„Amazing Differences“:
Young Americans experience Germany and the Germans

Reflections

by the tenth group of German Chancellor Scholars 1999/2000

Bonn, April 2001

ALEXANDER VON HUMBOLDT-STIFTUNG/FOUNDATION
Jean-Paul-Straße 12
D-53173 Bonn
<table>
<thead>
<tr>
<th>Author</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>OSTEN, Dr. Manfred</td>
<td>Foreword</td>
<td>1</td>
</tr>
<tr>
<td>CAPLAN, Gregory A.</td>
<td>Acknowledging German-Jewish Fascism: Toward a Universalized Memory of the Holocaust</td>
<td>3</td>
</tr>
<tr>
<td>FINE, Jonathan D.</td>
<td>Appointing Judges: A Comparative Constitutional Perspective</td>
<td>10</td>
</tr>
<tr>
<td>GRANT, Thomas D.</td>
<td>A Year in Heidelberg: Some Observations</td>
<td>14</td>
</tr>
<tr>
<td>McMEEKIN, Sean A.</td>
<td>Wer um alles in der Welt ist Willi Münzenberg? Ein Zwischenbericht aus der Forschung</td>
<td>19</td>
</tr>
<tr>
<td>MOZINGO, Karen A.</td>
<td>Circles of Tension: Dancing Between Two Languages</td>
<td>23</td>
</tr>
<tr>
<td>PARKER, John L.</td>
<td>A Cunning Theology: German Philosophy and the Origins of Shakespearean Drama</td>
<td>33</td>
</tr>
<tr>
<td>PARTRIDGE, Damani J.</td>
<td>Reflections on Citizenship and Exclusion Ten Years after German Unification</td>
<td>42</td>
</tr>
<tr>
<td>RAYKOFF, Ivan</td>
<td>Man müsste Klaviere finden können</td>
<td>49</td>
</tr>
<tr>
<td>STAHTNKE, Kristi M.</td>
<td>The Amazing Differences I Experienced: Reflections on a Year Studying Law in Germany</td>
<td>57</td>
</tr>
<tr>
<td>SWARTOUT, Lisa F.</td>
<td>German Universities and Student Life</td>
<td>60</td>
</tr>
</tbody>
</table>
Foreword

In 1990, the German Chancellor Scholarship Program (Bundeskanzler-Stipendienprogramm) was inaugurated under the patronage of the German Federal Chancellor to promote transatlantic partnership. A group of annually ten scholars have since then spent a year of research in Germany. German Chancellor Scholars come from a broad range of backgrounds. Among them are academics and professionals, students with Bachelors, Masters or other degrees from a variety of fields in the social sciences and the humanities, the arts, music, architecture, and law. The selection is not only based upon excellence in the respective field; the Foundation also looks for "leadership potential". German Chancellor Scholars are expected to become leaders in their fields, in the academia and in other areas. In fact, many former German Chancellor Scholars now hold positions in public administration, government, law, the arts, journalism and at prestigious American universities.

After the end of each year the German Chancellor Scholars are asked to submit personal reports on their stay in Germany that have become known as Reflections. The Humboldt Foundation has always submitted the Reflections punctually to the alumni meeting in the United States, which is also attended by the group of newly selected Bundeskanzler Scholars. The reports assembled once again give evidence that these young Americans have indeed made the most of their stay and will very likely return to the United States as “ambassadors” for Germany in their fields.

The range of projects pursued and the perspectives taken make the reports interesting reading. Topics addressed are German-Jewish Fascism; different modes of appointing federal judges in the U.S. and in Germany; observations on everyday life as a foreigner in Heidelberg; studies on Willi Münzenberg; „dancing“ between two languages; German philosophy in the works of Shakespeare; how the body determines citizenship in Germany; the piano as a cultural icon; civil versus common law systems; German universities and student life in the 19th century and now.

To enable the German Chancellor Scholars to benefit the most from their stay, a very special program was designed. Applicants do not have to be proficient in German upon their application; immediately after being selected, however, the German Chancellor Scholars are asked to undertake the necessary language training in the United States in order to learn German or to improve their knowledge of German. Language training continues in Germany prior to the start of the research stay. During a four-week introductory seminar, German Chancellor Scholars have an opportunity to familiarize themselves with social, political, cultural, economic and historical structures in Germany. They have the chance to meet and discuss various issues with important figures. Following the introductory seminar, the scholars have eleven months to work on their individual projects. This period of work is interrupted by a three-week study-tour through Germany (designed according to the interests of the respective group) and to Brussels. Furthermore there is a meeting and discussion with the Federal Chancellor of Germany.

For more than 45 years the Alexander von Humboldt Foundation has been engaged in the promotion of international scientific exchange in the framework of cultural policy abroad. Since its re-establishment in 1953 more than 20,000 top-qualified scholars from 125 countries have been granted research fellowships or research awards enabling them to spend...
lengthy periods of research in Germany. In the selection procedure there are no quotas in respect of specific academic disciplines or countries. With more than 4,000 former guest researchers, the United States are at the top of the general survey.

The Foundation is named after Alexander von Humboldt, the universal genius and cosmopolitan. He had a deep understanding of foreign mentalities and culture. It is in this spirit that the Alexander von Humboldt Foundation understands its work, too.

Bonn - Bad Godesberg, April 2001

Dr. Manfred Osten
Secretary General
Gregory A. Caplan

Acknowledging German-Jewish Fascism:
Toward a Universalized Memory of the Holocaust

Background: B.A. in Political Science, University of Georgia, Athens, Georgia (1993);
M.A. in German and European Studies, Georgetown University, Washington DC (1996)

Project: Wicked Sons, German Heroes: Jewish Soldiers, Veterans, and Memories of World War I in Germany

Currently: Ph.D. Candidate in Modern European History, Georgetown University, Washington, DC

While I was living in Berlin last year, a public debate concerning Holocaust memory reinforced my belief in the necessity of integrating German nationalist Jewry into German history at large. Horst Mueller, the director of the Institute for Contemporary History (Institut fuer Zeitgeschichte, or IfZ), initiated the controversy when he agreed to give a speech in honor of the historian Ernst Nolte. Nolte, who has been accused of relativizing the Holocaust in his writings, had been selected as the recipient of the 1999 Adenauer Prize, an award granted annually by the right-wing Germany Foundation (Deutschland-Stiftung). Prominent liberals called on Mueller to withdraw from the commitment. His critics feared that the association of the IfZ, which was established in the 1940s to document the history of National Socialism, with the Germany Foundation and with Nolte would discredit the German historical profession and grant undue legitimacy to their neo-nationalist politics.

As it happens, one of the first ever recipients of the Adenauer Prize figures prominently in my dissertation on German-Jewish soldiers and veterans of World War I. From 1930 until 1934, Ludwig Freund worked as the general secretary of the National Association of Jewish Combat Veterans (Reichsbund juedischer Frontsoldaten, or RjF). He served as the editor-in-chief of the RjF’s newsletter, the Schild, and gave lectures all over Germany with such titles as "Community of the Frontlines - Community of the Volk" (Frontgemeinschaft - Volksgemeinschaft) to audiences of non-Jewish veterans. No one, Freund assured his fellow German nationalists, hated the East European Jews (Ostjuden) as much as the old-established German Jews.¹ In May 1933, he justified the claims of the RjF to leadership in the Jewish community with references to the German mentality. He wrote in a prominent Jewish newspaper that, "after the disintegration of the cozy, liberal perspective and the liberal style of debate, the only qualified leader in this struggle is someone who, like the new political type in Germany, is capable of intervening with his life and limb for his

¹Ludwig Freund, "Vaterland und deutsches Judentum," Der Schild January 12, 1933, p. 10.
convictions."² In 1934, Freund left Germany for the USA, where he was welcomed as a hero in the fight against Nazism. He returned to Germany in 1961 and did some consulting work for the defense ministry before becoming one of the first three men to be awarded the Adenauer Prize in 1967. A Spiegel report on the event detailed the Nazi past of the men behind the Germany Foundation and excoriated the German nationalists being honored alongside Freund, who had himself been chosen for his work toward "the revival of a healthy national feeling on the basis of necessary self-respect" and for the "protection of the rights of the German Volk, in spite of the wrongs done him in his own Fatherland."³

Whereas Nolte's selection and Mueller's decision to speak in his honor occasioned a lengthy debate in the German public sphere, Freund's decoration by the Germany Foundation and his earlier engagement on behalf of Germany and German Jewry have been largely forgotten. This contrast reflects the very different nature of Jewish and German collective memories of the Holocaust. Under the influence of the third postwar generation, I hope these memories will begin to merge into a universalistic conception that provokes the members of all national, religious, and ethnic groups to critical self-reflection.

The institutionalization of Holocaust memory in museums, memorials, and educational programs across the United States has assured that future generations of Americans will be asked to study and learn from the murder of European Jewry. The question of what lessons they should be learning remains open. However one might judge the debate over Holocaust memory in contemporary Germany, that debate centers on how Germans should live with the legacy of the perpetrators. As an American-Jewish member of the third generation, I believe that this perspective should be incorporated into Holocaust memory in the United States as well.

By writing about the degree to which German Jews participated in the European reaction against liberalism, I hope to provoke a discussion of issues heretofore neglected in the construction of Holocaust memory in America. To be sure, the murder of European Jewry during the Second World War was an unparalleled instance of Jewish victimization at the hands of an anti-semitic state. Nevertheless, I do not believe that the function of Holocaust memory in America should be to encourage identification with Jewish victims or contempt for German perpetrators. To the contrary, students of Holocaust history would be best served by attempting to understand how and why ordinary men and women could have concluded that fascism and racism represented an acceptable, even a desirable, solution to the political and economic crises of interwar Europe.

With much fanfare, Daniel Goldhagen has attempted to move the focus of the debate in a different direction. In his controversial best-seller, Hitler's Willing Executioners, he elaborates a paradigm of "eliminationist anti-semitism" that, he posits, lay at the core of German national identity until 1945. After a one-dimensional discussion of anti-semitism in Weimar Germany, Goldhagen uses three case-studies of the Nazi persecution and murder of Jews during the Second World War to prove that Hitler and his lieutenants were enacting the general German will with the implementation of the "final solution of the Jewish question." A son of a Jewish survivor of the Holocaust, Goldhagen wanted to offer


an antidote to an historical literature that, he felt, had over-emphasized bureaucratic structures and the exigencies of war in explaining the destruction of European Jewry. Goldhagen's account appealed to Americans and Germans for entirely different reasons. Although methodological issues moved American scholars largely to dismiss *Hitler's Willing Executioners*, the general public had their conceptions of German anti-semitism, not to say evil, and their vicarious identification with the victims affirmed. In Germany, many scholars defended Goldhagen in spite of the issues cited by their American counterparts because the book treated theretofore neglected issues, such as the treatment of concentration camp inmates on death marches, and stimulated what they considered to be a healthy debate over anti-semitism in Germany. As for the ramifications of his argument for the postwar period, Goldhagen assured young Germans that decades of German democracy had cleansed their nation of the "eliminationist anti-semitism" that had driven their forebears to will, if not directly to perpetrate, the Holocaust.4

Whatever its merits, this theory renders inexplicable both the integration of Jews into German society before the Nazi era and the incorporation of German culture into Jewish identity. Goldhagen grants no significance in his account to the broader constellation of political principles and cultural values that, together with anti-semitism, constituted the canon of National Socialist doctrines. He thus defines "ordinary Germans" in such a way as to exempt Jews and non-Germans from the question posed in Christopher Browning's *Ordinary Men*: "How would I have behaved if I were in such a situation?" For Goldhagen, then, Holocaust memory consists of German anti-semitism and Jewish victimization alone.5

While these elements must no doubt constitute critical elements in any history of the Holocaust, their enshrinement in the collective memory of American Jews serves more to strengthen group identification than to further effective historical analysis. Indeed, Peter Novick has recently lamented the incorporation of Holocaust memory alongside allegiance to Israel in the foundation of contemporary American-Jewish identity. In his book, *The Holocaust in American Life*, Novick argues that Jewish leaders in the United States began in the 1970s and 1980s to rely on evocations of the murder of European Jewry as a means of reviving and maintaining the interest and sponsorship of their supporters. According to Novick, educational programs, the initiative for a national museum, and the general discourse of Holocaust memory have reaffirmed the status of Jews as victims at a time of unprecedented Jewish integration into American life. As he acknowledges, American Jewry is governed by no central authority, and no group of conspirators colluded in a campaign to add Zionism and consciousness of the Holocaust to the communal creed. He also acknowledges that his case relies on a certain amount of conjecture as to the degree to which individual American Jews conceive of their awareness of the Holocaust as a central component of their Jewish identities.6 These caveats notwithstanding, my own experiences growing up as an American Jew have predisposed me to welcome and second Novick's argument.

---


As a child, I learned that Germans were Nazis and that Jews were all potential victims. I had never encountered Germany in any other context, educational or otherwise, when my teachers taught my class about the Holocaust in Hebrew school. Then, when I was eight years old, I spent part of my summer vacation at a popular Jewish sleepaway camp. One night during my stay, all of the seven- and eight-year-old boys and girls in the camp were woken up in the middle of the night and ordered to assemble in the road in front of our cabins. With or without the permission of their supervisors, the camp staff then commanded us all to put our hands behind our heads, stare down at the ground, and march across camp in silence. At the first sign of non-compliance, a staff person approached the child in question and screamed in his or her face that there would be grave consequences for disobedience. When we reached the other side of the camp, our counselors told us that we should now appreciate, and never forget, what it must have been like to have been a Jew in Europe during World War II. By the time I spoke of this experience with my family, so much time had passed that I wondered if I had manufactured the memory. My younger cousin, however, remembered that night. We had, she reminded me, marched side by side.

These episodes represent isolated incidents in an otherwise positive Jewish upbringing. Throughout my youth, communal activities fostered in me an appreciation for the traditions and culture of Judaism. At my Bar Mitzvah, the religious education I received as a child culminated in my symbolic admission at age thirteen into the community as an adult. To this day, family gatherings and the ties of community regularly reinforce the value I place on my Jewish identity.

That march across camp has nonetheless come to symbolize for me the moral imperative attached to Holocaust memory by many American Jews. Jewish memory has been marked for thousands of years by cycles of catastrophe and redemption, and the murder of European Jewry fits well into this theological framework. References to the Holocaust can now be found in prayer books read at the Passover seder. Many Americans, Jewish and non-Jewish alike, perceive it to be an obligation to visit the United States Holocaust Memorial Museum during their visits to Washington, DC.

As a Jew, I believe that the history of Jewish suffering in the diaspora contains valuable ethical lessons, which can and should supplement the religious traditions of Judaism. As a German historian, I believe in the importance of Holocaust education and plan to teach courses on the topic at the university level. As an American-Jewish scholar, I believe that the metaphysical dimension to the memory of German evil done to the Jewish people undermines the rational aims of historical study. Beyond the putatively positive function of strengthening group identity, an exclusive identification with the victims by American Jews has the negative effect of exempting them from the critical self-examination demanded of all students of such inhumanity. Furthermore, casting the Germans, as Goldhagen does, in the role of evil in a metahistorical narrative pitting the Jews against the non-Jews, reinscribes anti-German prejudices in American Jews with no personal or familial connection to the Holocaust.

For obvious reasons, scholars in the immediate postwar era have operated with a perceptual chasm that separated the history of German Jewry from the broader narrative of

---

7See Yosef Yerushalmi, Zakhor: Jewish History and Jewish Memory (New York, 1989).
German history. The roots of this division lay, of course, in the ashes of the Third Reich and in the intimate historical relationship between anti-semitism and German nationalism. For the better part of the last five decades, the history of German Jewry has been written by German-Jewish emigres and their intellectual offspring. These historians have occupied themselves with the explanation of German anti-semitism and the rise of Nazism, on the one hand, and the documentation of the cultural legacies, economic success, and political liberalism of the German-Jewish community, on the other. These emphases, however legitimate, have contributed to mutually exclusive interpretations of German Jews and German nationalism. The association of Jews with progressive German liberalism has its counterpart in the pervasive, if implicit, assumption that only ethnic Germans could endorse the militarism and other, less savory elements of German nationalism.

The history of German-Jewish militarism and fascism, however, undermines such simplistic divisions between German Nazis and Jewish liberals. Scholars regularly assert that only religion distinguished Jewish from non-Jewish Germans before the Nazi era. If Jews really were that acculturated, and they were, logic would dictate that they must also have participated in the right-wing reaction against liberalism and socialism in interwar Germany.

The role of veterans in the Jewish community between the wars has received surprisingly little attention from historians, especially when one considers the number of studies devoted to German veterans of World War I in general. When set against the latter's goal of explaining how Germans became Nazis, however, the lack of scholarly interest in Jewish veterans takes on a new meaning. German-Jewish veterans strike many as the most tragic of victims of the Holocaust. Because they risked their lives for Germany in the First World War, their persecution at the hands of the Nazis, many of whom were not themselves old enough to have served in the trenches, seems all the more perverse. History books and films often evoke the image of a Jewish veteran in full uniform standing proudly in front of his store on April 1, 1933 during the state-initiated boycott of Jewish-owned stores.

During the Weimar era, the RjF did everything it could to keep the Nazi movement from reaching the corridors of power. After all, it had been founded in 1919 to fight anti-semitic lies that Jews had shirked military duty during the war. The Nazis were enemy number one in that fight. Nevertheless, the leaders of the RjF also subscribed to a political ideology that incorporated all of the elements generally associated with fascism - militarism, extreme nationalism, anti-bolshevism, and middle class desires for a strong state that would transcend divisive parliamentary structures.

In my dissertation, I analyze the history of the RjF in terms of what I call the final stage of German-Jewish acculturation - the embrace of military masculinity. The veterans of the RjF claimed to be models of the tough, self-confident, and disciplined ethos they believed to be necessary for the survival of German Jewry. As the first ever German-Jewish military elite, they sought to transmit their military masculinity to the rest of the German-Jewish community through youth and sports programs, the commemmoration of the Jewish war dead, and the promotion of Jewish cultivation of German soil. By the mid-1920s, with 35,000 members, the RjF had become the third-largest organization of Jews in Germany.

The RjF ethos resonated in the Jewish community because, along with specifically Jewish problems, it addressed a range of concerns that preoccupied the middle classes of Weimar Germany. With its agenda for the re-generation of German Jewry, the veterans' group
offered a popular platform for the battle against the pitfalls of big city life at a time of rapid social transformation. Falling birth rates, alcoholism, and the spread of nervous disorders had already been diagnosed by the turn of the century as indicators of social and cultural degeneration. The German military defeat and its revolutionary aftermath exacerbated this sense of crisis and added to the list of perceived symptoms.

Anti-semitism was a fellow traveler of the most extreme manifestations of this conservative revolution in Germany, but it was one ideological fixation among many that drove Germans to vote for the Nazis. The "new woman," granted the right to vote after the war, refused to return to her role as mother and provider of domestic tranquility. The younger generation, meanwhile, had grown up while their fathers were hundreds of miles away fighting and dying for the fatherland. Neither the "new woman" nor the "youth gone wild" felt compelled to observe the sexual norms of the ancien régime. Pointing to a steadily rising average age of marriage and almost two million orphans in need of state support, social scientists blamed the state for failing to instill in its youth a sense of security and optimism for the future. New child-rearing strategies, population policy, and social hygiene thus came to play an ever greater role in public debates over the crisis of the family and moral decay in bourgeois society. While these culturally conservative impulses and the consequences of postwar economic instability were preoccupying the middle classes, agitators on the far right proposed ever more radical means of overcoming parliamentary paralysis and ensuring the health of the social body.

Although the military masculinity of Jewish veterans had served as a welcome model for German-Jewish youth in the 1920s, the German-Jewish community would not stand united behind the RjF in its campaign to serve an anti-semitic, fascist German state. The Nazis' transformation from the enemies into the rulers of Jewish veterans in 1933, along with their obsessively militaristic rhetoric, left the leaders of the RjF convinced that the time had come for them to take over the leadership of the German-Jewish community. As long as the state seemed to honor the link between military service and German citizenship - and even longer, the RjF sought to cooperate with the Hitler regime in the construction of a viable Jewish community in the Third Reich.

Specialists in the field are, of course, familiar with the history of the RjF and its accommodation with the Nazi state. Nevertheless, the theme of "German Jews beyond Liberalism" does not, in my opinion, receive adequate treatment in the major survey works on German-Jewish history. Arnold Paucker, a leading historian of German-Jewish resistance to Nazism, has argued that Jewish veterans did not "identify with any specific ideology of the RjF, which never constituted a significant alternative trend on the Jewish scene." To the contrary, the RjF did promote its own German-Jewish ideology, which enjoyed more support among veterans and in the Jewish public at large than historians have thus far acknowledged. To be sure, circumstances demanded that all Jewish organizations communicate with Hitler's government, and they could best insure the protection of their interests by speaking in a code that their interlocutors would understand. Nevertheless, the ideology, language, and tactics of the RjF reflected a fascist, anti-Zionist agenda that went above and beyond the rhetorical pandering of the oppressed to the oppressor.

---

Soon after Hitler became chancellor, Leo Loewenstein, the national chairman of the RjF, issued another in a long line of public statements asserting that the accomplishments of Jewish soldiers in the trenches and the sacrifice of 12,000 Jewish war dead in World War I had made the civil rights of all German Jews inalienable. The RjF's national leadership then amended this mantra to deny avowed Zionists a voice in the administration of Jewish life in Germany. Neutrality with regard to Jewish nationalism, which had been a central tenet of the RjF's charter, had no place in the official policies of the RjF in Hitler's Germany.

The intensity of this intra-communal conflict derived from the fact that the RjF and the Zionists were propagating two different versions of a post-liberal Jewish identity. The Zionists offered Jews seeking solace amidst the tumult of Nazi persecution a volksich-nationalist alternative to liberal Judaism, which had allegedly outlived its time. The RjF countered with a fascist German nationalism that rejected the racialism preached by the Zionists. In addition to this ideological divide, the organizations competed for recruits and communal power in the Third Reich.

Although the hubris of Loewenstein and his lieutenants alienated them from other leaders of German Jewry, the activism of RjF's local chapters increased the popularity of the veterans' group during the first years of Nazi rule at the expense of the oldest and largest Jewish organization in Germany, the Centralverein deutscher Staatsbuerger juedischen Glaubens (CV). The institutional home of the liberal, patriotic German-Jewish identity embraced by most German Jews, the CV had trouble re-defining its mission while subject to a fascist state bent on reversing the very gains that it had been created to protect. Many German Jews whose commitment to the German nation had not been shattered by the "national revolution" expressed frustration with the CV for its passivity in response to the Zionists. The Jewish national alternative had become more attractive to Jews living in an atmosphere poisoned by state-sanctioned anti-semitism. Moreover, the appearance of loyalty to a Jewish rather than a German nation seemed more likely than ever to undermine the prospects of a Jewish future in Germany. Under the influence of a younger, more Palestine-friendly generation, however, the CV had become ever more reluctant to take issue with its once bitter enemies. As Loewenstein and others elaborated the RjF's vision of a German-Jewish spiritual renewal and boasted that the RjF had done more than any other Jewish institution to defend the status of Jews in Germany, the veterans' organization thus threatened to replace the CV as the functional and ideological center of an ever smaller, (post-)liberal German-national Jewish community. Even for many German Jews, then, liberalism did not survive the upheavals of war, revolution, and economic crisis that characterized the interwar period.

To my mind, this popular rejection of liberalism in a Germany plagued by political, social, and economic crises following the First World War must form the foundation of any effort to understand how so many Germans became Nazis. An acknowledgement of German-Jewish conservatism, militarism, and fascism undercuts explanations of the Holocaust that treat German anti-semitism in a vacuum. Although they rejected the racism that demanded Jewish exclusion from the German nation, many German Jews did participate in the reaction against the alleged moral decay of the postwar social order. Not all Germans were Nazis. Not all German Jews were liberals. As self-evident as these statements seem, they are not repeated often enough in the discourse on Holocaust memory in America.
Although Germany may be the quintessential land of automobile production, well-engineered cars, and fast drivers, its cities are still “walking” towns - in contrast to most of the urban centers of the American states. My morning routine, while a Bundeskanzler fellow, was to walk each morning the few kilometers from my room in Schwabing to the Leopold-Wenger Institute at the Law Faculty of the University of Munich, where I was a guest researcher. This meant passing the many cafes and restaurants along the Leopoldstrasse. It also meant passing the tables and kiosks proclaiming political programs and hawking social issues that were set up along Munich’s Broadway. As a legal historian and a comparative jurist one of these caught my eye one morning: A table collecting signatures for a popular initiative to change the manner in which judges are appointed to the Bavarian Constitutional Court.

Of course, because my project for the year had initially focused on the adaptation of Bavaria’s state institutions, such as its courts, to the federal system of Bismark’s Reich, the issue was immediately of interest. And I asked the people gathering signatures what their issue was in greater detail. As it turned out, their concern was, put in its most simple terms, that the judges of Bavaria’s highest court are appointed to their offices by a simple majority of the state legislature, and not - as is the case with the judges of the Federal Constitutional Court, by a “supermajority.”

This struck a chord, and although it was not of great concern - beyond spawning a couple of interesting discussions with other member’s of the Leopold-Wenger Institute. However, for Americans, the appointment of federal judges has become a much more divisive political issue over the past fifteen years than, perhaps, since the early history of the American republic. Conservatives and liberals are split about the circumstances that have thrust the issue into the center of national politics. But both groups would likely agree that the issue reached a head with the nomination by President Reagan in 1986 of an ideologically conservative iconoclast, Robert Bork, to fill a vacancy on the United States
Supreme Court. Bork was not able to take a seat on the court, but the political capital that was expended both by liberal interest groups and politicians and by conservative advocates of Bork and his legal vision, demonstrated that the price of judicial nominations had gone up – at least for outspoken partisans.

That a high price is demanded for such nominations is appropriate. The United States Constitution divides the power of the federal government into three formal "branches": The legislative branch, the executive branch, and the judicial branch.1 Both the executive and legislature are democratically accountable. They are chosen, at present, more or less by the people through an electoral process, and their officeholders may be replaced – at the next election – by the people. Not so the judiciary.

In the federal government, the judges who exercise the judicial power of the United States – I will term them federal judges – are appointed for life by a president, with the advice and consent of the senate.2

It is the magic formula "advice and consent of the senate" that I wish to examine more closely here. The words are, of course, the terms of the "appointments clause" of Article II of the Constitution, which provides as follows:

"[The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

The power to appoint Supreme Court Justices (properly and constitutionally "judges") and other federal judges (as officers of the United States) is vested in the President. But a President may only exercise the power with the consent of the Senate. In American constitutional practice, this consent has been deemed given when a bare majority of the Senate assents to an appointment. Of course, the particular personal standard that each senator uses in determining whether to give his or her assent to the nomination may vary depending on whether the post that is to be filled is that of a “Officer” such as a cabinet-level Secretary, whose tenure in office is limited to the Administration of the President that she or he serves, or a life-tenured Supreme Court Justice. But, that is an idiosyncratic

1 Those familiar with German law will, of course, immediately recognize that this tripartite division designates no specific constitutional locus for the vast administrative apparatus of the modern state. Consequently, American administrative law has developed in something of a constitutional vacuum, growing against the background of a common law and statutory culture that differs markedly from that of German law, and indeed most of continental European legal systems. An excellent treatment of this issue is Oliver Lepsius, Verwaltungsrecht unter dem Common Law: Amerikanische Entwicklungen bis zum New Deal (Mohr, 1997).

2 For the purposes of this discussion, I will not examine judges within administrative agencies, who are appointed for limited terms by the agencies themselves, and magistrate judges, who routinely adjudicate evidentiary matters for other federal judges, and who are appointed to eight-year terms of office by life-tenured federal trial judges.
individual choice, not a structural protection in place to preserve the integrity of the judicial branch.

In American practice, the bare-majoritarian requirement of Senatorial assent has evolved the process of judicial appointments into a highly partisan affair. It permits the party that controls the Senate to frustrate a President of an opposing party, or to enable a particular Administration to lock in a particular political program through the appointment of sympathetic judges. For instance, the Reagan and Bush (I) Administrations consistently sought to roll back the role of the Federal Government in favor of “states rights” and used the appointment of judges sympathetic to that legal program to create what has become known as “the new federalism.” Because federal judges are life-tenured, of course, such a program may have effects that long outlast the two- or four-year constellation of Senate and Presidency. It also allows that a party that controls 50 out of 100 seats in the Senate and the Presidency (with the Vice-President acting as tie-breaker in the case of an evenly divided Senate) to impose its view for decades.

This was of course at the heart of the concern of the concerned citizens of Munich who were collecting signatures to change the mode of appointments to the Bavarian Constitutional Court. The Bavarian state government has been dominated for so long by one party, the CSU, that for all practical purposes the Bavarian Supreme Court has almost entirely been appointed by that party. This is not to suggest that the court’s judges are not independent-minded professionals, or that they do not fairly judge the merits of the cases that come to them. But rather it is to recognize that with the appointment power monopolized by a single party, the spectrum of judicial philosophies on the bench is itself likely to be narrowed.

The Bavarian and American models for judicial appointments stand in sharp contrast to German federal practice. The law that governs the appointment of judges to the Federal Constitutional Court is, of course, Article 94 of the Basic Law and the Organic Law of the Federal Constitutional Court (Bundesverfassungsgerichtsgesetz). Article 94 itself does not provide much more guidance than does the appointments clause of the United States Constitution, stating only that the “Mitglieder des Bundesverfassungsgerichtes werden je zur Hälfte vom Bundestage und vom Bundesrat gewählt.” The Organic Law of the Court, however, provides far more direction. The decisive difference between the mode of appointment to the Federal Constitutional Court and its Bavarian and American counterparts is not immediately obvious, hidden as it is in § 6(5) and § 7. Both provisions require a two-thirds majority of the selecting bodies to give assent to a judge’s nomination before she or he may take office.

What a difference a supermajority makes. The appointment power is not just shared between different constitutional bodies, the Bundestag and Bundesrat, but simultaneously among the main political parties. Thus in practice, the power cannot be monopolized. It must be shared by the political parties, as there will almost never be a single party that controls such a supermajority within the Bundestag or Bundesrat. This potentially has an effect upon the jurisprudence of the judges of the court, requiring that their jurisprudence at least awake no strong objections from either party. The requirement of a supermajority for making appointments is, of course, also a danger. Where the main parties cannot agree upon a candidate or a method for sharing the power, no person will be appointed.

Yet, I believe, as the practice of appointments to the Federal Constitutional Court makes clear, the benefits far outweigh the dangers. First and foremost, the temptation to “capture”
the judicial branch to lock in a particular political program is minimized, and the crucial independence of the courts, and therefore of law, is safeguarded. Because no one party may place its stamp on the court, without the assent of its opposition, the court remains more independent. Second, appointments are, in general, uncontroversial. The difference is immediately apparent when one thinks back to the Bork, Thomas, and Souter nominations to the American Supreme Court. American Supreme Court appointments arouse political passion and controversy. One almost never hears of controversy surrounding appointments to the Federal Constitutional Court. This indeed preserves the public integrity of the institution and its reputation for independence.

Could this tonic be used in America? The answer must be a cautious yes. The Senate, of course, has broad discretion to structure its internal rules, and the procedures for assenting to legislation. And, there is nothing in the drafting history - or the plain text - of the appointments clause that mandates that a simple majority be the measure of senatorial advice and consent. Nonetheless, it is hard to imagine such reforms coming to pass, perhaps not least because they are in the general interest, but the interest of no one particular group, party, or interest. And, as with the issue of campaign finance reform, building a constituency would be slow, uncertain, and sure to meet healthy resistance. Yet, more fundamentally, it would go against the history of American constitutional practice - just as a shared power of appointment between the Bundestag, Bundesrat, and major parties reflects growth and history of German postwar history and constitutional practice.

And as most Germans are all too aware - and as many Americans often too blithely forget - the burdens of history weigh heavily on the present.
Thomas D. Grant

A Year in Heidelberg:
Some Observations

Background: BA, Harvard (European History, 1991); JD, Yale (1994); Clerk, U.S. Court of Appeals, First Circuit (1994-95); Ph.D., Cambridge University (International Law, 2000).

Project: Research, writing, and publishing in public international law and international relations as a visiting fellow, Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht, Heidelberg.

Currently: Attorney, Wilmer, Cutler & Pickering (London, Brussels, and Berlin); Warburg Research Fellow, St. Anne’s College, Oxford University.

„Ein Igel!“ Jens, my acquaintance from Rostock, exclaimed.

Off to the side of the woodland path was indeed a hedgehog. The creature shuffled about the underbrush, looking a little lost and not sure where it was going to go.

„Das sieht man nur selten!“ Jens continued. Hedgehogs, he indicated, are nocturnal, and they should not be seen during the day - particularly during a day as bright and sunny as this.

Several other hikers came up the path. The first behind us stopped to see what we were looking at, focused his attention, then exclaimed, „Ein Igel!“

Remarkably, three more people came, in succession, each stopping, looking toward the still-indecisive spiky brush on legs, and exclaiming, in the same tone, „Ein Igel!“ Everyone - from my hiking companion Jens to the fourth additional hiker to have a look at the animal - reacted the same way. Their exclamations were not just quizzical indications to a slightly unusual example of local fauna. More than that, they conveyed a certain irritation and bother - a sense that something was out of place and, frankly, a little wrong in the woods.

This was, in respects, a telling and representative episode from the thirteen months that I lived in the Federal Republic of Germany.

Thanks to an Alexander von Humboldt Foundation Bundeskanzler Scholarship, I was able to see a great deal of the largest and most important country of the European Union. I arrived in Germany with several fellow „Bukas“ in August 1999 for language training in Bonn. September was given over to a very informative - and high-paced - introduction to the country and its history, institutions, and society. Then, from the end of September 1999 through the end of September 2000, I carried out research at the Max-Planck-Institut für
ausländisches öffentliches Recht und Völkerrecht in Heidelberg. This time and the support of Humboldt and my host institution gave me multiple opportunities to observe aspects of Germany that would barely have been accessible, if at all, to a mere casual visitor.

The Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht, MPI-Völkerrecht for short, is an established institution, housed in a shiny new headquarters, in the most venerable and storied of German university towns. Perhaps the biggest contrast apparent during a year at MPI-Völkerrecht is not between the modernist style of its physical plant and the picturesque city on the Neckar, but, rather, between the academic cultures of the people there, coming as the do from dozens of countries and institutions. The Institute has some dozens of permanent Mitarbeiter and other researchers. It also hosts, at any given time, a great many visitors, some staying for just a few days, others, like myself, for as long as a year. Discussions take place in a mélange of German, English, and other tongues, with English a sort of common ground among visitors from the developing world, German the preferred medium of discourse among the permanent residents. It was a challenge and a great benefit to my German language comprehension to attend weekly Monday afternoon seminars at which the Mitarbeiter presented short papers on their recent work and invited comment from their colleagues.

MPI-Völkerrecht boasts one of the best international law libraries that I have had the pleasure to use. Its collection possesses great depth and breadth, and it is superbly managed by a highly knowledgeable staff. It is also behind locked doors, and the gatekeepers are ever wary, as if their library is some private trove beset by stealthy and tireless interlopers ever poised to infiltrate its precincts and abscond with its treasures. This conceivably gives the library an admirably perfect record at keeping out people who do not belong. Perfection is certainly admirable. I never had the chance to ask the head librarian if infiltration and theft were substantial concerns amidst what was, to all appearances, a civil and law-abiding academic community. But, in view of the prevailing vigilance, this would have been a purely theoretical query. Arriving fresh in late September 1999 as a visitor, I did have occasion to ask the head librarian about access to the library for my own (authorized) purposes. There was some confusion about where I fit in, however.

First, there was the matter of keys. Some of the habituées of the Institute have a full set. This means more than just heavy pockets; it denotes rank. With a full set, one gains access, day or night, to the Institute itself; to its reserved periodical room; and, most coveted right of all, to the library. Demonstrating such access demonstrates one has the keys, and, in turn, tells those who might be watching where you stand in the hierarchy. And plenty of people are watching. As a new arrival, I was not a familiar face to the gatekeepers. This posed problems. Not once or twice, but at least seven or eight times, I was told, in strong language, that my rights did not extend to the library. When I would present my keys to the enforcing officer, she would be overcome by a momentary confusion. Something was not right. I had all the keys. How could that be? After all, I sat in the outside reading room.

And that brings me to a second matter, physical location within the premises. This, too, carried meaning beyond what it might have in other institutions with which I have been affiliated. Certainly, the culture of the „corner office“ or the faculty club is not unknown in other parts of the world. At MPI-Völkerrecht, however, physical location seemed to be critical. Moreover, it was nuanced. Those in the know could discern fine gradations of rank, correlating to precise positioning of a person at the Institute. The co-directors had the best offices, with the more senior of the two enjoying a somewhat better location, in respect to other parts of the complex. Fair enough. One would expect as much anywhere.
But this careful calibration of spacial privilege seemed to carry down through every step of the ladder. It was remarkable. Where you sat told who you were. And who you were determined to which of the various resources at MPI-Völkerrecht you enjoyed access and on what terms. Again, to some extent, distinctions about access and terms of access exist - and are necessary - in all institutions. A senior fellow writing a report on commission for his national government very well should get that hard-to-find monograph about defining straight-baselines in maritime delimitation proceedings before the visiting graduate student. The difference at MPI-Völkerrecht seemed to be that ranking and precedence suffused the organization and was not just a vague scale to distinguish the „senior“ from the „less senior.“ It was fine-grained and, through a mixed process of social rule-making and formal institutional legislation, vigorously enforced.

In time, the addition of a new face was accepted, and I was able to get into the library (and the sitting room for visitors and the seminar room and the photo copy room) without raising alarms. It remains striking to me, however, that it took as long as it did for the permanent staffers to grow accustomed to the change represented by my arrival. This type of reaction, in fact, is something I noticed in more than one setting in Germany.

The apartment where I lived lay outside the city in a small village in the hills. In the village center were a butcher, two bakers, a grocer, a vegetable stand, a post office, and two small restaurants. I provisioned my kitchen on average once or twice every week. The fresh dark bread from one of the baker’s shops was a favorite, but one’s supply had to be replenished frequently, as it did not last very long. The middle-aged women who tended the baker’s shop front were not quick with smiles or small talk - at least as regards me for the first seven or eight weeks that I patronized the place. Throughout October and November, they behaved in a way that might generously be termed ‘short,’ less generously, ‘rude.’ By Christmas season, however, they no longer regarded me with the open hostility due an intruder with nefarious intent. Once my face became woven into the fabric of the familiar, the bake shop women were more than pleasant, always quick to ask how I was and how my work was going. The change was welcome, and its result so winning that the earlier treatment really left no hard feelings. But it certainly left an impression. I noticed a similar transition - again, I think it was around the middle of December that it happened - with respect to the neighbors and other people I encountered from time to time when I walked down the hill to the village center. It would exaggerate to say people ran off the sidewalks and clapped the shutters on their houses closed when they saw the American new-comer approach - but the image conveys the idea. And quite suddenly the behavior changed, from this cold non-reception to friendly acceptance.

The experience, in its essentials, repeated itself every place I frequented during my year in Heidelberg. The gym was one more. My village, nestled in the hills near Heidelberg, afforded me splendid opportunities for running - which in the spring and summer I took almost daily. A gym in the city is where I kept up with weight-training. Neither running nor lifting weights is quintessentially a group activity, and the former I generally pursue alone. Lifting in most other places I also have done, for the most part, without a partner or partners. The gym where I worked out in Heidelberg is in fact the only one where I found myself more or less drawn into a circle of people, who, once they got to know me, were keen to integrate me into their fairly carefully scheduled regimen. It was a nice point of social contact - and another case study in a behavior that seemed so prevalent. More characteristic still of this behavior was the group reaction to word that I would be leaving at the end of September. This simply was difficult for my little circle of work-out buddies to digest. Now, we got on fine, had a beer or two from time to time - but I would not have
characterized our level of acquaintance as intimate or tight or very close. The upset caused by the promise of my removal from the scene therefore I hesitate to attribute to some deep affection. The sense I had, instead, was that an impending change in the social fabric, even at such microcosmic level, jarred German sensibilities.

I am a public international lawyer, not a sociologist or anthropologist. My observations of life in Germany, 1999-2000, spur me however to think in terms perhaps more appropriate to those fields than to my own. It occurs to me that the sensitivity a person possesses to change in the backdrop to his everyday life may be a function of culture. Moreover, this sensitivity plays a substantial role in how a person reacts to change. Many of the Germans I met seemed very sensitive to anything being out of place in their surroundings - a new colleague, a new customer, a small nocturnal mammal out foraging in the sun. Reaction was sufficiently uniform that I am hard-pressed to dismiss it as the result of chance encounters with a particular sort of person. Risking the perils of over-generalization, I will hazard that this is a cultural phenomenon of wide scope in the country, shared by many people who were raised and live there. Heidelberg is a small city in Baden-Württemberg. Perhaps one would garner different impressions in Berlin or Hamburg. But this will be an enduring impression of my time in Germany as a Bundeskanzler Scholar.

Of course, in the year at MPI-Völkerrecht, most of my time was filled with activities other than observing local approaches to life. I finished a doctoral dissertation, submitted and defended it, and received my Ph.D. Several articles of mine were brought to press, and I published a number of shorter pieces as well. I presented papers in Great Britain and Norway to United Nations-related gatherings, and I travelled widely in Germany both as a pure tourist and as an academic visitor. Several of the Mitarbeiter of the Institute stay in touch with me, and I am in the process of writing with one of them a co-authored piece on criteria for admission of new states to the European Union. Once my face became an accepted part of the backdrop at the Institute, I was able to profit fully from an institution of some standing - the daily lunch table, at one of the nearby university dining halls. Hardly a more fruitful society for discussing public international law could be imagined. Contacts made at the Institute will, I trust, endure - perhaps the truest gift of my Humboldt year.

At the risk of ending with a list of disconnected reflections, I should mention the two very interesting people from whom I rented my apartment in the village near Heidelberg. The apartment was a self-contained part of a larger house, itself set in the side of a hill adjacent the start of the woods at the edge of the village. My landlords lived in the house, I up a flight of stairs off their foyer in the apartment. The landlords were elderly - the husband in his late seventies, the wife a little younger. They were cordial from the start, but, as time went on, they became much more so - conversational and downright friendly even. I learned that the man was an accomplished engineer who once had responsibility for building some of the many high bridges one sees on the Autobahn. He and his wife, in their retirement, are avid drivers - one of the closest points of cultural contact I noticed between Americans and Germans. Interestingly, it very much seemed that Herr and Frau Harders planned their peregrinations to traverse the very bridges that were Herr Harders’ handiwork in an earlier day. The excitement with which they told me about visiting the new Denmark-Sweden bridge, the construction of which was under the direction of one of Herr Harders’ students, made them seem much younger than they are. Very close to the end of my time as their tenant, Herr Harders said to me that people sometimes really surprise you. He went on to explain. During the war, the unit with which he served had at first been stationed in Vienna, and this was duty envied by men sent into combat. His and
other soldiers’ mothers visited from various parts of Germany with food and comfort. The opera was attended weekly. Life in the city, though certainly curtailed by shortages and the weight of dictatorship, was, for a young German in uniform, certainly bearable by comparison to the alternatives. In 1943, however, the unit was deployed to the eastern front. Herr Harders and many of the survivors in the unit fell prisoner to the Red Army. This was something to be dreaded. A staggering percentage of Germans in POW camps in the East died there. However, the Russian commandant responsible for their welfare, utterly out of character and defeating all expectations, actually took his responsibility seriously. Herr Harders said that at no time in over three years in captivity did the Russians guarding him and the other men from the unit get anything more than the Germans. Food, clothing, access to shelter - the commandant took pains to see that what little was available was distributed evenly between prisoners and guards alike. My landlord was convinced that this out-of-place humanity was responsible for saving the lives of any number of his friends, if not his own. Getting to know the Harders and speaking with them about their experiences is something I will never forget. If everybody in the backdrop to the terrible experiences of World War II had conformed to expectations, I might not have had the chance.
Wer um alles in der Welt ist Willi Münzenberg? 
Ein Zwischenbericht aus der Forschung

Background: A.B. in History with Highest Honors and Distinction, Phi Beta Kappa, Stanford University (1996); M.A./Ph.D. Candidate in History, UC Berkeley (1998)

Project: Münzenberg: Rise and Fall of a Communist Tycoon, 1917-1940
Currently: Ph.D. Candidate in Modern European History, UC Berkeley; teaching an upper-level undergraduate history class on ”The Comintern, 1919-1943“ during spring semester 2001


Die Öffnung der Archive in den Ländern Osteuropas nach 1989 hat uns nun endlich die Hoffnung gegeben, die Legenden um Münzenbergs Tätigkeit zu überprüfen. Dank der


'Magnat' (tycoon) bezeichnete. Wenn die Legende so schön und selbst (für Historiker und ihre Bücher) rentabel ist, warum sollte sie bekämpft werden?


Um diese Fragen herum ist meine Promotionsarbeit aufgebaut. Dabei versuche ich, ständig dem gegenüber mißtrauisch zu bleiben, was Münzenberg selbst und seine ihm freundlich gesinnten Mitarbeiter über seine Tätigkeit sagten und schrieben. Wenn etwas außerhalb der überquellenden Legenden über Münzenberg deutlich wird, dann folgendes: Münzenberg war ein im Auftrag handelnder, vollziehender Verkäufer, der jedoch in erster Linie und vor allem anderen eine Ware verkaufte – sich selbst. Treuer Bolschewik, gläubiger Propagandist, lupenreiner kommunistischer Schwindler – in diesen Widersprüchen liegen nicht nur die geheimnisvolle Identität Willi Münzenbergs, sondern auch die falsche Ausrichtung des Kommunismus und seine fundamental bösertigen Züge verborgen.

1933)" beigetragen. Doch er hat, so weit ich weiß, keine Forschung in den allerwichtigsten Archiven in Moskau betrieben.
Karen A. Mozingo

Circles of Tension: 
Dancing Between Two Languages

Background: B.A. in Women’s Studies, Mount Holyoke College, South Hadley, MA (1991); M.A. in Theater Arts, Case Western Reserve University, Cleveland, OH (1996); M.F.A. in Dance/Choreography, University of North Carolina at Greensboro (1999)

Project: Direct Links: Exploring German and American Modern Dance

Currently: Independent Choreographer, Dancer and Dance Educator in Columbus, Ohio

Ich Spreche

Ich spreche ich sage ich singe
Kannst Du hören?
Meine Hände verdammt mich, mein Geist schon verrückt
Zwischen zwei Sprachen nach Deutschland ich falle
Durch Wasser mein Mund gebärt eine Langeschlangeflucht

Both artist and scholar, I fell into Germany on July 26, 1999, my identities loosely bound by a snake-like thread of intuition. As a scholar, I sought a better understanding of the historical connections and disconnections between the German forms of Ausdruckstanz, Tanztheater and American modern dance; as a choreographer, I longed for an embodied understanding of the creative forces which drove the women of Ausdruckstanz in order to have a better understanding of my own voice as an artist. The first was a journey through historical reality, an outward movement through the historical locations of modern dance in Germany, from its beginnings in Hellerau and Dresden through the crowded Opernhaus and Schillertheater in Wuppertal, to the independent dance scenes in Berlin and Köln. The second was a dance of fantasy, an inward journey into the coveted hours in the studio spaces of Wachsfabrik and Multi-Art Theater in Köln, the endless hours of journaling and thinking as I sat at my desk in my tiny apartment, and the world of cyberspace through
which Ivan Raykoff and I created the new *Sprachraum* for our collaborative performance, “Zwischen zwei Sprachen.” Toward the end of my year, I began to realize that *Zwischen Zwei Sprachen* had become an embodiment of the research and study I had been doing on women and creativity, the act of choreography itself, and the way these issues play out against the backdrop of German history.

The notion of choreography or dance as a method of research is well-established within American dance literature, although the task of embodying it as practice within masters and doctoral programs is still developing. One approach within this research, called postpositivist, rests on the belief that bodily experience is socially and historically constructed, subject to the times and contexts in which the body is situated. Because of these differing experiences, a postpositivist “is seeking coherence of a statement more than correspondence to an external reality.”18 The researcher may also use dance as a method of inquiry in itself, as in historical reconstruction of choreography otherwise inaccessible. The choices of how to present data accumulated through this process are often aesthetic ones, finding a format that matches the nature of the inquiry rather than using the limited forms of linearly constructed research reports or papers. In addition, postpositivist inquiry attempts to retain the multiple “voices” or realities found within research by making visible the process of the research itself and the subjectivity of the researcher. Thus the final presentations lend themselves to alternative forms such as performance, montages of poetry, journal entries, or images, blending the notions of research and art-making. This growing body of knowledge is greatly contrasted by the complete separation in German education of dance practice from dance scholarship. To further complicate the definition, dance scholarship does not exist in German universities as an independent department. Most dance scholars complete their doctoral studies under the umbrella of Theaterwissenschaft, if they are lucky enough to find mentors with an interest in dance, or at least an openness toward it.

When I arrived in Bonn for the opening language course and Humboldt seminar, I was hoping to be in a place where I could, for once, unite my identities as both an artist and a scholar in an environment which would also support my deepening interest in the particular roots of German modern dance. Instead, I found that not only did I need to negotiate the divide between my comprehension of English and German languages, but that I would also have to negotiate the perceptions of a split between my scholarly work and my artistic work - perceptions that seemed to define the two as completely separate languages. What kept my work going and ultimately became the focus of *Zwischen Zwei Sprachen* was the belief that within the seeds of *Ausdruckstanz* and *Tanztheater* lay the

---

18 Jill Green and Susan Stinson, *Postpositivist Research in Dance* (Greensboro: Presentation at The University of North Carolina, 1998)
validation for the fusion of creative process and scholarship. I knew that as a scholar, I was seeking a bodily experience of the spaces in which Ausdruckstanz and Tanztheater came to be, as well as an understanding of the link between this cultural-historical space and the fantastical space of the dance works which resulted from those movements. I was following a trail of artistic intuition rather than attempting to collect historical facts and make definite conclusions. That thread of intuition became my lifeline as I immersed myself in the unknown waters of navigating a new language, culture and the creation of a new artistic work.

*I simply cannot see where there is to get to*

*November 22, 1999*

*Dear Ivan,*

*I work very intuitively, and my idea would be that I'd give you examples of the images I'm working with, movement sections (on video) and examples of text... all in pieces mind you, because it's not coming together as a whole for me yet. And then you could run with these things and see what you come up with. Then we could keep the conversation going throughout the spring... and maybe I'd come to Berlin a few times to talk and have rehearsals together as things take shape and we need it. Otherwise you could mail me sketches as you develop things.*

*Bis dann, Karen*

In line with the characteristics of Ausdruckstanz and Tanztheater, Zwischen Zwei Sprachen evolved slowly toward its final form, refusing to take shape until a month before the performance, after the nature of the piece had been explored and refined to its most poignant themes. I collaborated with fellow Bundeskanler Stipendiat Ivan Raykoff, who arranges, composed and performed the music for the work. As the dance developed, he also became integral in the arranging of text, ideas for staging, and the final performance, thus making the piece also a dialogue between the languages of pianist and dancer. Since Ivan was living in Berlin and I was in Köln, we communicated mostly through electronic mail, coming together at several key stages in order to structure and rehearse the material. Throughout this process, I was continuing my research and study of women artists in German dance, traveling to historical locations related to dance in Germany, watching video footage which had not been available to me in the States, continuing my daily dance training, and becoming involved in Kölnertanzinitiativ, a group of independent professional dancers and choreographers working in and around Köln.
Es gibt ein paar Dinge, ich habe nie vergessen
Die kommen in meine Träumen, die fliegen ohne Kopf

The reality of data and experience I was collecting through these various channels fueled my creative work, both dancing around each other as if partners in some seductive choreography. As Wigman describes, “Creative ability belongs to the sphere of reality as much as to the realms of fantasy. And, there are always two currents, two circles of tension, which magnetically attract one another, flash up and oscillate together until, completely attuned, they penetrate one another.”19 Through my creative explorations in the studio and my forays across the landscape of female dance artists within Germany, I began to locate themes which reappeared and acquired a significance of their own - themes of language, voice, space, and demons. These themes became the guiding forces for both my research and the dance performance.

November 28, 1999

In Munich, the museums were beautiful... there was one with rooms of plaster life-size copies of Greek and Roman sculptures... I stared for a long time at Nike... she stood so tall, with massive wings, and she had no head... it reminded me of a dream I’d had a few nights ago, in which I became blind. Nothing kept me calm except hearing stories read to me in German.

Voice Box

January 21, 2000

Dear Ivan,

Another thought I've been having... I've reached a place with my German where sometimes I get stuck between it and English. I'll find I'm thinking in one, then skip to the other, and sometimes can't quite put together where I was going with my thoughts. I think because I have different experiences of myself in each language... and perhaps at times access to different memories and knowledge. So, I've become pretty interested in language and what it means to identity and the psyche. And then... dance and music are two other languages...

languages that many artists use because verbal language just can't express some things. At least it seems to me to be so... Bis später, Karen

She collides with the table edge, long blonde hair a canopy over her face, her feet stuttering, stumbling backward only to propel her against the table again. She splays her body across its brown surface, opening her mouth silently as if calling a name she cannot remember. She sits on its edge, her feet dangling in pendulous boots, head slinging in circles as she scoots along the edge... Later she breaks through the table, running through the space made at its hinges. She runs toward the audience, raises her hand and with mouth stretched open hungrily, she traces letters in the air... In “Schritte verfolgen (1985),” Susanne Linke created an solo based on her experiences with language and speech as a child. Lacking the ability to translate her thoughts into words, she felt trapped, unable to communicate with the outside world. After years of speech therapy, she learned to speak and associate meaning with words. The drive to communicate led her to dance, studying at the Mary Wigman School in Berlin and later at the Folkwang Hochschule in Essen. She has become known in Tanztheater for her use of the solo form, conjuring images of the Ausdruckstänzerinnen of the 1920’s and ‘30’s. The association became reality when she reconstructed Affektos Humanos, the solo work of Dore Hoyer from 1962.

February 26, 2000

Dear Ivan,

I'm still thinking of changing the names of the solo. I think even last year, I had already begun working on this idea of language, and the old titles don't fit anymore for me...

Maybe the idea being that we travel from the combined languages of dance/instrument into the complex worlds of spoken language and arrive back at the simple combination of music and movement. That in the end, perhaps these two mediums say something that words cannot express at all. What would you think of that?

Journal entry, October 25, 1999

In today’s dance history seminar, we watched Dore Hoyer’s Affektos Humanos (Haß und Eitelkeit). I had never seen them before, so I was watching with fresh eyes. But I quickly was aware that the students were watching the dance with no idea of when it had been choreographed, who Dore Hoyer was, why she is important, what the story of her life is... and I was highly aware not only of my training as dancer/choreographer, but also as scholar/historian. I’ve been reading Hedwig’s work on Hoyer on and off over the last few weeks, and I’ve been more than entranced with the photos and Hoyer’s life. I was sitting with such a wealth of information that the students didn’t have, and suddenly I began to wonder, who do we, as choreographers, choreograph our pieces for? Do choreographers
like Bausch care what people with Ph.D.’s think about their work? Would Dore Hoyer care if she were alive today? Would she rather have someone look at her work, or would she rather someone with the knowledge of her life and history and time analyze it? And who would she want to write about it? Because in the end, that will matter... we see artists through the lens on their biographer. And what they write matters to how these choreographers are historicized by future historians. How much does all of this educated, yet subjective, scrutiny of a choreographer’s work eventually change it? Does the writing reflect anything of what the choreographer intended, and does that matter? I think it is an important question, and it makes me think about how I journal and notate my work. Do I leave a trail of clues that would help a historian understand my work? Will my voice still be there when I am gone? Or will someone overlay it with so much of his or her own projections that my voice is no longer there... so that people see my work through a lens that is not mine and never was? And this seems like a terribly important question in terms of women’s studies and feminist analysis... a whole history of women who used their bodies to speak rather than their voices... in a world where the voice and written word are more valued than the body, how can we be sure that we don’t lose or violate the “body voices” of these women?

Sprachraum


The foundational principles of Ausdruckstanz, as it came into being during the 1920’s, were defined by the choreographer and dancer, Mary Wigman, as space, time, and strength. Of these elements, the definition of space is particular to the genres of Ausdruckstanz and Tanztheater. Wigman defined space not only as the space in which the dance is created or performed such as the studio or stage, but also as the space which the dancer creates: “It is not the tangible and limiting space of concrete reality, but the imaginary, irrational space of the danced dimension... Height and depth, width and breadth, forward, sideward, and backward, the horizontal and the diagonal - these are not only technical terms or theoretical notions for the dancer. After all, he experiences them in his own body. And they become his living experience because through them he celebrates his union with space.”20

20 Wigman, Mary, p.12.
Gingerly, I touched the top rung of the stall bars, marveling at the fine layer of dust which turned the rusted metal into a speckled white. After WWII, Hellerau was used as a gym for the Russian soldiers, Hedwig tells me. That’s why you can still see the paintings of athletes on the walls. The large room, which served as the theater for Jacques Dalcroze’s rhythmic gymnastics school during the early 1900’s, stood now as an empty, concrete ghost of it’s past. In the lobby, Communist paintings depicting indomitable soldiers and ghastly war scenes dominated the landings leading to the second floor. The only suggestion that a dancer like Mary Wigman may have studied here was the voice of one lonely flute player, whose melancholy song echoed against the concrete walls.

In addition to this notion of space, Ausdruckstanz and Tanztheater share the notion that form in a dance should evolve from the content of the work being created. For example Pina Bausch elicits themes for her works from the questions she asks her dancers and the multiple responses they give. Thus, her works often have a montage structure, with different responses evolving into different, overlying scenes in the final performance. A third characteristic of German modern dance, which developed in the early 1970’s with Pina Bausch’s appointment to Artistic Director of the Wuppertaler Tanztheater, was the blending of the elements of dance, theater, film, and music.

May 20, 2000

Dear Ivan,

I am wondering if we should consider a radical re-thinking of the program. I’ve been thinking more about the text idea I told you about in my last email, and I’ve spent some time playing with those ideas. This is terribly scary for me six weeks before the concert, and I wonder what fated pattern is trying to work itself out. What is beginning to become a question in my mind is... could it possibly be that the "stray" pieces we’d planned were only a jumping off point for finding the courage to do a fully collaborative evening, meaning the "Sprache" as an evening-length dance-theater work?
Deine Karen

Sirenengesang

Meine Zähne deine Knochen festhalten und nagen
Zwischen zwei Sprachen, meine Schlangebauchendflucht
Ich fresse dich aus, meine Zunge wie eine Viper
January 25, 2000

Dear Ivan,

Forgot... about the text... I had envisioned that it would be recorded and/or woven into the music (or in a disjointed sort of way). I think it should be spoken and not sung... or if you have a good idea, you might be able to persuade me on the singing. I do think it should be spoken by someone whose mother tongue is English, and I had planned on it being me... unless the singing idea takes over, of course. What would "Sprechstimme" be like?

Deine Karen

One winter night in Köln, as I was thinking about the connections between German women artists, and the relation between their creativity and their voices, I read a story about an American woman whose husband attempted to kill her by holding a gun to her head and making her handle his rattlesnakes... she was bitten but survived. She describes how the snakebite confused her senses... some sounds became more intensified, but language became disordered. She couldn't understand her husband's words because they sounded distorted, warbled, and disorganized. As the poison took hold of her body, she also lost her ability to speak. Later that night, I remembered Bible verses from my childhood, “Eine Frau, die schweigen kann, ist eine Gabe Gottes.”

May 11, 2000

Dear Ivan,

Would you be okay if I am in physical contact with you at the beginning of the piece? I'm thinking of a few movements on, under and around the bench with you, as well as under the piano during the intro. I have some specific images... like stopping you from speaking by putting my hand over your mouth. I think I should begin the piece bodily connected to the piano and your voice... perhaps a feeling of being trapped in or under the piano, a frustration of wanting to stop you from speaking, but being unable to. I think it would be a striking image to set up the rest of the piece.

Bis dann, Karen

In their writings, Wigman and other Ausdruckstänzerinnen describe different aspects of dance as a struggle with a demon. For Wigman, it often took the form of space: “There it

21 Sirach 26:17
was, an opposite pole, a point in space, arresting eye and foot. This probably self-created
and space reflected tension, however, forced the body into a sudden turn and twisted my
back down into a deep bend... Now it hovered over me, this power, and widened into an
immense shadow which permitted no escape.”


Dance is both an affirmation of voice and the embodiment of a struggle
with an outer force which attempts silence them. In 1967, when she could no longer dance
and perform, Dore Hoyer ended her life.

February 26, 2000

Dear Ivan,
I had an idea yesterday that my voice should be heard as the last sound of the piece...not
an audible word, but some sort of sound, perhaps as the lights go out.
Karen

Zwischen zwei Sprachen

Ich spreche ich sage ich singe
Kannst Du hören?
Ich rede in neu Züngen, mein Kraft in meinem Mund
Gegabelt, meine Wörter zersplittern deine Ohren
Sirene, Bastardin, eine Englisch-Deutsche Sünd'

February 17, 2000

Dear Ivan,

---

22 Wigman, Mary, p. 18.
You know that place in a composition where you have to let your original preoccupations go and see what identity the work is claiming for itself? That place where it seems to claim a voice of its own?

Afterward

As I complete this documentation of my process in creating Zwischen Zwei Sprachen and my reflections of my time in Germany, I sit on a cold winter night in my study in Columbus, Ohio. When I left Germany on August 31, 2000, I thought that I would be moving to California and beginning a doctoral program in dance history. I drove across the desert only to realize that I had found a different answer my need for integrating my identities as artist and scholar. I followed my intuition and returned east to settle in Columbus and begin working as an independent choreographer, dancer and scholar. During my year in Germany, I found I was in need of a space other than the university - a space where I could continue to find the form of my dancing and professional life outside of the established forms of academia. When I arrived in Columbus, I discovered a myriad of connections to Germany, the most uncanny being the sister city relationship between Columbus and Dresden. The city of Mary Wigman’s beginnings as an independent artist is intertwined with the city of my own. I follow the continuing thread of my intuition, dancing between two languages.
Towards the end of the sixteenth century the exigencies of supply and demand drove to the continent a number of players then glutting England. The Old World made New, as yet unconquered by a professional theater, Germany in particular nourished these entrepreneurial actors on fresh audiences. Not long into the seventeenth century they abandoned their native tongue and taught the heroes of the London stage to speak German, though for certain characters this translation was a sort of homecoming. Marlowe's Faustus once more contracted with the Devil among his first familiars, and Hamlet was schooled again at Wittenberg as the tide of high Shakespearean verse turned from the elaborate Latinate diction of *incarnadine* back to a plainer Saxon *rot*. Too plain, in fact. The players' German was terrible, articulate passion more than they could manage. To compensate they introduced a character named Pickelhäring whose bumbling slapstick long endeared him to German audiences and made a comic virtue of linguistic impairment.

*Mon semblable, mon frère!* I have had Pickelhäring unhappily before my eyes for a year now of bumbling among Germans, Like Hamlet, I suffer in translation. But no one relishes suffering as much as we anglophone students of Wittenberg, and mine was only the peculiar pain of finding myself at home in a country I'd never been, a language I hardly spoke, though I'd long been fatted on translated German thought. Before I knew a word of German my outlook had already become like Hamlet's according to Benjamin, simultaneously "wittenbergische Philosophie und Aufruhr dagegen."24 This paradoxical phrase, from his *Ursprung des deutschen Trauerspiels*, explains in brief better than anything else I could offer here why I've chosen to bring certain strains of the German philosophical tradition into contact with early modern English drama. The religion they would relinquish still holds them both in thrall.

Take the infamous death of God. Only Nietzsche's wine here is Dionysian; the parish sacristy still perfumes his wine-sack. After the fourth Ecumenical council (431) denounced Nestorius for reputedly separating Christ's divine substance from his humanity in order to

avoid implying that the Divinity might have suffered crucifixion, only the denial of God's death could raise the eyebrows of the orthodox. That at least is how Luther explained the controversy when he reviewed the ancient, heretical case against the divine mortality and came to the customary conclusion, though as suited his taste for the negative, with perhaps more than customary force: „Christus ist gestorben, und Christus ist Gott, drumb ist Gott gestorben.“

Rest assured, he would rise again. But Johann Rist, a mid-seventeenth-century lyricist, playwright, and Lutheran minister followed Luther's emphasis and composed a hymn bewailing Calvary as the place where „Gott selbst liegt tot,“ words that Nietzsche, son and grandson of Lutheran ministers on both sides, is likely to have sung as a church-going child. The hymn is where Hegel first learned it, „dieser harte Ausdruck“ which expressed his philosophy's profoundest truth, namely, that „das Endliche, Gebrechliche, die Schwäche, das Negative göttliches Moment selbst ist, in Gott selbst ist."

I visited the seminary in Tübingen where Hegel studied (along with Schelling, Hölderlin, and David Strauss) and took a peek at the current hymnal. Today they still sing Rist's hymn, but, standing this side of Nietzsche, they have had to cheat on the words. No longer does Gott selbst lie dead, merely Gottes Sohn. Luther's orthodoxy has become a scandal to the modern ear, and the Nestorian heresy which these words were supposed to counteract has been implicitly restored. In a way this modern aversion to the hardest kernel of christological thinking signals the loss of everything in Nietzsche's thought that was scandalous for being at bottom wholly orthodox. „Man hat nur das Wort ‘Tübinger Stift’ auszusprechen,“ he himself wrote, „um zu begreifen, was die deutsche Philosophie im Grunde ist - eine hinterlistige Theologie.“

Along with the hymn that found such epochal resonance in nineteenth- and twentieth-century thought, Johann Rist also left behind the only document to describe a performance of A Midsummer Night's Dream in seventeenth-century Germany. He recalled having seen a group of English comedians attempt the tragic drama of Pyramus and Thisby, with Pickelhäring as Thisby. Like Shakespeare's, the actors Rist saw were also pretending to be artisans who wanted to act. When the English comedians first came to town, Rist recalls, a group of local craftsmen, lacking work, thought to put on a show of their own. Responding to this competitive threat, the English players dressed themselves as artisans who would be court players and mocked the craftsmen's ambitions with a ready-made farce. Their leader, "Ambrosius the sexton," proposes to his company that they ought to begin at the beginning, with God, and perform for His Majesty something from their religious repertoire. But the collier objects to playing Abel, as he would rather not be bashed in the head, and the scissors-grinder has no desire to sit in hellfire screaming with the rich man. And so on, until they fall to blows, abandon the religious for the secular, butcher the tragedy of Pyramus and Thisby in a properly Shakespearean fashion, and are afterwards whipped from the stage by the King's guards. In this way, Rist recounts, the English players cleverly demonstrated their superiority over the competing artisans.

Shakespeare's clowns in A Midsummer Night's Dream likewise demonstrate the superiority of his acting company's Puck-like artistry over the artisans who sponsored the drama of his predecessors. Less obvious here than in its German bastardization is the way that Shakespeare's triumph over the artisan past is simultaneously an attempt to repudiate its

Christian content. After the fall of Rome and the demise of classical drama, Western theater had revived first in the Church, as it happens, through a dramatic recreation of the death of God. The earliest example of post-classical European drama, preserved in an English monastic code from the tenth century, portrays the Easter Visitatio Sepulchri. Just as the earliest manuscripts of Mark, the earliest Gospel, end with the Maries' vain visitation to an empty tomb, this too reveals God most fully in his godhead not through his human appearance as Christ, but rather through the disappearance of his corpse. Nothing more divine than a young man angelically clad needed to appear on stage to ask the Maries whom they sought, then to descend, soft and sweet, the Christian negative: He is not here. The resurrection of western drama had been announced. From there, so the story goes, English drama evolved from simple, religious forms like this one to the complex secular aesthetic of Shakespeare: beginning in the liturgy of the Church it moved outwards into the trade guilds, which sponsored the great medieval cycles depicting human history from Creation to Crucifixion. This extraordinary body of drama withered in the heat of Reformation iconoclasm, only to be replaced by the commercial and ostensibly secular London stage. In 1576, the same year the first permanent professional theater was raised, the inhabitants and local authorities of Wakefield, home for several centuries to one of the most ornate and successful mystery cycles, learned from the Ecclesiastical Commissioners at York that „no Pageant [was to] be used or set forth wherein the Majesty of God the Father, God the Son, or God the Holy Ghost...be counterfeited or represented.” The prohibition against their former religious repertoire left its mark on the failed classicism of Shakespeare's artisans. Elizabethan trade guilds stopped performing religious drama for the precisely same reason Snug the joiner, in fit of anxiety, explains to the audience that although wearing the costume of a lion, he is in fact no lion at all, but merely Snug, the joiner. Both he and the Elizabethan church feared that mere resemblance, in appearing at all, could stand in for the real. Had not the mass itself followed this insidious development, from a dramatic commemoration of the last supper to a supposedly genuine repetition of Christ's initial sacrifice, again involving his real flesh? The performance of God's intervention through miracle in human history - in the lives of the patriarchs and saints, the birth and passion of Christ - tended to the maintenance of idolatry when an audience learned to prefer over strictly Biblical accounts the ribaldry and ad-libing with which those divine events were fancifully recreated on stage. Sooner or later an audience took the mental step of substituting staged representation for the impossible majesty of God's true miracles. Precisely that substitution, according to the hotter sort of Protestant, had maintained the false doctrines of Catholicism, in which transubstantiation counted as the liturgical, idolatrous correlative to the popular drama. Shakespeare's motley troupe of craftsmen, no longer aspiring to mount the spectacle of God in history, suffer anyway from the anxiety - almost, the faith - that what they put on stage, though merely play-acted, will be taken for real. Ostensibly their incompetence will arouse in an audience at best deep incredulity, hence the comedy of their earnestness - but Theseus' comments about the power of the imagination to make poor drama as substantial as the good (5.1.211-2) recalls the fact that for the contemporary religious authorities, too, the innocuous irreality of what the artisans presented would not have been so certain, had they tried to stage any of the old religious drama.

The mischievous Puck, enjoying as both auditor and actor the hempen homespun's rehearsal, has the comic stroke of genius to ensure that their greatest fear comes true. Just, instead of the lion causing alarm, it is Bottom-as-Pyramus, who has been "translated" by Puck off-stage into a beast even more fearsome, terrifying not so much as an ass but as the real appearance of what cannot be real. A true miracle! Once upon a time in the days of genuine artisan drama, the theater had taught that God rather than fairies effected in the lives of the faithful transformations equally miraculous. The righteous might be translated directly into heaven without death, for example. But to the Protestant eye this was no lesson spectacle could teach. "Eye hath not seen, nor ear heard, neither have entered into the heart of man, the things which God hath prepared for them that love him. But God hath revealed them unto us by his Spirit" (1 Cor. 2:9-10). Theater taught carnally in outward show; it rendered the spiritual light of gospel as Starveling renders Moonshine: he comes to "disfigure" what he means to "present" (3.1.56). This was the Protestant position, that drama distorts through its representative medium the inward spiritual truth which had to be revealed directly - direct from reading Paul, at any rate, who explained how only the spirit of God could disclose God's mysteries, "ye even the bottome of Goddes secretes" (1 Cor. 2:11; Tyndale). Such is Bottom's dream, utterly "past the wit of a man to say what dream it was" except as directly revealed to and through a man who was at the time man and no man: "The eye of a man hath not heard, the ear of a man hath not seen, man's hand is not able to taste, his tongue to conceive, nor his heart to report, what my dream was" (4.1.206-14).

When the waking Bottom travesties the letter to the Corinthians, he makes of his momentary dualism - a man only half man, half...inhuman - a distant burlesque of that old artisan revelation, the incarnation. Christ had not been on stage for a long time. The gospel of his coming had become there legally incommunicable. Not so in old time England where an ass's head jutting through the pageant wall attended his birth and, along side an ox, warmed the Christ child with its breath. The sacramental implications of this incongruous image were probably as clear on stage as they are in the iconography of the time, which shows both animals leaning towards the manger as though about to consume its contents.29 The asshead that here confirmed Christ's godhead had already appeared earlier in the cycle, where it actually spoke, testifying to Balaam of an angel's unseen presence. The scene with Balaam probably first developed in the liturgical drama as an attempt to co-opt the massively popular feast of the Ass. This, as often revived as suppressed, brought a donkey into the Church and regaled him with a gay chant.30 Memory of that outrage persisted long enough into modern times to make its appearance in the cave of Zarathustra, where a pope explains that it is better to worship God in the form of an ass than in no form at all. Whoever said God was spirit (Jn. 4:24), he complains, first set the world on the long road towards atheism. "Hat er Geist, so verbirgt er ihn; Jedermann aber glaubt an seine langen Ohren!" - a proposition in Nietzsche's sacred litany to which his ass brays 'Ja!' in agreement.31

How closely Nietzsche's blasphemy mimics a homemade Protestant heresy can be gathered from Luther's claim that God had revealed himself on earth through Christ in order to humble the wisdom of those who foolishly treated the invisibilia Dei—virtue, wisdom, justice - as though they were somehow visible in a catastrophically fallen history, as

31 Also Sprach Zarathustra in Nietzsche's Werke, op. cit., VI/1, ss. 385-6.
though he were not precisely a hidden God (Is. 45:15; WA 1, 362). Citing the same chapter from Corinthians Bottom had, Luther argued that the incarnation turned the wisdom of the world foolish and foolishness wise; the Lord's bottom secrets, in so far as they appeared, appeared ridiculous. No where was this more evident than in the crucifixion itself. God's fullest revelation to date had in fact only masked his inconceivable qualities in the visible: in human weakness and foolishness, in „the humility and shame of the cross“ (WA 1, 362). Those who ask to see the unadorned face of God, as Moses had, see this: a crucified man. By consenting to death the God of the New Testament reveals himself to Christians exactly as he showed himself in the Old to the Jewish leader he had ordained to die within sight of the promised land. He turns his back on them (Ex. 33:20-3; WA 43, 403). We are treading here on the border between the austerity of the high theological tradition, its uncompromising vision of God as „entirely other“ (Calvin), the absolute unknown on which the redemption of known depends, and the inverted logic that since Bakhtin has gone by the name of carnival. It was simply not possible to look on the face of the Divine. The Protestant banns prefacing the Chester cycle explicitly discontinue the age-old practice of lowering a man on stage at Creation with a glamorous, gilded face to represent God. Elizabethan theater-goers would increasingly have to make do with the same meager view Moses had been granted, and in becoming more secular they became more purely Protestant. Their contemplation of Bottom, the new representative of that old-time revelation, took the small backwards step from the ridiculous to the sublime and occupied the same perspective from which Luther's „true theologian“ contemplated God: not face to face, in his invisibilia, but in view of the only part that appeared visible on the cross, his posteriora (WA 1, 362). Bottom's classicism, Protestant to the core, is translated with him into an incarnate arse poetica.

In addition to its ecclesiastical usage translation had a specifically artisan sense, now lost. A weaver might be said to translate a garment by making adjustments to it. Of course the material difference between an unmended coat and its „translation“ is the work of the artisan himself, just as the only difference between raw material and finished product is the sweat of labor in which the latter has been soaked. That the object in its translation absorbed the substance of the laborer seems to have been the assumption behind most scholastic analyses of the commandment, „in the sweat of thy face shalt thou eat bread.“

If Adam's curse forced all humanity to merge with the inhuman object through the sweat of labor, deliverance from this curse would require us to merge with the inhuman subject by consuming the body of Christ. The names of Shakespeare's clowns make a game of confusing the men with their tools and with what those tools enable them to produce, a confusion not too far removed from their fear of being confused with what they represent on stage. Bottom the weaver would have wound his thread around an object called a bottom. Peter Quince the carpenter would have worked with blocks of wood called quines. In fact all the amateur actors' names, like the dyer's hand, disclose their native element. Through jokes like these Shakespeare could distinguish himself from the artisans that preceded him as sponsors for the theater, but it was a joke Shakespeare lived more than they. As an actor in his own company he became what he wrote and had no trade outside of this. That was something new. Yet while dramatic composition became for the first time on the London stage a thoroughly open venture, plays the wares, for centuries already the English theater and commodity production had been, by way of the mysteries, allied. The religious mystery around which the cycles usually revolved was the Real Presence, and

---

Corpus Christi plays most often formed the core of the festivities that accompanied the celebration of this dogma; a moveable feast, it fell anywhere from late May to Midsummer Night. The mystery guarded by the trade guilds that staged the plays, on the other hand, was the mystery of their craft: the secrets of a technique known only to the apprenticed. Yearly these journeymen ornamented the holiday, yet the plays they put on were more like acts of charity or heirlooms than the merchandise they made and sold. Each guild handed down its Miracle, from master glover to master glover, joiner to joiner, tinkering with the text to fit the times. Unlike their daily production schedule the point here was not to make anything. Eventually the irrecoverable costs would conspire with the unfavorable Protestant climate and usher in the drama's demise. But the plays, repetitions of past celebrations, were meant to celebrate and repeat an even deeper, religious past. The craftsmen performed what their forefathers had performed: the deeds of the Patriarchs. These gave the Church and all its sacraments their historical prerogative, gave, in fact, a specific account of how Spirit moved through the material machinations of history to arrive, at mass, in a single embodiment of which those approved by the Church could partake.

The incongruity of their craftwork to this, their yearly sacred duty, led to certain ironic correspondences. At York the shipwrights built the ark before the fishmongers and mariners sailed it across a world turned to water. Chandler's raised the star in the east; the tile thatchers set the nativity in a ragged stable pointedly in need of thatch; the vinters saw that Christ transformed water to wine in the miracle at Cana; naturally the bakers put on the Last Supper. To say the mingling of practical craft with the workings of spirit sanctified the artisans' labor rather than advertised their products leaves unexplained the peculiar inadequacy that such sanctification attributes to their profession: how is the business of renting rooms sanctified when the innkeepers stage a play in which overcrowding forces the mother of God to sleep in a stable? In nearly every trade allusion the working of humans is rendered deficient in comparison to the divine craft, which accomplishes what it sets out to accomplish in such marvel and detail that human accomplishment pales by contrast. No candle can reproduce the brilliance and mysterious appearance of the Christmas star. But then such staged deficiency had the effect of rendering all existence since Creation a history of some higher laboring power whose task it was to redeem the ineffectivity of human labor by cooperating with it and extrapolating from the vanity and malice of human acts some genuine value. Human deficiency in the staged inadequacy of the medieval mysteries seemed comic, not tragic, since the deficiency in humans was where God's direct agency appeared at its greatest. Such a radically opposed doctrine as the denial of the efficacy of will and works could arise from late medieval Catholicism and find in places popular acceptance because its opposition was not always so radical. According to Luther, the man who saw „no beauty in his work, but only his depravity“ made way for „the alien work of God, that he may do his work“ (WA 1, 357, emphasis mine). Before Luther the fall into the futility of the workaday world, felicitous, could be reversed in one way only, through ritual partaking of the sacraments. The artisans' commodities were nothing compared to the sacrament that could repair their lives, but the vanity of their products appeared only in the likening of their work to God's.

For Marx, it is money, „die unmittelbar gesellschaftliche Inkarnation aller menschlichen Arbeit,” that acts as a material revelation of the social totality, that higher laboring power which suffuses subject and object alike. This „gesellschaftliche Gesamtarbeit“ (K 87) inhabits every commodity alongside the empirical value that makes it useful; every object has in it, along with its manifest empirical content, a „gespenstige Gegenständlichkeit“ (K 52), a „sublime Wertgegenständlichkeit“ (K 67) which is „eine bloße Gallerte unterscheidloser menschlicher Arbeit“ (K 52) and whose magnitude can be expressed in *Tauschwert* alone. Because commodities, „sinnlich übersinnliche oder gesellschaftliche Dinge“ (K 86), contain a suprasensible substance at odds with their sensuous appearance, Marx was forced to describe them in a theological terminology reminiscent of pre-modern disputes over the host's embodiment of Christ, through whose consumption the theologians, too, had hoped a global community might be materially instantiated. Their task was to explain how something that empirically looked and tasted like bread could in truth and spirit be flesh. According to Marx's labor theory of value the commodity bread is every bit as much human flesh as it was to the theologians of the fifteenth century: it is the direct embodiment of that expenditure of flesh known as labor. Transformed into money through exchange, it becomes a kind of divine human flesh, belonging to no single person but rather the abstract human totality. In its exchange-value the commodity bread „represents“ (*darstellen*) as a non-arbitrary sign the totality of abstract human labor that participates in it. In some measure all bread is the abstract human labor that it objectively figures, even if this sublime figuration transcends the realm of the empirical senses and must transcend that realm, lest it fall prey to the false idolization known as fetishism.

To the old theologians idolatry took place whenever the human stood in for the divine. The materialist doctrine of fetishism likewise condemns the illusory transcendence of what has been produced, after all, by human hands. Marx shares with the theologians, moreover, the suspicion that objective embodiment of the Absolute - whether God or Humanity - tends towards an inevitable desecration, be that a bloodied God hung as a thief or the crucifixion of humanity that occurs when its universal substance is made incarnate in cash. Fetishism, Marx complained, occurs when „das bestimmte gesellschaftliche Verhältnis der Menschen selbst…für sie die phantasmagorische Form eines Verhältnisses von Dingen annimmt“ (K 86). And yet only in this phantasm, only in this desecration does humanity take on for him any positive existence. To the extent that humanity is anything more than concept, exchange-value constitutes its only universal collectivity beyond the local, mutually antagonistic and internally riven communities in which we live out our lives and beyond whose horizons we cannot venture. Through the mediation of money, according to Marx, we learn „wie der Warenaustausch die individuellen und lokalen Schranken des unmittelbaren Produktaustausches durchbricht und den Stoffwechsel der menschlichen Arbeit entwickelt“ (K 126). Yet at the same time, „entwickelt sich ein ganzer Kreis von den handelnden Personen unkontrollierbarer, gesellschaftlicher Naturzusammenhänge“ (K 126, my emphasis). The apparent autonomy and dominance of economic processes is not merely an epistemological error on the part of the subject. When economic value, in Marx's words, „stellt…sich hier plötzlich dar als eine prozessierende, sich selbst bewegende Substanz“ (K 169), this objective condition impinges on the subject in fact with the irrational, awesome and impenetrable self-sufficiency of a God. Human beings may have created this God, but they do not as individuals control or understand it. When people mistake money for an objective force, which against all reason money has indeed become, they see truly their own inhuman determinant. Adorno captured Marx's insight

---

this way: „Die 'theologischen Mucken der Ware' des Fetischkapitels sind Hohn auf das falsche Bewußtsein, das den Kontrahenten das gesellschaftliche Verhältnis des Tauschwerpts als Eigenschaft der Dinge an sich reflektiert. Aber sie sind auch so wahr, wie einst die Praxis blutigen Götzendienstes tatsächlich geübt wurde. Denn die konstitutiven Formen der Vergesellschaftung, deren eine jene Mystifikation ist, behaupten ihre unbedingte Suprematie über die Menschen, als wären sie göttliche Vorsehung.“35 One faces an irrational and ruthless economic process, everywhere evident but nowhere entirely present, hence utterly determining but defying any obvious reciprocal influence. The man-made has, it turns out, made man. There is a human nature after all. But it is not human.

Hence Marx's notably theatrical conception of modern world history. He is at his least humanist when he speaks regularly of people as dramatis personae stepping forth on the stage of history, mere allegorical personifications of larger economic relations. The attribution of a profound theatricality to economic and political processes accomplishes for him simultaneously the ironic distancing and sincere explanatory function that elsewhere the attribution of a fundamental religious mystification does. Through the satire of theatrical metaphor Marx protests what he describes, but this does not in the least detract from his belief that world history has thus far presented little more than a savage farce. Reviewing the continental political struggles of the 1850's in a newspaper article at decade's end, he divides time into acts and mocks the hypocrisy and cunning of the central powers as a „European comedy.“ Louis-Napoleon plays the role of Pickelhärting, and Prussia, which feigned a dignified neutrality in order to further its own political ends, „will also den europäischen 'lion' spielen, aber als Hans Schnock, der Schreiner.“ So too does Prussia politely reassure the other European powers that it is no lion.36 A telling slip has occurred here. Marx thinks that Prussia really is a lion, that it disavows its aggression the better to dominate. His reference to Snug implies precisely the misprision of him that Snug and his colleagues feared; it implies that for all his disavowals Snug's lion costume signifies something truly lion-like about him, just as Bottom's ass-head is fully meant to signify something truly ass-like about him. Marx's devastating critique of the empty impersonation of inhuman forces that human agents become on the stage of economic and political history consequently stays true to the sixteenth-century model of iconoclasm. He denounces this impersonation as false because in his heart he knows people have taken it for the truth. He decries the awful logic whereby a man becomes on this stage nothing more than the terrifying and ridiculous spectacle of what he is: in the words of one medieval dramatist, „a skylful beast.“

A literary criticism that takes the Marxian critique to heart would hope to extrapolate from this inhumanity, this monstrosity in humans, a glimpse of the inhumanity we might still achieve, as perhaps Shakespeare's artisans unintentionally extrapolate comedy from disaster. The latter inhumanity differs from the former as divinity differs from the beasts.

35 Theodor W. Adorno, Negative Dialektik (Frankfurt am Main: Suhrkamp, 1966) s. 349. A point addressed more recently by Warren Breckman, Marx, the Young Hegelians and the Origins of Radical Social Theory: Dethroning the Self (Cambridge: Cambridge UP, 1999) p. 295 and Slavoj Zizek, The Fragile Absolute: or, Why is the Christian Legacy Worth Fighting For (London: Verso, 2000), pp. 14-15. See also Adorno, "Society" in Salmagundi no. 10-11 (Fall 1969-70) p. 152. This is a major theme of the recent collection, Religion, ed. Jacques Derrida and Gianni Vattimo (Stanford: Stanford UP, 1998). As Hans-Georg Gadamer puts it in the final contribution: "the doctrine of predestination, in particular, served to legitimate the striving for commercial success which characterizes modern industrial societies. The undeniable progress in science and technology has allowed the consequences of this development to grow into an independent power over which we are no longer fully in control" (202).
36 Marx-Engels Werke, op. cit., Bd. 13, s. 466.
But the difference arises mainly from the scandal of their sameness. „Wann immer die Inhumanität des Geistes verklagt wird,“ wrote Adorno, „geht es gegen die Humanität; nur der Geist achtet die Menschen, der, anstatt ihnen wie sie gemacht worden sind zu willen zu sein, in die Sache sich versenkt, die, den Menschen unkenntlich, ihre eigene ist.“[^37] Today we may speak of humanity without embarrassment only as a means of regulating the crimes against it. The crimes are far more palpable than the humanity they violate. It's been quite a year in that respect: a surge in violence from the radical right, the collapse of the peace process in the near East, an atomic submarine left on the ocean floor to rot; through a mixture of juridical maneuvering and mechanical failure the American presidency has fallen to an imbecilic state governor whose main distinction so far lies in having overseen more human executions than any other. It is no consolation that with just a few more votes he might have been democratically elected. In any case I name only the catastrophes given in the news, rather than, as Benjamin once said, the catastrophe of what is everywhere taken as a given. That in the midst of all this some were permitted through the generosity of a federal government to spend the year buried in books is both part of the scandal and cause for hope. It currently has to register with the authorities as a commitment to the political left, but hope such as this formerly went by the name of faith. It is not the same as faith once was, but neither can it be understood as separate from it; it is the critique of faith. Better, its reform.

As I moved from Berkeley to Bonn and then to Berlin, what had been described as an introduction, meant to set the stage for a year of intense research, in fact thrust me directly into my project on citizenship and the body in post-unification Germany. From former and current government officials, politicians, and professors from the CDU, SPD, FDP, and Greens, I learned that Europe was Christian, Turkey was not ready, and Islam was the main threat to NATO and European security. I was surprised by the words of a Defense Ministry Official who said that he could understand the position of a Spanish general who had asserted that he would start shooting if Muslims were to march into Spain en masse from North Africa. The Ministry official showed maps on threats to NATO security with all of the countries on the other side of the Mediterranean highlighted. It was only a twenty-minute speedboat ride from North Africa to Southern Italy, he said. He added that development aid was a defense strategy meant to keep poverty at bay in Asia and Africa so that the „population time bomb“ did not spill over into Europe. He remarked with displeasure at the thought of gay men in the military and said that women could be incorporated into the military through administrative duties, after they had finished raising their children.

When visiting Chancellor Schröder at the end of the year, there was pleasure and reassurance in the simple words: „He's got to go.“ The Chancellor added that there was no need for this type of inflammatory talk. It, of course, didn't represent the position of his government, he said as he smoked a thick cigar, answered questions, and cracked jokes.

The reassurance of Schröder seemed to represent the ushering in of a new era that represented confidence, charisma, and international leadership. With a new generation in power, sins of the past could be left in the past. There would continue to be self-reflection, but this would not continue to inhibit self-confidence in the way it had before. There would
be an apparent opening up of citizenship and naturalization laws, but there would also be a simultaneous closing down of rights such as asylum.

Talk that began before our departure from Germany of banning the NPD seemed to be about squelching a national fire that produced a sore on international front pages. Upon closer analysis, it also seemed that an explicit account of an NPD ban as a ban of that which could not be tolerated, would in fact hide the less explicit interactions that continue to link government policy to everyday experiences of exclusion.

The strength and uniqueness of the Buka year was the ability and possibility to move between spaces, to analyze citizenship from all sides from access to national leaders, to NATO commanders, to school teachers, to asylum seekers, to "Turkish" kids, to former Vietnamese contract workers, to members of the Initiative of Black Germans, to dance clubs, to Ausländerbeirat\textsuperscript{38} meetings.

As someone who would be identified as „African-American,“ I was distinctly aware of the particularity of my own experience as I moved between these various spaces and interacted with such a diverse group of people.

For some, the fact that I came from Berkeley had an important significance. The openness of teachers and principals in primary and secondary schools with 60 to 80 percent of their students from non-German speaking households in East and West Berlin was intimately intertwined with their unspoken interest and gratification that I was doing research with them in their schools. Students in these schools were not quite sure what anthropology was, but seemed intrigued by the fact that someone from the US would be so interested in their lives. They spoke freely about their thoughts on speaking Turkish, wearing headscarves, and even being one of few „Germans“ in a school with students who mostly identified as „Turkish“ whether or not they had German passports. They spoke about the implications of dress, sexuality, and Islam in schools where most of the girls and young women would eventually wear headscarves if they weren't wearing them already.

Teachers and principals, particularly in a secondary school in Kreuzberg (West Berlin), spoke of their uncertainty about what to do with their students about whom one teacher explicitly referred to as Restkinder (the leftovers). A number of teachers admitted that these students in the Haupt/Realschule were being trained for unemployment, because „they wouldn't get jobs.“ In nearly four months of observation in two elementary schools and the Haupt/Realschule, the ambivalence about the goals of the education was clear, as was the fact that language played a significant role in terms of the inability of teachers to communicate with their students and vice versa.

In two elementary schools in East and West Berlin, teachers and administrators admitted that language played a significant role in terms of whether or not students ended up in a Hauptschule, Realschule, or Gymnasium. Almost none of the students who came from households that spoke Turkish at home made it to the Gymnasium in Kreuzberg. In the East Berlin elementary school, it was rare for anyone to be recommended for the Gymnasium. A principal who had since left the elementary school in Kreuzberg after serving for over a decade said that he thought that the „Turkish“ kids should be sent to

\textsuperscript{38} The Ausländerbeirat is a committee set up to discuss „foreigner issues“ in local contexts. The committee in Kreuzberg (West Berlin) of which I was a part, consisted of representatives from various groups that dealt directly with „foreigners“ and immigrants.
elementary schools that emphasized practical training over intellectual undertakings. He said that they would experience more feelings of success in these situations. In my observations, it seemed that a lack of success had much more to do with language than the absence of potential intellectual aptitude.

While control of schools is regional, the nationalization of teacher certification that links citizenship to one's ability to become a teacher has led to a systematic undervaluing of speaking Turkish and other non-German languages. While there were teachers of Turkish descent in the schools in Kreuzberg, they clearly did not have the same status, and there weren't nearly as many even though a majority of the students came from such families. It became clear that there has been a significant shift in these schools from pupils who are from working class „German“ families, to pupils who are from working class and/or unemployed „Turkish“ families. But the structure of the education itself has not adequately addressed this reality.

In the elementary school in Lichtenberg (East Berlin) with 60 percent of its students from non-German speaking households, it was clear that there had also been a significant shift as immigrant families have moved into the once contemporary socialist housing blocks. The principal described it as being something like living in a new world even though she is from the area. This is also a result of German unification. She remarked that the school has had some problems adjusting. Often, violence becomes an articulation of what cannot be communicated verbally, she claimed. But they have fewer problems with the „Russian-Germans,“ she said. „They have German blood in them."

During my time in Berlin, in addition to observing schools, I went to weekly meetings of an anti-racism initiative, participated in a group dedicated to strategies of assessing the possibilities of equal rights, participated as an active member of the Ausländerbeirat, worked on the program committee for Black History Month, and planned the week long film program with at Hinterhof theater in Berlin. I also taught a weekly English course to children of former Vietnamese contract workers in East Berlin. In the middle of my stay, I was asked to give a talk on Affirmative Action in the US at a conference on aktive Gleichstellungspolitik (equal rights politics) with members of the German parliament, academics, activists, ministry officials, and visiting officials from Holland and Great Britain.

These experiences helped to round other experiences, where citizenship continued to be articulated in its everyday practice.

As I rode a train back to Berlin from meetings with EU and NATO officials in Brussels, I was selected as a target for a passport control within Germany after having already crossed the Belgian/German border. We had just been repeatedly told that the borders were now open. The border guards, however, said that they had specific criteria that they used to select people on the train. They had controlled 30 out of 120 people, they said. They had arrested a man who said that he was from Albania. They were sending him back to Belgium to get his papers. There were particularly a lot of people from Kosovo unterwegs (underway), they told me. In a hypothetical example, they added that it was their job to keep such people from moving through Germany on their way to Great Britain. „They don't want them there either,“ one guard told me.

As they declined to give me their criteria, I thought of a short documentary film I had seen in my work and research with an anti-racism initiative in Berlin. The film ends with a man
from South Asia with German citizenship, and with whom I had happened to live, running after taxis that are driving away from a taxi stand without passengers. It seems humorous, as if the taxis are scared that this man will in fact enter and ask to be taken somewhere. For them, his dark skinned body represents danger, not in the sense of New York taxi drivers who refuse to pick up „black“ men, but in the sense that they could go to jail for „helping someone illegally enter the country.“ Here, the taxi drivers become border guards within Germany. Citizenship is immediately marked by the body, regardless of the passport. Before the scene showing taxi drivers deserting a taxi stand, the police ask the same man for his papers after he has refused to show the taxi driver his ID. The driver wants to establish whether or not he is legally in Germany. The police come and eventually he shows them his German identity card. When questioned about why he was stopped, one of the officers says, „He doesn’t look European.“ Later in the film, a high level border guard official says that when riding a train, he can tell who is a „foreigner,“ „and the likelihood that I'm wrong is very small.“

In the spring of our stay, I was struck by the words „Deutschland einig Vaterland“ (Germany one fatherland) that had been transported from the previously banned text of an East German national anthem to the entrance display of a national museum in Leipzig, constructed to remember German unification through various artifacts and a retelling of the history. The director of the museum said that there was nothing wrong with being proud of one's country when asked about the words that had been re-invoked in the movement that had begun in Leipzig and led towards unification. Upon reading these words, I could not help but think of the immediate return of a number of East German contract workers who had come from Vietnam, Mozambique, Angola, North Korea, China, and Cuba as their governments recalled them or the Federal Republic offered them 3000 DM if they agreed to return home. I had conducted interviews with a number of former contract workers, former Vietnamese students, and German activists who spoke of unification as a moment of uncertainty and fear. Skinheads attacked contract workers' housing complexes, and police brutality increased, particularly in East Berlin and East Germany.

What seemed to be the naturalness of unification articulated in images of people dancing on the wall brought back through the unexpected words, „Deutschland einig Vaterland,“ was also a moment of exclusion. As one head of the Initiative of Black Germans put it: „There, at the unification party, I saw a young, blond, blue-eyed youth. He represented for me the new Germany.“ As a friend of Nigerian and German descent who had moved with her mother and siblings from East Berlin to West Berlin much before unification recounted, during the period of German unification, people in the street with children at their side would tell her: „We are here now. You can go home.“ An „African-German“ woman who had grown up in Leipzig and participated in the demonstrations retold her experience as she remembered a split that led to the emergence of two simultaneous demonstrations, one focused on critique and reform, and the other focused on national unity. This split represented the shift from Wir sind das Volk (We are the people) to Wir sind ein Volk (We are one people). The „one,“ here, represented an imagination of national purity.

Before coming back to Germany in the summer of 1999 to begin my year as a Buka, I scoured newspapers and was excited by reports of what seemed to be the promise of imminent change from citizenship laws that continued to be based on blood towards a more inclusive idea of the national polity. The dual citizenship debates and a petition that kept dual citizenship from becoming as revolutionary as once thought seemed regressive,
but a new law was nevertheless pushed through, that for the first time removed the „blood“ criteria.

In my more recent reflection, I have realized that one has to move beyond official texts that seem to indicate a universalization of inclusion through a liberalization of citizenship laws and a post-war emphasis on human rights towards looking at the everyday particulars of practices that consume belonging in national contexts. What I have found is the persistence of technologies of exclusion expressed underneath the language of a universalization of rights and openly most recently through the insistence that there is a German *Leitkultur* that needs to be reinforced. The language of exclusion has changed, but the increased presence of languages such as Turkish and practices such as Islam have caused a great deal of anxiety, perhaps precisely because new articulations of national identity have had to emerge as blood has been pushed out of contention for speaking about national unity in official contexts. On the other hand, as one looks beyond the official, one finds that blood has in fact not completely disappeared even as new rhetorics have come into existence.

My work is centered in Berlin as the site of a collision of events: the fall of the wall, unification, and re-nationalization. Language, borders and bodies have become central themes as I consider citizenship in its everyday articulations not simply as strict legal code, but as a system of regulation that extends from this specific code to German teachers who encourage „Turkish“ women to revolt against their fathers, and even further to „African“ men whose residency in Germany is at least partially dependent upon myths of potency and images of hypersexuality that help to consummate the possibility of marriage to and the discretionary power of „white“ German women.

The body is at the center of my investigation of citizenship because, citizenship, as that which is based on life and sovereignty, rights and freedom, locates its power at the site of the body. One’s life is reflected through one’s body. Citizenship as a network of power in which a state cares for its citizens centers its power on the life and well being of the body of its citizens. The aggregate of citizens, in fact, constitutes the national body. Blood as a metaphor for citizenship relies simultaneously on the body and life as a means for constituting the citizen. In their everyday articulations and in an even more extreme Nazi ideological form, blood and the body are at the center not only of what constitutes citizenship, but also, what constitutes exclusion.

German unification is the event that highlights my investigation, as unification is at the historical center of a re-emergence of national feeling to which exclusion has become a necessary component. Michel Foucault’s conception of bio-power\(^{39}\) (the power over life) suggests disciplinary techniques and normative institutions at the center of modern citizenship, but it cannot fully account for the excluded.

While Chancellor Schröder is attempting to make formal legal membership less „race“-based, an examination of citizenship in its broader social dimensions is necessary in order to understand how technologies of exclusion operate to exclude those with and without German national identity cards. In my research, a number of „African-Germans“ recount the disbelief when they say that they are German and the shock when they show up for an interview after talking with a potential employer over the phone. Many „Turkish-

Germans’ maintain that they are Turkish and say that a German passport is only a matter of convenience in terms of travel within Europe. Former Vietnamese contract workers in East Berlin express ambivalence about acquiring formal German citizenship status. As the experiences of my interviewees demonstrate, citizenship is not only formal legal status, but also a form of belonging that requires immediate aural and visual recognition. Even if becoming German is not possible, being in Germany generates certain types of performances that become visible through the body, language, and bodily practices. It is through these performances, through the body, that one begins to see links between citizenship as an official legal status and as everyday practice.

As Sociologist Bryan Turner argues, we have to understand citizenship beyond its formal legal dimensions, “as a set of social practices which define the nature of social membership.” Here, it becomes apparent that to limit one’s understanding of citizenship to the formal legal realm would be to miss a great deal in terms of how social membership is determined. An analysis of citizenship as social belonging takes into account how blood, language, bodies, and bodily articulations continue to shape notions of Germaness in popular discourse and social imagination. It highlights modes of exclusion, as becoming fully German in this context becomes a seeming misnomer. One former head of the Initiative of Black Germans said that she only recently realized that when people around her were talking about Ausländer (foreigners), they were also talking about her.

My work is not about “immigration” or “foreigners”, but about citizenship. The temptation of listeners hearing a description of my project is to treat the people with whom I have worked as somehow not having the same claim to being in Germany as the “real Germans.” “So, how long have they been in Germany?” has become a common question, coming even from critical academics. This question, however, speaks directly to the problem I am addressing. Of course there are particular narratives and specific histories about “African-Germans,” people of “Turkish descent” in West Berlin/West Germany, and former Vietnamese contract workers in East Berlin/East Germany, but as my research makes clear, there are a number of similarities between these groups vis a vis German citizenship.

In an edited volume entitled Foucault and Political Reason: Liberalism, Neo-Liberalism, and Rationalities of Government, Sociologist Nikolas Rose writes:

“The idea of the State was, and is certainly one of the powerful ways of seeking to codify, manage and articulate - or alternatively contest, overturn and re-articulate - the proliferation of practices of authoritative rule throughout our „modern“ experience. But the dream or nightmare of a society programmed, colonized or dominated by „the cold monster“ of the state is profoundly limiting as a way of rendering intelligible the way we are governed today. One needs to ask how, and in what ways, and to what extent the rationales, devices and authorities for the government of conduct in the multitude of bedrooms, factories, shopping malls, children’s homes, kitchens, cinemas, operating theatres, classrooms and so forth have become linked up to a „political“ apparatus?”

I would answer that in as much as the nation-building project has been successful, the technologies of governance that have been modified and reworked after the beginning of nation states, have only substantiated and reconfirmed contemporary belief. A focus on technologies of exclusion brings to light the ways in which nation building is not over, but an ongoing project. This approach also links institutional practices to everyday articulations of exclusion as it reveals specific actors in unexpected locations.

German unification is one of the most explicit contemporary examples of this process at work. Media images, medical practices, and norms - partially expressed through law - become indicative of the success of and broad belief in nation building. The success of contemporary governance relies on the success of the national project.

Given the continued importance of the state, my analysis also suggests looking beyond official institutions in order to see exclusionary technologies at work. Arenas such as dance clubs become constitutive of a space that links these state institutions to everyday practices. Schools, social clubs, religious institutions, and political organizations are others.

Being in Germany for a year as a Federal Chancellor's Fellow was an invaluable opportunity to examine citizenship in the various ways I describe above. Access to leaders and government officials beyond the local level strengthened the force of my analysis in a way that would have been inconceivable without this access. As I work on my dissertation and eventually publish the final work, I look forward to the rich debate, and even change that I hope it engenders.
Ivan Raykoff

Man müsste Klaviere finden können

Background: B.A. in Music, Eastman School of Music and the University of Rochester (1989); M.A. in Piano Performance, University of California at San Diego (1995)

Project: The Pianist As Cultural Icon: Contributions from German Musical Life

Currently: Ph.D. Candidate in Critical Studies and Experimental Practices in Music, University of California at San Diego

I came to Germany to look for pianos and to think about what they meant - to “look for” pianos not in the sense of sight-seeing or shopping (though some of both did happen along the way), but to observe them as they appeared in the course of daily life, or as they sat preening majestically in one or another cultural habitat. Indeed, pianos were to be found running wild and unchecked through the most crowded public places (on the reverse side of the current 100 DM bills), or waiting eagerly yet patiently in piano showrooms for loving masters to adopt them, or enslaved and abused in dance rehearsal studios and cabarets of suspect reputation, or cloistered like extinct specimens or rickety skeletons of music, history, and Kultur in museums and archives. There was even a sleek grand piano suspended from a construction crane in front of the Kanzleramt for two days while its intrepid tamer played Erik Satie’s “Vexations” the required 849 times ohne Pause; the piano was probably cold, if not also vexed.

Ein gutes Tier
Ist das Klavier,
Still, friedlich und bescheiden,
Und muß dabei
Doch vielerlei
Erdulden und erleiden.
- Wilhelm Busch, “Gemartert”

Aside from live sightings, I was particularly interested in how pianos have been represented pictorially, descriptively, and metaphorically - in other words, how pianos have been emblazoned onto artifacts of cultural life (as a kind of modern-day cave drawing, to continue the zoological analogy). I found pianos amply represented in old books at the Staatsbibliothek zu Berlin-Preußischer Kulturbesitz and new paperbacks at Dussmanns, mentioned in poems by Goethe and in toothpaste advertisements, seen and heard on scratchy celluloid reels at the Bundesarchiv Filmmarchiv or glossy prints at the Berlinale festival and rentals from Videodrom, hanging on the walls of Kunstaustellungen or postered in the Wittenbergplatz U-Bahn station. Most people spend time listening for the different
voices and noises the piano makes, and though I did cultivate my sense of hearing too, it was mainly the visual and literary manifestations of the beast that occupied my attention. On a few occasions I did also go to hear people talk about music and their personal instrumental fetishes in out-of-the-way university buildings, but voyeurism was my primary vice that year.

After all, the piano is not only a producer of sound, it is also a “sight of sound,” to borrow Richard Leppert’s title. In The Sight of Sound: Music, Representation, and the History of the Body (1993), Leppert explores “the function of musical practices as representations through which the history of the body is produced.” I have long been fascinated by the connections, both physical and figurative, between the human body and a musical instrument; the piano offers an exceptional case study for this kind of relationship because it is played with fingers, hands, and feet (not to mention arms, shoulders, torso, and so forth), and because it is in itself such a substantial and striking “body” in the salon or on the concert stage. This corporeal connection between instrument and body became very real to me quite early on in the year. The first piano I got to see - and touch - after arriving in Bonn was, fittingly enough, the instrument of the Great Master himself, Ludwig van. We were having a tour through the Beethoven-Haus as part of the opening weeks’ orientations and meetings, and there was the restored Conrad Graf grand which had been a gift to Beethoven from the Viennese piano-maker around 1820. With its beautiful mahogany casework, its five curious foot-pedals and innovative quadruple stringing, it was certainly a sight to behold (usually from beyond the velvet rope), but it was an even more memorable experience to be able to feel the keys and action of the instrument that Beethoven himself had played on just a few years before his death, as he was losing his hearing. Far more than any book or painting or archival manuscript score that we saw in the museum, looking at, playing, and hearing this piano provided me with a real-life connection to Beethoven’s mythologized history and his musical creativity. It was an exciting experience to find such an evocative cultural icon still resonating, quite literally, in the current moment.

In fact, the year 2000 was celebrated as the 300th birthday of the instrument we call the piano, an anniversary publicized by various exhibits and publications both in the United States and Germany. In Washington, D.C., the exhibit “Piano 300” was held at the Smithsonian Institution, and in Berlin the Musikinstrumenten-Museum devoted a long-term exhibit to “Faszination Klavier: 300 Jahre Pianofortebau in Deutschland.” I visited this latter collection at the very end of my Germany stay, thus it provided an exceptional moment of overview and synthesis for my year-long project. The pianos and related specimens were scattered densely across two floors of the museum, and though only a very few of the instruments could be touched or played, the sheer menagerie of varieties, shapes, and mechanisms created a visual din that was almost overwhelming. There was a hammered dulcimer-like Hackbrett from 1766, Hammerflügel both antique and new, harpsichords, cembalos, clavichords, virginals, celestas, player pianos, pianolas, and oddities such as square pianos, giraffé pianos, sewing-chest pianos, portable mini travel pianos, a six-tiered Jankó keyboard (invented in 1882 to simplify transposing), digital Disclaviers, even a piano with electromagnetic sensors instead of foot pedals (for handicapped pianists in wheelchairs). The strangest piano contraption I espied that year, however, was an accidental discovery at the Karlsruhe Stadtmuseum during our group’s Studienreise: a telegraph from 1900 which incorporated a short span of
piano keys as its keyboard for letters, numbers, and punctuation - but more on that later.

Being one of those people who has had long experience touching pianos in order to make them do the things I want them to do, I have also been very interested in the representations and reputations of piano-players in the German cultural and social context (Klavierspieler is a useful word; I would avoid the term “pianist,” which carelessly condenses the rather complicated relationship between human and instrument into a single personage, and thus discriminates against what most people consider to be the passive partner in the affair - incidentally, pianos do bite back). So I was looking for and at the pianist as a cultural icon, for what German cultural life has contributed to this iconography, and how this cultural figure still signifies today in popular culture. After all, Germany has had a significant (if not preeminent) role in Western musical culture during the 19th and early 20th centuries, considering its defining influence on the Romantic piano tradition (through Beethoven, Clara Schumann, and Johannes Brahms, for example) and the virtuoso tradition which continued there (through Franz Liszt, Karl Tausig, Hans von Bülow, and Eugen d’Albert). In the amateur sphere, the values of the bourgeois Bildungsbürgertum situated the piano and piano-playing at the center of domestic music-making and musical education, typically for females. Piano manufacturing in Germany established names such as Steinway as internationally-recognized and respected pianistic signifiers. American pianists were greatly influenced by Amy Fay’s Music Study in Germany (first published in 1880), while emigration from Central Europe to the United States - to Hollywood in particular - brought a significant influx of these Old World traditions and “meanings” into global popular culture of the 20th century.

While I’ve written previously on the symbolism of the “wrecked” piano and its connection to the virtuoso-hero as depicted in war-time American and German cinema (see “Hollywood’s Embattled Icon” in the recent book Piano Roles: Three Hundred Years of Life with the Piano), this year in Germany was spent on the dissertation project, which examines the image of the “Romantic” concert pianist in 20th-century popular culture - “romantic” in both senses of the word: the 19th-century musical era, and the quality of the sensual, intimate, and erotic. I consider the virtuoso pianist as an iconic cultural figure imbued with particular gender-specific and “eroticized” meanings, and I investigate how popular representations of the pianist have perpetuated Romantic-era mythologies about the instrument and its performers. Typical among these representations is the image of the seductive virtuoso modeled on Franz Liszt; depictions of the female pianist, some modeled after Clara Schumann, must usually negotiate the socially problematic divide between the role of public soloist and the domestic role of wife, mother, or daughter. I analyze such representations of the “Romantic” pianist in terms of gender, sexuality, and identity, and also question how these types have been challenged and reconfigured via parody and other forms of appropriation. Of the various examples I could provide to illustrate this manner of representation, a short excerpt from Thomas Mann’s story “Das Wunderkind” sums up the erotic undercurrent of the piano-pianist relationship:

Aber er selbst für sein Teil hat im stillen sein besonderes Vergnügen bei der Sache, ein Vergnügen, das er niemandem beschreiben könnte. Es ist dieses prickingende Glück, dieser heimliche Wonneschauer, der ihn jedesmal überraselt, wenn er
wieder an einem offenen Klavier sitzt,—er wird das niemals verlieren. Wieder bietet sich ihm die Tastatur dar, diese sieben schwarz-weißen Oktaven, unter denen er sich so oft in Abenteuer und tief erregende Schicksale verloren, und die doch wieder so reiñlich und unberührt erscheinen wie eine geputzte Zeichentafel. Since the era of Frederic Chopin, Franz Liszt, Clara Schumann, and the other great pianists of the nineteenth century, the Romantic virtuoso has swayed both the emotions and the imagination of the music lover. Then as now, the concert pianist creates and stimulates a particular attraction - in both senses of the word: the performer’s spectacle of music-making (an act perceived visually and aurally, not unlike a film or circus “attraction”), and the appeal or allure emanating from that act (as in a magnetic or erotic attraction). Whether showy or sublime, the pianist’s performance involves not only the actor-attractor, the virtuoso who plays the music and the role, but also a viewer-listener who hears the sonic stimuli in conjunction with the visual spectacle, and a cultural apparatus - the stage, as it were - which provides a context of historical, social, and personal meanings informing both the recital and its reception. Thus the relationship of body to instrument, of virtuoso to keyboard, acquires a further dimension in the audience’s gaze. Mann’s prodigy, for one, understands the effect of visual spectacle as he walks on-stage to the crowd’s applause:

Es geht an den Rand des Podiums vor, lächelt, als sollte es photographiert werden, und dankt mit einem kleinen, schüchternen und lieblichen Damengruß, obgleich es ein Knabe ist. … Bibi setzt seine weißseidenen Füße auf die Pedale; dann macht er eine kleine spitzenförmige Miene, sieht geradeaus und hebt die rechte Hand. … Seine Miene macht Bibi für die Leute, weil er weiß, daß er sie ein wenig unterhalten muß. … Klage und Jubel, Aufschwung und tiefer Sturz - “meine Fantasie!” denkt Bibi ganz liebevoll. “Hört doch, nun kommt die Stelle, wo es nach Cis geht!” Und er läßt die Verschiebung spielen, indes es nach Cis geht. Ob sie es merken? Ach nein, bewahre, sie merken es nicht! Und darum vollführt er wenigstens einen hübschen Augenaufschlag zum Plafond, damit sie doch etwas zu sehen haben.

As Richard Leppert writes about the visual significance of the 19th-century virtuoso’s mannerisms, “performers’ bodies, in the act of realizing music, also helped to transliterate musical sound into musical meaning by means of the sight - and sometimes spectacle - of their gestures, facial expressions, and general physicality.” In this way, the virtuoso “literally played out, visually and with sound, the exotic, sensual, and dramatic fantasies” of that era’s audiences. (See Leppert’s “Cultural Contradiction, Idolatry, and the Piano Virtuoso: Franz Liszt,” in Piano Roles: Three Hundred Years of Life with the Piano.)

Not much has changed in terms of the pianist’s aural and visual attraction for contemporary audiences today - if not in the concert hall, then certainly in the Kino, where images and depictions of the “Romantic” pianist’s performing spectacle continue to enthrall audiences both within the film-story and within the movie theater. Two recent films among the many I saw in Germany will suffice to illustrate this mode of representation around the latter-day “Romantic” pianist: Gloomy Sunday - Ein Lied von Liebe und Tod, directed by Rolf Schübel, and Die Legende vom Ozeanpianisten (released in the U.S. as The Legend of 1900), directed by Guiseppe Tornatore and based on Alessandro Baricco’s book Novecento. In 1900, a reclusive pianist who lives his entire life aboard a transatlantic ocean liner (a sort of Hunchback-meets-Titanic tale) composes a mysterious and beautiful
melody inspired by the sight of a mysterious and beautiful female passenger. The scene in which he gazes at her standing outside of his porthole while he plays the piano inside for a record producer recycles the hoariest Hollywood conventions about musical composition: the artist, the female muse, and the impossible romance which engenders eternal melody. In *Gloomy Sunday*, the same dynamic of visual and musical seduction occurs between a pianist in 1930s Budapest and the beautiful young hostess at the elegant restaurant where he plays. The melody he composes, inspired by her love and affection, becomes a wildly popular tune which mysteriously motivates many of its listeners to commit suicide. Here, too, love, sex, death, and music - the typical 19th-century Romantic blend - converge in yet another representation of the “eroticized” pianist.

In the course of my research I found numerous further examples of this juxtaposition of Romantic aesthetic and 20th-century popular culture. One of my favorite discoveries is the old-time German Schlager hit “Man müßte Klavier spielen können,” from the 1941 film *Immer nur Du!* Johannes Heesters sings the song, elegantly dancing in top hat and tails on a huge keyboard stretched across the stage, while behind him six pianists play on grand pianos and a bevy of beautiful dancing girls rush up the stage to cavort with them. The song’s refrain admonishes men to learn to play the piano in order to gain a definite romantic advantage:

In der Liebe Glück zu haben, ist nicht immer leicht,
Doch es gibt verschied’ne Wege, wie man das erreicht.
Mit Musik geht es am besten, und wir zeigen hier,
Wie man schöne Frau’n bezaubert am geduldigen Klavier.

Hier an diesem Beispiel seh’n Sie, was die Frau’n betört:
Wer Klavier spielt, ist bei ihnen unerhört begehrt.
Neidisch muß man sich mit anseh’n, wie ein Pianist
Mit ein paar geschickten Griffen gleich der Hahn im Korbe ist.

Man müßte Klavierspielen können,
Wer Klavier spielt hat Glück bei den Frau’n.
Weil die Herr’n, die Musik machen können,
Schnell erobern der Damen Vertrau’n. …
- Music by Friedrich Schröder, lyrics by Hans Fritz Beckmann; in *Von Kopf bis Fuß auf Kino eingestellt: Unvergängliche Melodien des deutschen Tonfilms*

A year of searching for pianos and representations of “Romantic” pianists led to some unpredicted avenues of exploration and academic inquiry. Since I was affiliated with the Department of Cultural Studies at the Humboldt University in Berlin (where Prof. Christina von Braun was my Betreuerin), I got to know some of the students there as well as the work of certain faculty members. Friedrich Kittler’s name I had known previously, but it wasn’t until I read the recent English translation of his book *Grammophone, Film, Typewriter* (1986) that I became very interested in his treatment of technological history and media philosophy in relation to my own project on the piano. In the fall, I gave a paper at a conference on music and technology organized by the Deutscher Verband der Studierenden der Musikwissenschaft at the University of Lüneburg; I spoke about the piano keyboard’s historical and evolutionary connections to the telegraph, typewriter, and subsequent communication and information storage technologies, drawing
extensively on Kittler’s work. In the discussion session afterwards, one attendee suggested I look up an article from 1930 written by a Berlin stenographer who claimed some success learning to type to musical accompaniment. With some luck and the indispensable DBI-Link database of Berlin library holdings, I located Helga Weigel’s description of “Musikalischer Rhythmus als Mittel der Leistungsteigerung bei der Schreibmaschinenarbeit” in the rather obscure Musik und Gesellschaft: Arbeitsblätter für soziale Musikpflege und Musikpolitik. As Fräulein Weigel relates, her typing teacher one day announced, “Wir schreiben nach Musik!”


I’ve already mentioned the piano-keyboard telegraph I noticed in the Karlsruhe museum exhibit (the contraption, by an American inventor named David Edward Hughes, usually resides in Frankfurt’s Museum für Post und Kommunikation), which was an important example in my talk on keyboard technologies. But in a moment of shopping serendipity, I was browsing one day in an Antiquariat near Nollendorfplatz and found a framed close-up illustration of the keyboard layout of the very same telegraph, taken from the fourteenth edition of Brockhaus’ Konversations-Lexicon (1901). I would never have thought to skim through dusty copies of the Brockhaus in order to happen upon this very useful illustration - a perfect example of how shopping can sometimes be more productive than going to the library!

Fräulein Weigel’s system of typing to music, despite its drawbacks, apparently yielded promising results:


So I briefly considered using this technique back at the apartment while I was writing up portions of my dissertation, but quickly abandoned the idea. However, the concept did resurface in a creative manner some months later when Karen Mozingo (another Buka in our group) and I were preparing the music for her modern dance performance, “Zwischen zwei Sprachen.” During the recitation of one of her poems, I would leave my place on the piano bench, come back out on stage with an old-fashioned typewriter, and proceed to type up the poem impatiently and scatter the sheets madly across the stage where Karen was dancing. In this one instance when my typing might be compared to my playing, the visual and the “musical” elements combined here in a way that reflected my thoughts...
about the piano keyboard as a technology of impression and expression, and the keyboard itself (whether piano or typewriter) as a site/sight of sound and spectacle.

I had intended to spend the two or three months preceding the concert practicing at home in Berlin on the baby grand I had rented from Steinway Haus. But as it turned out, my time with that pet was cut short by some folly caused by the other animal in my life, my partner Robert’s golden lab Moritz (both of them had come to Berlin for half a year, as Robert had a short-term Fulbright grant to finish writing his new book). One day soon after the piano had arrived, I was walking Moritz around the Velodrom grounds across the street as usual, but when I turned one way he decided to suddenly chase something in exactly the opposite direction. The leash yanked hard, and some of my left arm went his way. Soon I felt a stiffness in my forearm, and a day later a dark blue bruise appeared on the underside of my wrist. Of course I couldn’t even play the piano with that hand, and a visit to the doctor confirmed that I had a deep Bluterguss which would take a few weeks to heal! So much for the rental grand sitting in the apartment; with the lid down it did provide some needed shelf space, at least. The bright side of the whole experience was that my investment in German insurance coverage paid off, and I had daily physical therapy appointments for two pampered weeks.

Ich habe zu Hause ein blaues Klavier
Und kenne doch keine Note.

Es steht im Dunkel der Kellertür,
Seitdem die Welt verrohte.

Es spielen Sternenhände vier
- Die Mondfrau sang im Boote -
Nun tanzen die Ratten im Geklirr.

Zerbrochen ist die Klaviatur -
Ich beweine die blaue Tote.

Ach liebe Engel öffnet mir
- Ich aß vom bitteren Brote -
Mir lebend schon die Himmselstür -
Auch wider dem Verbote.
- Else Lasker-Schüler, “Mein blaues Klavier”

But the show must go on, and it did. Karen and I performed “Zwischen zwei Sprachen” at the beginning of June at the Multi-Art Theater in Cologne. Both nights the studio was packed! The musical side of the program brought together a number of different sides - or Sprachen - of my own musical background, bridging German Clara Schumann and Hungarian Bartók with American Gershwin and my own improvisations. One of these latter creations involved playing a single note on the keyboard while damping the strings with my other hand. In Berlin I could easily reach into my Steinway grand, but in Cologne there was an upright piano - a fine instrument, but one whose insides were only accessible through the top when the narrow lid was raised. So as I leaned way over into its intimate depths, I was reminded again of the relationship between instrument and body, and the spectacle
I was making, intentionally or not, for the audience. After all, the “Romantic” is all in the eye of the beholder.

Mit Recht erscheint uns das Klavier,  
Wenn’s schön poliert, als Zimmerzier.  
Ob’s außerdem Genuß verschafft,  
Bleibt hin und wieder zweifelhaft.  
- Wilhelm Busch, “Fipps der Affe”
The Amazing Differences I Experienced: Reflections on a Year Studying Law in Germany

Background: B.A. in Political Science, University of Florida - Gainesville, FL (1995); J.D. Emory University School of Law - Atlanta, GA (1999); LL.M. Westfälische Wilhelms-Universität Münster (anticipated 2001)

Project: Masters of Law (LL.M.) degree in German private law and masters thesis on international sales law

Currently: Associate Attorney in the International Corporate Section of the law firm of Smith, Gambrell & Russell, LLP in Atlanta, GA, USA

During my year in Münster I was able to experience the life of a German law student first hand and see how different it is from that of an American law student. I walked into my first day of lecture of the BGB (Bürgerliches Gesetzbuch) to see a lecture hall of about five hundred 19 and 20 year old students. The first difference was the size of the class. While I had been accustomed to classes of a few hundred students during my undergraduate studies, the largest law class I ever had in the U.S. was 60 students. The second difference was the age of the students. Since in the U.S. we finish a bachelor’s degree prior to entering law school, we are generally at least 22 years old when we begin the study of law. The third difference was that the students talked during the entire lecture. This would never happen during a U.S. law student class because of the dreaded Socratic method where, rather than lecture, the professors ask questions directed to individual students about the prior night’s reading.

I studied with a number of other LL.M. students from all over the world. I became well aquatinted with students from Latvia, Mexico, South Korea, Estonia, and France, among others. Being the only student coming from a common law background presented a special challenge for me. I also had to accustom myself to the use of a statute book for every class. Unlike the U.S., where we read cases and learn to analyze judge’s reasoning during law school, in Germany I had to learn to read statutory text and interpret it and apply it to specific fact patterns. I had to learn different ways of solving the same basic legal problems that arise in the U.S.

I remember the epiphany I had one day in class when the professor used an example and I knew the outcome, but the professor went about it a different way than a U.S. lawyer would have. The example was as follows: a person orders a pizza while he is drunk. He does not have the capacity to enter into a contract for the pizza, because he is drunk. But the pizza delivery person delivers the pizza. There is no contract requiring the person who ordered the pizza to pay for the pizza. When I heard the professor say this, as the good common law lawyer that I am, I automatically thought, „What about unjust enrichment?
What about equity?" The professor then went on to say that, although there is no contractual reason requiring him to pay, there is a statutory reason embodied in a statutory section similar to the common law principle of unjust enrichment. The same exact principle which had developed over time through case law in the U.S. had been written into a code section in Germany. I realize to a non-lawyer this may seem like a trivial and boring difference, but to me, on that day, I realized why I was there, why I wanted to pursue a post-graduate law degree in Germany - to experience first hand the legal analysis that a civil law lawyer goes through in solving the same problems.

It is very disappointing that most of my U.S. colleagues do not understand the differences between civil and common law legal systems, and many may not even know that a different system besides the common law system exists. My French colleagues in Muenster also showed me that there are also differences within the civil law system: those that follow law that evolved from Roman Law and those that follow the French Code Civil, often called the Napoleonic Code. Yet most of my German colleagues had at least a basic understanding of the common law system.

In February of my year in Muenster I participated in a joint Seminar with students from Muenster and Heidelberg. We met in a youth hostel near the Lorelei on the Rhine, an unbelievably beautiful location. The topic of the seminar was „Attempts at the Unification of International Commercial Law.“ This seminar presented one of the biggest challenges to me for my year. I wrote and presented a paper on the problem of corruption and bribery in international transactions. Having never been a big public speaker, I found myself presenting a very complex topic in German. I was very proud of myself once I had completed my presentation and participated in the question and answer session that followed. But what really amazed me at that conference was, once again, how much my German colleagues knew about U.S. law. Over and over again in their presentations something about U.S. law came up. While I realize that the U.S. dominates international commercial transactions, it still amazed me that the German and other law students knew so much about my legal system.

In order to earn my LL.M. degree I had to complete a masters thesis in German on a topic having to do with German law. Keeping with the topic of the unification of international commercial law, I chose to write about the United Nations Convention on Contracts for the International Sale of Goods (UN CISG), comparing its remedy provisions to U.S. and German sales law. The UN CISG is the law that is to apply in all sale of goods transactions between the U.S. and Germany (and other members of the convention). Through reading the analysis that occurred in drafting the UN CISG, I was able to further see the differences between the civil and common law systems, which lead to disputes in finding one principle to be applied in international transactions. What I found amazing was the willingness on the part of the Germans to reform their law to more closely follow the UN CISG, whereas the U.S. refuses to make any changes in its sales law. The German lawmakers amended Germany’s sales law to make it follow some of the principles in the UN CISG. The most recent proposed revisions of U.S. sales law included no such adjustment of U.S. law.

Throughout the year I also made some very good friends with whom I often sat at the Mensa everyday eating not-so-bad cafeteria food. (Especially surprising was the fried calamari rings every other Friday.) I rode my old Dutch bike in the rain (it always rains in Muenster) around the Promenade, a bikes only road that encircles the city of Muenster. A German friend took me on a tour of the Wasserschlosses (small castles with moats) in the
Muensterland. I took many Sunday afternoon strolls along the canal near my apartment. I ordered pizza from the Egyptian pizza guy on the corner who asked me every time I came in whether he should move to New York to be with his brother.

As the year came to an end I had to think about what was next for me. I flew back to the U.S. a few times for job interviews around the U.S. In many of the interviews I was asked how I thought what I was learning in Germany would be relevant in my future practice as an attorney. I often answered that although I may not find a position dealing directly with the law I learned in Germany, my experience taught me to look at problems as having multiple solutions and gave me the ability not to look at things as only having the one solution – the U.S. solution. Many potential employers were skeptical of the true value of my experience. After hunting for a job throughout the entire country I found a position back in Atlanta that fit my experience exactly. I am working with German companies and individuals doing business in the U.S. Even though I am applying U.S. law to my clients’ situations, understanding the law they are accustomed to helps avoid misunderstandings and helps me better explain U.S. law to my clients. I have only been practicing law a few months, and already on a number of occasions German clients have sent me agreements they use in Germany wanting to use the same or similar agreements in the U.S. I am able to understand why those agreements are written the way they are to conform to German law, and then explain to my clients why this will not work in the U.S. My clients are happy to find a U.S. attorney who can understand their legal system and explain what they need to be done in their own language. I am very grateful to the Humboldt Foundation and the Bundeskanzleramt for providing me with the assistance to make my experiences possible.
Lisa F. Swartout

German Universities and Student Life

Background: B.A. in History, University of California, Berkeley (1995); M.A. in History, University of California, Berkeley (1998)

Project: Culture Wars: Catholics, Protestants and Jewish Students 1880 - 1914

Currently: Ph.D. Candidate in Modern European History, University of California, Berkeley

Waiting in the hallway for my Bundeskanzler interview, I reviewed some of the questions I expected: "What contribution will your dissertation make to our understanding of German history?" "Describe the theoretical framework which supports your dissertation project." "Tell us about some of your leadership experiences." I prepared my first few statements, which I assumed would be about my historical work: "I'm writing a dissertation on religion and nationalism at German universities; specifically I'm interested in students and student life in late 19th century Germany." I thought through some responses to criticism, which I believed would come as a result of my focus on three universities: Strasbourg, Berlin and Breslau. "Will you really be able to accomplish your research agenda?" "If you focus on these three universities, each unique in its own way, will you be able to generalize to German universities nation-wide?"

Soon my turn came, Donita Moorhouse wished me good luck and I walked into the room where my interview would begin. At first we focused on my dissertation. I had a chance to talk about my sources, dueling at universities, the historiography on student life. But then came the surprise: "What will your dissertation on student life tell us about German universities today?"

"German universities today?" Hm… My project investigates relations between Catholics, Protestants and Jews at German universities. Anti-Catholic or antisemitic organizations in Germany today? I doubt it. Dueling shaping constructions of German masculinity? I did not think so… My mind worked faster - studying history's 'lessons' to understand the present always seemed a bit simplistic. Instead I try to makes sense of the past on its own terms and not force it into comparisons, much less with the present.

On the other hand, it was a legitimate question. Although surviving two world wars, and three changes of government, Germany's universities did have considerable institutional continuity. Yet my mind was drawing a blank! I avoided the question asked and instead talked about relations between religious groups in the German Imperial period (1871-1914) and compared antisemitism in Weimar and the Kaiserreich.

They at least seemed satisfied with this answer, but I was not... After the interview had ended I repeatedly returned to this question and wondered how I could have responded,
now for myself instead of the interview. What were the similarities between the conflicts of my students in the late nineteenth century and of those today?

My year as a Bundeskanzler scholar living in Germany and working in the archives of the Institut für Hochschulkunde in Würzburg has gradually made possible an answer to that question. In fact, the hefty debates on universities and reform at the turn of this century, I believe, can be directly connected with conceptions of the student which were held sway at the turn of the last. Today's secularized belief in student freedom has direct links with the Kulturprotestant nature of student life a century ago.

19th century Student Life

"Being a Student means being Protestant" on this unspoken truth a wide spectrum of opinion -- Protestant naturally - could agree. But being Protestant did not necessarily mean taking part in Protestant rituals or even subscribing to Protestant religious beliefs. Possibly no sector of society was less religiously observant. The true student experience required an embrace of freedom, a questioning curiosity, and a resistance of all forms of "dogma" that German (Protestant) intellectuals inherently connected to the Protestant world-view. As the German Protestant Bürgertum increasingly distanced itself from its specifically religious beliefs nevertheless suspicion of Jews and Catholics did not diminish.

The ideals of Kulturprotestantismus were expressed in three broadly interconnected areas: the attainment Allgemeine Bildung (well-rounded cultivation), the freedom of scholarship and learning necessary for Bildung, and the academic honor code, which regulated interactions within this "aristocracy of education". The ideology of Bildung combined the bourgeois virtues of self-reliance and self-discipline with the classical ideals of German humanism. The process of becoming cultured occurred in a mysterious fashion, in some ways similar to the creation of a work of art, and involved the student's entire personality. Cultivation emerged from a combination of the student's already existing qualities, his very self, and his interaction with his environment, his exposure to texts and discussions which stimulated his intellect at the same time raised him morally.

Because of their attitude towards cultivation, Germans cast doubt on ability of exams to test cultivation. Theobald Ziegler, professor of philosophy at Strasbourg who presented a lecture series on student life, argued:

[Exams] can only prove what a student has learned and knows, but not what he is and has become at the university, and thus in exams an uncultivated crammer (ungebildeter Lernkopf) can do better than well-rounded person grounded in philosophy.42

Instead of exams, academics tended to rely on family background as an indication of possible readiness for a higher level of development.

Closely connect to Bildung was the importance of academic freedom at German universities. The German academic community in theory believed that rebels and dissident

42 "[Exams] können nur erweisen, was einer gelernt hat und weiß, nicht aber, was einer ist und auf der Hochschule geworden ist, und darum besteht oft im Examen der ungebildete Lernkopf besser als der allgemein gebildete und philosophisch gerichtete Mensch.", siehe Theobald Ziegler, Der deutsche Student am Ende des 19. Jahrhunderts, Vorlesungen gehalten im WS 1894-95 an der Uni Straßburg. 6. ed. Leipzig, 1896, 236.
thinkers could provide important scholarly breakthroughs. For students academic freedom involved more than merely the ability to read or argue as they wished. In comments on women students, Berlin Professor Heinrich Treitschke makes explicit the problem of student status and academic freedom. Treitschke argues against admitting women to the university as follows: "It would insult any student, when he is grouped with people who have no academic freedom." On the face of it this is a puzzle - were there really so many subjects off-limits to women? Perhaps anatomy classes or discussions of social ills like prostitution might challenge delicate female sensitivities? The real issue, I believe, was that for professors like Treitschke, the life-style of full freedom at the university was inseparable from freedom of thought and scholarship. Hemmed into bourgeois morality, women could not participate in many "essential" elements of student life.

With his exams years in the future, the student spent his time as he wished without accounting to anyone. He might wander for days communing with nature and sleeping outdoors. Alternatively he might absorb himself in poetry, or follow his favorite writer from city to city to hear readings. In Breslau citizens became conscious of their student population in the evenings as the students filled the bars or on their Sunday afternoon walk on Schweindnitzer Street, when fraternities dressed in full regalia and as a group paraded down the "single" side of the street flirting with the ladies. None of these activities were appropriate for the single middle class woman, but yet were as important as visiting the museums, theaters, sports faculties and other cultural and physical activities that are more familiar to modern-day academics.

After the nineteenth century student had graduated from Gymnasium where every moment was planned, he then could experience the full freedom of student life, in which an exam at the end of his studies was his sole requirement. He chose which classes to attend (or not attend); he choose how to plan his course of studies, and he choose how to order his day. The American, Stanley Hall writes of his own experience of the freedom of the German university: "It gave me a new attitude toward life… I fairly reveled in a freedom unknown before."

**German Universities 2000**

Today German universities are in a state approach crisis and it is the importance of freedom which makes university reform so difficult. Instead of the 3-5 years it took to get a degree in 1900, students in 2000 spend an average of 6.5 years pursuing higher education and in some cases as many as 9-10 years. At the University of Frankfurt am Main, one Professor told me that a majority of the students who attended at any one time would never receive a degree. Some were taking advantage of reductions on public transportation and the low cost of eating food at the university cafeteria. Others were bidding their time until they could be accepted in the internship program of their choice. The length of study results in overcrowded classes, greater distance between professors and students, and poor study conditions overall.

---


It is the belief in the importance of freedom within university study which makes measures meant to speed up student progress difficult. For example, I visited the University of Bochum the week they were discussing reforms to their system of higher education. One of the most heavily debated included an American style BA (with lower requirements and a shorter study period). This BA system has already been implemented in part at the Free University in Berlin, where students in computer science or engineering are in high demand after only a few semesters of study. Germans are also wary to implement other reforms which would speed up students' course of study. For example the requirement of the preliminary exam (Zwischenprüfung) after two years of study might allow students to progress more quickly through their program but would interfere with Lernfreiheit freedom of learning, in which the student chooses his process of cultivation.

In addition to conflicts over university reform, I've also found echoes of 19th century liberal conceptions of German freedom in several contemporary debates. One chapter in my dissertation focuses on a nationwide student movement against Catholic students, which came to be known as the Hochschulstreit (Battle at Universities). These students feared the ever-growing strength of Catholic fraternities, who seemed closely connected to the Catholic political party, the Zentrum (Center). They argued that Catholic acceptance of the Vatican's 1864 Syllabus of Errors and Index of Forbidden Books violated the ideals of academic freedom and the scholarly pursuit of truth. Open Catholic partisanship, in their view, had no place at the university. Many students called for the dissolution of all Catholic fraternities. Student assemblies as large as 1400 denounced Catholics as "anti-national". Merging their own anti-Catholic efforts with a liberal movement to form student councils which had recently gathered momentum, the Hochschulstreit's leaders created new anti-Catholic institutions. They formed a national student council and student councils at individual universities, both of which excluded Catholics. This Battle at Universities dominated the front pages of student newspapers for much of 1905, 1906 and into 1907. Moreover, newspapers of all political persuasions came down on one side or the other in some 200 articles related to the Battle at Universities published between 1905-1907.

Protestants argued that 'Catholic dogma' violated individuals' right to self-expression and self-development. Meanwhile Catholics responded that Protestants were denying them their collective right to think, write and teach as they believed. For Protestants the aim of dissolving Catholic fraternities was justified on the basis of academic freedom. This is 'freedom' was defined as enforcing certain norms, cultural practices, even dissolving organizations which violate their understanding of 'freedom'.

Some Germans make similar arguments in debates today around both Scientology and Turkish religious practices. In Bavaria members of the church of Scientology were required to report their affiliation to the civil service. Many Scientologist feared persecution as a result. Germany has also seen much discussion, because of Turkish religious practice of wearing head scarves, often seen in the West as a sign of female subordination. For many Islamic women, however, wearing a headscarf represents an declaration of faith, a private matter in which the government should not interfere. Some young Turkish women even see this practice as an act of female empowerment. These debates point to differing American and German conceptions of freedom; in conflicts

---

45 The issue of tuition has also caused great debate - and student resistance - throughout the system. Although a recent survey showed that 62% of students would be willing to accept tuition of 1000DM/semester. Other proposal include elimination of the habilitation, the second book required for a professorship at a university, and limitations on some of the privileges and powers of professors to make the system more open and fair.
between religious practice and state protection of the individual, Americans might tip the balance toward religious practice, whereas many Germans might do the reverse.

Most personally rewarding for me this last year in Germany was the chance to experience for myself a bit of the freedom of student life. I spent eight months in Würzburg, a beautiful city in center of wine-growing Germany, with fifty churches, a castle sitting on a hill overlooking town, and (allegedly) more cafes and bars per person than any other city in Germany. With a population of 30% students, the city's rhythms moved to cycle of the university. I did my share of long breakfasts at the café around the corner, and afternoons in the beer gardens and discovered that these 'students' certainly studied less Americans. At UC Berkeley it is often difficult to find a place to sit in the library at 9 pm because of the invasion of undergraduates, looking for quiet escape from the noise of the dormitories. In Germany in contrast, the libraries close at 9 pm. Yet does all the busy-work of American universities, with their never-ending stream of papers, and midterms and final exams really lead to more knowledgeable students? The preliminary and state exams of German university life force students to bring together all their coursework and think about it in a systematic way. Germans also take their history and culture seriously in a way that would be hard to imagine outside of a small minority of American students.

With costs of education skyrocketing and the continuing importance of cutting edge research for its high-wage economy, German society will be forced to act soon to reform its universities for the benefit of its society and future. The world's first modern institutions of higher education, with their union of research and teaching, links between science and industry, and Lern- and Lehrfreiheit emerged in Germany. Along with the generous support of the state, it was the freedom and independence for students and for scholars, which made these achievements in philosophy, science and scholarship possible. It is now exactly those qualities which are posing the challenge for Germany's universities.