

GERMANY'S FOUNDING PILLARS
AT 60: FUTURE CHALLENGES AND
CHOICES

AICGS GERMAN-AMERICAN ISSUES

10

Stormy-Annika Mildner
Russell A. Miller
Mark Prentice
Clemens Wergin
Torsten Wöhlert



AT JOHNS HOPKINS UNIVERSITY

The American Institute for Contemporary German Studies strengthens the German-American relationship in an evolving Europe and changing world. The Institute produces objective and original analyses of developments and trends in Germany, Europe, and the United States; creates new transatlantic networks; and facilitates dialogue among the business, political, and academic communities to manage differences and define and promote common interests.

©2009 by the American Institute for Contemporary German Studies

ISBN 1-933942-19-3

ADDITIONAL COPIES:

Additional Copies of this Policy Report are available for \$5.00 to cover postage and handling from the American Institute for Contemporary German Studies, 1755 Massachusetts Avenue, NW, Suite 700, Washington, DC 20036. Tel: 202/332-9312, Fax 202/265-9531, E-mail: info@aicgs.org Please consult our website for a list of online publications: <http://www.aicgs.org>

The views expressed in this publication are those of the author(s) alone. They do not necessarily reflect the views of the American Institute for Contemporary German Studies.

TABLE OF CONTENTS

Foreword	3
About the Authors	5
Germany's Social Market Economy: Old Wine in Old Bottles?	7
The Basic Law and the Use of Force: Remarks on the 60 th Anniversary of the Bonner Grundgesetz	21
Germany's Military Deployment Abroad: Real Historical Limits or Pretexts?	29
Sixty Years of German-American Relations: An Eastern German Perspective	35



FOREWORD

On 23 May 1949, the Federal Republic of Germany was founded. In May 2009, on the 60th anniversary of this occasion, the country and geopolitical landscape surrounding it have been transformed. Securely embedded in political, economic, and security structures such as the European Union and NATO, reunified with East Germany, and a bridge between a unifying eastern and western Europe, Germany is one of the most important American allies and one of the leading political and economic voices in Europe. The American Institute for Contemporary German Studies (AICGS) is commemorating the 60th anniversary of the Federal Republic and the 20th anniversary of the fall of the Berlin Wall with a project that is not only an examination of these historic milestones, but rather focused on an analysis of historical issues in light of current circumstances and future developments.

Part of this project, this edited volume stems from the first of a series of conferences and examines current dimensions of the three pillars on which the Federal Republic was founded: The future of the social market economy; the German Basic Law's influence on the German military; and German-American relations from an eastern and western German perspective. Dr. Stormy-Annika Mildner and Mark Prentice analyze in their essay "Germany's Social Market Economy: Old Wine in Old Bottles?" how the economic crisis affects the social market economy, which was one of the motors of Germany's economic success during the Cold War. They examine the historical foundation of the social market economy and its impact on the current crisis management. The economic foundation of social market economy was paired in the Federal Republic of Germany with the judicial pillar of the Basic Law. In his essay on "The Basic Law and the Use of Force: Remarks on the 60th Anniversary of the Bonner Grundgesetz," Dr. Russell A. Miller examines the German Basic Law and its influence of the use of force. He details how the Basic Law and the German Constitutional Court have limited out of area deployment of Germany's armed forces, particularly in light of the current war in Afghanistan. Clemens Wergin presents the political dimension of this issue in his essay on "Germany's Military Deployment Abroad: Real Historical Limits or Pretexts?" He examines historical constraints of Germany's use of force abroad and analyzes the strain that this has had on German-American relations. The final essay by Dr. Torsten Wöhlert on "Sixty Years of German-American Relations: An Eastern German Perspective" examines the German-American relationship from an eastern German viewpoint, discussing the impact this had on the relationship overall.

AICGS is very grateful to the *Transatlantik-Programm der Bundesregierung der Bundesrepublik Deutschland aus Mitteln des European Recovery Program (ERP) des Bundesministeriums für Wirtschaft und Technologie (BMWi)* for its generous support of this edited volume. The project is also supported by the *Draeger Foundation* and by the *AICGS Business & Economics, Foreign & Domestic Policy, and Society, Culture, & Politics Programs*. Additionally, AICGS would like to thank Kirsten Verclas, Research Program Associate, and Jessica Riester, Research Program and Publications Coordinator, for their work in implementing the project and editing this publication.

The Institute will continue its project on the 60th anniversary of the Federal Republic and the 20th anniversary

sary of the fall of the Berlin Wall with two conferences in Fall 2009, several publications, and a variety of analyses featured on AICGS' website. We hope that you find this publication as well as the continued examination of these historical, yet timely, issues of interest and welcome any feedback you might have.

A handwritten signature in black ink, appearing to read "Jackson Janes". The signature is fluid and cursive, with a prominent loop at the end.

Jackson Janes
Executive Director
AICGS

ABOUT THE AUTHORS

Stormy-Annika Mildner is currently a senior researcher at the German Institute for International and Security Affairs (SWP), a policy-oriented think-tank based in Berlin. Within the research unit "The Americas," she works on the U.S. economy, transatlantic trade relations, as well as international trade (WTO) and finance (IMF). Dr. Mildner is also an adjunct lecturer at the Hertie School of Governance and the John F. Kennedy Institute of the Free University of Berlin, teaching classes on global economic governance. Dr. Mildner conducted her Bachelor studies in Economics and North American Studies at the Free University of Berlin and earned a Master of Science in International Political Economy from the London School of Economics (2000). Before she started her Ph.D. studies in economics (2002), Dr. Mildner worked for the German Council on Foreign Relations (DGAP). At the DGAP she headed the program 'Globalization and the World Economy.' She wrote her Ph.D. thesis on the economic and political rationale of export credit insurance and finance in the U.S. (2006). During her Ph.D. studies, she attended the Yale Center for International and Area Studies (YCIAS) of Yale University (2002-2003). From 2005 to 2006 Dr. Mildner was an Assistant Professor at the John F.-Kennedy Institute of the Free University Berlin.

Russell A. Miller is an Associate Professor at the Washington and Lee University School of Law. His teaching and scholarly research focuses on comparative constitutional law and public international law. He has degrees from Washington State University, Duke University, and the Johann Wolfgang Goethe University (Frankfurt am Main, Germany). Professor Miller is the co-author (with Donald Kommers) of the forthcoming third edition of the well-known English-language treatise *The Constitutional Jurisprudence of the Federal Republic of Germany* (Duke University Press). Professor Miller is the co-founder and co-Editor-in-Chief of the *German Law Journal* (<http://www.germanlawjournal.com>), the successful English-language review of developments in German, European, and international jurisprudence. Professor Miller has been awarded a 2009/2010 Fulbright Senior Research Grant to Germany and he was a 1999/2000 Robert Bosch Foundation Fellow. He has enjoyed internship and clerkship experiences at the German Federal Constitutional Court and the European Court of Human Rights. Professor Miller is a frequent Visiting Research Fellow at the Max Planck Institute for Comparative Public Law and Public International Law in Heidelberg. His books include: *Transboundary Harm In International Law: Lessons from the Trail Smelter Arbitration* (Cambridge University Press 2006); two volumes of *The Annual of German & European Law* (Berghahn Books 2005, 2006); *Progress in International Law* (Martinus Nijhoff 2008); and *U.S. National Security, Intelligence and Democracy* (Routledge 2008).

Mark Prentice is a former intern at the German Institute for International and Security Affairs (SWP) and is currently an Associate at Scoville Public Relations.

Clemens Wergin is the Foreign Editor of *DIE WELT*, *WELT am SONNTAG*, and *Berliner Morgenpost*. Previously, he was an editor at *Der Tagesspiegel*. Mr. Wergin has worked as an Arthur F. Burns Fellow at the Editorial Board of the *Chicago Tribune*, for which he received the Arthur F. Burns Commentary Award in May 2004. He has also published Op-eds in the *Chicago Tribune*, *Financial Times* (international), and *Jüdische Allgemeine*. Mr. Wergin received his M.A. from Hamburg University.

Torsten Wöhlert is currently the Press Spokesman to the Berlin Senate on Cultural Affairs. Previously, he held positions as Foreign Policy Advisor to MP Manfred Müller, Foreign and Domestic Policy Editor at the weekly *Freitag*, Visiting Scholar at AICGS, and Assistant Professor at Humboldt University Berlin, Institute for Peace and Conflict Research. Dr. Wöhlert received his Ph.D. and Diploma from Humboldt University.



GERMANY'S SOCIAL MARKET ECONOMY

01

GERMANY'S SOCIAL MARKET ECONOMY: OLD WINE IN OLD BOTTLES?

HOW THE SOCIAL MARKET ECONOMY INFLUENCED MANAGEMENT OF THE ECONOMIC CRISIS

STORMY-ANNIKA MILDNER AND MARK PRENTICE

1. Introduction: Prudent Management of the Crisis, or a Failure to Recognize Its Severity?

Germany's recession, its most serious of the postwar era, is showing no signs of letting up. 2009 is expected to be the first full-year contraction of the economy since 2002, with the gross domestic product (GDP) falling by 5.3 percent this year and by a further 0.8 percent in 2010. Unemployment will top 10 percent for the remainder of the year. There is also little good news to be found in the export sector, which accounts for a large proportion of the nation's GDP; waning global demand means that exports will contract by a record 13 percent in 2009 and 2.1 percent in 2010. The outlook for business investment over the next few years tells an equally grim story. The recession, then, will persist throughout the remainder of this year and into 2010, if not longer.¹

These gloomy economic forecasts come despite the German government's attempts to stem the crisis through unprecedented fiscal spending and intervention in the economy. As of May 2009, the government has passed two stimulus packages totaling over €80 billion, set aside an additional €500 billion to rescue troubled banks, and created a €100 billion "German Economy Fund" to provide credit and loan guarantees to non-financial companies. And for the first time since the 1930s, the German government nationalized a bank. In doing so, policymakers have thrown out plans for a balanced budget and are now expecting a deficit of nearly 6 percent of GDP in 2010. In Germany, as elsewhere, unusual times have called for unusual policy measures.

Yet many American observers have criticized German Chancellor Angela Merkel and her Grand Coalition partner, the Social Democrats, for not doing enough to halt the downward spiral of the global economy. Specifically, the U.S. administration has criticized the Germans for their relatively cautious fiscal programs and for Merkel's refusal to support a common European fund to bail out banks as well as a joint EU stimulus. President Barack Obama himself jumped into the transatlantic fray, saying that given the U.S.'s aggressive stimulus program, "it's very important that other countries are moving in the same direction, because the global economy is all tied together."² Translation: Europe, and in particular Germany, have not done enough and must ante up and launch more aggressive stimulus spending to help drive global demand. In late 2008, the Nobel Prize-winning economist and columnist Paul Krugman fretted that "Germany is failing to appreciate the seriousness of the slump" and bemoaned an apparent "lack of intellectual flexibility" on the part of the German leadership.³ In early 2009, Bruce Stokes wrote in *The National Journal* that in comparison to the U.S. stimulus, the European governments were moving much more "slowly and ineffectively to counter the recession" and that the Germans were in a state of "denial" regarding the severity and duration of the recession and were shirking their responsibilities. "Europe's failure to do its share," he warned, "threatens to prolong the global downturn."⁴

But Chancellor Merkel and her finance minister, Peer Steinbrück, vice chairman of the Social Democratic Party (SPD), have rebuffed calls for more aggressive fiscal action and leveled their own critique of the U.S. response to the crisis, arguing that profligate fiscal

spending would have potentially drastic inflationary consequences, lead to unsustainable deficits, and crowd-out private investment. Nonetheless, this transatlantic disagreement over how to address the financial crisis is more than just rhetorical; a close look at the German management of the economic crisis reveals clear differences from the American approach to overcoming the crisis. German policymakers reacted slightly later and more hesitantly than their American counterparts, and, when stimulus programs were eventually passed—not only the largest in Europe but comparable to the United States when seen as a percentage of gross domestic product (GDP)—they reflected significantly different spending priorities. Whereas American stimulus spending has focused on spurring private consumption, German spending has focused more on incentivizing investment and on infrastructure spending as well as stabilizing exports. Finally, the German position has focused on tightening financial regulation and on the need to phase-out the current stimulus spending in order to avoid inflation.

With a common interest in seeing a rejuvenated global economy, why has Germany not followed the same path as the United States in managing the financial crisis? What, in other words, has guided German leaders and policymakers in their management of the economic crisis? One answer could be mere timing. Because the downturn came later to Germany and Europe than it did in the United States; Germany's economy only began to contract in the fourth quarter of 2008, when it shrunk by 2.1 percent, while the U.S. economy saw a decline of 6.3 percent. With Germany's business cycle about a year behind that of the United States, the worst could be yet to come, perhaps prompting more aggressive fiscal action by German policymakers in the future should the recession prove deeper and longer than expected.

But, as this essay argues, more than timing is at play in explaining the German response to the economic crisis. Adherence to the economic model known as the social market economy (*soziale Marktwirtschaft*) has decisively influenced the German management of the economic crisis. Believing that the basic features of the social market economy—a relatively large welfare state, tight financial regulation of markets, and low public deficits to keep prices stable—can best

allow market competition to create growth and jobs while minimizing systemic risk and ensuring social equality, German policymakers have upheld its central tenets throughout the crisis. Furthermore, the German government has followed a strategy to overcome the crisis that is almost as embedded in German economic policy as the social market economy and can be seen as the second pillar of the German economic model: export-oriented growth. This essay discusses the role that the social market economy has played in shaping the German response to the financial crisis. Part Two traces its origins and main features, before discussing the German public's changing views of the social market economy and free market principles as well as illustrating some of its current interpretations. Part Three examines how the social market economy influenced the specific measures taken by German policymakers in managing the crisis and what it could mean for the upcoming national elections.

2. The Social Market Economy

2.1 SHAPING POLICY FOR SIXTY YEARS

Germany's postwar prosperity was founded on the notion of the "social market economy," which refers to a set of economic arrangements devised after World War II that generally combined market capitalism, strong protection of labor and union influence, and a strong welfare state. But at its core, the social market economy was, and remains, a competitive system: market competition was to form the basis of economic growth while the government remained responsible for making social and political adjustments to the regulatory structure and welfare state which aim at creating greater social equality.⁵ Within the social market economy, then, the state was to protect the competitive environment from monopolistic or oligopolistic tendencies and thereby ensure fair competition (also through open markets and liberalizing trade), foster stable prices through low inflation, and to protect labor and its right to collectively bargain, but at the same time refrain from intervening in other areas, like wages. In short, in the postwar system, the state was to referee the market without seeking to control it.⁶

An economic system that could simultaneously

produce growth while also creating a measure of social stability and equality through a strong regulatory framework and welfare state seemed the clear alternative to the economic and political strife of the previous decades. The recognition that the economic chaos of the 1920s and 1930s, including hyperinflation, high unemployment, and dismal economic growth, had created the breeding ground for the rise of National Socialism led to the conclusion that Germany needed a new kind of *Ordnungspolitik*—one that could foster growth, stable prices, low unemployment, and social equality. The social market economy model was thus born out of the traumatic experience of depression and dictatorship.

The theoretical and political underpinnings of the social market economy were first articulated by a group of German economists and social theorists collectively known as the Freiburg school, which included Walter Eucken, Franz Böhm, and Alfred Müller-Armack, among others. Consciously rejecting the tradition of classical liberalism, this German variant of neoliberalism—called *Ordoliberalismus*, or ordoliberalism—held that it was the proper role of the state to ensure that markets function properly and as close as possible to their theoretical potential and that it was, accordingly, the state's responsibility to create the legal frameworks that could ensure healthy market competition. Failure to create parameters for market competition, the ordoliberals argued, would only undermine the genuine advantages offered by the market.⁷ They also drew a direct link between economic power and political power, arguing that concentrations of economic power, like monopoly, could also threaten the social and political order. Thus, the state was to create an economic order in which social stability, equality, and market principles could be reconciled. It was an attempt to harness free market capitalism while simultaneously avoiding the social problems created by unfettered *laissez-faire*, on the one hand, and a centrally-planned economy, on the other.⁸ That economic arrangements could and would have political as well as social consequences was the driving insight of German liberalism in the postwar era.

Even before the end of World War II, Ludwig Erhard, economics minister under Chancellor Konrad Adenauer and later chancellor himself from 1963-

1966, was developing the ideas that animated liberal thinking and his implementation of the social market economy in the postwar period: "The goal worth striving for remains in all cases," he wrote in the 1930s, "a market economy that is based on truly fair competition. Never again will the state be relegated the role of a mere night watchman. For even a free market economy requires institutions that make laws and then uphold them."⁹ In writing, Erhard was articulating the core conviction that would come to underlie the concept of the social market economy.

Accordingly, throughout the 1950s and into the 1970s as the social market economy was put into place, Germany saw the growth of a relatively large welfare state and strong regulatory framework. While during the 1980s Chancellor Helmut Kohl undertook reforms to reduce the size of the welfare state with some success, in the early 1990s the process of unification compelled the German government to increase its expenditures drastically. More recently, beginning in 2002, the Hartz series of reforms have set out to curb government expenditures. But compared to other industrialized nations, and particularly to the United States, the size and duration of Germany's job protection measures, unemployment benefits, social security, and welfare programs remain generous. This includes government programs such as *Kurzarbeit* (reduced-time work). Under the *Kurzarbeit* policy, German employers have the option of putting workers on a reduced-time schedule in order to cutback on costs. Employees who lose at least 10 percent of their monthly gross income are entitled to government aid that replaces up to 67 percent of their lost pay for a maximum of eighteen months.

A good indicator for the importance of the state in Germany's social market economy is the ratio of government expenditures to gross national product. Over the last decade in Germany, government expenditures have accounted for 45 percent of gross national product. This ratio is considerably higher than in the U.S., where government expenditures account for a mere 35 percent, and demonstrates the extent to which the model of the social market economy has led to comparatively high government expenditures on social spending and transfer payments.

While not an explicit aspect of the social market economy, a crucial dimension of the German economic model has been export-oriented growth. In its role as the *Exportweltmeister*—the world’s leading exporter—Germany, especially since the mid-1990s, has become increasingly reliant on exports to drive economic growth. Since 1995, whereas real private consumption has grown slowly, real exports have grown exponentially and account for a larger than usual proportion of the country’s GDP. In this sense, the twin pillars of the German economic model have been the social market economy—including its sizable welfare state and strong regulation of markets—as well as a reliance on exports to drive economic growth. As the principle source of the current economic slowdown in Germany has been a decline in foreign orders, German policymakers have relied on the social market economy and have simultaneously sought to boost German exporters by incentivizing investment, rather than focusing on private consumption.

While somewhat of a nebulous slogan in German political discourse and one that is open to a relatively wide variety of policy implications, the social market economy is generally credited with being the foundation of the country’s postwar prosperity. The next section of this article discusses the public’s perception of the social market economy and demonstrates that during times of liberalization and, more recently, economic crisis, the public has begun to increasingly doubt its merits.

2.2 PUBLIC OPINION AND THE SOCIAL MARKET ECONOMY

Recent polling suggests that Germans’ faith in the market and in the model of the social market economy has begun to decline (Figure 1). Especially since the low growth and relatively high unemployment of the mid-1990s, more and more Germans have come to believe that the social market economy has in fact not proved itself.

The graphs demonstrate a two-fold trend among the German public over the last fifteen years: First, Germans have become increasingly skeptical of the merits of the social market economy and, second, especially since 2006 a growing majority of people

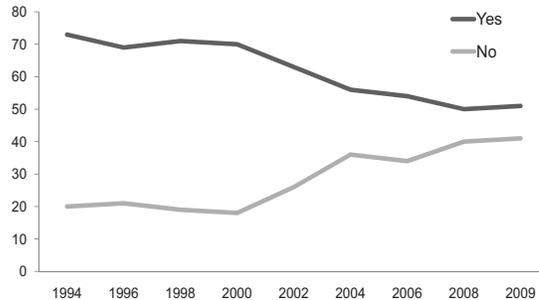


FIGURE 1: HAS SOCIAL MARKET ECONOMY PROVED ITSELF?

Source: Bundesverband Deutscher Banken, 2009.

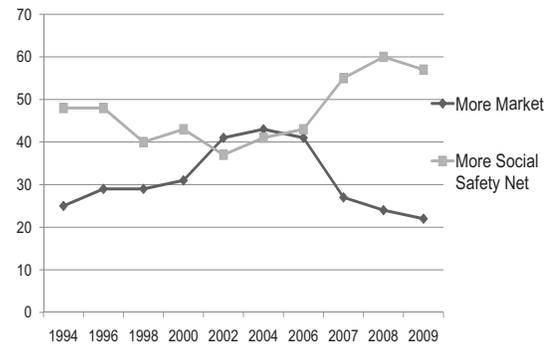


FIGURE 2: FOR THE FUTURE OF THE SOCIAL MARKET ECONOMY, WE NEED...

Source: Bundesverband Deutscher Banken, 2009.

wish to see Germany’s economy become less oriented toward market competition and free market principles and more reliant on a larger and more robust social policy. This trend is especially pronounced in the former East Germany, where approval of the social market economy and of market principles remains much lower than in the states of the former West Germany.

What explains the German public’s changing views of its sixty year old economic model and its increasing desire for a large role of the state in the economy? Certainly, the slow growth and relatively high unemployment of the early and mid-1990s that came as a result of German unification contributed to growing dissatisfaction with the economic order. However, the increasingly negative views of the social market economy must also be understood in the context of a slowing global economy and a slimmed down welfare

state through the Hartz reforms to the German labor market, which began in 2002 and have limited the scope and duration of unemployment payments and welfare payments. A further factor that can help explain a declining trust in the social market economy is stagnating wages. Peter Bofinger, a member of the German Council of Economic Advisors, which advises the German government and Bundestag on economic policy, has shown that an attempt to make German industry more competitive on the global market and to trim social spending has resulted in stagnating real wages among low- and middle-wage workers.¹⁰ Thus, stagnating wages combined with trimmed-down social spending have contributed to the declining public trust and approval of the social market economy.

There is, moreover, an alternative, somewhat paradoxical explanation for this recent disenchantment with the social market economy: that the public's disapproval of the social market economy reflects some Germans' view that the drastic and unprecedented government intervention in the economy during the crisis has violated the basic principles of the social market economy. Unhappy with the government's forays into the economy and rescue of several large firms, some Germans polled may be expressing their belief that the Grand Coalition has increasingly wandered away from the principles that have sustained the social market economy in the postwar and post-unification era. In this sense, the results of recent polls could demonstrate not a declining trust in the social market economy itself, but rather a decline in trust of the government to create and implement policies that are in line with its principles. Nonetheless, as Norbert Walter, chief economist at Deutsche Bank, observed, "The rejection of the free market economy is, as it was before, deeply rooted among the Germans. That will not change in the economic crisis."¹¹

2.3 CURRENT INTERPRETATIONS OF THE SOCIAL MARKET ECONOMY

As public opinion has increasingly turned against the social market economy, leading politicians of the Christian Democratic Union (CDU) and its Bavarian sister party, the Christian Social Union (CSU), have rejected the argument that the financial crisis in

Germany is a systemic one. Rather, they have not only staunchly defended the basic principles of the social market economy but have also argued that the social market economy is even more relevant in an age of globalization.

Well before the first stirrings of the financial crisis, Chancellor Merkel was vigorously defending the social market economy. In a July 2007 meeting of CDU leaders at the Ludwig-Erhard Initiative, Chancellor Merkel set out to answer a two-fold question: "What meaning does the social market economy have for us today? How can it help us to ensure prosperity in an age of globalization where national action alone no longer suffices?" For Merkel, the goal of the social market economy was clear: to "enhance people's prosperity and to allow every individual to take part in this prosperity as much as possible." The success of the system, she continued, resides in its ability to simultaneously provide economic growth while also ensuring that wealth is broadly distributed, which in turn creates social stability. At the core of social market economy, however, was the concept of freedom: "The social market economy, as it still does today, drew its vitality and dynamism from the freedom of individuals, from the freedom of employers, of workers, and of consumers. It proved itself to be the suitable regulatory framework in which people's talents and ideas could be unleashed to the greatest extent possible." By creating the conditions that allow fair competition and precluding large concentrations of power, the social market economy ensures broadly-shared prosperity. Equally important to Merkel was the ability of the social market economy to adapt and thus to "remain, in principle, as current as [it was] 50 years ago." Going further, Merkel then called for a "new international dimension of the social market economy" not only for Germany, but the world. Such a system would allow Germany, and the rest of the world, "to take part in globalization fairly and responsibly."¹²

The financial crisis did little to dampen Chancellor Merkel's support of the social market economy. Rather than interpreting the crisis as one of the free market itself, in her public statements Merkel has argued that the social market economy is not only the way out of the crisis, but also the key to preventing future crises. In a December 2008 speech, as the full

depth of the crisis was starting to reveal itself in Europe, Merkel argued that the social market economy is the key to stemming the excesses of the market; the “key to sustainably overcoming the crisis.”¹³ Hence, Merkel argued, it was her goal to see the social market economy turn into not merely a European but a global export. In doing so, Merkel gave voice to her basic interpretation of the financial crisis—that it was primarily the result of insufficient regulation—and that the social market economy represents an alternative, necessary model.

At the Davos World Economic Forum in January 2009, Merkel offered an even more full-throated defense of the social market economy. To begin her speech, Merkel laid out what she saw as the prerequisites of a market economy: first, the recognition of the power of markets and of an economy that allows market actors the freedom and space to create growth, and second, the ability to also guard against excesses of the market. The genius of the social market economy in Germany, Merkel said, is that it can accomplish these two things simultaneously. This led Merkel to her often-stated observation that the social market economy represents the so-called “Third Way” between unfettered Anglo-Saxon capitalism, which created enormous risk and social inequality and was widely perceived to be the root cause of the financial crisis, and a state-planned economy, which denied freedom. (It should also be remembered that Chancellor Merkel grew up in the former East Germany.) While advocating the merits of sensible regulation, Merkel also warned that in seeking to find solutions to the financial crisis, the world community must take care not to “completely distort market forces” and instead take the opportunity to make fundamental reforms that link “freedom with social equality and growth with sustainability.”¹⁴

In a February 2009 speech to the Bundestag—his first as economics minister—CSU member Karl-Theodor zu Guttenberg also defended the merits of the social market economy. Reminding his fellow Bundestag members that it was the success of the social market economy that led to Germany’s postwar *Wirtschaftswunder*, Guttenberg warned that its tried-and-true principles should not be “torn down in a panic.” Like Merkel, Guttenberg acknowledged that the self-correcting power of markets would be insuf-

ficient in stemming the current crisis and that the government must step in temporarily to halt the freefall. But Guttenberg made it equally clear that once the crisis subsides the government must again return to its role of setting the rules of the market while not intervening directly in it.¹⁵

3. German Crisis Management

The main challenge for German leaders throughout the economic crisis has been to decide how upholding the principles of the social market economy in the long-term can be balanced against the short-term goal of stemming the immediate economic crisis. As in the United States, there have been some last-resort actions taken out of sheer necessity that, as German leaders have acknowledged, are out of step with the basic principles of the social market economy. In an economic model that calls for the government to refrain from direct intervention in the economy, direct intervention in the financial markets and the nationalization of banks is, of course, unusual. But these measures, as Chancellor Merkel has reiterated, are only temporary. In its overall management of the crisis, German leaders have held true to the contours of the social market economy by passing stimulus packages, albeit reluctantly, that are geared toward investment and long-term infrastructure projects, rather than consumption, and by calling for greater government regulation of the financial markets as well as, still in the midst of the crisis, passing a constitutional amendment limiting high, sustained levels of deficit spending in the future.¹⁶

3.1 BAILING OUT THE BANKS AND CREATING TIGHTER FINANCIAL REGULATION

As in the U.S., in Germany the financial crisis is largely seen as a crisis of the banking system. Thus, leading politicians and policymakers remain convinced that dealing with banks’ so-called troubled assets remains central to addressing and eventually overcoming the crisis. While the IMF estimated that banks around the world hold about €3 trillion of toxic assets, German banks are probably holding approximately €300 billion, experts say. How to remove these toxic assets from banks’ balance sheets is now one of the vexing policy issues facing the German government.

In comparison to the U.S., German policymakers were relatively late in stepping in to save the banks. Such a direct intervention in the economy was widely viewed as a last resort, and the German government initially wanted to save banks on a case-by-case basis, rather than using what Merkel called a blanket approach. As a consequence, the German government set up its own deposit guarantees without consulting its partners—a move harshly criticized by its European peers. On 6 October 2008, the government stepped in to avoid the collapse of Germany's second largest mortgage lender, Hypo Real Estate (HRE). In an attempt to prevent a subsequent run on banks, the government announced it would guarantee all personal bank deposits in the country. With regard to a concerted European rescue plan, the German government believed that "each must endeavor to solve the problem with the means and methods available to them."¹⁷ German finance minister Peer Steinbrück defended the government's original approach: "In some judgments we may have been wrong and our timing was perhaps not perfect, but you can only make a judgment based on the information you have at the time ... And I maintain that the scope of this financial market crisis was not clear until deep into August or September."¹⁸

After the worsening of the crisis in fall 2008, however, the government changed its tactics: The first step taken in this direction was in October, when the Bundestag passed a law creating the Special Fund for Financial Market Stabilization (known by its German acronym, Soffin), a bank bailout package of nearly €500 billion—the largest ever in postwar Germany. Along with €400 billion to guarantee banks' loans, it also contained €100 billion for recapitalization. This fund was used, among others, to shore-up Hypo Real Estate with nearly €52 billion in the fall, to partially nationalize Commerzbank after its purchase of Dresdner Bank, as well as spending €13 billion to bailout HSH Nordbank in February 2009, among others.

But it was not until mid-May 2009 that Chancellor Merkel's government put together a plan for a so-called "Bad Bank," which will be established to help rid German banks of their toxic assets. The plan, created by finance minister Steinbrück, calls for German banks to set up their own, new companies in

which they can then off-load their toxic securities. These toxic assets would be refinanced by the new companies by issuing state-backed bonds to the banks which originally held the assets. The refinancing will be funded through Soffin, meaning that there will be no need for additional bailout funds. The plan is of course not without its own risks: if a bank's "bad bank" sees significant losses, then shareholders will have to forego all or part of their dividend. As of May 2009, a similar plan is also being discussed for Germany's struggling state-owned banks.¹⁹

Along with the creation of a bank bailout package and Bad Banks to deal with German banks' toxic assets, in March 2009 Chancellor Merkel's cabinet agreed to extend the powers of the main financial regulatory body, the Federal Financial Supervisory Authority, known as BaFin, to address the crisis. In the future, BaFin will have the power to increase liquidity and equity requirements for banks if it deems them to be at risk. BaFin was also given the power to prevent the payout of dividends and other funds to foreign parent companies. Financial institutions will be required to share more operational information with BaFin, including but not limited to financial institutions' leveraging levels. Finally, BaFin will also be allowed to vet members of financial institutions' boards to ensure that he or she is adequately qualified. If BaFin decides an individual is not sufficiently qualified, then it has the legal authority to find a replacement.

3.2 STIMULATING THE ECONOMY – WITH PRICE STABILITY AND BALANCED BUDGETS?

In the fiscal response to the economic crisis, the focus of the German government has been on spurring investment and on long-term infrastructure spending, rather than on driving consumption. The Grand Coalition's first attempt at combating the unraveling financial crisis came in November, when the government put through the first of two stimulus packages. It came only after much political debate and hand-wringing. For one of the enduring successes of the Grand Coalition had been to avoid deficit spending and, in 2007, the federal government was nearing a balanced budget before the outbreak of the financial crisis. With hyperinflation and economic chaos of the 1920s hanging heavy in

the nation's collective memory, German politicians and policymakers have argued that deficit spending is ineffective in fostering long-term growth and that a high level of government debt would lead to inflation. This strong fiscal conservatism reached in fact beyond the traditional CDU base and across political and public opinion. Much of this is also due to the experiences of the 1990s: The large expenditures required for rebuilding eastern Germany, the national debt that Germany incurred in doing so, and their attempts to balance the budget in the late 1990s led to slow growth rates.

Nevertheless, this desire for a balanced budget was overcome by the need for government action, and what emerged was a decidedly modest stimulus package. The first stimulus package—for which the government earmarked around €31 billion over two years—sought to support growth by incentivizing investment and long-term infrastructure projects more than it did consumption. It ensured continued credit flows to small- and medium-sized businesses, extended so-called short-term work from 12 to 18 months, provided infrastructure spending, and provided a tax write-off for spending on housing and renovations. On the consumption side, it offered help for the auto industry by including a tax exemption for purchases of new cars.²⁰

As the crisis continued and economic forecasts in Germany and the euro zone grew more grim throughout the fall of 2008 and into early 2009, the Grand Coalition moved toward a second and more aggressive stimulus program. Totalling nearly €50 billion over two years,²¹ the package passed in February 2009 called for €17 billion in new public investment and tax relief, including reductions in payroll contributions, further support of short-term work, and further support of consumption and the auto industry through granting tax breaks for people who scrap older cars and buy new ones (cash-for-clunkers, or *Abwrackprämie*). The government also appropriated an additional €100 billion in credits for the publicly-held KfW bank to underwrite credit to struggling companies, as well as a special credit program for small- and medium-sized businesses and increased availability of export guarantees.²² This second stimulus package brought the Coalition's total stimulus spending during the crisis to over €80

billion over 2009 and 2010.²³

One reason that Merkel and other leading politicians have refused to undertake further government spending is that the multiplier effect of consumption-targeted stimulus spending is exceedingly low in Germany because, as already discussed, it is heavily export-dependent. German consumers have also demonstrated a historically high personal savings rate. While savings rates declined from a high of about 13 percent in 1991 to near 9 percent in 2000, since 2001 savings rates have once again begun to reach the post-unification average of approximately 11 percent.²⁴ (In contrast, savings rates in the United States since 1990 have averaged less than 4 percent.) With this high savings rate of consumers, policymakers argue that tax rebates will do little if anything to stimulate growth in the German economy and probably just lead to more saving and thus do little to spur export demand. Instead, as laid out above, German policymakers made investment the priority, providing tax breaks for businesses and export credits, among other measures. Here, not just the principles of the social market economy but the fundamental differences in the German and American economic models—one export-driven, the other credit and consumption-driven—have significantly shaped the countries' respective responses to the crisis.

Even in the midst of the crisis, German politicians and policymakers moved to ensure that, once the crisis subsides, the country will once again have a balanced, or at least nearly balanced, budget: In June 2009, German legislators moved to limit public debt levels through a constitutional amendment. Passed by the required two-thirds majority in the Bundestag and by the upper house, the Bundesrat, by a margin of 13-3, the law is primarily aimed at states' budgets and only allows states to take on new debt to pay off old debt beginning in 2020. For the federal budget, the new law will take effect in 2016 and will limit new borrowing to 0.35 percent of the country's GDP. While the new amendment includes several exception clauses, allowing the federal government to bypass most of the law's provisions by declaring an emergency, governments will be constitutionally obligated to reduce their debts to the specified levels during times of economic growth and increasing government revenue.²⁵ Seeking to move away from the

current deficit spending and toward the days of balanced budgets before the outbreak of the financial crisis and recession, German lawmakers made fiscal discipline a matter of constitutional law and, in doing so, further translated the principles of the social market economy into German law and policy.

Lastly, Chancellor Merkel's preference for price stability was mirrored in her unprecedented step in early June 2009 of openly criticizing the monetary policies of the European Central Bank (ECB) as well its counterparts in the United States and in Britain. Echoing a familiar argument that she leveled at fiscal spending in the United States and elsewhere, Merkel argued that the ECB, the Federal Reserve, and the Bank of England have gone too far in fighting the crisis with so-called quantitative easing. Moreover, they risked creating the kinds of asset bubbles, and possibly inflation, which helped contribute to the crisis in the first place: "We must return to an independent central bank policy and to a policy of reason, otherwise we will be in exactly the same position in ten years' time."²⁶ Such criticism placed Merkel in a position opposite of most politicians, who usually argue that central banks are being too conservative with their monetary policies. But, as in many other moments throughout the crisis, it was Chancellor Merkel who was calling for restraint and reason in addressing the crisis.

3.3 IT'S AUTOMATIC: SOCIAL POLICIES IN THE CRISIS

Throughout their management of the financial crisis, German policymakers have said they have no need for further stimulus because the German social safety net—a fundamental component of the social market economy—is automatically lowering the tax burden and providing for increasing public spending into the economy through increased welfare checks, unemployment benefits, and job protections. According to IMF estimates, Germany's 2009 stimulus spending is 1.5 percent of GDP, slightly lower than the U.S.'s stimulus plan, which accounts for nearly 2 percent of GDP. However, because of Germany's large social safety net and its larger automatic stabilizers, the cumulative effect of the German stimulus spending will actually be much higher. According to the IMF, Germany's automatic stabilizers will contribute an

additional 1.7 percent of GDP to the stimulus measures, making total stimulus spending 3.2 percent of GDP in 2009. By comparison, in the United States total stimulus spending, combined with spending provided by the automatic stabilizers in the American safety net, will bring the total stimulus effect to approximately 4.8 percent of GDP.²⁷

Germany's so-called automatic stabilizers consist mainly of unemployment insurance, welfare payments, job protections, a pension scheme, and health insurance. Unemployment insurance (*Arbeitslosengeld I*) can be received by persons who have worked at least one year during the two years prior to filing the application. They will receive 67 percent of their most recent net income if they have children and 60 percent otherwise; payments will continue for a period of one year. Under the recently reformed unemployment insurance program, Hartz IV, which took effect in 2005, unemployment payments (*Arbeitslosenhilfe*) and welfare payments (*Sozialhilfe*) were merged to *Arbeitslosengeld II*. Currently, the Hartz IV program provides citizens with €351 per month, plus the cost of adequate housing. Additional benefits are available for people with young children. During economic downturns, the Hartz IV program automatically pumps money into the economy by providing for individuals who have lost their job as a result of the crisis. The *Kurzarbeit* program, or short-term work, is another feature of the German economy that has automatically increased its expenditures during the crisis. The agency that oversees the program, the German Federal Labor Office, which spent \$270 million in 2008, is expecting to dole out more than \$2.85 billion in 2009 as it seeks to compensate employers who place their employees on short-term work.²⁸ In addition to expanding the short-work program, German leaders also expanded the usual automatic stabilizers described above through a number of measures in the two stimulus packages, including a reduction of income tax levels.

3.4 GERMANY ON THE INTERNATIONAL STAGE: READY FOR MORE REGULATION

Along with her calls for globalizing the principles of the social market economy, Chancellor Merkel has also strongly advocated a more muscular and authoritative global financial regulatory system. Specifically,

Merkel has called for the creation of a United Nations Economic Council similar in structure and authority to the UN Security Council to help shape and enforce a new global regulatory structure.

In a January 2009 conference in Paris, Merkel called for the creation a “UN Charter of Sustainable Economic Activity” modeled on the UN Charter of Human Rights and a United Nations Economic Council as the foundation of a new global regulatory system. The role of this new UN organization would be to determine global standards and make sure “that we don’t live beyond our means.” In the speech Merkel also made it clear she sees the crisis as a “chance to reorganize the international architecture of institutions.” The existing UN Economic and Social Council (ECOSOC) busied itself only with writing reports and lacked any real formative power to regulate the global economy. Drastic measures were needed, she concluded, because the severity of the crisis proved that the global community lacked sufficient institutions and regulations to deal with the risks of globalization. In short, what Merkel called for was a “twenty-first century institutional architecture that truly reflects global interdependence.” Finally, Merkel said that in the coming years it would be the task of the EU to be “a voice for the social market economy in the international order.”²⁹

At the G20 summit in London at the beginning of April, Merkel continued to push for stronger international standards for market regulation. Merkel and her government have thrown their weight behind a report, drawn up for the EU, that argues for an extension of financial market supervision to all financial institutions (including hedge funds, private equity firms, and rating agencies), a tightening of equity requirements for banks, and an international system that could detect—and warn against—asset price bubbles. Merkel has also joined ranks with the French in calling for regulations that clamp-down on tax havens in countries like Switzerland.

4. Conclusion: The Politics of Economic Crisis Management in an Election Year

As this essay has argued, German crisis management has been driven by the basic concepts of the social market economy, including a strong social safety net to provide spending during economic downturns, tightly regulating the marketplace, and keeping prices stable by avoiding public deficits and overly expansive monetary policy, as well as the reality of a heavily export-dependent German economy. In this sense, the German response to the crisis has consisted of old wine in old bottles. Germany, led by Chancellor Merkel, has refused to undertake broader fiscal spending because of a strong desire to prevent future inflation. Rather than seeking to stimulate consumption in an economy that has high savings rates and is highly export-dependent, German policymakers have sought to incentivize investment and to spur infrastructure spending while allowing the automatic stabilizers to aid the unemployed and provide for some continued demand in the economy. Finally, Merkel and other government leaders have focused on reforming financial regulations to ensure that the markets continue to function in the future, but within reasonable bounds that limits the kind of risk that caused the current crisis.

A difficult task at any time, managing the crisis has been especially complicated for Merkel given the fact that she faces re-election in September 2009. Indeed, the September 27 national elections in Germany will be dominated above all by the reality of a flailing German economy and the ongoing global financial crisis; it will be the first time in a German election that the two candidates for chancellor have entered the campaign amid such high unemployment and slow economic growth.

Up to now, the implications of the financial crisis and its management on Merkel’s re-election efforts and on the chances for the SPD to capitalize politically on the crisis have been mixed. To be sure, the crisis has severely affected the CDU: During the onset of the crisis in late 2008 and early 2009, polls showed the CDU declining in popularity as the public’s anger with increasing unemployment, bailed-out banks, and general dissatisfaction with the government’s deficit spending resulting from the two stimulus packages.

Furthermore, the CDU's ideological resistance to intervening in the private sector has to some extent polarized the party: More liberal voters have begun moving toward the SPD, who advocate more aggressive state intervention, while the CDU's more conservative voters, unhappy with by the party's forays in the private sector, have begun drifting toward the free-market, pro-business stances of the Free Democratic Party (FDP).

In response, the SPD has worked to shift the debate to the left and has been adjusting its message to reflect the fallout from the crisis. The main argument currently being advanced by the SPD and their candidate for chancellor, German Vice Chancellor Frank-Walter Steinmeier, is that re-election of Merkel and the CDU will mean a more-of-the-same approach toward the market economy. As SPD party official put it, "The present economic model carries the seeds of failure. It isn't enough for Mrs. Merkel to engage in a little bit of crisis management. We must make fundamental changes."³⁰ Hoping that the crisis will clearly draw out the difference in economic platforms between the two parties, the SPD is promising that it will eliminate tax shelters, place sharper regulations on financial markets, and impose stronger control on executive compensation than the CDU otherwise would. In short, the SPD has jumped at the suggestion that the government must assume a more forceful role in the economy in combating the recession and financial crisis.

But for now, Merkel and the CDU appear to be simultaneously managing the crisis while avoiding a major political backlash. Recent polls show Merkel and the CDU capturing the middle ground on socio-economic issues, with Merkel and her party seen as more competent in addressing economic questions than their SPD rivals. Finally, the June 2009 European Parliament elections, which saw Merkel and the CDU/CSU achieve a sizable victory over Steinmeier and the SPD, could be a prelude to a CDU victory in the national elections and the forming of a coalition with the FDP, Merkel's preferred coalition partner.

Chancellor Merkel has made it clear that once the crisis subsides and recovery is underway, her plan is for the government to relinquish its role as decision-maker in the economy and to return to the tried-and-

true principles of the social market economy. As she put it, "At the end of the process we can go back to the old contours of the social market economy."³¹ But what happens when recovery proves more elusive than expected and further state intervention in the economy becomes necessary? Then, just maybe, will there be some new wine in those old bottles?

NOTES

- 1 Economist Intelligence Unit, *Germany Country Report*, April 2009, 5-8.
- 2 Quoted in "G20 Meeting to Test US Economic Leadership," *National Public Radio*, 11 March 2009.
- 3 "Merkel and Steinbrück Are Wasting Crucial Time," *Spiegel Online*, 15 December 2008, <<http://www.spiegel.de/international/business/0,1518,596520,00.html>>.
- 4 Bruce Stokes, "Europe: Go Ahead and Spend, Please," *National Journal Magazine*, 31 January 2009.
- 5 Peter Bofinger, "The Social Market Economy in a Globalised Economy," *Social Europe* 2/4, Spring 2007, 167.
- 6 Edward Megay, "Anti-Pluralist Liberalism: The German Neoliberals," *Political Science Quarterly* 85/3 (1970): 26.
- 7 Richard Reichel, "Soziale Marktwirtschaft, Sozialstaat und liberale Wirtschaftsordnung," *Aufklärung & Kritik*, Sonderheft Nr. 2 (1998), <http://www.kellmann-stiftung.de/index.html?beitrag/reichel_markt.htm>.
- 8 A.J. Nicholls, *Freedom with Responsibility: The Social Market Economy in Germany, 1918-1963*, (Oxford, 1994), 4.
- 9 Quoted in *Das Konzept der Sozialen Marktwirtschaft: Grundsätze, Erfahrungen und neue Aufgaben*, Konrad-Adenauer-Stiftung, June 1999: 2.
- 10 Peter Bofinger, et al., "Vorrang für das reguläre Arbeitsverhältnis: Ein Konzept für Existenz sichernde Bestätigung im Niedriglohnbereich," *Gutachten für das Sächsische Ministerium für Wirtschaft und Arbeit*, August 2006; Cf., Interview with Peter Bofinger, "Bofinger: Lohnerhöhungen wichtig für Wachstum," *dradio.de*, 10 April 2006, <<http://www.dradio.de/okultur/sendungen/interview/488353/>>.
- 11 Quoted in "Deutschen vertrauen Wieder dem Staat," *Süddeutsche Zeitung*, 13 May 2009.
- 12 Angela Merkel, speech to the Ludwig-Erhard Initiative, 18 July 2007, <http://www.ludwig-erhard-initiative.de/index.php?option=com_content&view=category&layout=blog&id=54&Itemid=118>.
- 13 Angela Merkel, speech to a meeting of the Christian Democratic Union, 1 December 2008, <<http://www.bundeskanzlerin.de/Webs/BK/DE/Aktuelles/Reden/reden.html>>.
- 14 "Rede von Bundeskanzler Merkel anlässlich des Weltwirtschaftsforums," 30 January 2009, <http://www.bundeskanzlerin.de/nn_5296/Content/DE/Rede/2009/01/2009-01-30-merkel-davos-rede.html>.
- 15 Karl-Theodor Freiherr zu Guttenberg, speech to the German Bundestag, 13 February 2009, <http://www.bundestag.de/bic/sach_sprech/index.html>.
- 16 "Germany to limit federal debt in constitutional amendment," *Deutsche Welle*, 12 June 2009, <<http://www.dw-world.de/dw/article/0,,4322362,00.html>>.
- 17 William Kole, "European Union tested by world economic crisis," *Times of India*, 7 October 2008.
- 18 "German Parliament Approves 500b Euro Financial Bailout," *China Daily*, 18 October 2008.
- 19 Claus Hulverscheidt, "Das Geld soll wieder fließen," *Süddeutsche Zeitung*, 14 May 2009.
- 20 Die Bundesregierung, "Konjunkturpaket I und II: Impulse für die Wirtschaft," No date given, <<http://www.bundesregierung.de/Content/DE/Artikel/2009/01/2009-01-12-konjunktur-2.html>>.
- 21 Bundesministerium der Finanzen, "Stellschrauben des Konjunkturpakets 2," <http://www.bundesfinanzministerium.de/DE/Buergerinnen_und_Buerger/Gesellschaft_und_Zukunft/themenschwerpunkt_konjunkturpakete/Stellschrauben-des-Konjunkturpakets-2/075_in_Bewegung_halten.html>.
- 22 Bundesministerium für Wirtschaft und Technologie, "Konjunktur II," No date given <<http://www.bmwi.de/BMWi/Navigation/Wirtschaft/Konjunktur/konjunkturpaket-2.html?>>>.
- 23 "The Size of the Fiscal Expansion: An Analysis for the Largest Countries," International Monetary Fund, February 2009, <<http://www.imf.org/external/np/pp/eng/2009/020109.pdf>>.
- 24 Statisches Bundesamt Deutschland, "Halbjahr 2008: Haushalte sparen mehr," *Pressemitteilung* Nr. 400, October 2008.
- 25 "Bundesrat beschließt Schuldenbremsen," *Spiegel Online*, 6 June 2009, <<http://www.spiegel.de/politik/deutschland/0,1518,630084,00.html>>; "Bundesrat verankert Schuldenbremse im Grundgesetz," *FOCUS Online*, 12 June 2009, <http://kurse.focus.de/news/UPDATE-Bundesrat-verankert_id_news_109095078.htm>. Cf Bundesministerium für Finanzen, "Schuldenbremsen durch den Bundesrat verabschiedet," 12 June 2009, <http://www.bundesfinanzministerium.de/nn_82/DE/Presse/Pressemitteilungen/Finanzpolitik/2009/06/20091206__PM25.html>.
- 26 "Merkel vs. Central Banks: In Her Words," *The Wall Street Journal*, 3 June 2009, <<http://blogs.wsj.com/economics/2009/06/03/merkel-vs-central-banks-in-her-words/>>. Cf. "Merkel kritisiert Zentralbanken," *Süddeutsche Zeitung*, 3 June 2009, <<http://www.sueddeutsche.de/finanzen/318/470862/text/>>.
- 27 Note by the Staff of the International Monetary Fund, "Group of Twenty: Meeting of the Deputies, 31 January – 1 February 2009," International Monetary Fund, <<http://www.imf.org/external/pubs/ft/survey/so/2009/pol020709a.htm>>. Cf. Marc Champion, "Germany Says Its Spending Package is Big Enough Already," *The Wall Street Journal*, 12 March 2009.
- 28 Nicholas Kulish, "Aided By Safety Nets, Europe Resists Stimulus Push," *The New York Times*, 27 March 2009, <<http://www.nytimes.com/2009/03/27/world/europe/27germany.html>>.
- 29 Angela Merkel, speech given in Paris, "Neue Welt, neuer Kapitalismus," 8 January 2009, <http://www.bundeskanzlerin.de/nn_5296/Content/DE/Rede/2009/01/2009-01-08-merkel-kolloquium-kapitalismus.html>.
- 30 "SPD-Vize Nahles: Merkel taugt nicht in der Krise," SPD Parteivorstand 2009, 26. January 2009, <<http://www.andrea-nahles.de/AndreaNahlesaktuell/Presse-Spiegel/2009/090126Merkelkritik.html>>
- 31 Quoted in "How the Restart the Engine," *The Economist*, 12 March 2009.

ADDITIONAL REFERENCES

- "A late-breaking boost for Germany," *The Economist*, 15 January 2009, <http://www.economist.com/displayStory.cfm?story_id=12947570> (23 April 2009).
- "A limited stimulus package in Germany," *The Economist*, 8 November 2008, <http://www.economist.com/displayStory.cfm?story_id=12585059> (21 April 2009).
- "Bad-Bank-Pläne schöngefärbt und zynisch," *Der Handelsblatt*, 22 April 2009, <<http://www.handelsblatt.com/journal/presseschau/bad-bank-plaene-schoengefaerbt-und-zynisch;2248248>>.
- "BürgerProgramm Soziale Marktwirtschaft: Umfrageergebnisse," Bertelsmann Stiftung, December 2007, <<http://www.bertelsmann-stiftung.de/cps/rde/xchg/SID-53FDE5CF-DB892D96/bst/hs.xsl/89619.htm>>.
- "Deutsche zweifeln an sozialer Marktwirtschaft," *Spiegel Online*, 7 June 2008, <<http://www.spiegel.de/wirtschaft/0,1518,558336,00.html>>.
- "Economic Crisis Defines German Election," *Spiegel Online*, 16 April 2009, <<http://www.spiegel.de/international/germany/0,1518,619389,00.html>>.
- "Ein Paket für alle," *Süddeutsche Zeitung*, 13 January 2009, <<http://www.sueddeutsche.de/politik/540/454224/text/>>.
- Ludwig Erhard, *Wohlstand für alle* (Gütersloh, 1962).
- "Germany's feeble stimulus package," *The Economist*, 10. November 2008, <http://www.economist.com/agenda/displaystory.cfm?story_id=12585059> (22 April 2009).
- "Germany: 2008 Article IV Consultation," *International Monetary Fund Country Report* No. 09/15, January 2009.
- "Konjunkturpaket soll eine Million Jobs sichern," *Spiegel Online*, 2 November 2008, <<http://www.spiegel.de/politik/deutschland/0,1518,587920,00.html>>.
- "Kraftakt Krisenbewältigung," Bundesverband Deutscher Banken, Juli 2008, <<http://www.bankenverband.de/index.asp?channel=133910&art=1242>>.
- "Mehrheit für Schuldenbremse ist gesichert," *Handelsblatt Online*, 4 June 2009, <<http://www.handelsblatt.com/politik/deutschland/mehrheit-fuer-schuldenbremse-ist-gesichert%3B2327238>>.
- "Merkel Blasts Powers of the Fed," *The Wall Street Journal*, 3 June 2009, <<http://online.wsj.com/article/SB124398546796379239.html>>.
- "Mit 50 Milliarden gegen die Krise," Deutscher Bundestag, 30 January 2009 <http://www.bundestag.de/aktuell/archiv/2009/23441357_kw05_konjunkturpaket/index.html>.
- "Rede von Bundeskanzlerin Merkel anlässlich der Veranstaltung der Initiative Neue Soziale Marktwirtschaft. Erfolg made in Germany – die soziale Marktwirtschaft," Die Bundesregierung, 2 June 2009, <http://www.bundesregierung.de/nn_1498/Content/DE/Rede/2009/06/2009-06-02-merkel-insm.html>.
- "Regierung einigt sich auf Bad-Banks," *Der Tagesspiegel*, 22 April 2009, <<http://www.tagesspiegel.de/wirtschaft/Finanzen-Bad-Bank-Finanzkrise;art130,2779431>>.
- "The Fraying Coalition in Berlin," *Spiegel Online*, 6 March 2009, <<http://www.spiegel.de/international/germany/0,1518,611745,00.html>>.
- "Too little, and late," *The Economist*, 16 April 2009, <http://www.economist.com/displayStory.cfm?story_id=13496812> (22 April 2009).
- "Wirtschaft schrumpft um sechs Prozent," *Die Zeit*, 22 April 2009, <www.zeitonline.de/2009/17/konjunktur_prognose/oekonomen> (22 April 2009).



02

THE BASIC LAW

THE BASIC LAW AND THE USE OF FORCE: REMARKS ON THE 60TH ANNIVERSARY OF THE BONNER GRUNDGESETZ

RUSSELL A. MILLER

1. Introduction

Among the Basic Law's (*Grundgesetz*) distinguishing features and in light of its considerable success, there is one thread in its remarkable tapestry that merits further attention. It is a matter of constitutional law with particular significance for transatlantic affairs, and, therefore, especially worthy of attention upon an American celebration of the sixtieth anniversary of the promulgation of the Basic Law.

In need of particular attention are the Basic Law's provisions for Germany's use of military force. Perhaps it is unfortunate that questions of security continue to take center stage in transatlantic affairs. A hoped-for "new world order," in which economic and cultural issues might have ascended, never seems to have materialized. Instead, we find ourselves still debating the roles the U.S. and Germany should play in securing our shared interests. On this issue there has been none-too-little disagreement and disappointment on either side of the Atlantic, with the U.S. pressing for the projection of force and Germany balking.

These roles were popularly caricatured by Robert Kagan in his essay "Of Paradise and Power," which he published in an earlier and more strained part of this decade.¹ But only last month the headlines that followed President Barack Obama's visit to Baden-Baden as part of the state conference marking the sixtieth anniversary of NATO suggested that, on the question of security, the U.S. and Germany were still playing to type. "Europeans offer few new troops for Afghanistan," the *New York Times* trumpeted. "Mr. Obama has been greeted warmly on a personal

level," the report said, "but his calls for a more lasting European troop increase for Afghanistan were politely brushed aside."² President Obama would be wise not to take this as a personal slight. One of the more entertaining moments in Oliver Stone's otherwise unremarkable movie *W.* depicted the 43rd President railing against "that kraut Schröder" because the Chancellor had refused to lead Germany into the "coalition of the willing" that was being formed to prosecute Operation Iraqi Freedom.³

Engaging with this confounding facet of German-American relations, this essay argues, first, that modern Germany's deeply embedded reticence toward the use of force, which consistently places it in conflict with America's more muscular vision of trans-atlanticism, has both roots and expression in the Basic Law. Second, it concludes by suggesting that Germany's use-of-force regime might give the lie to the persistent realist argument that force cannot be constrained by law.

2. The Basic Law and the Use of Force

The Germans are a people distinctly keyed to law: It should come as no surprise, therefore, that in an examination of Germany's security policy, one would begin with the law. The Roman historian Tacitus remarked that Rome learned more from the northern Germanic tribes than from any of the other barbarians on the messy margin of the Empire. He singled out the Germans' well-developed system of customary law for praise; offset, perhaps, by their quirky insistence on appearing at any gathering fully armed and by an awkward penchant for blurting out everything on their mind straight away.⁴ Others have remarked

that while the French were storming the Bastille the Germans were busy establishing administrative law courts. Of course, even the terror of the Holocaust was framed and fueled by what formalistically passed as law.⁵

Especially with a view to this last turn in German history, the framers of the Basic Law insisted on a "peace constitution." The preamble declares that, in promulgating a new constitution, the Germans were "inspired by the determination to promote world peace as an equal partner in a united Europe, [...]"⁶ Further evidence of the Basic Law's inherent pacifism can be found in Article 1(2), which provides that "the German people [...] acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world."⁷ Article 9(2), one of the Basic Law's remarkable "militant democracy" provisions, permits the prohibition of associations whose aims or activities are directed "against [...] the concept of international understanding, [...]"⁸ Article 26(1) renders unconstitutional and obliges the German government to criminalize "acts tending to and undertaken with intent to disturb the peaceful relations between nations, especially to prepare for a war of aggression."⁹ To be sure, there are competing clauses that might be interpreted as a "hint" that German rearmament was inevitable.¹⁰ But the Constitutional Court did not get the chance to choose between these interpretive possibilities. Chancellor Konrad Adenauer's earliest attempt to rearm West Germany was cut short when France withdrew from plans to create a European Defense Community, thereby rendering moot the case before the Constitutional Court that raised these fundamental constitutional questions about Germany's security profile.¹¹

The strictly pacifist elements of the original Basic Law soon were overshadowed by constitutional amendments pushed through by Adenauer's super-majority government in 1954.¹² These amendments, particularly implicating Article 79(1), paved the way to West Germany's NATO membership and remilitarization.¹³ Yet the constitutional provisions that facilitated Germany's rearmament did just as much to entrench Germany's postwar reticence for the use of force. Article 87a, for example, provided that the newly formed federal armed forces were empowered to

defend Germany and otherwise could be deployed "only to the extent expressly permitted by this Basic Law."¹⁴ Thus, even as Germany rearmed and integrated into the Western security framework, constitutional law would dictate and define the function of the armed forces.

Through the long years of the Cold War a number of social and political factors conspired to cement the consensus that the German armed forces were to be used exclusively for the purpose of defending NATO territory. Surely the ever-present memories of German atrocities and suffering in World War II hardened the pacifist sentiment evident in the Basic Law and expressed in the defense consensus that prevailed during the Cold War. Another facet of constitutional law unwittingly contributed to the widespread pacifist sentiment that took root in Germany during the long years of the Cold War. Increasing numbers of young German men sought to avoid conscription by invoking the constitutional provision that guarantees the right to object to military service as a matter of conscience.¹⁵ To stem this tide the government required conscientious objectors to appear before local committees to defend their views. Many Germans' pacifist views were galvanized by these proceedings. In any case, the zero-sum implications of armed confrontation along the hot German front of the Cold War made it a logical imperative that "for over forty years, the [leadership of the Federal Republic of Germany] interpreted the Basic Law to mean that German military forces could only be used for defensive purposes on North Atlantic Treaty Organization (NATO) territory."¹⁶ Considering the Cold War stalemate in Europe, this was as good as saying the German armed forces might never be deployed.

German reunification and the increasing distance from World War II came to pose a rather significant challenge to the constitutional consensus that Germany's armed forces could be used only for defense of the NATO territory. Germany's "68er" Chancellor, Gerhard Schröder, tactfully but resolutely advocated a normal role for the Federal Republic in world affairs. This included, as its chief prize, the ongoing Quixotic German pursuit of a permanent seat on the U.N. Security Council, a body dominated by states possessed of the military wherewithal to ensure

the world's peace and security.¹⁷ To show its willingness to flex its muscle, starting in the early 1990s, Germany increasingly began to deploy its armed forces for purposes other than the defense of German or NATO territory.¹⁸ The first of these ventures involved support of NATO and U.N. peace-making or humanitarian efforts in Bosnia-Herzegovina, Somalia, and Serbia-Montenegro. A constitutional challenge to these non-defensive deployments ended with the Constitutional Court handing the federal government a Pyrrhic victory. In the AWACS I Case from 1994 the Court upheld the constitutionality of the challenged deployments.¹⁹ But in doing so it articulated constitutional principles that greatly constrain Germany's use of force. Decades after the Adenauer government proposed such an interpretation, the Court held in AWACS I that Article 24(2) of the Basic Law impliedly authorized the government to fulfill its obligations under treaties like the U.N. Charter and the North Atlantic Alliance, including the deployment of armed forces.²⁰ Yet, the Court went on to hold that any deployment of the German armed forces for non-defensive purposes requires prior parliamentary approval.²¹ The Court could not point to a clear textual basis for this significant constitutional limitation on the use of force.²² Instead, it derived the rule from constitutional history, pointing to the Weimar-era requirement for a parliamentary declaration of "war" or "peace."²³ The Court also referred to the Basic Law's assignment of the military's budget to the parliament.²⁴ The Court further explained that the rule existed as an echo of parliament's constitutional prerogative over treaty-making in the first instance, a prerogative that is revived when obligations under a treaty call for dramatic measures like troop deployments.²⁵ The Court concluded by underscoring that the rule reinforced the ever-fragile balance between almost plenary executive authority in foreign affairs and the principle of checks and balances inherent in the separation of powers.²⁶

The last decade saw the Court slightly relax this constitutional limitation on Germany's use of force.²⁷ In 2001, for example, the Court turned aside constitutional challenges to the Federal Government's accession to NATO's new, out-of-territory, and non-defensive "strategic concept."²⁸ The radical military implications for Germany's participation in the new "strategic concept" were obvious. At the time the new

"strategic concept" was announced in 1999 the alliance was prosecuting its bombing campaign against Serbia, an action that was neither defensive nor concerned with NATO territory.²⁹ In spite of the firm assertion of parliamentary priority in AWACS I, and without regard to the very evident military implications, the Court was untroubled by the fact that the Federal Government had committed Germany to NATO's new "strategic concept" without consulting the parliament.³⁰ The Court's decision in the NATO Strategic Concept Case probably was foreshadowed by its earlier decision finding nothing constitutionally objectionable about the deployment of German armed forces in support of NATO's Kosovo campaign.³¹ Later, the Constitutional Court approved of the parliament's general and open-ended authorization of force deployments in support of NATO's ongoing Afghanistan operation.³²

Last year's AWACS II Case saw the Court put an end to this trend and firmly reassert the rule from AWACS I.³³ In spite of his strident opposition to President George W. Bush's Iraq "adventure," Chancellor Schröder nonetheless planned to send German AWACS planes to Turkey, which summoned NATO backing in anticipation of a flailing, aggressive gesture from Saddam Hussein's threatened regime.³⁴ The Chancellor argued that parliamentary approval, consistent with the rule from AWACS I, was not needed in this instance because the AWACS aircraft were serving strictly defensive purposes within the framework of Germany's NATO obligations.³⁵ The Constitutional Court disagreed and ruled Schröder's deployment of the aircraft to Turkey a constitutional violation.³⁶ It is a mandate of the Basic Law's separation of powers, the Court firmly reiterated, that parliament alone has the constitutional authority to decide on deployments to armed conflicts.³⁷ This is especially true, the Court explained, with a view toward the political dynamics of an alliance system. Germany should not be led into armed conflict by foreign interests framed as collective security concerns; deployments must be authorized by the Federation's popular branch.³⁸ Significantly, the Court found a parliamentary presumption in the relevant constitutional framework. When in doubt, the Court explained, parliament has priority with respect to the deployment of the German armed forces.³⁹ This rule, reaffirmed in AWACS II, has led most to

accept the notion that the German armed forces are properly described as a *Parlamentsarmee*—a parliamentary army.⁴⁰ This presents a very real, systemic constraint on Germany's projection of force. If anyone doubts this, it is only necessary to recall that Chancellor Schröder had to package his 2001 Afghanistan troop deployment, meant to support America's immediate, post-9/11 campaign against the Taliban, with a no-confidence vote.⁴¹ He barely survived—with a mere two-vote cushion—to see Germany join the American-led Operation Enduring Freedom.⁴²

A final, very significant constitutional limitation on Germany's use of force, which has silently operated to make the preceding discussion of Constitutional Court jurisprudence possible, is the fact that the Basic Law clearly gives the Constitutional Court jurisdiction to hear challenges to the Federal Government's plans to deploy the armed forces.⁴³ The German Constitutional Court does not know a political question doctrine.⁴⁴ Instead, the Court repeatedly has been called upon to judge the constitutionality of the Federal Government's security agenda. The Court in *AWACS II* emphasized this important feature of the constitutional regime limiting Germany's use of force, reiterating that these questions are subject to full judicial review.⁴⁵

The Basic Law's regime regarding the use of force, in its substance but also including the Constitutional Court's clear jurisdiction over these matters, is both evidence of and an explanation for the German reticence toward the use of force that often frustrates American policymakers. The frustration on this side of the Atlantic might be justified, considering that the U.S. Constitution has thrown up nothing like these limitations on the executive branch's discretion to embroil the United States in armed conflict. The texts of the U.S. Constitution and the Basic Law do not definitively answer the question of the competence, and limits thereon, to use force. But unlike the German case, the interpretation of the U.S. Constitution's assignment of war making authority, at least in practice, has heavily favored the President to Congress' disadvantage. Direct attempts by Congress to "fulfill the intent of the framers ... and insure that the collective judgment of both the Congress and the President will apply to the intro-

duction of United States Armed Forces into hostilities, [...]" have failed.⁴⁶ In the United States the armed forces are anything but a Parliamentary Army. And, hiding behind the political question doctrine, the courts have generally refused to intervene to bring the President to heel.

More than Kagan's banal "Mars and Venus,"⁴⁷ it is better to note, especially on the occasion of the Basic Law's sixtieth anniversary, that distinct constitutional regimes giving force to distinct constitutional values explain the American and German differences in transatlantic security policy.

3. Conclusion: The Basic Law Laying Realism to Rest?

On the occasion of the Basic Law's sixtieth anniversary, perhaps one can find a grander and more normative claim for its use of-of-force regime. More than a mere doctrinal and cultural phenomenon that explains differences in German and American security policy, is it possible that the Basic Law's contribution to curbing Germany's significant militarist tradition provides rare evidence for the hope that force can be constrained by law?

We know well the realism that dominates American international law and international relations theory and practice, which, ironically, largely is attributable to the influence of German immigrants to the United States like Hans Kelsen, Leo Strauss, and Hans J. Morgenthau. At the core of these theorists' contributions is the Machiavellian/Hobbesian world view that humankind is self-interested and brutish; might, not law, is what counts. Their views find voice today in the United States in the neo-conservative commentary and policy positions of the already-mentioned Robert Kagan, but also Michael Glennon, Eric Posner, Jack Goldsmith, John Yoo, John Bellinger, Josh Bolton, and Paul Wolfowitz. Perhaps the experiences of the last half-decade have adequately cast their fundamentalist and formalistic realism into doubt. But the narrative offered in this essay offers its own, perhaps deeper, repudiation. It suggests anything but the notion that, when it comes to force, the law is dead.⁴⁸ To the contrary, the Basic Law has made the use of force in Germany almost exclusively a question of politics, democracy, and law. The Basic Law has

given Germany a new kind of army, unraveling centuries of German military ideology that was based on "an important part of the self-understanding of the majority of Germans."⁴⁹

Joachim Käppner recently noted that postwar Germany seized, "for the first time in the country's history, the chance to reconcile the German military with German democracy."⁵⁰ This, Käppner concluded, "is one of the great success stories of the Federal Republic."⁵¹ If this is so, and if the world is lucky and wise enough to learn from this remarkable German example, then it will have to count equally as one of the great successes of the German Basic Law. That would be good reason, indeed, to celebrate the *Bonner Grundgesetz*.

NOTES

- 1 Robert Kagan, *Of Paradise and Power* (2003). For a number of critiques of Kagan's claims, see the *German Law Journal* symposium issue "New Transatlantic Tensions and the Kagan Phenomenon," including Rebecca Bratspies, "This Too Shall Pass: A Response to Kagan's 'Power and Weakness,'" 4 *German Law Journal* 879, <http://www.germanlawjournal.com/pdf/Vol04No09/PDF_Vol_04_No_09_889-899_SI_Bratspies.pdf>; Olaf Dilling, "If I Had a Hammer – A Review Kagan's 'Power and Weakness,'" 4 *German Law Journal* 963, <http://www.germanlawjournal.com/pdf/Vol04No09/PDF_Vol_04_No_09_963-969_SI_Dilling.pdf>; Russell Miller, "The Shared Transatlantic Jurisprudence of Dignity," 4 *German Law Journal* 925 (2004), <http://www.germanlawjournal.com/pdf/Vol04No09/PDF_Vol_04_No_09_925-934_SI_Miller.pdf>; and Andreas Paulus, "Antimonies of Power and Law: A Comment on Robert Kagan," 4 *German Law Journal* 871 (2004), <http://www.germanlawjournal.com/pdf/Vol04No09/PDF_Vol_04_No_09_871-888_SI_Paulus.pdf>.
- 2 Steven Erlanger and Helene Cooper, "Europeans Offer Few New Troops for Afghanistan," *NY Times*, 4 April 2009, <<http://www.nytimes.com/2009/04/05/world/europe/05prexy.html?ref=politics>>.
- 3 Tim Harper, "W's Already Old in an Era that Deems Yesterday Historic," *TheStar.com*, 18 October 2008, <<http://www.thestar.com/comment/columnists/article/519763>>.
- 4 See Steven Ozment, *A Mighty Fortress* (2004), 22.
- 5 See e.g., Abraham J. Edelheit and Hershel Edelheit, "Legislation, Anti-Jewish," in *History of the Holocaust: A Handbook and Dictionary* (1994), 299-331. See also Gustav Radbruch, "Gesetzliches Recht und übergesetzliches Unrecht," 1 *Süddeutsche Juristen-Zeitung* 105 (1946) (raising the possibility of "statutory lawlessness" and "supra-statutory law" in reaction to Nazi "law").
- 6 Grundgesetz [GG] [Basic Law – Constitution] pmbI. (F.R.G.).
- 7 Grundgesetz [GG] [Basic Law – Constitution] art. 1(2) (F.R.G.).
- 8 Grundgesetz [GG] [Basic Law – Constitution] art. 9(2) (F.R.G.).
- 9 Grundgesetz [GG] [Basic Law – Constitution] art. 26(1) (F.R.G.).
- 10 Uwe Wese, *Der Gang Nach Karlsruhe* (2004), 73-75.
- 11 Ibid.
- 12 Ibid. See also Gesetz zur Ergänzung des Grundgesetzes [Law for the Amendment of the Basic Law], 26 March 1954, BGBl. I at 45.
- 13 Nordatlantikvertrag von 4. April 1949 [North Atlantic Treaty], 6 May 1955, BGBl. II at 289, in the version of the Protocol from 17 November 1951, BGBl. II at 293.
- 14 Grundgesetz [GG] [Basic Law – Constitution] art. 87a (F.R.G.).
- 15 Grundgesetz [GG] [Basic Law – Constitution] art. 4(3) (F.R.G.).
- 16 Walter J. Lemanski, "Note, The Reemergence of German Arms: How Far Will Germany's March Toward Full Use of Military Force Go?," 29 *Vanderbilt Journal of Transnational Law* (1996), 857, 859.
- 17 See, e.g., "German UN Aspirations Backed by Europe," *DW-World.de*, 24 September 2004, <<http://www.dw-world.de/dw/article/0,,1337830,00.html>>; "UN Reform Targets Security Council," *DW-World.de*, 2 December 2004, <<http://www.dw-world.de/dw/article/0,,1413668,00.htm>>; "Germany Seeks UN Veto Parity," *DW-World.de*, 12 December 2004, <<http://www.dw-world.de/dw/article/0,,1422951,00.html>>; and "German Starts UN Reform Resolution," *DW-World.de*, 17 May 2005, <<http://www.dw-world.de/dw/article/0,,1585795,00.html>>.
- 18 See Georg Nolte, "Germany: Ensuring Political Legitimacy for the Use of Military Forces by Requiring Constitutional Accountability," in *Democratic Accountability and the Use of Force in International Law*, ed. Charlotte Ku and Harold K. Jacobson (2002), 231, 234-35.
- 19 BVerfGE 90, 286.
- 20 Ibid.

21 Ibid.

22 Ibid.

23 Ibid.

24 Ibid.

25 Ibid.

26 Ibid.

27 See, e.g., BVerfGE 100, 266; BVerfGE 104, 151; BVerfGE 117, 359.

28 BVerfGE 104, 151.

29 Ibid.

30 Ibid.

31 BVerfGE 100, 266.

32 BVerfGE 117, 359.

33 BVerfG, 2 BvE 1/03 decision of 7 May 2008, <http://www.bverfg.de/entscheidungen/es20080507_2bve000103.html>.

34 See Richard Bernstein, "Threats and Responses: The Alliance; Germany Says NATO Rift Over Turkey is Near an End," *NY Times*, 14 February 2003, <<http://www.nytimes.com/2003/02/14/world/threats-responses-alliance-germany-says-nato-rift-over-turkey-near-end.html?sec=&spn=&pagewanted=1>>.

35 BVerfG, 2 BvE 1/03 decision of 7 May 2008, <http://www.bverfg.de/entscheidungen/es20080507_2bve000103.html>.

36 Ibid.

37 Ibid.

38 Ibid.

39 Ibid.

40 Ibid. See Dr. Angela Merkel, Speech – Germany's Foreign and Security Policy in the Face of Global Challenges, 42nd Munich Conference on Security Policy (4 February 2006), <http://www.security-conference.de/konferenzen/rede.php?menu_2006=&menu_konferenzen=&sprache=en&id=170&print=&>.

41 Steven Erlanger, "Pressing Greens, German Leader Wins Historic Vote on Sending Troops to Afghanistan," *NY Times*, 17 November 2001, <<http://www.nytimes.com/2001/11/17/world/pressing-greens-german-leader-wins-historic-vote-sending-troops-afghanistan.html?scp=1&sq=Pressing%20Greens%20German%20leader&st=cse>>.

42 Ibid.

43 Grundgesetz [GG] [Basic Law – Constitution] art. 93(1)[1] (F.R.G.).

44 David P. Currie, *The Constitution of the Federal Republic of Germany* (1994), 44-45.

45 BVerfG, 2 BvE 1/03 decision of 7 May 2008, <http://www.bverfg.de/entscheidungen/es20080507_2bve000103.html>.

46 War Powers Resolution, 50 U.S.C. §§ 1541-1548 (2000). See Harold Honju Koh, *The National Security Constitution* (1990); John Hart Ely, *War and Responsibility* (1993); Louis Fisher, *Presidential War Power* (1995).

47 Kagan, *supra* note 1, at 3.

48 See Michael J. Glennon, "Why the Security Council Failed," *Foreign Affairs*, May/June 2003.

49 Kurt Kister, "Der zivile Reserveoffizier," *Süddeutsche Zeitung*, 2/3 May 2009, 7.

50 Joachim Käppner, "Der alte Geist zog nicht mehr ein," *Süddeutsche Zeitung*, 2/3 May 2009, 7.

51 Ibid.



GERMANY'S MILITARY DEPLOYMENT ABROAD

GERMANY'S MILITARY DEPLOYMENT ABROAD: REAL HISTORICAL LIMITS OR PRETEXTS?

CLEMENS WERGIN

After the excesses of the Nazi period, Germans acquired (among other things) a heavy dislike of flowery rhetoric and pathos, a dislike obvious in this year's sixtieth anniversary of the German Basic Law (*Grundgesetz*). The many speeches held in the Bundestag and elsewhere give the impression that the biggest accomplishment of these sixty years basically lies in the things that Germans did not do. That is, in the past sixty years Germany did not invade its neighbors, vote for a dictator, or massacre a people. In light of German history this might seem quite an accomplishment indeed, but in fact this is only more or less what one would expect from an enlightened nation.

The past still looms large in German consciousness. Although there are many examples to the contrary, the elites still seem to harbor a deeply rooted distrust toward the common people and a fear that Nazi-era racism and xenophobia still linger, only waiting to emerge when the "going gets tough," such as in an economic crisis or when politics go through a period of instability.

Over the past sixty years nothing like this has happened. Quite the contrary: Although the current global economic crisis hit Germany, with its export-driven economy, much harder than most, the Germans have remained remarkably calm and cool-headed. Certainly, warning voices have evoked the crisis of 1929 and the subsequent rise of nationalist and fascist movements in Germany and elsewhere in Europe, but recent elections have shown a surprising rush to the political center in Germany (for example in the European Parliament elections). Rather than strengthening the fringe parties on the far right or left

of the spectrum, German citizens have strengthened moderate parties in the economic downturn. Even the Left Party (*Die Linke*) with its anti-capitalist platform could not profit from one of the worst crises of the capitalist system in decades. In fact, the Left Party has steadily lost ground in opinion polls since the crisis began.

Thus, there is no doubt that Germans have become a totally different people in these more than sixty years since the end of World War II. This also applies to foreign policy. Germany is no longer a threat to its neighbors and has happily endorsed the notion of multilateral institutions and shared sovereignty that comes with being part of the European Union. In short, Germany has become a soft power. While this is a relief for many of its neighbors and a huge success of European integration, it also creates some problems in today's world, especially for the United States. At a time when the U.S. is stretched thin managing global problems and the West's power and its ability to shape the world are on a relative decline, Germany still does not carry the full weight of the responsibilities that would befit one of the world's major economies. In such military matters as Afghanistan, where German forces patrol an area that until some months ago was relatively stable, the German contingent is heavily framed by Bundestag-imposed caveats of preventing German soldiers from being sent to other regions and battlefields in Afghanistan to assist other NATO allies.

Historical Experiences Limit Germany's Foreign Policy

Germany's reluctance to engage in combat missions

can be attributed to a complete change in German mentality, resulting from historical experience. In rejection of the militarism of the late Prussian, Wilhelmine, and Nazi periods, most Germans have embraced some sort of “habitual pacifism”: A mix of simplistic pacifist beliefs stemming from the tragedies of Nazi Germany, coupled with a good measure of isolationism concerning problems beyond the borders of the European Union. Indeed, the lessons drawn from World War II have been very different in Germany than in other countries. In the U.S. and Britain the run-up to the war is often seen through the prism of a failed attempt at appeasement; the 1938 Munich agreement that permitted German occupation of the Czech *Sudetenland* is the embodiment of that failure. At the time, the agreement was seen as an attempt to preserve peace in Europe by satisfying German hunger for territorial expansion—today it is mostly regarded as a grave mistake and an act that encouraged Germany’s drive for territorial expansion instead of taming it. From this and the subsequent war, the lessons are clear: Better to stop an aggressive dictator early and with military means if necessary, before the dynamics of territorial expansion get out of hand and a roll back becomes increasingly difficult and will cost an immense number of lives.

The lessons learned in Germany were somewhat different. Apart from the anti-Semitism that led to the Holocaust, German aggression in World War II was later seen as being based on an inherently militaristic culture. In response, German society after the war, especially since the 1960s, tried to “detoxify” the German mentality by building a taboo around the use of force as an instrument of foreign policy, an effort that was also at the heart of America’s program of “re-education” in the postwar period in Germany.

At the height of the Cold War this taboo was reinforced by the arms race between the two superpowers in Europe. With Moscow and Washington locked into a framework of mutually assured destruction, any military action in Europe threatened to trigger a nuclear confrontation which, as the front line in the Cold War, would have wiped out both German states. No wonder that the peace movement of the 1980s—a reaction to the 1979 NATO decision to deploy Pershing I missiles in response to the stationing of Soviet SS-20 missiles in the western parts of the

Soviet Union—had its staunchest following in West Germany.

With the fall of the Berlin Wall, reunification, and the Two Plus Four Treaty, the Federal Republic of Germany regained full sovereignty. Still, reluctance to even consider using force in an international crisis remained, amply proven by the Persian Gulf War in 1990-1991. The U.S. assembled a coalition of thirty-four nations to expel the Iraqi army out of Kuwait. Of the countries in the anti-Iraq alliance only Japan and Germany refrained from committing troops, instead helping the war effort by contributing \$10 billion and \$6.6 billion, respectively.

Throughout the rest of the 1990s Europe was largely preoccupied with stabilizing the eastern part of the continent and integrating the newly independent eastern countries into NATO and the European Union. Although Europeans, with the benefit of hindsight, and after history came back with a vengeance, like to ridicule Francis Fukuyama’s book “The End of History,” the development of defense budgets by European NATO allies indicate the same trend: A constant reduction of defense spending shows that it was actually the Europeans who believed most in Fukuyama’s thesis. The feeling in the 1990s that the “good guys” had won led to the idea that it was time to reap what was called the “peace dividend.” This meant reducing defense spending and putting the money elsewhere.

The Process of “Normalization”

Neither Germany nor most other European countries believed that they may one day be called on to intervene in conflicts thousands of miles beyond their borders. Nor did Europe’s inability to stop the Balkan wars or the huge gap between American and European military technical capabilities—revealed by the U.S.-led NATO war in Kosovo—change their attitudes toward defense spending. By 2000, Europe had become complacent. Living under the American security umbrella for decades had not made the Europeans more aware of international security threats and it did not increase their willingness to do so. Only the British and to a lesser extent the French made some effort to remain militarily compet-

itive.

Undoubtedly, Germany's participation in the Kosovo War in 1998, its first war after World War II, was a big step, beginning Germany's process of "normalization" in security affairs. Mentalities were slower to change; even today a majority of Germans does not think that its country is called upon to address global security issues. Neither the mission in Afghanistan nor Germany's part in the stabilization mission in Lebanon has the backing of a majority of Germans. There is still a widespread "not in my backyard" syndrome: When asked, Germans look for others—mostly the U.S., NATO, or the EU—to solve security problems around the world, hoping that the German part in multilateral actions will be negligible.

At times the German instinct to be detached from world problems takes curious forms. Take, for example, the columnist Franz Josef Wagner and his columns in the *Bild Zeitung*, Germany's and Europe's biggest tabloid. When John F. Kerry ran for U.S. president against George W. Bush in 2004, Wagner sided openly with Bush (who was already deeply unpopular in Germany as well as among readers of the *Bild*) only a few days before the U.S. elections. His argument was very instructive: Bush would not be able to ask for German troops in Iraq given that so many Germans and the Schröder government opposed the war. Kerry, however, would ask for German troops because it was not "his" war. A demand from Kerry would be much more difficult for any German government to reject than would a similar demand by a second Bush administration. This argument sounds awfully familiar more than four years later, with President Barack Obama in office. In 2009, however, the important war is now fought in Afghanistan and less so in Iraq.

Wagner is not a foreign policy analyst, but he knows well the gut feeling of many Germans. At the time, he voiced the isolationist tendency in Germany that is still strong today, even if it is rarely called by its proper name. So why does this German tendency to seclude itself from world security problems matter?

It matters for the U.S. because America is overburdened by its role as the world's anchor of stability and is overstretched in simultaneously fighting two wars.

Additionally, the economic crisis is draining the financial resources to sustain those efforts. Thus the U.S. needs help in the management of world crises.

It matters for the West because if America should one day tire of its role as the world's stabilizing power and give it up, the world will either plunge into chaos—or autocratic regimes, like those in China and Russia, will take up that mission. This would not only be a heavy blow to the free world and what it stands for, but would probably also mean that the globe would be ruled by powers that define their global role in a much narrower and nationalistic sense than the U.S. and the West usually do.

Why Germany Should Act as a Global Player

The U.S. played a crucial role (both during the Cold War and beyond) in helping Germany remain in its strategic comfort zone by providing not only a security umbrella for Europe, but also stability throughout the world, thereby securing the transport lines that are so vital for Germany's export-dependent, foreign energy-dependent economy. Thus it is high time that Germany help more in securing this world order that is guaranteed largely by the U.S. and from which Germany profits considerably.

In a way Germany has to grow up and live up to the full potential of its economic prowess—and accept the global responsibilities that this entails. Looking at the last eight years one can see two different trends in that respect. First, leading up to the Iraq War, the first Bush administration pushed Germany to engage in a mission that was much beyond the traditional postwar scope of German engagement. The attacks of 9/11 on New York and Washington, D.C. prompted Germany to take part in the stabilizing mission in Afghanistan, signifying a quite remarkable maturing in foreign policy issues on the German part. It is probably best described in the famous words of then-Minister of Defense Peter Struck: Germany's security is also defended at the Hindu Kush.

Then, in a second development, the Iraq War stopped Germany's slowly growing readiness to engage in missions around the globe, especially those favored by Washington. The huge rift the war created in the

transatlantic community increased the German public's and government's reluctance to invest more in any of the missions advocated and led by the U.S. By the final years of the Bush administration there seems to have been an understanding on both sides of the Atlantic that this status quo would last until Bush left office. Thus, by the end of the Bush administration, this tacit transatlantic arrangement had already created a counterproductive dynamic in the public sphere in Germany. The negative perceptions of Bush and of American troops in Afghanistan, often portrayed as "cowboys with a quick trigger" causing too many civilian deaths, allowed German politicians to stop making the case for the war in Afghanistan. Politicians presumed that making that case would cost them votes—but without a debate in favor of the Afghanistan mission, Germans understood less why their troops still had to be in central Asia. The lack of support created a downward spiral for the Afghanistan mission in public opinion. But in a way it also created a comfortable situation for German politicians, who had found in Bush the perfect excuse for not making tough choices.

To the surprise and the dismay of the Obama administration, this attitude has not changed much in the first months of the new administration—neither in Germany nor in the rest of Europe. Although the transatlantic atmosphere has improved considerably, Obama has not been very successful in getting new European commitments to the war in Afghanistan. This is even more surprising in light of the enthusiasm greeting Obama across the world, and especially in Europe. If governments wanted to considerably increase their troop levels in Afghanistan, they could have piggybacked on Obama's popularity among their constituencies. So far they clearly have not.

German Reactions to Obama

When George W. Bush was president, the question was whether he was ready to listen to Europe. Could he be persuaded to engage in policies that are important to Europeans? Now that Barack Obama is in office, with what is arguably the most "European" political program ever (health care reform, climate change, multilateralism), the question to be asked is a different one: Is Europe ready for an American president who offers shared leadership, but who also asks

for greater burden-sharing and more ownership of world problems for Europe? After years of complaining about Bush, Europe finally got the president it wanted, without being mentally prepared. And that holds especially true for Germany.

This is most obvious in the case of Afghanistan. While the feeling in the U.S. is that Obama now "owns this war," and will do what is necessary to succeed, no one in Europe seems to equally own that war and to be willing to do what it takes to win it. Germany lauds itself for having "convinced" the Americans to adopt a concept of "integrated security." But Germany's lack of success also in the civilian component of the mission—the area of which the country is most proud—is not even a subject of debate in Germany. Still, Germany's failures, for example in the field of police training, are very obvious. Germany has seriously botched a mission it took over once as "lead nation" and in the meantime passed it on to the European Union—which still is not performing much better at it.

So far Obama's charm offensive has not had the effect that Washington desired. Neither Germany nor other European countries have committed a tangible number of additional troops to Afghanistan; Washington's willingness to increase its own troop levels dramatically was not matched by other NATO allies.

Germany, it seems, is far from co-owning this war mentally and tends to considerably overestimate its own achievements in Afghanistan, which holds true for the wider public just as much as for the politicians. Consequently, "good advice" from Europe will be met with increasing impatience in Washington.

The Future of German-American Relations

The Obama administration has tried to reach out to Europe to engage in a new strategic dialogue. The Americans wanted transatlantic brain storming; they wanted to hear what the Europeans think, especially the big players like Germany; and they wanted to get new ideas and fresh thinking. And it is in this respect that the administration has been disappointed most so far.

Twenty years after then-President George H. W.

Bush offered Germany the chance to be a “partner in leadership,” Germany is still not ready mentally to perform as a real partner. Beyond Europe, Germans do not think of themselves in the driver’s seat, not even as a co-driver. Rather, they are waiting for America to formulate an idea and suggest proposals for Germany and other European governments to react to it, as has been the case for the last sixty years. Germany’s foreign policy elite almost always hides behind the argument that history still plays a role in preventing Germany from living up to its full foreign policy potential. In some ways this is true; one should not underestimate how far Germany has come in the last twenty years in “normalizing” its foreign policy and its foreign policy discourse. But history is increasingly becoming an easy excuse for German leaders to avoid fully stepping up to the plate.

If this passivity does not change, Americans and Germans, Americans and Europeans are in for another big transatlantic disappointment; a disappointment that could this time lead to a real estrangement on the American side. “We did everything you wanted, elected a president with an almost European agenda, and still you are not doing your part of the heavy lifting”—that will be the argument on the American side. Germany, even with all its historical baggage, will nevertheless be called on as the biggest power in Europe to do its part in preventing such a development—and to do so will be in its own self interest.

Germany and Europe should not fool themselves. Obama’s policy agenda might seem to be more “European” than of any president in living memory. But as far as his personality is concerned, Obama is actually the most “un-European” president America has ever elected. Very different from the old American political elite that was rather Europe-centric, Obama’s experiences have him looking to Asia, not to Europe. Nor does he have family ties or a sense of culturally belonging to or being from Europe, which has characterized American political elites for centuries. He spent his childhood in Hawaii, half-way between America and Asia, and in Indonesia. Through his father’s family he is connected to Africa. And Obama’s first trip to Europe in his twenties was actually a stopover while travelling to Kenya. In his autobiography “Dreams from My Father” Obama writes

about the first time he set foot on the old continent:

“And by the end of the first week or so, I realized that I’d made a mistake. It wasn’t that Europe wasn’t beautiful; everything was just as I’d imagined it. It just wasn’t mine. It was as if I was living out someone’s else’s romance; the incompleteness of my own history stood between me and the sites I saw like a hard pane of glass.”¹

In short, Europe cannot rely on sentimental feelings that this American president might harbor for the old continent. Perhaps more concerning for Europe, Obama also embodies the demographic changes taking place in American society: becoming less European, less white, and more Asian, Hispanic, and diverse. This demographic change reaches the ruling elites as well. Europe cannot count on impressing Obama with its history and on America’s traditional ties to Europe. Europe will have to deliver, too, if it wants to retain its special place as the preferred partner of the United States. Germany must step out of the shadow of its history and play a more active part in foreign policy at the side of its American and European partners. One thing is certain: The world will not wait for Germany to sort out the problems with its history. If Germany, together with many other countries in Europe that have become complacent, does not engage more in managing world problems, the relative decline of the West will be faster than necessary.

NOTES

¹ Barack Obama, *Dreams from My Father. A Story of Race and Inheritance* (New York: Three Rivers Press, 2004): 301 (paperback).



THE VIEW FROM THE EAST

04

SIXTY YEARS OF GERMAN-AMERICAN RELATIONS: AN EASTERN GERMAN PERSPECTIVE

TORSTEN WÖHLERT

Introduction

German postwar history is not just the story of the Federal Republic of Germany (FRG), where reunification is merely the seamless incorporation of the German Democratic Republic (GDR) into the FRG. Rather, one must also consider an “East German’s” perspective on the period of sixty years of German-German relations, in which the two Germanys were separated by a wall and barbed wire for forty years. Such an approach is not always automatic, as evidenced by other projects dealing with the Federal Republic’s first sixty years. The exhibition “60 Years, 60 Works of Art,” for example, has been on display since May in Berlin and limits art before 1990 to works by artists from West Germany, despite the fact that Germany has been unified for twenty years. Citing the *Grundgesetz* (Basic Law), the exhibit’s organizers argued that it showed works of art that were created under the protection of Article 5(3) of the Basic Law, which guarantees the freedom of art—something that did not exist in the GDR. The latter is true, of course, but also exposes a view of (art) history that suggests that the works of art created in the deceased state—or, rather: the state whose own people did away with it—should “quickly evaporate like an ugly raindrop of history,” as expressed by the curator of the exhibition. Such a statement implies that works of art are a “homage to the freedom of art” and could not have been created in a dictatorship. All art is thus reduced to ideological state-sponsored art. Artists critical of the GDR regime (and who exercised such freedoms at their own peril) are ignored, despite their importance in the peaceful revolution of 1989. If the “logic” of such a counter-historical analysis were true, the relations between East

Germany and the U.S. would have been solely influenced by propaganda of the *Sozialistische Einheitspartei Deutschlands* (Socialist Unity Party Germany, SED), and the remaining differences to West Germans that possibly exist until today would be reduced to this legacy. Of course, this approach is not sufficient. The history of the Federal Republic remains incomplete until it is related to the history of the GDR and to the experiences East Germans had with dictatorship and self-emancipation. The impact of this history and experience is also true for most aspects of German-American relations and the image of America in East and West Germany.

This essay argues that examining only the official relations between the GDR and the U.S. until 1989 is insufficient as relations between the SED regime and Washington remained rudimentary, even after diplomatic normalization, and existed primarily as factors derived from relations between Washington, Moscow, and Bonn. Even though both German states were formally equal after their joint admittance to the United Nations, East Berlin did not come close to establishing the same political clout and influence that the Federal Republic enjoyed vis-à-vis both its American ally and Moscow. Of course, the GDR would be at the side table during all talks and negotiations between Bonn and Moscow. However, the sovereignty that the Federal Republic was able to show vis-à-vis the Soviet Union was never matched by East Berlin during its talks with the U.S.

The way from East Berlin to Washington led through Bonn more clearly than the opposite was the case. Relations between Bonn and Moscow were not influenced by the SED regime or by East German reali-

ties. This particular East German view of America via the West German neighbor not only influenced state relations; it also describes a detour through which parts of the image of America in the GDR developed. This, together with the East German experience of dictatorship, Cold War, and self-liberalization, also explains the still existing but gradually disappearing different attitudes toward U.S. foreign policy in eastern and western Germany.

President Obama can accelerate this process. His presidency offers the chance to honor the disappointed expectations and assurances of the monumental changes made in 1989/90, to which the East Germans greatly contributed with their peaceful revolution.

History Matters

The geopolitical German-German imbalance of the Cold War remained in effect even after the political circumstances in the GDR changed as a result of the peaceful revolution in 1989 where new political actors entered the (foreign) policy arena of the still-existing GDR in March 1990. These East German transition elites, who had emerged from the peace and civil liberties movements of the 1970s and 1980s, were heavily influenced by the menace of the escalating arms race in the 1980s as well as by the ideal of a security architecture that could overcome the East-West conflict, deflating the Warsaw Pact's and NATO's importance. By assuming a position between the established military powers and advocating for a new (European) security architecture and globally just world order, the new GDR elites were guaranteed support from the majority of East Germans. It is obvious why: Those ideas developed by the end of the Cold War on both sides of the Wall, and reached the East German population through two authentic channels: (1) through Gorbachev's policy of Perestroika, which had been blocked by the SED leadership and (2) through the peace debate in the Federal Republic that had been spread by the Western media.

However, the attempt to develop foreign and security policy alternatives was abandoned by the same East German population with the intention of achieving a faster internal unification. This is as easily compre-

hensible as the fact that the new East German actors in foreign policy did not have much of a chance to incorporate their alternative concepts into the Two Plus Four process. East German politicians, as such, no longer played a role in unified Germany. Even the current chancellor's eastern German origin cannot disguise that fact. Merkel did not come from an oppositional GDR milieu. Although an East German, she received her political socialization in the western German-influenced CDU and remains determined not to let her biographical background become an issue in politics. Merkel's support of George W. Bush and German involvement in the Iraq War, in contrast to Chancellor Gerhard Schröder's position, was due to party political considerations given her role as opposition leader more so than any personal beliefs on the use of the military. All attempts to justify or denounce this act of "solidarity" with her eastern German origin and experience miss the actual character of her (wrong) decision.

It is undisputed that Angela Merkel's position at the time did not represent the opinion of the majority, especially not that of eastern Germans. Whether it was part of her political calculations shall not be discussed further at this point. It is interesting, however, that the measurable greater opposition to the Iraq War and U.S. policies among eastern Germans was also traced back to the forty years of indoctrination by the anti-American SED propaganda. This propaganda's lasting impact is, if at all, only true for a small percentage of the eastern German population.

East German Views of America

POP CULTURE'S IMPACT

East Germans' image of America was far more differentiated than what the posthumous study of official statements and textbooks suggests today. The SED propaganda's core theme of portraying the U.S. as the capitalist main enemy and center of world imperialism was never internalized by the majority of the population in the GDR. Pop-cultural and politically emancipatory impulses that came from the U.S. and reached East Germany mainly through its West German neighbor were too powerful for the SED propaganda to have an effect. Jeans, Rock'n'Roll,

Coca Cola, and chewing gum—to only name a few clichés of the American way of life—could not be stopped by the Berlin Wall. However, unlike in West Germany, these American icons were not imported but, rather reluctantly—and with much delay—accepted as something considered unavoidable by leaders in East Berlin. To explain this process, historians use the term “self-americanization” of the East German youth culture.

In material terms the result of this “East German americanization” was a consumption disaster. East-Jeans, Club-Cola, and the Eastern chewing gum (which tended to become extremely hard very quickly) fell far short of the competition from the West in terms of quality. If one wanted to be “in” in East Germany one would wear, drink, or chew the American original from West Germany. At the beginning of the 1980s the GDR distributed valuable foreign currency to import products like Pepsi and Wrangler and then sold them for astronomically high prices, not because of political understanding but solely with the intention of tapping into purchasing power. Still, the ideological reservations regarding the “Western demons” that were associated with it remained: Even as late as the 1980s, if one arrived for the final high school examination wearing American jeans purchased with GDR marks, it was possible to be barred from the test or—in the best case scenario—sent home to change.

Dealing with the lack of control over the “import” of American culture to East Germany via the American Forces Network (AFN) and the Radio in the American Sector (RIAS), among others, proved to be difficult for the SED regime as the content that came via Western channels was processed more innovatively and thus more subversively. There was nothing that could be done, even in the East, against this new attitude to life that spilled over from the other side of the Atlantic. In hindsight, however, the arguments of Walter Ulbricht and Konrad Adenauer against the “modern yea, yea, yea” (Ulbricht) were surprisingly similar. In the 1950s and 1960s both West and East Germany fell back on the same anti-American resentments of cultural superiority from the 1920s.

GDR RELATIONS WITH THE SUPERPOWERS AND ITS INFLUENCE ON VIEWS OF THE U.S.

For most of its history, the crucial difference for the future development of the East German view of America was the relation to the respective superpowers. And there is no other way to sum it up: The Germans east of the Elbe River suffered longer from the consequences of World War II than did their countrymen in the West. They had the “wrong” ally, to whom they were still paying reparations while West Germany generated prosperity with the help of the Marshall plan. The Soviet liberators and occupying forces never became the kind of friends that the SED propaganda depicted. East Germans lacked a positive collective experience, such as the Berlin Air Lift, that could change relations with the Soviet Union from being an occupier to being an ally. They knew the opposite: Soviet tanks against East German workers on 17 June 1953; violent quashing of the rebellion in Hungary in 1956; and the Soviet invasion of Prague in 1968. Personal connections between East Germans and their Soviet allies remained limited and organized. They lacked the kind of individuality, freedom of movement, and voluntariness with which West Germans and Americans of the postwar generations interacted and debated with each other.

POLITICAL ACTIONS' IMPACT ON VIEWS OF THE U.S.

Unless one takes the difficult and conflicting relationship that the East Germans had with “their” allies into account, one cannot understand the East German view of America. Distance from those who were decreed friends did not necessarily bring about a secret love for those who were decreed enemies. East Germans lacked the most important element for such a relationship: personal experiences. Nevertheless, there existed in portions of the GDR population, particularly among the youth, an uncritical excitement about America. This grew primarily out of basic opposition to prevailing political circumstances and to imposed avowals of friendship with Soviet “brothers.” East Germans had at their disposal two sources for political analysis of American policy: the state-controlled media with its one-sided anti-American propaganda branded by the Cold War, and the West German television and radio programs

received in all of East Germany (apart from a few areas without adequate signal coverage). Politically inclined GDR citizens were astonishingly well informed by these means about world affairs and developments, despite being sequestered by the Wall and denied the freedom to travel. East Germany's mandated world view actually led in many cases to an unusually high level of interest in foreign policy developments, as people sought to validate this view while still being unable to see the world. Since the actions of the two superpowers very strongly characterized world politics during the Cold War, American foreign policy inevitably drew particular attention. Under these conditions, East Germans took interest in the German-American relationship and also in debating and analyzing American policies toward Germany, Europe, and the world. Even though such participation remained passive, it was not insignificant in its intensity. Neil Armstrong's first steps on the moon were followed on TV in East Germany with the same wonder and awe with which they were received west of the Elbe. Still, Armstrong's feat was not the only space success in the East German narrative; Soviet successes and Yuri Gagarin were also watched and idolized.

The American war in Vietnam also strongly shaped East Germans and their image of the United States. Depictions in the media of people and villages burned by napalm had the same dire effect on both sides of the Iron Curtain. However, East Germans had to confront a different reality of their reactions to the war. Whereas in West Germany a young generation was radically questioning its relationship with American protective forces, its feelings about the founding fathers of the Federal Republic, and its view of war and peace during the environment of the '68 movement, and did so with the awareness of like-minded individuals in the United States—East Germans had to confront the fact that their rage was being gathered for state-mandated "anti-imperialist" propaganda campaigns that sought to force East German solidarity with the people of Southeast Asia into the black-and-white grid of a worldwide struggle between two political systems. In Vietnam, according to the propaganda, the true face of American imperialism showed itself. At the same time, the anti-war protests in the United States and western Europe became popular subjects of news broadcasts. Thus,

the same anti-war, anti-U.S. images reached East Germans from both east and west—albeit labeled with very different commentary.

In the official propaganda, the anti-war movements offered proof of the Marxist-Leninist theory of the unity of the three main revolutionist powers in the struggle against capitalism and American imperialism: the socialist Eastern European states led by the Soviet Union; national independence movements in the third world; and revolutionary populations in the western industrial nations. The propaganda thus constructed an image of America as two nations. On one side was the exploitative and warmongering layer of American capitalism and its political class; on the other, the conscientious and freedom-loving American masses. Though bearish, this propaganda was not without influence on the East German image of America—yet the effect was not the one that those in power had intended.

Propaganda's depiction of the American anti-war and civil rights movements as real or potential allies in promoting communism necessitated depictions of these movements and their protagonists as well as depictions of their methods of protest, lifestyles, cultural backgrounds, and objectives and motives. Through this backdoor appeared a tiny picture of the American way of life, available for purchase even with Eastern money. This glimpse came primarily in the form of socially critical films like *Blutige Erdbeeren* ("The Strawberry Statement"), whose "Give Peace a Chance" scenes became an integral part of the East German discothèque landscape of the 1970s and 1980s; it also came from books by Arthur Miller and Jack Kerouac, whose "On the Road" accompanied an entire generation of East German youths on the search for a free-spirited life-awareness as they traveled through Czechoslovakia, Hungary, Romania, and Bulgaria on the so-called Eastern Bloc safari.

Of course these cultural excerpts gave nothing resembling a realistic overview of the United States. They led, rather, to an idealized image of America that, combined with the self-americanization of the East German youth culture, worked against official propaganda rather than serving or even supporting it. More realistic portrayals of the political situation and everyday affairs in the United States reached East

Germans through the foreign news coverage broadcast by the West German stations ARD and ZDF. But even these images of America—which were more often than not critical of the United States—were not accepted in the East German narrative at face value. In contrast to the Hungarians, Poles, Czechoslovaks, and even the Yugoslavs, who possessed comparatively noteworthy freedom of travel, the great majority of East Germans were refused any personal contact with the West until 1989. Their image of the West—particularly of the United States—remained informed by state propaganda and the West German media. Opinion formation in this arena of conflicting messages grew primarily out of a skeptical distance from both sources. A substantive criticism of one's news sources was only possible with a glance at the reality of one's own life. In this context, state propaganda, with its mandated whitewashing, clearly came up short in comparison to the not only critical but also verifiably more realistic coverage of the GDR by West German TV and radio establishments. This bonus for credibility on domestic policy transferred—at least partially—to foreign coverage in general and coverage of America in particular. Yet East Germans continued to doubt the media's credibility, as a result of the deep-seeded suspicion of the media. East Germans trusted neither their own nor the other side to tell the whole truth. In this regard, the Cold War trenches at the German-German border were too deeply dug.

Criticism of America and Alternative Movements, Protest, and Resistance

A clear example of this skepticism exists in the debate over the arms race between both superpowers in the late 1970s and 1980s. In this conflict, both German governments operated within strategic constraints, bound by their rival allies. The populations of the two German countries took the existential danger attached to the situation quite seriously, forming protest groups and opposition movements against nuclear weapons, NATO, and the Warsaw Pact. In the Federal Republic, opposition occurred both at the governmental level, in the form of the Green Party in parliament, and on the societal level with the increasingly powerful peace movements that began in the 1980s. In the GDR, the SED regime's loyalty to Brezhnev's hard-line communism led to the formation—particularly under the roof of the Protestant

Church—of independent groups focusing on peace, the environment, the third world, and human rights. It is important to keep in mind, however, that these resistance movements in both East and West were not “fifth columns” for their opposing sides of the Cold War, even though they were occasionally portrayed as such by their own hardliners.

The Green Party and peace movements in West Germany were distinctively more radical in their criticism of the United States than the opposition that formed in the GDR. Yet this was neither based on the naïveté of the West German leftists regarding the conditions under “genuine Socialism” (as is popularly claimed today) nor on a sweeping sympathy for the other side. Rather, the opposition movements in East and West had much more in common: they both radically questioned the security policy doctrines of both superpowers; they sought a way out of the confrontation-policies of the Cold War; and they called for alternative solutions to global environmental and development problems. If the process of calling for these positions turned out to be more anti-American in the West than in the East, then that fact had its roots in the '68 movement, from which many of the Green and peace movements' protagonists had come. An even more decisive question, though, was who the protests should target in order to have the desired effect. No government in Moscow would have been impressed by West German mass protests against the stationing of S22 rockets in the GDR. Conversely, in an open, pluralistic, and democratic society, it followed logically that citizens directed their dissatisfaction and protests at their own government and its main allies when they were of the opinion that these actors' policies were part of the problem and not part of the solution—this was exactly the case in the Federal Republic.

Thus the main actors in East Germany came across as less critical of America than did those involved in the peace movement in West Germany. Instead, East Germans' criticism primarily targeted the SED regime and (until Gorbachev assumed office) Moscow. In contrast to other eastern European countries, there was no definitive sympathy for the United States among the GDR opposition in the 1980s, especially regarding Ronald Reagan's foreign policies. This was not due to the successful SED propaganda, but

rather to the image of America transmitted through the West German media, who themselves were critical of the U.S. Another contributing factor was the feeling of intellectual closeness many individuals felt toward West German leftists, peace activists, and environmental advocates. Additionally, the anti-Soviet or anti-Russian resentment on which the pro-American attitudes of the eastern European opposition fed, existed among the East German population but was understandably weaker than in places like Poland, Czechoslovakia, and Hungary. After the division of Germany, East Germans could regret their bad luck at having been either stuck or born in “the wrong half.” Yet they were still Germans, and as part of the WWII aggressor, held a completely different level of responsibility for the postwar structure than did their eastern European neighbors. The SED regime tried to push “their” part of the population onto the side of “history’s victors” with mandated anti-fascist policies, thus lightening the historical memory. On the one hand, anti-fascism was mandated to create an ideological basis for the East German government’s own claims to power and an argument for affiliation with the Soviet Union. On the other hand, this mandated anti-fascism only worked by keeping memories of Nazi Germany’s crimes alive. Through this context, East Germans sort of accepted Stalin (i.e., Soviet power) as a historically logical consequence of Hitler. For many Poles, however, the year 1945 marked the transition from one dictatorial occupying regime to another. Accordingly, different opinions developed across the Eastern bloc toward the Soviets.

Finally, East German opposition groups toned down their anti-American rhetoric because they had to ensure that their criticism of both superpowers not be “taken” from them and used for official propaganda. In a dictatorship that demanded partisan allegiance, seeking the middle ground was a courageous act and, under these conditions, a double-edged sword. On one side was the danger that anti-U.S. rhetoric could be misused for party purposes. On the other, there remained the chance of finding a point of contact from which to negotiate with SED government leaders to gain more political liberty of action and freedom of movement. This fine line between protest and negotiation shaped the GDR opposition movement until the peaceful revolution of 1989. It

was in this torn state that East German opposition leaders’ ideas of overcoming the confrontation between the two blocs developed and the notion that a European “security architecture” beyond the militaristic stance of the Warsaw Pact and NATO could develop, encompassing peaceful goals.

The Gorbachev Effect

After Mikhail Gorbachev took power in 1985 and initiated policies of Glasnost and Perestroika, the opposition movement, large parts of the population, and even parts of the governing elite in the GDR hoped for changes and reforms. Gorbachev’s initiatives for disarmament, his ideas of a European security architecture (House Europe), and his policy of dialogue were welcomed. This was also true for the SED leadership, which had in fact initiated a policy of de-escalation earlier than Moscow. Erich Honecker’s idea of a “coalition of reason” was first mentioned in a letter to Helmut Kohl in October 1983. During the crisis over the stationing of short-term intermediate-range missiles Moscow and Washington eyed the inner-German attempts to continue the dialogue with suspicion. In its famous SED-SPD Dialogue Paper in 1987, the GDR leadership even acknowledged the “class enemy’s” (in this case, the FRG) ability to reform. Opposition groups in the GDR therefore found common ground with the government in the official foreign and security policy, if only from a tactical point of view.

The SED leadership, however, fell far short of Gorbachev’s “new thinking.” In an attempt by the SED regime to hold on to its power, the policy of dialogue ended east of the Wall and increasingly manifested itself inside the GDR in repression, militarization, and ignorance. This escalation brought the regime into conflict not only with the opposition groups but also with the majority of the population, for which Gorbachev had become a strong and appealing symbol. For the first time since World War II, people east of the Elbe River felt they were on the side of the superpower with the “better” leader. Had the people been polled during that time, the chairman of the Communist party of the Soviet Union would have passed the American president by a large margin. Reagan’s anti-communist rhetoric was rather unpopular in the GDR. Even the opposition, which was not

anti-communist (a fact that is often forgotten today) but rather adhered to the ideal of a democratic socialism or a “third way” between socialism and communism, favored Gorbachev. Reagan’s famous sentence “Tear down this Wall” (directed at Gorbachev during Reagan’s visit in June 1987 in Berlin) did not find a great echo in East Germany, which had more to do with the sender than with the message itself. In terms of foreign and security policy, East Germans, including large parts of the opposition, were closer to Gorbachev and his “new thinking” than to Reagan and his Cold War rhetoric.

Surprisingly, this did not change with George H. W. Bush’s presidency. While most experts agree that German reunification would have been impossible without the wise and diplomatic actions of President Bush and his Secretary of State James Baker, this has not registered in the collective consciousness of East Germans, for whom the heroes of reunification are still Helmut Kohl and Mikhail Gorbachev. As mentioned before, the East German view across the Atlantic always went through its West German neighbor. In the case of reunification, the view did not cross the Rhine.

This was and is not a sign of anti-Americanism, but rather an understandable ignorance. For most East Germans, reunification was a rather domestic process, for which they themselves had prepared the ground with the peaceful revolution of 1989/1990. Thanks to Gorbachev, the fall of the SED regime was not opposed by Soviet tanks. And that the German reunification, including the economic and monetary union, was completed so swiftly was—from the point of view of most East Germans—a credit to Helmut Kohl. This is why Germans in the eastern Länder voted for him in 1991 and not for Oskar Lafontaine, who had doubted the wisdom of reunification. It was also why East Germans voted against Kohl in 1998, when his promise of “flourishing landscapes” did not come true.

By then, the other heroes of the peaceful revolution, the civil society opposition movement in the GDR, were long forgotten. Their role was diminished in the last, exciting year of the almost forty-one year long history of the GDR. Domestically, they were still part of the first freely elected GDR government and thus

of the negotiations for German unity. However, the East Germans played no role in the Two Plus Four negotiations. An anecdote underscores this: The GDR government learned through the media of the decisive breakthrough for German unification at the meeting between Kohl and Gorbachev in the Caucasus on 15 July 1990. They did not receive an official invitation to the Parisian ministerial meeting two days later, from either Moscow or Bonn; this was consistent with the balance of power. “Third ways” with alternative security structures, civil conflict management, and social-ecological development policy as they were developed on both sides of the Iron Curtain during the height of the Cold War did not have a chance in this process.

A New Old World Order

The real “new world order” was presented on 11 September 1990 in a speech by George H. W. Bush to the U.S. Congress, described as fulfillment of humankind’s hope for peace, security, freedom, and the rule of law. After the Iraqi invasion of Kuwait in 1990, it became clear that this new world order would be defended by American hegemony. What followed is well known: The U.S. and thirty-four other states launched the first high-tech war, dealing a crushing defeat to Iraq after a week of air strikes and one-hundred hours of ground offensive. The Persian Gulf War was a triumphant victory of military over diplomacy. By committing acts of aggression against Kuwait, Saddam Hussein helped lay the groundwork for a return of war as a political tool, which was legitimized by the UN when it approved the U.S.’ counterstrike.

The newly reunited Germany did not abstain from the war, but contributed money rather than soldiers. Nevertheless, there were fierce demonstrations—especially in eastern Germany—who had a new opportunity to protest in a free society. However, the demonstrations were not anti-American. The catchy slogan “No blood for oil” rather shortened cause, reason, and strategic interest for the war into a naïve, pseudo-economic context that seemed to have been a relic from the Marxist-Leninist propaganda. Meanwhile, the eastern Germans, experienced demonstrators, used their first foreign policy-motivated mobilization to also protest impending

economic and social consequences of German reunification. This, however, had nothing to do with oil, blood, or the United States. From a western German perspective these demonstrations were the last great hurrah of the peace movement. After the end of the Cold War, the world seemed less peaceful and more disordered than before.

The real hubris of the first Gulf War can be detected with the distance of almost twenty years: The West misunderstood itself as the victor of history and missed its own need for reform. America was seduced by hegemonic politics with global omnipotence. War was again acceptable as a political instrument, especially if the war was fought and won without many casualties due to technological superiority. The rules of the powerful overrode the power of international law. This, however, endangered the moral, ethical, and political values in whose names those wars were fought; calling killed enemies and civilians “collateral damage” is a cynical and dehumanizing embodiment of this. Guantanamo and Abu Ghraib are on the same slippery slope.

On this basis, which is not pacifist and which does not question military force as *ultimo ratio per se*, one can see distinctive developments that shaped the German-American relationship: The territorial and operative enlargement of NATO to “out of area”; the war in the Balkans with German participation under a Red-Green government; the discussion of a European security and defense architecture; the enlargement and deepening of the European Union; September 11, 2001; the declaration of a collective self-defense case by NATO, which continues still today; the war in Afghanistan; the war in Iraq and the refusal of the German government to participate in the war.

Ex Oriente Lux?

Has there been a specific eastern German element in the past twenty years of German foreign policy debate and German-American relations? Given the influence of eastern German politicians and the recognition of eastern German interests on a federal level, the answer is no. Indirectly, however, one can construct such an influence, because eastern Germany has begun to tip the balance during federal

elections. Schröder's motives for his refusal to participate in the war in Iraq and the peace protests before the Iraq War, which were supported by the Red-Green coalition, were interpreted to that effect.

Indeed, there is a greater skepticism in eastern Germany toward NATO and anything military-related, including the Bundeswehr and defense expenditures. A political party like the former PDS and today the Left Party—which is a Volkspartei in the East with 20 percent of the vote—can be assured that its calls for the withdrawal of the Bundeswehr from Afghanistan, the exit of Germany from NATO or the disbandment of NATO (or both?), and the rejection of the Lisbon Treaty due to the inclusion of a European security and defense strategy, will win votes. The success of the Left Party in elections in eastern Germany, however, is mostly due to its (waning) anchoring in the eastern German culture, its political value as a proponent of eastern German interests in the reunification process, and its successful link to the topic of social equality, a central concern for most Germans in the east. This pragmatic position enabled the Left Party (PDS) to become part of the governing coalitions in some eastern German states, including Berlin. It's foreign and security policy positions have yet to meet reality, however. They look like token ideas and they function as such, especially in light of the increasing resentment of the party's clientele of a lack of profile and a too strong of a desire to compromise if they participate in government. However, the fact that the Left Party can increase its votes with its positions against the Bundeswehr deployment and especially its positions against NATO and the military in general shows that eastern Germany marches to a different drum than the rest of the nation.

The question is not whether this is because of the socialization experienced in the GDR by many East Germans, but rather which elements of this socialization are still applicable. Under closer scrutiny, one can of course find remnants of the SED propaganda, especially among its former proponents. People who argued against NATO from a class war perspective until 1989 can now easily spread the same ideas in a free society. Some of the opinions held by the old base of the PDS/Left Party are steeped in these traditions, establishing a historical continuity and contextual consistency. Unfortunately,

reality today feeds into this argument more than one would hope. This is also true for other societal and political areas. The reality of life for many eastern Germans in some areas mirrors the former propaganda—allowing for yesterday's ideologies to be heard still. The anti-militaristic argument, however, is new. This is in stark contrast to the old SED propaganda, which fought against anti-militaristic positions. Some protagonists might have changed their minds. Apart from that, however, suspicion remains that anti-militarism is used solely as a political instrument. These almost pacifist positions are definitely not congruent with the historical tradition of the proletarian internationalism.

This broken narrative does not play a role for the majority of eastern Germans in the formation of opinion, as mentioned previously. Two factors could be decisive: first, a reflex to the forced militarization of GDR society in the 1970s and 1980s and, second, awareness-building experiences during a time in which alternative ideas were developed under very difficult circumstances. In this historical moment of self-emancipation, everything seemed possible.

More important than this element of GDR socialization, however, is the collective transformation experience after 1989 and the impact it had on all eastern Germans—which differentiates them (still!) from their fellow western Germans. If one applies this question to the search for an eastern German factor in the German-American relationship, some prognoses might be possible, especially in light of the changes brought about by the economic and financial crisis and President Obama's transformation of American policies.

It becomes more and more obvious that we are only now—twenty years after the end of the Cold War—facing the real consequences and challenges of this historical change. George H.W. Bush propagated a “new world order” under American hegemony with the impression of “victory” in the Cold War. The Clinton administration attempted to moderate this approach with an emphasis on cooperation. The attacks on September 11, 2001 were not only a horrible crime and tragedy; their aftermath provided—as strange as that may sound—an opportunity. Facing the rubble of the World Trade Center, the world stood

beside the U.S. with solidarity and compassion. In the end, though, the Bush administration lost this political capital with the “war on terror.”

The Obama Effect

President Obama cannot reset the clocks. He has to solve two herculean tasks all at once: first, he has to correct the foreign and economic policy mistakes of the past; second, he has to develop a vision of the future for America (as he did during the election campaign). In terms of foreign policy, Obama is on the way to changing some of George W. Bush's legacy. This fresh start will put demands on Germany and Europe in new and different ways. Obama's America will challenge Europe with American benchmarks and goals and will remind Europe friendly but consistently to meet its self-declared ambitions, possibilities, and limits. Those are not, however, being discussed in Germany. Afghanistan is a good example: Casualties were necessary for German politicians to admit that the Bundeswehr is part of a war effort there. At the same time, German assistance in training police forces and rebuilding the civilian sector are lacking. Obama has not yet, against all expectations, demanded an increase in German troops in Afghanistan. Should Germany's military contribution continue to be smaller than its allies, then it will have the chance as well as the duty to do more on the civilian side of the conflict.

At the same time, German-American tensions in connection with the GM/Opel crisis show what the allies must cope with in the financial and economic crisis. The outcome is yet to be determined, however.

If this critical situation actually leads to a new, cooperative, and multipolar world order and to a concentration on global challenges such as climate change and green technologies, then President Obama's changes in the American political perspective will thus mitigate the previous tensions and conflicts in German-American and European-American relations. The feeling across the Atlantic may become milder and more relaxed. The transatlantic allies would simultaneously be more prevalent than before in confronting a new purpose. The next sixty years in German-American relations must not only be tested across the Atlantic, but also “out of area” in common

global conflict management and against competitors from the future markets in the rising powers in East Asia.

At the end of the day, “all politics is local”—even in Germany. The scope of foreign and security policy for every German administration will certainly be dominated more strongly in the future by the domestic political framework than previously. In economic, fiscal, and social policy, these frameworks have been long internationalized. The resulting pressure for reform in German politics will thus grow further. Whether Germany can proceed under these conditions with its track record of successful social market economy depends not only on the respective political ideas, with which the political parties must compete for the electorate’s votes, but also how the electorate reacts to the push for reform. It is not only a question of content, but depends on individual and collective experiences associated with historical cracks. Here the eastern Germans have an advantage. The eastern German transformation experience is a period that, as part of the reunification process and an “eastern enlargement” (thus dominated by the Federal Republic), has been inadequately called upon.

Since 1990, the people in the former GDR have survived an enormous, uneven system change and, with the help of transfer payments, have gone about a social and economic deconstruction and reconstruction. The latest report of the German government on German unity attested to eastern Germany’s stronger crisis stability in 2009: The GDP should “only” decrease by 5 percent in the new Bundesländer. And this is not only because the eastern German economy is less export-dependent, but rather because a larger number of small and mid-sized enterprises were established that are able to react more flexibly to the crisis. Admittedly, unemployment is still twice as high in the east (13.3 percent) as in the west (6.3 percent). In light of these figures, the political stability in eastern Germany is remarkable.

If this foreshadows a future trend, then the relative weight of the new Bundesländer and the eastern Germans in the Federal Republic’s political relations will grow. Likewise, eastern German positions relevant to foreign and security policies will matter for

German-American relations. The recent Munich Security Conference shows as much: the announced ideas on the German side of a new NATO strategy of “networked security” contains a domestic political dimension. “Networked security” recognized, simply stated, that NATO is not just a military instrument but also, among others, a civil, development, and policing measure for global crisis intervention and conflict management. Parallel strategies have produced only limited success in Afghanistan. “Networked security” thus means rather that NATO must also structurally adapt for the non-military instruments. Thus NATO would become more “civil”—with lingering consequences for planning, structure, the decision-making process, and instruction. Such a NATO strategy is logical and modern, and also offers the chance for greater acceptance not only in the (eastern) Germany population, but also in the states and regions skeptical of the alliance’s territorial expansion and out of area missions.

Barack Obama seems determined to take stock of American politics in the past twenty years and to re-define America’s role in the world in light of the current global challenges. With Obama comes a new meaning, a new perspective, and a new agenda seems politically possible. Obama’s new leadership is already evident in his decision to prevent the economic crisis from negating social principles and by connecting American’s economic renewal to energy politics and the environment. His credo, connecting the way to renewing America with a world order based on cooperation and communication, can be—if it is successful—a new starting point for a method of solving crises and conflicts in the twenty-first century’s globalized world.

This would be the beginning of a reorientation, tied to the unfulfilled expectations and promises from 1989/90, to which eastern Germans greatly contributed with their peaceful revolution. No wonder, then, that Obama’s visit to Berlin in July 2008 as the hope of the presidential campaign brought over 200,000 mostly young people to their feet. And no one cared about which section of Berlin or of Germany he visited.

Translated from German by Jakob Liermann, Katherine Lindemann, and Kirsten Verclas.

AICGS

1755 Massachusetts Ave., NW
Suite 700
Washington, D.C. 20036 – USA
T: (+1-202) 332-9312
F: (+1-202) 265-9531
E: info@aicgs.org
www.aicgs.org

AMERICAN INSTITUTE
FOR CONTEMPORARY
GERMAN STUDIES

THE JOHNS HOPKINS UNIVERSITY

Located in Washington, D.C., the American Institute for Contemporary German Studies is an independent, non-profit public policy organization that works in Germany and the United States to address current and emerging policy challenges. Founded in 1983, the Institute is affiliated with The Johns Hopkins University. The Institute is governed by its own Board of Trustees, which includes prominent German and American leaders from the business, policy, and academic communities.

Building Knowledge, Insights, and Networks for German-American Relations