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Jürgen Habermas and the Third Reich

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Introduction

The formation and subsequent actions of the Nazi government left a devastating and indelible impact on Europe and the world. In the midst of general technological and social progress that has occurred in Europe since the Enlightenment, the Nazis represent one of the greatest social regressions that has occurred in the modern world. Despite the development of a generally more humanitarian and socially progressive conditions in the western world over the past several hundred years, the Nazis instigated one of the most diabolic and genocidal programs known to man. And they did so using modern technologies in an expression of what historian Jeffrey Herf calls “reactionary modernism.” The idea, according to Herf is that, “Before and after the Nazi seizure of power, an important current within conservative and subsequently Nazi ideology was a reconciliation between the antimodernist, romantic, and irrationalist ideas present in German nationalism and the most obvious manifestation of means ...modern technology.”¹ Nazi crimes were so extreme and barbaric precisely because they incorporated modern technologies into a process that violated modern ethical standards.

Nazi crimes in the context of contemporary notions of ethics are almost inconceivable. Prominent literary critic and European intellectual George Steiner in reference to the development of extermination camps in German-occupied Poland in his book *In Bluebeard's Castle* he says, “In locating Hell above ground, we have passed out of the major orders and symmetries of Western civilization.”² He elaborates, claiming that after the mass murder that occurred during the Holocaust, the eschatological and utopic visions that humans have so long valued have become hollow and devoid of meaning and “through which Western consciousness

¹ Herf, Jeffrey. *Reactionary Modernism: Technology, Culture, and Politics in Weimar and the Third Reich*, (Cambridge: Cambridge UP, 1984), 1.

² Steiner, George. *In Bluebeard's Castle; Some Notes towards the Redefinition of Culture*, (New Haven: Yale UP, 1971), 56.

is forced to experience the blackmail of transcendence.”³ The Nazi secularization of the religiously utopic vision initially perpetuated by Judeo-Christian religions created a need within Nazi ideology to rid itself of the “bad conscience” it associated with Western Life and more specifically the Jews who had created an infinite, unknowable, and always disappointed God. According to Steiner, the Nazis lashed out against what they believed to be the holdover religious impulses that had up until that point placed moral restrictions on their actions, thereby overcoming the idea of a transcendent morality or set of ethics.

German philosopher and intellectual Jürgen Habermas has dedicated his life to exploring the means by which to overcome such destruction. Although humans have experienced almost unimpeded technological progress since the medieval period, the Nazis reflect a devastating lapse in social progress and for some indicate the arbitrariness of various ethical and moral standards. This no doubt impacted a young Habermas who was a teenager in Germany during World War II. He claims, “It was the events of the year 1945 that set my political motives.”⁴ Habermas like other Germans was devastated by how Germany engaged in systematic murder. On a more personal level, as a philosophy student at Göttingen, Zurich, and Bonn he was perturbed how German intellectuals, particularly Martin Heidegger, were complicit buttressing the regime.⁵ The idea that intellectuals who had dedicated themselves to searching for a means for human liberation and meaning had supported the actions of a barbaric regime undermined the idea that progress could be made in the social sciences. To overcome this problem, Habermas dedicated himself to conceiving a theoretical framework that could help people understand how

³ Steiner, George. *In Bluebeard's Castle; Some Notes towards the Redefinition of Culture*, (New Haven: Yale UP, 1971), 44.

⁴ Thomassen, Lasse. *Habermas: A Guide for the Perplexed*, (London: Continuum, 2010), 6.

⁵ Thomassen, Lasse, *Habermas*, London: Continuum, 7.

human progress was inextricably connected with using our capacity as social beings to come to terms with one another in a process of mutual betterment.

To understand Habermas's problematic relationship with the Third Reich, one must examine its foundation. Habermas and others could point out how the Nazi government was shrouded in quasi-legality. Although the regime was a totalitarian dictatorship, it still presented itself as if it upheld the law and provided justice to its citizens. An analysis of its structure in chapter one will undermine this idea. The fact is that under Hitler, there was little true dialogue. Hitler's claim to power was absolute and his decision final. In an attempt to legitimate this authority, Hitler used false facts and details, particularly against Jews, to emphasize the necessity that German citizens accept his absolute leadership as the only means by which to fight these exaggerated threats. He did so regardless of the military, economic, and social implications of his actions, forcing the retirement of military commanders because their better-informed ideas ran contrary to his own or forcing the retirement of Economics Minister Hjalmar Schacht because he opposed Hitler's extreme militarism. Similarly, he was ruthless towards his opponents, at times promoting infighting amongst his subordinates and in more extreme instances, ordering executions or that military commanders retire as a means to ensure his own supremacy against outside political threats.

Similarly, the courts under Hitler lost all semblance of actual legality. Although traditionally expected to promote justice, during the Weimar Republic and later under Hitler they became primarily a vehicle through which to promote Nazi policy. Even before Hitler came to power, conservative courts issued notoriously light sentences to Nazi criminals who often persecuted communists and other political groups. In this way, the Nazis, although a bellicose and often violent organization, were able to remain a viable political party during the 1920s until

they came to power in 1933. Moreover, once they did come to power, legal scholars and academics overlooked traditional notions of judicial objectivity as they provided justification for the courts to issue decisions that promoted ambiguous notions of a healthy *Volk* community as determined by Nazis. They gave the courts broad leeway to interpret decisions in the interests of National Socialism over the already explicitly formulated statutes meant to promote individual freedom and justice. The courts became specifically identified with Hitler and the Nazi community and decided some of the most important cases in the interests of the Führer and the German *völkish* community, overruling civil liberties.

Particularly for Habermas, one must acknowledge that these democratically illegitimate policies implemented by the Nazis during the Third Reich have had subsequent implications on German society. Punishments for Nazis have often been curtailed and mitigated by subsequent governments, particularly by the parliament led by Chancellor Konrad Adenauer. In the interest of overcoming the Nazi past, Adenauer's government was particularly influential in passing many amnesties for many former Nazis. This has arguably led to an overlooking of some of the nefarious Nazi foundations of new German law. It neglected to remove from office morally corrupted individuals who were complicit in Nazi crimes. Similarly, certain statutes and laws implemented by the Nazis, despite being discriminatory and overly vague, remained in effect well after the end of the Third Reich. Habermas believes that in order to overcome these pernicious consequences, Germans must develop a more novel constitutionally-based society incorporating social contract ideas from the western world and avoid attempting to continue a hermeneutic tradition whereby Germans continue to promote their unique cultural traditions sometimes over the interests of formulating more specific governmental procedural processes.

That is why Habermas has vocally expressed his reservations about conservative historians who, starting in the 1960s and 1970s, began gradually to contextualize the formation and actions of the Third Reich. He was particularly resistant to theoreticians like Ernst Nolte, who compared the type of fascism that developed in Nazi Germany to what had previously come to fruition in Italy and France, and to Joachim Fest, who compared the atrocities committed during the Holocaust to the killings carried out by the Soviets. Nolte went further to develop theories on totalitarianism whereby he linked the Third Reich and the Stalinist regime. Habermas was further opposed to more general theories about Germany's place within the broader European political sphere, such as Andreas Hillgruber's ideas about Germany as a land in the middle. Habermas believed that all told these theories did not lay the foundations for a new, more constitutionally grounded state based on the notion of human dignity and instead attempted to make excuses for German actions during WWII, which would be detrimental in an effort to overcome the systematic distortions that occurred during the Third Reich.

Ultimately, his goal has been to protect the integrity of mankind. The Holocaust, for Habermas, is indicative of a total breakdown in the acknowledgement of humankind as a social species that benefits the most when it respects the inherent worth of others. Respecting alterity is fundamental for Habermas in that it preserves the greatest amount of potential knowledge upon which a society can draw. All human beings by engaging in fair and legitimate dialogue can cooperatively improve their collective condition. Respect for human dignity is inextricably connected with human progress.

Of course, it is necessary then to establish why human dignity is so fundamental. Although contemporary western societies might take it for granted that there is inherent value in all human lives, this was not necessarily the case in Nazi Germany. Often times, those outside

the “Aryan” race where characterized as sub-human and therefore unworthy of respect. Their inferior racial characteristics meant that they could be brutalized and murdered. In Habermas’s most well known book series and the basis of the second chapter, *The Theory of Communicative Action*, he establishes why it is so fundamental that all human life be respected. He analyses why there is an inherent worth to all human life, regardless of class, racial characteristics, or otherwise. He creates a foundation of human worth based on the notion that all people can contribute unique perspectives through dialogue that regardless of origin always contributes to a general elevation of human rationality and progress when not inhibited by stigmatizing and stratifying influences.

Habermas believes people engage in a “lifeworld” in that we are social creatures who must come to terms with other rationalities outside of our own through language. The lifeworld, according to Habermas, is inherently improved by incorporating understanding or the ability to integrate outside human influences into a specific perspective and outlook. The more understanding one achieves, the better that person is able to go about problem-solving and reconciling himself/herself to his/her changing circumstances. These normative influences are of fundamental importance. Although it is important that humans develop various technical and social procedures in order to deal with the material and personal situations they encounter, they must also be adaptable and recognize when certain processes are flawed or stagnant. To do so, they require a solid normative foundation, one by which they are positively influenced by all of the accumulated rationality of their peers. They must reach beyond their own, overly formulaic understanding to achieve social and individual progress.

These are the dictates of reason that were violated by Nazi leaders. Nazi leaders refused to integrate the perspectives of outsiders into their own, limited understanding. Furthermore, they

created an incredibly regimented and hierarchical society in order to prevent empathetic and critical dialogue that consolidated the power of the few at the expense of the many. Individuals strategically and opportunistically protected their own arbitrary spheres of influence at the expense of achieving more legitimate personal and social progress. They increased their power within a contrived political sphere rather than striving for a more general form of human emancipation.

All of these actions weakened the power of “communicative action.” They disallowed people from understanding themselves as communicative actors who can argue, evaluate, and self-reflect. This was detrimental to a process of individuation whereby individuals, though engaging communally, begin to better understand their own capacity to contribute to their communities. People, because they were oppressed, manipulated, and controlled by the Nazi state and party were weakened as communicative actors in their abilities to learn. This contributed to an already pernicious general reduction of rationality that occurred during the Third Reich.

Habermas believes that an unfortunate consequence of World War II was that it encouraged many postmodern and poststructuralist thinkers to abandon reason’s emancipatory potential. Because the Nazis used reason so destructively, these thinkers forget how helpful reason can be in achieving social progress, and instead believe more in the relativism of value. Although this might be an overgeneralization, what is consistently true of thinkers such as Michel Foucault and Jacques Derrida is that they deny a transcendent or quasi-transcendent foundation of values or norms. They reject the idea that humans are in some fundamental way united by the same interest. Habermas, on the other hand, believes that they are. Chapter three, based on Habermas’s book *Knowledge and Other Interests*, examines how human social

progress, according to Habermas, should be associated with the general ability of mankind to use its knowledge to fulfill its interests to emancipate it socially from antagonism and violence.

Habermas grounds this idea in German intellectual tradition and particularly among the three thinkers who have most influenced him, Immanuel Kant, Friedrich Hegel, and Karl Marx. In Kant, Habermas finds the philosopher most responsible for the establishment of a transcendent ethic that acknowledges the categorical imperative that one should consider whether his or her actions if pursued by everyone would be beneficial. This idea is consistent with Habermas's theory that respect for the alterity of others is of fundamental importance. However, Habermas, like Hegel believes that Kant may apply his theory a little too generally and that it should also have a dialectical basis, by which one responds to one's circumstances and cultivates new ideas in a critical way. Kant does not significantly incorporate an idea of change and gradual modernization through self-critique, a concept that Hegel rightly recognizes as critical in the process of human progress. However, Hegel is overly idealistic in his own right. He focuses too much on how thought shapes reality and neglects material conditions. At this point, Marx rightly steps in and reminds us that higher levels of human achievement and progress should correctly be associated with humans using their collective reasoning capacity to respond to changes in their material environments pragmatically. One must acknowledge the realities of one's circumstances before one can go about coordinating with others.

Habermas believes that the best ideas introduced by these thinkers were all fundamentally violated by those in power under during the Third Reich. Nazi officials certainly failed to respect the alterity of the Jews. Rather than communicating openly they persecuted them ruthlessly, without regard or consideration of their point of view. Similarly, the Nazis in some basic ways were also overly idealistic. They expected to be able to achieve a grand empire based on notions

of historical destiny rather than practical and material conditions. In every way conceivable, the Nazis spread themselves too thin, fighting a major two front war, spending far too much time developing grandiose plans, and consistently not acknowledging the realities of their gradual downfall during the Second World War. Moreover, instead of taking account of these material and pragmatic realities, they diverted attention to a false enemy, the Jews. Jews increasingly became the scapegoats for Nazi failures and were systematically murdered largely as a result of opportunistic attempts by major Nazis to secure their own source of power in an increasingly antagonistic struggle for power among incompetent and overzealous Nazi ideologues. Increasingly, the Nazi leaders by fighting strategically amongst one another lost the ability for self-reflection. They failed to recognize and appropriately respond to their military, scientific, and social inadequacies because they were too preoccupied with protecting and expanding their own spheres of influence against the more general collective interests of the German empire and people.

Habermas also takes from the German intellectual tradition a strong belief in the notion that all human acts involve interest. This means that human behavior is not arbitrary. Rather, all action is purposive based on learned behaviors and a given set of expectations. He believes, like German intellectual Wilhelm Dilthey, that human behavior is a process by which the past is processed reflexively in preparation for the future. Human behavior is interested in the sense that it is always volitional and goal-oriented. For this reason, it is of fundamental importance that people recognize the importance of Freud's model of self-reflection. Without self-critique people may become overly immersed in a negative paradigm through which they inappropriately justify actions based on false expectations and misdirected goals.

This was certainly the case in the Third Reich where the Führer's will became increasingly distinct from the will of his people. Although he was supposed to embody and express the desires of his people, he became increasingly willing to sacrifice them in maintenance of his supreme command. Without himself as Leader, Hitler believed, Germany would invariably collapse. His actions became so solipsistic that he was completely unable to integrate any outside influence that could redirect his actions or elicit any real, intersubjectively based self-criticism. This of course had far reaching implications not only through Hitler's direct actions but also those of his subordinates who were expected to appeal only to his authority and thereby also lacked an ability to redirect themselves or engage in self-criticism in any way that they believed might not appeal directly to Hitler.

This certainly led to general flaws in the German governmental structure. In chapter four addresses Habermas's book *In Between Facts and Norms* where Habermas explains his theories regarding how to go about reconciling the normative and procedurally prescriptive aspects of a governmental system. He establishes a platform on which a constitutionally established government can build legislative, executive, and judicial processes all the while maintaining their basis in the communicative and validating power of the general citizenry. It addresses the notion of a background understanding in which people regard each other as participants in a system that exceeds their individual contribution but which they in turn can learn to inculcate within their own perspective through dialogue. Habermas strongly reiterates his belief that universal participation is necessary to legitimate this process.

The Nazis were shown to have violated this normative foundation. Nazi leaders imperiously imposed legislation and ideology on their citizens without necessarily including them in dialogue or openly and honestly seeking their input regarding Hitler's plans. Implicitly,

this took away citizens' abilities to feel like they could determine their own destinies and futures. It created a circumstance whereby they constantly feared the regime and complied largely based on misinformation, opportunism, and lack of other options. It also meant that their fates were inextricably bound with Hitler's. His decisions would determine their futures and his demise would seal the downfall of the Third Reich.

The Creation and Consequences of the Third Reich

Hitler

The total destruction of viable political and judicial communication that resulted during the Third Reich can be most appropriately attributed to Adolf Hitler and the rise of the Nazi Party. Hitler's solipsism and egomania stand in contradistinction to Habermas's theory of the progression of society based on the development of reason through legitimate intersubjective communication.

From Hitler's rise to absolute leader within the Nazi Party, to his takeover of political power, and eventual totalitarian control of the military, economy, and all other major sectors of the German state, he displayed the incapacity to use reasoned, well substantiated arguments that were open to refutation and the input of others. Rather, he used vitriolic and reactionary propaganda to manipulate a very large number of discontented German citizens and direct their resentment towards Communists and Jews, easy targets as a result of underlying German antagonisms to both groups. As he gained influence in the Party he became increasingly less susceptible to criticism. As his star power as a great orator rose, so did the impenetrability of his image as an absolute leader. By using violence to consolidate power, his actions were strategic rather than communicative. And by brewing resentments between his various underlings and emphasizing his absolute authority to make all decisions he created a network of sycophants and connivers who became incapable of substantial dialogue and amenable to insidious attempts at gaining power. In this manner Hitler and his government embodied the rise of a dictator, an event Habermas has spent his career trying to prevent from ever happening again.

Beginning as a reactionary politician during the Weimar Republic, Hitler gradually ascended to total control of the newly emerging Nazi Party. He did so strategically, winning over

crowds with raucous speeches that gave them an outlet to vent their frustrations. And although he began to attract larger crowds he received increasingly less outside input that challenged his opinions. Rather, he deliberately refrained from gaining real insights into the failings of Germans and society. Instead of gathering facts he made radical announcements declaring threats based on blatantly false evidence. One technique he used quite frequently was grossly exaggerating the influence of Jewish people in Germany. Whereas Jews made up only 0.76 percent of the population in Germany, Hitler overestimated their prevalence in Germany society that insisted that they dominated business, the arts, and the bureaucracy.⁶ He was particularly keen on emphasizing their dominance of the Civil Service, claiming in 1933 that they filled 62 percent of all its positions. The reality was that Jews were in fact underrepresented in the Civil Service, filling a mere 0.16 percent of positions.⁷ He therefore stimulated increased suspicion and resentments towards Jews among those fearing the domination of German governmental positions by non-Aryans. Instead of using claims that could be substantiated against the objects of an interlocutor, he used patently false claims to manipulate an audience and gain their attention.

Hitler could thus begin making the larger and more grandiose threats of a Jewish Bolshevik threat to the East in the Soviet Union that aspired to appropriate Germany and subjugate its subjects. By using his previously false but largely non-refuted claims regarding the increasing control of Jews in Germany, he could perpetuate the grander accusation of a great Jewish Communist conspiracy against “Aryan Germans.” This therefore allowed him to feed off

⁶ Kershaw, Ian. *Hitler*, (New York: W.W. Norton, 1999), 410.

⁷ Kershaw, Ian. *Hitler 1936-1945: Nemesis*, (New York: W.W. Norton, 1999), 59.

of resentments and argue for a preemptive strike, to appropriate power in Germany from Jewish interests and begin a campaign for *Lebensraum* or “living space” towards the East.⁸

Hitler, in his book, *Mein Kampf*, is particularly offensive towards Jews and their value to their society. He makes the patently false claim that they are primarily self-involved and have no respect for one another. Rather, according to Hitler, the Jewish...readiness for sacrifice does not extend beyond the simple instinct of individual preservation. In their case the feeling of racial solidarity which they apparently manifest is nothing but a primitive gregarious instinct.”⁹

Thereby, Jews, in Hitler’s mind, are a lower life form. They do not exhibit love for their brethren, a feeling of strong empathy that Hitler reserves almost entirely only for “Aryans.” Hitler dehumanizes Jews by disassociating them from the normal spectrum of human emotions.

Hitler, in his rise to power, was also particularly cruel to members of the Left. Rather than taking their arguments seriously, weighing what they had to say and letting that influence his policy, he violently lashed out against them, using the paramilitary Sturmabteilung (SA) and Schutzstaffel (SS) to intimidate and destroy opposition. He violated all notions of genuine consensus and understanding when he had members of the Sozialdemokratische Partei Deutschlands (SPD) coerced and beaten by the SA on May 2, 1933 and following days. Their offices were occupied, their funds confiscated, and their internal infrastructure destroyed, dismantling the largest trade union in the world and reincorporating it into the German Labor Front, an organization for all intents and purposes under Hitler's total control.¹⁰ Consequently, he destroyed opportunities for workers to unite in solidarity by forcefully incorporating them into a state-led organization that autocratically dictated their assignments and priorities.

⁸ Kershaw, *Hitler*, 249.

⁹ Hitler, Adolf. *Mein Kampf*, (Bottom of the Hill, 2010), 259.

¹⁰ Kershaw, *Hitler*, 476-77.

Similarly, instead of allowing himself to be influenced by the arguments and influences of others, he ruthlessly weeded out any members of his own Party who he thought might represent any challenge to his total control. After being appointed German Chancellor by then President Paul von Hindenburg, Hitler purged the government of elements that might have challenged his authoritarian control. As one of his first pieces of legislation he pushed for the passing of an Enabling Law that would allow the cabinet, which was basically under Hitler's control, to make law without approval of the Reichstag. And without the votes of the 81 members of the Communist Party, who had been persecuted and banned as a result of the Nazis and a right wing coalition, the Reichstag overwhelming approved the measure, 441-94, thereby effectively voting for its own its own dismemberment.

In addition to appropriating the power of the national parliament, Hitler, after being named Chancellor, took the opportunity to undo traditional state authority, passing the "Second Law for the Coordination of the Reich" under which Nazi or Nazi-controlled authorities were to be named Reich governors of individual states, thereby undermining their authority and allowing for the eventual abolition of the autonomy of the Länder that occurred in 1934.¹¹

Hitler was also unafraid to take deadly measures to weed out opponents and increase his own control at the expense of other factions of his own party. One of his most aggressive moves was to order a series of political murders carried out between June 30 and July 2, 1934 known as the Night of Long Knives. This included the killing of several prominent political figures including former Chancellor Kurt von Schleicher and Gregor Stasser, a former leader of the Nazi left. Moreover, Hitler's SS henchmen eliminated the leader of the SA, Ernst Röhm, and many of

¹¹ Kershaw, *Hitler*, 465-69.

his associates to greatly weaken the SA and further consolidate all military and police control in Hitler's hands.¹²

Despite the severity of these actions, however, his crimes went largely unchallenged and received praise from leaders of government and the military. Rather than condemning a violent and unilateral action taken without recourse to legal and diplomatic channels, state and army officials praised Hitler in a show of dedication to his regime and totalitarian control. Defense Minister Werner von Blomberg issued a statement praising the Night of Long Knives actions as “soldierly determination and exemplary courage, shown by the Führer in attacking and crushing traitors and mutineers.”¹³ Similarly, members of the Reichstag showed their increasing inability to challenge Hitler by cheering the speech he gave on July 13 describing how mutinies are broken by “eternal, iron laws,” despite the fact that they had lost thirteen of their members in the Night of the Long Knives. Perhaps most important conciliation was that of Reich President Hindenburg who sent a letter to Hitler conveying his “deep-felt gratitude” for an action that had “rescued the German from a serious danger.”¹⁴ This indicated not only Hindenburg's unwillingness to challenge Hitler's insatiable quest for power but also, perhaps, his own physical and mental deterioration that would shortly end in his death and the rise of Hitler as supreme ruler in Germany.

Unfortunately for the German people, Hitler's despotic control extended into all other major sectors of the state as well the economy and the military. Whenever the guidance of experts or professionals conflicted with Hitler's propaganda, he always exerted his authority regardless of any implications it had on the industry's ability to grow. Hitler's policies initially

¹² Kershaw, *Hitler*, 514-15.

¹³ Kershaw, *Hitler*, 517.

¹⁴ Kershaw, *Hitler*, 517.

worked to the benefit of financiers and large corporations. The idea of "working towards the Führer" stimulated the growth of industrial giants like Mannesmann and Krupp and chemical giants like IG Farben in preparation for war and the extension of the German state. Additionally, German companies benefited from the exploitation of Jews that Hitler perpetuated in the name of "making the whole of Jewry responsible for all damage inflicted by individual specimens of this community of criminals upon the German economy," and the confiscation of Jewish property under the auspices of the Lebensraum program.¹⁵ Particularly insidious were the banks, including Deutsche Bank and Dresdner Bank that were able to exploit persecuted Jews forced to sell off their assets at minimal costs.¹⁶ Much of Hitler's initial success was contingent upon the development of a war industry and the violent exploitation of Jews, policies that while allowing for short term benefits were unsustainable under Hitler's unilaterally developed imperialist policies.

The inability of Germany to sustain its economy under Hitler is evidenced by the 1942 food crisis at a time in which the Germans had just experienced failures on the Eastern Front. Food distribution, which was unorganized and incompetently managed, could not be effectively dealt with because Hitler and his cronies refused to look at the problem pragmatically and with the help of others. Rather, they chose to relegate blame: Hitler blamed transport and Goebbels attacked the judicial system.¹⁷ They effectively subsumed the interests of the economy for the purposes of propaganda. They unilaterally perpetuated their own strategic gains at the expense of the German people.

¹⁵ Kershaw, *Hitler 1936-1945*, 20.

¹⁶ Kershaw, *Hitler 1936-1945*, 132-33.

¹⁷ Kershaw, *Hitler 1936-1945*, 506-07.

This level of control of all components of the state meant that as Germany's prospects of winning the war became increasingly less propitious, so did the German people's chances of extricating themselves from Hitler's suicidal plan for world domination. Without Hitler, the country could not move. Politically, economically, and militarily the country was following a Führer who isolated himself from those around him. Without any real prospects of opposition, Hitler diminished his propaganda campaign and appeared publicly in person far less often. While he had given innumerable speeches on his rise to power, he gave only two public speeches in 1943 and was largely inaccessible at his Field Headquarters in East Prussia or his mountain retreat in Berchtesgaden.¹⁸

Rather than looking to others to attempt to find a solution or at least mitigate the devastating effects of the war, he attributed Germany's declining prospects to the incompetence of his advisors and the lack of conviction of the German people. The fate of millions around the world became tied to his selfish notion that he was a visionary, and those who did not fulfill his expectations were only worthy of destruction and misery.¹⁹ Rather than normatively justifying the aims of his people, he took complete responsibility for their fate, associating their failure to live up to his expectations with a fundamental flaw in character.

Courts

Like parliament and the police forces, the judges also bowed to Hitler's will. Rather than normatively justifying their decisions, they acceded to Hitler's authority. This meant they could manipulate the language of the law and implement vaguely justified decisions as long as they produced the results that Hitler wanted. Rather than serving as a beacon of justice, arbitrating

¹⁸ Kershaw, *Hitler 1936-1945*, 565.

¹⁹ Kershaw, *Hitler 1936-1945*, 564.

between the state and the people, the courts were used by the government as a device of exploitation and terror. Penalties for political dissidents were severely increased, as were decisions regarding those who Hitler considered to be sub-standard citizens, including the mentally handicapped and political dissidents. And like the rhetoric of Hitler's government in general, the most vitriolic condemnations fell on the Jews who were viciously persecuted by the courts in some of the most anti-Semitic decisions ever produced. This reserved the theoretical positions of the court as a legitimate deliverer of justice. Rather than review cases objectively, the court was a vehicle for Hitler to weed out those he viewed as his opponents and protect those he liked. Decisions regarding crimes committed by Nazis were notoriously light and benign. Conversely, decisions regarding political dissidents and Jews were incredibly severe. The court lost all semblance of legitimacy; justice was no longer delivered based on intersubjectively valid principles but on Hitler's solitary and homicidal positions.

As the Nazis rose to power in Germany, so did legal decisions consistent with their policies. One such important measure taken was establishing precedent to defend crimes committed by those who identified with the national system. Early on a county judge named Dietrich was influential in arguing that "national aim" should play an important role in addressing the culpability of those committing violent offenses.²⁰ He thereby called for the mitigation of violent Nazi crimes committed against Communists and others as long as the perpetrators were committed to a strong rightist sense of nationalism. This influence only grew until Communists were eventually found guilty of attempting to undo the "existing constitution of the Reich" and outlawed in July 1933.²¹

²⁰ Müller, Ingo. *Hitler's Justice: The Courts of the Third Reich*. Cambridge, (MA: Harvard UP, 1991.), 52.

²¹ Müller, *Hitler's Justice*, 53.

Legal professors and scholars opportunistically justified the political appropriation of the courts as consistent with legitimate law. Traditional requirements regarding objectivity and anonymity were overlooked in favor of currying favor with Nazi officials.²² One of the best known political and legal theorists at the time, Carl Schmitt, was particularly willing to renege on commitments to fair and balanced justice as he claimed, "In the decisive case of political crime, the use of norms and procedures merely means that the Führer's hands are tied, to the advantage of the disobedient."²³ This means that normal judicial procedures requiring impartiality and fairness could be overthrown in favor of policies that would punish those who violated Hitler's ordinances and worked against him politically. They, rather than those committing genuine civil rights crimes, were identified as the miscreants who had to be punished and against whom allowances could be made in favor of an increasingly political justice system.

Broad scale support from the justices and legal scholars meant that the government could implement and carry out new laws like the June 1935 reworking of paragraph 2 of the Criminal Code declaring "that person will be punished who commits an act with which the law declares to be punishable or which deserves punishment according to the fundamental principle of a criminal statute or healthy popular opinion."²⁴ This, of course, was purposely vague as a means to punish those who did not explicitly violate other laws. The expression "healthy popular opinion" was a reference to the policies of Hitler and his cronies and meant they could arbitrarily enforce punishments under the guise of legitimacy, when in reality it was sheer manipulation unhindered by genuine allusions to morality and justice.

²² Müller, *Hitler's Justice*, 69

²³ Müller, *Hitler's Justice*, 75.

²⁴ Müller, *Hitler's Justice*, 74.

As a further insult to the pretense of justice Hitler created a Plea of Nullity that was an extraordinary appeal “on behalf of the Führer” by the chief prosecutor of the Reich to the Supreme Court that if granted could negate previous verdicts and call for a Special Panel of the Supreme Court or Führer’s Panel that would rule more consistently with Hitler’s policies. Of the twenty-one cases prosecuted under this statute only one was on behalf of the defendant and in fourteen cases a lesser verdict was altered to death.²⁵ This law, although not a frequently used statute, was nonetheless indicative of Hitler’s ability to undo court decisions in favor of more favorable rulings. It degraded notions of checks on power and paved the way for Hitler to always get his way.

Resultantly, other Nazi-inspired terminology became sedimented within the judicial system. Legal scholars coalesced around the idea of a “consolidation of the *Volk*,” whereby parameters of normalcy and law-abidingness were determined almost entirely by Hitler’s national and imperialistic commitments. Nebulous terminology associated with the overarching authority of Nazi propaganda replaced explicitly formulated stipulations and boundaries of the law. In this way honor and justice were no longer associated with normatively defined parameters of acceptance in a democratically governed society. Judges were given carte blanche to impose sentences on individuals as a means to “give visible expression to dishonor and disesteem,” demarcating what was considered acceptable and within the confines of the *Volk* and allowing for politically motivated interpretations of who was a threat and unworthy of legitimately participating in society.²⁶ This meant that in essence Hitler defined what society was and how the concept of normalcy and justice could be circumscribed. Instead of allowing for intersubjective delineations of identity, Germanic identity became inextricably connected with Hitler.

²⁵ Müller, *Hitler’s Justice*, 129.

²⁶ Müller, *Hitler’s Justice*, 78.

By the spring of 1934 Hitler no longer even needed to maintain the pretense that the Courts were self-sustaining and independent when he established the People's Court on April 24, 1934. The People's Court answered directly to Hitler. Whereas the Supreme Court could certainly be seen bending to Hitler's pressure, the People's Court was filled directly with Hitler's cronies. It was also given responsibility to oversee trials regarding some of the most serious crimes traditionally restricted to the Supreme Court including treason, destruction of property, and assassination attempts.²⁷ This meant effectively that Hitler could use the courts to deliver capital sentences on anyone he viewed as a political dissident perpetrating crimes of the state that he similarly controlled. By looking at courts records one can see the rise in Hitler's paranoia as the war went on. While 1934 to 1936 the court imposed death only 23 times, it delivered about 2,000 verdicts for death in 1944 as a result of an assassination attempt on Hitler and his increasing fears about losing the war. The courts' traditional avenue for impartial verdicts became, according to the words of People's Court prosecutor Heinrich Parrisius, a means by which to "annihilate the enemies of National Socialism."²⁸ State sponsored killing was just if Hitler said it was so.

Post-War

Hitler, by gaining absolute control of the government and judiciary, changed the face of Germany. He created an empire that was doomed to total collapse. At his hands Germany experienced economic, political, military, and moral devastation. And after Hitler and Germany's downfall, his influence had reverberating effects. Not wanting to create further divisions in a war-torn Germany courts began disassociating Nazi subjects with their actions,

²⁷ Müller, *Hitler's Justice*, 140.

²⁸ Müller, *Hitler's Justice*, 142.

placing the blame almost entirely on Hitler. Postwar German courts attempted to protect German solidarity rather than punish war criminals.

One method used by the courts to mitigate punishments of former Nazis was to justify their crimes using political rationales. A decision delivered by the Higher Regional Court of Hesse after the war ruled that an SA trooper who had beaten a former Communist could be freed based on the fact that the crime was politically motivated.²⁹ Since the crime was not entirely personal but instead expressed a commitment to German nationalism, it was designated acceptable. The court encouraged broad-ranging exculpations of former vigilante justice under the idea that it was acceptable as long as it was consistent with Hitler's cause. Rather than punish those who failed to exhibit moral character in the face of injustice, they released those who had been complicit in Hitler's violent campaigns. They disassociated their occupations as soldiers and police from their own personal capacity to judge and take moral stands. This standard was further perpetuated by a law that exempted "sentences for actions taken on a political basis after 8 May 1945 and that can be attributed to the special circumstances of recent years," mitigating the punishments of those who continued to respond violently even after the war was lost.³⁰ This special case of political "privileging" was in no sense limited in scope. An estimated 792,176 people benefited from statutes protecting those who had committed crimes with political motives up until January 31 1951.³¹

Furthermore, although Allied powers initially removed many German justices after winning the war, many such justices were eventually reinstated, including some of those who had been most culpable in introducing and defending unjust, non-legitimized laws. For instance,

²⁹ Frei, Norbert. *Adenauer's Germany and the Nazi Past: The Politics of Amnesty and Integration* (New York: Columbia UP, 2002), 22.

³⁰ Frei, *Adenauer's Germany*, 15.

³¹ Frei, *Adenauer's Germany*, 25.

Franz Massfeller, who had written commentary on the Nuremberg Race Laws and had represented the Reich Ministry of Justice at the Wannsee Conference over the “final solution,” was reappointed. Similarly, Heinrich Ebersberg, personal assistant to notorious Nazi justice Otto Thierack was reappointed to his former rank.³² By reinstating these men Germans displayed the incapacity to render impartial decisions against those most complicit in Nazi control of the judiciary and the arbitrary brand of justice they imposed. These men were allowed to reenter a justice system expected to uphold judicial integrity after having participated in one of the least judicious and fair legal systems that had ever existed.

Furthermore, it was not simply the Nazi justices who were held over but significant parts of Nazi law were also maintained. Neither occupying forces nor the initial courts took the initiative to revoke the Law for the Prevention of Hereditary diseases that had resulted in an estimated 350,000 forced sterilizations during the war. It was up to general physicians to petition the government to revoke the law, which did not occur until 1974.³³ The mentally handicapped continued to be neglected by the law and seen as lesser citizens whose basic human rights could be violated in the name of national integrity.

Similarly, newer, even harsher Nazi laws against homosexuality that were addressed in paragraph 175 of the Criminal Code were not initially revoked by the Courts, which maintained that they were “justified on objective grounds and can thus not be regarded as part of the National Socialist doctrine, so that in principle no objection exists to using the new version.”³⁴ Blatant persecution of homosexuals by Nazis was in line with contemporary German prejudices and therefore could be maintained.

³² Müller, *Hitler's Justice*, 212.

³³ Müller, *Hitler's Justice*, 227.

³⁴ Müller, *Hitler's Justice*, 228.

Finally, the Court was able to maintain much of the most problematic Nazi legislation simply by semantic editing, leaving intact some of the most nefarious and dangerous measures. One amendment the Nazis added in 1943 was to paragraph 240 of the Criminal Code regarding unlawful duress: “The Act is illegal if the use of force or threat to inflict harm for achieving the desired purpose runs counter to the healthy opinion of the *Volk*.” The Nazis had naturally used this vague language to implement this law on a broad scale, prosecuting and persecuting perpetrators of any actions they considered contrary to the aims of National Socialism, even if those acts were not technically defined as illegal. They delegitimized the Constitution by allowing them to overstep the bounds of defined law and apply the statute in any fashion they wanted. However, legal scholars had no problem maintaining the paragraph with one small amendment. They held that the law contained no “National Socialist Principles.” They simply changed the phrase “runs counter to the healthy opinion of the *Volk*” to “is regarded as reprehensible.”³⁵ In that manner they removed the most specific references to the Nazi regime while keeping the illegitimate content.

Certainly, the allowances afforded to former Nazi criminals and policies were not limited to the Courts. The government of Konrad Adenauer, who was elected Chancellor of Germany in 1949, was influential in the reinstatement of Nazis and the lessening of sentences imposed on Nazi criminals. Adenauer, as the first Chancellor of the new German Republic after WWII, expressed his concern with the “inner attitude of the German people.”³⁶ He was particularly worried about the German Republic’s capacity to protect itself and disconcerted over the concerns of German soldiers who felt a loss of honor seeing their friends and comrades

³⁵ Müller, *Hitler’s Justice*, 229-230.

³⁶ Frei, *Adenauer’s Germany*, 153.

prosecuted and jailed as war criminals.³⁷ He therefore petitioned that Nazi war criminals be released or their sentences reduced in return for an expedited military coalition between Germany and the western powers. He was forceful in conveying his sense that Germany's future and allegiance with western powers should be considered more prominently than punishing former war criminals saying, "I do not wish this aide-memoire or what it contains to be considered so to speak as object of exchange for a German troop contingent."³⁸ This expressed his notion that he did not want to bargain over German war criminals. He was in favor of more expeditious releases of German prisoners and a more fluid rearmament.

Adenauer, under this guise, took steps in 1951 to meet with British Foreign Secretary Anthony Eden to discuss the "prisoner problem" and the releasing of Nazi criminals. He pleaded for the creation of a three-judge panel with one from England, one from Germany, and the other from a neutral country that could fairly discuss mitigating the sentences of Nazi war criminals.³⁹ These were all steps taken under the drive to create a more future oriented German identity and overcome the despair and lack of national identity felt by Germans after the war. And while these were certainly acceptable policies they also arguably contributed to efforts to cover up the crimes committed by Nazis and subsume them under a web of forgetfulness in the search for a sustainable German identity.

This arguably allowed for the continued existence of various controversial pro- and neo-Nazi elements within government that continued to plague German politics. One particularly notable example is the backlash expressed against actions taken by British High Commissioner Sir Irvone Kirkpatrick who arrested Werner Naumann, former aide to Joseph Goebbels, and

³⁷ Frei, *Adenauer's Germany*, 148.

³⁸ Frei, *Adenauer's Germany*, 154.

³⁹ Frei, *Adenauer's Germany*, 185.

other former Nazis who were accused of causing agitation within the Freie Demokratische Partei (FDP).⁴⁰ In newspapers and within political venues protestors argued that German “sovereignty was being threatened by the intervening occupation authorities.” To them, it was unlawful for the occupying forces to carry out justice. Conservative German Party Chief Heinrich Hellwege argued for “prerogative of the Germans” and maintained that “the question of whether neo-fascist infiltration has occurred has to be clarified by the German Volk itself.”⁴¹ He, other political leaders, and newspapers like the *Frankfurter Allgemeine Zeitung* maintained that the arrests were largely agreed upon by the German people. And while this to some extent might have been true, it also expressed the Germans’ relative complacency in dealing with existing Nazi elements and their still extant commitments to nationalism and self-determination.

Conservative Historians

Apologetic tendencies and the search for a common identity also are found within the academic and scholarly community in Germany. As time has passed, conservative historians and scholars have been looking for new ways to contextualize the Third Reich and the Holocaust as a means to come to terms with the past, a movement often referred to as the *Historikerstreit*. Modern European History Professor Peter Baldwin’s book, *Reworking the Past. Hitler, the Holocaust, and the Historians’ Debate* has been influential in bringing to the forefront the historical significance of this phenomenon. This is because, “when a major power determines its

⁴⁰ Frei, *Adenauer’s Germany*, 278.

⁴¹ Frei, *Adenauer’s Germany*, 284.

policies by reference to its past, then this power's past assumes a central role in world affairs."⁴² Accordingly, since Germany's economic recovery since World War II, it has become increasingly important to develop more thorough explications of the crimes the Nazis committed, as a means to go about coping with the past in preparation for the future.

One such method has been to call for a rehabilitation of the image of the Bismarckian Reich and the subsequent German drive for power, claiming that each major nation has "its own Hitler era, with its monstrosities and sacrifices."⁴³ Similarly, they even make a parallel argument between more contemporary "talk about the guilt of the Germans" and the atrocities they committed during WWII and the "talk about the guilt of the Jews"⁴⁴ and how they were perceived as having infiltrated the economy and been responsible for the abject conditions in Germany during the Weimar Republic.

One of the more famous conservative historians who attempted to put Nazi history in a broader context in beginning with his early work *The Three Faces of Fascism* was Ernst Nolte. A theoretical scholar, some of his most famous work examines fascism in Europe from a Hegelian perspective, charting the dialectical movement from proto-fascist French reactionary thought, to state fascism in Italy, and eventually to complete fascism during the Third Reich.⁴⁵ Nolte wanted to show the parallels between various reactionary and rightist movements in Europe to express the Nazis' continuity and furtherance of a tradition they did not originally begin.

Similarly, he argued that the Nazis could be understood as a dialectical turn away from Marxism. Inclined to discuss things in absolute terms, Nolte labeled Nazism as the key anti-

⁴² Bartov, Omar. "Time Present and Time Past: The Historikerstreit and German Reunification." *New German Critique* 55 (1992): 174.

⁴³ Maier, Charles S. *The Unmasterable Past: History, Holocaust, and German National Identity*, (Cambridge, MA: Harvard UP, 1988), 28.

⁴⁴ Maier, *The Unmasterable Past*, 15.

⁴⁵ Maier, *The Unmasterable Past*, 25.

transcendence movement in Europe in contradistinction to Marxism, which posits a need for a full transcendence of capitalism.⁴⁶ His claim was that Marxism paved the way for Nazism as its antithesis. This is consistent with the idea that the National Socialist, by imperialistically attempting to dominate the globe, was combating the class warfare of the Bolsheviks in the Soviet Union and was responding to the atrocities committed by the Soviets (30). Joachim Fest, another conservative German historian and journalist, took this view to the extreme claiming that the primary difference between the killings carried out by the Germans and those carried out by the Soviets was that the German murders were recognized and that “Zyklon B (a pesticide used by Nazis during the Holocaust) represented a technological but not a moral watershed.”⁴⁷ These theoretical arguments portrayed Nazism as both an extension of and reaction to other violent movements in Europe and attempted to put the Nazis on par with other murderous nations, thereby relativizing the Holocaust.

One of their primary objectives, according to conservative historian Andreas Hillgruber, was to overcome further Marxist explanations of German imperialism. He believed that the common Marxist argument that German foreign policy was an outcome of internal struggles to be “leftish and modish” behooved historians to look for more comprehensive explanations.⁴⁸ One such idea labeled Germany a “land in the middle.” The idea was that although Hitler certainly had imperialistic desires, Germans did have legitimate concerns about being a “land in the middle” and necessarily had to take preventive measures to protect themselves from foreign encroachment. In this light, the barbarism of German imperialism could be mitigated in favor of a more general explanation. Michael Stürmer summed up such attempts of German historians as

⁴⁶ Maier, *The Unmasterable Past*, 27.

⁴⁷ Maier, *The Unmasterable Past*, 67.

⁴⁸ Maier, *The Unmasterable Past*, 34-5.

a search for “lost history.”⁴⁹ According to Stürmer, the Nazis had to be historically contextualized in order to demonstrate the inner continuity of the German Republic and make sense of its foreign policy. Instead of attempting to erase the German war effort from history it was important to understand German traditions for, according to Stürmer, “In a land without memory anything is possible.”⁵⁰ For these conservative historians it was important not to forget the nature about the Third Reich.

Holocaust

In making these arguments, these historians were also opposing attempts to transcend Nazism and pave the way for a new Germany based on moral and constitutional foundations that overcome certain historical searches for identity. Although it might be important not to forget the Third Reich, it is also important to recognize the utter incomprehensibility of Nazi crimes and the systematically distorted communication that existed under Hitler. By relativizing Nazis one arguably empathizes with those who worked within a truly regrettable political paradigm that should only be studied objectively in an attempt to restructure the German government and judiciary and make way for a new German tradition based on universal, morally substantiated policies rather than historic-hermeneutic searches for a salvageable German tradition.

To better understand this objection to conservative historical interpretations of the Third Reich one needs to look at the development of the Holocaust and its true impenetrability in moral terms. Seeing its early development and later implementation reveals the true horrors and dehumanization that occurred as a result. Studying its manifestation reveals its truly irrational nature that defies all means of contextualization.

⁴⁹ Maier, *The Unmasterable Past*, 45.

⁵⁰ Maier, *The Unmasterable Past*, 45.

From the beginning, Hitler foreshadowed the horrors that were going to be perpetuated against Jews. In the early years of WWII, 1939-41, Hitler described the war as the “end of the Jew” who was leading a “world coalition against the German people.”⁵¹ He attempted to shift responsibility for the war he had recklessly led Germany into onto Jews, a people who had made few explicitly aggressive moves against anyone German. Similarly, Hitler blamed the Jews for German losses on the Eastern Front, claiming that they should be held accountable for the 160,000 deaths (early in the war but still a gross underestimation) that the Germans had experienced there. In so doing he encouraged a backlash against Jews that would result in their attempted extermination.⁵² He shielded himself from blame for heedlessly pushing Germany into another world war by deflecting blame onto people who had already experienced seven to eight years of persecution at his hands.

Furthermore, Hitler gave carte blanche to secret police leader Heinrich Himmler and chief of the Gestapo police force the Reinhard Heydrich to carry out unspeakable crimes within German occupied territories and on the eastern front. Hitler had already associated project Barbarossa, the eastern invasion, with pushing Jews and Bolsheviks—whom he considered synonymous—eastward and creating room for a superior Aryan race. Hitler had no qualms giving his implicit consent for the butchers Himmler and Heydrich to carry out genocidal missions on the Eastern Front. Himmler announced the mission explicitly after having seen thousands of Jewish corpses lying side by side as “a glorious page in our history that has never been and is never to be written.”⁵³ In this way Hitler paved the way for Jews to be killed on a

⁵¹ Kershaw, *Hitler 1936-1945*, 489.

⁵² Kershaw, *Hitler 1936-1945*, 490.

⁵³ Kershaw, *Hitler 1936-1945*, 487.

massive scale without taking direct responsibility. He insidiously gave consent for a mission that few could protest or resist.

Furthermore, the Courts followed suit as eugenics laws were passed against Jews that judicially legitimized their persecution. As the Nazis rose to power the Courts and government agreed that “a legal barrier” to marriage needed to establish that “every form of sexual interbreeding between Jews and those of German decent was to be made criminal.”⁵⁴ This increasingly involved a tendency to consider Jewishness a personal characteristic for which many civil rights did not apply.

The Nuremberg law for Protection of German Blood and German Honor was interpreted widely as it outlawed any obscene coition and additional sexual acts committed between people of the Jewish race and Aryans.⁵⁵ This stipulation was basically used to outlaw any romantic connection between Jews and Aryans, including non-physical contact. Similarly, even kissing was included under the law when the Sixth Criminal Chamber of the Hamburg Country Court declared it a sexual act in 1938.⁵⁶ This was shortly followed by the repeal of paragraph 1333 of the Civil Code that made it legal to annul “racially mixed marriages.”⁵⁷ These acts made it official that Jews were a degenerate race and could not become romantically involved with Aryans without being condemned both rhetorically and legally by the state.

Eventually, Jewish people’s personhood was totally absconded. In the late 1930s the Jewish director of *Return of Ulysses* was refused compensation for his work when his contract was nullified with the court claiming that Jews were not entitled to the same rights as a full-

⁵⁴ Müller, *Hitler’s Justice*, 92.

⁵⁵ Müller, *Hitler’s Justice*, 100.

⁵⁶ Müller, *Hitler’s Justice*, 102.

⁵⁷ Müller, *Hitler’s Justice*, 96.

blooded German.⁵⁸ Similarly, in an even more ridiculous decision six- and seven-year old Jewish children were listed as accomplices in a crime. The children of a Jewish tanner who in 1942 had attempted to escape the Jewish ghetto in order to engage in trade were put to death for “aiding and abetting unauthorized departure from a Jewish housing district.”⁵⁹ Clearly, by this time, the Nazi courts had forgotten any obligation to substantively legitimize their laws and threw around empty rhetorical phrases to continue the persecution and mass extermination of the Jews. The Third Reich became a moral and legally impenetrable regime.

⁵⁸ Müller, *Hitler's Justice*, 116.

⁵⁹ Müller, *Hitler's Justice*, 164.

Theories of Totalitarianism

Jürgen Habermas presents the broadest and most theoretical exposition of his concept of moral progress in his two volume series, *The Theory of Communicative Action*. In these books he attempts to convey how by integrating communicative action into its workings, a society functions more effectively. To do so he starts at the most basic form of human engagement, dialogue, and through extrapolation attempts to understand how large societies developed and have integrated dialogue at different stages of human history. He explains how humans, as communicative actors, have grown increasingly sophisticated in terms of how they develop governmental, social, and economic institutions that are both self maintained and normatively founded upon the approval of subjects who see their own best interests embodied in the ways that the institutions function. But he also explains how despite general progress that has occurred in people's capacity to integrate communicative reason into the development of complex societies, there have also been stumbling points that hinder communication and cause regression. And although he functions on a more theoretical platform and gives few concrete examples, it is obvious that many of the breakdowns in communicative action that he identified occurred during the Third Reich. Nazi Germany, for Habermas, is a society in which leaders failed to understand the importance of normatively justified decisions. They neglected to understand how communicative action helps fulfill the interests of a society and how Nazi leaders, by opportunistically restricting dialogue and criticism, were responsible for inhibiting the rational potential of theirs and other nations.

Habermas predicates his argument on dual notions of understanding and engagement in the “lifeworld.” These terms refer to the central role people play as actors in dialogues. Fundamentally, Habermas’s ideal system is a constitutionally based democracy in which normative models, or those agreed upon through the course of discussion and empathetic internalization of the ideas of others, create a foundation upon which systematized processes and bureaucracies can function. This creates a system with a well-organized and articulated set of laws and regulations that are ultimately based on the agreement of the people and are in their best interests. Under this pretext, according to Habermas, “reaching an understanding functions as a mechanism for coordinating actions only through the participants in interaction coming to an agreement concerning the claimed validity of their utterances, that is, through intersubjectively recognizing the validity claims they reciprocally use.”⁶⁰ Understanding, in this case, is fundamentally associated with the normative foundations of government. It is what creates a moral basis through which citizens recognize the legitimacy of each other’s claims and can use this understanding in constructive ways to go about implementing complex processes that create a greater mutual benefit to both parties than any individual could have achieved individually. This involves a two-sided action, according to Habermas, in that, “the point of departure for the normative model of action is that participants can simultaneously adopt both an objectivating attitude to something that is or is not the case, and a norm-conformative attitude to something that is commanded.”⁶¹ Participants in dialogue are able to come to terms with ideas that would normally lie outside their own ability to understand by recognizing that other subjects have interests and that the most beneficial path available to both parties is one in which they recognize the necessity of acknowledging the best arguments and ideas and being able to mutually go about

⁶⁰ Habermas, Jürgen. *The Theory of Communicative Action*, (Boston: Beacon, 1984), 99.

⁶¹ Habermas, *Theory of Communicative Action*, 90.

reaching the most ideal situation. They are involved in the “lifeworld” to the extent that they agree to participate in this process as actors, or members of a dialogue.⁶² An actor’s ideas can only help to the extent that the author is willing to engage in dialogue and make himself/herself vulnerable to criticism and self-reflection. The foundations of Habermas’s ideal government then require subjects to engage actively and empathetically in dialogue and be amenable to criticism and idealized conditions that lie outside their own individual strategic interests.

Habermas, based on this understanding, would consider one of the main failings of the Third Reich leaders to be their inability to integrate intersubjective dialogue. Although the Germans had established a relatively modern constitution in 1919 in Weimar, they still lacked the integrative force of other longer-standing democracies like Great Britain and France. This lack of democratic input, according to German political scientist Karl Dietrich Bracher, can best be associated with a more resilient imperialist tradition in Germany than in other western European countries. Despite the increasing modernization of Europe and the growth of education and humanitarianism in the nineteenth century, Germany was more susceptible to nationalistic and militaristic impulses than other nations. According to Bracher, there existed in Germany a strong feeling based in natural law that “the individual ought to sacrifice himself for the greater community of which he was a link, that therefore he did not have the right to resist the authority of the state, even if it were held to be ‘immoral’.”⁶³ Bracher explains how this made the intelligentsia and bourgeoisie more inclined to anti-democratic and authoritarian impulses that intellectuals in other countries often resisted.

These feelings were based also on a strong reaction that Germans directed at the forces they believed were detrimental to the traditional German character. This idea was largely

⁶² Habermas, *Theory of Communicative Action*, 112.

⁶³ Bracher, Karl Dietrich. *The German Dictatorship; the Origins, Structure, and Effects of National Socialism*, (New York: Praeger, 1970), 28.

exclusionary. Although traditionally associated mainly with progress and the intensification of tolerance, the Enlightenment concomitantly gave impetus to the extension of anti-Semitism in the German states. It allowed Jews to reenter German society, from which they had previously been excluded, and although often restricted from owning land, they engaged in other forms of business. This led to Jews becoming particularly prominent in certain professions such as commerce. Bracher claims, “Jews, because of their specialization and disproportionate representation in economic and cultural life, controlled certain aspects of life and became the prime factor in the spread of anti-Jewish feeling.”⁶⁴ Jews became particularly vulnerable to German conservatives who were able to characterize them as the instigators of revolution and exploitive business practices and the general problems associated with the modernization of a traditional agrarian society. This created an us versus them mentality by which the “soul” of the German people became associated with the higher inherent value of German culture as opposed to the intellectualism associated with Jews. Jews were demonized by a new “biological anthropology” in which they were depersonalized and racially degraded, an occurrence that Bracher believes prefaces the seemingly unemotional “carrying through” of the massive genocide of Jews that occurred during WWII.⁶⁵

These sentiments were vehemently announced by Georg Ritter von Schönerer, an Austrian Pan-German who believed that Austria should be incorporated within a larger German Reich and who in addition to advocating nationalist and anti-capitalism propaganda was particularly prosecutorial of the Jews. In the late nineteenth and early twentieth century he became well-known for establishing racial purity as the primary objective behind the Pan-German mentality, claiming “Religion is nothing, race makes for the filth.” It was in-born racial

⁶⁴ Bracher, *The German Dictatorship*, 34.

⁶⁵ Bracher, *The German Dictatorship*, 37.

characteristics of the Jews that made them responsible for the nefarious liberal implications of modern societies, including freedom of the press and predatory capitalism. These ideas, along with those of contemporaneous Vienna mayor and anti-Semite Karl Lueger had a particularly strong effect on Hitler, who spent much of his early adulthood in Vienna and where he learned the racial exclusionary ideas he would so powerfully promulgate during the post-WWI period.⁶⁶

Similarly, Hitler, reared in this tradition of authoritarianism and hierarchy was not amenable to notions of normative legitimacy in which he would acknowledge the arguments of all actors and make himself accountable by participating in dialogue. Rather, he was particularly forceful in his implementation of a police state where Jews were denied the ability to express their feelings regarding their political and social treatment. Rather, Hitler implemented his policies imperiously, allowing his subordinates to fight amongst themselves and then side with the winner. Ultimately, he “reserved the right to decide when a difference of opinion could be brought before the cabinet” and gave his approval only after most discrepancies had already been resolved through strategic means.⁶⁷ Eventually, this style of leadership meant that the cultivation of interest groups and the currying of Hitler’s personal favor were more important for ministers than engaging in dialogue and the cabinet ceased to meet after 1938.⁶⁸

As opposed to looking for the individuals who made the best arguments or promoted the interests of the greatest number of Germans, personal loyalty became Hitler’s most important administrative principle. Rather than following the constitutional process or allowing the bureaucracy to manage itself internally, Hitler imposed his will over political offices, distributing power to loyal sycophants and paladins who were most amenable to following his directives. In

⁶⁶ Bracher, *The German Dictatorship*, 44.

⁶⁷ Kershaw, Ian. *The Nazi Dictatorship: Problems and Perspectives of Interpretation*, (London etc.: Arnold, 1993), 73.

⁶⁸ Kershaw, Ian, *The Nazi Dictatorship*, 73.

this regard Hitler was particularly influential in protecting the interests of his Gauleiters, or party territorial leaders, against the power of central leaders with state positions, particularly the Minister of the Interior, Wilhelm Frick. Although considerably responsible for the consolidation of Hitler's power in 1933 with the *Gleichschaltung*, or bringing into line the various states and political offices of the German Reich Frick's power waned throughout the course of his tenure in his position, one that he eventually lost to SS chief Heinrich Himmler in 1943. The Gauleiters were particularly influential in this process, currying Hitler's favor at the expense of Frick and eventually inducing Hitler to acknowledge that although their administrations fell under Frick's official purview, an exception could be made for cases of "special political importance" whereby Gauleiters could bypass Frick and appeal directly to Hitler.⁶⁹ Their loyalty to Hitler led to him superimposing his authority to ensure their autonomy against their constitutionally established superiors.

Habermas's theory for the implementation of understanding within the lifeworld revolves around his conception of "communicative action." One of Habermas's general themes center on the idea that , "communicative actions are distinguished from general acts of communication and strategic action in that all participants pursue illocutionary aims without reservation in order to arrive at an agreement that will provide the basis for consensual coordination of individually pursued plans of action."⁷⁰ This means that participants do not simply enter dialogue with their own best interests and fight stringently to protect and maintain those interests against fundamentally disparate principles against which they can only compromise but never truly relate. Actors involved in communicative action do not insidiously attempt to undermine or manipulate dialogues so as to arrive at the greatest amount of individual success against

⁶⁹ Kershaw, *The Nazi Dictatorship*, 70-72.

⁷⁰ Habermas, *Theory of Communicative Action*, 295-96.

competitors. Rather, they have illocutionary aims; that is, they want their interlocutors to internalize and fundamentally understand their motivations and reasons to see why they can work to the benefit of both parties. They must do so without reservation by seeing that their greatest interest lies in coordination rather than solipsistically formulated plans. Only in this way can they extend their knowledge and motivational states beyond anything they could have achieved by themselves.

In this vein, Habermas labels “systematically distorted communication” that which “can be conceived of as the result of a confusion between actions oriented to reaching understanding and actions oriented to success. In situations of concealed strategic action, at least one of the parties behaves with an orientation to success, but leaves others to believe that all presuppositions of communicative action are satisfied.”⁷¹ In this case, everyone suffers as a result of personal initiatives towards success that do not acknowledge the inherent intersubjective character of language. From a Kantian perspective, subjects hurt themselves when they disrespect the rationality of others. They neglect to account for the fact that theoretical language is a tool that can only be legitimately applied when used to communicate as openly and with as great an understanding as possible. When they misrepresent their motives, everyone suffers.

These principles stand in contradistinction to the theory of the totalitarian state developed and implemented by the Nazis. Although the term now carries with it a pejorative connotation, the Nazis praised and strove for totalitarianism. Goebbels, during the Nazi struggle for power, claimed, “The goal of the revolution must be a totalitarian state pervading all spheres of public life.” This was meant to distinguish the Nazi national socialist mentality from the liberal constitutional state that had existed during the Weimar years. It was meant as a reaction against

⁷¹ Habermas, *Theory of Communicative Action*, 332.

federalism and the division of power that many German citizens associated with disorganization and chaos due to the infighting that had occurred in the Weimar government. To justify the *Gleichschaltung* that occurred under Frick and others, the Nazis made distinctions between types of government in Western European states labeled *liberaler Rechtsstaat* and their own brand of government called *nationaler Rechtsstaat*. The premise was that while a liberal government emphasized constitutionalism, a system that had failed Germany during the Weimar years, their brand of nationalism would reconcile justice and political necessity and draw on a powerful German conservative tradition.⁷² What this in practical terms meant was that the Nazis could implement policy from above without necessarily consulting the vast majority of citizens who would be most affected by the policies implications.

Habermas further believes that people should not force dramatic breaks from communicative processes of rational realization as this promotes unease and misunderstanding. He claims, “Continuity and coherence are measured by the rationality of the knowledge accepted as valid. This can be seen in disturbances of cultural reproduction that get manifested in a loss of meaning and lead to corresponding legitimation and orientation crises.”⁷³ Cohesion for Habermas, rather than being a single ideology, was best realized when processes of communicative action are implemented so that subjects fundamentally understand and accept as valid the policies by which they live.

The Nazis, as reactionaries against the Weimar Republic and a new system of dialogue and validation, represented a great discontinuity in the rationalization of politics. By presenting the message of unity through a lack of dissent and a lack of outside input, Nazi leaders promoted misunderstanding and disorientation rather than the cohesion they claimed to be developing. This

⁷² Neumann, Franz L. *Behemoth; the Structure and Practice of National Socialism*, (Toronto: Oxford UP, 1942), 48.

⁷³ Habermas, Jürgen. *Theory of Communicative Action*. Vol. Two, (Boston: Beacon, 1987), 140.

trend manifested in the often contentious relationship between army commanders and state and party officials. Although the Nazis were extremely militaristic and therefore in favor of a strong army, disagreements between army officials and Hitler and other Nazi functionaries were common. Hitler, in the pursuit of his imperialistic policies in Eastern Europe, was often oblivious to outside objections and truth claims, even from those more qualified than him to make them. He was very much inclined to reject the more conservative claims of army commanders and foreign diplomats who were more reluctant to embark on an aggressive foreign policy. Therefore, in addition to replacing the more conservative and traditional but better trained and balanced Foreign Minister Constantin von Neurath with Joachim Ribbentrop in 1938, Hitler had the Reich War Minister, Werner von Blomberg, “retired” after he received the convenient news that Blomberg’s new wife had previously worked as a prostitute. In a much more insidious manner, operating on intelligence from the Gestapo under Himmler’s command, Hitler was able to dismiss Commander-in-Chief of the army Werner von Fritsch on trumped up charges that Fritsch was a homosexual. Although the evidence that appeared to prove this point was later recanted by a witness, it nonetheless gave impetus for Hitler in February of 1938 to relieve Fritsch of his command and assume absolute control as head of the army.⁷⁴ He opportunistically undid the careers of professional military men, broke with a long tradition of working towards one’s rank through promotion, and assumed control of a massive fighting force that he had no personal experience commanding. He therefore greatly de-rationalized the entire process.

Habermas associates the gradual development of democracy and constitutionalism as indicative of the general progress of mankind. On this basis he agrees with sociologist Émile Durkheim in his notion that a great leap in human development was made when the powerful and

⁷⁴ Longerich, Peter, Jeremy Noakes, and Lesley Sharpe. *Heinrich Himmler*, (Oxford England: Oxford UP, 2012), 398-99.

all-encompassing religious forces that united people were gradually transformed into more democratic and dialogic impulses and understandings. Habermas, interpreting Durkheim, describes this as a process by which “The aura of rapture and terror that emanates from the sacred, the spellbinding power of the holy, is sublimated into the binding/bonding force of criticizable validity claims and at the same time turned into an everyday occurrence.”⁷⁵ Slowly, people develop the ability to transmute religious solidarity into a process of dialogue, criticism, and self-reflection that results in mutual understanding and betterment.

Habermas believes that this idea can be rightly associated with the ability of a society to unlock its collective intelligence. First, it is necessary that a society be united in solidarity, an act that religion can help perform. Afterwards, however, it needs a more generalizable and transcendent system or morality through which people more perspicaciously understand the ties that keep them together. Habermas claims, “The abstraction of worldviews, the universalization of law and morality, and growing individuation can be conceived as developments that ... in the midst of a seamlessly integrated society, the rationality potential of action oriented to reaching understanding becomes unfettered.”⁷⁶ This “rationality potential” can only be unlocked when morality is universalized and normatively founded. In this way, all qualified citizens, regardless of rank or status, can participate in the growth and development of their society. Their unique contributions can be unleashed and contribute to an overall, well-integrated solidarity that will certainly exceed any hierarchically regimented policy that stratifies and disallows citizens from actively engaging in and contributing to the political process.

In this light, Germany’s transition from a Republic into a totalitarian hierarchy violates its efficacy and its ability to integrate outside ideas. In fact, even Nazi leaders were often unable to

⁷⁵ Habermas, *Theory of Communicative Action* Vol. 2, 77.

⁷⁶ Habermas, *Theory of Communicative Action* Vol. 2, 88.

use their abilities to best influence government. Because of their constant need to compete with one another for power and influence, they were burdened by antagonisms and constant infighting—conflicts that often caused them to take extreme measures.

This dynamic contributed in a fundamental way to the mass murder of Jews. It led to the infighting that occurred between Alfred Rosenberg, a Nazi intellectual and head of the Reich Ministry for the Occupied Eastern Territories, and Heinrich Himmler, leader of the SS. In the fall of 1941, Himmler, who was already Reich Commissioner for the Strengthening of Germandom, a position that gave him discretion to control operations with regard to ethnic Germans who lived in the greater German Reich among other responsibilities regarding the resettlement of migrants, petitioned Hitler for more power regarding the relegation of populations in the East, an closely associated with Rosenberg's office. Although Himmler had already been ordering the commitment of atrocities in the East in his capacity as head of the SS, he wanted to encroach on Rosenberg's responsibilities and gain more power. He obtained Hitler's approval to extend his capacity on September 18 as Reich Commissioner to all German-occupied eastern territories. This meant he could be in "control of security" in "internal matters" in these territories in addition to controlling the police. To solidify this power and emphasize his new authority over Rosenberg he petitioned Hitler and on September 24 got his approval to name Heydrich, Himmler's second in command and one of the men who most ardently pursued the murder of Jews, Deputy Reich Protector, thereby ensuring that the Germans would continue with their plans to annihilate Germans in the occupied territories. At the end of the month, Himmler emphasized to the leaders of Einsatzgruppe D, one of the most violent companies in the SS, that they should engage in total destruction of Jews, including women, children, and families in the territories to which they were assigned. This elicited one of the most dramatic radicalizations of

Nazi policy towards Jews, the total eradication of a given population within a given territory.⁷⁷

To solidify his power over Rosenberg and authority within the German occupied territories, Himmler helped lead a genocide.

Importantly, Habermas's form of democratic solidarity requires a strong sense of individuality. Habermas says, "Anyone who participates in social interaction in the communicative role of the first person must appear as an actor who demarcates from facts and norms in an inner world to which he has privileged access and who, simultaneously, vis a vis other participants, takes initiatives that will be attributed to him as his own actions for which he is responsible."⁷⁸ This means that citizens cannot be rightfully subsumed under a adheres all-encompassing ideology. They cannot be identified as a single homogenous entity that sticks absolutely to certain tenets. Rather, all individuals contribute something unique to a society. Regardless of how deeply the state penetrates into their lives, there is still some particular knowledge that is singularly theirs. Ultimately, then, they cannot simply follow orders and obey absolutely. Rather, each individual is accountable for his/her actions. This responsibility, according to Habermas, means that one must "get clear about who one wants to be, and from this horizon to view the traces of one's own interactions as if they were deposited by the actions of a responsible author, of a subject that acted on the basis of a reflective relation to self."⁷⁹ Well-acting subjects, in Habermas's view, need to come to terms with the decisions they make and how those decisions orient them towards future action. Although they cannot always control all variables in their lifeworlds, they can responsibly engage in self-reflection through which they consider the consequences of their previous actions, learn from them, and change themselves

⁷⁷ Longerich, *Heinrich Himmler*, 536-37.

⁷⁸ Habermas, *Theory of Communicative Action* Vol. 2, 90.

⁷⁹ Habermas, *Theory of Communicative Action* Vol. 2, 99.

accordingly as a means to orient themselves towards future action. However, their ability to do so is greatly restricted when they cannot engage. They as subjects lose individuality and rational potential when their access to democratic input is limited and thereby self-reflection is hindered.

German policy ran completely contrary to this principle as it promoted a race-biological theory of absolute cohesion that called for complete unity of ideas against the threats of outsiders of different races and religions. According to Marxist German political scientist Franz Neumann, this demand on the part of Nazis for ideological unity was used because it was a “foundation for imperialist expansion.”⁸⁰ When nations rely on the idea of the sovereignty of their people, there is nothing ideological to justify their ascendancy over others. They have no right to interfere in the governance of other nations. When the Germans came to power, in order to challenge outside states, it was necessary they work in absolute unity. Therefore they needed to challenge the sovereignty of outside states. According to Neumann, “The alleged superiority of the German Nordic race performed this function” and that “the aim was to organize society for imperialist ventures.”⁸¹ In this way, the Nazis distracted attention from internal tensions to project these antagonisms outwardly in an expression of German imperialism that glorified the Germanic race and denigrated outsiders and those from many other European countries as racially inferior. Citizens under the German Reich had little chance of gaining a sense of responsibility for their personal destinies when all of their authority over the details of their lives was subsumed under the state, the Nazi movement, and its more global movements.

Additionally, Himmler, one of the men most strongly responsible for perpetuating the Nazi race philosophy, organized the SS and his sphere of influence along principles whereby soldiers were expected to follow the orders of their superiors without question and without input.

⁸⁰ Neumann, *Behemoth*, 103.

⁸¹ Neumann, *Behemoth*, 104.

And this strict expectation of obedience extended to all facets of their lives including their personal relationships. In fact, Himmler had much to do and say regarding the marriages and sex lives of SS men. By 1934 he had formalized a process of approving of SS marriages. Any SS man who wanted to marry had to produce the family trees of himself and his wife, extending back to 1800, that was to be submitted to the Race and Settlement Main Office in order to verify that both partners met the appropriate “racial” criteria. Similarly, Himmler reserved final say in the approval of any SS officer.⁸² Ultimately, the decision of whom to marry, a right traditionally associated with free choice, was reserved for Nazi authoritaries.

According to Habermas, only through a process of individuation, whereby an individual realizes his/her unique capacity as a contributing member of a more general dialogue can self-realization occur through which an individual identifies himself/herself with “autonomous action in general” with an “unmistakable life history.”⁸³ This leaves an individual less susceptible to all-encompassing claims that deny citizens’ singularity. It promotes people’s abilities to use their own reason to come to decisions rather than blindly following the dictates of the state. This ability contributes to a “master of situations” in which the actor understands himself/herself as “the initiator of his accountable actions, and the product of the traditions in which he stands, the solidarity groups to which he belongs, and of the socialization and learning processes to which he is exposed.”⁸⁴ In this way, it enhances an individual’s abilities to make distinctions regarding one’s own history. One can more rationally decide how to approach new ideas and new people when he/she has a better understanding of what it means to be a member of a dialogic and hermeneutic community. This allows one to integrate a more thorough understanding of one’s

⁸² Longerich, *Heinrich Himmler*, 353-55.

⁸³ Habermas, *Theory of Communicative Action* Vol. 2, 101.

⁸⁴ Habermas, *Theory of Communicative Action* Vol. 2, 135.

position as a contributing member of a community in the course of his/her speech actions that contribute to the development and enhancement of that community. In this way, the self-realization that comes from genuine individuation again contributes to individuals being better able to contribute to the overall rationalization and progression of their community.

Such a process of self-realization did not occur in the Third Reich because of mass dehumanization. Nazi leaders were particularly intent that the individual characteristics of the populace be downplayed and the movement be established as everybody's main priority. Instead of conglomerating to express their different points of view and make personal contributions to a larger dialogue, people were expected to understand that the "Führer stood as the absolute unifying point in and above the movement." It was Hitler who was the focal point of all political and social organization. This meant that individuation was considered nefarious and ineffective and that the values of devotion, service, and subordination were lauded as the best characteristics. Of course, instead of being vulnerable to criticism Hitler was always correct regardless of what he commanded.⁸⁵ When he was not obligated to engage in dialogue and allow the best argument to present itself, he had the ability to present his theories as if they were unquestionably and invariably a correct attitude. This detracted from the ability of members of society to draw on its collective rational potential and ensured the continuation of a self-perpetuating process, whereby the claims of a single individual could never be challenged and the resources of reason and dialogue remained stagnant.

Nazi leaders, by forcing upon their citizens complicity in a German authoritarian, imperialistic, and racial mission to conquer Europe, violated the dictates of Habermas's communicative action, thereby greatly reducing the rational potential of their society and causing

⁸⁵ Bracher, *The German Dictatorship*, 148.

a general regression in Germany's ability to use knowledge to fulfill its human interests. By denying people access to democratic institutions they weakened the normative foundations of Germany society. Similarly, by not acknowledging the importance of outside input and criticism they left themselves vulnerable to infighting that in its least pernicious form caused redundancy and at its worst helped lead to the Holocaust through aggressive initiatives by men like Himmler and his subordinate Reinhard Heydrich, who by "working towards the Führer" at the expense of collaboration with many of their fellow Nazi leaders took radical action to gain Hitler's approval. Once Hitler became the center of all social policy and his word became final, there was little chance for finding solid ground on which to base valid, well-understood and societally approved decisions. Instead, people were dehumanized and left hapless as their capacity to engage in self-criticism and the determination of their own destinies was greatly weakened. The Third Reich represents a breakdown in society's use of its rationality.

The Imperialism of Human Interest

Despite the pervasive corruption and inhuman cruelty perpetuated by those in power during the Third Reich, the empire was not necessarily poorly administered or its ideological foundations illogically extended. Rather, in many ways it was extremely well organized with an extensive bureaucracy and in-depth rationalization of certain policies including the administration of the courts and the exploitation of slave labor. Similarly, the racial and anti-Semitic ideology perpetuated by the Nazi regime was not without precedence. Although not nearly as discriminatory or official, many previous German officials and thinkers, including those most responsible for forming a German political tradition, like Frederick the Great, and those highly influential as German intellectuals, like Johann Gottlieb Fichte, both to varying degrees expressed anti-Semitic ideas. Taken to the extreme, these ideas were logically extended by Hitler and Goebbels in an ideology of hate and reaction against the forces they associated with the plight of the German economy and society that occurred after World War I.

Resultantly, following World War II, within the intellectual and particularly philosophical community, there has been a great deal of criticism directed against reason and logic and the pernicious oppressive consequences they can have on human freedom and liberty. Although they may have at one point been used to help create the modern sciences and generate modern societies, they were eventually brutally extended by the Nazis and other totalitarian

governments in extremely oppressive ways that had horrible consequences on human dignity and freedom. Those who advocated a critical reaction against the reason they saw manifested in the Nazis and other modern regimes include post-structuralists and post-modernists including Michel Foucault, Jaques Derrida, Maurice Blanchot and others who were heavily influenced by earlier theorists like Martin Heidegger and Friedrich Nietzsche. They were important as philosophical critics of the continual extension of reason and logical so ardently pursued by many of their modern predecessors such as Immanuel Kant, Georg Wilhelm Friedrich Hegel, and Karl Marx. Arguably, they exaggerated the nefarious impact of strict logical extension in favor of more visceral or deconstructive methods and in doing so they committed an injustice against the rebirth of reason and rational inquiry beginning with the European Enlightenment.

To contend with these criticisms and to reawaken people's faith in reason and knowledge, Habermas in 1971 published *Knowledge and Human Interests*. In this work, Habermas finds in Kant, Hegel, Marx and their successors a means by which knowledge can be appropriated to fulfill human interests rather than being used in strictly instrumental or destructive ways like the Nazis did. This also ties into his rejection of the post-modernists in that it provides a platform on which knowledge could be utilized to free human creative potential. One need not necessarily reject knowledge in an attempt to embrace visceral or more instinctual impulses. Rather, reason can help free humans as a species. It can mediate between technical and social knowledge to help better the human condition.

Habermas begins his criticism with Hegel as the man he believes best exemplifies the beginnings in a modern way of thinking that emphasizes the human capacity for evolution and the cultivation of reason to better the human condition. In this way, according to Professor Ronald Stromberg, "Hegel secularized this vision of progress through time toward a final

reunion with God.”⁸⁶ While Kant had regarded the noumenal world, things outside of consciousness, as fundamentally beyond human comprehension, Hegel looked for an “ideal unity of things” that would resolve the apparent discrepancy between material objects in the world and the human subject who interacts with them.⁸⁷

In this vein, Hegel was more concerned with politics than he was economics. He held that the most important institution was the nation state and that any particular state that dominated did so rightfully as it was an inevitable dialectical manifestation of proper societal development. For this reason, people should be reconciled to the prerogatives of the state. Hegel was a strong believer in positive freedom, or the need for the state to intervene on peoples’ behalves for their own betterment, and largely rejected negative freedom, or the right to be left alone.⁸⁸

Habermas identifies Hegel as an eliminator of transcendental doubt in a process of radicalizing the epistemological approach terminating in Kant to see that knowledge can be construed phenomenologically. Hegel’s approach, according to Habermas, “incorporates the fundamental experiences which transformations of such schemata of apprehending the world and of actions themselves have been deposited.”⁸⁹ This involves a process of self-reflection whereby the subject overcomes obstacles by understanding its own capacity to relate to objects as a subject and other subjects within an intersubjective community, thereby internalizing outside knowledge in a process of self-betterment. Similarly it dispels the notion that a single individual is capable of achieving transcendental knowledge single handedly; rather it is a process of self-

⁸⁶ Stromberg, Roland N. *European Intellectual History since 1789*. (New York: Appleton-Century-Crofts, 1968), 78.

⁸⁷ Stromberg, *European Intellectual History*, 78.

⁸⁸ Stromberg, *European Intellectual History*, 80-81.

⁸⁹ Habermas, Jürgen, and Jeremy J. . Shapiro. *Knowledge and Human Interests*, (London: Heinemann, 1972), 20.

critique that is dialectically influenced by other subjects and objects. Knowledge is misappropriated when it is not used in a critical manner.

However, Habermas, like Marx is critical of Hegel's idealism. Habermas holds that Hegel's subject must be able to attain "pure knowledge through the experience of reflection."⁹⁰ Hegel, an idealist, needs a subject who already begins with "sense certainty." This is particularly problematic when applied to science. "Phenomenology would have to evolve its thought process from the standpoint of speculative scientific knowledge (in order for new scientific discoveries to be made) But it could do so dialectically not scientifically."⁹¹ And since absolute knowledge is supposed to be certain, this neglects to account for the material contingencies of the world.

According to Habermas, Marx correctly responds to Hegel in that he was overly idealistic and neglected the material and pragmatic considerations that are the most important elements in the decision making process. Accordingly, for Marx, nature is prior to the world of mankind. Habermas, interpreting Marx, believes it is the "the root of laboring subjects as natural beings and also enters into their labor processes."⁹² Instead of the evolution of ideas being the fundamental predecessors to increasing leaps in knowledge, higher levels of consciousness come into fruition as a response to external circumstances, particularly material conditions. In this way, "We always encounter nature within the horizon of the world-historical self-formative process of mankind."⁹³ This means that human nature is a response to the material world and an appropriation of nature rather than an externalization of mind.

Marx, thereby, addresses the importance of paying attention to the actual material and pragmatic circumstances in which one lives and realizing that individuals cannot necessarily

⁹⁰ Habermas, *Knowledge and Human Interests*, 22-23.

⁹¹ Habermas, *Knowledge and Human Interests*, 22-23.

⁹² Habermas, *Knowledge and Human Interests*, 22.

⁹³ Habermas, *Knowledge and Human Interests*, 34.

transcend their physical environments through only the cultivation and implementation of ideas. Rather, they must learn to adapt to the contingencies of nature. This concept can be relevantly applied in criticism of Hitler's grand and overly idealistic development projects that were projected on such a large scale that they neglected actual material conditions and instead of adapting to nature attempted to control it. For instance, Hitler in his megalomaniacal effort to expand Berlin demanded that the streets be built 130 meters wide despite lack of feasibility and opposition from Berlin mayor Julius Lippert. In his reckless drive to out-build Paris, he demanded construction plans that would totally revamp Berlin and would require inordinate amounts of materials and human resources. Similarly, he rejected all criticism, ignoring city officials and arbitrarily employing those, like architect Albert Speer, who were willing to indulge his grandiose visions.⁹⁴ The project's sheer unattainability is indicated by the fact that it was hardly even begun.

Hitler's refusal to work practically within his given circumstances had morbid implications for peoples of those conquered by the Third Reich during Hitler's imperialistic conquest. Because Hitler dedicated so many material and human resources to the German war effort on both the Eastern and Western Fronts, Germany was severely lacking in food, industrial, and military production resources. As a means to combat these deficiencies, the Third Reich employed copious amounts of slave labor. Combined with Hitler's jingoistic and genocidal fervor, this led Germans at the Wannsee Conference in 1942, in which the "final solution" of the liquidation of Europe's Jews was agreed upon, to quickly exterminate Jews in gas chambers but also to work many to death to increase German armaments and agricultural output.⁹⁵ In this way, the Third Reich became a regime that was logistically dependent on foreign and slave labor.

⁹⁴ Speer, Albert. *Inside the Third Reich: Memoirs*, (New York: Macmillan, 1970), 73.

⁹⁵ Evans, Richard J. *The Third Reich at War*, (New York: Penguin, 2009), 265.

Everyone in power in the Third Reich became complicit in the using of slave labor including architect and Reich Armaments Minister, Albert Speer, who actively recruited 100,000 prisoners from the Ruhr region to work on armaments and the building of barracks for prisoners in Auschwitz III where thousands of other forced laborers were worked to death.⁹⁶

Similarly, Habermas believes that Marx reflects a correct appropriation some of the pragmatic and scientific considerations of Kant that Hegel wrongly overlooked. This involves the progression of scientific and technical knowledge that revolves around an “invariant relation of the species to its environment, which is established by the behavioral system of instrumental action.”⁹⁷ This type of knowledge is subject to trial and error in a process of revision whereby empirical evidence is gathered to either validate claims.

This type of legitimately conducted, methodologically verified procedure is the antithesis of Nazi racial and eugenic science that was hardly universally valid. Rather than engaging in standard traditional scientific procedure, Nazi eugenicist researchers violated nearly all rules of medical ethics when they “succumbed to the idea that racially inferior or subhuman people could legitimately be used as the objects of medical experimentation.”⁹⁸ Instead of conducting research, the talents of many medical professionals were insidiously put to use in the forced sterilization of criminals, Jews, and those generally considered abnormal. Similarly, murder was labeled preventive medicine.⁹⁹ The problem, of course, is that proper science involves feedback and critique that establishes the facticity of universally valid and testable claims, a process that is greatly hindered in a totalitarian state where one opinion or outlook subsumes others.

⁹⁶ Evans, *Third Reich at War*, 175.

⁹⁷ Habermas, *Knowledge and Human Interests*, 35.

⁹⁸ Evans, *Third Reich at War*, 319.

⁹⁹ Evans, *Third Reich at War*, 320.

Unfortunately this type of bad science had legitimating effects on eugenicists outside Germany, including those in the United States, where forced sterilization laws had resulted in approximately 15,000 sterilizations by 1939 and the encouraging of people like Harry Laughlin, who in 1931 called for the forced sterilization of 15 million Americans he believed to be from racially inferior stock. Heidelberg actually awarded him an honorary doctorate in 1936.¹⁰⁰ This encouraged a path of destruction where instead of engaging in actual empirical research and accepting medical ethics, these doctors worked within an extremely racist and unproductive paradigm not rooted in genuine human interests.

Although in its Bolshevik manifestation in Russia, communism had severe consequences for millions of peasants and led to large scale privation, Habermas maintains that Marxian theory appropriately recognizes the paramount importance of material and moral parity in human interactions. Rather than emphasizing the Hegelian notion that moral conflicts must be reconciled after a period of confrontation, Marx holds that conflicting moral positions can be reconciled with the overcoming of scarcity and through what Habermas calls “uncoercive interaction on the basis of communication free from domination.” Habermas associates this idea with “the transition of a history freed from the dialectic of the moral life, which could unfold in the medium of dialogue on the basis of production relieved of human labor.”¹⁰¹ In this way, dialogue becomes a medium no longer impeded by process of strategic positions that are necessarily contradictory but rather through genuine communication free from dominating forces in which participants genuinely appropriate the moral influence of other actors. In this process, citizens agree on the foundations and principles of the claim rather than pursuing self-centered goals until unsuccessful.

¹⁰⁰ Evans, *Third Reich at War*, 514.

¹⁰¹ Habermas, *Knowledge and Human Interests*, 58.

This concept is antithetical to the way in which Nazi leaders conducted business. The most powerful figures in the Third Reich such as Heinrich Himmler, Joseph Goebbels, and Herman Göring worked to gain Hitler's approval at the expense of other influential leaders. Instead of engaging in dialogues that with established and universally accepted validity claims, they avoided one another, meeting rarely, and in the meantime pursuing their own agendas at the expense of solidarity and collective efficiency.

Goebbels, in particular, was particularly corrupted. Initially, as a young academic, he believed in the potentially liberating effects of communism. Although he despised socialists in Germany, he initially lauded Bolshevism in Russia. This led him to join the more socialistic northern contingent of the Nazi movement under the leadership of brothers Gregor and Otto Strasser. However, Goebbels was highly vulnerable to Hitler's image as an absolute and infallible leader. Therefore, he radically rejected and violently worked against the Strasser brothers when he realized that by doing so he could curry favor with Hitler and further his own position in the movement. He opportunistically rejected his earlier ideological commitments to pursue influence strategically.¹⁰²

Similarly, lack of moral sentiment and good will meant that Hitler and his subordinates recklessly extended to the domestic front unilateral ideological positions that were pursued at the expense of genuine consensus regarding how to meet citizens' needs. For instance, agricultural production was put in the hands of an incredibly incompetent ideologue named Richard Darré, a long time Nazi, who was supposed to strive for autarky in food supplies because of Germany's isolationism and preparation for war. Unfortunately for the Nazis, this was an impossibility, and its lack of feasibility led to Darré blaming large agricultural producers for the failure and advocating a large peasant class with many small farms. This poorly formulated policy

¹⁰² Reuth, Ralf Georg. *Goebbels*, (New York: Harcourt Brace, 1993), 75.

exacerbated the already deplorable food crises in Germany as small farms could not compete viably with larger corporations, especially since iron and steel were prioritized for armaments production, making it often impossible for small farmers to come up with the resources needed to purchase equipment. Hitler failed to correctly understand the failure of Darré's program as a result of Nazi propaganda and instead used to make further calls for more living space to the East and continue the violent appropriation of foreign lands.¹⁰³

This all largely came about, according to historian David Schoenbaum, as a result of the culture of disaffection that the Nazis had exploited to come to power. The Nazis promoted failed programs like Darré's as a desperate means to "form a fair-weather constellation whose stability was virtually identical with the success of its political leadership in balancing the conflicting demands and requirements of industry and agriculture."¹⁰⁴ Because Nazis had generated much of their support from disaffected farmers and rural land owners they often went out implementing programs based on antiquated notions of how society should be organized that were consistent with their radical ideology rather than using the best administrators and attempting to find the most practical solutions.

Despite his useful contributions to Hegel's dialectical model, Habermas also finds certain problematic elements in Marx's theories. Habermas believes that Marx combines interaction and work under the same term "praxis" inappropriately. In this regard, Habermas believes Marx focuses too much on economic and logistical material concerns at the expense of appropriately acknowledging the importance of an interactive and communicative model of social production. He misses the importance of Hegel's recognition of a self-constituting subject. To improve his philosophy, Marx should "have taken up Hegel's critique of subjectivism of Kant's epistemology

¹⁰³ Evans, Richard J. *The Third Reich in Power*, (New York: Penguin, 2006), 346-47.

¹⁰⁴ Schoenbaum, David. *Hitler's Social Revolution; Class and Status in Nazi Germany, 1933-193*, (Garden City, NY: Doubleday, 1966), 2.

and surpassed it materialistically.”¹⁰⁵ This means that the “self-constitution of the species in the medium of social labor and class struggle, is possible only through the self-reflection of the knowing subject.”¹⁰⁶ Marx should not totalize the dialectical process and associate it with an ideal labor state but should instead recognize praxis as an interaction between man and nature through both instrumental practice and communicative action. A subject can only come to terms with itself via discourse with other subjects, whereby he or she internalizes social norms in a process of self-reflection and moral appropriation. Only once this has happened can subjects instantiate better material and social practices. Hegel understood the importance of this social process while neglecting the importance of instrumental action where subjects effect their physical environments. Marx, on the other hand, was too narrowly concerned with material and economic conditions without paying enough attention to socializing via communicative action.

Working with this criticism of Marx, Habermas clarifies the role of philosophy as a science of critique. That philosophy is the appropriate discipline to determine exactly what place science and pragmatism have in regards to social interaction and human interest. This will avoid an unrestrained pursuit of scientific knowledge against the interests of social emancipation and betterment of society. The importance of using science in a morally legitimate and agreed upon way will help avoid catastrophes like the pseudo-scientific racial scientific knowledge that was forced upon citizens during the Third Reich.

For the Nazis, “applying principles of racial hygiene to society meant sweeping away traditional morality and replacing it with a system of ethics that derived bad and good solely from the imagined collective interests of the German race.”¹⁰⁷ Those who believe in eugenics

¹⁰⁵ Habermas, *Knowledge and Human Interests*, 62.

¹⁰⁶ Habermas, *Knowledge and Human Interests*, 63.

¹⁰⁷ Evans, *Third Reich in Power*, 515.

claimed without scientific foundation that they were making breakthroughs in modern science. And because they were supported by the Reich their scientific methodologies went largely unchallenged.¹⁰⁸ Therefore, establishing the foundations of appropriate scientific inquiry can help people avoid sacrificing objectivity or hermeneutic solidarity in favor of propaganda value.

German emphasis on racial values above the interests of legitimate scientific inquiry also impeded the real hard sciences, especially physics and engineering. In particular, Nazi officials heedlessly subsumed the interests of science under the interests of the war and were responsible for a huge German brain drain because of their unwillingness to use Jewish scientists. Germans, although some of the most pioneering scientists before the war, lost much of the initiative in appropriating Einstein's relativity theory. Although Einstein was originally German, he left the country largely due to its persecution of Jews. Resultantly, the Nazis's labeled relativity theory false and Einstein a "Jewish Fraud" whose theories must be rejected in favor of 'Aryan Physics' under the leadership of German physicist Philipp Lenard who despite being a Nobel Prize winner was a virulent opponent of relativity theory.¹⁰⁹ This would have severe consequences on the German scientific community, largely setting it back as one of the world's foremost leaders in new science and even having military implications regarding the development of the atomic bomb.

Like in all other sectors in the Third Reich, leaders also played favoritism in the sciences, promoting scientists amenable to Nazi ideology even if they were not necessarily the best or most experienced candidates. One example was physicist Johannes Stark, who despite being marginally distinguished in his own right, was seriously mistaken in his opposition to quantum mechanics. By currying favor with Nazis, especially ideologue Alfred Rosenberg, Stark was

¹⁰⁸ Evans, *Third Reich in Power*, 707.

¹⁰⁹ Evans, *Third Reich in Power*, 306-307.

made president of the Imperial Institute of Physics and Technology where he appointed Aryan supporters to university positions and diverted money from those studying relativity theory and quantum mechanics. In this regard, he was particularly ruthless in demeaning the work of Werner Heisenberg, the pioneer of quantum mechanics, and one of the century's most influential scientists. Stark campaigned against Heisenberg being appointed the Chair of Theoretical Physics in Munich and through his persistent resistance greatly diminished Heisenberg's possibilities for being significantly incorporated into the best regarded scientific circles during the Third Reich.¹¹⁰

Habermas then certainly has problems with a tradition of scientific positivism he finds initial grounds for with Marx by which intellectuals “want to eliminate orientations of inquiry that are meaningless because they are undecidable...restricting to ‘facts’ the object domain of possible scientific analyses.”¹¹¹ This importantly disrupts the metaphysical standpoint by starting from the bottom, empirical conditions rather than a top-down ideal approach whereby ideas determine facticity. However, he does believe in it as beneficial in that it “adopts the basic rule of the empiricist schools that all knowledge has to prove itself through the sense certainty of systematic observation that secures intersubjectivity.”¹¹² This importantly prevents solipsism and non-recognition of the importance of social communities in which subjects must necessarily learn and adapt to others they regard as legitimate critics. This is antithetical to Nazi ideology in that Hitler strongly promoted a hierarchical system of command that largely disavowed the importance of communication as something to secure the legitimacy of various undertakings. This failure was prominently displayed in the Hitler's project to build super rockets capable of

¹¹⁰ Evans, *Third Reich in Power*, 307-09.

¹¹¹ Habermas, *Knowledge and Human Interests*, 74.

¹¹² Habermas, *Knowledge and Human Interests*, 74.

destroying London. The Rockets, labeled V1s and V2s, were designed by rocket scientist Wernher von Braun and were said to possibly be capable of great destruction. However, they were still in the primary stages of the design process and had not actually been tested. Nevertheless, Hitler made the unilateral decision to throw great resources into their production, wishing to construct several thousand. In reality only tens were produced and their effects were minimal in a great waste of time and resources. Furthermore, the project necessitated great deals of labor, something the Nazis had little to spare. Therefore, it engaged thousands of forced laborers who faced deplorable conditions and made men like Albert Speer, the Armaments Minister, increasingly culpable of using slaves to further the Nazi war effort.¹¹³

Similarly, the positive method involves a systematic procedure capable of ordering the infinite number of facts people encounter in the world. Extending and regulating these laws to provide strict orders is an important human capacity.¹¹⁴ Unfortunately, the Nazis largely neglected to make logical and systematically accurate extensions of their various programs. For instance, as discussed in Chapter 1, laws were inappropriately extended. Hitler's unilateral decision to exterminate Jews meant that the normal parameters of the law did not apply to them. Instead, they could be arbitrarily persecuted using vague rationales whereby basically any commercial or romantic interaction they undertook was grounds for sending them to concentration camps. Instead of their being a very stable, definitive and accurate legal system, it instead was organized chaotically and law implemented arbitrarily as a means to curry favor with Hitler at the expense of maintaining well-ordered legal procedure.

Habermas believes there is something valuable to be learned regarding the positive method from Wilhelm Dilthey, a German predecessor of Hegel. Dilthey, for Habermas,

¹¹³ Speer, *Inside the Third Reich*, 367.

¹¹⁴ Habermas, *Knowledge and Human Interests*, 76.

represents an important extension of German philosophical knowledge in that he acknowledges the importance of interest in human action. According to Habermas, interpreting Dilthey, “In the context of life relations an object is grasped theoretically only insofar as it manifests itself within value orientations and, at the same time, is subject to the rules of possible purposive activity.”¹¹⁵ This speaks to a process by which the past is made present reflectively in order to for to prepare oneself for the future, a process whereby knowledge is utilized in a progressive way.

This is radically different from the way in which the Nazis used their experience during World War I. Not only did the Nazis throw themselves into a global conflict, an action that previously had disastrous consequences, they also made many of the same mistakes militarily. Hitler stupidly involved Germany on two fronts believing, like generals had during WWI, that Germany had enough resources to divert from the Western to the Eastern Front after lightning speed attacks. Similarly, he was resolute to take the Soviet city of Leningrad rather than the capital in Moscow in his stubborn desire to downface communism by taking the symbolic world capital of Bolshevism. In diverting vast military and human resources in his drive to take Leningrad, Hitler disobeyed many of his top generals including prominent Eastern General Erich Marcks and Field Marshal Gerd von Rundstedt in a demonstration of his unmitigated solipsistic control of the armed forces, a move that would prove disastrous when Germany eventually lost the battle of Stalingrad and had German soldiers suffer some of the worst privation of the war.¹¹⁶

Habermas believes that Dilthey correctly understands the progression of identity and human growth associated with learning. In this regard, Habermas labels Dilthey a hermeneutic scholar or one who investigates the importance of personal and collective histories for the shaping of current identities. Using this as a framework, Habermas claims “The meaning that

¹¹⁵ Habermas, *Knowledge and Human Interests*, 151.

¹¹⁶ Evans, *Third Reich at War*, 408.

hermeneutic understanding takes as its objective, what Dilthey emphatically calls significance, results exclusively from the role of elements in a structure whose identity includes the continual decay of identity just as much as the present overcoming of this corruption. Habermas holds that Dilthey rightly understands that the overcoming of this corruption involves intersubjectivity of undistorted communication.¹¹⁷ This means that hermeneutic traditions are best instantiated when introduced intersubjectively, among equal uncoerced actors who normatively attach themselves to the conversation. Otherwise, without their input, hermeneutic understanding decays into arbitrary demonstrations of power, uncorrected and stagnant.

Clearly, the Nazis violated this principle as they unilaterally excluded and ostracized Jews from society. This process began early when they eliminated Jews from participation from the Civil Service in April 1933.¹¹⁸ By doing so, they took away their ability to incorporate the group into society and learn from their perspective. Instead of choosing to learn from Jews in a democratic process whereby people regulate and reflexively correct their own mistakes, the Nazis imperiously imposed their own ideology and failed to include the opinions and perspectives of those who could have contribute to a more modern and significant multicultural identity. Eventually, the fact that actions like this prohibition went relatively unopposed on a large scale would lead to increasingly pernicious actions by the Third Reich including the banning of Jews from all public facilities in 1938.¹¹⁹ This law was indicative of the quiescence of German cultural progress and understanding that occurred during the Third Reich.

The main flaw of hierarchy and lack of openness is according to Habermas that “the intersubjectivity of mutual understanding is either rigidified or falls apart, a condition of survival

¹¹⁷ Habermas, *Knowledge and Human Interests*, 154-56.

¹¹⁸ Evans, *Third Reich in Power*, 545.

¹¹⁹ Evans, *Third Reich in Power*, 594.

is disturbed...the possibility of unconstrained agreement and non-violent recognition.”¹²⁰ This distracts from participants abilities to strive collectively towards goals in a process in which the totality of their efforts exceeds that of any particular individual. This lack in communication can be seen in the pervasiveness of conflicting viewpoints, redundancy, and missed opportunities that occurred during the Third Reich. Top ministers such as Albert Speer and Heinrich Himmler were constantly struggling for Hitler’s approval to extend their own sphere of influence at the expense of compromise. They did so almost entirely out of personal interest. Himmler, in particular was extremely cruel, heavily encouraging the incorporation of slave labor into armaments production as a means to attempt to usurp some of Speer’s power. Speer in his own drive to produce copious amounts of weapons was receptive and complicit in the terrible treatment foreign laborers experienced.¹²¹

Speer, reflective of major Nazi officials in general, also had conflicts with other leading Third Reich figures including Herman Göring, Fritz Saukel, and Martin Bormann. There was a great deal of redundancy and infighting between the Armaments Ministry controlled by Speer and the second Four-Year-Plan, responsible for supplying the German war effort, under the control of Göring. And although they were initially more conciliatory than most other major officials, this conflict of interest led to much unrest between the two leaders that eventually resulted in Speer’s largely unilateral control of war production and Göring’s fall from power.¹²² Speer similarly had to contend with the interests of Fritz Saukel who was in charge of Nazi coerced labor. To spur the war effort, Speer required slave labor although he did express some reservations regarding their cruel treatment. Saukel, conversely, was more amenable to commit

¹²⁰ Habermas, *Knowledge and Human Interests*, 176.

¹²¹ Speer, *Inside the Third Reich*, 369-70.

¹²² Van, Der Vat, Dan., and Albert Speer. *The Good Nazi: The Life and Lies of Albert Speer*, (Boston: Houghton Mifflin, 1997), 116-25.

human rights abuses in his opportunistic strive for power. Finally, there was no major political figure in the Third Reich who did not have to contend with the ever expanding influence of Martin Bormann. Bormann was known as an extremely sycophantic Hitler aid who basically controlled all direct access to the Führer. He used his power ruthlessly to demean his opponents and increase his influence. Speer, of course, did not escape his reaches as he several times had to curb his ambitions as Bormann usurped his power and provided direction to the Führer.¹²³ All of this is to say that rather than working collaboratively to better Germany, almost every major German official worked strategically to increase his own sphere of influence at the expense of others.

Unfortunately, violence is one of few options once intersubjective bridges break down and coercion and distortion remain constant. Resultantly, after Hitler's totalitarian power had been well established officials realized that violence would be necessary to undermine his control. Major officials knew after 1942 that a German defeat was basically the inevitable outcome of the war. They also realized that it was too late for a negotiated settlement with Britain and other Allied powers. Nevertheless, many remained resolute that the only way to save Germany from total collapse was to kill Hitler. Only an assassination, rather than discourse and democracy, could save millions of German lives. General Herrmann von Tresckow, one of the leaders of the 1944 assassination attempt on Hitler, put it best when he said, "the assassination must be attempted at any cost... We must prove to the world and to future generations that the men of the German resistance movement dared to take the decisive step and to hazard their lives upon it" (Third Reich at War, 638). This is to say that with the breakdown of all intersubjective bridges that occurred under Hitler, most Nazis felt relatively helpless to salvage the government

¹²³ Van, Der Vat, *The Good Nazi*, 128.

but only to save the German people from total destruction through preemptive violent action, a task that Count von Stauffenberg and others staked their lives on in Operation Valkyrie, the most well-known attempt on Hitler's life.¹²⁴

The Austrian intellectual and psychologist Sigmund Freud, for Habermas, is the pioneer of self-reflection. Although Freud's theories are problematic in that they are too systematized, they do introduce an important element of adaptation and adjustment based on self-analysis. According to Habermas, Freud recognizes that "the technical and practical cognitive interests can be comprehended unambiguously as knowledge-constitutive interests only in connection with the emancipatory cognitive interest of rational reflection."¹²⁵ This is a means by which to use knowledge to adapt to life's contingencies in a process of self and communal betterment. Especially important is that one use knowledge to overcome stagnant and burdening concepts as a means to undue "dogmatic dependence" on certain principles.¹²⁶

Of course, lack of self-reflection under Hitler contributed to dogmatic dependence of leaders on Jew-hating principles. Goebbels was prominently derisive in this regard, advocating the contradictory principles that Jews represented predatory capitalism as well as Slavic communism, indicating an inability of Goebbels to substitute reason for the expediency of hateful and reactionary speech.¹²⁷ Rather than reflecting on what he said, Goebbels actually integrated these ideas into his character, illogically extending and propagating them instead of reflecting on whether they made sense. Similarly, Himmler became wholeheartedly committed to exterminating Jews, particularly after the Wannsee conference of 1942 and the beginning of Operation Reinhard. Despite the fact that he must have reached the realization that Germany's

¹²⁴ Evans, *Third Reich at War*, 637.

¹²⁵ Habermas, *Knowledge and Human Interests*, 198.

¹²⁶ Habermas, *Knowledge and Human Interests*, 208.

¹²⁷ Reuth, *Goebbels*, 53.

prospects of winning the war and extending the Empire were increasingly tenuous, he prioritized the extermination of Jews above all other interests, taking the initiative to implement Hitler's grand unarticulated plan, despite it being of little overall help to the Reich's war effort.¹²⁸

Hitler, in this regard, is the true Freudian embodiment of the neurotic. The system of communication and accountability he extended during his reign is indicative of an internalized collapse in intersubjectivity. It is reflective of a "privatized portion of excommunicated language by which the undesired motives of action are made inaccessible to him."¹²⁹ In this case by ceding totalitarian control of Germany to Hitler, Germans made themselves susceptible to his personal problems without an accessible field of discourse through which the implications of his policies could be viably discussed and acted upon. This in turn exacerbated Hitler's already grandiose egoism in a process of mutual destruction for both Hitler and the German people.

For this reason, if one wants to maintain a strong hermeneutic tradition, as the Germans did in attempting to preserve a consistent unique German identity, they must do so under the context of the "preservation and expansion of intersubjectivity of possible action-orienting understanding."¹³⁰ People have a legitimate, world-disclosing interest in not bracketing or particularizing speech acts but rather making them relatable and delineating them in an intersubjective process to which access is not restricted. Only in this way can subjects avoid hypostatizing powers to such an extent that they can remain critical. Certainly dinners in which Hitler would deliver dull and repetitious speeches to his sycophantic underlings violate this principle. Furthermore, they make totalitarian rulers, like Hitler, more amenable to appointing obsequious ministers as opposed to the most competent officials. When one in power reaches the

¹²⁸ Evans, *Third Reich at War*, 270-71.

¹²⁹ Habermas, *Knowledge and Human Interests*, 228.

¹³⁰ Habermas, *Knowledge and Human Interests*, 310.

point where he can no longer be self-critical, he ends up doing things like appointing officials like Joachim von Ribbentrop, a bumbling and socially caustic egomaniac to be foreign minister over the traditional well-mannered and trained Konstantin von Neurath, thereby exacerbating international relations and precipitating war.¹³¹

All of this stands to say that in *Knowledge and Human Interests*, Habermas expresses the idea that the ability of man to make progress by associating his ability to procure knowledge with his inextricable interest in unconstrained communication, an idea that stands in contradistinction to the functioning of the Third Reich under Hitler. Man can only be autonomous and responsible when he attempts to engage in dialogue that is not superseded by other unilateral or arbitrary interests but instead involves general moral appropriation of outside influences.¹³² Ultimately, “bureaucratically prescribed partisanship” or the type of hierarchical uncritical stance taken by Nazi supporters, “goes all too well with contemplatively misunderstood value freedom.”¹³³ Knowledge that is increasingly instrumentalized to further particular ideology or opinion stands contrary to a legitimate means by which to achieve progress and growth that furthers human interest.

¹³¹ Evans, *Third Reich in Power*, 630-31.

¹³² Habermas, *Knowledge and Human Interests*, 315.

¹³³ Habermas, *Knowledge and Human Interests*, 316.

Fascism and Facticity

In *Between Facts and Norms* Jürgen Habermas establishes his definitive positions regarding the constitution of a democratic state in reference to the formation of legislative and juridical bodies. He outlines how his general theory of communicative action can be more broadly applied to constitutional states as a means to guarantee normative validity in governmental and bureaucratic practices. His goal is to clarify the lines between facticity and validity, or about how to mediate between processes that address factual evidence and those that incorporate intersubjective input. By extrapolating his theoretical postulates and applying them to real-life situations, one can see how clearly the Third Reich leaders violated the dictates of communicative action and therefore prevented their actions from being normatively founded. Moreover, it becomes clearer not only how Germans suffered as a result of the Nazi leaders' action, but how, because of lack of input and effective communication, the empire was doomed to fail politically, economically, and militarily.

The actions taken by Third Reich ministers were normatively unfounded because they lacked the a proper procedural basis that “secures, in the temporal, social, and substantive dimensions, the institutional framework that clears the way for processes of communication governed by the logic of application discourses.”¹³⁴ Processes of communication could never be secured in a regime that expedited its punishments and largely ignored properly established legal procedures. Hitler, in this regard, established the People's Court in April 1934 and had it composed of a five-judge panel, only two of whom qualified as judges based on older standards. In this way, the court was transformed from an institution that guarantees a historically and intersubjectively process of justice for one that, according to Court Attorney Friedrich Peyer in 1937, was a “task force for combating and defeating all attacks on the

¹³⁴ Habermas, Jürgen. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, (Cambridge, MA: MIT, 1996), 235.

external and internal authority of the Reich.”¹³⁵ Its purpose was later even more clearly defined by senior prosecutor Heinrich Parrisius as a mission to “annihilate the enemies of National Socialism,” removing all pretense that court was anything other than an extension of the Nazi party.¹³⁶ In this way, party politics permeated all levels of society, including traditionally protected procedural means of achieving justice.

Problems associated with infighting and improper procedure, according to Habermas, need to be addressed by discourse theory under which “the source of legitimacy includes, on the one hand, the communicative presuppositions that allow the better arguments to come into play in various forms of deliberation, and, on the other, procedures that secure fair bargaining conditions.”¹³⁷ This extends to all forms of life. Social actors engage most effectively when they are amenable to being persuaded and changing their mind, whether through discourse or some other medium. It is an essential step in the learning process.

Regrettably, the Nazis failed to take this into account as nepotism was favored over logic and sycophants were given preference over those most capable of engaging in dialogue. This was the standard clearly at play when in 1938 Hitler replaced the well educated and trained Konstantin von Neurath as foreign minister with Joachim von Ribbentrop, a much more sycophantic supporter, whose incompetence would help push Germany towards war.¹³⁸

Similarly, Hitler persecuted artists. At the Nuremberg Party Rally on September 1, 1933 he expressed that it was time for a new German art claiming that the regime “leads ineluctably to a new orientation in almost every area of peoples’ life,” thereby claiming that art needed to reflect the racial soul of the people.”¹³⁹ This meant rejecting any Jewish and so-called “decadent art,” particularly the work of modern artists who might not be associated with the strict neo-classicism associated with the regime.¹⁴⁰ Thousands of more contemporary works were sold or destroyed, depriving the populace of an opportunity

¹³⁵ Müller, Ingo. *Hitler's Justice: The Courts of the Third Reich*, (Cambridge, MA: Harvard UP, 1991), 142.

¹³⁶ Müller, Ingo, *Hitler's Justice*, 142.

¹³⁷ Habermas, *Between Facts and Norms*, 278-79.

¹³⁸ Evans, Richard J. *The Third Reich in Power*, (New York: Penguin, 2006), 644.

¹³⁹ Evans, *Third Reich in Power*, 168.

¹⁴⁰ Evans, *Third Reich in Power*, 168.

to experience more abstract material that could possibly change their perceptions or influence them aesthetically. Hitler was intent on depriving people of the opportunity to be influenced by outside work or be moved beyond their current mindsets in a way that might not be consistent with the strict obedience he demanded.

It is not only that there is a social imperative for collective action as a means to function more effectively, but also that such a social cohesion in turn promotes empathy and understanding. According to Habermas, “actual participating in political action, deliberation, and conflict may make us aware of our more remote and indirect connections with others, the long-range and large-scale significance of what we want and are doing.”¹⁴¹ Habermas believes this gives individuals a chance to internalize what they gain from relating to others and “get a clear sense of commonalities, a sense of who he is and would like to be.”¹⁴² True self-reflection can only come about once somebody has immersed themselves among others from whom they gain the insights necessary for self-correction and betterment.

Such a principle was untenable in a Nazi empire in which many lost sight of their own role as participator in a democratic process and were instead bound by absolute duty to a single racial ideology, a concept the Nazis believed in so strongly that they attempted to inculcate it in children in a process of de-Christianization. For the Nazis, Hitler’s beliefs were so overpowering that they superseded faith and religious tradition that people had maintained for generations. The Nazis were so committed to elevating Hitler to a position above the Christian God that they taught songs in schools that explicitly called for a rejection of Christianity and an embracement of Hitler. One such song that was sung by the Hitler Youth in 1934 in Nuremberg contained the lines “We don’t need any Christian truth/ For Adolf Hitler, our Leader/ Always is our interceder”.¹⁴³ Such a blatant disavowal of Christianity was coupled with a concomitant, although not always successful, attempt by the Nazis to undermine Christian youth organizations for with Nazi counterparts. Their single-mindedness prevented them from recognizing the

¹⁴¹ Habermas, *Between Facts and Norms*, 280.

¹⁴² Habermas, *Between Facts and Norms*, 280.

¹⁴³ Evans, *Third Reich in Power*, 250.

significance of a religion that had a strong historical tradition in Germany and from which many Germans gained an identity, not to mention any messages of empathy and understanding that Christianity promotes.

Furthermore, according to scholar, Doris Bergen, German Christians, in order to maintain their faith and opportunistically participate in the regime, were also complicit in promoting the racial message of the Third Reich. According to Bergen, “The German Christians intended to build a church that would exclude all of those deemed impure and embrace all “tre Germans in a spiritual homeland for the Reich.”¹⁴⁴ This movement was called the “people’s church” (*Volkskirche*) and was “not an assembly of the baptized but an associating of ‘blood’ and ‘race.’”¹⁴⁵ Often times to avoid being persecuted, religious Christians in the Third Reich were still culpable for promoting the exclusionary messages of the Nazi Party.

The way to develop these insights involves communicative freedoms that “call for the legal institutionalization of various forms of communication and the implementation of democratic procedures.”¹⁴⁶ This requires a facilitation of those institutions that facilitate education and an increased capacity to engage in well-informed and lively dialogue. Universities figure prominently in this concept. Given the Hitlerian military prerogative and wholesale rejection of non-“Aryan” ideas, universities faltered during the Third Reich. The education of Jews was quickly outlawed and access to others was severely limited once Hitler came to power. In April of 1933 the regime implemented the Law against the Overcrowding of German Higher Education Institutes that declared that only fifteen thousand of the forty-thousand grammar students who were expected to pass the school graduation exam in 1934 would find places in German universities.¹⁴⁷ As opposed to previous eras when most of the students could find positions, acceptance after Hitler was very difficult. At the same time, they stimulated opportunism among professors by favoring those who offered theories in favor of territorializing Eastern Europe.¹⁴⁸

¹⁴⁴ Bergen, Doris L. *Twisted Cross: The German Christian Movement*, (University of North Carolina, 1996), 4.

¹⁴⁵ Bergen, Doris L. *Twisted Cross*, 4.

¹⁴⁶ Habermas, *Between Facts and Norms*, 127.

¹⁴⁷ Evans, *Third Reich in Power*, 298.

¹⁴⁸ Evans, Richard J. *The Third Reich at War*, (New York: Penguin, 2009), 598.

This way they could ensure that communication was not only limited but the little that existed favored the Reich. Many Nazis saw as a threat the very education that could have opened up new lines of communication in Germany that would have saved them the horrible tragedy they experienced in WWII.

Because of the severe limitations placed on speech by the Nazis, teachers of elementary students had to be very careful that they did not openly express any sentiment that could be taken to be an affront to the Reich. A 38-year-old teacher in the Ruhr region early on during the Third Reich inadvertently told a joke she later realized could be interpreted as anti-regime and was devastated when a begrudged student told his parents. They denounced the teacher to the Gestapo who eventually had the teacher imprisoned and fined.¹⁴⁹ Usually allowed to speak more freely, teachers saw their normal prerogative heavily restricted under the Third Reich and their ability to educate curtailed.

Curtailments of rights like these could be implemented when the traditional byways for ensuring the protection of democratic opinion had been violated. The public protects its right to speech and engages in communicative power, according to Habermas, “only after it passes through the filters of the institutionalized procedures of democratic opinion and will formation and enters through parliamentary debates into legitimate law making.”¹⁵⁰ Free speech is then necessarily instantiated through institutions that guarantee that the various views of its constituents will be acknowledged and considered. Without these institutions, such communicative power is lost.

Most citizens of the Third Reich had no formal means by which to influence politics after the transformation into a rubber-stamp body of the Reichstag, the German legislative body, and the removal of political parties. Shortly after appointing Hitler Chancellor of Germany in January 1933, German President Paul von Hindenburg gave Hitler the power he had refused former Chancellor Kurt von Schleicher only four days previously, the ability to dissolve the Reichstag.¹⁵¹ Hitler was allowed to call for new elections during which Communists were systematically excluded. Such conniving allowed Hitler

¹⁴⁹ Evans, *Third Reich in Power*, 268.

¹⁵⁰ Habermas, *Between Facts and Norms*, 371.

¹⁵¹ Kershaw, Ian. *Hitler*, (New York: W.W. Norton, 1999), 439.

to assemble a legislature more amenable to his views and with an approval of 444 votes to 94, to pass the Enabling Act on March 23, 1933 that gave the Cabinet under Hitler's leadership the power to enact laws without the approval of the Reichstag.¹⁵² Thereby, traditional procedural outlets meant to ensure democratic and republican consent were bypassed and the communicative power of the state became severely limited.

Furthermore, the Nazi leaders also failed to receive moral justification for their practices based on contemporary post-metaphysical notions of legitimacy. That is, according to Habermas, "the coercive law tailed for the self interested use of individual rights can preserve its socially integrating force only insofar as the addressees of legal norms may at the same time understand themselves, taken as a whole, as the rational authors of those norms."¹⁵³ Habermas believes that only in this way can a unique "solidarity" between citizens be established that effectively integrates all actors into the decision making process.

The Nazis violated this dictate by engaging in semi-religious and manipulative speech to induce a sense of duty and obligation to the country and the "Aryan" race. They wanted citizens who abided diligently by a Nazi code imposed by the government without communal dialogue and without redress for offenders. They were so stringent as to violate almost every otherwise normally protected institution including marriage. In 1935, as part of the Nuremberg laws, the Nazis passed the Defense Law that banned mixed marriages between German soldiers and non-"Aryan" women that they justified as necessary to prevent threats of "race traitors."¹⁵⁴ Relatively early on in the establishment of the empire, they felt it imperative to establish strict boundaries on who people could choose to marry. They denied the rationality of their citizens and instead imposed their own concepts coercively through legal mechanisms generally associated with furthering human dignity and independence. In this way, they enforced their own mentality and refused to acknowledge the need for a more normative morality in a process of gradually radicalized racism.

¹⁵² Kershaw, *Hitler*, 468.

¹⁵³ Habermas, *Between Facts and Norms*, 33

¹⁵⁴ Evans, *Third Reich in Power*, 542.

This practice was more brutally applied to the Poles whose “slightest signs of insubordination...were regarded by the courts as threats to German rule, and every expression of Polish national pride was treated as a crime.” Laws were passed, such as Section 1, paragraph 3 of the Decree on Criminal Justice (December 4, 1941) that allowed the regime-controlled courts to punish any acts they considered “inflammatory” or “malicious” towards the empire without specifying what those were. Basically, this meant any slightly derogatory remark could be met with a concentration camp or worse. The law was often applied retroactively to Jews.¹⁵⁵ Altogether, they amounted to a wholesale rejection of people as authors of their own norms.

Furthermore, once subjects choose to engage politically, they need to be ensured protection. In Habermas’s opinion, it is important that the judiciary “be separated from the legislature and prevent from programming itself.”¹⁵⁶ This means that the judiciary should not have the power to help formulate the law it is responsible for implementing. Rather, it must be compelled to follow existing law. Only under the auspices of a firmly established and stable legal structure can the judiciary hand down properly substantiated decisions.

This was not the case during the Third Reich when existing law was constantly changed to meet the needs of the Reich. Legal protections became ephemeral and weak when they were not consistent with Hitler’s mission to conquer Europe and annihilate Jews. Starting at the beginning of Hitler’s tenure, judges were made to know that they were expected to disregard the Enlightenment principles of a dispassionate judge based in formalistic thinking and instead maintain a “healthy prejudice” and “make value judgments which correspond to the National Socialist legal order and the will of the political leadership.” The concept of the *Volk*, or the German people, was heavily emphasized. Judges no longer had to follow traditional legal dictates but were instead given the more restrictive responsibility of an

¹⁵⁵ Müller, *Hitler’s Justice*, 163.

¹⁵⁶ Habermas, *Between Facts and Norms*, 172.

“obligation to the main principles of the Führer’s government.”¹⁵⁷ Traditional legal guidelines, like everything else, were sacrificed in favor of policy that followed Hitler absolutely.

In practice this principle led to the implementation of the Nuremberg Laws as a means to legally discriminate against Jewish people. Of the three 1935 Nuremberg Laws the one applied most broadly by the courts was the Law for the Protection of German Blood and German Honor. Originally mostly directed towards preventing marriages between Jewish men and “Aryan” women, this law became increasingly expansive over time, eventually extending towards any sexual relationship between a Jew and an “Aryan.” Eventually, the law reached the point at which it was applied retroactively, as in the case of a German who was in a relationship with a Jewish woman, with whom he had not had sex for many years but was punished based on conjectures about unhealthy sexual impulses. The courts took it to its most extreme in 1939 when judges held that it could even be applied to kissing as a “dishonor to the race.”¹⁵⁸ Eventually, even the legal distinctions made in the law became entirely moot as it became expedient for the Empire to punish any romantic or intimate connection shared between a Jew and an “Aryan.” The courts so zealously pursued this goal that they totally disregarded established law and its fundamental role as a maintainer of human dignity.

Legal institutions, like legislative ones, must also be based on “normative grounds for publicity requirements that keep institutionalized opinion and will formation open to the information circulation of general political communication.”¹⁵⁹ In addition to detracting from the overall communicative power of the state, oppressive policies have the added detriment of preventing justice. Only when the public is fairly allowed to decide who is making decisions and whether they are just can they maintain the fairness necessary to realize their normative potential.

Fair protections can certainly not occur under a regime that does not allow for fair elections. Hitler conducted many extremely unfair elections. Some that stand out as particularly illegitimate were

¹⁵⁷ Müller, *Hitler’s Justice*, 73.

¹⁵⁸ Müller, *Hitler’s Justice*, 72.

¹⁵⁹ Habermas, *Between Facts and Norms*, 183.

those held on 29 March 1936 just after Hitler chose to make the first grand aggressive and internationally unsanctioned action that would eventually lead to a world war, the remilitarization of the Rhineland. According to the Treaty of Versailles that ended WWI and placed restrictions and sanctions on Germany, and the subsequent Locarno treaties signed in 1925, the Rhineland was not allowed to be remilitarized as a means to keep the peace. Any such remilitarization was to be seen as a hostile act. Nevertheless, Hitler boldly chose to violate this provision and sent the German Army back to the Rhineland on 7 March 1936. He believed new Reichstag elections would confirm the legitimacy of his actions. Because the Enabling Act had already disabled the legislative body, the election was entirely superficial. This did not stop the Nazis from rigging the vote, however, as they used scare and incentive tactics and excluded other parties on the ballots to ensure the Nazis received an overwhelming percent—98.9—of the vote.¹⁶⁰ Later, in April 1938 in a controlled plebiscite the Nazis received a whopping 99.7 percent approval rating of the Anschluss of Austria.¹⁶¹ Such actions demonstrated the spuriousness of the entire election process and spoke to the public's inability to engage use its communicative power to enhance government.

Democracy involves a level of complexity for which the Third Reich could not account. Habermas defines the democratic principle as “the level at which interpenetrating forms of argumentation are externally institutionalized.”¹⁶² This of course necessitates dialogue and a respect for the ideas of others. Hitler had no respect for such complexity. He reduced his subjects to a mass of idiots, labeling them “primitive in attitude and understanding” and believing that like him their only true motivation was hatred.¹⁶³ By not respecting his subjects he released himself from any obligation to listen to them and allow more democratically based institutions to come to fruition. He oversimplified society by basing it on a single ideology instead of permitting the organic growth of new ideas and manners of implementation.

¹⁶⁰ Evans, *Third Reich in Power*, 635-637.

¹⁶¹ Anschluss." *Encyclopedia Britannica. Encyclopedia Britannica Online Academic Edition*. Encyclopedia Britannica Inc., 2012. Web. 21 Apr. 2012. <<http://www.britannica.com/EBchecked/topic/26730/Anschluss>>.

¹⁶² Habermas, *Between Facts and Norms*, 110.

¹⁶³ Kershaw, *Hitler*, 287.

Similarly, Nazi ministers under Hitler's control were duplicitous and manipulative in the way they carried on negotiations with other powers. Instead of implementing a nuanced and diplomatic strategy whereby they relied on the experience of trained envoys and experts to maintain the peace and promote mutual well being with other countries, they instead lied and cheated and undermined international confidence in Germany's ability to keep its word and attempt to maintain the peace. Despite the fact that he had come to and maintained power largely by attacking Communists, Hitler had no trouble concluding a treaty and non-aggression pact with the Russian Bolsheviks through the Ribbentrop-Molotov Pact in August 1939 when it was expedient for him. He wanted to ensure that he could invade and occupy Poland without Soviet interference.¹⁶⁴ He agreed to divide the country with Stalin and in so doing could fulfill his murderous and imperialistic impulses to further territorialize Eastern Europe.

Nevertheless, Hitler had no moral or political qualms about violating the treaty when he wanted to continue his great conquest of Europe and was not making headway in his plans on a major invasion against the British. In addition to wanting to preempt an alliance between the Soviet Union and the Allied Powers, a potentiality that at the time was actually not immediately dangerous, Hitler's main incentive was to continue his quest for megalomaniacal control of Europe. He was unconcerned with protecting a peace he had promised to keep when the conditions were such that he could no longer perpetuate his single-minded and solipsistically formulated plan to conquer Europe. Therefore, he planned for and implemented Operation Barbarossa, an attack on the Soviet Union that began on June 22, 1941.¹⁶⁵ With it, Europe would be plunged into its most violent and deadly conflict. Hitler initiated the world's most destructive conflict because he was following a simple and personal initiative that entirely disregarded the necessary complexity and nuance of any well-run democratic system.

To understand why communicative action is so important for the establishment of a strong moral base, one needs to take into account its transcendent and idealizing foundations. Fundamentally, the theory is intersubjective. This means that it is not a source of prescriptions issued by one person or a

¹⁶⁴ Kershaw, Ian. *Hitler 1936-1945: Nemesis*. New York: W.W. Norton, 1999. 205.

¹⁶⁵ Kershaw, *Hitler 1936-1945*, 393.

small plutocracy or party regime. Rather, according to Habermas, “it has normative content only insofar as the communicatively acting individuals must commit themselves to pragmatic presuppositions of a counterfactual sort.”¹⁶⁶ They must be able to rise above the particularities of their own manners of thinking and acknowledge transcending validity claims or the idea that what is better for a group of people will in turn be what is best for each member within that group. This becomes more understandable based on Charles Sanders Peirce’s theory of “the world as the sum of possible facts is constituted only for an interpretation community whose members engage, before the background of an intersubjectively shared lifeworld, in processes of reaching understanding with one another about things in the world.”¹⁶⁷ Before one can really fathom communicative action, one needs to take a step back and realize that actions and interpretations are constituted by what one has learned as members of a community that is responsible for background concepts. Thereafter, it is necessary that people make idealizations as a community that rise above anything they could have construed individually. Like components of a more complex machine, people function most effectively when their actions are coordinated according to the dictates of what is best for society, an idea that can only be arrived at collectively from the ground up through dialogue, not imperiously imposed upon people from above.

This makes it important for a government to attempt to instigate open dialogue with its constituents. When it gives messages, they should be factual and pertinent. Only in this way can leaders draw upon societies’ collective idealizing power to come to realizations that would not have been otherwise possible. The Third Reich leaders were entirely inconsistent in the manner in which they engaged their citizens. Rather than choosing to open up avenues for constituent participation, they dictated policy in a top down approach as a means to channel peoples’ basest and most depersonalized emotions. This tendency was applied particularly insidiously in speeches made by Hitler in February 1942, in which he escalated anti-Jewish messages to call explicitly for extermination. Goebbels, after

¹⁶⁶ Habermas, *Between Facts and Norms*, 4.

¹⁶⁷ Habermas, *Between Facts and Norms*, 14.

hearing the speeches, remarked, “The Führer wishes to expel the Jews from Europe absolutely.”¹⁶⁸ Robert Ley, the leader of the German Labor Front, concurred when he declared in a speech at the Sports Palace in Berlin on February 2, 1942 that “Jewry will and must be exterminated. That is our holy mission. That is what this war is about.”¹⁶⁹ These speeches were some of the most bellicose calls for the elimination of the Jewish people that occurred during the war, although there was little new added to the speeches as to why this extermination must occur. What the speakers had in fact left out is that in January leaders of the SS, Army, and other governmental and party offices had met in Wannsee, a Berlin suburb, to formulate a “final solution” regarding the Jews that explicitly outlined the means by which they would be summarily executed or worked to death, a fact that went unmentioned publicly during the speeches and throughout the war. Thereby, the regime chose to act first and communicate with its citizens afterwards. Rather than present their plans first in an attempt to elicit input, they instead attempted to legitimate its actions retroactively and even then in a very surreptitious and underhanded manner whereby people were not presented with facts and not allowed to participate in a dialogue.

More accurately, the Nazis, according to Habermas’s standards, “withdrew into an autopoietic system, where law stands before the defamiliarizing socializing gaze and is stripped of all normative connotations.”¹⁷⁰ Such a set of laws for Habermas creates a “narcissistically marginalized law [that] can react only to its own problems.”¹⁷¹ The laws during the Third Reich were so far removed from the input of the general public that they in turn only fostered their own extension and became increasingly more prosecutorial towards the people they were supposed to protect. It came to the point where if a Führer decree was issued, it was expected that citizens follow it absolutely and without question regardless of the consequences. The weakness of such a system became patently obvious as Hitler led thousands of soldiers to their deaths on the Eastern Front by refusing to follow the advice of his generals. In 1942, Hitler disavowed the advice given by Chief of the General Army Staff, Franz Halder, who was adamant in his

¹⁶⁸ Evans, *Third Reich in Power*, 269.

¹⁶⁹ Evans, *Third Reich in Power*, 269.

¹⁷⁰ Habermas, *Between Facts and Norms*, 51.

¹⁷¹ Habermas, *Between Facts and Norms*, 51.

refusal to commit wholeheartedly to the continued attacks on Stalingrad that were becoming increasingly suicidal due to lack of German resources and the continued improvement of Soviet tactics. Hitler, who was incapable of accepting any criticism, replaced Halder with convinced National Socialist General Kurt Zeitzler, who continued the attacks that would eventually result in heavy German losses, the near decimation of the German Sixth Army, and the eventual abandonment of Stalingrad.¹⁷² In this way, the Nazi cult of the Führer was extended without any consideration of its normative foundations, which resulted in thousands of unnecessary deaths of German soldiers and perpetuated the “sociological disillusionment” of the empire.

These policies were decidedly illegitimate. To become valid, legal norms need to “harmonize with moral norms... [in] an authentic self understanding of the legal community the fair consideration of the values and interests distributed in it, and the rational choice of strategies and means in the pursuit of policies.”¹⁷³ Only when legal norms and moral norms are combined can human rationality be effectively and legitimately used in the pursuit of societal betterment. For Habermas, law should be thought of in terms of social integration that “takes place through the achievements of mutual understanding on the part of communicatively acting subjects, that is, through the acceptability of validity claims.”¹⁷⁴ Ultimately, the Nazis, because of their ultimate deference to Hitler’s directives, failed to leave room for the mutual understanding that would eventually lead to validity.

In lieu of including people in dialogue, the Nazis had to deliberately manipulate their subjects in order to justify their actions. Hitler, in addition to being culpable for the unnecessary loss of millions of lives in battle, was also responsible for assigning blame to others for German military defeats. In May of 1944 Hitler ordered that the Crimea be held despite persistent advice from military leaders, including the commanding officer in the region, General Erwin Jaenecke, that doing so would be suicide. Nevertheless, Hitler’s orders were carried out, resulting in the loss of an additional 60,000 German lives in the region.

¹⁷² Evans, *Third Reich in Power*, 407.

¹⁷³ Habermas, *Between Facts and Norms*, 156.

¹⁷⁴ Habermas, *Between Facts and Norms*, 83.

Instead of atoning for his mistake, Hitler placed the blame on Jaenecke and the other generals, labeling them weak and defeatist.¹⁷⁵ By doing so he revealed his total incapacity to take responsibility for his leadership, an absolute necessity in any legitimately governed state.

Of course such policy also leads to internal infighting as actors attempt to distinguish themselves from one another in a reckless pursuit for power and authority. One sees this tendency in the formation of interpersonal alliances during the Third Reich in which major figures joined with others in an attempt to undermine their competitors. One such noteworthy alliance occurred between Propaganda Minister Joseph Goebbels and Hitler's Secretary Martin Bormann against long-time second in command Herman Göring and Armaments Minister Albert Speer. In 1944, as Nazi leaders desperately conscripted more men to the war effort, Goebbels and Bormann used their personal connections with Hitler to subvert Göring and Speer's efforts to have the men assigned to producing arms and instead advocated they be placed in the field. Furthermore, they solidified their personal access to Hitler while decidedly hindering Goring's and Speer's access.¹⁷⁶ Instead of attempting to facilitate cooperation and dialogue amongst the arguably four most powerful men in the Reich under Hitler, they generated competition and antagonism.

Hitler's extreme solipsism would have severe consequences on the Germans' ability to maintain production during World War II when those employed or coerced in producing food and manufactured materials refused to complete and abandoned their work. According to Habermas, in order to maintain a productive and functional system of labor and economy, a society must be structured on legitimate law. Legitimate law, in turn, "is compatible only with a mode of legal coercions that does not destroy the rational motives for obeying the law: it must remain possible for everyone to obey legal norms on the basis of insight."¹⁷⁷ In order for people to be motivated to be contributing members of society, they need to understand that by doing so they contribute to their own well-being. This is not a possibility in a slave society. Slavery is irreconcilable with an active and organically self-perpetuating economic system.

¹⁷⁵ Kershaw, Ian. *Hitler 1936-1945: Nemesis*. New York: W.W. Norton, 1999. 630-31.

¹⁷⁶ Evans, *Third Reich at War*, 656.

¹⁷⁷ Habermas, *Between Facts and Norms*, 121.

The untenability of the Third Reich's slave based economy was illustrated with the staggering number of escapees that occurred during the latter part of the war. According to Speer, in 1944 an estimated half a million coerced laborers escaped, which is indicative of the fact that they were unmotivated to stay but were also willing to risk their lives to avoid it.¹⁷⁸ It indicates that an overextended Germany was incapable of avoiding massive abandonment of the empire.

Inhibiting peoples' abilities to apply their insights also had great military implications on the German war effort as the exclusion of generals from the major decision making process led to many German deaths. A particularly devastating decision Hitler made was to disregard the advice of General Friedrich Paulus, the commanding general of the remaining German troops in Stalingrad, in January 1943. After the Germans had already endured a brutal winter and had been ravaged by hunger and disease, Paulus recommended surrender, claiming it was the only way to save the remaining troops from annihilation. Hitler did not capitulate and instead demanded they fight till the end, forcing the remaining troops into two small areas of Stalingrad where they were nearly all eventually killed or captured.¹⁷⁹ The experience that military commanders had gained from their war efforts was disregarded by Hitler when it was inconsistent with his plans for conquest.

Once people discontinue being authors of their futures, institutions concomitantly can no longer be properly regulated. For Habermas, "the extent that institutionalized deliberation and decision making loses contact with an uncoerced process of need articulation, it lacks parameters that it cannot generate of its own accord."¹⁸⁰ At the end of the war, Germans expressed a general feeling of helplessness about the destruction of their economy and their inability to change their abject prospects. One worker, on May 2, 1945, expressed it poignantly as he claimed, "Our Leader, who promised us so much, has achieved what nobody in power in Germany has so far achieved. He has left behind a Germany that is totally destroyed,

¹⁷⁸ Evans, *Third Reich at War*, 704.

¹⁷⁹ Evans, *Third Reich at War*, 418-419.

¹⁸⁰ Habermas, *Between Facts and Norms*, 429-30.

he had taken everyone's house and home."¹⁸¹ Once discourse was eliminated Germans were plunged into uncontrollable chaos in which they had no outlet to articulate their needs and feelings and were instead driven recklessly into the abyss. A girl in Germany who had initially believed in Hitler's grandiose plans understood it correctly when she expressed that Hitler's assassination was the only chance for Germany's salvation.¹⁸² He became a disease and parasite on the decision making process that needed to be removed.

To harness this communicative power the growth of the public sphere must be complemented by a concomitant development of private liberties, which, along with public autonomy, when made secure create a system of rights that "operationalizes the tension between facticity and validity, which we first encountered as a tension between the positivity and legitimacy of law."¹⁸³ Private people need to feel responsibility for their destinies. Although the government is a super structure that imposes bounds on peoples' behaviors it is still only a facilitator of people working to collectively achieve their own individual potentialities. It became blatantly clear, particularly near the end of WWII, that the Third Reich did not allow people to pursue their own destinies. Despite the pervasive suffering that German citizens experienced and their attempts to save themselves from total destruction at the end of the war, Hitler maintained that they should all be annihilated if they were not resilient enough to complete their mission of taking control of Europe. Even facing total defeat and the imminent invasion of Berlin, Hitler, in his last public declaration in 1945, maintained that Germany must under all costs wipe out "the Jewish plague" and that the sole remaining purpose of the German people was to "make good what the international Jewish criminal and their henchmen have done to our people."¹⁸⁴ Despite the fact that Hitler's police had already killed nearly two-thirds of Europe's Jews and his policies had ravaged millions, he maintained that people should not be allowed to focus on reassembling their lives. Private autonomy was no longer an option, and if Hitler was unsuccessful in his mission, everyone had to suffer the consequences.

¹⁸¹ Evans, *Third Reich at War*, 735.

¹⁸² Evans, *Third Reich at War*, 735.

¹⁸³ Habermas, *Between Facts and Norms*, 129.

¹⁸⁴ Kershaw, *Hitler 1936-1945*, 781.

Habermas also believes the decision should be left to subjects whether or not they want to focus on themselves or engage politically. He claims that “participatory rights must be formulated in a language that leaves it up to autonomous legal subjects . . . if they want to shift their perspective from their own interests and success to mutual understanding and communicative freedom.”¹⁸⁵ Subjects know best when they necessarily must focus on personal details versus when they feel compelled to articulate their viewpoints more broadly. By granting them their freedom, the government can ensure that they engage publicly when their input is most applicable. Otherwise, they are imposed upon when the public sphere becomes their obligation.

German citizens prominently displayed the weight of this burden at the end of the war. In March 1945, with a German defeat inevitable and people suffering as a result of Hitler’s reckless decisions, many subjects nonetheless expressed sympathy for Hitler. One fifteen-year-old girl lamented in her diary, “Our poor, poor Leader, he can’t be sleeping at night anymore, and yet he’s had Germany’s good on his mind.”¹⁸⁶ Having been raised in the Nazi educational system, the girl seemingly lacked an authentic personal identity. Rather than express grief regarding her own circumstances and prospects for the future, she was consumed with Hitler’s troubles. Despite Hitler having been directly responsible for the worst catastrophe in Germany’s history she continued to express her admiration for a man who supposedly had the country’s best interest in mind. She had been so inculcated in Nazi ideology that she could no longer distinguish her own difficulties from the German mission established by Hitler.

The Nazi regime violated nearly all of Habermas’s distinctions and principles about how to maintain validity and integrate it into the legislative and judicial process. By not doing so, it failed to extract the communicative potential of the German community. Instead of harnessing the power of intersubjective dialogue and legal growth, it regressively imposed arbitrary decrees from above in Hitler’s egomaniacal pursuit of European domination. Resultantly, it was doomed to fail. Its total disregard for normative verification ensured that it remained out of touch with its populace and did not serve their

¹⁸⁵ Habermas, *Between Facts and Norms*, 382.

¹⁸⁶ Evans, *Third Reich at War*, 680.

interests. Militarily, this caused devastation as Hitler pursued an unwinnable war. Economically, this ravaged a land unable to sustain such a large and long conflict, and socially, this led to the persecution and deaths of millions and the devastation of the spirit of a people who by the end of the war largely felt helpless against defeat. This was an inevitability in a regime that failed to recognize that collective efforts, legitimated normatively, always transcend those implemented by a totalitarian and ultimately ineffectual government.

The fascist Third Reich was a hierarchical authoritarian state that fundamentally violated the notion of a liberal, rights-oriented and constitutionally based state associated with the development of the modern western world. This equates to a rejection of the notion of normal historical social progress. Rather than upholding the idea that the achievement of civil and constitutionally protected rights was indicative of an increased ability of people to express their interests and collectively engage in dialogue as a means to collaboratively better their conditions, Hitler imposed a totalitarian state where the ideology propounded the notion that politics could function effectively under the auspices of an absolute leader and single ideology whole-heartedly protecting their national, and in Hitler's case, racial interests. Habermas thinks this idea is regressive. His intellectual efforts are dedicated to establishing a theoretical framework in which the singular interests of all citizens can be effectively addressed and respected in pursuit of mutual interests. He believes understanding can only be achieved when citizens are allowed to use their natural rational capacities to engage democratically and produce decisions based on the strengths of the best arguments that reflect everyone's interests. As opposed to the Nazis, he does not believe violence is necessary for coordination. Rather, citizens can inculcate societal concepts into their own understandings of the world in a gradual process of both personal and societal rationalization, a rationalization that he associates with the modern intellectual development beginning since the Enlightenment.

Habermas's writings can be seen as a means to project the intellectual tradition of Immanuel Kant, Georg Hegel, and Karl Marx and their beliefs regarding modernity and enlightenment against the encroachments of Friedrich Nietzsche and subsequent German philosophers such as Martin Heidegger who arguably rejected some of the more democratic impulses of Kantian ethics in favor of more subjective and creative form of expression. Nietzsche, a major opponent of Christian morality, spends much time in his various books propounding the flaws of what he saw as a religion that promoted weakness and mediocrity instead of a freer form of creativity. He disdained democracy and socialism because he believed that they upheld Christian ideas about equality and worked against the more visceral and creative impulses he thought were reserved for only the highest form of human being. Although misunderstood by Nazis and other dictatorial movements, Nietzsche's ideas regarding the supremacy of

certain manners of living certainly lent itself to imperialistic impulses.¹⁸⁷ It is in this light, according to American political scientist Fred Dallmayr, that Nietzsche can be seen as having “initiated not only a moderate counterpoint or counterdiscourse within the confines of Hegelian parameters but rather a radical antidiscourse that no longer obeys the rules of enlightenment.”¹⁸⁸ Habermas believes that this can be associated with an “antihumanism [that] constitutes the real challenge to the discourse of modernity.”¹⁸⁹ Therefore, Habermas seeks to protect Kant’s ideas regarding the importance of encouraging and considering all opinions openly and empathetically. He wants to ensure that the ethical underpinnings of a modern Western project to uphold individual rights and protect individual dignity are philosophically substantiated.

To do so, he developed a philosophy around the idea that the sharing of knowledge through dialogue, or communicative action, is a vital component of a stable and socially emancipated society. Members of such a society participate democratically and are able to present their own arguments as well as listening without prejudice to the arguments of others. This allows citizens to choose the overall best arguments and incorporate them into their own understanding through a process of self-reflection and criticism. Resultantly, people will approach future situations and dialogues with better understanding, creating a dialectical rationalization of society, a concept similar to those used by Marx and Hegel. However, such a system does not always naturally come to fruition. Although there has been a general social rationalization of society since the Enlightenment, according to Habermas the Nazis reflect a total relapse in social protections. Habermas therefore takes it upon himself to clarify how a quasi-transcendental notion of ethics, where all opinions are respected, is necessary to ensure a continued rationalization of society and the modern intellectual project.

¹⁸⁷ Stromberg, Roland N. *European Intellectual History since 1789*, (New York: Appleton-Century-Crofts, 1968), 154.

¹⁸⁸ Babich, Babette E. *Habermas, Nietzsche, and Critical Theory*, (Amherst, NY: Humanity, 2004), 89.

¹⁸⁹ Babich, Babette E. *Habermas, Nietzsche, and Critical Theory*, 89.

The extent to which he succeeds in protecting the notion of a universal interest in social progress is debatable. Dallmayr believes Habermas went too far in his criticisms of Nietzsche and other philosophers. He questions that while Habermas believes Nietzsche's philosophy reflects an "intensification of the subjective to the point of total oblivion" he also bases much of his philosophy on subjectivism associated with self-reflection and individuation. Similarly, Dallmyr believes Nietzsche, and many subsequent philosophers in his tradition, do not necessarily breach the point of rationality and advocate the shift into a chaotic realm. Rather, he believes that starting from his first book, *The Birth of Tragedy*, Nietzsche was always compelled by the strong tension that existed between more creative impulses and rational capacities. Instead of advocating an abandonment of rationality, Dallmayr believes, Nietzsche wants rationality to not become hypostatized or foundational but rather fluid and open to experimentation. Nietzsche believes that knowledge must not be placed into eternal, indelible categories but be used to fulfill more visceral and instinctive human needs.¹⁹⁰ In this way, Nietzsche could be said to be wedding knowledge to human interest even more than Habermas.

Nevertheless, what remains clear is that Nazi leaders during the Third Reich degraded the condition of many of their subjects and constituted social regression. They used reason strategically and insidiously to undermine their enemies and oftentimes each other in the pursuit of power and interest. Hitler played his subordinates against one another, encouraging monstrous men, like Himmler, to take such extreme measures as committing genocide to promote Hitler's ideology and extend their own sphere of interest. Similarly, Hitler was largely closed to outside suggestion and abandoned the interests of his people, particularly at the end of the war, as he furthered internal privation and suffering in pursuit of an unwinnable conflict. Justice did not exist in a state where individual rights and privileges were ignored and bypassed in the interest of Nazi ideology. And although it may be true that Habermas unfairly evaluates Nietzsche and those working in his tradition, what remains clear is that much of Habermas's thought is a direct response to injustices of the Third Reich.

¹⁹⁰ Babich, Babette E. *Habermas, Nietzsche, and Critical Theory*. Amherst, NY: Humanity, 2004. 92-93.

Democracy and constitutionalism are important cornerstones of the contemporary political world. For many people they constitute the peak of human social progress in terms of fairness and equality. What Habermas does is establish why they may also be the most socially progressive form of human achievement based on how they increase our overall rationality and work to fulfill our interests. The Nazi movement and government resulted in widespread suffering largely because it failed to meet these interests. Even discounting its political and racial agenda, the Third Reich was organized in such a way that it stifled the ability to draw on the individual intellectual contributions of its citizens in the process of collaborative self-betterment. Habermas returns our attention to why, not just from a self-evident but also from a foundational and theoretical standpoint, respect for individual opinion and freedom to engage in open and self-determining dialogue is the most effective way to achieve social progress.

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