulled the special dispensation for Jewish war veterans. It must have come as a particularly hurtful blow to face disturbances in his lectures from the youth groups who once revered him.

Before fleeing Germany in 1937, Bergstraesser published a small text that should be read in tandem with Plessner’s *The Fate of the German Spirit*. Thinly disguised as an innocuous historical treatment, *Lorenzo Medici: Art and the State in the Florentine Fifteenth Century* (1936) was an indictment of German liberalism in the rise of National Socialism as well as Bergstraesser’s implicit apology for his previous advocacy of Germans’ “unmediated” relationship with classical antiquity. The small pamphlet represented the well-known cultural landscape of Renaissance Florence beginning with Dante, but it painted it as a process in which Italian Christian thinkers developed their “own special relationship” (*eigen Verhältnis*) with pre-Christian antiquity (read: just as German Christian thinkers did beginning at the close of the eighteenth century).<sup>283</sup> For two centuries, the Florentine near-obsession with mystical neo-Platonism—in particular the idealist belief in the immediate penetration of the divine into all material things—produced the world’s most inspiring culture.<sup>284</sup> But Bergstraesser then argued that the same neo-Platonic ideas of authenticity and unmediated communion that were so productive when limited to art and culture under the patronage of Lorenzo de’ Medici yielded tyrannical results when translated into political ones by his successor Girolamo Savonarola, under whom “clothes, books, and pictures were burned” and “a democratic

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<sup>280</sup> On Bergstraesser’s political aspirations, see Schmitt, “Ein ‘typischer Heidelberger,’” 173.

<sup>281</sup> Bergstraesser, *Nation und Wirtschaft* (Hamburg: Hanseatische Verlagsanstalt, 1933), 31, italics in the original.

<sup>282</sup> Bergstraesser to Peter [illegible], Jan. 3, 1944[5?], NL 1260/77, 2, Arnold Bergstraesser Papers, Bundesarchiv, Koblenz. Hajo Holborn to Bergstraesser, undated [1940s], NL 1260/74, Bergstraesser Papers. Other former colleagues—including his teacher Alfred Weber—were more understanding. See Alfred Weber to Bergstraesser, March 3, 1938, NL 1260/85, Bergstraesser Papers.

<sup>283</sup> Bergstraesser, *Lorenzo Medici. Kunst und Staat im Florentiner Quattrocento* (Frankfurt am Main: Vittorio Klostermann, 1936), 3.

<sup>284</sup> *Ibid.*, 24-25.

freedom was supposed to be imposed.” Bergstraesser’s readers would have recognized the parallel between Lorenzo and the leaders of the German youth movement, who, with their yearnings for an ideal national community of Christian socialism, had also unwittingly “called forth” a Savonarolan preacher-leader.<sup>285</sup> *Lorenzo Medici* seemed to be Bergstraesser’s implicit renunciation of the philhellenism that had underpinned his glorification of the “German idea” of political community since the Great War.

When he began teaching at a small liberal arts college in Southern California in 1938, Bergstraesser must have believed that his persecution under Nazism qualified him as a perfect cultural ambassador for the “other,” peaceful Germany. Instead, he encountered an academic atmosphere of extreme suspicion toward German nationalists’ impact on what Americans called “Western civilization.”<sup>286</sup> His already thankless task turned unmanageable as the U.S. entered World War II under calls for a “crusade” against a “nation and an idea which have threatened and still threaten the life and hopes of our Western civilization.”<sup>287</sup> Bergstraesser was interned in an enemy alien camp from 1941 to 1942, his sordid late-Weimar past having been exposed to American authorities by fellow emigré academics.<sup>288</sup>

In a stroke of luck, however, the president of the University of Chicago, Robert Maynard Hutchins, recruited Bergstraesser midway through the war to chair the newly created Committee on the History of Culture. A legal scholar and Goethe enthusiast himself, Hutchins was rare among American educationalists in his faith in the contributions that non-Marxist German emigré scholars, with their classical training, could make to the “mission” of protecting Western civilization against the nihilistic relativism he believed was taking hold of American academic culture and preparing the ground for fascism or communism. Hutchins is often called a “neo-Thomist” or “neo-Aristotelian” in his emphasis on the natural law tradition that he emphasized when

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<sup>285</sup> *Ibid.*, 30. The comparison between Savonarola and Hitler was also made by Max Horkheimer in his essay “Egoismus und Freiheitsbewegung,” *Zeitschrift für Sozialforschung* 5 (1936), 161-234, then by Thomas Mann in “Bruder Hitler,” *Das neue Tagebuch* 7, no. 13 (1939), 306-309.

<sup>286</sup> When American universities were first developing their general education curricula in the wake of World War I educationalists were still influenced by John Dewey’s *German Idealism and Politics* (1915), which pointed to the dangers of German philosophy for pragmatic political thought. In 1922, the views of the editor of *Century* magazine and soon-to-be president of the University of Wisconsin-Madison were not uncommon. “Not in the cheap sense of war-time hysteria, but in a very real sense, Germany [...] was the perfect embodiment of the pagan and antichristian ideals that were leading all of Western civilization straight to destruction.” Glenn Frank, “An American Looks at His World: The Spiritual Outlook for Western Civilization,” *Century* 104, no. 2 (June 1922), 318.

<sup>287</sup> Editorial, “The Enemy,” *Time* (June 12, 1944), 40.

<sup>288</sup> Kurt Grossmann and Emil Gumbel sought to have him banned from teaching American students. See Krohn, “Der Fall Bergstraesser in Amerika,” *Exilforschung* (1986): 254-275. The Department of Justice reported in 1943 to J. Edgar Hoover that Bergstraesser was “one of our most difficult and troublesome cases in part because of the dispute in academic circles,” but also says that he was a “very valuable teacher for our military and civilian officials who might become concerned with administration of government in Germany.”

creating a new “core curriculum.” Bergstraesser was the first prominent emigré Hutchins recruited in a list that would soon include Leo Strauss (1899-1973), Hannah Arendt (1906-1975), and Hans Morgenthau (1904-1980).<sup>289</sup>

In Chicago’s academic oasis of philo-Germanism, Bergstraesser had the time and resources to work on his real interest: developing a new historical-cultural ideal to overcome what one contemporary author called “the tyranny of Greece over Germany.”<sup>290</sup> With the support of Hutchins, he began work on the neo-Aristotelian natural law tradition of the Latin High Middle Ages they agreed formed the foundation of the Occident, including the West. Bergstraesser used his influential post on the Committee on the History of Culture to gather around him a group of anti-communist emigré art historians and literary critics who wrote for his German-language journal *German Contributions to the Intellectual Tradition*; the first issue led with an essay on German contributions to Roman Catholic liturgy. In his own work, Bergstraesser traced the natural-law strain of “scientific politics” within German liberal humanism that he argued had been passed down from the medieval period to Goethe, to the historian Wilhelm Dilthey and the sociologist Max Weber—and finally, presumably, to Bergstraesser himself.<sup>291</sup> Across campus, a parallel intellectual genealogy was being traced in the “Jewish” natural law political tradition from Maimonides to Spinoza to Strauss. Thinkers like Bergstraesser and Strauss presented to American audiences living proof that the German idealist tradition did not consist solely of neo-Platonic mysticism but also the realistic empiricism that Hutchins believed constituted the intellectual core of “the West.”

Bergstraesser’s defense of the German tradition culminated in the final fruit of his emigration period and his only major publication in English: his widely read *Goethe’s Image of Man and Society* (1949). The work marked his complete shift away from political Platonism and toward the neo-Aristotelian rational natural law tradition. For most German liberals before 1933, as for the educated American public, Goethe was German culture – meaning that any attempt to rescue German liberal humanism hinged on one’s understanding of this historical figure. The most influential representation of Goethe in the Weimar years had been the 1918 biography by the Heidelberg literary critic (of Jewish descent) Friedrich Gundolf, a committed member of the George circle who painted Goethe as a “Greek German” of nineteenth-century *Bildung*; meanwhile, anti-

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<sup>289</sup> See Radkau, *Die deutsche Emigration in den USA. Ihr Einfluss auf die amerikanische Europapolitik 1933-1945* (Duesseldorf: Bertelsmann, 1971), 214-18.

<sup>290</sup> Butler, *The Tyranny of Greece over Germany*.

<sup>291</sup> Bergstraesser argued that German cultural sociologists at the turn of the twentieth century had adopted “Goethe’s, Humboldt’s, and Schleiermacher’s concept of the individual as a self-realizing unit” but discarded its “metaphysical implications,” and in so doing, blazed a middle path between the study of the natural law of man as a free individual and a product of his biology and environment, much like the American pragmatists. On the mission of overcoming historicism, see Bergstraesser, “Wilhelm Dilthey and Max Weber: An Empirical Approach to Historical Synthesis,” *Ethics* 57, no. 2 (Jan., 1947), 98, 110. James Kloppenberg would later take up this same comparison in his work *Uncertain Victory: Social Democracy and Progressivism in European and American Thought, 1870-1920* (Oxford: Oxford University Press, 1986).

Weimar racial nationalists had been implicating Goethe with the “Judaic spirit.”<sup>292</sup> On the occasion of Goethe’s bicentennial in 1949, Bergstraesser organized with Hutchins a conference in Aspen, Colorado, where thinkers including Albert Schweitzer, Thornton Wilder, José Ortega y Gasset, Stephen Spender, and Ernst-Robert Curtius gathered to celebrate this historical figure and support a one-world constitution based on the values of Western civilization. There, at the origins of what became the think tank The Aspen Institute, Bergstraesser presented *Goethe’s Image of Man and Society*. By emphasizing Goethe’s combination of spiritualism and rationalism, his career not only as a poet but also as a lawyer, his reverence for human life that attracted him to Christian and Jewish ethics while resisting religious dogmatism, Bergstraesser not only integrated German culture into a Western paradigm, he also set himself up as the person best qualified to help regenerate liberal humanism upon his return to Germany.

The development of Plessner’s and Bergstraesser’s thought in exile might briefly be summarized as follows. The first years of their intellectual production after 1934 consisted in self-critique: reflection on where the German liberal tradition had failed, the dangers inherent in a non- or anti-Western political philosophy, in the ideas of organic peoplehood and neo-Platonic idealism. Instead of discarding the German tradition out of hand in emigration, however, the second phase saw Plessner’s and Bergstraesser’s attempt to pinpoint the elements in the liberal humanist tradition—in the concepts of *Geist* and *Bildung*—that could be exploited for a pro-Western “re-orientation” after Hitler. After 1945, they hit a fork in the road: they had to decide whether to remain in exile and continue to write for Germany, or to return and aid in the reconstruction of liberal humanistic culture.

#### IV. Remigration, Denazification, and the Formation of a “Western” Liberal Ideal

When Allied occupation officials and the new German authorities in the Western zones turned their attention to the denazification and reconstruction of humanities departments, it soon became apparent that the vast majority of German liberal professors had either emigrated or collaborated. It was therefore primarily the “old deans” of Weimar education—philosophers such as Hermann Nohl (1879-1960), Theodor Litt (1880-1962), Eduard Spranger (1882-1963), Karl Jaspers (1883-1969), and social scientists such as Alfred Weber (1868-1958) and Leopold von Wiese (1876-1969)—who led the institutional reconstruction of academic institutes, educational journals, and professional societies in the immediate postwar period.<sup>293</sup> However, most of these men were too close to the age of retirement, too steeped in the old Wilhelmine language of *Bildung*—of classical antiquity, Protestantism, and idealism—and too unfamiliar with the language of Western liberalism to be suitable for long. During a self-conscious politics of “alignment with the West” (*Westbindung*) led by Konrad Adenauer, educationalists

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<sup>292</sup> Friedrich Gundolf, *Goethe* (Berlin: Bondi, 1916); Heinrich Teweles, *Goethe und die Juden* (Hamburg: W. Gente, 1925).

<sup>293</sup> Rainer Lepsius, “The Development of Sociology in Germany after the Second World War, 1945-1947,” EUI Working Papers (San Domenico: European University Institute, 1984), 2-3.

returning from Western exile represented the perfect opportunity to bring German liberal thought into a Western orbit and provide theoretical justification for the new regime.

State ministers of culture and Allied administrators valued the return of *sociologists*, in particular, as crucial in the Westernization process. Since before 1914, the German Society for Sociology (*Deutsche Gesellschaft für Soziologie*) had the reputation of being a “Western-oriented” group of professors, even in its use of the French term *sociologie* as opposed to the German *Sozialethik*. For reasons discussed above, over the ensuing years the discipline—defined as a discipline of “synthesis” by its advocates—gained the reputation as a “Judaic science” (*jüdische Wissenschaft*), and by 1938 roughly two-thirds of professors in sociology and its related fields had been driven out of the country.<sup>294</sup> Hostility toward sociology constituted one of the obvious strains of continuity between the Weimar guardians of *Bildung* and the Nazi regime.<sup>295</sup> Post-Nazi German authorities deemed the recovery of emigrated sociologists, or at least of their “spirit,” essential for German-Western rapprochement.<sup>296</sup>

Due perhaps to this institutional support, sociologists were the most likely demographic of exiled German professors to return after the war. It has been estimated that up to thirty percent of the sociologists who fled Germany between the ages of twenty-five and forty returned to Germany permanently, and many more took up regular visiting posts.<sup>297</sup> Arkadij Gurland (1904-1979) and Sigmund Neumann (1904-1962), Weimar students of the sociologist Hans Freyer, returned from the U.S. after 1949 to (West) Berlin to construct the new Institute for Political Science, replacing Baeumler’s institutions of political pedagogy, and Michael Landmann (1913-1994) took over the chair in philosophy there, where he taught philosophical anthropology. Gottfried

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<sup>294</sup> The Prussian ministry of culture Carl H. Becker, Weimar’s greatest advocate of sociology, confirmed that perception in 1919 when he wrote that the discipline consisted “solely of synthesis,” taking cues from all other disciplines to create a “realistic” image of human relations beyond what one merely wants them to look like. Becker argued that “it is only by sociological observation that in the intellectual sphere the mental habit can be created which then becomes, when transferred to the ethical sphere, political conviction.” Becker, *Gedanken zur Hochschulreform*, 9.

<sup>295</sup> On the hostility between the youth movement and sociology, see Wolf Lepenies, *Between Literature and Science: The Rise of Sociology*, trans. R.J. Hollingdale (Cambridge: Cambridge University Press, 1988), 315-16, and Dirk Käsler, *Die frühe deutsche Soziologie 1909-1934 und ihr Entstehungs-Milieu* (Opladen: Westdeutscher Verlag, 1984). Lepsius, “Sociology in Germany and Austria, 1918-1945: Historical Material on Development, Emigration and Influence,” EUI Working Papers, vol. 104, European University Institute, 18.

<sup>296</sup> Eugen Rosenstock-Huussy, also expressed this sentiment in a speech he gave in 1950. Calling on Germans to start thinking forward toward the future instead of looking back to the past, he said, “Now the Jews have been exterminated in Europe. Europeans have not in the least gotten free from their intellectual [*geistige*] function. On the contrary: now it will be necessary for all Europeans to handle the future as a fact, after Israel’s example.” Rosenstock-Huussy, “Das Geheimnis der Universität,” *Die Sammlung* 5, no. 9 (September 1950), 537. Originally a speech at the University of Goettingen on July 5, 1950.

<sup>297</sup> Lepsius, “The Emigration of the Social Sciences and Its Consequences,” trans. Iain Fraser, EUI Working Papers, vol. 104, European University Institute, year?, 34.

Salomon-Delatour (1892-1964) returned from the U.S. first to Munich then to Frankfurt, where he joined Max Horkheimer and Theodor W. Adorno in sociology to replace Ernst Krieck. Charlotte Luetkens (1896-1967), a student of Alfred Weber, returned to Bonn in 1949; and Siegfried Landshut (1897-1968) returned from Palestine and Egypt to take over the new chairs in both sociology and political science in Hamburg. Sociologists of non-Jewish descent (but who were often *mistaken* for Jews) also returned, such as Rene Koenig (1906-1992) from Swiss exile to take over the reconstituted Institute for Social Science in Cologne and Alexander Ruestow (1885-1963) from Turkish exile in 1950 to take over the renamed Alfred-Weber-Institute for Social and State Sciences in Heidelberg. “The re-foundation of sociology and political science was largely thanks to people coming back from emigration,” M. Rainer Lepsius noted recently.<sup>298</sup>

Among these figures, it was Plessner and Bergstraesser who emerged as the most powerful voices in the development of a new generation of liberal thinkers in the 1950s. The reason for their tremendous influence, I argue, lay in the continuity they represented from what Mehnert called the “highpoint” of German-Western reconciliation during the Stresemann years. Unlike some of the other figures listed above, Plessner and Bergstraesser were not Marxists who abandoned Marx for liberalism in exile. On the contrary, they were committed anti-communists who had rejected an anti-Western stance in exile but remained proud Germans: precisely the model many postwar German students in the Western zones were trying to follow themselves. Speaking for many, Plessner’s student and eventual successor, Hans Paul Bahrdt (1918-1994), summarized the effect of Plessner’s decision as follows: “That an emigre returned home, that he did not scorn the call to a German university—, it would be false to say that it helped our national pride back on its feet. But the result was consoling, certainly a bandage for the wounded national self-feeling of this student generation, though this feeling would surely never recover its old unselfconsciousness.”<sup>299</sup>

#### *IVa. Plessner’s Contribution to the Westernization of the German University*

As a political author, Plessner had made it his singular goal after 1935 to bring German thought back into the Western fold, but when offered the chance to return physically to Germany he did consider scorning “the call.” He had barely survived deportation in Dutch hiding and had lost most of his remaining family in Germany.<sup>300</sup> Besides, Plessner was professionally secure at the University of Groningen, even if he faced some anti-German sentiment from students there.<sup>301</sup> Nevertheless, after hearing the arguments of some of his fellow emigrés that “we are Germans with undamaged names

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<sup>298</sup> Ibid., 32.

<sup>299</sup> Quoted in Aniko Szábo, *Vertreibung, Rückkehr, Wiedergutmachung: Göttinger Hochschullehrer im Schatten des Nationalsozialismus* (Goettingen: Wallstein, 2000), 124.

<sup>300</sup> Plessner to Rothacker, November 14, 1943, quoted in Dietze, *Ein nachgeholtes Leben*, 206 fn. 27.

<sup>301</sup> Plessner occupied the chair previously held by a neo-Kantian scholar of Jewish descent Leo Polak (1880-1941), murdered in Sachsenhausen.

and are, as such, urgently needed,” Plessner decided to consider the option.<sup>302</sup> The place and the discipline in which he finally accepted a professorship in 1950 were significant: the University of Göttingen, because it was the historic seat of German liberal humanism; and sociology, because it represented the turn westward.<sup>303</sup> “The Nazi regime systematically suppressed the self-formation of sociology, so that a strong consciousness of lagging behind [*Rückstand*] now rules in Germany,” Plessner explained to the Dutch minister of culture. It was therefore his belief that “*Western sociologists* have the duty to help the Germans, to make up for this shortfall.”<sup>304</sup>

It is difficult to underestimate the influence that Plessner exerted in the liberal circles of the Federal Republic after his return at age fifty-eight. Göttingen was regarded as the “academic point of origin of intellectual initiatives for a new federal German sociology.”<sup>305</sup> The first and second postwar generations of German liberals—all of whom came to consider themselves part of the Western European tradition—saw in Plessner a living connection to a liberal Weimar philosophical tradition that was both German national and had not been compromised (at least by collaboration with the Nazis) in 1933. Conservative liberals of the first postwar generation such as Hermann Lübke (b. 1926) and Odo Marquard (b. 1928) were attracted to Plessner’s early work, seeing into *The Limits of Community* a philosophical defense of Western liberal democracy against the Marxism of the New Left (despite the word democracy not appearing in Plessner’s text).<sup>306</sup> Left-leaning liberals such as M. Rainer Lepsius (b. 1927), who declared it his goal “to deflate the traditional German modes of thought [...] tainted by National Socialism,” were drawn more to *The Fate of the German Spirit*.<sup>307</sup> For both groups, Plessner represented what one author called the “the missing link” from Weimar to Bonn

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<sup>302</sup> Herbert Hausmann to Plessner, June 28, 1945, quoted in *ibid.*, 240. On postwar anti-German sentiment at the University of Groningen, see *ibid.*, 273, and Plessner, “Selbstdarstellung,” 336.

<sup>303</sup> On the call to Göttingen, see Dietze, *Nachgeholtes Leben*, 326-34. Göttingen had positioned itself early on to lead the reconstruction of German liberalism and also as a center for regaining the scholars lost to emigration.

<sup>304</sup> Draft of letter from Plessner to Minister van Onderwijs, March 9, 1949, quoted in *ibid.*, 324, italics mine.

<sup>305</sup> Helmut Schelsky, *Rückblicke eines “Anti-Soziologen”* (Opladen: Westdeutscher Verlag, 1981), 139.

<sup>306</sup> See Dietze, 491. Hermann Lübke belonged to “closest circle,” and others. Similarity of Marquard and Lübke’s “yes to modernity” to Plessner’s 1924 text: Hacke, 269. Plessner’s popularity in conservative neo-liberal circles increased further in the 1980s when Marquard helped publish his collected works.

<sup>307</sup> M. Rainer Lepsius, “Soziologie als angewandte Aufklärung,” in *Wege zur Soziologie nach 1945. Biographische Notizen*, ed. Christian Fleck (Opladen, 1996), 188; he called *Fate of the German Spirit* one of “the great books of the exile,” quoted in Sven Papcke, *Deutsche Soziologie im Exil. Gegenwartsdiagnose und Epochenkritik, 1933-1945* (New York: Campus, 1993), 170. On the type of “non-German German” that Lepsius represented within his generation, see Dirk Moses, *German Intellectuals and the Nazi Past* (Cambridge, 2007), 32-34.

in the evolution of a German cultural theory “that does not basically operate in terms of Graeco-Christian culture alone.”<sup>308</sup>

What made Plessner attractive to thinkers across the liberal political spectrum was his cultural orientation: committed to “Westernization” but apprehensive of the “Americanization” of the first postwar decade.<sup>309</sup> Of his commitment to the “Western idea” there can be no doubt. Since Weimar he had excised all the elements and keywords that betrayed his previous attachment to “the traditional modes of German thought” (vitalism, irrationalism, utopianism) and concentrated solely on the “natural laws” that underpin the liberal order. Picking up on threads he had begun to weave in the early 1920s, his postwar philosophical anthropology concentrated on the laws of stage-acting, music-playing, and other “imitational acts” that balance individual free will with communal recognition.<sup>310</sup> He remained actively critical of communism for the same reasons he voiced in Weimar. He published books with titles such as *This Side of Utopia*, declared vitalism and romanticism “forever gone” (*für immer vorbei*), and encouraged Germans to draw closer to Dutch “cautiousness” (*Verhaltenheit*).<sup>311</sup>

Within this pro-Western stance, however, Plessner was an early critic of the culture of the “economic miracle” that saw West Germany’s rapid commitment to the “American values” of pragmatism. His first new work published in the Federal Republic—not unlike *The Limits of Community*—was a critique of the orientation of German youth, this time toward the new idol of “work” (*Arbeit*). Whereas the youth movement of the Weimar period had raised ideals over reality, he suggested, the second postwar generation had become, in their reaction against National Socialism, even more pragmatic and Western than Western Europe: too busy with work, technology, and material success to care about political ideals. Plessner’s *Between Philosophy and Society* (1953) was an attempt to unlock the riddle of this dramatic shift from communitarian idealism to post-ideological hard-knock realism.

Unsurprisingly, Plessner found the key in the evolution of German ideas: in the continuing popularity of existentialism in postwar German philosophy departments, which, as many noted, had become “Heideggerized” despite the notorious involvement of

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<sup>308</sup> Hermann Wein, “Trends in Philosophical Anthropology and Cultural Anthropology in Postwar Germany,” *Philosophy of Science* 24, no. 1 (1957), 55-56. See, most recently, Axel Honneth and Hans Joas, *Social Action and Human Nature*, trans. Raymond Meyer (New York: Cambridge University Press, 1988).

<sup>309</sup> Dietze, *Nachgeholtes Leben*, 471.

<sup>310</sup> See Plessner, “Zur Anthropologie der Nachahmung” (1948), “Zur Anthropologie des Schauspielers” (1948), “Das Lächeln” (1950), “Der imatorische Akt” (1961) in *Gesammelte Schriften* 7 (1982). These works can be seen as an anthropological analogue to the émigré literary theorist Erich Auerbach’s popular *Mimesis* (1946), which traced the theme of imitation as *the* literary legacy underpinning the Occidental tradition.

<sup>311</sup> See Plessner, *Die Stufen des Organischen und der Mensch*, “Nachtrag” (1966 version), in *Gesammelte Schriften* 4 (1981), 426-27; idem, “‘Kannitverstaan.’ Hollands Verhältnis zu Deutschland” (1952) in *Gesammelte Schriften* 6 (1982), 249.

Martin Heidegger in the beginning stages of the Nazi regime. Plessner found Heidegger's refusal to accept the Western idea of natural law far more pernicious than his refusal to apologize for his poor political choices in the 1930s. Though he praised *Being and Time* for revealing the perspectival quality of all thinking—an important recognition for a healthy skepticism of ideology, Plessner noted—he condemned it for “hiding,” if not outright denying, a natural-law basis for ethics. According to Plessner, the German existentialist conclusion that the commitment to “work” was the only authentic realm of meaning in an otherwise meaningless world fostered a resignation among postwar German youth that a “miracle” could take place in the economic sphere while they could only “hope” for humanity in social relations (a sentiment encapsulated by Heidegger's statement, “Only a god can save us now”).<sup>312</sup>

Beyond all his own individual critiques of postwar German society, Plessner's lasting contribution to the Westernization of the Federal Republic lay in his definition of sociology itself “between philosophy and society.” Though the discipline enjoyed support from Allied authorities and the Federal Republic's state ministries of culture, it was not at all clear at the outset of the 1950s which path German sociology would follow. In fact, within the reconstituted German Society for Sociology (DGS), members were locked in a protracted internal struggle over whether social science should be “critical”—i.e., critical of existing social relations—or “pure”—i.e., purely descriptive of social relations. Later known as the “positivism dispute” (*Positivismusstreit*), this debate pitted the advocates of critical theory represented by the Institute for Social Research in Frankfurt against the defenders of American-style value-free science at the Institute for Social Science in Cologne.<sup>313</sup> The dispute reached far beyond the walls of the academy and became a proxy battle over the public role of the intellectual and ultimately over the “Western-ness” (i.e., Western European-ness) and “American-ness” of the German university. As president of both the DGS and the German Society for Philosophy, as well as dean of the Göttingen legal faculty in the mid- to late 1950s, Plessner's vote wielded significant power in this debate.

Plessner came down clearly on the side of the “Western European” tradition of sociology. At the fiftieth-anniversary conference of the DGS in West Berlin, which attracted hundreds of students, Plessner defined the “only” way sociology must be understood:

An institutionalized and constant check on social relations in scientific form—that is what sociology boils down to as a subject—is justified only with regard to an always fractious, dissonant reality; more specifically, a reality that has gotten out of order [*in Unordnung geraten*], in that it is constantly eluding the attempts of jurists and politicians

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<sup>312</sup> Ibid., 280. For a comparison of Plessner and Heidegger on the issue of natural law, see Rüdiger Safranski, *Between Good and Evil*, 159-160.

<sup>313</sup> For a decent introduction to the positivism dispute, see Rolf Wiggershaus, *The Frankfurt School: Its History, Theories, and Political Significance*, trans. Michael Robertson (Cambridge, MA: MIT, 1994), 566-92.

to standardize it, because they can no longer capture the direction and speed of its transformation.<sup>314</sup>

This conception of sociology as the “constant check” on social relations against a reality that is *always* out of order—a mission to destroy the false idols of positive law and political power through the revelation of the laws of nature—paralleled Ernst Fraenkel’s definition of political science.<sup>315</sup> But unlike Fraenkel, Plessner was far more suspicious of what he considered typical “American” methods. Ridiculing the American obsession with interviews and polling—“Imagine trying to do the Kinsey Report in France or Germany!”—Plessner noted it was understandable that post-Nazi German scholars would try to make up for lost time by adopting all the most recent methods of empirical social research in the U.S. But in Germany the “epoch of the consolidation of pure sociology came to a close” when “on the eve of Hitler’s rise to power” sociologists had brought value-freedom to its logical conclusion in total relativization.<sup>316</sup> According to Plessner, what was needed in the wake of Nazism was an “ordering” discipline that harkened back to its origins in France after the French Revolution.<sup>317</sup> Plessner’s orientation of postwar German sociology as a critical-Western, empirical but not-exactly-American discipline heavily influenced the self-conception of the next generations of sociologists in Germany, including M. Rainer Lepsius (the future president of the DGS who was in attendance at the 1959 conference), Niklas Luhmann (1927-1998), Hans Joas (b. 1948) and Axel Honneth (b. 1949).

From exile to return, there was a subtle but unmistakable shift in Plessner’s orientation *within* Occidentalism *toward* the West that mirrored the shift in German political liberalism from Weimar to Bonn. In terms of theory, this transformation consisted in a turn away from an organic concept of law to one of rationalist natural law, and in terms of discipline from philosophy toward sociology. He remained a committed Occidentalist insofar as he still opposed the “idolatry” of Bolshevism, racialism, and now the “American” work-ethos, but he no longer leaned away from the “Western” idea of universal human nature as it applied to political life.

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<sup>314</sup> Plessner, “Der Weg der Soziologie in Deutschland” (1960) in *Gesammelte Schriften* 10 (1985), 208-209.

<sup>315</sup> See Alfons Söllner, “Ernst Fraenkel und die Verwestlichung der politischen Kultur in der Bundesrepublik Deutschland,” *Leviathan* 30, no. 1 (2002), 132-154.

<sup>316</sup> *Ibid.*, 206-207. Plessner here had the Weimar sociologist Karl Mannheim in mind.

<sup>317</sup> *Ibid.*, 209-10. Plessner’s support of critical theory is one explanation for his close friendship with Helmut Becker (the son of Carl Heinrich), Max Horkheimer, and Theodor Adorno. Adorno in particular was “extraordinarily impressed” by Plessner’s work and shared with him the common enemies of existentialism and positivism. Theodor W. Adorno to Josef König, March 31, 1952, in Horkheimer *Gesammelte Schriften* 18 (Frankfurt am Main: Fischer, 1996), 233. As a collaborator on the Group Experiment (discussed in chapter two), Plessner was critical of Adorno’s particular use of Freud; from the other side, Adorno and Horkheimer found Plessner’s philosophical anthropology neglectful of class factors. Otherwise they were united in their concept of sociology’s role – that it should adopt certain aspects of empirical research techniques developed in the United States but not the value-freedom that often came along with them.

*Vb. Arnold Bergstraesser and the Politicization of the Bildung Ideal*

Plessner's and Bergstraesser's paths converged again after the war. As a leader in the integration of German culture into the core of Western civilization, Bergstraesser was coveted by the postwar German supporters of an alliance with the West against the Soviet Union. Already in 1946, the University of Kiel invited him to lead the prestigious Institute for World Economy. But Bergstraesser hesitated even more than Plessner had when confronted with these calls. He had found a comfortable society of German emigré and American colleagues and students in the United States. "Morally, in such cases one is in a double bind," he told a close friend in a similar position. "If you say no, you leave the decent people in the [German] faculty and the executive committee who have thought this up in the lurch; if you say yes, you disappoint the American friends who have called upon you here."<sup>318</sup> Despite the urging of some fellow emigrés to "take the cross and go," he rejected the initial invitation primarily out of concern for the dismal living conditions in immediate postwar Germany (though he admitted he would "not decline to accept a responsibility over there, if it is worthwhile and offers a reasonable chance over a period of years to get something done").<sup>319</sup> After seven years of visiting professorships, he accepted a permanent chair (for sociology and political science) in 1953 at the University of Freiburg to lead the Seminar for Scientific Politics.<sup>320</sup> He founded there what became known as the dominant school of West German political thought, the so-called "Freiburg School."<sup>321</sup>

At fifty-eight—the same age as Plessner upon his return—Bergstraesser became one of the most influential figures in the academic life of the Federal Republic. By 1960, his *curriculum vitae* boasted the titles founding director of the German Society for Foreign Affairs and the Society for American Studies, editor of the *Yearbook for International Politics* and co-editor of the journal *State, Education, and Society*, chair member of both the DGS and the German Society for Political Science, as well as

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<sup>318</sup> Bergstraesser to Rothfels, September 24, 1946, NL 1260/72, Bergstraesser Papers.

<sup>319</sup> Brandt to Bergstraesser, September 23, 1946, NL 1260/73, Bergstraesser Papers; Bergstraesser to Rheinstein, September 19, 1946, NL 1260/72.

<sup>320</sup> He took Freiburg because "theory in the realm of political thought was more important as pure cultural sociology." Quoted in Horst Schmitt, "Die Freiburger Schule 1954-1970. Politikwissenschaft in 'Sorge um den deutschen Staat,'" in *Schulen der deutschen Politikwissenschaft*, ed. Wilhelm Bleek (Opladen: Leske Budrich, 1999), 218. Even had he wanted to return to Heidelberg, he would have been prevented from doing so by his cousin Ludwig Bergsträsser, who had become the minister president of Baden-Württemberg and spoke out to the American authorities during the occupation against the former's activities in 1932. Ludwig Bergsträsser, *Befreiung, Besatzung, Neubeginn* (München: R. Oldenbourg, 1987), 139. A. Bergstraesser did consider an offer from Horkheimer to collaborate with him at the Institute for Social Research on a "sociology of voters," without which "all the recommendations on political education hover in the air." Bergstraesser to Horkheimer, March 18, 1953, V/27/148, Max-Horkheimer-Archiv (hereafter MHA), Universitätsbibliothek Frankfurt.

<sup>321</sup> On the school see Horst Schmitt, *Politikwissenschaft und freiheitliche Demokratie: eine Studie zum "politischen Forschungsprogramm" der "Freiburger Schule" 1954-1970* (Baden-Baden: Nomos, 1995).

president of the German section of UNESCO. These positions only begin to suggest Bergstraesser's significance for the first postwar generation of political scientists in the Federal Republic. Hans Maier (b. 1931), who would become the Bavarian minister of culture, described him as "the condottiere," Hans-Peter Schwarz (b. 1934) as an "empire builder."<sup>322</sup> Bergstraesser and Fraenkel are routinely described as the "dominant mentors of the early postwar period."<sup>323</sup> The fact that Bergstraesser marched ahead of Heidegger at the celebration of the University of Freiburg's 500th anniversary in 1957 was symbolic not only of his stature in postwar Germany but of the new hierarchy of political ideals in the Federal Republic.<sup>324</sup>

What made Bergstraesser, a man who had accepted the death of Weimar Republic wholeheartedly in 1933, so alluring after 1945 that he could dine with Horkheimer and Adorno on one night and advise Adenauer on the next? Even the most astute observers of postwar German political science have had difficulty understanding the "Bergstraesser phenomenon" and pinpointing the reasons behind his "extraordinary impact on science and politics" in the early Federal Republic. They note, correctly, that Bergstraesser's essays and speeches of the 1950s and early 1960s are filled with quotations from the great German classical poets in the *Bildung* tradition and sweeping generalizations that often seem platitudinous.<sup>325</sup> His ideas are not worked out with any of the rigor displayed

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<sup>322</sup> Quoted in Horst Schmitt, "Die Freiburger Schule 1954-1970. Politikwissenschaft in 'Sorge um den deutschen Staat,'" in *Schulen der deutschen Politikwissenschaft*, ed. Wilhelm Bleek (Opladen: Leske Budrich, 1999), 213. Kurt Sontheimer (b. 1928?), with whom he was especially close, considered him perhaps German political science's "most brilliant, active, and effective representative." Quoted in Kurt Georg Kiesinger, "In memoriam Arnold Bergstraesser," in *Weltpolitik als Wissenschaft. Geschichtliches Bewusstsein und politische Entscheidung*, ed. Dieter Oberndörfer (Opladen: Westdeutscher Verlag, 1965), 17.

<sup>323</sup> Bergstraesser helped supervise the promotions and habilitations of Winfried Steffani (1927-2000), Wilhelm Hennis (b. 1923), Hans-Peter Schwarz (b. 1934), Ekkehart Krippendorff (b. 1934), Jürgen Fijalkowski (b. 1928), Hans Maier (b. 1931), Karl Dietrich Bracher (b. 1922); Kurt Lenk (b. 1929). He was especially close to Kurt Sontheimer (1928-2005). Rainer Eisfeld, "Exile and Return: Political Science in the Context of (West-)German University Development from Weimar to Bonn," in *History of Education Annual*, vol. 8 (1988), 28. Fraenkel recalled upon his colleague's death that "the Freiburger school of political science possessed a master who posed the most exacting questions that were offered in Germany in political science over the last decade." Fraenkel, "Arnold Bergstraesser und die deutsche Politikwissenschaft," in *Weltpolitik als Wissenschaft*, 259. In his eulogy Fraenkel added discretely that "several political accents" in Bergstraesser's late Weimar works "could have been composed differently, so that they would have corresponded to Bergstraesser's thought in his later years."

<sup>324</sup> Maurice Friedman, *Martin Buber's Life and Work: The Later Years, 1945-1965* (New York: Dutton, 1983), 439, 159.

<sup>325</sup> See Alfons Söllner, "Normative Westernization?—The Impact of Remigres on the Foundation of Political Thought in Post-War Germany," in *German Ideologies Since 1945: Studies in the Political Thought and Culture of the Bonn Republic*, ed. Jan-Werner Müller (New York: Macmillan, 2003), 40-60. 47-54, and idem, "Die Gründung der Westdeutschen Politikwissenschaft – ein Reimport aus der Remigration?" in *Rückkehr und Aufbau nach 1945. Deutsche Remigranten im öffentlichen Leben Nachkriegsdeutschlands*, ed. Claus-Dieter Krohn and Patrik von zur Mühlen (Marburg: Metropolis, 1997), 253-74.

by Plessner or Fraenkel. And yet these ideas are in many ways the key to unlocking the intellectual consensus of the 1950s.

First, the public persona of Bergstraesser was a symbol of Germany's national recovery in Occidental *and* Western form. A German nationalist, a supporter of European cooperation since the Weimar years, a victim of Nazi racism (yet safely un-Jewish), a returnee from the West – Bergstraesser was, so to speak, biographically tailor-made for Adenauer's politics of integration and Westernization. "My dear Arnold!" begins the letter that opens a memorial volume for Bergstraesser, written by the Federal Republic's first NATO commander and one of his "oldest friends," Hans Speidel (1897-1984),

you come to me [in 1937] in the Bendlerstraße [the Ministry of Defense], where I worked as the chief of the department "Foreign Armies West," and tell me of your difficult experience in Heidelberg: the revocation of your teaching credentials and necessary papers [...]. Before the curtain fell you are able to travel to the New World, where in defiance of all the bitterness you preserve the Germanic [*das Deutsche bewahrt hast*] in the best sense of the word. [...] After the catastrophe, the first friendly greeting arrives as a package of food provisions "on behalf of Professor Arnold Bergstraesser." Soon thereafter the first letters come, then your opus *Goethe's Image of Man and Society* published in Chicago. [...] And then you come yourself. [...] Arnold back in the homeland. In summer 1957, the dean [Bergstraesser] proceeds in the great university celebration in Freiburg. In April 1960 the professor of political science presides over the first "NATO seminar" at the University of Freiburg, a path-breaking event for our higher education. [...] For us you remain, as always, the friend whom we have been permitted to accompany throughout half a century, and who embodies for us something of the best in the German essence and the Occidental tradition.<sup>326</sup>

Speidel was the former chief of staff for Field Marshall Erwin Rommel and the only surviving member of the inner circle of conspirators involved in the generals' assassination plot on Adolf Hitler in July 1944. For a man of his stature to write in such reverential terms (and using the familiar *Du* address) spoke volumes about Bergstraesser's symbolic significance. The *figure* of Bergstraesser served as a kind of intellectual complement to Germany's military renewal after 1955, a symbol of moral rearmament and the recovery of an alliance with the Western-Occidental world.

His symbolic role was a function not only of what he had "preserved" in exile, but of what he did after his return. Bergstraesser presided over both the conceptual and institutional Westernization, i.e., democratization, of the *Bildung* ideal. The legacy of his involvement in this process cannot be overestimated. Bergstraesser arrived back in Germany at precisely the moment when educationalists in the Federal Republic were calling for a "re-drafting of *Bildung*" that "befits the twentieth century." "We [Western Germans] no longer have an authoritative image after which we might form men; indeed, after the catastrophe of the neo-humanistic image of man, we no longer want one," an

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<sup>326</sup> Hans Speidel, "Brief an Arnold Bergstraesser," in *Atlantische Begegnungen. Eine Freundesausgabe für Arnold Bergstraesser*, ed. Fritz Hodeige and Carl Rothe (Freiburg: Rombach, 1964), 11-12.

author in a Frankfurt journal wrote in 1952. “Should we then forswear *Bildung*?”<sup>327</sup> Bergstraesser’s answer was a resounding no. He agreed that “the Humboldtian idea of *Bildung* as it first appeared [in the early 1800s]” was “no longer suitable for the twentieth century,” but instead of forswearing the tradition—an abandonment that would have cut off German youth from its national past—Bergstraesser proposed to revisit what Weimar reformers had called “political *Bildung*.”<sup>328</sup>

As conceived by Bergstraesser, the contours of political *Bildung* were to be as follows. First, they would maintain their German integrity. While still in Chicago, Bergstraesser organized a group of emigré scholars (with Hutchins’s support) to urge American occupation officials *not* to attempt the imposition of the American high school curriculum onto the German education system. Though acknowledging that “the school system will have to serve as an important agent in reconstructing a democratic Germany,” Bergstraesser and his colleagues believed it could be effected relying on German precedents alone, especially on “the reforms of the Prussian Minister of Education C.H. Becker” to “make social sciences primary.”<sup>329</sup> As it turned out, this was sound political advice: the American attempt to overhaul German schools was one of the occupation’s most spectacular failures and was largely responsible for the poor reputation of American-style “reeducation” after 1947.<sup>330</sup> The stiffest and most successful resistance to the American measures was offered by the Bavarian ministry of culture, whose leaders saw in the reeducation plans an infringement on its sovereignty.<sup>331</sup> Bergstraesser’s efforts gained him the crucial confidence of that ministry, which eventually assisted him in 1957—despite the stark opposition of the Christian Social Union party—in founding the Academy for Political *Bildung*, a nonpartisan think tank in Tutzing dedicated to “the formation of political opinion” (*politische Meinungsbildung*) in the Federal Republic.<sup>332</sup>

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<sup>327</sup> “We are therefore at a decisive point: A re-drafting of *Bildung*” that “befits the twentieth century,” one commentator noted in 1952. Heinrich Bauer, “Schulen und Reformen. Zur Aufgabe der Bildung in unserer Zeit,” *Frankfurter Hefte* 7, no. 8 (August 1952), 603, 605-606.

<sup>328</sup> Bergstraesser, “Die Universitaet und die gesellschaftliche Wandlung der Gegenwart,” *Die Sammlung* 8, no. 7-8 (July/August 1953), 349.

<sup>329</sup> Study Group for German Problems, Univ. Chicago, “Secondary Education in Germany,” memo on the Report of the U.S. Education Mission to Germany, NL 1260/125, 1-2, Bergstraesser Papers. Undersigned: Arnold Bergstraesser, Ludwig Bachhofer, Fritz Caspari, Hans Gaffron, Mattijs Jolles, Wolfgang Liepe, Ulrich Middeldort, Wilhelm Pauck, Max Rheinsteine, Hans Rothfels, Hans Stefan Schultz, Otto von Simson, Joachim Wach. Bergstraesser continued to push this line in his reports to the Americans. See his “Notes on Experiences in Germany May to October 1950,” memo to HICOG, Oct. 17, 1950, NL 1260/122, 3, Bergstraesser Papers.

<sup>330</sup> See Mission on the Rhine, and failure of reeducation books.

<sup>331</sup> Walter Gagel, *Geschichte der politischen Bildung in der Bundesrepublik Deutschland 1945. Zwölf Lektionen* (Opladen: Leske + Budrich, 1994), 40-41.

<sup>332</sup> The Academy was the first (non-totalitarian) democratic institution of its kind and is a still powerful one in today’s Germany. In a diplomatic move that still strikes his student and later chair of political science at the Carl-Heinrich-Becker-School in Hannover Heinrich Schneider (b. 1929) as “unbelievable,”

Bergstraesser revised the traditional narrative of *Bildung* to support “political opinion” that was self-consciously pro-Western while remaining Occidental.<sup>333</sup> What Becker and Preuss had been unwilling or unable to say in the wake of Versailles Bergstraesser said in no uncertain terms: the cultivation of individuals capable of political judgment in the twentieth century *must be committed* to the explicitly *Western* idea of political freedom, that is, based in “natural rights” (*Naturrecht*) as opposed to historically defined rights.<sup>334</sup> “Thirty years ago,” he wrote in 1953,

the opposition between the German intellectual tradition and the Western world was formulated by Ernst Troeltsch as the tension between humanity and natural law. Troeltsch’s concept (Germany and Western Europe) suffered from the fact that the idea of humanity in the German classical tradition had come to be seen as one with the romantic-organic historical thinking of the later nineteenth century. On the contrary, the German educational liberalism that was founded by Humboldt, Goethe, Schiller and others and that largely persisted into the twentieth century for example in the Becker reforms is in no way necessarily bound up with this history of historicism, but rather has its own independent force. If one researches the German idea of humanity in its total intellectual connection with the close of the eighteenth century, today it is its affinity with the ideational world of natural law that rises to the foreground more than the opposition highlighted by Troeltsch in his time. Europe’s striving for freedom at the turn of the eighteenth to the nineteenth century allowed economic liberalism in England, political-constitutional liberalism in France, and pedagogical liberalism in Germany for the most influential expressions of the entire Occident.<sup>335</sup>

These words present a stark transformation from his speech in 1932 regarding the close of the eighteenth century and the “resistance” against the Roman West. By softening the opposition of historical-organic to natural law, Bergstraesser now argued that liberal Germany had far more in common historically with the West than it did with the Soviet

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Bergstraesser gained the support of the leading Catholic intellectual in Bavaria, Felix Messerschmid (1904-1981)—Romano Guardini’s protégé—and presented the plan for a new Academy for Political *Bildung* (*Akademie fuer Politische Bildung*) jointly with him to the Bavarian parliament in 1957. Schneider, “Anfänge einer Akademie. Die Startjahre in Tutzing – Erinnerungen und Reflexionen,” in *Politische Bildung im Wandel der Zeit. 50 Jahre Akademie für Politische Bildung*, ed. Heinrich Oberreuter (Muenchen: Olzog, 2007), 29. This was “unbelievable” not only because Guardini himself was notoriously suspicious of democracy, but also because Bavaria was the region of Germany that had historically been most averse to cultural-political integration with the rest of the country. On the opposition to the Academy’s creation, see Thies Marsen, *Zwischen Reeducation und politischer Philosophie. Der Aufbau der politischen Wissenschaft in München nach 1945* (München: Fink, 2001), 93f.

<sup>333</sup> The memo argued that “the humanistic tradition, insofar as it still exists in the few *Gymnasiums* which were not swept away by the National Socialist regime, ought to be strengthened as one of the most valuable ways of intellectual and ethical training and of establishing the consciousness of the common ground of Western civilization.” Study Group for German Problems, Univ. Chicago, “Secondary Education in Germany,” 11.

<sup>334</sup> Bergstraesser, “Das deutsche Denken und die Westliche Welt,” unpublished manuscript, May 18, 1951, NL 1240/142, Bergstraesser Papers.

<sup>335</sup> *Ibid.*, 26-27.

Union (whose idea of communism emerged from the “decay” of Western idealism).<sup>336</sup> In fact, it is difficult to imagine the plausibility of his argument without mention of the new eastern enemy. Bergstraesser’s argumentation was supported by a majority of postwar German Occidentalists who embraced “the West” as the “lesser evil” when compared to Bolshevism.<sup>337</sup>

Finally, Bergstraesser advocated a type of political *Bildung* that adopted aspects of American civic education without imitating it slavishly. In the wake of reeducation, many educationalists of the early Federal Republic—especially those in the Catholic south—were willing to accept cultural infusion from France and England but were more suspicious of imports from beyond the Atlantic.<sup>338</sup> When Bergstraesser wrote of “common European existential foundations,” he “included America in the European-Occidental overall picture,” arguing against the “legend that America is a land without philosophy.”<sup>339</sup> As visiting professor of American cultural history at the University of Erlangen (before taking the permanent position in Freiburg) he delivered the primary address at the founding meeting of the German Society for American Studies in June 1953 and later criticized anti-American sentiment in the Federal Republic as anti-Western.<sup>340</sup> In comparison to Plessner, Bergstraesser was far less critical of the U.S. and far more committed to the American anti-communism of the late 1940s and 1950s. One of his doctoral students at the University of Chicago remembers him actually throwing a briefcase across the room upon the mere mention of the Weimar-era communist Rosa Luxemburg (though he later apologized for the outburst and blamed it on a war injury).<sup>341</sup>

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<sup>336</sup> Bergstraesser credited the Austrian poet Hugo Hofmannsthal with striving to “bring the German concept of *Humanität* into connection with French *humanité* and French-English *nature*.” Bergstraesser, *Hofmannsthal und der europäische Gedanke* (Kiel: Lepsius & Tischer, 1951), 22-23.

<sup>337</sup> See Vanessa Conze, *Das Europa des Deutschen. Ideen von Europa in Deutschland zwischen Reichstradition und Westorientierung* (Oldenbourg, 2005), 137.

<sup>338</sup> See Axel Schildt, *Zwischen Abendland und Amerika. Studien zur Westdeutschen Ideenlandschaft der 50er Jahre* (Oldenbourg, 1999). On the dominance of Catholic political thinkers, see A.R.L. Gurland, *Political Science in Western Germany: Thoughts and Writings, 1950-1952* (Washington: Library of Congress Reference Department, European Affairs Division, 1952), 39. Anti-Americanism was sometimes bound up with postwar antisemitism; see in this connection Dan Diner, *America in the Eyes of the Germans: An Essay on Anti-Americanism* (Princeton, NJ: Markus Wiener, 1996), especially 105-150.

<sup>339</sup> Bergstraesser, “Memorandum über die Frage, welche Erscheinungen in der deutschen geistigen Situation der Gegenwart zu Erwartungen für die Zukunft berechtigen,” 7; idem, “Amerikanische und deutsche Soziologie,” *Vierteljahreshefte für Zeitgeschichte* (July 1953), 231-32.

<sup>340</sup> On the address of 1953, see Anke Hildebrandt-Mirtschink, “Politikwissenschaftler und das ‘Kooperative Experiment’ Deutsche Gesellschaft für Amerikastudien,” in *Amerikaforschung in Deutschland. Themen und Institutionen der Politikwissenschaft nach 1945*, ed. Michael Dreyer and Markus Lang (Wiesbaden: Franz Steiner, 2004), 41-52. On anti-Americanism see Bergstraesser, “Zum Problem der sogenannten Amerikanisierung Deutschlands,” in *Jahrbuch für Amerikastudien* 8 (1963), 15, 21.

<sup>341</sup> Wilma Eggers, personal email correspondence, December 18, 2009.

Bergstraesser's re-orientation helped lay the theoretical foundations for the practical implementation of political *Bildung*, which became (and continues to be) a key phrase in the Federal Republic. Historians of German education have shown that as the 1950s progressed, "political education finally secured its place in the West German schools," meaning that by the end of the decade most West German ministries of culture had introduced "politics" (*Politik*) or "social studies" (*Sozialkunde*) as separate subjects in high schools.<sup>342</sup> Since German schools required teachers to receive examinations from university professors in their specializations, the political scientists and sociologists who best formulated the nature of Western democratic political life exerted tremendous influence on teacher training.<sup>343</sup> The goal of political-humanistic education, he wrote in 1960, was "*the self-construction of an inner form of personality which enables the adequate and at the same time productive interaction with political decision-making questions.*"<sup>344</sup> With these words, he integrated almost seamlessly the traditional language of *Bildung*—"self-construction of an inner form of personality"—with the new language of Cold War liberalism. In this he joined his friend from his Heidelberg student days, Carl J. Friedrich, who as the first chair of political science in Heidelberg published similar ideas throughout the 1950s.<sup>345</sup>

## VI. Conclusion: Exile, Antisemitism, and the Cold War

Germany's postwar attachment to the West would not have been strong enough to persist had it been based on mere political expediency and not grounded in ideas. In exile and upon their return after 1945, thinkers such as Plessner and Bergstraesser almost uniformly emphasized Germany's cultural contributions to Western civilization, the alliance of ideas between the Federal Republic and the Western democracies, and the necessity of maintaining continuity with pre-Nazi *Bildung* while avoiding its anti-Western tendencies.

One last issue, however, has yet to be addressed: the role of Plessner's and Bergstraesser's mixed Jewish and Christian ancestry in the development of their thought and in the evolution of German liberal humanism after National Socialism. Plessner and Bergstraesser only very rarely spoke of their own Jewishness, but they addressed the

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<sup>342</sup> See Johann Zillien, *Politische Bildung in Hessen von 1945 bis 1965* (Frankfurt am Main: Peter Lang, 1994) and Wolfgang Mickel, *Politische Bildung an Gymnasien, 1945-1965* (Stuttgart: Klett, 1967). The Hessian ministry of culture was at the vanguard of these reforms and served as a model for future state ministries.

<sup>343</sup> Christoph Führ and Carl-Ludwig Furck, eds., *Handbuch der deutschen Bildungsgeschichte. 1945 bis zur Gegenwart* (Muenchen: C.H. Beck, 2005), 398.

<sup>344</sup> Bergstraesser, "Die Lehrgehalte der politischen Bildung," in *Politik in Wissenschaft* (Bonn: Bundeszentrale für Heimatdienst, 1960), 303. Italics in the original.

<sup>345</sup> Carl J. Friedrich, *Die Staatsraison im Verfassungsstaat. Politische Bildung* (München: Isar, 1956). Friedrich had been instrumental in defending Bergstraesser against charges of fascism during the early 1940s.

question of antisemitism in the Federal Republic with a sense of urgency almost uniformly lacking among their West German liberal colleagues.

Their common interpretation of antisemitism, which defined the phenomenon primarily as an outgrowth of anti-Westernism based on their own experience in the early Nazi years, helped shape the consensus understanding in the late 1950s and early 1960s. In his republication of *The Belated Nation* (1959), Plessner argued that the German attack on the “Judaic character” was inextricably linked with Germans’ protest against Romanitas insofar as German Jews were typically considered “striving toward the West.”<sup>346</sup> The logical conclusion was that Germans could only overcome antisemitism once they had oriented themselves westward.

West Germans faced the first major “test” of this reorientation in 1959. No sooner had Plessner published his analysis in *The Belated Nation* than the first major expression of public antisemitism in the Federal Republic broke out in Cologne from December through February, 1959/60. Within a month, more than 500 incidents of antisemitic graffiti were recorded in West Germany, attracting the attention of the international press and the Adenauer regime.<sup>347</sup> The federal government’s response was swift and indicative of how dominant the interpretation of antisemitism as anti-Westernism had become. Instead of increasing funding for education about the Holocaust or about Jews in general, the regime increased it for political *Bildung* and the study of Western political ideas, commissioning Bergstraesser to define political *Bildung*’s curricular content.<sup>348</sup>

Bergstraesser himself explicitly associated political *Bildung* with the common fight against antisemitism and anti-Westernism in a publication he edited entitled *Education for Democracy in West Germany* (1961).<sup>349</sup> The compilation brought together intellectuals from across the entire political spectrum in the consensus that the political education of Germans toward a pro-Western outlook was inextricably linked with anti-antisemitism.<sup>350</sup> It was also no coincidence that the Federal Agency for the Service of the

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<sup>346</sup> Plessner, “Ergaenzungen von 1959,” *Gesammelte Schriften* 6, 218-220.

<sup>347</sup> See Werner Bergmann, *Anti-Semitism in Germany: The Post-Nazi Epoch since 1945*, trans. Belinda Cooper and Allison Brown (New Brunswick, NJ: Transaction, 1997), 15-16.

<sup>348</sup> Horst Kern, *Empirische Sozialforschung: Ursprünge, Ansätze, Entwicklungslinien* (Muenchen: C.H. Beck, 1982), 132-33. In symbolic support, the faculties of the University of Göttingen unanimously elected Plessner rector in 1960.

<sup>349</sup> Bergstraesser used his position as chairman of the “Atlantic Bridge” (*Atlantik-Brücke*), a non-partisan group committed to “better understanding between the United States and Germany,” to publish this compilation of essays. The *Atlantik-Brücke* was founded in 1952 in Hamburg; its first two chairmen were Bergstraesser and another cold warrior returning emigré of Jewish descent, Ernst Friedlaender (1895-1973), editor-in-chief of *Die Zeit* from 1946-1950 and president of the *Deutschen Rat der Europäischen Bewegung* from 1954-1958.

<sup>350</sup> Bergstraesser, “Preface,” in *Education for Democracy in West Germany: Achievements—Shortcomings—Prospects*, ed. Walter Stahl (New York: Published for Atlantik-Brücke by Praeger, 1961), v-vi. A partial list of the contributions included the conservatives Felix Messerschmid, “Political Education and the High Schools” and Andreas Hillgruber, “A Conference of 18 and 19 Year-Old High School

Homeland (*Bundeszentrale für Heimatdienst*)—which was founded in 1952 to monitor threats to German democracy from both the left and the right and to monitor antisemitic prejudice—changed its name in 1962 to the Federal Agency for Political *Bildung* (*Bundeszentrale für politische Bildung*).<sup>351</sup> That anti-antisemitism is a prerequisite for Western political belonging is an idea that continues to resonate in today’s Germany.

Furthermore, whereas in the Weimar Republic German liberals—including Plessner and Bergstraesser—did not speak of the contributions of Judaism to the Occident in a positive light, the intellectual leaders of the Bonn Republic proclaimed what one returning liberal called the “Holy Trinity of the spirits of ‘the Mediterranean,’ Moses, and Jesus that created Western civilization.”<sup>352</sup> In his *Lorenzo Medici* of 1937, Bergstraesser wrote that “Aristotle and Plato belong together, but also that which is disclosed to men through the oriental faith in revelation, through Gnosis and Kabbalah, are not, after all, contradictory.”<sup>353</sup> Directly after the war, we are also told that Bergstraesser addressed a letter to Martin Buber in which he expressed his deep shame for helping bring about the end of Western-style democracy in Weimar, an apparent confession of his role in the ultimate destruction of European Jewry.<sup>354</sup>

The preceding chapter focused on the work of Plessner and Bergstraesser because of the continuity and evolution in German liberal thought that they symbolized and helped to effect. On one hand, they proved Baeumler and other Nazi thinkers correct when they became primary agents of “Westernization” after World War II. On the other, one of the reasons that they were *accepted* as Westernizers was that they had themselves been skeptical of, even hostile toward, the “West,” the “ideas of 1789,” and the values of individualistic “society” and “civilization” during the Weimar Republic. They did not fit the stereotype of the leftist Jewish intellectual. In fact, it is far more accurate to call them

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Students Discussed Recent History”; the critical theorist T.W. Adorno, “What Does ‘Digesting the Past’ Mean?” (the essay’s first translation into English); the still revolutionary Jürgen Habermas, “The Influence of High School and College Education on the Political Awareness of Students”; the General Secretary of the Central Council of Jews in Germany Hendrik van Dam, “The Germans Cannot Afford to Change”; and Bergstraesser, “The Nature of Political Education.” For later manifestations of this connection, see *Antisemitism: Threat to Western Civilization*, ed. Menachem Rosenhaft and Yehuda Bauer (Jerusalem: Vidal Sassoon International Center for the Study of Antisemitism, 1988).

<sup>351</sup> See Walter Jacobsen, “*Lauter Vorurteile!*” *Eine Betrachtung Zur Psychologie Des Vorurteils* (Bonn: Bundeszentrale für Heimatdienst, 1955), which went through three editions in two years. Jacobsen (1895–), the consultant for the *Bundeszentrale* in psychology, studied with the emigré psychologist William Stern in Stockholm during most of the Nazi years.

<sup>352</sup> Jäckh, *Amerika und wir 1926-1951. Amerikanisch-deutsches Ideen-Bündnis* (Stuttgart: Deutsche Verlagsanstalt, 1951), 179. On Germany’s contribution to the Western “type” of democracy, the major postwar work was Ernst Fraenkel, *Deutschland und die Westlichen Demokratien* (1964), which went through three editions in its first four years in print and became a standard work for civic education in West German high schools in the 1960s and 1970s.

<sup>353</sup> Bergstraesser, *Lorenzo Medici*, 25.

<sup>354</sup> Bergstraesser’s student in Chicago, Maurice Friedman, recalled a letter that Bergstraesser sent to Buber directly after the war expressing deep regret for the role he played in bringing about the end of the Weimar Republic. See Friedman, *Martin Buber’s life and work*, 439.

intellectual fathers of Cold-War liberalism in the Federal Republic. Bergstraesser was called in 1969 “one of the most original representatives in the Adenauer era of a modern conservatism not beholden to a particular party,” and Plessner’s ideas informed a generation of West German anti-communist neo-conservatives.<sup>355</sup>

Above all, they represented German liberal humanism’s metamorphosis from an ideal of non- or anti-Western culture in the Weimar Republic into a militant defense of Western civilization in the era of the Cold War. Indeed, the term *Bildung* without the modifier “political” fell “into a state of disuse and discredit,” “unmoored from the semantic and institutional field in which it arose and which, to a degree, it helped to shape,” as one observer recently noted.<sup>356</sup> The contribution of returning liberal emigrés was to help shape a *new* semantic and institutional field that took into consideration what discredited the old—namely, its latent anti-Westernism—without throwing out the proverbial baby with the bathwater.

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<sup>355</sup> Hans-Peter Schwarz, “Bergstraesser,” in *Staatslexikon. Recht, Wirtschaft, Gesellschaft*, ed. Goerres-Gesellschaft, vol. 9 (Freiburg: 1969), 221. Jens Hacke, in his *Philosophie der Buergerlichkeit. Die liberalkonservative Begrueudung der Bundesrepublik* (Goettingen: Vandenhoeck & Ruprecht, 2006), argues convincingly that the “Münster School” gathered around the neo-Hegelian Joachim Ritter was largely responsible for the liberal-conservative “foundation” of the Federal Republic. But if one examines the influence of Plessner and Bergstraesser’s students in the 1960s, it seems just as plausible to argue for the greater long-term significance of the returning emigrés.

<sup>356</sup> Paul Rabinow, *Marking Time: On the Anthropology of the Present* (Princeton, NJ: Princeton University Press, 2006), 54.

## CHAPTER THREE

### The Embourgeoisement of Critical Theory

In November 1951, the Social Democrat Walter Kolb, mayor of the city of Frankfurt, welcomed hundreds of West German and American dignitaries, business leaders, academics, and a delegation of students to the gala reopening of the Institute for Social Research. The guests had come to celebrate the decision of the emigrés Max Horkheimer, Friedrich Pollock, and Theodor Adorno to relocate their operation back to Frankfurt from New York, where it had been housed since its members fled the Nazi regime in 1934. Kolb, one of the city's most active defenders of the republican state in the Weimar era, proudly announced his pledge of 50,000 Marks (roughly \$12,000) to furnish the returned Institute with a new building and further its "fine plans" to "turn our city once again into a center of the modern study of society."<sup>357</sup> The persistent attempts of German officials to win what is now known as the Frankfurt School back to Frankfurt was part of a national plan to restore to good condition the old institutions of liberal democratic Germany.

The Institute members' desire to influence the first generation of West German youth outweighed their disdain for the German liberal politicians who welcomed them back and the American liberal organizations that facilitated their return. As they debated for the better part of five years whether to teach again in Germany, they observed the consolidation of a market welfare system in the Federal Republic with the same disappointment most German leftists felt with the failed socialist revolution of 1918. During his visits Horkheimer reported disgust with the way German Social Democrats and American NGOs lavished money reconstructing the damaged symbols of national liberalism while the rest of the population lived in hunger and ruins.<sup>358</sup> At the same time, after considering a "full retreat from the world" to dedicate themselves to scholarship, Horkheimer and Pollock ultimately decided that they could not betray the hopes of their "potentially only community": "the surviving groups and individuals who, isolated and abandoned, have resisted Hitlerism during the terrible years and who are trying to fights

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<sup>357</sup> Quoted in Monika Boll and Raphael Gross, eds., *Die Frankfurter Schule und Frankfurt: Eine Rückkehr nach Deutschland* (Frankfurt: Wallstein, 2009), 24.

<sup>358</sup> See Horkheimer to Marie Jahoda, July 5, 1948, in *Gesammelte Schriften* (hereafter *HGS*), vol. 17, ed. Gunzelin Schmid Noerr (Frankfurt am Main: Fischer, 1996), 1009, and Horkheimer to Friedrich Pollock, July 10, 1948, in *ibid.*, 1015. Horkheimer referred to Kolb's pet project, the hundredth anniversary of the signing of Germany's first constitution at the Paulskirche. Kolb (1902-1956) was the founding member of the *Republikanische Studentenkartell* in 1922 and a leader in the republican paramilitary group *Reichsbanner Schwarz-Rot-Gold*. See Thomas Bauer, *"Seid einig für unsere Stadt": Walter Kolb - Frankfurter Oberbürgermeister: 1946 - 1956* (Frankfurt: Kramer, 1996).

its renaissance today.” As the recognized intellectual elite of the old Weimar left, they accepted the patronage of Social Democratic officialdom and recruited their closest colleague, Adorno, to help reintroduce the critical strain in Western philosophy to the ideological battleground of Cold War Germany.<sup>359</sup>

The critical left that emerged victorious in the Federal Republic was different from that of the Weimar period, however. The astute observer Carl Schorske, a student and close collaborator of many left-wing emigrés from Germany, described their unifying attribute in the 1920s as “uncompromising commitment to democratic ideals.” Having correctly recognized that the bureaucratic, clerical, and military elites of the old Empire had maintained their political power despite the democratic revolution of 1918, they found themselves in what Schorske called the “ironic” position of being able to “fight for the principles of the Republic only by attacking those who held power in its institutions.” In other words, be true to the left-wing values of the revolution—social justice, free speech, internationalism, and antimilitarism—one “had to be anti-bourgeois.”<sup>360</sup> By the end of the Adenauer era, despite similarly obvious continuity between Nazi Germany and the Federal Republic, many “Weimar intellectuals” had become vocal defenders of West German state institutions – so much so, that student protest leaders calling for revolution after 1963 targeted them as “craven sell-outs” and conservative traitors to the socialist cause.<sup>361</sup> The student leaders of 1968 often lacked (or were not interested in) historical perspective, but they identified an undeniable transition within the critical German left that has yet to be sufficiently understood.<sup>362</sup>

With few major exceptions, the development of left-wing critique from the call for proletarian revolution in Weimar to a more sober decision to “work within the system” in Bonn was a widespread phenomenon that required theoretical underpinning. Whereas in the 1920s and 1930s debates on the left focused primarily on the future face

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<sup>359</sup> Horkheimer to Pollock, June 12, 1948, HGS 17, pp. 982-83; Horkheimer to Franz Neumann, Sept. 17, 1948, HGS 17, 1027; Horkheimer to Katharina von Hirsch, Dec. 17, 1948, HGS 17, 1044; Horkheimer to Daniel Levinson, Oct. 5, 1949, HGS 18, 58. MH and FP in 1949 “Beschluss, die Einladung an die Uni Ffm abzulehnen.” Memorandum Friedrich Pollock—Max Horkheimer, March 21, 1949, HGS 18, p. 16. Pollock had suggested retiring to a “mountain state” in the American West to avoid potential fallout from a nuclear World War III. German was “a field where the most important decisions will fall.” Horkheimer to Marie Jahoda, July 5, 1948, HGS 17, 1008.

<sup>360</sup> Schorske, “Weimar and the Intellectuals I,” *New York Review of Books* 14, no. 9 (May 21, 1970), 24. He was writing here specifically about the writers associated with the left-wing publication *Die Weltbühne*, which he considered a good prism for all left-wing intellectuals in Weimar.

<sup>361</sup> Anonymous, “Aktuelles Vorwort,” *Max Horkheimer, Die Juden und Europa, Autoritärer Staat. Vernunft + Selbsterhaltung 1939-1941* (Amsterdam: Verlag de Munter, 1968). See Martin Jay’s recollections of the milieu in his “Preface to the 1996 Edition,” *The Dialectical Imagination: A History of the Frankfurt School and the Institute for Social Research, 1923-1950* (Berkeley, CA: University of California Press, 1996), xi.

<sup>362</sup> German historians from the 1968er generation were the first to examine this shift. Since Joachim Radkau’s *Die deutsche Emigration in den USA*, however, there have been few attempts, and certainly none that trace the transformation from Weimar to the U.S. and back to Germany.

of a post-liberal society, the equivalent milieu in West Germany most often turned its face backward toward learning lessons from the recent violent past. “Among the shift from Promethean to Epithemean culture heroes” on the left at mid-century, Schorske explained, “none was more striking than the turn from Marx to [Sigmund] Freud,” from the prophet of worker solidarity to the bourgeois analyst of the human psyche.<sup>363</sup> And among the many instances of that shift in the West, perhaps none was as significant for the history of the Federal Republic than the turn of the members of the Institute for Social Research.

In this chapter I argue that the Institute members’ emigration, return, and decision to work together with state authorities for reform was indicative of a broader alliance between left-wing intellectuals and liberal groups in the fight against what they feared would be the spread or recrudescence of fascism, authoritarianism, and prejudice in the Western world after Hitler. In the period before WWII, members of the Institute were unorthodox Marxists who used aspects of Freudian social psychology to explain why the proletarian revolution had not yet occurred in Germany. But during their exile, the revolutionary features of the Institute virtually disappeared and a focus on education came to define the Institute’s work instead. They literally locked their older Marxist journals in a “case in the basement.” Meanwhile, their colleague in the Federal Republic, Hellmut Becker, could say that the Frankfurt School members’ post-Marxist work on education “influenced German thought in the postwar period probably more strongly than any other philosophers.”<sup>364</sup>

While the later discovery of the “early” work of Weimar intellectuals on the growth of the New Left in the 1960s is relatively well known, less understood is the shift of the intellectuals themselves toward Freud in the context of planning for post-Hitler Germany.<sup>365</sup> At the heart of the contested legacy of the “late” Frankfurt School lies the

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<sup>363</sup> Schorske, *Fin-de-Siècle Vienna: Politics and Culture* (New York: Vintage, 1981), xxiv, originally published in 1961.

<sup>364</sup> Quoted in *Die intellektuelle Gründung der Bundesrepublik. Eine Wirkungsgeschichte der Frankfurter Schule*, ed. Clemens Albrecht et al. (Frankfurt am Main: Campus, 1999), 13.

<sup>365</sup> See Claus-Dieter Krohn, “Die Entdeckung des ‘anderen Deutschland’ in der intellektuellen Protestbewegung der 1960er Jahre in der Bundesrepublik und den Vereinigten Staaten,” *Exilforschung* 13 (1995). Work on the “discovery” of the early Frankfurt School after 1963 has been especially thorough. For an introduction see Wolfgang Kraushaar, ed., *Frankfurter Schule und Studentenbewegung. Von der Flaschenpost zum Molotowcocktail 1946-1975*, 3 vols. (Frankfurt am Main: Rogner & Bernhard bei Zweitausendeins, 1998). Attempts at explaining the Frankfurt School’s Freudian turn have been superficial. Alfred Schmidt pointed suggestively to “Horkheimer’s energetic adoption of Freudian insights” in the decade 1940-1950 but did not explain it. See Schmidt, “Max Horkheimer’s Intellectual Physiognomy,” in *On Max Horkheimer*, 34-35. In his study on the group, Martin Jay briefly mentioned that Freud’s influence was “clearly evident” beginning in the 1940s and “continued to play a meaningful role in both its theoretical and its empirical work” upon the return to Germany, but focused more on the work of Marcuse in *Eros and Civilization* (1956). See Jay, *The Dialectical Imagination*, 105-106. Marxist critics of the later Institute for Social Research often point to the Freudian turn in Critical Theory that betrayed Horkheimer and Adorno as “bourgeois culture critics dressed up in leftist garb.” See Ben Agger, *The Discourse of Domination: From the Frankfurt School to Postmodernism* (Evanston, IL: Northwestern University Press,

question of what remained/remains of the theoretical core of the critical left after the collapse of the German workers' movement after 1933 and its unsuccessful resurrection after WWII. Largely absent from the many acrimonious debates about compromises in the purity of theory has been a clear understanding of the practical considerations that prompted the de-radicalization in exile.

In what follows, I begin with the Frankfurt School's original critique of Freudianism as part of its broader non-cooperation with bourgeois groups. In the second part of the chapter, I trace the reasons for their turn toward Freudian psychology in their plans for the reconstruction of German education after Hitler. In the third and final section, I show how they developed their ultimately influential concept of "working upon the past" within German education. In face of National Socialism, they turned their attention away from the goal of inducing proletarian revolution and toward the end of preventing prejudice in liberal society through the means of education. I will argue that Horkheimer and Adorno, like other critical leftists of the Weimar period, did abandon many of their earlier utopian positions – not because they had given up their earlier values, but because they were now willing to compromise the purity of their political theory for the practical sake of what they regarded as a more pressing concern.

### I. The Frankfurt School's Marxist Critique of Bourgeois Psychoanalysis in the Wake of Weimar

Just before the Weimar Republic collapsed, Frankfurt had become the second-most important seat for psychoanalysis in Germany. Unlike Berlin, it never boasted an institute for the training of analysts, but in 1930, the city awarded Sigmund Freud the prestigious Goethe Award for literary excellence, and its university became the first in Germany to offer lectures on Freudian theory.<sup>366</sup> Having risen in that year to full professor of social philosophy and director of the Institute for Social Research, Horkheimer helped recruit some of Freud's top students (Karl Landauer and Heinrich Meng) as well as two younger analysts (Erich Fromm and Frieda Fromm-Reichmann) to collaborate with him and his colleagues in sociology and philosophy. Three years later, as

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1992), 39. H. Stuart Hughes's position, that Horkheimer and Adorno's "original allegiance to Marx in the end predominated over an infusion of psychoanalytic thinking which was never entirely assimilated," does not hold up in light of an examination of the Institute's postwar studies. Hughes, *The Sea Change: The Migration of Social Thought, 1930-1965* (New York: McGraw-Hill, 1975), 185-88. Others argue that Horkheimer's retreat from Marx during the 1940s was the result of a creeping conservatism: a pessimism concerning the possibilities of social change or a resigned conformism to liberal democratic realities. For scholarly arguments to the same effect, see Rolf Wiggershaus, Wiggershaus, *The Frankfurt School: Its History, Theories, and Political Significance.*, 431-49; Douglas Kellner, Kellner, "The Frankfurt School Revisited: A Critique of Martin Jay's *The Dialectical Imagination*," in *The Frankfurt School: Critical Assessments*, ed. Jay Bernstein (1994), 59; and Radkau, *Die deutsche Emigration in den USA*, 41. What all these arguments typically lack is a positive explanation for why psychoanalysis became so important in Critical Theory when it did.

<sup>366</sup> See Wolfgang Schivelbusch, *Intellektuellendämmerung: Zur Lage der Frankfurter Intelligenz in den zwanziger Jahren* (Frankfurt: Insel, 1982).

Meng later recalled, Hitler attempted to “murder” Freud: the Frankfurt Psychoanalytic Institute was dissolved, the Berlin Psychoanalytic Institute purged of its Jewish teachers and students, and its curriculum Aryanized to exclude Freud’s writings.<sup>367</sup> The Freudians in Frankfurt and Berlin scattered to Switzerland, France, the Netherlands, Great Britain, and in greatest numbers to the United States. When Germany annexed Austria in 1938, a similar process occurred at the Vienna Psychoanalytic Institute.

The refugees from the Berlin and Vienna institutes enjoyed extraordinary success when they arrived in the United States—as a group, probably the most success of the intellectual emigration overall. Their easy absorption was due to the fact that there were jobs waiting there for them, thanks to institutional inroads psychoanalysis had already made in American psychiatry since the 1920s. Together, they presided over the emergence of a kind of golden age of psychoanalysis during and after World War II. Psychoanalysis increasingly gained chairs in prestigious universities, and Freudian authors became American bestsellers.<sup>368</sup> The transformation of psychoanalytic theory in this period has been well documented by intellectual and cultural historians. Two recent authors of a compendium of American thought, for example, summarized the “Americanization of psychoanalysis after the 1920s” as a “jettisoning” of Freud’s *depth psychology*—his basic theories of instinctual conflict, the drives, childhood sexuality, and the upsetting mysteries of the unconscious. Once this “depth-psychological dimension, the very hallmark of the analytic approach to mental functioning” was abandoned, they wrote, “what remained was a more easily assimilable, ‘affirmative’ version of psychoanalytic theory.”<sup>369</sup>

Horkheimer and Adorno’s relationship to psychoanalysis was colored by this apparent “Americanization.” In fact, their notorious public admonishments of

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<sup>367</sup> Meng, *Leben als Begegnung* (Stuttgart: Hippokrates, 1971), 80. See James Goggin, *Death of a "Jewish Science": Psychoanalysis in the Third Reich* (West Lafayette, IA: Purdue University Press, 2001), Geoffrey Cocks, *Psychotherapy in the Third Reich: The Göring Institute* (New York: Oxford University Press, 1985), and Regine Lockot, *Erinnern und Durcharbeiten: zur Geschichte der Psychoanalyse und Psychotherapie im Nationalsozialismus* (Frankfurt am Main: Fischer, 1985).

<sup>368</sup> To cite just a few examples, Franz Alexander became the director of the Chicago Institute of Psychoanalysis, Karen Horney founded the American Institute of Psychoanalysis, Sandor Rado founded the Association for Psychoanalytic Medicine, Rudolph Loewenstein became president of the New York Psychoanalytic Society, and Heinz Hartmann became the president of the International Psychoanalytic Association in the 1950s. “Thus the handful of refugee analysts from Europe had succeeded in imposing themselves as the leaders of American psychoanalysis,” according to Edward Shorter. “But the real motor of growth was the analysts’ unremitting mandate to extend Freud’s domain to all of psychiatry and to the American public.” Edward Shorter, *A History of Psychiatry: From the Era of the Asylum to the Era of Prozac* (New York: Wiley, 1997), 170-171.

<sup>369</sup> See Richard Fox and James Kloppenberg, *A Companion to American Thought* (Oxford: Blackwell, 1995), 250-52, Edith Kurzweil, *The Freudians: A Comparative Perspective* (New Haven, CT: Yale University Press, 1989), 289-92.; Hughes, *The Sea Change*, 189-239; Marie Jahoda, “The Migration of Psychoanalysis: Its Impact on American Psychology,” in *The Intellectual Migration: Europe and America, 1930-1960*, ed. Donald Fleming and Bernard Bailyn (Cambridge: Harvard University Press, 1969), 420-445; David Shakow and David Rapaport, *The Influence of Freud on American Psychology* (Cleveland: Meridian Books, 1964), 135-142.

“assimilationist” European émigrés were directed in no small part toward the neo-Freudian revisionists who had adapted to this castrated version of psychoanalysis.<sup>370</sup> Uncharitable as usual, Horkheimer and Adorno agreed that these refugees had “watered down” and “rendered harmless” the more disturbing anthropological insights of Freud’s depth psychology to sell psychoanalysis on the American market.<sup>371</sup> They were particularly disapproving of the way therapy had been professionalized in the United States, where patients paid large sums of money to find cures for what Freud called their “normal unhappiness.” In many ways, Horkheimer and Adorno’s critique followed Freud’s own derogatory remarks about “business-American” psychoanalysts in the 1920s.<sup>372</sup>

Their opinion of psychoanalysis in emigration reached its nadir during the Institute’s break with Erich Fromm, the man who had first integrated psychoanalysis into Critical Theory. Horkheimer and Adorno were in complete agreement on this topic, so it makes sense to speak of them here in tandem.<sup>373</sup> According to their side of the story, Fromm left the Institute in 1938 to become “the head of one of the ‘revisionist’ schools of psychoanalysis which has tried to ‘sociologize’ depth psychology, thereby, as some of my associates and I felt, actually making it more superficial and losing sight of the decisive social implications of Freud’s original conception.”<sup>374</sup> To Horkheimer, Fromm’s analysis of Nazi psychology in *The Escape from Freedom* (1941) typified the revisionist tendency to “psychologize culture and society,” in other words, to simplify complex social phenomena and economic relations into mere psychological problems.<sup>375</sup> Herbert Marcuse had made a similar critique of one of the first analytic interpretations of Nazism, Wilhelm Reich’s *The Mass Psychology of Fascism* (1933), which according to Marcuse

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<sup>370</sup> See Horkheimer, “Die Juden und Europa” (1939), *HGS* 4, 308-309, and Adorno, “Fragen an die intellektuelle Emigration,” 355.

<sup>371</sup> Adorno, “Die revidierte Psychoanalyse” (1952), in: *Soziologische Schriften I*, 20-41, and Horkheimer, “Ernst Simmel and Freudian Philosophy,” *International Journal of Psychoanalysis* 29 (1948), 110-113. The best discussion of the Institute’s critique of the development of professional psychoanalysis in the U.S. and the conflict between “id psychologists” and “ego psychologists” is found in Joel Whitebook, “Reason and Happiness: Some Psychoanalytical Themes in Critical Theory” (1984), reprinted in Bernstein, *The Frankfurt School*, 317-21. Horkheimer and Adorno’s critique of the abuses of psychoanalysis in America found perhaps its closest echo in the work of the American sociologist Philip Rieff, *Freud: Mind of a Moralist* (New York: Viking, 1959) and *The Triumph of the Therapeutic: Uses of Faith after Freud* (New York: Harper & Row, 1966), 87-92.

<sup>372</sup> Peter Gay, *Freud, Jews and Other Germans: Masters and Victims in Modernist Culture* (New York: Oxford University Press, 1978), 564-66.

<sup>373</sup> Adorno proposed writing a joint review of *The Escape from Freedom*. Adorno to Horkheimer, September 4, 1941, in: Horkheimer, *HGS* 17, 166.

<sup>374</sup> Horkheimer, *A Life in Letters: Selected Correspondence*, ed. Manfred R. Jacobson and Evelyn M. Jacobson (Lincoln: University of Nebraska Press, 2007), 241.

<sup>375</sup> Horkheimer to Leo Lowenthal, October 31, 1942, *HGS* 17, 367. For a discussion of the Institute’s critique of Fromm’s revisionism see Jay, *The Dialectical Imagination*, 103-106.

“moved too quickly from subjective conditions to objective conditions.”<sup>376</sup> The Institute’s Marxist critique of such interpretations was the latest battle in a long theoretical war that dated back to the original polemic written by Marx himself in the *German Ideology* against Max Stirner’s individualistic philosophy of “radical psychologism.”<sup>377</sup>

What Horkheimer and Adorno found so troubling was the dominance of psychologism in American social science. For many, psychiatry had come to represent a panacea for the ills of society—and psychiatry increasingly meant psychoanalysis. Psychologism was so prevalent that the editors of the trade journal *Psychiatric Quarterly* could write in 1943 that “most of us [psychiatrists] have gradually been becoming aware, if sometimes uncomfortably so, that psychiatry is rising to assume the ancient mantle of philosophy as the student and interpreter of human affairs as a whole.” This was a direct result of the American reception of Freud. The journal authors pointed to “Freud’s repeated proofs that the understanding of human social activities and of the functioning of the normal human psyche was possible only through study of mental mechanism in derangement.”<sup>378</sup>

Horkheimer and Adorno’s critique of psychologism is important for understanding how they approached the burgeoning American and British discourse around German reeducation. The greatest societal ill of the period was universally recognized as National Socialism, and many Americans looked to psychiatry for a diagnosis of the mental disorders responsible for its outbreak.<sup>379</sup> In books such as Carl Gustav Jung’s *Wotan* (1936) and Fromm’s *Escape from Freedom*, the most common neuroses ascribed to the “German mind” were inferiority complex, hysteria, and megalomaniac paranoia—conditions that had purportedly triggered fatal aggression against their imaginary persecutors. The very term “reeducation,” which the Columbia psychiatrist Richard Brickner helped popularize in his book *Is Germany Incurable?* (1943), was a reference to curing paranoid schizophrenia. Brickner’s vision for reeducation called for locating the subjects in Germany who were “clear” of paranoid

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<sup>376</sup> Quoted in Douglas Kellner, preface to 1998 edition of Marcuse, *Eros and Civilization: A Philosophical Inquiry into Freud* (New York: Routledge, 1987), xv.

<sup>377</sup> On Marx’s critique of Stirner, see Cornel West, *The Ethical Dimensions of Marxist Thought* (New York: Monthly Review, 1991), 69-74. On the Western Marxist critique of psychologism in particular, see Martin Jay’s chapter on George Lukács in his *Marxism and Totality: The Adventures of a Concept from Lucács to Habermas* (Berkeley: University of California Press, 1984), 81-127.

<sup>378</sup> “Editorial Comment,” *Psychiatric Quarterly* 17, no. 4 (December 1943), 702-703.

<sup>379</sup> Pick, “‘In Pursuit of the Nazi Mind?’ The Deployment of Psychoanalysis in the Allied Struggle Against Nazism.” For just a few examples of the contribution of émigré intellectuals to this discourse, see Jung, *Wotan*.; Ernst Gustav Preuss, *The Canker of Germany*, trans. Norbert S. Maiman (London: Williams and Norgate, 1940); Erich Fromm, *Escape from Freedom* (New York: Farrar & Rinehart, 1941); Albert Salomon, “The Spirit of the Soldier and Nazi Militarism,” *Social Research* 9, no. 1 (1942), 82-103; Schwarzschild, *World in trance*.; Schreier, “German Aggressiveness - Its Reasons and Types.”; Emil Ludwig, *The Moral Conquest of Germany* (Garden City, NY: Doubleday, 1945).

neuroses and placing them in positions of leadership after the war.<sup>380</sup> Psychiatric diagnoses of the German problem animated the widely publicized conferences on reeducation spearheaded by Brickner in 1944 and attended by prominent public intellectuals including Fromm, Talcott Parsons, and Margaret Mead.<sup>381</sup> In Britain, the Oxford professor of mental philosophy William Brown argued that Germany “underwent a psychological transformation after the defeat of 1918” leading to “hysterical and paranoid tendencies” that could only be counteracted through “psycho-catharsis” after the war.<sup>382</sup>

Horkheimer and Adorno held these diagnoses to be inaccurate for two reasons. First, they suggested a false causal relationship between individual Germans’ psyches and the development of Nazi ideology. They wrote in their “Memorandum on the Elimination of German Chauvinism” already in 1942,

It has often been asked whether the German people as a whole or only the Nazi Government is responsible for setting the world afire. Clearly the Nazi government could not have arisen and could not have pursued its criminal policies without the support and active participation of the German people. But it must not be overlooked that hardly a single young German who has grown up under the Nazi system is strong enough to resist the overwhelming impact of the social forces operating in Germany and the Nazi machinery created by these forces. One might say that not the individual German, but Germany as a whole, was designed for National Socialism. Let us assume that an American child was taken to Germany in 1930 and educated under the Nazi system. Exposed to exclusive National Socialist influences, he could easily have become a perfect Nazi despite his American heritage. His boyish confidence, good faith, and enthusiasm could be turned into evil in a regime that destroys his critical sense, understanding, and independent judgment.<sup>383</sup>

Second, Horkheimer and Adorno argued that the diagnosis of German militarism and German antisemitism as “neuroses” misunderstood the function of social prejudice in modern society. The term *neurosis*, or *psychoneurosis*, had been a relatively obscure category in medical discourse before Freud, but by 1945, it had become a popular

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<sup>380</sup> Richard Brickner, M.D., *Is Germany Incurable?* (New York: J.B. Lippincott, 1943). The book sold 100,000 copies in the United States within one week of its publication in 1943. Adorno came out explicitly against Brickner’s book: “It is the pattern of interacting rational and irrational forces in modern mass movements upon which our studies hope to throw some light. The danger is by no means, as some theories such as Brickner’s *Is Germany Incurable?* would like to have it, a specific German illness, the collective paranoia of one particular nation, but seems to spring from more universal social and cultural conditions.” T.W. Adorno, *The Stars Down to Earth* in: *Gesammelte Schriften*, vol. 9/2 (Frankfurt a.M.: Suhrkamp, 1975), 15.

<sup>381</sup> “Prescription for Germany,” *Time* (May 14, 1945). For a more in-depth discussion of Brickner and the conferences, see Jeffrey Olick, *In the House of the Hangman: The Agonies of German Defeat, 1943-1949* (Chicago: University of Chicago Press, 2005), 58-64.

<sup>382</sup> William Brown, “The Psychology of Modern Germany,” *British Journal of Psychology* 34 (1944), 57.

<sup>383</sup> Institute of Social Research, “Memorandum on the Elimination of German Chauvinism,” August, 1942, XI/172/27, 2, MHA.

catchall phrase for mental disorders that prevented individuals from functioning healthily in society.<sup>384</sup> But prejudice served an *integrative*, not obstructive function for the individual in society, they argued; antisemitism, in particular, enabled, rather than hindered, socialization.<sup>385</sup> In their contribution to Ernst Simmel's collection of essays in 1946, Horkheimer and Adorno argued that antisemitism was a "social disease," not a mental one, which meant that psychoanalysis was limited in its ability to cure it.<sup>386</sup> And in *The Authoritarian Personality*, they continued to hold that "therapeutic possibilities" for solving the problem of social prejudice were "severely limited," not only because there were not enough therapists in the world for every single ethnocentrist, but also because the "curing" of one particular manifestation of prejudice would only create the need for new objects of aggression.<sup>387</sup> To advance psychiatric diagnoses and cures for social diseases like antisemitism and Nazism, according to Horkheimer and Adorno, was to fall victim to the fallacy of psychologism. They also held Freud's own (psychologistic) theory of antisemitism based upon the supposed Christian fear of circumcision to be simplistic.<sup>388</sup>

## II. World War II and the Turn to Freud

These, then, were Horkheimer and Adorno's rather severe objections to psychoanalysis in America. At precisely the same time they were developing these critiques, however, Freud's depth psychology—what they claimed had been jettisoned in its crossing to America—rose as the lodestar of their Critical Theory. As mentioned

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<sup>384</sup> Edward Shorter, *Historical Dictionary of Psychiatry* (Oxford: Oxford University Press, 2005), 192-93.

<sup>385</sup> "One simply learns to speak disrespectfully of Jews as one would learn to curse, tell dirty jokes, drink heavily, or to rage about taxes and strikes," Horkheimer wrote to Adorno in reference to their joint work on the "elements of anti-semitism" in *The Dialectic of Enlightenment*. "Antisemitism is a cultural pattern of society. [...] I do not think the name 'therapy' is a very good choice because it reinforces the ideal that antisemitism is a neurosis." Horkheimer to Adorno, Oct. 11, 1945, *HGS* 17, 657-59.

<sup>386</sup> See Horkheimer and Adorno's essays in Ernst Simmel, ed., *Anti-Semitism: A Social Disease* (New York: International Universities Press, 1946). The two non-establishment Freudians who had formed the Los Angeles Psychoanalytic Study Group, Simmel and Otto Fenichel, seemed to be Horkheimer and Adorno's picture of the "good Freudian" in emigration. Fenichel's theory of neurosis dovetailed with Horkheimer's conception of antisemitism. See Detlev Claussen's excellent commentary on Fenichel's essay in Detlev Claussen, *Vom Judenhass zum Antisemitismus: Materialien einer verleugneten Geschichte* (Darmstadt: Luchterhand, 1987), 233-34. On the interaction of Horkheimer and Adorno and Fenichel in Los Angeles, see Russell Jacoby, *The Repression of Psychoanalysis: Otto Fenichel and the Political Freudians* (Chicago: University of Chicago Press, 1986), 122-124.

<sup>387</sup> Adorno et al., *The Authoritarian Personality*, 974.

<sup>388</sup> Freud wrote in 1919 that "one of the roots of the antisemitism which appears with such elemental force and finds such irrational explanation among the nations of the West" can be traced back to circumcision, which "is unconsciously equated with castration." Sigmund Freud, *The Standard Edition of the Complete Works*, trans. James Strachey et al., vol. 11, 95. On Freud's theory of antisemitism and fear of castration see Sander Gilman, *Freud, Race, and Gender* (Princeton: Princeton University Press, 1993), 49-92.

above, Horkheimer's turn away from Marx and toward Freud can be traced back to his engagement with the dual problems of reeducation and antisemitism in 1942. That year marked an important turning point not only for the Institute for Social Research, but for the intellectual emigration in general. The first reports of the Final Solution had made their way into the U.S. from Europe by then. Germany's days of military success also appeared numbered. Not only had the U.S. joined the war, but the German army had miscalculated its strength and mired itself in Stalingrad, prompting many émigrés, now anticipating a postwar occupation, to draft proposals for winning the peace and the postwar German youth.<sup>389</sup> For Horkheimer and Adorno, who found themselves in Los Angeles at this point (Horkheimer moved there for health reasons), these political developments prompted a move away from a structural analysis of National Socialism, and toward the study of prejudice and the methods available for combating it after the war.<sup>390</sup>

The Institute's shift in objects of study provoked a theoretical partner-swap. If the critique of the political economy of fascism had led Horkheimer naturally to Marx, then an analysis of prejudice and reeducation called for a remarriage with Freud. Horkheimer wrote to his colleague Leo Lowenthal that, in the weeks following the submittal of the "Memorandum on the Elimination of German Chauvinism," he had "anew realized" Freud's "grandeur" and counted Freud as "one of the Bildungsmächte [foundation stones] without which our own philosophy would not be what it is."<sup>391</sup> Despite his and Adorno's criticism of American psychoanalysis, Horkheimer suddenly expressed a new willingness to work with orthodox Freudians practicing in the United States.<sup>392</sup> This willingness turned into real collaboration two years later when Horkheimer became the director of the Department of Scientific Research at the American Jewish Committee and he and Adorno began formulating their plan for a series of "Studies in Prejudice," the cornerstone of which would be *The Authoritarian Personality*.<sup>393</sup> The new object of study necessitated a reckoning with the psychology of individuals, they argued.

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<sup>389</sup> "Our slogan might well be: Who wins the youth wins the peace." Institute of Social Research, "Memorandum on the Elimination of German Chauvinism," 3.

<sup>390</sup> On the debate within the Institute on monopoly and state capitalism between Pollock and Neumann within the Institute, see William David Jones, *The Lost Debate: German Socialist Intellectuals and Totalitarianism* (University of Illinois Press, 1999), 134-43.

<sup>391</sup> Horkheimer to Lowenthal, October 31, 1942, *HGS* 17, 367.

<sup>392</sup> It is possible that the move to California in 1941 contributed to Horkheimer's reengagement with psychoanalysis. The psychoanalytic societies in Los Angeles and San Francisco were not as established as those in New York and Chicago. Analysts closer to Horkheimer and Adorno's Frankfurt tradition of "political Freudianism"—such as Siegfried Bernfeld, Ernst Simmel, and Otto Fenichel—were able to exert more influence there than in New York.

<sup>393</sup> The "Studies in Prejudice" series also included Leo Löwenthal and Norbert Guterman's *Prophets of Deceit* (a case study of the techniques employed by American demagogues to propagate prejudice), Bruno Bettelheim and Morris Janowitz's *Dynamics of Prejudice* (a psychoanalytic survey of the personality traits of war veterans), Nathan Ackerman and Marie Jahoda's *Anti-Semitism and Emotional Disorder* (a

This was a turn that struck some of their socialist colleagues as a “liberal” betrayal of their Marxist critiques of the social totality. To them, the enlistment of Freud (whom Horkheimer admitted was a “bourgeois thinker”<sup>394</sup>) as a guiding light in the struggle against fascism smacked of psychologism and conformism to social realities in the anti-fascist world—precisely what Horkheimer and Adorno had earlier condemned. It was true that the authors of *The Authoritarian Personality*, including Adorno, cited neo-Freudians positively. They used phrases clearly taken from the liberal repertoire, such as the idea of “tolerance.” They portrayed fascism as the gravest threat to “our [supposedly American] traditional values and institutions.” Worst of all in the eyes of the Institute’s leftist admirers, Horkheimer and Adorno held up as the psychological antithesis of the “authoritarian personality” not the socialistically inclined personality but the “genuine liberal,” who could be trusted to defend individualism against fascist encroachments. In order to understand why Horkheimer and Adorno’s embrace of the “bourgeois” tradition of Freud in *The Authoritarian Personality* was *not* indicative of a turn to American New Deal liberalism but instead to the problems inherent in a “critical theory” of reeducation, it is necessary to reconstruct the argument of the book.

First, it must be recognized what the argument of *The Authoritarian Personality* was not. It was not an analysis of fascism; the Institute had already tackled that problem in Horkheimer’s essay “The Authoritarian State” before 1942. Adorno would later insist that “nothing was further from my intention than to psychologically deduce a phenomenon like fascism. Only because this aspect [individual psychology] was entirely neglected did we place special weight on it in *The Authoritarian Personality*.”<sup>395</sup> It was also not a study of the roots of social prejudice. As the authors of point out in the very first pages of the introduction, there would be “no attempt to account for the existence of anti-Semitic ideas in our society,” nor of prejudice in general, nor of anti-democratic sentiments; they had made an attempt to do that in *Dialectic of Enlightenment* (1944).<sup>396</sup> The personalities of self-declared “fascist” individuals were not studied. Finally, the subjects of the study were not Germans, but instead mostly college-age American students in the San Francisco Bay Area.

*The Authoritarian Personality* was a study of the potential for “fascism” in the United States. “The major concern,” the authors wrote, “was with the *potentially fascist* individual, whose structure is such as to render him particularly susceptible to anti-democratic propaganda.”<sup>397</sup> Most of the methodological confusion in the text—what

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psychoanalysis of antisemitism), and Massing’s *Rehearsal for Destruction* (a history of a particular German manifestation of socially manipulated prejudice).

<sup>394</sup> Horkheimer to Löwenthal, October 31, 1942.

<sup>395</sup> Adorno, “Starrheit und Integration,” in *Gesammelte Schriften*, vol. 9 (2), 375-76, and Adorno, “Zur Bekämpfung des Antisemitismus heute,” 372-73. For the elements of a “total theory of antisemitism in our society” he pointed to his and Horkheimer’s *Dialectic of Enlightenment*, where these psychological aspects found their rightful place.

<sup>396</sup> *Ibid.*, 3.

<sup>397</sup> *Ibid.*, 1.

ultimately dates it as a historical document—sprang from Horkheimer and Adorno’s attempt to make a European political phenomenon (fascism) relevant to American conditions. The driving question of the text was why certain people, in this case, Americans, responded more positively to the propaganda of prejudice than others, and why certain people resisted it more fervently than others. To begin solving that problem, Horkheimer and Adorno created various “scales” of empirical measurement. The most important was an “F-scale” meant to locate “prefascist trends” in subjects such as submission to authority, aggression, conventionalism, impulsiveness, and manipulation, using quantitative tests such as the Rorschach as well as clinical interviews, and leaning heavily on Freud’s theory of personality stages (i.e., anal, oral, genital, etc). The authors presented the F-scale as a measurement for a new “anthropological” type—the authoritarian personality—supposedly valid not only in the American context but all over the industrialized West. This personality indicator was then compared to the subjects’ scoring on a “PEC-scale,” which was specific to the national milieu. In this case, it plotted subjects’ “politico-economic conservatism” on the imagined American political spectrum of the 1940s, from the left (New Deal progressivism) to the right (market-capital conservatism). Because Horkheimer and Adorno observed minimal mass receptiveness for both truly left-wing (socialist or communist) and truly right-wing (fascist) movements in the United States, they omitted the study of them altogether.<sup>398</sup> It is only with this in mind that the veneration of the F-scale-type “genuine liberal,” which theoretically corresponded to the PEC-scale equivalent to New Deal interventionism, begins to make sense as the best *American* defense against the propaganda of prejudice. The Institute’s massive study of antisemitism among American workers from 1942 to 1944 had shown—disappointingly, for Institute members—that the working class in the U.S. could not be counted on as vigilant fighters against social prejudice.

For Adorno and Horkheimer, “potentially fascist” individuals manifested most apparently as “prejudiced” or “ethnocentric” individuals. While prejudice and ethnocentrism were fairly easily defined phenomena, “fascism” was more opaque. The authors of *The Authoritarian Personality* were probably correct in registering more ethnocentric prejudice on the American political right than the left, but the concept of fascism was ultimately ill suited for the analysis American conditions.<sup>399</sup> Had the

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<sup>398</sup> In the section “Politico-Economic Ideology and Group Memberships, co-author Daniel Levinson described the limits of the study: “While fascist and socialist-communist (Marxist) ideologies represent the extreme right and left, respectively, with regard to political economy and group relations, neither point of view has as yet found much active, open support on the American political scene. The focus of the present study was, therefore, on liberalism and conservatism, the currently prevalent left- and right-wing political ideologies—with an eye, to be sure, on their potential polarization to the more extreme left and right.” *Ibid.*, 152.

<sup>399</sup> Levinson pointed to the “considerable evidence suggesting a psychological affinity between conservatism and ethnocentrism, liberalism and anti-ethnocentrism,” suggesting more antisemitic sentiment among Republicans than Democrats, but also acknowledged the extreme complexity of the “right-left dimension” in the U.S. *Ibid.*, 152.

Institute chosen to develop a P scale as opposed to an F scale, perhaps they would have been on more solid methodological ground. Instead, the conflation of prejudice and pre-fascism, though influential, opened the study up to many critiques from empiricists. Then again, as we will see upon the Institute's return to Germany, Adorno was willing to compromise on methodological (and political) purity if it presented a means to reaching a "reeducational" end.

The psychoanalytic study of the "potentially fascistic" individual in *The Authoritarian Personality* was purely that: a means to end. The authors admitted in the introduction that the separation of psychology from sociology and history was "artificial."<sup>400</sup> Horkheimer noted in the preface to the Studies in Prejudice series that the stress the authors placed "upon the personal and the psychological rather than upon the social aspect of prejudice" was directly related to practical goals for education. Though Horkheimer recognized that the category of "the individual *in vacuo* is but an artifact," a focus on individual psychology was justified because the "eradication [of prejudice] means reeducation," and "education in a strict sense is by its nature personal and psychological."<sup>401</sup> In other words, though mass prejudice was not the result of *individual* neurosis, certain types of individuals were clearly more susceptible to prejudicial attitudes than others. Thus, so it was reasoned, the identification of these types and their character traits was a prerequisite for developing an educational diet that would fortify individuals against chauvinism.<sup>402</sup>

What was significant in Horkheimer's definition of "reeducation" as "the eradication of prejudice" was that it was not specific to Germany. The German postwar problem was not mentioned once in the text. This silence about Germany resulted not only from the fact that the subjects of *The Authoritarian Personality* were all American college students, but from Horkheimer and Adorno's belief—already expressed in the *Dialectic of Enlightenment*—that the development of the modern world had birthed a new "anthropological" type, which had admittedly reached its full-blown ugly maturity in Germany but existed in embryonic or dormant state all over the Western world. Whether or not it matured into actual fascism, prejudice was a constitutive part of both the German and American "minds," meaning that reeducation was necessary for both. Such a redefinition of reeducation was crucial to Horkheimer and Adorno's positive reception when they returned to Germany in the year *The Authoritarian Personality* was published.

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<sup>400</sup> Ibid., 3. It should be born in mind that the Institute complemented *The Authoritarian Personality* in the Studies in Prejudice series with Paul Massing's *Rehearsal for Destruction*, a social history of German antisemitism.

<sup>401</sup> Horkheimer and Flowerman, "Foreword" in Adorno and al., *The Authoritarian Personality*, vii.. *The Authoritarian Personality* was in fact only one of various reeducation techniques Horkheimer had been considering since 1942, including methods in radio and film media. Horkheimer, Adorno, and Siegfried Kracauer even collaborated on the "experimental movie projects" *Crossfire* and *Below the Surface*, which dealt with false stereotyping and minority profiling. See Jenemann, *Adorno in America* (Minneapolis: University of Minnesota Press, 2007), 105-148.

<sup>402</sup> "Knowledge of the personality forces that favor [fascism's] acceptance may ultimately prove useful in combating it." Ibid., 1.

But what were the attributes of the authoritarian type in need of reeducation, and how could Adorno speak of “types” at all, given his famous insistence on non-identity? Ironically, perhaps, in light of the Institute’s earlier critique of neo-Freudianism, the study’s clinical analyses of personality, performed and compiled by the refugee psychoanalyst Else Frenkel-Brunswick, often confirmed those of Erich Fromm, Erik Erikson, Karen Horney, and Wilhelm Reich. However, the way Adorno framed these results in his “qualitative” analysis of ideology, tells us more about the Institute’s relationship to psychoanalysis than anything else. Adorno justified a violation of this philosophical purity out of regard for methodological “pragmatism,” and seemingly, out of immense respect for the fact that Sigmund Freud himself had not been interested in typologies *per se* (as a biologist would be), but rather used them instrumentally to arrive at “concrete insights into the matters themselves” and improve the human condition.<sup>403</sup> According to this reading, Freud only created “types” of personality structure because he had to: “there is a typological element inherent in any kind of psychological theory.”<sup>404</sup> For Adorno, Freud emerges as a moralist and a reluctant empiricist—in other words, as a critical theorist.

Similarly, the second reason Adorno gave for the Institute’s reliance on Freud in *The Authoritarian Personality* was also “a pragmatic one: the necessity that science provide weapons against the potential threat of the fascist mentality.”<sup>405</sup> Herein lay was the major difference between Horkheimer and Adorno’s analysis and the work of Fromm, Horney, and Reich. Whereas Horney and Reich seemed to express the opinion that the social order would be good if the individual were happy, and whereas Fromm seemed to suggest that individuals would be happy if the social order were good, Horkheimer and Adorno came to take the anti-utopian position that the best psychoanalysis could do was to raise individual awareness of the potential for evil. For them, reeducation would consist not in therapy (i.e., forcing subjects to face their past in order to transcend it), nor in premature revolution (i.e., forcing subjects to collectivize property), but in an educational approach that exposed the dangerous “ways of thinking” and ways of working modern subjects have inherited in order to make life *less* destructive.<sup>406</sup> Reeducation’s aim would be to increase awareness of the roots of one’s own aggressive

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<sup>403</sup> “This is not to say that his typology has to be accepted as it stands,” Adorno wrote. “What counts, however, is that Freud found such a classification worthwhile.” *Ibid.*, 746-47.

<sup>404</sup> *Ibid.*, 746.

<sup>405</sup> *Ibid.*, 748.

<sup>406</sup> *Ibid.*, 748. Continuing his attack on psychologism, Adorno wrote that “psychological ‘treatment’ of prejudiced persons is problematic because of their large number as well as because they are by no means ‘ill,’ in the usual sense, and, as we have seen, at least on the surface level are often even better ‘adjusted’ than the non-prejudiced ones.” The potentially destructive ways of thinking were systematically laid out by Institute members from the late 1940s to the 1960s, in Horkheimer’s critique of manipulation in *Eclipse of Reason* (1947) and *Critique of Instrumental Reason* (1967), Adorno’s critique of existentialism in *The Jargon of Authenticity* (1964) and of identity-thinking in *Negative Dialectics* (1966), and Frederick Pollock’s critique of the dehumanization of labor in *Automation* (1955).

feelings. “Resistance to self-insight and resistance to social facts are contrived, most essentially, of the same stuff,” the authors concluded in *The Authoritarian Personality*. “It is here that psychology [i.e., psychoanalysis] may play its most important role.”<sup>407</sup>

One of the reasons that Horkheimer and Adorno rejected the idea of reeducation as therapy was that it placed too much faith in the curative power of human reason. According to Horkheimer, the American technique in occupied Germany of forcing subjects to view “reeducational” documentary films that exposed facts about antisemitism would not, contrary to common sense, be an effective tool against prejudice in postwar Germany. In fact, it might exacerbate it by provoking defense mechanisms. A truly “psychoanalytic answer” to the question was that more than “a mere appeal to the conscious mind,” or “to fair play, to a sense of justice in the individual, to the ideals of democracy” was necessary.<sup>408</sup> This answer was likely based at least in part on the Institute members’ own experience of Weimar. A.R.L. Gurland, a close affiliate of the Institute in the 1940s, pointed out in his recommendations for German reeducation that the methods of enlightenment had been famously overestimated and misunderstood once before in Germany—in the “anti-antisemitism” policies of the largest organization of German Jews before 1933, the Central Association of German Citizens of Jewish Faith. Gurland argued that in failing to recognize the irrational appeal of modern prejudice, the German-Jewish leadership had made the mistake of combating it with factual arguments.<sup>409</sup> For example, the *Centralverein* tended to respond to antisemitic propaganda in the Weimar Republic with apologetic reasoning such as “the Jews are not as bad as they are said to be” or “there is no such thing as ‘the Jews.’” They did not recognize, he argued, that any attempt to falsify claims about Jews with reference to facts only “fanned the flame that was meant to be extinguished.”<sup>410</sup> Horkheimer and Adorno wrote that the problem of “religious and racial hatreds” could not be “tackled successfully either by the propaganda of tolerance or by apologetic refutation of errors and lies”:

The major emphasis should be placed, it seems, not upon discrimination against particular minority groups, but upon such phenomena as stereotype, emotional coldness,

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<sup>407</sup> Adorno et al., *The Authoritarian Personality*, 976.

<sup>408</sup> Horkheimer, “Anti-Semitism as a Social Phenomenon,” undated manuscript, c. 1945/46, IX 46.1a, 2, MHA.

<sup>409</sup> Institute of Social Research (Gurland), “Analysis of Central-Verein Policy in Germany,” undated (probably 1945), 1-2, A.R.L. Gurland Collection, Universitätsbibliothek Frankfurt. This same argument was also developed in Gurland, Neumann, and Kirchheimer, *The Fate of Small Business in Nazi Germany* (Washington, DC: U.S. Government, 1943).

<sup>410</sup> Gurland cited as an example the fact that German Jews occasionally answered the accusation of “Judeo-Marxism” with the argument that if Karl Marx and Marxism were somehow “Jewish,” as the antisemites claimed, then logically, conservatism would also have to be “Jewish,” since like Marx, Friedrich Julius Stahl—the nineteenth-century legal thinker commonly known as the father of German conservatism—was a Protestant of Jewish descent. That argument only led to antisemitic rumors about the Jewish elements in Stahl, Gurland wrote.

identification with power, and general destructiveness. When one takes this view of the matter it is not difficult to see why measures to oppose social discrimination have not been more effective. Rational arguments cannot be expected to have deep or lasting effects upon a phenomenon that is irrational in its essential nature [...].<sup>411</sup>

Accordingly, Freud's insights about the power of the irrational in mass psychology and the problem of psychological resistance would have to factor into any theory of combating prejudice.

Before moving on to how Horkheimer and Adorno brought their thought on Freud and reeducation to the Federal Republic, one might summarize the Freudian turn in the Institute's Critical Theory in exile as follows. When psychoanalysis was integrated into Critical Theory in the late 1920s, it had been largely to identify and overcome the social pressures that were preventing class-consciousness. In American emigration, Horkheimer and Adorno encountered a psychoanalysis that was being—to use own of their words—“fetishized” into a panacea for social ills. In response, they developed a three-fold critique of the “psychologistic” American reeducation discourse that portrayed Germans as patients to be rehabilitated and re-civilized by imposing American structures of thought onto their “German minds.” First, they argued, the German mind did not enjoy a monopoly on social prejudice; no national mind, if such a thing existed, could. Claiming so only provoked defensive postures that stunted self-reflection. Second, psychoanalysis could aid in diagnosing individuals' susceptibility to social prejudice, but could not eradicate it through therapeutic measures. Far from being a quick fix, reeducation would be a long-term project that required a fundamental rethinking of German traditions from within the traditions themselves. Third, Germany had no need to import a tradition of self-analysis from the United States. A German tradition already existed—in psychoanalysis—but it had been buried in the death camps of Europe and corrupted (they claimed) in America. Upon their return to Germany, Horkheimer and Adorno attempted to restore this Freudian tradition of self-analysis as the *sine qua non* for any rethinking of the past. Psychoanalysis had changed its pragmatic function in Critical Theory. No longer merely an aid for explaining the postponement of social revolution, Freud had become a philosopher of reeducation.

Adorno famously wrote in 1944 this apparently enigmatic aphorism, which was later published in German in *Minima Moralia* (1951): “In psychoanalysis, nothing is true except for the exaggerations.”<sup>412</sup> Considering that fifteen years later, he added that “only exaggeration *per se* today can be the medium of truth,” the first statement seems especially significant to his postwar thought and his goals for reintroducing the *Denkrichtung* of psychoanalysis into the Federal Republic.<sup>413</sup> These “exaggerations” referred to what Adorno called elsewhere “the educational objective

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<sup>411</sup> Horkheimer, “Preface,” and Adorno et al., *The Authoritarian Personality*, ix, 973.

<sup>412</sup> Adorno, *Minima Moralia* (Berlin: Suhrkamp, 1951), 49.

<sup>413</sup> Adorno, “The Meaning of Working through the Past,” in *Can One Live after Auschwitz*, ed. Rolf Tiedemann, trans. Rodney Livingstone (Palo Alto, CA: Stanford University Press, 2003), 14.

[*Erkenntnisanspruch*] of psychoanalysis,” which went “beyond therapeutic interests, as with Freud in his later development.”<sup>414</sup> This was the Freud they sought to reintroduce.

### III. The Return of Critical Theory to the Federal Republic

If Horkheimer and Adorno developed their ideas about the uses and abuses of psychoanalysis in face of a glut of Freudianism in the U.S., in the Federal Republic they entered an atmosphere of almost complete poverty on the subject. The “dominant intellectual class” Horkheimer encountered in 1948, including the towering figure of Karl Jaspers, was hostile to Freudianism.<sup>415</sup> Horkheimer found in 1950 that “apart from our little group, nobody seems to realize the tremendous contribution psychoanalysis could make here in the education of future teachers, politicians, writers, molders of opinion and therefore in the fostering of peace.”<sup>416</sup> In reality, this was not entirely accurate. There were a handful of educationalists in the Federal Republic interested in the contribution of psychoanalysis after the war, but many of them were suspect in the eyes of the returning émigrés.

First, there were the neo-Freudians who had remained in Berlin after 1933 and presided over the Aryanization of the German Psychoanalytic Society (DPG). In 1947, Felix Böhm, the president of the DPG until 1936 and self-styled “savior of psychoanalysis” under National Socialism, founded the Berlin Institute for Psychotherapy and began training “education counselors” (*Psychagogen*) for community organization. Böhm’s well-publicized and brutal compromises during the Nazi years, as well as his advanced age, prevented him from exerting much personal influence over the next decade, but his younger colleague at the Berlin Institute Wilhelm Bitter (1893-1974) continued to apply depth psychology (of the Jungian variant) to social and religious education.<sup>417</sup> Their “neo-psychoanalysis” was hostile to Freud’s version of depth psychology. The Jungian Carl Müller-Braunschweig (1881-1958) taught Freud at the Free University in Berlin, but his courses seem to have been more an act of making amends for his collaboration with Nazism in the 1930s than a genuine belief in Freudian

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<sup>414</sup> Institut für Sozialforschung, “Minutes of the Working Conference on the Contribution of Modern Psychology and Social Psychology to the Understanding of Contemporary Society,” Jan. 19-20, 1952, IX/223, 3, MHA.

<sup>415</sup> See Matthias Bormuth, *Life Conduct in Modern times: Karl Jaspers and Psychoanalysis* (Dordrecht: Springer, 2006). On the continuity of resistance to Freudianism from the first to second German republics, see the article by Kauders, “The Mind of a Rationalist: German Reactions to Psychoanalysis in the Weimar Republic and Beyond,” *History of Psychology* 8, no. 3 (2005), 255-70.

<sup>416</sup> Horkheimer to Karl Menninger, June 20, 1950, *HGS* 18, p. 140.

<sup>417</sup> On Böhm’s collaboration in the murder of homosexuals during the war, see Grau, *Hidden holocaust?*, 129-30. Harald Schultz-Hencke and Werner Kemper, the two other leaders of neo-Freudianism under the Nazis, also practiced and taught a version of “neo-psychoanalysis” at the Berlin Institute, but Schultz-Hencke died in 1953, and Kemper emigrated in 1949 to Brazil. On Bitter, see Thomas Kirsch, *The Jungians a comparative and historical perspective* (London: Routledge, 2000), 139-140.

theories.<sup>418</sup> Among practicing psychiatrists, this left only the Heidelberg doctor Alexander Mitscherlich (1908-1982), who had never trained as an analyst but nevertheless became the most influential—and only—Freudian public intellectual of the postwar period. Mitscherlich’s fervent anti-Nazism and Freudian orthodoxy made him Horkheimer and Adorno’s best, though as we will see far from ideal, choice as a collaborator in the Federal Republic.<sup>419</sup>

There were also non-physicians interested in the answers psychoanalysis could provide to German social questions in the wake of National Socialism. Returning from forced emigration in Turkey, the prominent Heidelberg sociologist Alexander Rüstow (1885-1963) used Freud’s libido theory as one of the cornerstones of his three-volume “critique of civilization,” *Freedom and Domination* (1950-1957).<sup>420</sup> In addition, one of the most influential West German historians of the postwar period, Hermann Heimpel (1901-1988), who will be discussed below, would also eventually employ the concept of repression to solve the question of teaching German history to a generation with a shattered sense of “we-ness.”<sup>421</sup> As historians *cum* culture critics, both Rüstow and Heimpel considered themselves to hold what Rüstow called “the responsibility-laden office of a *medicus rei publicae*, a physician of the commonwealth.”<sup>422</sup> Horkheimer and Adorno were not the only social scientists interested in Freud’s contribution to education after Nazism, but they were among a very small minority in German academic life.

Horkheimer’s goal for re-introducing Freud into West German universities began with teacher training, which he considered the linchpin of postwar cultural change. Due to the striking contrast in the early Federal Republic between the dearth of elementary and high school teachers and the magnitude of the responsibility entrusted to their profession, the debate on teacher training presented itself as the “key problem” of reform in the 1950s and early 1960s.<sup>423</sup> Horkheimer would likely not have returned to Germany without his faith that professors of philosophy like himself could have a profound effect on this problem. “Due to the particular German system of the training of teachers,” which required tested competency in philosophy, “one professor of German philosophy, before whom all future teachers of his region must pass their final examinations, can accomplish

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<sup>418</sup> See Lockot, *Erinnern und Durcharbeiten*.

<sup>419</sup> Numerous biographies have recently been published on Mitscherlich, some of them concentrating on the scandal of his involvement with National Socialism. See Timo Hoyer, *Im Getümmel der Welt. Alexander Mitscherlich, ein Porträt* (Göttingen: Vandenhoeck & Ruprecht, 2008).

<sup>420</sup> Alexander Rüstow, *Ortsbestimmung Der Gegenwart; Eine Universalgeschichtliche Kulturkritik* (Erlenbach-Zürich: E. Rentsch, 1950-57).

<sup>421</sup> On the psychology of stigmatization among the first postwar generation, see Moses, *German Intellectuals and the Nazi Past*, 15-37.

<sup>422</sup> Rüstow, *Freedom and Domination: A Historical Critique of Civilization*, xxvii-iii..

<sup>423</sup> Führ and Furck, *Handbuch der Deutschen Bildungsgeschichte. 1945 bis zur Gegenwart*, 406.

more harm”—and therefore more good—“than many teachers on lower levels.”<sup>424</sup> Of course, psychology professors had even more influence in this regard. Horkheimer had a ready answer to the criticism, expressed frequently by fellow émigrés who refused to return to Germany, that the number of students a handful of professors could realistically influence in postwar German universities was miniscule. An overemphasis on measurable numerical data, he argued, underestimated the effect that a small number of young German elites could exert over the long term.<sup>425</sup> He wrote in 1949,

In my opinion, the spirit at the German universities today is more important for the intellectual atmosphere of the country than even the political parties. Not only do the teachers of the various schools look up to their former professors at the university and follow their intellectual line, but the mentality and philosophy of university students, the leaders-to-be in all branches of national life, depend to a much greater extent on the individual teachings of their professors than in any democratic country. The American student takes from his professors facts and intellectual tools for his future profession; in Germany he takes his beliefs from them. There is no sphere of intellectual activity, including the mass media of communication, which is not largely determined by university teachers and academic trends. With this in mind, we can properly evaluate the sinister fact that the only sizable change in the teaching staffs of universities, as compared with the pre-Hitlerian days in which they conditioned German youth for the advent of the Third Reich, is the gap created by the persecution and emigration of anti-Nazi elements.<sup>426</sup>

It was for this reason that when the émigré philosopher Karl Löwith, a famously disillusioned student of Martin Heidegger in American exile, approached Horkheimer in 1950 for advice on whether to accept an invitation from the University of Heidelberg, Horkheimer replied that due to the “direction” of Löwith’s thought (his *Denkrichtung*) as well as his fate as an émigré, Löwith’s presence and teaching in the “Heideggerized” postwar German universities far outweighed the importance of his work “over there” in the U.S. “We cannot alter the large trends,” Horkheimer wrote to Löwith, “probably barely influence them, and yet what you do here will have an unending value. Come! I do not know how otherwise to answer.”<sup>427</sup> Similarly, Frederic Lilje (b. 1911), an émigré professor of education at Berkeley and author of *The Abuse of Learning: The Failure of the German University* (1948), agreed with Horkheimer that “immeasurably more could

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<sup>424</sup> Institute for Social Research, “Memo re anti-democratic trends in West-German Universities,” Dec. 1949, revised version, IX/247/15c, 6, MHA. The striking contrast between the dearth of elementary and high school teachers after the war and the magnitude of the responsibility entrusted to their profession had turned teacher training into the “key problem” of education reform in the Federal Republic during the 1950s. Führ and Furck, *Handbuch*, 406.

<sup>425</sup> Horkheimer to Hannah Tillich, May 18, 1950, HGS 18, 136-37.

<sup>426</sup> Institute for Social Research, “Memo re anti-democratic trends in West-German Universities,” December 1949, revised version, IX/247/15c, 2-3, MHA. See also Horkheimer to Robert Havighurst, April 2, 1948, HGS 17, 953.

<sup>427</sup> Horkheimer to Karl Löwith, Dec. 31, 1950, V/113/54a, MHA.

be done” for German reeducation by gathering together postwar Germany’s finest young minds “than through any position in Military Government.”<sup>428</sup> They were eventually able to gather together those students, but in the early 1950s Horkheimer and Adorno struggled against a strong academic resistance to Freud among their own contemporaries.

How strong this resistance was became clear at a tense conference the Institute for Social Research hosted in 1952 to explore the “contribution of modern psychology and social psychology to the understanding of contemporary society.” Led by Adorno, the conference was attended by all the luminaries of postwar German academic psychology: Alfred Goerres and Alexander Mitscherlich of Heidelberg; Wolfgang Hochheimer, Helmut Selbach, and Oswald Kroh of Berlin; Philipp Lersch and August Vetter of Munich; Theodor Scharmann of Bonn/Marburg; Johannes von Allesch of Göttingen; Wilhelm Arnold of Erlangen; Albert Welleck of Mainz; and Edwin Rausch of Frankfurt.<sup>429</sup> The “American” émigré representatives of social science in West Germany present included Horkheimer of Frankfurt, Kurt Bondy of Hamburg, Franz L. Neumann (occasionally) of West Berlin, and Helmuth Plessner of Göttingen. An audio recording of the conference unfortunately does not exist, but the minutes alone express the strained tone of the discussants, a tension explicable at least in part by the fact that several members of the “German” contingent had been members of the NSDAP or at least worked as psychologists throughout the Third Reich.<sup>430</sup> Far from atypical, such academic conferences and planning committees of the 1950s placed former émigrés with former *Reichsprofessoren* of the same generation in the same room, where together they discussed the future of West German education. Adorno opened the conference provocatively, by declaring that “no science suffered so much under Nazi persecution as psychology.” In contrast, he said, the postwar period has been marked by a “divergence in schools”; despite the “relative consensus” between laboratory and Gestalt psychology in West Germany, psychoanalysis had been rejected by academic psychologists even though it had been embraced in non-academic circles.<sup>431</sup>

One by one, the representatives of academic psychology—save Bondy and Mitscherlich—devalued Freud’s work. Selbach noted that medicine was moving away from talking therapies and toward organic psychiatry, and recalled negative experiences with the psychotherapeutic expert in Berlin (perhaps Böhm or Bitter).<sup>432</sup> Lersch, a

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<sup>428</sup> Quoted in Horkheimer to Zachariah Shuster, March 16, 1948, *HGS* 17, 944.

<sup>429</sup> Minutes of the working conference, 1. Further attendees included Wilhelm Revers and Walter Schraml of Würzburg, Wilhelm Brepohl of Dortmund, Peter Bensch of Marburg, and Wolfgang Schlechtinger of Braunschweig.

<sup>430</sup> Neumann described Kroh as “a former Nazi who, besides, has the ambition of incorporating the teachers academy into the FU and thus controlling teacher training.” Neumann to Ernst Fraenkel, August 22, 1951. Kroh (1887-1955) wrote in 1952 a significant work entitled *Revision der Erziehung*, which went through several print runs in the ‘50s. He argued for a “re-humanization” of the *Bildungsideal*.

<sup>431</sup> Minutes of the Working Conference, 2.

<sup>432</sup> *Ibid.*, 4. On Müller-Braunschweig’s collaboration, see Goggin, *Death of a “Jewish science,”* 135-156.

specialist in expression analysis (*Ausdruckspsychologie*) and characterology and one of the most prestigious psychologists during the Hitler era, claimed to teach Freud, Adler, and Jung together in his lectures, despite their divergent theories—presumably to discredit the theory of the unconscious altogether.<sup>433</sup> Wellek pronounced the work of the revisionist Adler to be superior to Freud’s, and Goerres and Allesch also chimed in in favor of the “American” version of psychoanalysis, which they claimed had attempted with difficulty to “dissect out the metaphysically indefensible conclusions of Freud.”<sup>434</sup> The problem with teaching Freud, said Scharmann—perhaps getting to the heart of the issue—was that postwar German students “approach these things with negative affective cathexis” because “Freud will be taken in the sense of a negation of the Third Reich.” That problem, he said, would be avoided if higher educators taught psychoanalysis more through the lens of its “new development” in the U.S.<sup>435</sup> Kroh and Vetter remarked that depth psychology was too difficult to communicate to students because it “understands consciousness as a projection of the unconscious,” not of *Geist*. Psychoanalysis was not “specifically German,” Vetter went so far as to say, which was why, unlike *Ausdruckspsychologie*, it was able to be “exported” to the U.S. and why it remained without influence in the Federal Republic.<sup>436</sup> Freud’s theories were also held to be unverifiable and unscientific—a criticism that mirrored the German academic discourse around psychoanalysis in the Weimar period.

The émigrés made an impassioned defense of Freud in response to these criticisms. Both Adorno and Bondy attempted to de-couple psychotherapy, or “talking therapies,” from the basic “insights of depth psychology.” Bondy noted that German educators resisted these insights often due to false and caricatured information about psychoanalysis mediated through film and due to the Freud’s lack of representation in the universities. “All psychological lectures should be infused with the insights of depth psychology,” he said, because of the issue’s importance “from family to international relations.”<sup>437</sup> Horkheimer’s response to the opinions of the academic psychologists was even stronger than Bondy’s in his plea for id psychology and his attack on positivistic psychology:

The reasons why depth psychology has not been taken up today in the university touches on taboo. Freud was in earnest a fearless researcher. There is a fear among scientists to uncover the underbelly of these things. They hold it would be a corrosive analytic

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<sup>433</sup> Minutes of the working conference, 5. On Lersch and expression analysis, see Ash and Woodward, *Psychology in Twentieth-Century Thought and Society* (Cambridge: Cambridge University Press, 1987), 176-79. On the divergent theories of Freud, Adler, and Jung, see Kaufmann, *Freud, Adler, and Jung* (New Brunswick, NJ: Transaction, 2003).

<sup>434</sup> Minutes of the Working Conference, 6.

<sup>435</sup> *Ibid.*, 7.

<sup>436</sup> *Ibid.*, 4, 6. Karl Jaspers fought against psychoanalysis with similar arguments. See Bormuth, *Life Conduct in Modern Times*, 154.

<sup>437</sup> Minutes of the Working Conference, 5-6.

attitude. We have to look at the “primitive” roots of what is good and bad in man. The serious teaching of these things is so important because it does not comport easily with the image of a true scientist. Depth psychology’s image of man is to say: Freud believes that one can best describe how something, which is not, should be. However it is the most difficult thing to show what freedom is. What we must avoid when we accept Freudian theory in the universities is to answer this attitude, every emotion that one has, with a knowing smile, this paranoia vis-à-vis analysis [...].<sup>438</sup>

Horkheimer’s mention of the “corrosive analytic attitude,” of course, would have reminded everyone in the room of the language with which antisemites had often described the intellect of the Jew and Freud’s “Jewish science.”<sup>439</sup> This was probably the closest Horkheimer could have gotten to calling the resistance to Freud in postwar German universities antisemitic. Given the tensions between the émigré social scientists and the academic psychologists, it was unsurprising that no resolution was adopted at the conference. The only thing that came out of it for Horkheimer and Adorno was a deeper knowledge of the “resistance” against psychoanalysis in the Federal Republic.

Frustrating as the it was for the Institute members, the postwar resistance also presented something of a *tabula rasa* for Horkheimer and Adorno to shape the future reception of Freud in the Federal Republic. In his speech at the celebration of the Institute’s official reopening in Frankfurt, Horkheimer declared that equal weight would be given in their research to earlier German theoretical traditions and the newest American methods in research.<sup>440</sup> These earlier German traditions would be largely Freudian, though he did not mention Freud by name. Referring the audience back to the Institute’s critical theory, Horkheimer spoke of the necessity to approach each empirical study of society with the “implicit intention to transcend existing society”:

A certain critical attitude to what exists is, so to speak, part of the job for the social theorist, and it is precisely this critical element, which develops from the most positive thing there is—from hope—which makes sociologists so unpopular. To educate students to endure this tension towards what exists, which is part of the very essence of our discipline, to make them ‘social’ in the true sense—which also includes being able to endure standing alone—this is perhaps the most important, and ultimate, goal of education as we see it.<sup>441</sup>

What had made the Institute’s stance “critical” twenty years before, when Horkheimer gave his inaugural lecture as new director in 1931, was its ultimate goal to “transcend existing society” through socialism. Then, Horkheimer had spoken not primarily of

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<sup>438</sup> Ibid., 6.

<sup>439</sup> They might have been reminded specifically of Carl G. Jung’s use of the word “corrosive” in connection with Freud and Adler’s Jewishness. See Andrew Samuels, *The Political Psyche* (New York: Routledge, 1993), 254.

<sup>440</sup> Institut für Sozialforschung an der J.W. Goethe-Universität Frankfurt am Main, *Ein Bericht über die Feier seiner Wiedereröffnung, seine Geschichte und seine Arbeiten* (Frankfurt am Main, 1952), 12.

<sup>441</sup> Quoted and translated in Wiggershaus, *The Frankfurt School*, 447.

education but of studying the working class. By contrast, in 1951, the Critical Theory that arrived back in Frankfurt claimed as its goal not socialism but the creation of people who were “‘social’ in the true sense”—students who could resist social pressure and participate as true “‘individuals” in society. Everyone in the room would have known that this was a reference to the lack of German resistance during the Third Reich. The speech proved that Horkheimer’s reeducational goals had trumped previously revolutionary ones, but it was also evidence of the Institute’s goal to critique the most urgent problems of the present from within. In 1951, the most pressing sociological problem in the Federal Republic was not the working class—which no longer even had a party of its own—but rather the after-effect of National Socialism on German mentalities.

This was the context in which Horkheimer and Adorno dedicated themselves to their most ambitious project of the postwar period, their “group study” of German postwar ideologies, published in 1955 under the title *Group Experiment (Gruppenexperiment)*.<sup>442</sup> True to Horkheimer’s outlined goals for the reestablished Institute, the *Group Experiment* was just as much an attempt to introduce German readers to many of the advancements in American social scientific methods since 1933 as it was to reintroduce them to their earlier social-theoretical traditions—not Marx, but Freud. Adorno noted in the introduction that the study shared a continuity with their American research, “which, with the aid of Freudian categories, shed so much light on social phenomena.”<sup>443</sup> *The Authoritarian Personality* had utilized the early Freud’s categories of individual personality structures; the *Group Experiment* would instead use Freud’s later categories of mass psychology. What the two texts shared was their common purpose to explore the role of psychoanalysis in reeducation. “At the center of what we want to tackle” in the group study, Horkheimer and Adorno wrote in a joint letter of 1951, “is the question of the aim of psychoanalysis.”<sup>444</sup>

The study proceeded as follows. In little under a year, from 1950 to 1951, the Institute’s staff recruited 1,800 subjects from the cities and environs of Frankfurt, Hamburg, Munich, and Augsburg, with a preference for participants who were “opinion-leading” members of their communities, including high school principals, teachers, publishers, and politicians.<sup>445</sup> The subjects were broken up into 137 groups of twelve to

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<sup>442</sup> Pollock, *Gruppenexperiment. Ein Studienbericht* (Frankfurt: Europäische Verlagsanstalt, 1955). Even in Germany, this work is largely known only for the controversy it sparked over sociological methods. See Wiggershaus, *The Frankfurt School*, 472-79.

<sup>443</sup> Pollock, *Gruppenexperiment*, 7.

<sup>444</sup> Horkheimer and Adorno to Frederick Hacker, March 2, 1951, *HGS* 18, 194.

<sup>445</sup> There was a fifty to seventy-five percent refusal rate among those asked. Hans Sittenfeld, memo to Horkheimer, March 26, 1952, IX/175/42, 2-3, MHA. Institut staffers responsible for participant recruitment in the group experiment learned that many potential subjects hesitated to join the discussions because they assumed that they would be interviewed using “American methods.” *Ibid.*, 4; “Erfahrungen bei der Zusammenstellung von Diskussionsgruppen,” c. 1952, IX/175/40, 4, MHA. The Institut members recognized that “the German public is decidedly ambivalent toward everything that has to do with interviews and questionnaires,” in large part due to “the habitual mistrust toward questions about one’s politics that has developed during the past few decades.”

fifteen discussants consisting of different combinations of homogeneity in class, gender, age, and presumed political views. Once convened in quiet, comfortable settings (taverns, cafés, and other public places), discussants chose nicknames to use for the following two hours. Then, group leaders—German graduate students trained by Horkheimer, Adorno, and Pollock—provided a so-called “base stimulus” (*Grundreiz*) to spark discussion. This consisted of a recording of an actor reading a letter written ostensibly by an American member of the occupation forces to his home-newspaper, containing his impressions of Germany and “the Germans.” (Horkheimer and Adorno, of course, were the actual authors.) The letter was designed specifically to irritate what they called the emotional “nerve points” of individuals in the group and thus trigger their defense mechanisms. One of the main arguments of the fictional epistle was that Germans were not as conscious of their guilt as “one would have expected.”<sup>446</sup> At the end of the recording, participants discussed the material for roughly three quarters of an hour, after which a planted observer introduced a “small amount of standardized arguments and [...] counterarguments into the debate,” for example, “Americans are technicians but have no culture,” or “the German is not yet ready for democracy, and neither does he want it.”<sup>447</sup> The discussions were recorded in their entirety onto reel-to-reel tape recorders (a technology developed in Germany during the war), transcribed, and analyzed quantitatively and qualitatively.<sup>448</sup> In all, more than 6,000 pages of text were transcribed.<sup>449</sup>

Why they called the group study an “experiment” requires some speculation. Von Friedeburg, one of the Institute’s earliest assistants in postwar Frankfurt, has argued that the project was not really an experiment at all but rather a pilot study using an experimental method.<sup>450</sup> Adorno did describe the interview situation in the *Group*

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<sup>446</sup> The text of the “Colburn Letter” is reproduced in *Gruppenexperiment*, 501-503.

<sup>447</sup> IfS, “Gruppen Untersuchung über Nationalismus,” June 1950, IX/176/1, 13, MHA.

<sup>448</sup> Horkheimer (?), “Beitrag des IfS zu dem Forschungsprojekt über Autorität,” Jan. 3, 1951, 2.

<sup>449</sup> To work through this material, Horkheimer, Adorno, and Pollock had to recruit a large staff of West German graduate students. It is worth noting that, judging by their career trajectories, the students employed by the Institute for the project were impressive. Adorno placed special hope on Ralf Dahrendorf (1929-2009), who had just returned to Germany from the London School of Economics having completed a dissertation on Marx. In 1954, Dahrendorf “cut his teeth” analyzing data from the group experiment, but he seemed to resent the menial nature of the work. Ludwig von Friedeburg (b. 1924) went on to become minister of culture in Hessen in the late 1960s, Hermann Schweppenhäuser (b. 1928) became chair of philosophy at the teacher’s college of Lüneburg, and Gerhard Schmidtchen (b. 1925) a professor of social psychology in Zurich. For other students of their generation, *The Group Experiment* played a provocative role. Jürgen Habermas (b. 1929) began working with Horkheimer, Adorno, and von Friedeburg on a continuation of the study dealing with the political consciousness of West German students after the publication of the experiment’s first results in 1955, and the first entrance of the political scientist Wilhelm Hennis (b. 1923) into the intellectual spotlight of the Federal Republic—with his book *Opinion Research and Representative Democracy* (1957)—was in no small part an attempt to discredit the method and content of *The Group Experiment*. Schlak, *Wilhelm Hennis*, 58-69. On the significance of Hennis in his generation, see Moses, *German Intellectuals and the Nazi Past*, 74-104.

<sup>450</sup> Ludwig von Friedeburg, in discussion with the author, Frankfurt, Nov. 19, 2007.

*Experiment* as mimicking “laboratory conditions” in which the research concerned the function of a stimulus on group dynamics.<sup>451</sup> But what von Freideburg may not have realized at the time was that the group study was also the Institute’s next experimental technique in reeducation. Its genesis seems to have been Horkheimer and Adorno’s plan in 1946 for a “study of race hatred in post-war Germany,” whose aim was to gather the responses of small groups of Germans (five to ten individuals) to educational recordings, from which data the Institute could devise “compelling analogies and slogans” meant to counteract deflective arguments such as “the constant contention that Americans are no better than the Germans because of the repeated acts of lynching of Negroes, and the discrimination practices against Jews in American clubs, summer resorts, and elsewhere.”<sup>452</sup> Just as *The Authoritarian Personality* had been meant to demonstrate the differentiation of susceptibility among individuals to anti-democratic propaganda, *The Group Experiment* was meant to show how teaching against prejudice is often hindered by entrenched defense mechanisms.<sup>453</sup>

Freud now filled the role that Marx once had in Critical Theory, in the Institute’s insistence on the effect of the social totality on the individual. In particular, Adorno used Freud to refute social research that took “public opinion” polls on sensitive questions (on prejudice, for example) at face value. He pointed to Freud’s “discovery” that when individuals are faced with uncomfortable emotional material, they demonstrate “contradictory attitudes in various layers of belief and sentiment,” and that the arguments they end up making more or less “automatically” when faced with such material are often unstable arguments adopted uncritically from the social totality (school, friends, relatives, newspapers, radio, film, etc).<sup>454</sup> Adorno and Horkheimer’s turn toward the group method was based on the belief, inspired by the later Freud, that “what is thought about a political matter to a large extent develops and emerges into consciousness only when the

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<sup>451</sup> Diedrich Osmer, “Das Gruppenexperiment des Instituts für Sozialforschung,” report on the group experiment to the Weinheim conference on empirical research, Dec. 15, 1951, IX/222, 2, MHA.

<sup>452</sup> Institute for Social Research, “Memorandum on a Study of Race Hatred in Post-War Germany,” undated (probably 1946), IX/152/1a, 4-5, MHA.

<sup>453</sup> In addition to the usefulness of the results for educational purposes, it is possible that the group discussions of 1950/51 were also meant to serve a self-analytical function by allowing Germans to work out opinions on normally tabooed topics in a non-stigmatized environment. Hans Sittenfeld, the graduate student in charge of the quantification of the data, felt that “a byproduct of the procedure of our new study as described above, may be that the notorious political lethargy of the Germans is overcome in [the] course of time and that our studies, therefore, may be of some service in the process of democratizing Germany by awakening political interest and inducing more and more people to discuss such things in groups.” Hans Sittenfeld, memo to Horkheimer, March 26, 1952, IX/175/42, 3, MHA.

<sup>454</sup> *Gruppenexperiment*, 27-29. In fact, by revealing the difficulties faced by even the best-trained interviewers in neutralizing their subject’s defense mechanisms, the group experiment implicitly called into question the accuracy of the data obtained by clinical psychoanalysts through one-on-one interviews in *The Authoritarian Personality*.

individual enters into discussion with others.”<sup>455</sup> According to the authors of the *Group Experiment*, Freud’s basic theory of *mental conflict* proved that individuals’ opinions are not authentic and stable, but rather adopted, often uncritically, from their cultural environment. An emphasis on the unconscious social roots of public opinion was an explicit refutation of what Horkheimer and Adorno regarded as the common “German ideological” faith in the autonomy of the Self expressed in idealism.

Contrary to several opinion research studies that pointed to decreasing antisemitism in the Federal Republic over the early 1950s, the *Group Experiment* registered high levels of ethnocentric prejudice in West Germany, especially among educated classes. It was little surprise to Horkheimer and Adorno that other German sociologists would attack their methodology when their results so clearly challenged mainstream sociology. The Cologne sociologist René König was an exception to the rule when he told Adorno that their method in the group study was nothing less than a “small masterpiece”; most of West Germany’s doyens of academic sociology dismissed the results as unscientific.<sup>456</sup> One might say that the controversy over the *Group Experiment* was the pre-history of the “positivist dispute” that erupted in the 1960s, when the use of “speculation” in research methods became a polarizing issue in European sociology.<sup>457</sup> The critique of Peter Hofstätter, a professor of sociology in Graz and former race theorist, was the highest pitched; accusing Adorno of demanding remorse from Germans, Hofstätter denied a “legacy of fascist ideology” in German worldviews.<sup>458</sup> Likewise, Helmut Schelsky of Hamburg dismissed the study as “legends from abroad.”<sup>459</sup> And Wilhelm Hennis objected to the Institute’s use of Freud’s mass psychology on the grounds that “there can be no qualitative differences in public opinion where everything is a reflex of social relations.”<sup>460</sup> Whereas *The Authoritarian Personality* had drawn critiques from the left claiming that a focus on individual psychology ignored the social totality, *The Group Experiment* drew fire from conservatives who held that the study denigrated the freedom of individuals.

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<sup>455</sup> “German Attitudes toward the United States and Russia,” proposal submitted April 1957 for funding to the Dept. of Sociology at Univ of Chicago, IX/195/1c, 2, MHA.

<sup>456</sup> König to Adorno, June 24, 1954, 1, Allgemeine Korrespondenz (Adorno), Archives of the Institut für Sozialforschung, Frankfurt.

<sup>457</sup> On the positivist dispute, see, most recently, Caitlin Hartman, *The positivist dispute in German sociology : Adorno, Popper, and the question of objectivity* (2008), and H.T. Wilson, “Critical Theory’s Critique of Social Science: Episodes in a Changing Problematic from Adorno to Habermas,” *History of European Ideas* 7 (1986), 287-302.

<sup>458</sup> Quoted in Olick, *In the House of the Hangman*, 324-25.

<sup>459</sup> Helmut Schelsky, *Rückblicke eines “Anti-Soziologe,”* 84.

<sup>460</sup> Quoted in Moses, *German Intellectuals and the Nazi Past*, 101 from Hennis, “Meinungsforschung und repräsentative Demokratie. Zur Kritik politischer Umfragen,” in his *Politik als praktische Wissenschaft. Aufsätze zur politischen Theorie und Regierungslehre* (München: Piper, 1968), 152-160.

The Institute's use of psychoanalytic categories in the *Group Experiment* was not limited to methodology, however. It was most evident in the qualitative analysis section of the book entitled "Guilt and Defense" (*Schuld und Abwehr*). Though written by Adorno, "Guilt and Defense" was actually the clearest expression of a social psychological theory that Horkheimer had been working out since just after the war. In 1946, Horkheimer's idea for developing a "contemporary sociology of terror"—which he described in 1946 as "one of the most important and specifically German tasks" of the postwar period—would be the study of the changes that take place in individuals and groups under the impact of terroristic government, "starting from the passage of a child's education into an effective collective of teamwork in sports and in the classroom, to the transformation of the adult into a mere member of organizations without whose support he is unemployed and unprotected."<sup>461</sup> His two hypotheses were the following: one, that in order to live functionally under criminal regimes of "total power," individuals develop psychic accommodation mechanisms; and two, that the guilt created by consciousness of that accommodation results in resistance to self-criticism.

According to Horkheimer, this system operates through a process of "repression."<sup>462</sup> The entire group experiment was founded on the basic premise "that indeed something like a latent experience [*Erfahrung*] of guilt" was present among most postwar Germans, and that "this experience [was] repressed and rationalized."<sup>463</sup> The *Group Experiment* found the "unqualified denial of all guilt" to be extremely rare; both "nationalists" and "non-nationalists" expressed some burden of conscience.<sup>464</sup> Adorno and Horkheimer speculated that most Germans living under the Third Reich *knew* their

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<sup>461</sup> Quoted in Maus to Horkheimer, beginning 1946, *HGS* 17, p. 740.

<sup>462</sup> It is important to be precise about what Adorno and Horkheimer meant by the concept of "repression," for their use of this psychoanalytic term in the context of the much-discussed forgetting and remembering of the National Socialist past was later falsely associated and conflated with the psychiatrist Alexander Mitscherlich's speculations about postwar Germans' so-called "inability to mourn" and the "return of the repressed." Unlike Mitscherlich, who would explain repression among postwar Germans as a symptom of the complete yet unconscious identification of Germans with their leaders from 1933 to 1945 and the subsequent collapse of that identity into shame when the war was lost, Adorno argued that repression was at play among postwar Germans "only insofar as one [was] consciously aware that what was done [by the Nazis] was unjust" – that is, only insofar as there existed *conscious* discomfort in the forced identification of Germans with Nazi leaders. See Mitscherlich, *Die Unfähigkeit zu trauern* (München: Piper, 1967), and Pollock, *Gruppenexperiment*, 280.

<sup>463</sup> Adorno's use of *Erfahrung*, as opposed to *Erlebnis*—the other German word for experience—was significant here. He had adopted the contrast in connection with the work of Walter Benjamin on that subject. An *Erlebnis* was an immediate "sensory experience" that left behind few traces of emotion, while an *Erfahrung*, an "experience proper" as Adorno called it, was emotionally laden and could involve the recollection and forgetting of events in which one did not directly take part but with which one associated oneself. See Martin Jay, *Songs of Experience: Modern American and European Variations on a Universal Theme* (Berkeley: University of California Press, 2006), 334-341.

<sup>464</sup> *Ibid.*, 302. "Non-nationalists," it was argued, were less obsessed with absolving themselves and Germany as a nation, but that did not mean they were free from guilt – in fact, they were much better able to "internalize problems of conscience."

regime to be unjust and therefore felt guilty for failing to resist it. Whether Germans expressed it or not, Horkheimer held, they could not have escaped the realization that, in a society of total power, “one helps the hangman, as long as one breathes and does not do everything possible to stop his hand.”<sup>465</sup> That assumption formed the basis for Adorno’s argument in “Guilt and Defense”:

An education systematically administered with the highest refinement toward the abolition of conscience [i.e. Nazi education] was, in the end, successful only among the narrowest circle of the ‘practioners of violence,’ and only to a certain extent, while the overwhelming majority of the German population, who emerged out of the moral beliefs of the bourgeois-liberal world, no matter how pale they had become, still carried a good part of these beliefs within themselves.<sup>466</sup>

West Germans’ zealous distancing of themselves from Nazi wrongdoings when questioned about them after the war, then, did not stem from an unconscious inability to mourn, but from the all-too-conscious recognition that they were undeniably implicated in what had been carried out in their names.

Understanding the Institute’s theory of postwar repression and projection helps explain why its post-return members, Horkheimer, Adorno, and Pollock, so rarely spoke or wrote of the persistence of antisemitism in the Federal Republic after studying the phenomenon so intensively in the 1940s.<sup>467</sup> At least in the immediate postwar period, Horkheimer believed strongly that the tendency to accuse postwar Germans of collective guilt and to assume they did not feel enough of it in fact provoked the opposite of the intended effect by preventing self-reflection and provoking resentment of the reminders. Preaching to Germans about the recent past, Horkheimer held—as Karl Jaspers and Martin Niemöller had in their “public breast-beating contests” of 1946—exacerbated feelings of inferiority and the potential for re-entrenched antisemitic sentiment.<sup>468</sup> Horkheimer’s critique was most likely based on the psychoanalytic theory developed during the war “that feelings of shame and guilt become intolerable, and set into motion the mechanism of projection which leads to new aggression against the persons upon whom hatred is projected.”<sup>469</sup> For this same reason, when fellow émigré Kurt Grossmann

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<sup>465</sup> Horkheimer, *Notizen 1950 bis 1969 und Dämmerung: Notizen in Deutschland*, ed. Alfred Schmidt (Frankfurt: Fischer, 1974), 43.

<sup>466</sup> *Gruppenexperiment*, 280.

<sup>467</sup> The phrase is taken from Adorno’s “Replik zu Peter R. Hofstätters Kritik des Gruppenexperiments.” *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 9 (1957), 116.

<sup>468</sup> Horkheimer to Massing, July 23, 1947, HGS 17, 864-65. Here Horkheimer referred to Jaspers’ small book *Die Schuldfrage* (1946) and the theologian Martin Niemöller’s sermon in a church near Nuremberg “Vortrag ohne Thema” (January 22, 1946). On the student response to reports of Niemöller’s sermon, see Fisher, *Disciplining Germany*, 59-61.

<sup>469</sup> Quoted in Murphy and Society for the Psychological Study of Social Issues, *Human Nature and Enduring Peace* (New York: Houghton Mifflin, 1945), 81-82.

(1897-1972) proposed a plan in 1952 to build summer camps for German youth to teach them about antisemitism, Horkheimer warned him against “frontally provoking the psychic defense mechanisms” that resulted from Germans’ “unconscious guilt feelings.”<sup>470</sup>

Postwar Germans, Horkheimer claimed in a letter to Paul Tillich in 1947, were ridden not with too little but too much guilt, often due to what Adorno later called a “false internalization” in *The Group Experiment*:

I think the Germans, more than anyone, have been aware of the horror of the unspeakable actions to which they have become willing or unwilling helpers. [...] Since they were the most highly developed nation in the world, they were more sensitive about injustice and vulgarity than others are today. Therefore, during the last fifteen years they have to achieve a more thorough job of psychological repression than any people in any period of history. [...] In fact, all of them feel guilty. Indeed, the inner shame is so great that they have lost the sense of shame.<sup>471</sup>

Though Horkheimer’s former student Heinz Maus, who had remained in Germany during the war, maintained that ordinary Germans had been largely unaware of what was happening in the extermination camps, Horkheimer and Adorno found it “almost unthinkable” that—at least in the final years—nothing would have been known about the victims.<sup>472</sup> Historians of the Final Solution have since confirmed this implausibility.<sup>473</sup> If nothing else, the “horror, which permeated the atmosphere” of Nazi Germany had been known to everyone and had thus necessitated repression in order for non-resisters to function there. This cultivated “lack of knowledge” (*Nichtwissen*), or conscious “refusal to know” about the details of the atrocities of one’s society, Horkheimer argued to Maus, only created further guilt feelings in those members of society who did not themselves commit crimes prosecutable by law.<sup>474</sup> It was the further argument of “Guilt and Defense” that this incurable, but as yet “unnegotiated” (*unbewältigte*), guilt and the defense mechanisms it provoked were one of the main sources of antisemitism and other prejudices in postwar Germany such as anti-Americanism. According to Horkheimer and Adorno, Germans often transformed their own shame before the Jews and the Americans

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<sup>470</sup> Horkheimer to Grossmann, Sept. 1, 1952, V/80/150, MHA. Elsewhere, Horkheimer: “Moralizing is the wrong approach: it stirs up resistance and prevents self-criticism.” Memo for AJC, Feb. 13, 1948, in *HGS* 17, 922.

<sup>471</sup> Horkheimer to Paul Tillich, Aug. 29, 1947, *HGS* 17, p. 885; *Gruppenexperiment*, 302.

<sup>472</sup> *Gruppenexperiment*, 285.

<sup>473</sup> See for example the recent texts by Richard Evans, *The Third Reich at War* (New York: Penguin, 2009), Ian Kershaw, *Hitler, the Germans, and the Final Solution* (New Haven, CT: Yale University Press, 2008), and Peter Fritzsche, *Life and Death in the Third Reich* (Cambridge, MA: Belknap, 2008).

<sup>474</sup> Horkheimer and Maus, “Briefwechsel,” in *Jahrbuch für Soziologiegeschichte* (1996), 238.

into resentment toward both victims and victors—a phenomenon they called “guilt-defensiveness antisemitism” (*Schuldabwehrantisemitismus*).<sup>475</sup>

Thus, Adorno’s analysis in “Guilt and Defense” relied entirely on the Freudian theory of displacement and projection, whereby the elements of one’s own repressed drives are attributed to others, thereby satisfying the super-ego and rationalizing aggression. Nonetheless—continuing the critique of psychologism he and Horkheimer had developed in exile—Adorno took pains to differentiate his analysis from the clinical diagnoses of those who used psychiatry to pathologize German mentalities. In his discussion of projection in “Guilt and Defense,” Adorno called into question whether one could “adequately describe political movements with psychiatric categories.”<sup>476</sup> Adorno meant to show that the repression of guilt and its projection onto external objects were “normal,” not pathological, processes. Thus, Adorno wrote in “Guilt and Defense” that the mechanism of projection “goes far beyond the realm of actual psychosis and is found

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<sup>475</sup> The phrase is translated somewhat awkwardly into English. Henryk Broder later diluted the force of this theory by associating it with a catchy quip by the Israeli psychoanalyst Zvi Rex—“The Germans will never forgive the Jews for Auschwitz”—and conflating it with a separate theory developed by one of Horkheimer and Adorno’s assistants, Peter Schönbach – “secondary antisemitism.” Rex’s statement is used by Broder in his popular book Broder, *Der ewige Antisemit*, 125-164. This latter phrase now enjoys great popularity in the scholarly literature on postwar German antisemitism but suffers from a complete lack of clarity, for example in Heni, “Secondary Anti-Semitism: From Hard-core to Soft-core denial of the Shoah.” Andrei Markovits writes, “secondary anti-Semitism may be distinguished from ordinary anti-Semitism [...] by its defense mechanisms against guilt” Markovits, “A New (or Perhaps Revived) ‘Uninhibitedness’ toward Jews in Germany.” In reality, the Institut’s use of the phrase “secondary antisemitism” focused not on the mechanism of projection but of cognitive dissonance. The word “secondary” derived from the distinction made by sociologists between primary and secondary experiences. Postwar German youth had few to no primary experiences with Jews, since there were hardly any Jews left – not more than 25,000 registered members of the Jewish communities at the end of the 1950s. Therefore, antisemitism, too, was only indirect, or secondary. In *Minima Moralia*, Adorno described this phenomenon of prejudicial transmission by declaring that “antisemitism is rumor about the Jews” – “rumor,” and not actual experiences with Jews. Adorno, *Minima Moralia* (Frankfurt, 1951), 141. He wrote in 1962 that this type of antisemitism shared a structure with superstition and astrology, in that it was unthinkingly adopted simply because it was advertised (in the case of postwar Germany, via the family) and played on consumer’s drives. He described the American “secondary superstition” of astrology in the same way: “Just as in secondary communities, people no longer ‘live together’ and know each other directly, but are related to each other through intermediary objectified social processes (e.g., exchange of commodities), so people responding to the stimuli we are here investigating seem in a way ‘alien’ to the experience on which they claim their decisions are based. They participate in them largely through the mediation of magazines and newspapers, the personal advices of professional astrologers being too expensive, and frequently accept such information as reliable sources of advice rather than pretend to have personal basis for their belief.” Adorno, “The Stars Down to Earth (1956),” 16.. Adorno found this proliferation of secondary ideology through “advertising psychology” to be “one of the most dangerous ideological forces in contemporary society” – but it was different from projectional “guilt-defensive antisemitism” described in “Guilt and Defense.” See Adorno, “Zur Bekämpfung des Antisemitismus heute,” 366-67. Detlev Claussen is one of the few commentators in Germany who has understood Schönbach and Adorno’s interpretation of secondary antisemitism and continued its analysis. See his *Grenzen der Aufklärung*, 74-80), and his commentary in *Vom Judenhass zum Antisemitismus*. See also Peter Schönbach, *Reaktionen auf die antisemitische Welle im Winter 1959/1960* (Frankfurt: Europäische Verlagsanstalt, 1961) , 80.

<sup>476</sup> *Gruppenexperiment*, 351.

in all possible degrees, including in normal daily life.”<sup>477</sup> As Freud had defined it, projection was the *normal* tendency in psychological development to attribute internal states to external causes; it did not necessarily result in delusional or clinically paranoid (i.e., psychotic) thinking. Claiming neurosis or psychosis, Adorno continued, allowed “the subject to reify himself into an object of pathology” without taking responsibility as a self-critical subject.<sup>478</sup> The idea of repressed guilt “may not be taken too narrowly in the psychoanalytic sense,” he wrote, emphasizing several times in the text that the group experiment refrained from using the “psychoanalytic development of a theory of guilt repression.”<sup>479</sup> Adorno reiterated “that the following material must not be entirely understood in the strict psychological sense,” and then only in the cases where projection led postwar Germans into actual delusional fantasy—which was rare.

Adorno’s renewed attack on psychologism in the *Group Experiment* was particularly topical in the Federal Republic, after the author Arthur Koestler published a provocative essay entitled “Political Neuroses” in the widely read journal *Der Monat* in 1953, followed by responses from the social theorists Hans Kohn, Leonard Woolf, Alexander Mitscherlich, and Adorno himself. Koestler’s essay was an attempt to explain irrationality in political behavior, a common endeavor in the wake of National Socialism and in face of Stalinism. And like so many others, Koestler made recourse to Freud. The ideas of a “political libido,” a “political unconscious,” and “social repression,” he argued, were more than an “intellectual pastime” or a “juggling around with analogies and metaphors”; they were “just as real and no less profound as the sexual drives.”<sup>480</sup> Pointing especially to an “unconscious guilt complex” and a “flight from reality” in the wake of Auschwitz and Bergen-Belsen, Koestler claimed that

Political repressions have a cramping effect, just as sexual repressions do. A lasting healing will only be reached if the repression experience is brought into memory, as painful as this process may be. In the case of the Germans, this operation can only be achieved by leading figures of the German people.<sup>481</sup>

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<sup>477</sup> *Ibid.*, 350-51.

<sup>478</sup> *Gruppenexperiment*, 320-21. Rabinbach, “Response to Karen Brecht, “In the Aftermath of Nazi Germany,” *American Imago* 52, no. 3 (1995), 321. Though Rabinbach correctly saw how the Mitscherliches’ idea “offered a kind of absolution achieved by the shift from individual ‘guilt’ to collective ‘inability to mourn’” by removing “the burden from individuals, helping to repair rather than fracture the alliance between the so-called ‘silent’ and ‘critical’ generations,” he did not differentiate it from the Institute’s view. Anthony Kauders, too, argues that the “growing awareness that the Shoah should be treated as the gravest of possible assaults on democratic society” was not due to a “return of the repressed” in the late 1950s, but rather to West Germans’ earlier, genuine “confrontation with the antisemitic bases of [their] own beliefs, many of which had been employed in earlier refutations of collective responsibility.” Kauders claims that West Germans *did* “work through” the recent past in the 1950s. See *Democratization and the Jews*, 1. However, as we will see below, Kauders misinterprets Horkheimer and Adorno’s position by taking it out of context and lumping it together with the theories of Margarete and Alexander Mitscherlich.

<sup>479</sup> *Gruppenexperiment*, 280, 302.

<sup>480</sup> Arthur Koestler, “Politische Neurosen,” *Der Monat* 6, no. 63 (December 1953), 227-28.

<sup>481</sup> *Ibid.*, 228-30.

Though at the end of the article Koestler somewhat qualified his statements by pointing to the obvious importance of economic factors in the rehabilitation of Germany (i.e., the “economic miracle” of the 1950s), he warned against allowing politics to become solely a question of economic rationality without “joining in a spiritual process” of overcoming repressed guilt. Koestler presented himself as a kind of political psychiatrist who could provide the “correct diagnosis” of German public life.<sup>482</sup>

The article provoked revealingly divergent reactions from the two figures most interested in the aims of psychoanalysis in postwar Germany, Mitscherlich and Adorno. Their two responses to the question “Do Political Neuroses Exist?” were published back to back in *Der Monat* two months later. A physician, Mitscherlich denied the actual existence of something called a “political libido,” but significantly, he held it up as excellent metaphors. “The concept of the ‘political neurotic’ with which Koestler is concerned, was a product of flawed thinking from a medical standpoint, ‘but it works!’”<sup>483</sup> This was no surprise, given that Mitscherlich had been employing Oedipal metaphors to explain the “widespread paranoia of Germany” since he re-founded the journal *Psyche*. He spoke often on radio and in public lectures of “healing” through remembrance of the past, and he later famously used the psychoanalytic theories of repression, melancholy, and mania to explain the sublimation inherent in the German economic miracle and the collective “inability to mourn.”<sup>484</sup>

Adorno’s following four-page rejoinder read like a response not only to Koestler, but also to Mitscherlich. The roots of an analytic social psychology, Adorno wrote, were to be traced to Freud’s “extraordinary text” *Mass Psychology and the Analysis of the Ego* (1921), in which Freud “disenchanted the concept of mass psychology: for him, the its symptoms are not mysterious collective essences, but rather rest upon processes that play out in every individual member of society, namely identification with father figures.” The difference between this Freudian legacy of analytic social psychology, to which Adorno counted the Institute for Social Research as heir, and the “*ad hoc* constructions” of “some sociologists” (i.e., Koestler and other émigrés) was that the latter’s “lax language” represented a kind of psychological dilettantism.<sup>485</sup> Adorno saw something pernicious not

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<sup>482</sup> Ibid., 236.

<sup>483</sup> Alexander Mitscherlich, “Gibt es politische Neurosen?” *Der Monat* 7, no. 64 (February 1954), 480. “Der Begriff des ‘politischen Neurotikers’ von dem Koestler handelt, ist ein solches Quetschphänomen unreiner Rechenschaft—aber es trifft!”

<sup>484</sup> Mitscherlich wrote in 1947, “Only when we recognize and confess what happened and why it happened, and how we were participants in the planning of it, can we, Germans, be healed.” Quoted in Goggin, *Death of a “Jewish science,”* 213-14.. Also see Mitscherlich, “Wie ich mir, so ich dir,” *Psyche* (April 1951), pp. 1-15, as well as Horkheimer’s somewhat condescending synopsis of it in Horkheimer, *Survey of the Social Sciences in Western Germany* (Washington, D.C.: Library of Congress, 1952), 150, and Mitscherlich’s *Auf dem Weg zur vaterlosen Gesellschaft. Ideen zur Sozialpsychologie* (München: Piper, 1963), and *Die Unfähigkeit zu trauern. Grundlagen kollektiven Verhaltens* (München: Piper, 1967).

<sup>485</sup> Adorno, “Gibt es politische Neurosen?” *ibid.*, 482-85.

only the inaccuracy of the social science, but also in the implications of the metaphor. To speak of “mass psychosis and delusions” was to avoid the dark sides of rationality that had enabled the rise of totalitarian ideologies. “Did Hitler not see the Europe of his time far ‘more realistically’ than the statesmen of the League of Nations,” and was the political evil practiced by individuals during the Third Reich not the result of a “specific kind” of realism defined by “coldness and lack of emotion that saves them from the conflict of the neurotic”?<sup>486</sup> Pointing back to Ernst Simmel’s definition of antisemitism not as a product of individual neurosis but of a collective system to which individuals rationally conform, Adorno argued that the individual guilt-feelings of postwar Germans, like social prejudice in individuals, could not be solved merely through “remembering” the irrationality of the past, but only through an awareness of the dangers inherent in rationalism itself.

Horkheimer and Adorno’s postwar critique of “healing” guilt-feelings through a recollection/confession of the past—a hallmark of the postwar Catholic theological literature on the Nazi past—lay in direct continuity with their critique of the overly optimistic and therapeutic culture of 1940s’ America, which to them focused on creating well-adjusted and productive, “tolerant” citizens rather than on exposing the larger structural problems of society.<sup>487</sup> Perhaps guilt, like Freud’s idea of “normal unhappiness,” was itself healthy. Just as Horkheimer and Adorno saw the turn toward quick-fix catharsis in American psychoanalysis as a privileging of “inner motivation too much over objective conditions,” he also judged the calls to collective guilt-admission and therapeutic remembrance in postwar Germany as self-perpetuating. In an entry in his notes in the mid-1950s he titled “Psychoanalysis as the Cause of Its [Own] Necessity,” Horkheimer wrote that

therapy in psychoanalysis means that inhibited affects are given the chance to express themselves. It wants to eliminate the threat, the door or the lid as it were, behind which those feelings simmer. Therapy assumes that will clear the air. But isn’t it a fact that the door only compresses because it is made of the wrong material [...]?<sup>488</sup>

Horkheimer and Adorno’s intended contribution to combating antisemitism in postwar Germany, then, was not to eliminate the door of repression by simply reminding Germans of the past and exposing antisemitism, but to encourage consciousness of the rationalizing “material” of prejudice itself. The results of the *Group Experiment* had confirmed for Horkheimer and Adorno that the “aim of psychoanalysis” was not catharsis but the knowledge of our own defense mechanisms.

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<sup>486</sup> Ibid., 485.

<sup>487</sup> Horkheimer’s critique of the misuses of psychoanalysis in America found perhaps its closest echo in the work of the American sociologist Philip Rieff. On the American focus on “cure,” a goal Freud himself rejected, see the masterful discussion in Rieff, *The Triumph of the Therapeutic: Uses of Faith after Freud* (New York: Harper & Row, 1966), 87-92.

<sup>488</sup> Ibid., 122.

The year after the *Group Experiment* was published, 1956, marked the hundredth anniversary of Freud's birth. This offered Horkheimer—who by then wielded incredible institutional influence at the University of Frankfurt—his finest opportunity to shape the reception of psychoanalysis in the Federal Republic. Despite his skepticism about Mitscherlich's psychologism, Horkheimer collaborated with the Heidelberg psychiatrist to host a lecture series of epic proportions (as lecture series go) at the University of Frankfurt.<sup>489</sup> His Institute for Social Research spared no pomp on Freud's anniversary, despite the total lack of outside funding.<sup>490</sup> On the morning of May 6, guests including the president of the Federal Republic, the minister-president of Hessen, professors from all over the country, and many students, were greeted in a flower-bedecked auditorium and treated to a classical quartet performance before the émigré analyst Erik Erikson delivered the inaugural lecture.<sup>491</sup> Only the most prestigious German-speaking representatives of Freudian psychoanalysis were invited to speak, and although the lectures lasted for an unheard-of two hours, they were attended by between 300 and 380 people each.<sup>492</sup> Thanks to Horkheimer, there was no comparable celebration of Freud's memory anywhere, either in Europe or in the United States.

The fact that almost all of the invitees were neo-Freudians or ego psychologists practicing in the United States and Great Britain, several of whom had not been in Germany or Austria since their emigration, might have been surprising to those familiar with Horkheimer and Adorno's disparagement of professional psychoanalysis in exile. As he was organizing the series, Horkheimer admitted to Leo Löwenthal that he was further away from therapeutic psychoanalysis than ever. In the context of reintroducing Freud to Germany, however, the invitations began to make sense. There is no other way to explain why both Horkheimer and Adorno individually beseeched Heinz Hartmann, the president of the International Psychoanalytic Association and the greatest representative of the type of psychoanalysis they had criticized in the United States, to speak in Frankfurt in 1956.<sup>493</sup> What is remarkable about the correspondence for our purposes is not his refusal but Horkheimer and Adorno's attempt to persuade him. Horkheimer wrote in his letter,

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<sup>489</sup> For a thorough description of the event, see Hoyer, *Im Getümmel der Welt*, 329-339. Perhaps uncoincidentally, the memorial Freud lectures followed directly on the heels of another series Horkheimer had organized at the university near the end of the winter semester – the “Loeb Lectures,” with which he had aimed to reintroduce Jewish studies to the Frankfurt public (and which had occasioned the first visit of Gershom Scholem to postwar Germany).

<sup>490</sup> Horkheimer to Leo Löwenthal, January 20, 1956, *HGS* 18, 336.

<sup>491</sup> See Erikson's description in a letter to Heinz Hartmann, quoted in Hoyer, *Im Getümmel der Welt*, 329.

<sup>492</sup> *Ibid.*, 339.

<sup>493</sup> Like several other émigrés who were psychologically uncomfortable with the idea of speaking publicly in Germany, Hartmann declined the multiple invitations. For a discussion of Horkheimer and Adorno's letters to him, see Hoyer, *Im Getümmel der Welt*, 334-38.

Today there no longer exists the same fear of death, but the future still depends on those who are still here and want things to be different, who are still young and of good faith, to stiffen their backs. With each day one sees in its political life that Germany is not indifferent. I do not believe that after the victory over a bloody tyranny it is better to turn one's back on the defeated land than to make sure that it does not rise again there.<sup>494</sup>

Horkheimer pointed specifically to the importance of psychoanalysis in practical respects: teacher training and criminal law, whose reform was being discussed during the mid-1950s and whose leaders, Horkheimer felt, would benefit from the insights of Freudian theories—even if they were mediated through a “biologist” like Hartmann.

In their preface to the published collection of the lecture series, Horkheimer and Adorno traced their changing relationship to Freud from the 1930s to the 1950s. They titled the collection *Freud in the Present*, perhaps in reference to the well-known speech that Thomas Mann had made in his first years of self-imposed exile upon the occasion of Freud's eightieth birthday in 1936 (reprinted in German in 1953). Mann titled that speech in Vienna “Freud and the Future,” arguing that though Freud had been murdered in Germany, he was nonetheless

completely convinced, that one will again recognize in Freud's lifework one of the most important building blocks that have been contributed toward what is in many ways forming as a new anthropology, and with it toward a foundation for the future, toward the house of an intelligent and free humanity.<sup>495</sup>

The version of Freud Horkheimer and Adorno were attempting to again “make present” in Germany was not dissimilar to Mann's, but twenty years of development of psychoanalysis in the U.S. had passed in the meantime. The “laws” Freud sought so nobly to expose, they wrote, had hardened into objects of market capitalism in the therapeutic culture of the United States, their critical potential forgotten. When the Institute established its department of psychoanalysis in Frankfurt in 1929, led by Horkheimer's personal analyst, Karl Landauer—who was killed in Bergen-Belsen, as they pointed out—the laws of social pressure illuminated by Freud helped explain how fascist politics created social institutions to inhibit revolt among the masses and thus pointed to a possible institutional synthesis of sociology and psychology. Their work with Fromm in the 1930s and with orthodox analysts in the next decade would have been “unthinkable” without Freud. However, they continued, the laws that aided so much in the critical project early on had now been “objectified” (*vergegenständlicht*), thus changing the “function” of psychoanalysis in social science. Continuing their critique of the development of Freudian revisionism, Horkheimer and Adorno argued that scholars like Fromm and Hartmann, though claiming to address the “social factors” Freud had

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<sup>494</sup> Horkheimer to Heinz Hartmann, December 13, 1955, *HGS* 18, 330.

<sup>495</sup> Thomas Mann, “Freud und die Zukunft,” published as an afterword in Freud, *Abriss der Psychoanalyse und das Unbehagen in der Kultur* (Frankfurt am Main: Fischer, 1953).

ignored, had made “the difficulties and conflicts of the contemporary situation seem harmless” by reducing them to the inability of the individual to adapt to reality.<sup>496</sup>

Horkheimer and Adorno warned against succumbing to the “temptation” offered by Freud himself through his Reality Principle to “sanction assimilation under blind societal pressure and finally to justify the continuation of that pressure.” They further cautioned against psychologism—taking literally Freud’s statement that “sociology is nothing more than applied psychology”—a danger Horkheimer had first addressed obliquely in his programmatic statement on analytic social psychology the year it was made by Freud in 1932.<sup>497</sup> “The psychoanalytic revisionism of the most diverse schools,” they wrote,

which advocate stronger considerations of so-called social factors in the face of so-called Freudian exaggerations, have not only watered down Freud’s great discoveries, the role of early childhood, repression, indeed the central idea of the unconscious, but also has joined forces with trivial human understanding and societal conformism and forfeited its critical sharpness. The degeneration of Freudian theory into commonplace psychology is still considered progress.<sup>498</sup>

In light of this purported mythologization of psychoanalysis, upon their return to Germany they had abandoned their previous desire in the Weimar Republic to synthesize sociology and psychology and insisted on “insistent but separate work in both fields.”<sup>499</sup> Their constant qualification of psychoanalysis in the *Group Experiment* by using only Freudian “exaggerations” to illuminate sociological phenomena was a result of that abandonment, as was their continuing reservations about Mitscherlich, who, unlike Horkheimer and Adorno, used the occasion of Freud’s anniversary to urge German listeners and readers to confront the neuroses created by their recent past.

In fact, by 1956, the language of psychoanalysis had come to dominate the discourse around the German recent past in the Federal Republic. A number of recent authors have shown that the 1950s were not a period of public silence on National Socialism and the Holocaust in West Germany, but rather of selective remembrance toward the end of “working through.”<sup>500</sup> Anson Rabinbach has insightfully called this

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<sup>496</sup> Adorno and Dirks, *Freud in der Gegenwart*, X.

<sup>497</sup> Horkheimer, “Geschichte und Psychologie,” *Zeitschrift für Sozialforschung* 1 (1932), 125-144.

<sup>498</sup> Adorno et al., *Freud in der Gegenwart*, XII.

<sup>499</sup> *Ibid.*, X.

<sup>500</sup> Authors of the recent authoritative history of German education since 1945 showed that the idea of “Aufarbeitung der Vergangenheit” was raised to a “paramount task” of schools, colleges and research after 1949, evidenced by the number of publications and exhibitions (including catalogues) as well as the creation of the Institute for Contemporary History (*Institut für Zeitgeschichte* in Munich (1950) and its equivalent in Hamburg. Führ and Furck, *Handbuch*, 5.

discourse “public psychoanalysis.”<sup>501</sup> Public psychoanalysis might be defined as the use of psychoanalytic concepts to understand and solve social questions. As Nicolas Berg demonstrated in his excellent study of how West German historians confronted the Holocaust, the terms *Bewältigung* (mastery of, coping with repressed memories) and *Aufarbeitung* (working through, or working upon) had come into common usage by the mid-1950s.<sup>502</sup>

Heinrich Heimpel, for example, a student of Gerhard Ritter and one of the most prolific authors of the postwar period, argued that the task of the German historian after the war was to “order the past in order to cope with it” (*wenn sie die Zeit im ordnenden Denken bewältigt*)—to unlock the “cabinet of guilt” (*Schuldschrank*) that presented a “barrier” preventing young Germans from identifying proudly as Germans.<sup>503</sup> In his best-known text, “Man in His Present,” an inaugural address as rector of the University of Göttingen in 1951, Heimpel asked young Germans living in the wake of the German catastrophe not to flee their past. “When we recognize, with modern psychology, a layering of the personality,” he said then, “we soon recognize that the sub-regions of our souls contain a mass of history that has been lived before us, which in our expressions and actions, in judgments and dreams, becomes present, a stubborn and indeed eternal present.” Heimpel recognized a certain “history fatigue” after 1945, since which time Germans have “all had certain moments in which we hate history” and therefore hated themselves. He called for a “reconciliation” (*Versöhnung*) of the past with the present and a recognition that not all was evil in German history.<sup>504</sup> “Mastering” or learning how to “cope” with the past often connoted the working-through of repressed national shame, not necessarily in order to reflect on one’s responsibility for the past, but rather to “reconcile” oneself to one’s German identity.

In light of the ubiquity of the language of “coping,” “overcoming,” and “working through” in the mid to late 1950s, Adorno found it necessary to examine the terms of a

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<sup>501</sup> Rabinbach, “Response to Karen Brecht,” 320. While Rabinbach used this term to describe a discourse occurring mostly in the 1960s in the generation born in the wake of Nazism, it also applies well to the 1950s.

<sup>502</sup> Nicolas Berg, *Der Holocaust und die westdeutschen Historiker: Erforschung und Erinnerung* (Göttingen: Wallstein, 2003), 201-205. Like the terms neurosis and “reeducation” (*Umerziehung*), *Aufarbeitung* derived from the lexicon of psychiatry, in this case psychodynamic psychotherapy, a field first developed by Freud in his earliest work on therapeutic methods. In its Freudian usage, *Aufarbeitung* and *Durcharbeitung* occupied a central place in analysis as the period during which an *analysand* struggles to continue resisting repressive impulses even after he or she has resolved consciously to fight them. See Sigmund Freud, “Erinnern, Wiederholen und Durcharbeiten (Weitere Ratschläge zur Technik der Psychoanalyse, II),” *Internationale Zeitschrift für ärztliche Psychoanalyse*, 2 (1914), 485-491.

<sup>503</sup> Hermann Heimpel, *Über Geschichte und Geschichtswissenschaft in unserer Zeit* (Göttingen: Vandenhoeck & Ruprecht, 1959), 5, quoted in Berg, *Der Holocaust und die westdeutschen Historiker*, 262-64.

<sup>504</sup> Hermann Heimpel, “Der Mensch in seiner Gegenwart,” published originally in *Die Sammlung* (1951), here in Heimpel, *Der Mensch in seiner Gegenwart. Acht historische Essays* (Göttingen: Vandenhoeck & Ruprecht, 1957), 22-30.

responsible public psychoanalysis. As official adviser to the ministry of education in Hessen with Horkheimer, Adorno was invited to speak at a conference of teachers sponsored by the Societies for Christian-Jewish Cooperation on the question of “The Past as Our Responsibility” (*Die Vergangenheit als Aufgabe*), convened around the anniversary of *Kristallnacht*. He ended up titling the speech of 1959 “What does ‘Working Through the Past’ Mean?” (*Was bedeutet: Aufarbeitung der Vergangenheit?*), a text that is often misunderstood because it is read out of context with its historical moment.<sup>505</sup> The phrase was not Adorno’s coinage, as is commonly thought.<sup>506</sup> In fact, the idea of “working through” had permeated discussions about the past so much as to become what Adorno called a “caricature” or “distorted picture” (*Zerrbild*) of itself, a “highly suspect” and “modish slogan.”<sup>507</sup>

Adorno’s speech was an answer to the question posed by Heimpel, one that he and Horkheimer considered “laden with the greatest responsibility: namely, how far it is advisable to go into the past when attempting to raise public awareness.”<sup>508</sup> “Essentially,” Adorno said, the pedagogical problem was “a matter of the way in which the past is made present; whether one remains at the level of reproach or whether one withstands the horror by having the strength to comprehend even the incomprehensible [i.e., Nazi crimes].”<sup>509</sup> The answer would have to be a psychoanalytically informed one, but not one based on the concept of therapy or reconciliation. What made the quandary complicated was the issue of guilt and defense. On one hand, Adorno said, “speaking often about the most recent past” could “provoke the psychic defense mechanisms” of young Germans.<sup>510</sup> On the other, silence about atrocities was not an option. According to Adorno in “What Does ‘Working through the Past’ Mean?”, an *irresponsible* way of making the past present was through the propaganda of tolerance. Celebrations of the “great achievements of Jews in the past, however true they may be,” for example, were “hardly of use” to the fight against antisemitism because they “smacked of propaganda.” Drawing on the Institute’s work in *The Authoritarian Personality*, Adorno wrote,

one should not expect too much from the recourse to facts, which anti-Semites most often will either not admit or will neutralize by treating them as exceptions. Instead, one should apply the argumentation directly to the subjects whom one is addressing. They should be

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<sup>505</sup> The speech was published that year along with minutes of the subsequent question-and-answer session. *Was bedeutet: Aufarbeitung der Vergangenheit?: Bericht über die Erzieherkonferenz am 6. u. 7. November 1959 in Wiesbaden. Veranstaltet vom Dt. Koordinierungsrat.*

<sup>506</sup> Even in scholarly texts dedicated to the very phenomenon, authors make this mistake. For example Jutta Vergau, *Aufarbeitung von Vergangenheit vor und nach 1989: eine Analyse des Umgangs mit den historischen Hypothesen totalitärer Diktaturen in Deutschland* (Marburg: Tectum, 2000), 18.

<sup>507</sup> Adorno, “The Meaning of Working through the Past,” 3.

<sup>508</sup> Horkheimer to Franz Spelman (German correspondent for *Newsweek* magazine), May 20, 1956, in *HGS* 18, 351-52.

<sup>509</sup> Adorno, “The Meaning of Working Through the Past,” 15.

<sup>510</sup> *Ibid.*, 16.

made aware of the mechanisms that cause racial prejudice within them. A working through of the past understood as enlightenment is essentially a turn toward the subject, the reinforcement of a person's self-consciousness and hence also of his self. This should be combined with the knowledge of the few durable propaganda tricks that are attuned exactly to those psychological dispositions we must assume are present in human beings. [...] Although it is so difficult to carry out something like a mass analysis because of the time factor alone, nonetheless, if rigorous psychoanalysis found its institutional place, its influence upon the intellectual climate in Germany would be a salutary one, even if that meant nothing more than taking it for granted that one should not last outward but should reflect about oneself and one's relation to whatever obdurate consciousness habitually rages against.<sup>511</sup>

Furthermore, remembrance of the past must not serve a therapeutic, cathartic function—overcoming or “working through” one's guilt, as the term *Aufarbeitung* had come to be understood—but rather a self-critical function that was perhaps better expressed with the term *Verarbeitung*, or “working upon.”<sup>512</sup> Adorno objected to the idea of speaking of “guilt” with the word “complex,” as if guilt-feelings about complicity with National Socialism were themselves “pathological, unsuited to reality, psychogenic, as the analysts call it.”<sup>513</sup>

Adorno's ire in “What does Working Through the Past mean?” was directed against those Germans who refused to speak about the recent past, but more importantly, it was directed against those who recalled it only in order to “close the books” on it.<sup>514</sup> If the failure of Germans to understand their own past was diagnosed as neurotic repression or an “inability to mourn,” then it was only natural to speak of the termination of therapy. Adorno pointed instead to the potentially interminable necessity for self-analysis in Germany after Auschwitz. “In view of the objective power behind the continuing potential of anti-Semitism, subjective enlightenment will not suffice, even if it is undertaken with a radically different energy and in radically deeper psychological dimensions than it has been up to now,” he concluded, “the past will have been worked through only when the causes of what happened then have been eliminated.”<sup>515</sup>

Adorno's address, which the Societies for Christian-Jewish Cooperation published almost immediately after he delivered it, took on an almost prophetic aura when on the Christmas eve of that year, several young West Germans defaced the recently rededicated synagogue in Cologne with swastikas, provoking a spate of copycat crimes all over the Federal Republic and redirecting the attention of the world press back toward Germany's “unmastered past.” The Institute took the events seriously despite the

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<sup>511</sup> Ibid., 16.

<sup>512</sup> See the translation in Adorno, *Critical Models: Interventions and Catchwords*, ed. Henry Pickford (New York: Columbia University Press, 1998), 89.

<sup>513</sup> Adorno, “The Meaning of Working Through the Past,” 5.

<sup>514</sup> Ibid., 3.

<sup>515</sup> Ibid., 17.

fact that most public figures, including Chancellor Adenauer, dismissed the crimes as the unrepresentative pranks of hoodlums clinging to an ideology of the past. (The young people belonged to the *Deutsche Reichspartei*, the forerunner of today's neo-fascist *Nationaldemokratische Partei Deutschlands*).

In fact, Christmas 1959/60 inspired Horkheimer—now 64 years old and eager to retire with Pollock in Switzerland or the U.S.—to remain in Germany and rededicate himself to the task he had set for himself ten years earlier. Because this meant a change in plans and continuing residence in Germany with American citizenship, which required a special dispensation from Congress, Horkheimer wrote a frantic letter to the former Assistant Secretary of War and High Commissioner of Germany John McCloy, claiming that “this historical moment is a kind of last chance” for West Germany’s “reorientation” (like “reeducation,” a term he used only in correspondence with American officials).<sup>516</sup> He resumed work as a consultant for the AJC and became more vocal about his own relationship to Jewishness. Without the events of that winter, it is almost certain that Horkheimer and Pollock would have left Frankfurt in 1960 under the mounting pressure of the Cold War in Germany.<sup>517</sup> Instead, Horkheimer stayed on with Adorno, who had already regained his German citizenship. Because of his mission, Horkheimer also continued to collaborate professionally with Mitscherlich, who finally managed to found the Sigmund-Freud-Institut in Frankfurt in 1960, but the Horkheimer and Adorno continued to keep their distance from the man who wanted nothing more than to attach himself to the brand name of Critical Theory.

#### IV. Conclusion: Conservatives as Allies

The Institute’s turn toward away from Marx and toward Freud, which as we have seen began around 1942, has often been regarded as the result of a changing political philosophy. A more careful examination of their sociological studies since that year demonstrates, however, that the motivation behind this shift had less to do with an accommodation to liberal democratic ideals than with a transformation in their goals for influence as educators. While the goals of the progressive Weimar left to which the Institute members belonged had been clearly bound up with socialistic education after the second “failed” socialist revolution of 1918/19, the events of World War II—in particular the destruction of the European Jews—were so earth-shattering to the intellectual emigration, that all attention was focused in the latter years of exile toward the question of reeducation.

Even one of Horkheimer’s first “conservative” decisions as rector in 1951, to establish a theological faculty at the University of Frankfurt with two chairs in Protestant

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<sup>516</sup> Adorno as well as Horkheimer had intended to retain his U.S. citizenship at first, but because of the complicated practicalities of holding a German civil service job (university professor) as Americans, which required special dispensation from Congress, he reacquired German citizenship in 1955. Horkheimer and Pollock seriously considered the prospect; the only thing that stopped them in the end was their mutual fear of being once again stuck in Germany on the brink of war.

<sup>517</sup> “Memorandum Friedrich Pollock—Max Horkheimer, Beschluß vom 11. Mai 1959,” in *HGS* 18, 453-54.

and Catholic thought, can be traced back to the year 1942. In that year while living in Los Angeles, Horkheimer conducted an informal study along with Thomas Mann to determine which Germans had provided the most aid to persecuted Jews under Hitler. They found that believing Christians, not workers, had been the most reliable source of resistance; it seems that this realization contributed to the fundamental change in Horkheimer's thought on the relationship between education and politics. Enlightenment through rationalism alone revealed itself to Horkheimer as insufficient for the eradication of prejudice. Likewise, education toward *resistance*—the true aim of a critical theory of reeducation—would be better served through an engagement with the self-analytical tradition of Freud than with the utopianism of Marx.

## CHAPTER FOUR

### The Transvaluation of Christian-Jewish Relations

When American occupation officials financed the reopening of Berlin's German Theater in September 1945 with a celebrated production of Gotthold Ephraim Lessing's *Nathan the Wise*, it seemed like the perfect representation of the victory of Enlightenment values in the West. Every educated German speaker knew this play well. In its most memorable scene, the title character—famously modeled after the German Jewish sage Moses Mendelssohn (1729-1786)—narrates a parable in which the rivalry between Christians, Jews, and Muslims is likened to a family feud over inheritance. Generations ago, Nathan tells the audience, their patriarch possessed a magical ring given to him by God, but before his death he made duplicates in order to bequeath one to each of his three sons without naming which was the authentic. An urgent plea for toleration and the privatization of faith, *Nathan the Wise* had been banned by the Nazi regime as part of the “de-Judaization” of the German spirit, and its revival in 1945 held deep symbolic significance. But few German citizens attended the performance; the theater's 1,000 seats were occupied primarily by Allied army officers.<sup>518</sup>

The indigenous innovation in West German theater was not the familiar Enlightenment tale of *Nathan*—which had also opened theaters to inaugurate the Weimar Republic in 1918—but a drama entitled *Captain Tessier*, penned and produced in 1953 by a member of the cultural committee of the Christian Democratic Union.<sup>519</sup> The play is set in Libya in the year 1940, as five German Jewish emigrés are preparing for battle with the German army in a French Foreign Legion brigade led by a Christian captain, Tessier, who claims to be Swiss. Over the course of the short drama, the Jewish soldiers learn that their captain's real identity is Ernst-Werner Techow, one of the antisemites responsible for the assassination of Germany's Jewish foreign minister Walter Rathenau in 1922. When they confront him in the final scene, Techow confesses his remorse and describes a “turn” or “reversal” (*Umkehr*) in his relationship to the Jews. He tells them, “I suddenly realized that my future life could only gain meaning in making good again for the

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<sup>518</sup> Atina Grossman, *Jews, Germans, and Allies: Close Encounters in Occupied Germany* (Princeton, NJ: Princeton University Press, 2007), 23.

<sup>519</sup> William Grange, *Cultural Chronicle of the Weimar Republic* (Lanham, MD: Scarecrow, 2008), 4. *Captain Tessier* was written by Horst Behrend (1913-1979), co-founder in February 1949 of Die Vaganten Theater, a still existent West Berlin troupe dedicated to Christian themes. The basic plot and names of characters in *Hauptmann Tessier* are based on an article written by George Herald, “My Favorite Assassin,” in *Harper's Magazine* (April 1943), 449-51. Herald, self-described as one of many “Jewish refugees from Central Europe who had enlisted to fight for France,” called the story of his adjutant-chief as “one of the most dramatic true stories of our times,” but it has not been verified.

murder” by becoming a true Christian and fleeing Germany to fight together with Jews against the Nazis and Communists. “I plead with you,” Techow approaches one of them,

answer me. Help me - forgive me. For how will we fight together against death and the devil in Europe, we both—you and I—if we, Jews and Christians, do not fight together and for one another? Forgive me... Give me your hand ... (*They reach their hands out to each other.*)<sup>520</sup>

Whereas *Nathan* ended with a plea for peace, *Captain Tessier* added the acts of confession, forgiveness, and a new pact to “fight together” against a common enemy.<sup>521</sup>

The latter plot was far more emblematic of the actual evolution of spiritual life in Germany between 1933 and 1963. The development in Christian theory and practice from Weimar to the Federal Republic—a shift unprecedented in the history of both Germany and Christianity—was not the turn back to “toleration” of Judaism, but rather the positive *recognition* and *affirmation* of the Jewish religious tradition. In the 1920s the majority of German Christian thinkers considered the persistence of Judaism a corrosive and enemy force within the European tradition, but by the 1960s they were proclaiming it an element that must be protected. “As we know, only a short time ago there could be no talk of recognizing another faith as fully coequal,” the West German economist Otto Veit observed, but “suddenly the Catholic and Protestant person hears exhortations toward a totally different position. The recognition of Jews, which was once called un-Christian, has become Christian.”<sup>522</sup> In 1961, a visitor could report from the Lutheran Church Day celebration in West Berlin that a Star of David “of monumental size” glittered next to five crosses behind the speaker’s lectern, “so that the symbol of the Church and that of the Synagogue stood *vis-à-vis*.”<sup>523</sup>

Such a dramatic transvaluation, which entailed a respect for the Jews *qua* Jews not to be found in the German Enlightenment tradition, still demands explanation. Perhaps unbeknownst to American officials, Lessing’s *Nathan* was already widely recognized in the 1920s as the founding spiritual document of Germany’s first democracy. In fact, the association of Enlightenment ideas with the structure of the first German democracy in many ways prompted the widespread accusation that Weimar was a “Judaic republic” (*jüdische Republik*) or a “republic of Jews” (*Judenrepublik*).<sup>524</sup> To

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<sup>520</sup> Behrend, *Hauptmann Tessier: Schauspiel* (Berlin-Steglitz: Die Vaganten, 1953), 28-29, 30. The Jew Techow addresses in this scene is supposed to be the nephew of Walther Rathenau.

<sup>521</sup> *Ibid.*, 31. The final scene of the play shifts from Libya to Marseille in 1942, where Techow-become-Tessier has traded in his military garb for civilian clothes and embarked on a new, “special mission” as a Christian to smuggle Jews out of Nazi Europe to Casablanca.

<sup>522</sup> Otto Veit, *Christlich-jüdische Koexistenz* (Frankfurt am Main: Europäische Verlagsanstalt, 1965), 128.

<sup>523</sup> Schalom Ben-Chorin, “The Youth Wants to Make Good the Sins of Their Fathers ... But the Old Prejudices Against the Jews Are Still Smoldering,” in *The Politics of Postwar Germany*, ed. Walter Stahl (New York: Praeger, 1962), 393.

<sup>524</sup> Scholars of Weimar Germany commonly note that this epithet was part of the “shared language” of the Republic’s opponents, but they usually dismiss it as vulgar propaganda and do not explain the deeper

German Christians, Lessing and Mendelssohn represented the classic *expression* of the “Jewish problem,” not its solution.

Though counter-intuitive at first, the widespread notion among Weimar-era Christians that the European state had become “Judaic” in the modern period begins to make sense when one considers the development of religion and politics from the Enlightenment to World War I. For educated German-speakers, Moses Mendelssohn—Lessing’s hero in *Nathan* and the iconic Jewish personality in German history—was known for two main ideas: first, that the truly rational and modern state would be one that allowed Jews to serve in its government openly as Jews without coercing them to violate the fundamental precepts of their religious law; and second, that the rabbinic tradition itself represented the ideal *prototype* for such a liberal system.<sup>525</sup> Over the course of the century-and-a-half after Mendelssohn’s death, German Jewish leaders assured authorities that their congregations were willing to recognize German state law in all cases of conflict—just as the Lutheran churches did—permitted they were accorded freedom of conscience and full legal equality with Christians.<sup>526</sup> That these long-standing requests were honored in Germany only in 1919 with the passage of the Weimar Constitution signaled to many Christians that they were now living in the “Judaic” form of society outlined in Mendelssohn’s *Jerusalem*.

Nazi leadership was able to harness—or in one theologian’s words, “hijack”—the Christian anti-Judaic discourse of the years 1919-1932 as the spiritual justification for their reshaping of German society.<sup>527</sup> But when conservative and traditionalist German Christian thinkers were branded by Nazi leaders as Judaic themselves and forced into submission or even prison, they began to reevaluate their own anti-Jewish tradition in order to imagine a post-Nazi order. As Behrend’s play made clear, it was crucial that they found Jewish interlocutors who were willing to accept such confessions in the name of fighting a greater enemy.

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intellectual roots that informed it. Weitz, *Weimar Germany: Promise and Tragedy* (Princeton, NJ: Princeton University Press, 2006), 333, and Benjamin Ginsburg, *The Fatal Embrace: Jews and the State* (Chicago, IL: University of Chicago Press, 1993), 42.

<sup>525</sup> Mendelssohn, *Jerusalem*, trans. Allan Arkush (Hanover, NH: University of New England Press, 1983), published first in 1782.

<sup>526</sup> Liberal Jewish reformers drew on the plastic Talmudic doctrine of Diaspora existence, “the law of the kingdom is law” (*dina d’malkhuta dina*), to ground their loyalty to their state in religious tradition. *Dina d’malkhuta dina* provided the juridical underpinnings of the difficult transition from ghetto to emancipation for Jews all over Western Europe, but it was in German-speaking lands in particular that, in the words of one scholar, it “increasingly became an internal sanction for the abdication of Jewish law in *all* areas of conflict with state law,” including the breaking of Sabbath observance. Gil Graff, *Separation of Church and State: Dina de-Malkhuta Dina in Jewish Law, 1750-1848* (Tuscaloosa: University of Alabama Press, 1985), 132, italics mine. German Christian theologians were very familiar with the legal axiom *dina d’malkhuta dina*. See Albert Hauck, ed., *Realencyclopädie für protestantische Theologie und Kirche*, vol. 9 (Leipzig: J.C. Hinrich’sche Buchhandlung, 1901), 488.

<sup>527</sup> Paul Tillich, “The Totalitarian State and the Claims of the Church,” *Social Research* (November 1934), 405-32.

The present chapter traces the evolution of Christian and Jewish ideas over the course of the exile period and how they found institutional expression in the Federal Republic. In the first section, I examine how the theological antagonism between Christianity and Judaism during the Weimar Republic became a metaphor for the political struggle between German socialism and liberal capitalism. Second, I show how Nazi thinkers exploited the anti-Judaic elements within Weimar Christianity to justify their persecution and later destruction of European Jewry. In the final section, I investigate the reconciliation of Christian and Jewish thinkers in exile by focusing on the work of Hans Joachim Schoeps (1909-1980) and Jacob Taubes (1923-1987), two scholars of Judaism who made the decision to teach in the early Federal Republic. Returning from Swedish exile in 1946 after losing both his parents in the Holocaust, Schoeps was the real-life blueprint for *Captain Tessier's* main Jewish character.<sup>528</sup> For many West German Christians, he became a symbol for the small but important group of German Jews who accepted the outreached hand of conservative Christians to “fight together” against Nazism and Soviet communism. The younger Taubes, meanwhile, after surviving the war in Switzerland and living through McCarthy-era America, became a spiritual guide of the West German New Left as a critic of the postwar anticommunist consensus.

## II. The Conflict between the Judaic and Christian “Spirits,” 1919-1933

Both the supporters and opponents of the Weimar Republic regarded its Constitution as the political expression of *Nathan's* ring parable. The Prussian monarch had long justified his reign through the spiritual authority of the Lutheran values of duty and charity; the Weimar state, by contrast, required religious tolerance and based its legitimacy solely on the voice of the people.<sup>529</sup> The *Wilhelmine Reich* had mandated Christian education and hired Lutheran church leaders to supervise it; the democratic republic allowed local communities to decide what kind of ethical instruction to provide in their schools.<sup>530</sup> In other words, though it had long lost coercive authority, Lutheranism was stripped in 1919 of its role as official church and thus of its function as the spiritual

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<sup>528</sup> Behrend revealed that his play's protagonist was inspired by Schoeps in a letter of May 11, 1954, NL 148, Ordner 102, Hans Joachim Schoeps Papers, Staatsbibliothek Berlin.

<sup>529</sup> See Hugo Preuß, “Die Legende vom Störenfried” (1916), *Gesammelte Schriften*, vol. 1, eds. Detlef Lehnert and Christoph Müller (Tübingen: Mohr Siebeck, 2007), 583. The Social Democratic Minister of Justice Gustav Radbruch also explicitly referred to *Nathan* in his defense of parliamentary democracy during the ten-year anniversary celebration of the Constitution in August 1929, arguing that only the supporters of an “authoritarian state” (*Obrigkeitsstaat*) believe they are in possession of the genuine ring. Radbruch, “10 Jahre Weimarer Verfassung – Rückblick und Ausblick” (1929), quoted in Martin Klein, *Demokratisches Denken bei Gustav Radbruch* (Berlin: Berliner Wissenschafts-Verlag, 2007), 218. Authoritarian thinkers agreed, claiming they did possess “the [one] ring,” which became the name of the major neo-conservative journal in the late Weimar Republic (1928-1932).

<sup>530</sup> See Volker Berghahn, *Imperial Germany, 1871-1918: Economy, Society, Culture, and Politics* (New York: Berghahn, 2005), 97.

foundation of German law in the so-called “unity of throne and altar,” making it one of several religious faiths under a secular state.<sup>531</sup>

Meanwhile, German soldiers returned from the devastation of the Great War with a revived religious spirit. A generation of youth, both Christian and Jewish—“who,” in the words of Erich Maria Remarque, “even though they may have escaped its shells, were destroyed by the war”—returned from the front with a disdain for the liberal-capitalist European system responsible for the death of fifteen million people and the injury of over twenty million more.<sup>532</sup> In particular after the Treaty of Versailles of 1919, impoverished young German war veterans grew to hunger for commitment to social ideals that they could not find in the state but could in religion and other communal forms of spirituality.<sup>533</sup> Responding to this new demand in the 1920s, a generation of German spiritual leaders emerged who understood their relationship to the state as one of opposition rather than the liberal ideal of church-state cooperation.<sup>534</sup>

The most dramatic shift away from the theologies of Lessing and Mendelssohn toward a radical critique of the liberal state took place within the Lutheran churches, which officially represented two-thirds of the German population. Whereas the duty to participate actively in the state had dominated Lutheran teaching since the eighteenth century, the disillusionment of the war caused many to withdraw from political life.<sup>535</sup> The popularity of the Swiss-born theologian Karl Barth (1886-1968), often called “the church father of the twentieth century,” was indicative of this trend.<sup>536</sup> Barth argued in his widely read commentary on Paul’s *Epistle to the Romans* that Christian faith rendered every commitment to the state minimal at most. He criticized Enlightenment thinkers who “with Lessing, Lichtenberg, Kant, and Goethe” mistook reason for God and guarded the rational state against “the storming in of religion [...]” Many Lutheran pastors drew

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<sup>531</sup> See Robert Hepp, *Politische Theologie und theologische Politik. Studien zur Säkularisierung des Protestantismus im Weltkrieg und in der Weimarer Republik*, diss. University of Erlangen, 1967.

<sup>532</sup> Erich Maria Remarque, *Im Westen Nichts Neues* (Berlin: Propyläen, 1929), preface.

<sup>533</sup> See Peter Gay, *Weimar Culture: The Insider as Outsider* (New York: Harper & Row, 1968), 70-101.

<sup>534</sup> In 1926, the situation of the German churches was defined by one theologian as “the inner antagonism between religion and capitalism.” Tillich, *Die religiöse Lage der Gegenwart* (Berlin: Ullstein, 1926), 121.

<sup>535</sup> Vulgar *Sonderweg* historiography often held that the Lutheran call to interiority predetermined a quietistic obedience to state authority in German history from the suppression of the peasants’ revolt in 1525 to the rise of Nazism in 1933. Not only was this practically untrue, as shown by Margaret Lavinina Anderson in *Practicing Democracy: Elections and Political Culture in Imperial Germany* (Princeton, NJ: Princeton University Press, 2000) and Kevin Repp in *Reformers, Critics, and the Paths of German Modernity: Anti-Politics and the Search for Alternatives, 1890-1914* (Cambridge, MA: Harvard University Press, 2000), but it was also false in its characterization of Lutheran theology, which did not become hostile to liberalism until World War I.

<sup>536</sup> Trutz Rendtorff, *Theologie in der Moderne. Über Religion im Prozess der Aufklärung* (Gerd Mohn, 1991), 111.

on Barth to preach dedication only to the socialistic ideals of “life and work” and the importance of fulfilling only the barest duties of citizenship.<sup>537</sup>

While Lutheran critique of the modern state was often self-consciously “unpolitical,” German Catholics took the lead in the *parliamentary* attack on liberal capitalism. After a long period of disenfranchisement in regions where they constituted a minority, Catholics “returned out of exile” from German politics to protest the direction secular reason was allegedly taking Europe in the democratic-capitalist age.<sup>538</sup> Under the spiritual auspices of Karl Adam (1876-1966) and Romano Guardini (1885-1968), the revitalized Catholic Center Party took advantage of its new voice in Weimar to advocate “traditional” Christian limits on the open market, such as strict state regulation of tariffs, interest rates, and corporate taxes – platforms that seemed increasingly necessary in the eyes of voters as the market fell into crisis.<sup>539</sup>

Though German Lutherans and Catholics retained their distinct social identities, the 1920s marked the beginning of an unprecedented effort to “reunite in faith” the two major churches in coalition against the dangers of capitalism and secular liberalism.<sup>540</sup> Weimar Germany was pioneering in Europe—indeed unique—in the involvement of Catholics in “pan-Christian activities,” which the Vatican condemned in 1928.<sup>541</sup> German Catholics’ break with Rome on this issue bespoke a siege mentality that enabled the creation of what was widely hailed as the “anti-secular front,” whose leaders “believe[d]

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<sup>537</sup> The sociologist of religion and theologian Paul Tillich noted in 1926 that the German Protestant churches “reject every political alliance in principle” but were “in practice historically oriented toward a conservative-monarchical, agrarian-bureaucratic, national-military ideal,” indeed “inwardly hostile to the state that grew out of the democratic revolution.” Tillich, *Die religiöse Lage der Gegenwart*, 132. Barth himself was critical of commitment to Weimar, which he called in 1919 “watered-down socialism.” Barth, “Das was nicht geschehen soll,” in *Neuer freier Aargauer. Sozialdemokratisches Tagblatt* (August 15, 1919), 1. For an in-depth analysis of Barth’s politics arising out of his early theological work, see Bruce McCormack, *Karl Barth’s Critically Realistic Dialectical Theology: Its Genesis and Development, 1909-1936* (New York: Oxford University Press, 1997), 184-206.

<sup>538</sup> Karl Hoeber, *Die Rückkehr aus der Exil. Dokumente der Beurteilung des deutschen Katholizismus der Gegenwart* (Düsseldorf: Schwann, 1926). The Vatican had been enjoining Catholics to influence secular affairs through political engagement since the late nineteenth century, but the culture wars with Protestantism had limited their influence in Germany. See Margaret Lavinia Anderson, *Windhorst: A Political Biography* (Oxford: Oxford University Press, 1981).

<sup>539</sup> As Max Weber had shown, Catholics in Germany represented the rearguard of “traditional,” pre-capitalist economic values.

<sup>540</sup> Ninety-six percent of Protestant and ninety-two percent of Catholic children attended separate confessional elementary schools in 1921. See Marjorie Lamberti, *The Politics of Education: Teachers and School Reform in Weimar Germany* (New York: Berghahn, 2004), 96.

<sup>541</sup> Inter-confessional Christian dialogue was not unusual in early twentieth-century Europe, but it did not generally include Catholics. In his encyclical *Mortalium Animos* (1928)—written in response to an ecumenical conference in Lausanne in 1927—Pope Pius XI warned Catholics not to participate in any dialogue with non-Catholic Christians. See Robert McAfee Brown, *The Ecumenical Revolution: An Interpretation of the Catholic-Protestant Dialogue* (New York: Doubleday, 1967), 50-51.

itself capable of halting the process of secularization.”<sup>542</sup> Catholics joined alliances with Lutheran churches to condemn Weimar-era legislation such as the allowance of non-Christian ethical instruction in schools and efforts to relax laws regulating prostitution, divorce, and abortion.<sup>543</sup> The common enemies of market capitalism, state centralization, and sexual licentiousness spurred an ecumenical conversation among Lutheran and Catholic theologians on the essential elements that joined them together in their opposition.<sup>544</sup>

Fatefully, this was where Christianity’s tradition of anti-Judaism was mobilized in the theological discourse of the Weimar years. Though they often condemned a crude racial antisemitism, Christian ecumenists equated Europe’s “Jewish problem” with its secularization and materialism problem.<sup>545</sup> Calling for an end to market greed and class warfare, the theorist of Christian pedagogy at the University of Munich Friedrich Wilhelm Foerster wrote in 1920 that the Jew’s “head for business”

does not represent an isolated evil within our human economy, but rather illuminates, with concentrated activity and logic, the deepest essence of this economy and therefore is a mirror of self-awareness for the spirit of our “Aryan” economy. [...] The presence of the Jewish element in our midst [...] is a test willed by God for our whole social culture and above all for our Christianity.<sup>546</sup>

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<sup>542</sup> Wilhelm Stapel, *Der christliche Staatsmann. Eine Theologie des Nationalismus* (Hamburg: Hanseatische Verlagsanstalt, 1932), 6. See also Klaus Breuning, *Die Vision des Reiches. Deutscher Katholizismus zwischen Demokratie und Diktatur [1929-1934]* (München: Max Hueber, 1969), 317, 314-21.

<sup>543</sup> See Julia Roos, “Backlash Against Prostitutes’ Rights: Origins and Dynamics of Nazi Prostitution Policies,” in *Sexuality and German Fascism*, ed. Dagmar Herzog (New York: Berghahn, 2005), 67-69, and Atina Grossmann, *Reforming Sex: The German Movement for Birth Control and Abortion Reform, 1920-1950* (Oxford: Oxford University Press, 1997).

<sup>544</sup> Uncritically echoing the sentiments of his subjects, a recent historian of Weimar-era Catholic ecumenism accurately revealed the political context of this movement. In the 1920s, “the German population became subject to a new and different openness, favored mainly by the parties of the Left, who sought to impose a system of government by atheists. Hence, *there was a fertile field for the inception of a movement to find a raison d’être for the cause of Christian unity.*” Jerome Vereb, “*Because He was a German!*” *Cardinal Bea and the Origins of Roman Catholic Engagement in the Ecumenical Movement* (Grand Rapids, MI: Eerdmans, 2006), 5, emphasis in the original. Most scholarship on ecumenism elides the fact that Judaism and “old” (nineteenth-century) liberal Lutheran theology were the new common enemies of the ecumenists.

<sup>545</sup> On the charge of “materialism” and “secularization” traditionally leveled by Catholics against Protestants in Germany, see Max Weber, *The Protestant Ethic and the ‘Spirit’ of Capitalism*, trans. Gordon C. Wells (New York: Penguin, 2002), 5.

<sup>546</sup> F.W. Foerster, *Mein Kampf gegen das militaristische und nationalistische Deutschland. Gesichtspunkte zur deutschen Selbsterkenntnis und zum Aufbau eines neuen Deutschland* (Stuttgart: Verlag “Friede durch Recht,” 1920), 253-55. For a good contextualization of Foerster’s ideas within the broader German (largely Catholic) peace movement, see Alan T. Levenson, “The German Peace Movement and the Jews: An Unexplored Nexus,” in *Leo Baeck Institute Year Book* 46 (2001), 277-301, esp. 286-91, though Levenson vastly understated Foerster’s anti-Judaism.

For engaged Christians like Foerster and the young journalist Eugen Kogon, the “Jewish question” meant the extent to which Christians were willing to tolerate the capitalist elements within their own society, constantly threatening to undermine moral decency.<sup>547</sup> Sociologists’ documentation of decreases in church attendance and increases in mixed marriages heightened the urgency of Protestant and Catholic calls to resist the “Judaization” of Christian ethics and the unholy “Jewish-Christian” (*jüdisch-christlich*) alliance that had allegedly contributed to Germany’s downfall during the Great War.<sup>548</sup>

The theological doctrine that united ecumenists against the “Judaic spirit” was the allegedly inimical relationship between Jews’ adherence to letter-of-the-law legalism (*Gesetzfrömmigkeit*) and Christians’ faith in a higher law of *love* – a distinction made forcefully in the scriptural writings of the Apostle Paul. In Weimar-era Christian social teaching, “the law” referred not only to the code of the Hebrew Bible but also to that of the non-Christian state.<sup>549</sup> “To be a Jew today means to deny Jesus,” wrote the editor of a leading ecumenical journal of Christian socialism, reflecting a capacious metaphorical category of Jewishness under which anyone supporting the Weimar legislation to undermine the Christian identity of the state could be described as “Judaic.”<sup>550</sup>

German Jewish community leaders attempted throughout the early Weimar period to argue that Christians misunderstood the Judaic spirit and especially its expression in

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<sup>547</sup> Foerster, *Politische Ethik und politische Pädagogik* (E. Reinhardt, 1918), 269. See Steven Aschheim, “‘The Jew Within’: The Myth of ‘Judaization’ in Germany,” in *The Jewish Response to German Culture: From the Enlightenment to the Second World War*, eds. Jehuda Reinharz and Walter Schatzberg (Hanover: University Press of New England, 1985), 212-41, especially 214-15, and more recently, Matthew Lange, *Antisemitic Elements in the Critique of Capitalism in German Culture, 1850-1933* (Bern: Peter Lang, 2007). On Kogon, see Karl Prümm, *Walter Dirks und Eugen Kogon als katholische Publizisten der Weimarer Republik* (C. Winter, 1984), 65-68.

<sup>548</sup> This new anti-Judaism was based on the Catholic Church’s centuries-old self-appointed task of keeping European Christian society free from “Judaizers,” i.e. those heretics who advocated the practice of aspects of Mosaic Law. The German Catholic priest Max Josef Metzger (1887-1944)—now known as a pioneer of interwar Catholic pacifism, the founder of the ecumenical Una Sancta Brotherhood, and later a martyred resistance leader against National Socialism—baptized many Jews into Christianity but also published a pamphlet titled *Ein judenfreier Wirtschaftsring!* (Graz: Verlag Volksheil, 1921).

<sup>549</sup> As in antiquity, the modern Jewish crime was not the direct perpetration of Jesus’s death but rather the clever manipulation of pagan (non-Christian, Roman) law to dispose of Christian authority. See Anders Gerdmar, *Roots of Theological Anti-Semitism: German Biblical Interpretation and the Jews, from Herder and Semler to Kittel and Bultmann* (Boston, MA: Brill, 2009), passim.

<sup>550</sup> Thieme, *Deutsche evangelische Christen auf dem Wege zur katholischen Kirche* (Zurich: Neue Brücke, 1934), 14. He was drawing on the Vatican’s definition of its anti-Judaism since the 1890s, which was as a heuristic for secularism and indifferentism. Criticizing the outright antisemitism of the Austrian Christian Social Party in 1894, the Vatican clarified its position: “When we seem to take up a stance of struggle against Jews, we are in fact fighting for the protection of the rights of Christians and their spiritual and material goods against the hostility of all those who have disregarded the subversion of the Christian faith and the good morals of the Catholic people and who want to subject their anarchic greed [*zügellosten Gier*] on all the isolated and defenseless ranks of the people.” Quoted in Thieme, “Deutsche Katholiken,” in *Entscheidungsjahr 1932*, ed. Werner Mosse (Tübingen: J.C.B. Mohr, 1965), 273.

Germany. The theologian Franz Rosenzweig (1886-1929) declared in 1924 that socialism contained “a Jewish substance” and “genotype” that had “ripened into world-historical fact under the sun of the nineteenth century among German Judaism.”<sup>551</sup> The other leading light of Jewish spirituality in the Weimar period, Martin Buber (1878-1965), recruited a Lutheran and a Catholic in 1926 to co-edit a journal proving that Jews and Christians could cooperate toward the common messianic end of religious socialism and the creation of a “new race of man.”<sup>552</sup> However, its readership was tiny, its Catholic contributor was excommunicated by the Vatican, and its publication was discontinued already by 1930.

When in that year the economic depression hit continental Europe and liberal democracy lost its final shreds of credibility among German voters, Jews were forced to realign politically to choose between the Christian national parties or the Marxist parties as their new allies. The vast majority opted for the former. The German Democratic Party, which had previously allied with liberals in Weimar governments and was the political home for German Jews, merged with the authoritarian German Young Order and some leaders of the Christian trade unions to form the new German State Party, whose platform supported the presidential decree powers of the Catholic chancellor Heinrich Brüning from 1930 to 1932.<sup>553</sup>

Likewise, many German Jewish leaders called for the foundation of an officially Christian state capable of protecting its Jewish minority in the spirit of national community.<sup>554</sup> “Exactly as the Christian does,” wrote the chief rabbi of Frankfurt-Oder in the premier intellectual journal of German Jewry, “the Jew”

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<sup>551</sup> Franz Rosenzweig, introduction to Hermann Cohen, *Jüdische Schriften*, vol. 1 (Berlin: C.A. Schwetschke & Sohn, 1924), xxiii. “Judaism is not law,” he wrote emphatically in 1921, a year after founding his Free Jewish House of Learning in Frankfurt. “It creates law. But it is not law.” Such a conception of Judaism allowed Rosenzweig to bring together non-converted Jews of all levels of ritual practice, from the liberal to the orthodox, in a common identity of “being Jewish,” when he founded the *freie jüdische Lehrhaus* in Frankfurt in 1920. See his letter to Buber published several years later under the title “The Builders,” in *On Jewish Learning*, ed. N.N. Glatzer (New York: Schocken, 1965), 91. On Rosenzweig’s anti-capitalism see Michael Löwy, *Redemption and Utopia: Jewish Libertarian Thought in Central Europe. A Study in Elective Affinity* (Palo Alto, CA: Stanford University Press, 1992), 59-61. Whether non-Zionist or Zionist, the majority of younger-generation German Jewish thinkers agreed with Rosenzweig’s argument that the true essence of Judaism was not the sovereignty of reason—as Lessing and Mendelssohn had held—but rather the revelation of God’s call to justice.

<sup>552</sup> Buber, Viktor von Weizsäcker, and Joseph Wittig, untitled manifesto in the inaugural printing of *Die Kreatur* 1, no. 1 (1926/27), 1-2.

<sup>553</sup> On voting patterns see Martin Liepach, *Das Wahlverhalten der jüdischen Bevölkerung. Zur politischen Orientierung der Juden in der Weimarer Republik* (Tübingen: J.C. Mohr, 1996), and Ernest Hamburger and Peter Pulzer, “Jews as Voters in the Weimar Republic,” *Leo Baeck Institute Year Book* (1985), 27-29.

<sup>554</sup> A comparison of the political orientation of German Jews before and after 1918 shows that the majority of German Jews were supporters of liberalism but not necessarily of parliamentary rule. Walter Rathenau, one of the co-founders of the DDP in 1919 and foreign minister of the Republic before his assassination in 1922, had declared his philosophy as monarchical as late as 1917. Rathenau, *Von kommenden Dingen* (Berlin: S. Fischer, 1917), 247. Rosenzweig wrote less than a month before Wilhelm II’s abdication of the throne that he had just realized “how monarchist I am.” Rosenzweig to his mother, Oct. 19, 1918, in

affirms the state *precisely because it is not a liberal state* that gains its legitimacy from autonomous individuals and serves only them, and therefore cannot rule over the demons. The Jew stands toward the state with the entirely specific concerns of the Jewish citizen. We place our Jewish community under the care of the state. [...] The star of David stands together in the same front with the cross in this world threatened by demons and ever more comprised of the scraps of creation.<sup>555</sup>

The young Hans Joachim Schoeps (1909-1982), whose work was reviewed positively in mainstream Jewish publications, argued that the German spirit was the superior force in Europe precisely because it rejected Western-style liberalism and instead translated the values of Christian charity into the welfare state.<sup>556</sup> Maybaum and Schoeps were far from alone among German Jews in supporting the replacement of the apparently ineffectual Weimar Republic with a strong Christian state that could protect the Jewish community against “demons” – in particular the demon of Bolshevism, which the rabbinic leader of Liberal Judaism Leo Baeck (1873-1956) called “the most intense and bitter enemy of Judaism,” especially the Jewish *family*, in his welcome of the national “renewal.”<sup>557</sup>

The minority of German Jews who rejected these attempts at Jewish-Christian communal cooperation as illusory typically joined the Zionist or communist camps. In an open letter that displayed how much purchase hope for a Christian-Jewish alliance still must have had in 1932, the Zionist Gershom Scholem (1897-1982) violently attacked the

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*Briefe*, ed. Edith Rosenzweig (Berlin: Schocken, 1935), 351. Scholars of German Jewish thought have often dismissed Rosenzweig’s monarchism as curious, but it was not unrepresentative of his social milieu. Observing the embattled state of ethnic minorities in general and of the Jewish minorities in particular in the newly democratic states of post-WWI Central and Eastern Europe, many German Jews remained convinced that an authority standing above the parliament would be better equipped to protect the rule of law and welfare against internal enemies, as in the Habsburg Empire and Prussian Kingdom for example.

<sup>555</sup> Maybaum, “Theologie und Politik,” *Der Morgen* Heft 6 (February 1932), 512. Italics mine.

<sup>556</sup> Schoeps drew on Rosenzweig’s writings to argue that Judaism was “not worldly-historical,” in that it could not be synthesized, like Christianity, with good politics. For that reason “only Germans of Jewish faith (and extraction) who are ready to live and die for Germany have a historical destiny in the worldly sense,” he wrote. Schoeps, *Jüdischer Glaube in dieser Zeit. Prolegomena zur Grundlegung einer systematischen Theologie des Judentums* (Berlin: Philo, 1932), 87, 76. Rosenzweig’s close colleague Eduard Strauß wrote of Schoeps’s *Jüdische Glaube in dieser Zeit* that it marked a “profitable” and “promising beginning” for “denying in the strongest way possible the liberalistic and extreme-rationalistic mode of thought characteristic of Judaism since Mendelssohn.” Strauß, “Ein jüdische Theologie?” *Der Morgen* 8, no. 4 (October 1932), 313.

<sup>557</sup> Baeck, “Das deutsche Judentum und die Erneuerung Deutschlands,” *Israelitisches Familienblatt* 35, no. 14 (April 6, 1933), 2. Jewish and Christian leaders often objected to the secular state’s increasing control over the jurisdiction of marriage. See the the parallel discourses in the *Israelitisches Familienblatt* and the ecumenical Christian journal *Religiöse Besinnung* in 1932. On this milieu of young German Jews in the Weimar Republic who, like their Christian co-nationals, advocated a “third force” between parliamentary democracy and communism, a “society that was neither capitalist nor materialist.” George Mosse, *Germans and Jews: The Right, the Left, and the Search for a “Third Force” in Pre-Nazi Germany* (New York: H. Fertig, 1970), 3-4.

idea that Jewish survival depended on Christian power. Because Jews could not rely on any group but themselves, he argued, the only way to combat the antisemitism problem was a state of their own.<sup>558</sup> Others, perhaps less comfortable with Jewish separatism but equally skeptical of an alliance with Christians, held out hope that a proletarian revolution would eliminate antisemitism along with class exploitation.<sup>559</sup> These two groups were the first to recognize the threat of National Socialism, and by 1932 many of them had already packed (or begun packing) their bags to join up with socialist movements abroad.

The prognostications of the latter group proved correct. Lutheran socialists almost unanimously rejected the legitimacy of Jewish attempts to join an “anti-secular front” in 1933. Lutheran politicians called on the political forces of Catholicism to reassert moral authority over the “Judaic spirit,” and young theologians such as Karl Thieme (1902-1963) instead advocated alliances between Lutherans, Catholics, and the pro-Christian members of the Nazi Party.<sup>560</sup> “From the very beginning of Christianity, this sharp conflict [with the Jews] has existed,” the Lutheran Karl Ludwig Schmidt told Martin Buber in a publicized forum in Stuttgart weeks before the Nazi accession to power. “We Christians must never tire of keeping this one conflict alive.”<sup>561</sup> Religious Christians at the close of Weimar—even those ideologically uncomfortable with racial discrimination—were not opposed to strategic alliances with the anti-secularist elements in National Socialism when faced with the growing political gains of the Communist Party.

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<sup>558</sup> Scholem, “Offener Brief an den Verfasser der Schrift ‘Jüdischer Glaube in dieser Zeit’ [Schoeps],” *Bayerische Israelitische Gemeindezeitung* (August 15, 1932), 241-44. For more on this attack in the context of Scholem’s critique of Rosenzweig, see David Biale, *Gershom Scholem: Kabbalah and Counter-History* (Cambridge, MA: Harvard University Press, 1982), 127-31.

<sup>559</sup> See Anson Rabinbach, “Between Apocalypse and Enlightenment: Benjamin, Bloch, and Modern German-Jewish Messianism,” in *In the Shadow of Catastrophe: German Intellectuals between Apocalypse and Enlightenment* (Berkeley: University of California Press, 1997), 27-65, and Steven Aschheim, *Culture and catastrophe: German and Jewish confrontations with National Socialism and other crises* (New York: NYU Press, 1996), 31-44.

<sup>560</sup> See Willy Hellpach, *Zwischen Wittenberg und Rom. Eine Pantheodizee zur Revision der Reformation* (Berlin: S. Fischer, 1931), 30, 337-39, which Baeck criticized for not including Judaism along with Catholics in what Hellpach called a planned “legal action [...] against today’s societal order.” Baeck, “Zwischen Wittenberg und Rom,” *Der Morgen* (February 1932), 516-27. Thieme supported the left wing of National Socialism in 1932/33 insofar as he believed it was capable of helping re-Christianize the German state. “Our expectation” from National Socialism, he wrote in 1932 speaking for Christian socialists, is that “a German politics is meaningful only if it is Christian.” Thieme, “Was erwarten wir vom Nationalsozialismus?” *Religiöse Besinnung* 4 (1932), 136-37. A member of the faculty of the Hochschule für Deutsche Politik, Thieme joined his colleague Arnold Bergstraesser in turning against the Weimar Constitution they had previously supported and moved toward the Catholic Ring Movement.

<sup>561</sup> Quoted in Paul Mendes-Flohr, *Divided Passions: Jewish Intellectuals and the Experience of Modernity* (Detroit: Wayne State University Press, 1991), 159.

## II. The De-Judaization of German Christianity under National Socialism

An alliance between National Socialist and conservative Christian thinkers against the “Judaic spirit” of liberalism capitalism and communism seemed plausible at first. Both groups called for a rejection of the “Judaic” idea that reason is sovereign, and both strove toward a common ideal of communal socialism. Practically, the National Socialist regime delivered on many of its promises to Christian workers, outdoing New Deal America in job creation and wealth redistribution and implementing many of the economic policy proposals developed originally by Lutheran and Catholic theorists.<sup>562</sup> These convergences sustained the illusion of many that they could instrumentalize Hitler’s charisma to clear away the detritus of liberalism and then “rein in” the Nazi Party after 1933 to reestablish a truly Christian state.<sup>563</sup>

The Nazi Party cynically courted those Christian institutions whose leaders agreed to remove the “Judaic spirit” from within their ranks and made them the official state church, but it soon became clear to those actually immersed in religious life that the new regime supported Christianity only insofar as the churches’ anti-Judaism could spur popular support for Nazi policy goals. To woo Christian support, the NSDAP advertized the first of its many discriminatory statutes—mandating the removal of non-converted Jews and Social Democrats from professional civil service posts in April 1933—as a “reestablishment” (*Wiederherstellung*) of the pre-Weimar state policy where only Christians could occupy government posts. The early efforts of many Christian socialists to synthesize the Christian and Nazi worldviews, however, halted when Nazi policy revealed their incompatibility.

The hard core of Nazi theorists knew that Christian notions of sovereignty—even at their most anti-Judaic—were incompatible with the type of society they sought to create. Martin Luther, who preached duty to obey state law as part of obedience to God’s will, also sanctioned resistance against any political regime that limited freedom of

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<sup>562</sup> For the best work on these convergences see Avraham Barkai, *Nazi Economics: Ideology, Theory, and Policy*, trans. Ruth Hadass-Vashitz (New Haven, CT: Yale University Press, 1990). See also Hermann Beck, *Fateful Alliance: German Conservatives and Nazis in 1933* (New York: Berghahn, 2008), Götz Aly, *Hitler’s Beneficiaries: Plunder, Racial War, and the Nazi Welfare State*, trans. Jefferson Chase (New York: Henry Holt, 2008), and Wolfgang Schivelbusch, *Three New Deals: Reflections on Roosevelt’s America, Mussolini’s Italy, and Hitler’s Germany, 1933-1939* (New York: Macmillan, 2006), 81, 131. On the continuity between early Nazi policies with the Lutheran parish priest Friedrich Naumann’s reform plans, see Eric Kurlander, *Living with Hitler: Liberal Democrats in the Third Reich* (New Haven, CT: Yale University Press, 2009).

<sup>563</sup> Theologically, Lutherans generally justified this new alliance in terms of obedience to the will of an immanent God in the progressive development of the state—the so-called “theory of two kingdoms” (*Zwei-Reiche-Lehre*). See Robert Erickson, *Theologians under Hitler* (New Haven, CT: Yale University Press, 1985). Catholics, on the other hand, typically spoke in terms of God’s kingdom or empire (*Reich*) on earth under the auspices of the Catholic Church. Indeed, in the 1920s Catholic political thinkers had been the first to call for a “third *Reich*” in a final period of mankind’s salvation. See Arthur Moeller van den Bruck, *Das dritte Reich* (Berlin: Ring, 1923). See Victor Klemperer, *LTI [Lingua Tertii Imperii], Sprache des Dritten Reiches. Notizbuch eines Philologen* (Berlin: Aufbau, 1947).

conscience.<sup>564</sup> Therefore loyal Lutherans could never be totally loyal to a secular power, they reasoned. Nazi leaders also knew that German Catholics—though sharing with National Socialism a concept of “the law of nature” (*Naturrecht*) flexible enough to sanctify the persecution of Jews, homosexuals, and other alleged aberrations—would ultimately defer to the Pope rather than to their secular leader as the final arbiter of what defined the “natural” and “unnatural.”

The second point of conflict preventing synthesis was the particular *type* of super-rational (i.e. divine) sovereignty that the Nazi leadership declared as the foundation of the new Germany: race science. While most Christian leaders, pro- and anti-Nazi alike, affirmed the existence of racial groups and even the taxonomies that established some as superior to others, a fundamental problem arose with regard to the Jewishness of the Apostle Paul, whose writings formed the basic foundations of the New Testament. To Nazi theorists, Paul was the very symbol of the original and persisting medium of the entrance of a foreign racial psyche into the Greek tradition *via* Christianity. But for Christians, to deny the ability of racial Jews beginning with Paul to accept Jesus as the messiah and thereby participate in the salvation of the world was to repudiate the entire religion. Hitler’s deputies financed a small group of Lutherans to edit Paul’s Jewishness out of the Bible, but no believing Christian could accept such an excision.<sup>565</sup>

Those priests and pastors who continued to teach the Pauline texts in their entirety were increasingly subject to harassment and internment as the Nazi regime consolidated its power. Protesting the arrest of a pastor in Hamburg who had included Paul’s Epistle to the Romans in a Bible class in 1937, Protestant leaders asked the deputy of Hitler’s chancellor Rudolf Hess,

how long will it be possible to maintain domestic peace among our people, among whom doubtless many racial comrades are convinced members of the Christian Church [...] if state officials openly impede and persecute Christianity and the Church? We must, furthermore, designate as intolerable and a mockery the fact that, contrary to all assurances that the freedom of preaching would be inviolable, [the pastor] Zedlacher was specifically criticized for using Paul’s Epistle to the Romans, Verse 11, as a text for his lesson. It is indisputably asserted that the choice of Israel by God is unalterable. Zedlacher was only acting in accordance with his duties as a Bible teacher when he passed on to his pupils what is written in the Bible.<sup>566</sup>

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<sup>564</sup> Sabine Damm, *Dietrich Bonhoeffer and the Resistance*, trans. Margaret Kohl (Minneapolis, MN: Fortress, 2009), 57.

<sup>565</sup> Nazi leaders helped the Institute for the Study and Eradication of Jewish Influence on German Church Life issue a redacted New Testament with Paul’s autobiographical texts excised. See Susannah Heschel, *The Aryan Jesus: Christian Theologians and the Bible in Nazi Germany* (Princeton, NJ: Princeton University Press, 2008), 106-109. Nevertheless, no more than two percent of the Lutheran population ever officially joined the German-Christian movement, and one third of pastors supported the non-Nazi (soon to be anti-Nazi) Confessing Church after 1935. Doris Bergen, *The Twisted Cross: The German Christian Movement in the Third Reich* (Chapel Hill: University of North Carolina Press, 1996), 229.

<sup>566</sup> Memorandum from the Confessional Church (1937), from *Deutsche Kirchendokumente: Die Haltung der Bekennenden Kirche im dritten Reich* (Zollikon-Zürich: Evangelischer Verlag, 1946), 44-47, reprinted in *Nazi Culture: Intellectual, Cultural, and Social Life in the Third Reich*, ed. George Mosse, trans. Salvator Attanasio et al. (New York: Grosset & Dunlap, 1966), 248. If Christians had taken Article 24

The Nazi regime demonstrated time and again that they saw Christian scripture more as a hindrance than an ally in the struggle to solve the Jewish question. Even Wilhelm Stapel, one of the original leaders of the Christian “anti-secular front” and a vigorous advocate of “Pauline” anti-Judaism, was condemned in official Nazi journals for a lack of true (racial) antisemitism.<sup>567</sup>

After 1938, support even for the most rabidly antisemitic German Christians was discontinued when Nazi leaders began openly implicating Christianity as part of the Jewish problem and developing their own, “final” solution. Martin Bormann, Hess’s successor as Hitler’s deputy and regarded as “the real face of leadership” in the *Reich* during World War II, explained in a confidential memorandum in the wake of the Wannsee Conference in 1942:

When we National Socialists speak of a belief in God, by God we do not understand, as do naïve Christians and their clerical beneficiaries, a manlike being who is sitting around in some corner of the spheres. Rather, we must open the eyes of mankind to the fact that in addition to our unimportant Earth there exist countless other bodies in the universe, many of them surrounded, like the sun, by planets and these again by small bodies, the moons. The force which moves all these bodies in the universe, in accordance with the law of nature, is what we call the Almighty or God. [...] It follows from the incompatibility of National Socialist and Christian concepts that we must oppose any strengthening of existing Christian denominations and must refuse to give them any assistance.<sup>568</sup>

Nazi educators sought to replace the Christian concept of a sovereign loving God with the idea of the impersonal rule of nature.<sup>569</sup>

Having exhausted the usefulness of Christianity in all its forms, the Party repeated the same successful tactic with Islam when it aimed to win over Arabs to an anti-Western and antisemitic cause as part of its war aims. As it did with Christian scripture, Nazi propagandists drew on the anti-Judaic elements within the Koran in its radio broadcasts to the Muslim world and struck up instrumental alliances with anti-Jewish Muslim leaders such as the leader of Jerusalem’s Sunni community, Mohammed Amin al-

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seriously, they would have seen that it guaranteed “freedom of every religious confession in the state, so long as it does not offend the moral and ethical sentiments of the German race.” See Peter Matheson, ed., *The Third Reich and the Christian Churches* (Grand Rapids, MI: Wm. Eerdmans, 1981), 38.

<sup>567</sup> See Helmut Heiber, *Walter Frank und sein Reichsinstitut für Geschichte des neuen Deutschlands* (Berlin: Deutsche Verlagsanstalt, 1966), 952-54.

<sup>568</sup> Martin Bormann, “National Socialist and Christian Concepts are Incompatible” (1942), reprinted in *Nazi Culture*, 244-45.

<sup>569</sup> It was telling that Hitler’s favorite music was Richard Wagner’s *Ring Cycle*. The Nordic mythology on which the epic opera was based taught that the true ring lay not in heaven but in *nature*—in Germany’s longest river, the Rhine. For Bormann’s ideas on Jews as a spiritual race more powerful than natural race, and Christianity as the “Judaic spirit in Christian form,” see Winkler, *Der lange Weg nach Westen* (München: Beck, 2000), 108.

Husayni.<sup>570</sup> For Nazi theorists, however, Islam remained trapped in a “Judaic” notion of the sovereignty of reason, and any believing Muslim listening to Nazi propaganda would have realized that the two worldviews were just as incompatible as Nazism and Christianity.<sup>571</sup>

The inspirational appeal of the swastika, which the Nazis considered a far more accurate expression of human experience than the cross or the crescent moon, was based on the idea of the sovereignty of *nature*. A symbol of sun worship adapted from Hinduism, it represented belief that only the laws of an impersonal life force ruled the world. According to Nazi educators, the scholars fit to interpret these highest laws were not humanists or religious scholars, but doctors, chemists, physicists, and biologists. To the extent that it was coherent, the official Nazi worldview was anything but “irrationalist” in the mystical sense, as many assume. Rather, it was dogmatically secularist and scientific, intolerant of any group who claimed to draw the inspiration to fight and protect from a symbol as weak as a man dying on a cross.

### III. The Reluctant Alliance of Jews and Christians in Emigration

Common suffering at the hands of the Nazis formed the initial basis for an unprecedented rethinking of the relationship between Christians and Jews, but with little chance for inter-confessional dialogue within Nazi Germany itself, this reevaluation took place primarily in exile. From 1933 to 1939, some leading Lutheran and Catholic thinkers fled Germany for neutral and nearby Sweden or Switzerland, south to Italy, or east to Czechoslovakia or Austria; others left Europe altogether for the United States. In exile, they came into contact with the few Jewish thinkers both lucky enough to escape Nazism *and* willing to cooperate in the Christian self-examination. As the coordinated murder of Jews in Eastern Europe after 1941 gradually became public knowledge in Europe and the U.S., the question became more pressing and practical: what continued to prevent active Christian intervention on behalf of the Jews as they were annihilated in the very heart of Christian Europe, and what kind of theology would be necessary to ground their cooperation in a post-Nazi Germany?

#### *IIIa. Hans Joachim Schoeps and Christianity’s Reluctant Alliance with Judaism*

The case of Hans Joachim Schoeps, whose family represented in concentrated form the path of liberal German Jewry at the turn of the century, opens a unique window onto the evolving relationship of Lutherans to Jews. Schoeps’s grandfather was one of the few unconverted Jewish officers in the Prussian army during the wars of unification in the late 1860s and his father was a decorated military doctor who led a reserve hospital in Berlin during World War I. Born in 1909, Hans Joachim joined one of the many Jewish

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<sup>570</sup> See Jeffrey Herf, *Nazi Propaganda for the Arab World* (New Haven, CT: Yale University Press, 2009).

<sup>571</sup> See the arguments on the non-representativeness of the al-Husayni in Gilbert Achcar, *The Arabs and the Holocaust: The Arab-Israel War of Narratives* (New York: Macmillan, 2009).

socialist youth groups that turned against the assimilationism of the two earlier generations in the Weimar era.<sup>572</sup> What made Schoeps so unusual—and ultimately so influential in the future history of West Germany—was his headstrong and often shocking refusal to accept the rejection of Judaism in German Lutheran culture and his stubborn attempts to forge alliances with Christian thinkers.<sup>573</sup> The trajectory of his career, from rejection, emigration, and tragedy to unlikely return and public celebration, paralleled the transvaluation of Jewish-Christian relations in his country.

Schoeps's advances toward German Lutherans as a young man ended in complete failure. In his first book, *Jewish Faith in These Times* (1932), the twenty-three-year-old youth leader drew on Rosenzweig and Barth to imagine a type of German Jewish life that would parallel and complement Lutheranism in its rejection of liberalism and its loyalty to the Christian state.<sup>574</sup> Barth took an interest in Schoeps's work but ultimately rejected its attempts at "conversation" as "Israelitic impetuosity," arguing that any systematic theology led inevitably to the acknowledgement of Jewish responsibility for the death of Jesus and thus the inimical relationship of Judaism and Christianity.<sup>575</sup> Schoeps had no better luck in Jewish communal life. When Nazi antisemitism strengthened the previously unpopular arguments of German Zionists, Schoeps became one of the few leaders of a shrinking group of "German-conscious Jews" caught between opposition to the Nazi total state and unwillingness to renounce loyalty to their homeland.<sup>576</sup> His pamphlet *We German Jews* (1934), which argued that it was the duty of a German Jew to obey the laws of the state—even the new National Socialist state—was largely dismissed in both the Christian and Jewish press.<sup>577</sup> Spurned, Schoeps vowed to stay in Germany despite

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<sup>572</sup> See Michael Brenner, *The Renaissance of Jewish Culture in Weimar Germany* (New Haven, CT: Yale University Press, 1996).

<sup>573</sup> There has been little serious work on Schoeps, who is mostly treated as an anomaly by Anglophone scholars. In Jewish intellectual history circles his thought is typically relegated to asides. The one monograph is in German, such as Richard Faber's *Deutschbewusstes Judentum und jüdischbewusstes Deutschtum: der historische und politische Theologe Hans-Joachim Schoeps* (Würzburg: Königshausen & Neumann, 2008). Unfortunately, an English-language monograph by Gary Lease was incomplete at the time of his death.

<sup>574</sup> Schoeps, *Jüdische Glaube in dieser Zeit* (Berlin: Philo, 1932), 205. The finest analysis of this work in connection with Rosenzweig and Barth is by Marc Krell, *Intersecting Pathways: Modern Jewish theologians in Conversation with Christianity* (New York: Oxford University Press, 2003), 47ff.

<sup>575</sup> Barth to Schoeps, June 29, 1932 and Feb. 17, 1933, reprinted in "Der Briefwechsel zwischen Karl Barth und Hans-Joachim Schoeps," *Menora. Jahrbuch für deutsch-jüdische Geschichte* (1991), 114-20. Schoeps wanted to publish his *Jüdische Glaube in dieser Zeit* in Barth's series of Protestant theology, but Barth responded that the "series is a theological undertaking, and as such cannot be 'interconfessional' [...]."

<sup>576</sup> On the rising appeal of Zionism in Germany after 1932 see Hagit Lavsky, *Before Catastrophe: The Distinctive Path of German Zionism* (Detroit: Wayne State University Press, 1996). For Schoeps's activities see John von Houten Dippel, *Bound upon a Wheel of Fire: Why So Many German Jews Made the Tragic Decision to Remain in Nazi Germany* (New York: Basic Books, 1996), passim.

<sup>577</sup> Schoeps, *Wir deutsche Juden*, reprinted in "Bereit für Deutschland!" *Der Patriotismus deutscher Juden und der Nationalsozialismus* (Berlin: Haude & Spener, 1970), 85. His interpretation of *dina d'malkhuta*

unemployment to continue advocating the Jewish right to participate in the creation of a “legal and meaningful political system.”<sup>578</sup>

When it became clear that the consolidated Nazi regime was an opponent not only of Judaism but also of Christianity and the very principle of legality, Schoeps developed a new approach to Jewish-Christian cooperation. The codification of racial antisemitism in the Nuremberg Laws of September 1935 and the simultaneous intensification of anti-Christian persecution highlighted by the murder and arrest of several Lutheran pastors gained Schoeps the support of Leo Baeck, the head of the representative body of Jews in Germany, to self-publish his book *Jewish-Christian Religious Conversation over Nineteen Centuries* (1937). Sold briefly in Jewish bookstores before being banned, it was the first systematic attempt to expose the anti-Judaism within Christianity and the anti-Christianity within Judaism that inhibited cooperation between the two groups.<sup>579</sup>

The sustained argument of *Jewish-Christian Religious Conversation* was that the opposition “Jewish law” vs. “Christian faith,” as traditionally posed by both Jews and Christians, created a false and insuperable dichotomy.<sup>580</sup> Schoeps called it a “misconception of monstrous proportions,” beginning with the first Jewish apostle to the Gentiles, Paul. According to Paul’s writings in the Christian Bible, he argued, Mosaic Law was designed by God in such a way that unswerving adherence to it led inevitably to sinful behavior—especially in economic life—thereby demonstrating that faith in the “*spirit* of the law,” namely love and brotherhood, was not only superior to the letter but rendered the letter obsolete.”<sup>581</sup> According to Schoeps, Paul had grossly misrepresented Judaism as consisting solely in the literal observance of Mosaic Law, opening it up to the charges of worldliness, legalism, rationalism, and materialism – all the charges that Weimar-era Christian leaders had brought against “the Judaic spirit.” Following Rosenzweig and Baeck, Schoeps insisted that the true Judaic spirit consisted not in adherence to law *per se* but in one’s fearful obedience to the commandments given on

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*dina* was extreme, translating it as “state law is God’s law” (*Staatsgesetz ist Gottesgesetz*) and concluding that “we stand unconditionally loyal to every authority.” Schoeps meant to parallel the discourse of Lutheran socialists such as Friedrich Gogarten; however, Gogarten used the formula “the *people’s* law is God’s law” (*Volksgesetz ist Gottesgesetz*), in a formulation of “people” that excluded Jews. See Gogarten, *Ist Volksgesetz Gottesgesetz? Ein Auseinandersetzung mit meinen Kritikern* (Hamburg: Hanseatische Verlag, 1934), and Mosse, *Germans and Jews*, 108. For more analysis see Christoph Schmidt, “Verwechslungen: Hans-Joachim Schoeps,” in *Populäre Konstruktionen von Erinnerung im deutschen Judentum und nach der Emigration*, eds. Yotam Hotam and Joachim Jacob (Göttingen: Vandenhoeck & Ruprecht, 2004), 153-70.

<sup>578</sup> Quoted in Carl Rheins, “Deutscher Vortrupp, Gefolgschaft deutscher Juden 1933-1935,” *Leo Baeck Institute Year Book* 26 (1981), 208.

<sup>579</sup> The work was funded largely through the support of the president of the official representative body of Germany Jews in Nazi Germany, Leo Baeck.

<sup>580</sup> Schoeps, *Jüdisch-christliches Religionsgespräch in 19 Jahrhunderten. Geschichte einer theologischen Auseinandersetzung* (Berlin: Vortrupp, 1937), 5.

<sup>581</sup> *Ibid.*, 44, 49.

Sinai.<sup>582</sup> Before Christians could recognize Jews as non-enemies, he wrote, they must understand what they held in common: blind faith in the truth of the Ten Commandments, which *preceded* the giving of the Torah and Mosaic Law.

Furthermore, the misunderstanding was not one-sided; Jewish rationalists were also to blame for the misunderstanding that hindered Jewish-Christian conversation, he argued. German Jewish theologians since Mendelssohn had nobly defended Judaism against Christian attacks by presenting Mosaic Law as “completely identical with reason” and philosophy, but in the process they had “omitted the very *heart* of Judaism” and had necessitated a stance of superiority toward Christianity’s “irrationality or preirrationality.”<sup>583</sup> If Jews desired “genuine *recognition*” from Christians, he wrote, they must be prepared to grant the same to Christianity. Therein lay the significance of Franz Rosenzweig, who, in an act of “inexhaustible importance” according to Schoeps, had recognized “what no Jew before him ever admitted of his own free will”: that the two faith communities constituted together the “*one* truth, although the modes of participation in the truth differ.”<sup>584</sup>

The triumph of secular over religious authority in the Occidental world should enable—for the first time, Schoeps hoped—Jewish-Christian cooperation in protest against the state. The Nazi persecutions of Christians,

must dissolve obstructions which have so long stood between them, namely, Christian power and Jewish impotence. Today the Church must experience in its body what for two thousand years the Jews have called *galut* [exile] [...]. Today a reality is becoming clearer, a reality which no longer can be preached away: we can see in all seriousness the meaning and consequences of a duty to stand *against* the world. The number of temptations to conclude a compromise has become as great as the number of false paths. But perhaps Israel and the Church have never been nearer to the reality of their purpose than they are today [...].<sup>585</sup>

The argument marked a radical shift in Schoeps’s own thought, paralleling developments in Lutheranism. After a century and a half of defending their loyalty to the Christian state, German Jews even as patriotic as Schoeps now recognized that the Nazi era represented a transition into a “post-Christian” age where the churches no longer had authority over state affairs. And like the majority of German Jews who had become stateless in 1935, Schoeps had turned from a dogmatic anti-Zionist into a reluctant supporter of a Jewish homeland.

Exiled and foreign German-speaking Christian thinkers read Schoeps’s arguments carefully. Though they continued to deny the truth of Judaism, many Christian

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<sup>582</sup> Ibid., 48-49.

<sup>583</sup> Ibid, 96-97, italics in the original.

<sup>584</sup> Ibid., 5, 141-42, italics in the original.

<sup>585</sup> Here I use Schoeps, *The Jewish-Christian Argument*, trans. David Green (New York: Holt, Rinehart and Winston, 1963), 169-70.

theologians began to grant the possibility that Jews could stand with them in temporary alliance against the Nazi state as persecution in Germany intensified. Once again, Karl Barth provided the leadership for the orthodox Lutheran position. “It was first of all fair and just to give even the political experiment of National Socialism as such its time and chance,” he wrote in a famous statement of 1939, but now that the Church knew the Nazis’ true “aim” and could issue her resounding “No,” “she has no more to fear any *neighbors* than to fear any foes—even were those neighbors the most frightful Liberals, Jews and Marxists!”<sup>586</sup> In the last pre-war installment of his monumental *Church Dogmatics*, he cited Schoeps and Buber as “instructive to listen to, both in what they say as earnest Jews and what they cannot say as unconverted Jews.”<sup>587</sup> Barth suggested that one “listens to” and protects one’s neighbors, even when “irritating,” whereas one flatly refuses negotiations with and instead fights against one’s enemies.<sup>588</sup>

Barth’s portrayal of the greater common enemy reveals the theological justification for shifting Christianity’s relationship to the Jews from one of enmity to reluctant alliance. “It is impossible to understand National Socialism,” he declared,

unless we see it in fact as a *new Islam*, its myth as a new Allah, and Hitler as this new Allah’s Prophet. National Socialism is a proper *Church*, a very secular one, but one which from its whole inventory should be recognized as such; a Church of which the real and ardent affirmation is only possible [...] in the form of faith, of mysticism, and of fanaticism.<sup>589</sup>

Such an analogy depended on a definition of Islam as a “political,” coercive, and ultimately non-European religion.<sup>590</sup> No matter how irritating or “mysterious” the

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<sup>586</sup> Barth, *The Church and the Political Problem of Our Day* (New York: Charles Scribner’s Sons, 1939), 20, 35.

<sup>587</sup> Idem, *Church Dogmatics* 1/2 (1938), quoted in Mark Lindsay, *Barth, Israel, and Jesus: Karl Barth’s Theology of Israel* (Burlington, VT: Ashgate, 2007), 71. Barth references in particular Schoeps’s *Jüdischer Glaube in dieser Zeit* and *Jüdisch-christliche Religionsgespräch* along with Buber’s *Königtum Gottes* (1932).

<sup>588</sup> Schoeps wrote to Barth on April 26, 1939, and Barth gave the letter to his assistant Edgar Alexander Emmerich to respond on his behalf. Emmerich informed Schoeps that Barth could not take part in Schoeps’s planned book series because the “‘rapprochement’ [Annäherung] between Jews and Christians” was “highly problematic.” The idea propagated by Schoeps and Buber that “for Jews the path is Moses, for Gentiles Jesus” is essentially the liberal argument of Lessing’s *Nathan*, Emmerich argued; to give up the Christian mission to the Jews is to “submit” to liberalism and indifferentism. Nevertheless he was encouraging: “You know [...] that your work has always interested me, and I truly hope that you are able to find a way of framing the question that enables a real conversation.” Emmerich to Schoeps, March 11, 1939.

<sup>589</sup> Barth, *The Church and the Political Problem of Our Day*, 37-38, 43.

<sup>590</sup> David Ford, *The Modern Theologians: An Introduction to Christian Theology since 1918* (Malden, MA: Blackwell, 2005), 43. See also Emmerich, who compared Nazism to “Mohammedism” in terms of its “organizational forms”—its purported reliance on “the sword” as a means of propagating its ideology—in his work under the name Edgar Alexander, *Der Mythos Hitler* (Zürich: Europa, 1937).

persisting problem of the Jew, the liberal, and the Marxist in the heart of European Christendom, Barth suggested, it could not be solved by a group of what he called “fanatics” marauding into Europe claiming to supersede both Judaism *and* Christianity by force.<sup>591</sup> Like capitalism, the “question of the Jew” and of liberalism was at heart *only* a “question of the Christian,” to be answered only through mission and “fulfilled” through *true* socialism.

Finally forced out of Germany in December 1938 with his life under threat, Schoeps spent his exile in Sweden compiling evidence of moments in history when the borders between Judaism and Christianity had blurred and alliances had formed.<sup>592</sup> Sweden being the capital of ecumenism in Europe and the only Lutheran country not occupied by Nazis after war broke out in 1939, Schoeps became one of the few Jewish thinkers left on the continent still able to promote Jewish-Christian dialogue. In 1941, he secured a post at the German-language-instruction University of Uppsala through Anton Fridrichsen, a leader of Sweden’s Christian youth movement.<sup>593</sup> Safe but unable to travel for seven and a half years in Swedish exile, Schoeps composed thirteen and a half kilograms’ worth of manuscripts, enough material for seven books.<sup>594</sup>

The two short texts Schoeps published during the war suggested the historical basis of German Christian-Jewish cooperation that he foresaw for the post-Nazi period. Schoeps argued in his *Destruction of the Temple in the Year 70* (1942) and *The Murder of the Jewish Prophets* (1943) that Judaism and Christianity shared not only a contemporary situation of “exile,” but also a common birth and a common fight against Rome. It was not the persuasiveness of the apostle Paul that was responsible for the development of Christianity, he argued, but rather the “apocalyptic events” of the Roman destruction of the Second Temple in Jerusalem that provoked Jews to question the meaning of their own chosenness. Those who held fast to Jewish national identity “overcame the pogroms” by replacing their state with the study-house, entering into “exile” from worldly sovereignty, while those who insisted on the sovereignty of Jesus were refused recognition and later persecuted by the “political religion” of the Roman Empire. Born of common exile and resistance to a hostile state, Schoeps argued, Jews and Christians only became enemies

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<sup>591</sup> Barth, *The Church and the Political Problem of Our Day*, 20, 25. See also Hermann Steinhausen, *Die Judenfrage – eine Christenfrage* (Luzern: Vita Nova, 1939).

<sup>592</sup> Sweden had not been his first choice. In 1936 and 1937, he had been writing to Conrad Hoffmann, secretary of the Committee on the Christian Approach to the Jew in New York, to help find him a job at a theological union in the U.S. See Ordner 94, Schoeps Papers. Hoffmann wanted to arrange a visit bringing together Schoeps, Buber, and Baeck with Karl Barth and Karl Ludwig Schmidt.

<sup>593</sup> Despite some Swedish theologians’ collaboration with the Nazi effort to de-Judaize Christianity See Anders Gerdmar, “Ein germanischer Jesus auf schwedischem Boden: Schwedisch-deutsche Forschungszusammenarbeit mit rassistischen Vorzeichen 1941-1945,” in *Walter Grundmann. Ein Neutestamentler im Dritten Reich*, ed. Roland Deines et al. (Leipzig: Evangelischer Verlagsanstalt, 2007), 319-48. Fridrichsen was the teacher of Krister Stehdahl (1921-2008), one of the leaders of Christian-Jewish cooperation in the United States and Sweden.

<sup>594</sup> Schoeps, *Die letzten dreißig Jahre. Rückblike* (Stuttgart: Ernst Klett, 1956), 117.

when Roman emperors made Christianity the imperial faith. For Schoeps, now that the European state had begun again to attack Jews and Christians, the destruction of European Jewry called for a renewal of the Jewish-Christian friendship.<sup>595</sup>

The lack of such friendship during the systematic murder of European Jewry had immediate and concrete implications for Schoeps and his family. Despite his pleas to a contact in the German bureaucracy to intervene on behalf of his parents, Schoeps's father was deported to Theresienstadt, where he died of natural causes in 1942, his mother to Auschwitz, where she was gassed in 1944.<sup>596</sup>

### *IIIb. Jacob Taubes and the Eternal Persistence of Christian Anti-Judaism*

The career of Jacob Taubes (1923-1987) illuminates the evolution of the other side of Jewish-Christian relations in the West, between the more self-consciously traditional elements in both religions: orthodox Judaism and Roman Catholicism. Unlike the Prussian metropolis from which Schoeps fled, the regional centers of German-speaking Central Europe such as Prague, Budapest, and Vienna—where Taubes was born—were home to a majority population of so-called “Eastern Jews” (shorthand for traditionally observant and Yiddish-speaking), and Catholic, rather than Protestant, Christians.<sup>597</sup> Born into a prestigious rabbinic family, Taubes grew up in Vienna and then moved to Zurich when his father became that city's chief rabbi in 1936.<sup>598</sup>

While Schoeps's formative political experience was the antisemitism of German Lutheranism, Taubes's was the failure of the Vatican to intervene in the Shoah before it was too late. The Lutheran Church leaders of the canton of Zurich were in the majority Nazi-sympathizers, but more had been expected from Rome.<sup>599</sup> Though in 1937 the pope

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<sup>595</sup> Schoeps, *Die Tempelzerstörung des Jahres 70 in der jüdischen Religionsgeschichte* (Uppsala: Seminarium Neotestamenticum, 1942), 2-3, 28. See also his anonymously published “Der Nationalsozialismus als verkappte Religion,” *Eletto* 93 (1939), 93-98. In this he was one of the first Jewish interpreters of Nazism as “political religion,” following Christian thinkers. See Wolfram Ender, *Konservative und rechtsliberale Deuter des Nationalsozialismus, 1930-1945: eine historisch-politische Kritik* (Frankfurt am Main: Lang, 1984), 138-205, and on the concept in general David Roberts, “‘Political Religion’ and the Totalitarian Departures of Inter-war Europe: On the Uses and Disadvantages of an Analytical Category,” *Contemporary European History* 18, no. 4 (2009), 381-414.

<sup>596</sup> On Schoeps's attempts from Sweden to save his parents in 1942, see Astrid Mehmel, “Ich richte nun an Sie die große Bitte, eine zweckdienliche Eingabe in dieser Sache zu machen...,” *Zeitschrift für Religions- und Geistesgeschichte* 52, no. 1 (2000), 38-46.

<sup>597</sup> Harriet Pass Freidenreich, “Orthodoxy and the Kultusgemeinde in interwar Vienna,” in *A Social & Economic History of Central European Jewry*, eds. Yehuda Don and Victor Karady (New Brunswick, NJ: Transaction, 1990), 193-94.

<sup>598</sup> His father, Chaim Zvi Taubes (1900-1966) fled the Ukraine after the Russian Revolution to train as a rabbi in Vienna, and by the mid-1930s was predicted to become the city's next chief rabbi. See Peter Landesmann, *Rabbiner aus Wien: ihre Ausbildung, ihre religiösen und nationalen Konflikte* (Vienna: Böhlau, 1997), 102-103.

<sup>599</sup> See René König, *Autobiographische Schriften* (Opladen: Leske + Budrich, 1999), 153.

expressed “burning concern” over developments in Germany, Catholic leaders remained largely silent even after the extermination camps had become public knowledge. The teenage Taubes was perhaps more cognizant of these non-developments than any other Jew in Europe. His father, head of the Swiss Rabbis’ Committee and a religious socialist Zionist who since 1942 had led the campaign to urge Christian action on behalf of European Jewry, failed to win over the Vatican even with the help of Barth and a large network of other religious leaders.<sup>600</sup> As most of his relatives in Poland were deported and massacred from 1941 to 1946, Taubes accompanied his father to these mostly ineffective goodwill meetings while completing his rabbinic ordination and doctoral degree in safety just kilometers from the German border.

Through his university studies Taubes came to believe that the institutional non-action he witnessed was not accidental but rather had deep underpinnings in Christian theology, namely in the fundamental belief that Jews would suffer until their recognition of Jesus as the Messiah. He learned Catholic thought in Basel from one of the Church’s greatest ecumenical theologians, the Jesuit priest Hans Urs von Balthasar (1905-1988), who wrote in 1943 that the Nazi persecution was ultimate proof that God had broken His original covenant with Jews when they refused to recognize, indeed were implicated in the death of, Jesus and became, in the words of Paul, “enemies of the Gospel.”<sup>601</sup> Even the Christian theologians most critical of Nazism (such as Barth), Taubes learned, assumed a historical theodicy that presented Jewish suffering as divine punishment on the path toward mankind’s ultimate salvation.<sup>602</sup> Institutionally, this was reflected in the persistence of the Christian missions to the Jews in both Lutheran and Catholic circles.<sup>603</sup> Jacques Maritain, the French ambassador to the Vatican and possibly Europe’s fiercest anti-racist Catholic, wrote in the midst of the Nuremberg Trials in 1946 to the future Pope

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<sup>600</sup> See the references in David Kranzler, *The Man Who Stopped the Trains to Auschwitz: George Mantello, El Salvador, and Switzerland’s Finest Hour* (Syracuse: Syracuse University Press, 2000), esp. 116, and Leni Yahil et al., *The Holocaust: The Fate of European Jewry, 1932-1945* (New York: Oxford University Press, 1991), 640, and Jacques Picard, *Die Schweiz und die Juden* (Chronos, 1994), 84.

<sup>601</sup> Balthasar, “Mysterium Judaicum,” *Schweizerische Rundschau* 43 (1943/44), 211-221. David Ratmoko speculates plausibly in the introduction to the English translation of *Abendländische Eschatologie* that Taubes was inspired to write a Jewish response to the anti-Judaic *Eschatologie der deutschen Seele*, 3 vols. (1933-1939), in which Balthasar argued that the “soul” of a people is contained in how they imagine their end.

<sup>602</sup> See Thieme, *Kirche und Synagoge* (Olten: Walter, 1945). In a groundbreaking study on the development of Catholic theology on the Jewish question leading up to Vatican II, John Connelly points out that “a schizophrenic but pervasive belief continued into the postwar years: that anti-Semitism was a great sin and evil, and that it was sent by God.” Connelly, unpublished manuscript, 366, italics in the original.

<sup>603</sup> In October 1945 the leaders of the reconstituted *Evangelisch-Lutherische Zentralverein für Mission unter Israel* pledged their support for a future a mission to the Jews. See Robert Brunner, “Judenmission nach dem zweiten Weltkrieg?” *Judaica* 1, nos. 1-4 (1945), 29-318. The publishers of *Judaica*, the Verein der Freunde Israels, Schweizer Judenmission zu Basel, described their mission statement through 1947 as twofold: “among Christians, to show the way of God with Israel from out of the Word of the Bible, and among Jews to preach the Gospel of Jesus Christ.”

Paul VI of his hope that the enormity of Jewish suffering during the war would finally dispose Jews to convert to Christianity.<sup>604</sup>

Taubes's response to these Christian teachings was his book *Occidental Eschatology* (1947), an abridged version of his doctoral dissertation. The work was the first sustained and self-consciously Jewish indictment of the development of Christian Europe from antiquity to modernity. Armed with knowledge of the history of both rabbinic and ecclesial law, Taubes set out to explain how an originally Jewish concept of messianism had shaped early Christianity, how it had been transformed into a weapon against the Jews, and how it might be salvaged for the future in light of the catastrophe. For someone in his early twenties, this was an ambitious project; however, the writer Margarete Susman expressed the impressions of many when she described Taubes as a "strictly orthodox, deeply faithful, certainly inspired Jew who, with his great intelligence, nearly had the power to bring much older people over to his convictions" despite being "almost still a child."<sup>605</sup> Building on the work of the best Jewish and Christian thinkers in the Weimar and Nazi periods, Taubes produced a sweeping narrative that would soon earn him influential posts at the world's best universities as well as the jealousy of older colleagues whose life's work never received the amount of public attention that Taubes stimulated with fewer than 200 pages.<sup>606</sup>

One of the reasons for the buzz around *Occidental Eschatology* was its embrace of what had long been the heart of Catholic anti-Judaism: the charges of revolutionism and secularism.<sup>607</sup> Instead of arguing (as Schoeps and Buber did) for the conservative nature of Jewish faith that could ally with Christianity against "political religions," Taubes acknowledged the historical and persistent enmity in the Christian-Jewish relationship. The "soul" of Jewish peoplehood contained in the Hebrew Bible was the expectation of the messianic age, he argued, which was defined by the prophets as the abrogation of existing law and the breakdown of all barriers between humans. That "spirit" of looking forward past the present entered any group steeped in the literature of the Old Testament:

At the time of the ghettos, when the Jews were cut off from the spiritual life of Europe, the Old Testament was the foundation for all [Christian] religious, revolutionary

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<sup>604</sup> Maritain to Montini, July 12, 1946, cited in Phayer, *The Catholic Church and the Holocaust, 1930-1965* (Bloomington: University of Indiana Press, 2000), 186.

<sup>605</sup> Susman, *Ich habe viele Leben gelebt. Erinnerungen* (Stuttgart: Deutsche Verlags-Anstalt, 1964), 173.

<sup>606</sup> Hans Jonas, complaining that Taubes essentially plagiarized him and Karl Löwith in *Abendländische Eschatologie*, jealously described Taubes's career as "one of the real miracles of the academic world." Jonas, *Memoirs*, ed. Christian Wiese, trans. Krishna Winston (Lebanon, NH: Brandeis University Press, 2008), 168.

<sup>607</sup> On this charge in Catholic Europe, see Paul Hanebrink, "Transnational Culture War: Christianity, Nation, and the Judeo-Bolshevik Myth in Hungary, 1890-1920," *Journal of Modern History* 80, no. 1 (2008), 55-80.

movements [considered heretical by the Catholic Church] [...]. Since emancipation, the part played by the Jews in the revolutionary movement has been decisive.<sup>608</sup>

Recent Catholic and Lutheran theologians had been correct, Taubes suggested, to detect something essentially “Judaic” and “messianic” in the most revolutionary challenge to the modern age—Marx’s *Communist Manifesto*, which called for an end to the rule of bourgeois law—and to regard its political hope of achieving “complete [human] equality in the medium of *secularity*” as inimical to the Church’s concept of eternity.<sup>609</sup>

Having establishing Israel as “the place of revolution,” Taubes went on to interpret what happened in European history that allowed the leaders of the Christian Church to appropriate Judaic messianism and use it against the Jews. The problem, he argued—again, contrary to Schoeps—did not begin with the apostles Paul or even John, who in their anti-legalism had interpreted the nature of Jewish life absolutely correctly.<sup>610</sup> Paul and John remained true to their forefathers to posit the observance of Mosaic Law as the essence of Jewish teaching and the abrogation of that Law as justifiable *only* with faith that the messianic age was near at hand. According to Taubes, the crucial development instead took place between the second and fifth centuries, when messianic prophesies of a “second coming” (*parousia*) failed to occur, prompting “attempts to understand this nonoccurrence in terms of a Christian design.”<sup>611</sup> It was only in this environment of doubt, he argued, that Christian leaders developed an anti-Judaic theology: because the Messiah had come without a messianic age on earth, the traditional teaching of His reign for a thousand years on earth (chiliasm) must be a “false Jewish doctrine,” a “doctrine of the flesh,” and codified as heretical by the legal councils of the early Church.<sup>612</sup> When Christianity became the official religion of the Roman empire, to prophesy the imminent reign of God on earth became not only heresy but also treason, for the the abrogation of law would mean disobedience to the state. Thus, Taubes concluded, prayers “for the *end to be delayed*” formed the anti-Judaic heart of what became “the Christian Europe of the Western Holy Roman Empire.”<sup>613</sup>

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<sup>608</sup> Taubes, *Occidental Eschatology*, trans. David Ratmoko (Palo Alto, CA: Stanford University Press, 2010), 19. I have altered the translation slightly here based on the original.

<sup>609</sup> *Ibid.*, 173, italics in the original.

<sup>610</sup> Taubes noted that especially the Revelation to John was eminently Judaic and was recognized as such by the early Church fathers, Luther, and the best of the modern biblical scholars. *Ibid.*, 69-70. It was not included in early canons and remained controversial, indeed excluded from the canon of the Syrian Church. *Ibid.*, 75-76.

<sup>611</sup> *Ibid.*, 65-66, 72.

<sup>612</sup> *Ibid.*, 75-76. His focus here is on the crucial influence of Origen (c. 185-254).

<sup>613</sup> *Ibid.*, 73. Italics in the original. For Taubes the importance of Augustine’s *Civitas Dei*, which formed the ideological “foundation of the medieval state,” was to “reverse” the chiliasm of John: the thousand-year reign would not be the implementation of communism for all humanity but the authority of the Church as representative of the kingdom of heaven on earth. See *ibid.*, 77-80.

Taubes's narrative explained Christian collaboration in the growth of contemporary antisemitism as a reaction against the return of chiliastic (i.e., "Judaic") thinking in the modern age. In a furious swoop of theological genealogy, Taubes traced a direct line from the rebirth of prophesy in the twelfth century—when the Italian monk Joachim of Flora called for a "third empire" (in German *dritte Reich*), a prophesied "millennium of revolution" characterized by the immanence of the Holy Spirit on earth and the reign of Christian freedom and peace to replace the authority of the Church (82)—to the German Enlightenment. In the eighteenth century, he argued, Gotthold Ephraim Lessing translated Joachim's prophesy into a philosophy of rational progress. Lessing's chiliastic theory of God's "education of mankind,"

transformed Christianity into educational idealism. [...] The Old and New Testaments are [for him] the primers of mankind. "But each primer is only intended for a specific age and it is damaging for a child who has outgrown it to spend any more time on it." Just as we no longer need the Old Testament to teach us about the unity of God, so it is time to dispense with the New Testament [...].<sup>614</sup>

In the development of German educational idealism from Kant's self-consciously "prophetic" call for "perpetual peace" to Hegel's announcement of its arrival in the Prussian rule of bourgeois law, Taubes saw Karl Marx as the rightful heir to Paul and John in his call for the abrogation of that law. German Christians had been right, Taubes suggested, to see in the revolutionary messianist Marx something essentially Judaic and threatening. But their subsequent call for a conservative counter-revolution to wipe out the "Judaic spirit" and re-institutionalize Christian authority over the Occident had pushed Europe further into darkness.<sup>615</sup>

Taubes wrote primarily for a group of Christians who in the immediate postwar environment hoped the alliances formed to fight Nazism would result in a new era of Marxist humanism.<sup>616</sup> In the Germany of 1945 to 1947 this still seemed possible. Gathering around a popular journal named *The Call*, a cadre of religiously inspired German Marxist leaders returning from exile and prisoner-of-war camps proclaimed a "spiritual rebirth and an absolute and radical new beginning" to lead the first truly democratic social revolution in Europe, based on the spontaneously formed "anti-fascist

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<sup>614</sup> Ibid., 135. For an argument against Taubes's interpretation, see Leo Strauss's response to Eric Voegelin, October 12, 1950, in *Faith and Philosophy: The Correspondence between Leo Strauss and Eric Voegelin, 1934-1964* (Columbia: University of Missouri Press, 1993), 74-75.

<sup>615</sup> Voegelin, who had a lively correspondence with Taubes, would call this process the "immanentization of the eschaton" in his *New Science of Politics* (1952).

<sup>616</sup> Proof that Taubes sought a Christian audience for his first book is that he did not—like his father in 1946—publish with a Jewish press but with Rösch and Vogt, through the help of his doctoral adviser the exiled sociologist Rene König (1906-1992), who was nominally Christian but critical of the Vatican and a Marxist humanist. Raised confessionless, König described his position toward religion as pantheistic and was especially interested in Jewish concepts of the unity of worldly and spiritual community, making him one of the few possible Christian champions of Taubes in Switzerland. See König, *Autobiographische Schriften*, 153, 399-400.

committees” all over post-Hitler Germany.<sup>617</sup> The war, they argued, marked the apocalyptic end of the Christian era, ushering in a young generation that in Taubes’s words “regards itself primarily as the no-longer of the past” and “the not-yet of what is to come.”<sup>618</sup>

Instead, the pressures of the emerging Cold War in mid-1947 tore apart the fragile alliance of religious socialists and Marxists. Occupation officials in the American zone began to block the influence of both Christians and Jews suspected of Marxist leanings, stifle local attempts at economic socialization, and support the anti-communist elements within Christian leadership.<sup>619</sup> That same year, Soviet authorities began to force out Christians from political leadership in their zone.<sup>620</sup> *The Call* was banned in both Western and Eastern Germany.<sup>621</sup> Supported by the Western powers, German Catholic clerical leadership used its new prominence to continue its pre-war attack on secularization, Marxism, revolution, and the untruth of Judaism, endorsing socially conservative measures through the recently created Christian Democratic Union/Christian Social Union and ostracizing members who cooperated with non-Christian political groups.<sup>622</sup>

One can only speculate whether Taubes would have stayed on the continent in 1947 had the Cold War not broken out. As it happened, he made plans to leave old Europe for the new world.

#### IV. Remigration and the “Christian-Jewish” Foundations of West German Society

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<sup>617</sup> Quoted in Moses, *German Intellectuals and the Nazi Past*, 41. The Soviet regime ordered communists in Bavaria to cease anti-clerical propaganda. See Patrick Major, *The Death of the KPD: Communism and Anti-Communism in West Germany, 1945-1956* (New York: Oxford University Press, 1997), 77. I do not mean to point to any active collaboration between Taubes and the editors of the journal but rather to similar approach: the idea of “the call” (*der Ruf*) dominates Taubes’s interpretation of Jewish apocalypticism in history; Israel became the “historical place of revolution” because of the emphasis in the Torah on hearing. Furthermore the founder of *Der Ruf*, Alfred Andersch, was self-consciously following in a “Judaic” revolutionary tradition. See his “Die Kirschen der Freiheit” (1952), *Sansibar oder der letzte Grund* (1957), and *Efraim* (1967).

<sup>618</sup> Taubes, *Occidental Eschatology*, 193.

<sup>619</sup> Wernhard Möschel, “Competition Policy from an ORDO Point of View,” in *German Neo-Liberals and the Social Market Economy*, eds. Alan Peacock and Hans Willgerodt (London: Macmillan, 1989), 145. On the exclusion of socialist emigrés in the American zone see James Tent, *Mission on the Rhine: Reeducation and Denazification in American-Occupied Germany* (Chicago: University of Chicago Press, 1982), 307-310.

<sup>620</sup> See Gary Bruce, *Resistance with the People: Repression and Resistance in Eastern Germany, 1945-1955* (New York: Rowman & Littlefield, 2003), 65-81.

<sup>621</sup> Arthur Lee Smith, *The War for the German Mind: Re-Educating Hitler’s Soldiers* (New York: Berghahn, 1996), 164-69.

<sup>622</sup> Patrick Major, *The Death of the KPD*, 175. A similar pattern occurred all over postwar Western Europe, where the Vatican enjoyed what Tony Judt called an “Indian summer of restored authority.” Judt, *Postwar: A History of Europe since 1945* (New York: Penguin, 2006), 227.

Any visitor to the postwar Europe Taubes left, especially Western Germany, would have observed the beginnings of one of the most unexpected and paradoxical developments in the continent's spiritual history. Over fifteen years of segregation, statelessness, organized murder, and displacement, the Jews of Europe had been nearly annihilated. On the continent as a whole their population had dropped from roughly ten million to less than four million, in Germany from roughly 500,000 to around 15,000.<sup>623</sup> It was in the face of these numbers that Christians began to reconsider their traditional relationship to Jews and Judaism.

Like the beginnings of rapprochement between Protestants and Catholics in the Weimar period, however, the postwar decision of Christians to “cooperate” with Jews in the Federal Republic was also prompted by the perceived threat of a greater political enemy, which in turn prompted the growth of dialogue toward a *theological* recognition. As opinion polls and popular discourse in the occupation period showed, the perceptions of Judaism as a “religion of the flesh” and of Jews as a nuisance in the Christian worldview persisted after 1945. Developments in Christian theology paralleled the peace that ordinary Christians made with other the other nuisances of Western society for which the Judaic spirit had become metaphor: in particular, liberal capitalism and the secularization of the state. The transition from enmity to amity was forged in the crucible of geopolitics.

Representatives of both Christianity and Judaism were necessary for Christian-Jewish cooperation in West Germany. When Christian leaders who had been anti-Nazi but still held explicitly anti-Judaic views decided to enter into dialogue, they found few partners both able and willing to join them. Leo Baeck and Martin Buber, the first to resume dialogue after the war, were seventy-five and seventy years old, respectively, in 1948. The vast majority of younger German Jewish leaders interested in relations with Christians had no desire to resume contact with their forsaken homeland, and those who did—such as Steven Schwarzschild (1924-1989), the only ordained rabbi in Berlin from 1948 to 1950—typically stayed only temporarily after finding that German Judaism no longer existed.<sup>624</sup> Therefore the Jewish thinkers who returned permanently after 1945 assumed in Christian society a public authority totally out of proportion with the social strength of the community they represented. They became the symbol-laden spokespeople for a Jewish tradition that had been stripped of its connection to

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<sup>623</sup> It should be noted that the estimates of Jewish population after the war in West Germany typically count only registered members of a Jewish community and do not include Christians of Jewish descent.

<sup>624</sup> It has been estimated that less than five percent of those unconverted German Jews who fled in the 1930s returned. Marita Krauss, *Heimkehr in ein fremdes Land: Geschichte der Remigration nach 1945* (München: Beck, 2001). Steven Schwarzschild, the only ordained rabbi in Berlin in 1948, felt that he could not be the leader of an exclusively liberal congregation but would rather have to unify a community of individuals who observed different degrees of religious practice given the amount of more orthodox Eastern European Jews. Steven Schwarzschild, “Quarterly Report,” Dec. 29, 1948, 1-3. I am indebted to Maimon Schwarzschild for making available to me his father's unpublished dispatches from Berlin to the World Union for Progressive Judaism, the organization that sponsored his activities there from 1948-1950.

Germanness, marking the beginning of “Christian-Jewish,” rather than “German-Jewish,” reconciliation.<sup>625</sup>

#### *Iva. Schoeps and the Birth of Christian-Jewish Cooperation in the Cold War*

The unlikely story of Hans Joachim Schoeps’s return from Swedish exile and his career in the early Federal Republic demonstrated the radical transvaluation of Christian-Jewish relations at mid-century.<sup>626</sup> “Despite all that has happened,” he wrote to Barth just months after war’s end, he had “no more yearning wish than to return to Germany” to fulfill the task he felt “as anti-Nazi and Jew” to “be of service to the education of German academic youth.”<sup>627</sup> In an unprecedented call to help a Jew obtain a lectureship in history of theology as an “act of making good again,” Barth arranged to contact all the German universities in the Western zones.<sup>628</sup> German Jews abroad praised—or at least marveled at—Schoeps’s dedication. Baeck wrote to Schoeps with great anticipation for the “abundance of tasks and plans” that lay ahead of him upon his impending return in November 1946, and even Gershom Scholem, who had just been in the country to spirit all the remaining vestiges of Jewish culture from Germany to Jerusalem, wished him success.<sup>629</sup>

Schoeps’s first year back in his homeland was marred however by the material hardship and political misunderstandings that characterized the immediate postwar period. He slept in a room at a Jewish nursing home in Frankfurt—the only place he could find with central heating during the frigid winter of early 1947—and relied on friends abroad to send him basic amenities like food and paper.<sup>630</sup> After a brief stint as preacher for the decimated community of liberal Jews in Frankfurt, Schoeps dedicated

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<sup>625</sup> A German-Jewish reconciliation was more difficult in large part because the very dichotomy of “Germans and Jews” represented the problematic that had enabled the persecution of Jews in the first place. See Gershom Scholem, “Against the Myth of the German-Jewish Dialogue,” in Scholem, *On Jews and Judaism in Crisis: Selected Essays*, ed. Werner Dannhauser (New York: Schocken, 1976), 61-92.

<sup>626</sup> Though he is often remembered (either famously or infamously) as one of the earliest and most enthusiastic returnees, his ideas are seldom treated at length. Gary Lease, “Hans-Joachim Schoeps settles in Germany after eight years of exile in Sweden,” in *Yale Companion to Jewish Writing and Thought in German Culture, 1096-1996*, eds. Sander Gilman and Jack Zipes (New Haven, CT: Yale University Press, 1997), 655-61.

<sup>627</sup> Schoeps to Barth, September 25, 1945, and April 8, 1946, reprinted in *Menora* (1991), 128-29. Until his death 1956, Baeck continued to support Schoeps.

<sup>628</sup> Barth seems not to have responded directly to Schoeps but rather to have contacted Etherbert Stauffer (1902-1982), one of the most influential Lutherans in Western Germany who had been involved in the Christian student movement and like Barth had envisioned cooperation between the Lutheran churches and Nazism at least until 1935. Stauffer, Rundbrief an deutsche Universitäten, May 17, 1946, in *ibid.*, 131.

<sup>629</sup> Baeck to Schoeps, November 15, 1946, and Scholem to Schoeps, March 24, 1947, NL 148, Ordner 97, Schoeps Papers.

<sup>630</sup> Schoeps to Heinz Frank, Dec. 1947, Ordner 108, Schoeps Papers.

himself to winning the region's non-Jewish socialist students away from Marxism and antisemitism—with little success.<sup>631</sup> His efforts to reconcile with disillusioned leaders of the old anti-Judaic “anti-secular front” were similarly disappointing, as they often seemed more interested in using a Jew's letter of reference to cleanse their name than to engage in the theological dialogue that Schoeps desired.<sup>632</sup> Occupation authorities falsely suspected him of having had Nazi sympathies.<sup>633</sup> In this political atmosphere, Schoeps was lucky to obtain a professorship at the University of Erlangen in the heart of Catholic Bavaria. “May the German youth in fact turn around [*umkehren*] from the evil path of their fathers and their own past,” the emigré theologian Schalom Ben-Chorin wrote upon hearing that Schoeps had become president of the student union at the country's most notoriously Nazified university. “I still truly lack faith in this gospel [*Botschaft*] for the time being.”<sup>634</sup>

The political preconditions for this gospel of “reversal” and “repentance” (*Umkehr*) on the Jewish question obtained only with the unanticipated political binding of the Western zones of Germany with the liberal democracies to fight against the expansion of communism. When Allied officials threw their full support to the liberal wing of the CDU led by the Catholics Konrad Adenauer and Ludwig Erhard, there was a historic shift away from the negative appraisal of the open market that in Weimar had dominated Christian political platforms and provided the pivot point of antisemitic discourse.<sup>635</sup> The reversal of alliances was evident in the convergence of the anti-anti-capitalist and anti-antisemitic discourses within the leadership of the CDU. It was not coincidental that precisely Franz Böhm (1895-1977), a Lutheran economist who in the late Weimar and early Nazi eras had preached the necessity of ordered competition to avoid monopolization in the cartels, became the leading voice for the advocacy of social market

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<sup>631</sup> Schoeps, “The Spiritual Overcoming of National Socialism,” manuscript for speech at the Jugendtagung Hessen, Ordner 97, Schoeps Papers. The editors of *Der Ruf* rejected his advances, see Erich Kuby to Schoeps, October 27, 1947, NL 148, Ordner 98. Frankfurt was majority Social Democratic.

<sup>632</sup> Hans Joachim Schoeps, letter of reference for Paul Collmer, February 19, 1947, Ordner 97, Schoeps Papers. In that same folder there are many other letters of recommendation for former conservatives Schoeps knew in the youth groups. In all of them Schoeps vouches as a “full Jew” (*Volljude*) who would not protect Nazis unnecessarily.

<sup>633</sup> German emigré Marxists in Sweden helped persuade American occupation officials to revoke Schoeps's publishing license in 1947. Schoeps to Hans Kallmann, March 23, 1947, Ordner 97, Schoeps Papers.

<sup>634</sup> Ben-Chorin to Schoeps, May 26, 1947, Ordner 97, Schoeps Papers. “Umkehren” can mean “turn back,” “turn away,” and also “repent.” Bavaria's minister of culture was both adamantly anti-Marxist *and* resistant to Americanization efforts, which perhaps made Schoeps attractive. For a description of the postwar Erlangen milieu see Jamey Fisher, *Disciplining Germany*, 59-61.

<sup>635</sup> Erhard designed the currency reform of 1948 and became the the Federal Republic from the country's founding in 1949 to 1963. Mark Spicka, *Selling the Economic Miracle: Economic Reconstruction and Politics in West Germany, 1949-1957* (New York: Berghahn, 2007), 53-54. German emigrés living in the U.S. contributed to this shift in policy. See Radkau, *Die deutsche Emigration in den USA*.

capitalism *and* Christian-Jewish reconciliation in the early Federal Republic.<sup>636</sup> With the support of American aid in 1948 and 1949, Societies of Christian-Jewish Cooperation composed of laymen and women had emerged in most of the major cities of Western Germany.<sup>637</sup>

The realignment of Christian social policy set the political stage for German theologians to reevaluate their position vis-à-vis the Jews in dialogue with Jewish thinkers. Well aware that institutional cooperation between Christians and Jews against communism and antisemitism would be unsustainable without scriptural underpinnings and the elimination of theological anti-Judaism, the lay leaders of the coordinating council appointed in 1949 an “adviser for religious affairs,” the returning emigré Karl Thieme, who had recently made his own “reversal.”<sup>638</sup> Explaining it, Thieme wrote that the year 1948 had inaugurated “a new phase of Christian-Jewish cooperation” in which “those countries in Europe west of the iron curtain” joined in a transnational Western movement away from internal enmity toward amity and openness in the free world.<sup>639</sup> The Federal Republic now stood at its vanguard, he argued, because “God’s forgiveness is always most glorious and abundant where the greatest and heaviest guilt is truly regretted.” Calling for a “cleansing” of scriptures for educational purposes, Thieme and other returning exile ecumenical Christian theologians led the effort for Judaism to be recognized as a “living religion,” opening the door to making Jews the one group exempt from mission.<sup>640</sup>

Schoeps and other anti-communist Jews in the West fell wholeheartedly into the arms of this new, and for many long anticipated, embrace. After 1949 Schoeps became the single most sought-after representative of Jewish theology in all the German cities and towns where local chapters of the Societies proliferated. He joined leading Christian scholars of all disciplines and confessions—almost all of whom had ventured alliances with Nazism in 1933—to discuss the theological preconditions for Christian-Jewish

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<sup>636</sup> As professor of commercial law and rector at the University of Frankfurt, Böhm was editor of the influential neo-liberal economic journal *ORDO*, the economic ministry’s scholarly adviser, and later the Adenauer regime’s official negotiator with the Jewish world on reparations and restitution. In 1959 he was proposed as potential president to replace Theodor Heuss. The copious literature on Böhm has failed to make the explicit connection between the two spheres of his work. See Traugott Roser, *Protestantismus und soziale Marktwirtschaft: eine Studie am Beispiel Franz Böhm* (Münster: LIT, 1998), 149-55.

<sup>637</sup> Josef Foschepoth, *Im Schatten der Vergangenheit. Die Anfänge der Gesellschaft für Christlich-Jüdische Zusammenarbeit* (Göttingen: Vandenhoeck & Ruprecht, 1993), 75-79.

<sup>638</sup> *Ibid.*, 125-26. In late 1947, he had still praised the work of Catholic mission to the Jews. See Thieme, “Katholiken und Juden. Die Stellungnahmen in der modernen katholischen Christenheit gegenüber der Judenfrage,” *Judaica* 3, no. 1 (1947), 41.

<sup>639</sup> See Erik Kuehnelt-Leddihn, *Christians and Jews Get Together* (National Conference of Christians and Jews, 1948), 1-8.

<sup>640</sup> Thieme, “Eine neue Phase christlich-jüdischer Zusammenarbeit,” *Judaica* 7, no. 3 (1951), 234-35. He pointed with pride to the fact that “in a certain sense for the first time ever,” a Jewish scholar of religion (in all likelihood Schoeps) had been scheduled to help train future Christian pastors.

understanding at widely publicized events proclaiming “Godlessness” the “enemy of Christians and Jews.”<sup>641</sup> As the recognized leader of theological dialogue in the place where the question burned hottest, Schoeps was invited by Jews interested in dialogue in all countries west of the “iron curtain” to spread his ideas.<sup>642</sup>

Whether intended for popular or scholarly consumption, Schoeps’s indefatigable publicity revolved around the theological idea of “two covenants,” which he neatly summarized at a conference on Christian-Jewish relations in 1949 and in an English-language article in *Commentary* titled “A Religious Bridge between Jew and Christian” (1950). Addressing Barth’s Weimar-era challenge to “Israel’s very right to existence,” Schoeps argued that the Christian must recognize “the truth of the Jewish knowledge of God”:

It is obvious that a great difficulty stands in the way of an affirmative response: the Christian church would have to abandon a belief which it has held throughout the centuries—its belief in the obduracy of the Jews. [...] For the church to revise this judgment, which would imply abandonment by the church of its mission among the Jews, seems more than justified by historical experience. The existence of Israel two thousand years after the birth of Jesus Christ, its undiminished consciousness of being the people of God’s covenant, argue that the old covenant has *not* been annulled.<sup>643</sup>

That would call, he emphasized, for a fundamental revision of the Apostle Paul’s “thesis of the annulled ‘old’ and fulfilled ‘new’ covenant” contained in Romans 9-11—the foundational text for the Christian stance on the Jews—which Schoeps called Paul’s “subjective judgement,” i.e., subject to rethinking.

But that was not all. Conversely, Jews must recognize that a new truth had been revealed with the birth of Christianity. “It cannot be a matter of indifference to Jews,” Schoeps wrote,

whether a man is a Christian or a non-Christian. With Franz Rosenzweig, I would even go so far as to declare that perhaps no Gentile can come to God the Father otherwise than through Jesus Christ. In thus recognizing that the revelation of the church of Jesus Christ has its sphere of validity, from which only Israel is excepted by virtue of its direct election by the Father, I do not

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<sup>641</sup> The Coordinating Council’s first conference in Munich, which included Rudolf Bultmann (Lutheran), Michael Schmaus (Catholic), and many others. See the papers of the conference included in the Council’s first major publication, *Welt ohne Hass. Führende Wissenschaftler aller Fakultäten nehmen Stellung zu brennenden deutschen Problemen* (Berlin: Christian Verlag, 1950). See the report “Gottlosigkeit. Feind der Christen und Juden,” *Die Abendzeitung* (May 30, 1949). His seminars with Erlangen students also stressed conservative resistance. See Ordner 107, Schoeps Papers.

<sup>642</sup> Irving Kristol wrote admiringly to Schoeps on April 7, 1949 to invite him to contribute to *Commentary*, “a full-sized montly magazine, published by the American Jewish Committee, and which, to my mind, compares favorably with the old *Der Morgen*... For my own part, may I say how much I have admired your writings?” Ordner 110, Schoeps Papers.

<sup>643</sup> Schoeps, “A Religious Bridge between Jew and Christian: Shall We Recognize Two Covenants?” *Commentary* 9 (1950), 129, 131. The essay was essentially an English version of Schoeps, “Probleme der christlich-jüdische Verständigung,” in *Welt ohne Hass*, 70-80.

believe that I offend against Jewish tradition. [...] we cannot recognize Yeshuah ha-Nozri as the Christ, i.e., as the Messiah for Israel. We are, however, prepared to recognize that, in some way which we do not understand, a Messianic significance for non-Jewish mankind is attached to this man.<sup>644</sup>

According to Schoeps, only with the mutual recognition of each other's—and *only* each other's—religious truth would the theological preconditions for true understanding between Christians and Jews be achieved. He advocated these views to liberal Jewish and Christian audiences with great success, for the first time in his life.<sup>645</sup>

The response to Schoeps's ideas among German-speaking Lutherans was more positive than perhaps anywhere else in Western Christianity.<sup>646</sup> Barth, still the *spiritus rector* of the Protestant churches in Germany, explained in a radio address in December 1949 that it could *only* be a sign of God's continuing covenant with the Jews that despite the "worst catastrophe" in their history of suffering they were "still here" and indeed "would be here more than ever before" with the foundation of the state of Israel in 1948. "Put very simply," he said, no matter how painful, the Christian must now admit that

the chosen is not the German, not the French, not the Swiss, but rather the Jew,  
and that in order to be chosen one must like or not be either a Jew or affiliate  
himself in utmost solidarity with the Jew.<sup>647</sup>

Though Barth insisted that the Church must stand "between East and West" in the world conflict, he no longer condemned the liberal order.<sup>648</sup> In fact, the Social Democratic Party

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<sup>644</sup> Ibid., 130.

<sup>645</sup> Schoeps was solicited to give prime-time radio address on topics such as "What is Talmud?" and in 1954 to write the entry for "Juden" in the *Brockhaus Enzyklopädie*. See Ordner 100, 102, Schoeps Papers. From the liberal Jewish side, Steven Schwarzschild wrote to tell Schoeps that his work was "in practice worth more than a hundred 'Coordinating Councils,'" referring to the Koordinierungsrat der Gesellschaften für Christlich-Jüdische Zusammenarbeit. Schwarzschild to Schoeps, November 29, 1949, Ordner 111, Schoeps Papers. See also the correspondence between Schoeps and Ludwig Ehrlich in Ordner 178, with Rabbi Leo Baerwald of New York in Ordner 102. Hermann Levin Goldschmidt of the Jewish Lehrhaus of Zurich was "deeply moved" by the life Schoeps has led. Goldschmidt to Schoeps, Sept. 26, 1956, Ordner 103, Schoeps Papers.

<sup>646</sup> The transition was perhaps most apparent among Lutherans, whose theology could adapt more readily given their lack of centralized church hierarchy and their openness to the dialectical flow of history. On this see Anthony Kauders, *Democratization and the Jews*, 252.

<sup>647</sup> Barth, "Die Judenfrage und ihr christliche Beantwortung," *Judaica* 6, no. 1 (1950), 68, 71. For more context on the importance of the founding of Israel for Lutherans, see Matthew Hockenos, *A Church Divided: German Protestants Confront the Nazi Past* (Bloomington: University of Indiana Press, 2004), 163.

<sup>648</sup> Barth, *Die Kirche zwischen Ost und West* (Zürich, 1949). Arnold Bergstraesser called the shift in Barth's thought as a transition from being an "anti-liberal destroyer" to a "modern dogmatist." Bergstraesser, "Trends of Thought in Contemporary Germany" (1951), 1, NL 1260/126, Bergstraesser Papers.

became the home of the majority of Lutherans in the early Federal Republic, part of a process that has become known as the “deradicalization of German conservatism.”<sup>649</sup>

On the Catholic side, leaders in West Germany stood at the theological vanguard of the Vatican’s rapprochement with Jews and Jewishness.<sup>650</sup> Thieme, perhaps the Church’s strongest advocate for a transvaluation in the 1950s, came to recognize the unchanging nature of God’s original love for the Jews in conversation with Schoeps’s interpretation of the Apostle Paul, which culminated in a book that Thieme claimed to have read every night for four weeks in 1959.<sup>651</sup> Even the formerly anti-Judaic theologian Romano Guardini, the most widely read Catholic author in West Germany, supported the efforts of Thieme and his collaborators toward changing the Vatican’s official position.<sup>652</sup> As in the Weimar period, the specific political situation of Germany placed its Catholic leadership at the vanguard of what became—in the words of one recent scholar—“the change in the Church as a whole” less than a decade later.<sup>653</sup>

Schoeps’s politics revealed the meaning of these new theological alliances. Though many scholars have regarded them as eccentric or unrealistic, Schoeps’s efforts to restore the Prussian monarchy were entirely consistent with the Christian-Jewish anti-communist consensus that accompanied the foundations of the early Federal Republic and the world west of the iron curtain in general. In the early ’50s, his was only one voice

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<sup>649</sup> Albrecht Langner, “Diskussionsbericht,” in *Katholizismus im politischen System der Bundesrepublik 1949-1963* (München: Ferdinand Schöningh, 1978), 128. For a more biographical approach to this process see Jerry Muller, *The Other God That Failed: Hans Freyer and the Deradicalization of German Conservatism* (Princeton, NJ: Princeton University Press, 1987).

<sup>650</sup> See Frank Stern, “Evangelische Kirche zwischen Antisemitismus und Philosemitismus,” *Geschichte und Gesellschaft* 18, no. 1 (1992), 44.

<sup>651</sup> Thieme regarded Schoeps’ work on Paul as indispensable, including his *Theology of Jewish Christianity* (1949), *From the Time of Early Christianity* (1950), *Ur-Community, Jewish Christians, and Gnosis* (1956), and finally *Paul: The Theology of the Apostle in Light of the History of Jewish Religion* (1959). In all those works Schoeps dealt with the sects of Jews who, in the first centuries A.D., regarded Jesus as the Messiah but did not see him as a son of God and maintained the importance of keeping many (but not all) aspects of Mosaic law. Schoeps regarded these liminal sects—who were proclaimed heretical in the third century by both the church fathers and by the rabbis—as the first Jews who called for an ethical revision of the law but *remained Jews*, paving the way for Rosenzweig and modern Judaism. See Schoeps, “How Live by Jewish Law Today? A Proposal for Those Who Have Fallen Away,” *Commentary* (January 1953), 38-45, and idem., “Franz Rosenzweig und das jüdische Gesetz,” *Deutsche Universitätszeitung* 11, nos. 17/18 (Sept. 20, 1956), 7-9. See their correspondence in Thieme’s literary estate. Thieme told Schoeps that he read *Paul* “almost daily for four weeks” and proclaimed it “the most successful attempt at a Jewish appraisal of the Apostle to the Gentiles.” Thieme to Schoeps, August 21, 1959, ED163, Bd. 73, Karl Thieme Papers, Archive of the Institut für Zeitgeschichte, Munich. Thieme’s posthumous edited volume of Rosenzweig’s writings, *Die Schrift. Aufsätze, Übertragungen und Briefe* (Frankfurt a.M.: Europäische Verlagsanstalt, 1964).

<sup>652</sup> Phayer, *The Catholic Church and the Holocaust, 1930-1965*, 199.

<sup>653</sup> The Vatican was still against dialogue in the early 1950s. See the papal encyclical *Humani Generis* (1950). Worrying that his group would be charged with indifferentism as well, Thieme made a trip to Rome in 1951. See Connelly ms., 8.

among many insisting that “Occidental” democracy (as he told the pretender to the Hohenzollern throne in 1951) “needs an authoritarian head [*Spitze*] as a stabilizing factor” to secure liberty.<sup>654</sup> Carl Schmitt, who had argued that point since the Weimar era but had lost credibility during the Nazi era, supported Schoeps’s public proclamations.<sup>655</sup> Many other West Germans agreed: Schoeps’s hagiographic histories of the old Prussian Kingdom became bestsellers, and prominent German politicians in the CDU and the right wing of the SPD took the push to reestablish a non-governing monarchic authority very seriously—at least before 1956, when the Federal Constitutional Court banned the Communist Party and proved itself the “authoritarian” protector of the Occidental “free democratic basic order.”<sup>656</sup>

The discursive continuity of authoritarianism from the late Weimar era to the early Federal Republic should not obscure the real change that had occurred: guardians of the “Occidental” order were no longer protecting a “Christian spirit” of socialism against a “Judaic spirit” of capitalism, materialism, and secularization, but rather a synthesis of *both*—a “Judeo-Christian heritage”—against a supercessionist “totalitarianism.”<sup>657</sup> In

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<sup>654</sup> He writes Louis Ferdinand, Aug. 14, 1951, Kasten 86, Schoeps Papers. On the milieu of the *Abendländische Aktion* and *Abendländische Akademie* that supported such ideas, see Helga Grebing, *Konservative gegen die Demokratie. Konservative Kritik an der Demokratie in der Bundesrepublik nach 1945* (Frankfurt am Main: Europäische Verlagsanstalt, 1971), 263-82. Erik Kuehnelt-Leddihn, the postwar European correspondent of the *National Review*, explained in 1952 that the crown symbolized freedom for Central Europeans because modern states “control the private lives of the ‘citizens’ to a far greater extent than the monarchs of the past would ever have dared to regulate the doings of their ‘subjects.’” Kuehnelt-Leddihn, *Liberty or Equality: The Challenge of Our Time*, ed. John Hughes (Caldwell, ID: Caxton, 1952), 280-81.

<sup>655</sup> Schmitt was surprised that Schoeps did not share the *de facto* ban on reading his works in the postwar period, and for his part admired Schoeps’s *Das Ehre Preussens*. After they met personally in September or October 1951—likely at one of Schoeps’s speeches in Berlin when he was advertising his book on Prussia and the possibility of restoring the monarchy—Schmitt described how much he liked Schoeps. Schmitt to Armin Mohler, August 25, 1951 and November 12, 1951, in *Carl Schmitt - Briefwechsel mit einem seiner Schüler* (Berlin: Akademie, 1995), 101, 109. See also Schmitt to Schoeps, Sept 13, 1951, Kasten 86, Schoeps Papers.

<sup>656</sup> Schoeps’s *Das andere Preussen* (Stuttgart: F. Vorwerk, 1952) and the booklet *Die Ehre Preussens* (Stuttgart: F. Vorwerk, 1951) went through many editions. At the time Schoeps was in personal contact with Paul Bromme, the SPD leader in Lübeck, regarding the possibility of endorsing monarchy to Kurt Schumacher. Schoeps to Louis Ferdinand, Aug. 14, 1951. Among Schoeps’s invitees to the major monarchism conference he held in 1953 in the town of Eltville, Jan. 3-4, 1953, were Ulrich Scheuner, Ernst Huber, Gerstenmaier, and Weimar-era chancellor Heinrich Brüning, who had also been considered for the Constitutional Court in 1951. In banning the Communist Party of Germany as “unconstitutional” (*Verfassungswidrig*), the Court contrasted its behavior with the “authoritarian principle” of arbitrarily excluding *any* opposition party; however, it drew on the ideas of “militant” or “authoritarian” democracy theorized by the émigrés Karl Loewenstein and Gerhard Leibholz. See Hans-Peter Schneider, *Die parlamentarische Opposition im Verfassungsrecht der Bundesrepublik Deutschland*, vol. 1 (Frankfurt am Main: Vittorio Klostermann, 1974), 211, and Jan-Werner Müller, *Constitutional Patriotism* (Princeton, NJ: Princeton University Press, 2007), 23.

<sup>657</sup> Again, this was a transatlantic movement: Peter Viereck (b. 1917), one of the intellectual founders of postwar conservative ideology in the U.S., reacted against the antisemitism of his German-American father

1957, a student of Schoeps's who would become a leading professor of political science in Freiburg proclaimed a "Christian-Jewish work ethic" for the Occident, based on a "theonomy" that balances individual and community rather than the "autonomy" of work in liberalism and Marxism.<sup>658</sup> Similarly, in a complete transvaluation of his Weimar-era views, F.W. Foerster argued in *The Jewish Question* (1959) that the Cold War could not be won through diplomacy but rather only through a Christian recognition of "the unified wisdom" of the Old and New Testaments.<sup>659</sup>

Schoeps paid a heavy private price for his decision to live and work in the Federal Republic, but his payoff was official laudation from secular and religious authorities. He received reams of hate mail when he wrote open letters decrying the amount of prejudice against Jews in West Germany.<sup>660</sup> At the same time, any public outburst of antisemitism was subject to immediate police crackdown and typically punctuated by declarations of Christian-Jewish solidarity.<sup>661</sup> The most vocal student protests of the early 1950s were against the reappearance of the antisemitic filmmaker Veit Harlan. The Adenauer regime promptly pursued the perpetrators of the antisemitic defacements of Christmas 1959/60. And at the "epoch-making" German Protestant Church Day of July 1961—a month before the construction of the Berlin Wall—he watched as more than 40,000 attendees watched as "a Jewish speaker was able, for the first time since Christianity's break with Judaism, to address a large, official gathering of Christians on an equal footing and in an atmosphere of freedom and respect."<sup>662</sup>

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to proclaim a "Judeo-Christian heritage" of the West. See Tom Reiss, "The First Conservative," *The New Yorker* (October 25, 2005), 28.

<sup>658</sup> Dieter Oberndörfer, "Das jüdisch-christliche Arbeitsethos und der Wandel der Einstellung zur Arbeit im 19. und 20. Jahrhundert," in *Lebendiger Geist. Hans-Joachim Schoeps zum 50. Geburtstag*, ed. Hellmut Diwald (Köln: Brill, 1959), 124. Oberndörfer directs the Arnold-Bergstraesser-Institut in Freiburg.

<sup>659</sup> Foerster, *Die jüdische Frage* (Freiburg: Herder, 1959), 35, 74-75, 138.

<sup>660</sup> See the many hate letters in response to his open letter to Theodor Heuss in 1951, Kasten 86, Schoeps Papers. One postcard from an "unemployed refugee" read, "You did not return to serve [*dienen*] the wretched of the fatherland but rather to make *money* off of them [*verdienen*] and blackmail them for hundreds of thousands, you parasite. You and the leaders of the 15,000 [Jews] provoke antisemitism." Anonymous to Schoeps, undated [1951]. On the open letter see also S. Andhil Fineburg, "An Observer's Report from inside Germany," August 1951, 4-5, Germany File, Foreign Affairs Department, American Jewish Committee Archives, New York.

<sup>661</sup> Theodor Heuss (1884-1963)—who in his very person symbolized the transition among liberal Lutherans from tentative alliance with the Nazis in 1932 to anti-antisemitism—ensured official support for the Societies for Christian-Jewish Cooperation and frequently granted audience to Schoeps. See Ulrich Baumgärtner, ed. *Reden nach Hitler: Theodor Heuss, die Auseinandersetzung mit dem Nationalsozialismus* (Deutsche Verlagsanstalt, 2001). Jan-Werner Müller's and others' description of such declarations as "stale philosemitism in the public sphere" do not, I suggest, do justice to their discursive function. Müller, *Another Country: German Intellectuals, Unification, and National Identity* (New Haven, CT: Yale University Press, 2000), 32.

<sup>662</sup> Dietrich Goldschmidt and Hans-Joachim Kraus, eds., *Der ungekündigte Bund. Neue Begegnung von Juden und christlichen Gemeinde* (Stuttgart: Kreuz, 1962), 10. Almost half the attendees came in from the

#### *IVb. Taubes and the Critique of the Western Christian-Jewish Consensus*

Hans Joachim Schoeps and Jacob Taubes have rightly been called “antipodes,” for they represented diametrically opposing ends of the postwar religious and political spectrum.<sup>663</sup> While Schoeps spent the Adenauer era building Cold War alliances with Christians upon the ruins of the destroyed temple of German Liberal Judaism, Taubes saw himself as a messenger from a collapsing ancient world of Pharisaic Jewry. “New York is the Rome of the Imperial Era,” he wrote to Martin Buber upon his arrival to that city from Europe in 1948, “newly opened up land—ripe for any seed. Paul would feel well here; certainly no one has sent an Epistle to the Romans to New York yet, but who knows [...]”<sup>664</sup> To Taubes, the intellectual capital of New Deal America seemed full of exciting opportunities for revolutionary politics beyond the choice between capitalism and Soviet communism.

On the contrary, however, the following years yielded a liberal-democratic consensus in the new world overlapping and complementing the one taking place in the old. In New York, Jewish leaders such as Louis Finkelstein—the chancellor of the Jewish Theological Seminary where Taubes spent his first year—had spent the war years arguing that Judaism was not a revolutionary force but rather a democratic “fighting faith,” whose adherents loyally defended liberal democratic principles against fascism and communism.<sup>665</sup> The American government officially recognized Jewish belonging in a liberal consensus in 1948 with a simple postage stamp; by 1952, war hero and Supreme Commander of NATO Dwight Eisenhower proclaimed to the Soviet general Georgy Zhukov that the American government was founded on a “Judeo-Christian concept.”<sup>666</sup>

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German Democratic Republic, as the event was forbidden by the East German regime. The Jewish speaker was Robert Raphael Geis (1906-1972), a returnee from Palestine and the chief rabbi of Baden. On Geis see Joachim Perels, “Prophetische Tradition nach der Shoah – Robert Raphael Geis,” in *Judentum und politische Existenz. Siebzehn Porträts deutsch-jüdischen Intellektuellen*, eds. Michael Buckmüller et al (Hannover: Offizin, 2000), 307-24.

<sup>663</sup> Richard Faber, “‘Theokratie von oben versus Theokratie von unten’. Die Antipoden Hans-Joachim Schoeps und Jacob Taubes,” in *Wider den Zeitgeist: Studien zum Leben und Werk von Hans-Joachim Schoeps (1909-1980)*, eds. Gideon Botsch et al (Hildesheim: Georg Olms, 2009), 63-92.

<sup>664</sup> Taubes to Buber, February 25, 1948, in *Martin Buber. Briefwechsel aus sieben Jahrzehnten*, ed. Grete Schaeder (Heidelberg: Schneider, 1972), 168-69.

<sup>665</sup> Louis Finkelstein, *The Religions of Democracy. Judaism, Catholicism, Protestantism in Creed and Life* (New York: Devin-Adair, 1941). For more context see of the publicity struggle see Michael Greenbaum, *Louis Finkelstein and the Conservative Movement: Conflict and Growth* (Binghamton, NY: Binghamton University Press, 2001), and Deborah Dash Moore, “Jewish GIs and the Creation of the Judeo-Christian Tradition,” *Religion and American Culture* 8, no 1 (1998), 31-53. On the stamp commemorating the Protestant, Catholic, and Jewish chaplains of a WWII ship, see Jon Meacham, *American Gospel: God, the Founding Fathers, and the Making of a Nation* (New York: Random House, 2007), 178.

<sup>666</sup> See Xuefeng Zhang et al., “One (Multicultural) Nation Under God? Changing Uses and Meanings of the Term ‘Judeo-Christian’ in the American Media,” *Journal of Media and Religion* 4, no. 4 (2005), 211. In 1953 Eisenhower became the first president ever to include a rabbi alongside Christians at his inauguration.

As in West Germany, the anti-communist alliance prompted an evolution among theologians, with the Protestant leader Reinhold Niebuhr (1892-1971) and the Jewish Will Herberg (1901-1977) joining hands in the early 1950s to embrace dual covenant theology.<sup>667</sup>

Taubes observed this rapprochement with extreme skepticism. An insatiable consumer of Christian and Jewish journals, he saw that the leaders of the two religious communities still refused to acknowledge the truth of each other's faith despite their common enemies. The number of Protestant church leaders actively involved in addressing anti-Judaism was small, the most sophisticated scholars of Christian theology refused to accept Schoeps's defense against the traditional attack against Jewish legalism, and mission to the Jews continued unabated.<sup>668</sup> During his intermittent stays from 1949 to 1952 at the Hebrew University of Jerusalem where he studied with the preeminent scholar of Judaism Gershom Scholem, he reflected on the fact that the Vatican neither recognized the State of Israel nor supported the German Societies for Christian-Jewish Cooperation.<sup>669</sup> Even those German Catholic leaders most interested in eradicating anti-Judaism from church doctrine, such as Thieme, believed that Jews were "moving toward Christ."<sup>670</sup>

Taubes's first intervention in Cold-War-era religious discourse was an article he published in *Commentary* entitled "The Issue Between Judaism and Christianity: Facing Up to the Unresolvable Difference" (1953). Since the rise of Hitler in 1933, he wrote, Western social and political leaders among both Jews and Christians had been "distorting" the natures of the two traditions into a seductive but false harmony.<sup>671</sup> First, the "dual covenant" idea invented by Rosenzweig (and preserved by Schoeps and

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<sup>667</sup> See K. Healan Gaston, "The Genesis of America's Judeo-Christian Moment: Secularism, Totalitarianism, and the Redefinition of Democracy" (Ph.D. Dissertation, U.C. Berkeley, 2008), which deals with the thought of Herberg, Niebuhr, and the Catholic John Courtney Murray. Dual covenant theology has been adopted by many American Christians as the scriptural foundation for their support of the State of Israel.

<sup>668</sup> See Hockenos, *A Church Divided*, 137 and Gerdmar, *Roots of Theological Anti-Semitism*, 385-401. On the missions, see Paul Aring, *Christliche Judenmission. Ihre Geschichte und Problematik dargestellt und untersucht am Beispiel des evangelischen Rheinlandes* (Düsseldorf: Neukirchener Verlag, 1980).

<sup>669</sup> Impressed with *Occidental Eschatology*, Scholem invited Taubes to Jerusalem but soon broke of the relationship for non-academic reasons. However, there were also substantive differences between the two thinkers – namely, in the way they understood the future of messianic politics. See Elettra Stimilli, ed., *Der Preis des Messianismus Briefe von Jacob Taubes an Gershom Scholem und andere Materialien* (Würzburg: Königshausen und Neumann, 2006).

<sup>670</sup> Connelly ms., 408.

<sup>671</sup> Taubes, "The Issue Between Judaism and Christianity," *Commentary* 16, no. 6 (December 1953), reprinted in *From Cult to Culture*, ed. Charlotte Fonrobert and Amir Engel (Stanford, CA: Stanford University Press, 2010), 45.

Herberg) could not be regarded as “*Jewish* theology,” which “has always regarded Jesus’ messianic claim and Paul’s theology as heretical”:

Who informed Mr. Schoeps and Mr. Herberg that the Gentile nations have no way but the Christian one to salvation? Israel can acknowledge *prophets* [...] But to posit an event that has messianic significance for the Gentiles yet does not touch Israel is absurd and “arranges” a rapprochement between Christians and Jews somewhat too neatly.<sup>672</sup>

The arrangement was also “too neat” from the Christian perspective, which since Paul had been—and always would be—the anticipation of Jewish abandonment of the law. Paul’s call for his own people, the Jews, to abandon the law and accept Jesus was not a “subjective” reading, Taubes argued against Schoeps, but on the contrary the objective life force of Christian doctrine.<sup>673</sup> To harmonize this dissonance was to forget history.

Taubes’s goal in recalling the basic antagonisms between Judaism and Christianity was not to make a metaphysical argument but to expose what he considered the “unresolvable” tension inherent in the newly victorious Judeo-Christian social order in the West. As Carl Schmitt had shown, the historical problem of the ancient Jewish theocracy in protecting itself against the internal Christian critique had been the same as faced by all peoples governed solely by law: they risk self-destruction without a loving sovereign capable of protecting them against internal enemies, which is why the early Catholic Church banned all prophetic and messianic thinking.<sup>674</sup> Modern thinkers recognizing the advantageousness of the Church’s (i.e., Schmitt’s) lessons, Taubes suggested, had embraced the idea that love for the chosen people of God—either Christians and Jews (in the West) or the proletariat (in the East)—superseded the dictates

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<sup>672</sup> Ibid., 55, 51, italics in the original. Herberg wrote in 1951 that the originality of Rosenzweig’s idea of a dual covenant had made “all future thinking on the subject [of Jewish-Christian relations] dependent on his work.” Herberg, “Rosenzweig’s ‘Judaism of Personal Existence’: A Third Way Between Orthodoxy and Modernism,” *Commentary* 10, no. 6 (December 1950), 541-49. Taubes also quoted the sentence from Schoeps’s *Commentary* article from 1950.

<sup>673</sup> See *ibid.*, 47-51. The most “glaring” weakness in Rosenzweig’s “highly doubtful reading” of Christian texts, Taubes argued, was its necessary dismissal of Islam as a later heresy, a caricature that could only survive in the West as long as “there was no group to take up the cudgels on its behalf [...]” *Ibid.*, 50. On Rosenzweig’s rejection of Islam, see Gil Anidjar, *The Jew, the Arab: A History of the Enemy* (Palo Alto, CA: Stanford University Press, 2003), 87-100, and Robert Gibbs, *Correlations in Rosenzweig and Levinas* (Princeton, NJ: Princeton University Press, 1994), 96, 113.

<sup>674</sup> Taubes wrote entirely in the vocabulary of Weimar- and Nazi-era political theology, in particular the definitions of the Judaic and Christian “spirits” used by Carl Schmitt, whom he believed had understood the political consequences of their difference better than any other political philosopher. Taubes considered Schmitt “(next to Heidegger) *the* spiritual power that towers head and shoulders above all the intellectual wish-wash.” Taubes to Armin Mohler, February 14, 1952, in Taubes, *Ad Carl Schmitt. Gegenstrebiges Fügung* (Berlin: Merve, 1987), 31. The feeling was mutual. Schmitt called Taubes’s letter to Mohler an “astounding, great document. I have shown it to some discriminating acquaintances; they were all deeply moved. An old, very cultivated and experienced journalist from the old monarch (Rudolf Fischer) told me after reading it: Bring the Jews back again!” Schmitt to Armin Mohler, April 14, 1952, in *Carl Schmitt—Briefwechsel mit einem seiner Schüler*, 119.

of legal justice when confronted with potential revolution. Thus by 1953, neo-conservatives could use the Ten Commandments to justify the “natural right” of property, while Stalinists could reduce the law to an instrument to protect the existing socialist state.<sup>675</sup>

In light of the consolidation of liberalism in the U.S. and Israel, Taubes seemed to shift his attention in the mid-1950s back to the voices of protest on the European continent. Though he was developing an impressive cohort of students as a visiting professor at Harvard, Princeton, and Columbia, he made his first inquiries regarding “conditions in Germany” in 1955. Recently divorced and at loose ends, he continued to scan for jobs there until he found a temporary opening in West Berlin in 1961.<sup>676</sup> Ironically, the only person with whom he could think to stay at first was Schoeps, one of his greatest rivals.<sup>677</sup> Taubes called Schoeps’s widely circulated *Journal for the History of Religion and Spirit* “the only readable organ” in the humanities there, but the two men could not have expressed more radically opposed views over the previous decade.<sup>678</sup> Schoeps’s positive reception in West Germany must have highlighted for Taubes both the diminutive size of Jewish intellectual life as well as its disproportionate influence.

Taubes’s subsequent entrance onto the political stage of the Federal Republic in the 1960s—carrying us slightly past the chronological endpoint of this study—marked the reanimation of the Marxist ideas that conservative Christians, Nazis, and conservative Jews alike had sought to stifle in Germany since before 1933. Taubes’s first five years in

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<sup>675</sup> Taubes, “The Issue Between Judaism and Christianity,” 58: On the “anonymous career” of the influence of Schmitt on Jewish thinkers, Taubes would cite the collaboration of Jewish emigrés at the New School for Social Research in conjunction with Louis Finkelstein at the Jewish Theological Seminary beginning in 1941, as well as the collaboration of Leo Strauss (whose hero was Rosenzweig) and Jacques Maritain on the Committee on Social Thought in Chicago. “Thus Carl Schmitt’s approach to a designation of a theology of counter-revolution was adopted as ideology of a new academic conservatism,” he wrote, “which the institution of Conservative Judaism [JTS] propagated through all America. These connections would be traced when a future spiritual history of the ideology of the United States in the early 1940s.” Taubes, “Carl Schmitt – Ein Apokalyptiker der Gegenrevolution,” in *Ad Carl Schmitt*, 17. Unfortunately, intellectual historians of neoconservatism have not yet picked up these traces. In Murray Friedman’s *The Neoconservative Revolution: Jewish Intellectuals and the Shaping of Public Policy* (Cambridge: Cambridge University Press, 2006), for example, Schmitt is not even mentioned. William Scheuerman is one of the few who has pointed to it. See his *Carl Schmitt: The End of Law* (Rowman & Littlefield, 1999), 108.

<sup>676</sup> See Eric Voegelin to Taubes, Dec. 30, 1955, in Voegelin, *Selected Correspondence 1950-1984* (University of Missouri Press, 2007), 266-67. Marshall Berman called Taubes his “beloved professor of religion” at Columbia. See Berman, *Adventures in Marxism* (New York: Verso, 2000), 6. For his influence at Harvard, see Carl Rollyson and Lisa Paddock, *Susan Sontag: The Making of an Icon* (New York: W.W. Norton, 2000), 57. Taubes also held an informal study group on Talmud, which included, along with Irving Kristol, Nathan Glazer, and Arthur Cohen. See Joseph Dorman, *Arguing the World: The New York Intellectuals in Their Own Words* (Chicago: University of Chicago Press, 2000), 108. Though Kristol would reject Taubes’s ideas (standing closer to Schoeps), Cohen would follow Taubes’s lead to publish *The Myth of the Judeo-Christian Tradition* (New York: Harper, 1969).

<sup>677</sup> Julius Schoeps, in conversation with the author, Potsdam, January 10, 2008.

<sup>678</sup> Taubes to Schoeps, Jan. 18, 1963, Ordner 106, Schoeps Papers.

West Germany witnessed even the Social Democrats' rejection of their party's Marxist past when they threw out the Socialist German Student Union (SDS) in 1961 and by 1966 could join a governing coalition with the CDU to support American military intervention in Vietnam.<sup>679</sup> With the old left's move toward Cold War politics, Taubes emerged as one of the two or three spiritual leaders of what became known as "the other alliance": the transatlantic network of student protesters in the U.S., France, and West Germany (i.e. Berkeley, Paris, and Berlin).<sup>680</sup> The height of the protests in May 1968 was what one author called the "hour of Jacob Taubes."<sup>681</sup> His lectures at the Free University became media events. "These students have made a total break with the value-system of the West," he told a left-leaning American Catholic journal.<sup>682</sup>

That the protesters of the mid- to late-60s particularly in West Germany would have been drawn to Marxist German-speaking Jews as their *rebbe*s—Taubes in the lead, but also Ernst Bloch, Herbert Marcuse, Ossip Flechtheim, and the exile writings of Horkheimer, Adorno, and Walter Benjamin—made sense because the student protests were often directed against conservative West German leaders who used the language of "Christian-Jewish" values to whitewash their Nazi pasts and disguise what were actually simply *Christian* social values.<sup>683</sup> Taubes offered them an alternative, more attractive historical narrative of their Judeo-Christian Occidental heritage, a genealogy of radicalism that was Judaic in origin but did not exclude thinkers from subsequent traditions from working together toward a future social system under the guidance of

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<sup>679</sup> Taubes noted to Adorno the allergic reaction of SPD members at the Freie Universität to the word "Marxism." See Taubes to Adorno, March 26, 1965, Jacob Taubes Collection, Zentrum für Literatur- und Kulturforschung, Berlin. I thank Martin Tremel for allowing me access to these letters.

<sup>680</sup> Martin Klimke, *The Other Alliance: Student Protest in West Germany and the United States in the Global Sixties* (Princeton, NJ: Princeton University Press, 2009). See also the impressions of a contemporary, Peter Glotz, "About Jacob Taubes, Who Crossed Frontiers," in *Self, Soul & Body in Religious Experience*, eds. Albert Baumgarten et al. (Boston: Brill, 1998), 5.

<sup>681</sup> One student later remembered that Taubes's speech at a sociology conference made Adorno's "pale" in comparison. Manfred Lauer, "Materialistische oder apokalyptische Geschichtsphilosophie? Jacob Taubes' Tractata ad Karl Marx," in *Abendländische Eschatologie. Ad Jacob Taubes*, ed. Richard Faber et al. (Würzburg: Königshausen & Neumann, 2001), 232. For documentation of the event see Siegwald Lönnendonke, ed., *Linksintellektueller Aufbruch zwischen "Kulturrevolution" und "kultureller Zerstörung": Der Sozialistische deutsche Studentenbund (SDS) in der Nachkriegsgeschichte (1946-1969)* (Opladen: Westdeutscher Verlag, 1998).

<sup>682</sup> Quoted in *Commonweal* 88 (1968), 198. Many of his Jewish colleagues who believed that the future of Jewish survival depended on Western support privately scolded him for supporting a break with its values. See the letters from Michael Landmann to Taubes in 1967 and 1968 in the Zentrum für Literatur- und Kulturforschung, Berlin. Michael Wyschogrod, perhaps one of Taubes's closest friends, tells a story of how Taubes was invited in the 1960s by the Jewish community of East Berlin to give a lecture on Torah; instead, he told the disappointed audience to read less Torah and more Marx. Author's interview with Wyschogrod, New York, Dec. 20, 2010.

<sup>683</sup> See Frank Stern, *The Whitewashing of the Yellow Badge: Antisemitism and Philosemitism in Postwar Germany*, trans. William Templar (Oxford: Oxford University Press, 1992).

Marx.<sup>684</sup> If West German students could have chanted “We are all German Jews!” unselfconsciously, as they did in Paris in May 1968, they probably would have.

Though the student revolts faltered in their immediate aims, skepticism about the rhetoric of “Christian-Jewish values” as the beating heart of the Federal Republic continued to motivate political-theological critics in West Germany and all over continental Europe, often with direct influence from Taubes. Never a prolific writer but a famously inspirational orator, he told Jürgen Habermas in 1970 that for the moment he saw “darkness for the student movement in which so much hope was placed at one point,” but “precisely for that reason” one must support the young socialist theorists who would be responsible for breaching future fortifications between East and West.<sup>685</sup> Indeed, Taubes’s faith that the Occident’s compulsion toward the future will eventually manifest in revolution has lived on in the thought of continental philosophers who, claiming the same Pauline impulse, seek to imagine ways of changing the legal order from within and from below rather than protecting it from above.<sup>686</sup>

## V. Conclusion: Judaism, Christianity, and the Future Problem

The changing German Christian relationship toward Judaism and Jewishness between the Weimar and post-Hitler eras was one of transvaluation rather than re-definition. With two millennia of accrued meaning, the “Judaic spirits” of legality and revolution—and their alleged “modern” manifestations, liberalism and the internal revolt against it—could not be fundamentally changed in the European Christian imagination. Instead, when coming to terms with Jews, German Christians were often coming to terms with those spirits. What opened Christian thinkers to a transvaluation of Judaism was not primarily guilt-feelings, I suggest, but rather the common recognition, over the course of an ill-fated alliance with Nazism, that they could not undo market capitalism without undermining their own existence.

The evidence suggests further that such a dramatic reversal required a theological—that is, scriptural—basis in order to have lasting power in Christian thought and education. As one of the finest recent scholars of the Holocaust has pointed out, the presence of “the Jew in us” or “the Jew within,” which typically referred to capitalistic tendencies within German Christian society, was “inverted into a positive attribute” by

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<sup>684</sup> It was no coincidence that the revolution’s martyred leader Rudi Dutschke (1940-1979), the student with whom Taubes was closest, was raised in East Germany as a Lutheran reformer of communism, fled to the West just before the wall was built, and named his son in 1968 Hosea—after a Hebrew prophet of apocalypse.

<sup>685</sup> Taubes mentioned specifically Alfred Schmidt (b. 1931) and Oskar Negt (b. 1934). Taubes to Jürgen Habermas, April 3, 1970, Taubes Collection. For an introduction to the development of Taubes’s thought after this period, see Marin Terprstra and Theo de Wit, “No Spiritual Investment in the World As It Is’: Jacob Taubes’s Negative Political Theology,” in *Flight of the Gods: Philosophical Perspectives on Negative Theology*, eds. Ilse Bulhof and Laurens ten Kate (New York: Fordham University Press, 2000), 319-54.

<sup>686</sup> Among others Alain Badiou (b. 1937) and Giorgio Agamben (b. 1942).

postwar Western thinkers.<sup>687</sup> This meant that Judaism had to become more than simply “tolerated”—as it was in the liberal reading of Lessing’s *Nathan the Wise*—but rather recognized as valid in its own *right*, not in need of turning against itself (*con-versio*; *Bekehrung*). Indeed the Jewish question was ultimately a German Christian problem, they argued: it was the responsibility of Christians to turn from their path (*trans-vertio*; *umkehren*) regarding the Jews.<sup>688</sup> During the Adenauer era, religious declarations to protect and fight alongside Jews in pursuit of the truth ultimately expressed the political reality of the postwar situation far more accurately than purely secular-philosophical analyses. It was Christian groups, more than any other in the Federal Republic, who recalled the Nazi murder of the Jews and combatted persisting antisemitism in the 1950s.

As Taubes made clear, however, the adoption of anti-antisemitism (or “philosemitism”) as a central part of political ideology, as well as the reliance on Christian protection for Jewish security, ran the risk of excluding other groups from political cooperation.

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<sup>687</sup> Omer Bartov, *Mirrors of Destruction: War, Genocide, and Modern Identity* (New York: Oxford University Press, 2000), 115.

<sup>688</sup> See Paul Tillich, *Die Judenfrage, ein christliches und deutsches Problem* (Berlin: Weiss, 1953). Invited by Ernst Fraenkel, Tillich delivered the four lectures composing the book at the Deutsche Hochschule für Politik in 1952/53.

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