



Ressort: Special interest

Germany ?mismanages? the record of its past

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Over the past few years, there has been much soul-searching within Germany about the extent to which it has truly overcome its Nazi past – a task made especially urgent by the advance of the far-right parties and the shocking resurgence of antisemitism and antiziganism. But it is difficult to see how Germany has reconciled with the past, when its record of the past is deliberately incomplete.

Recent high-profile cases have highlighted the state’s mismanagement of the nation’s collective memory: The Federal and State Archives.

Within the Federal and State archives lies the key to much of this soul-searching – thousands of files that pertain to Nazi thefts from what they termed ‘Enemies of the State’ – Jews, minorities and the resistance to Nazism. Those who continue to claim restitution on behalf of family members, persecuted and disenfranchised by the Nazis, have also come up against a pattern of archival mismanagement. It smacks of calculation, if not cruelty.

Seventy-five years ago today, March 5th 1945, Friedrich zu Solms-Baruth was released from Gestapo captivity where he had been held and tortured for 9 months for his part in Operation Valkyrie. His estates were expropriated by Heinrich Himmler, head of the SS/Gestapo and the deeds book records destroyed. Solms-Baruth was a humanist who despised Hitler and sought to thwart the Nazis wherever he could. He refused the Nazi salute, having left the army in 1918 and was officially accused of ‘sabotaging the war effort’. In deepest secrecy, his home and estates became the base for planning the ‘Valkyrie’ plot.

British military intelligence reports just after the war revealed that a crack sabotage unit at the back of his house at Baruth was disguised as an officer’s casino, with MI5 substantiating Friedrich’s role in the plot and his resultant arrest leading to the confiscation of the properties by Himmler. Given the British were one of the four countries governing Germany at the time of the report – 1947, one would think this serves as incontestable proof of the theft: the German courts concluded not.

In the family’s quest for justice for Friedrich, a campaign which also shines a light on the thousands of other files that remain hidden in the States ‘Restitution Archive’, the German authorities have repeatedly abused control over this repository of the nation’s memory. At various stages during their restitution case, started in 1989, Solms-Baruth’s grandson and his legal team have found that critical documents were conveniently misfiled, evidence not presented and judges have been unresponsive to the overwhelming

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evidence.

The Solms-Baruth's were only informed of the existence of the state's 'restitution archive' by an anonymous tip-off from an archivist in the Financial Archives in Berlin. During the case the courts called for the Solms-Barth's to present their restitution file, yet this was already in the hands of the government who deliberately failed to deliver it to the Solms-Baruth legal team or the courts, while denying any knowledge of it or other relevant documents on the court record.

A never before seen 'Himmler Decree', entirely unknown to historians, which specified the exact methodology to be used by the SS/Gestapo to hide their seizure of properties from politically labelled 'enemies of the state' and which was central to the SS/Gestapo's race to achieve economic dominance over other Nazi factions, was found quite by accident, macabrely in a section on death notices. It was then promptly removed from the library of the State Archives.

At other points during the 30 years, further documents were actively withheld including case-turning evidence such the treatment by the notorious "Supreme Finance Director" of Friedrich's property as state property, ascribing state tax codes to private property, whilst scientific proof in the form of a definitive chemical ink analysis conducted on the deed books which incontrovertibly confirmed the ink used to order the destruction of all deeds entries relating to the property was that of the Nazis and not the East Germans, was also discounted by the courts.

A further alarming feature of the Solms-Baruth case was the reliance by the courts, at various junctures, on Nazi law, Nazi documents and the Nazi lexicon to support its position while entirely denying the historical circumstances of the case or, at best, down-playing them and rejecting all expert historical testimony. The courts made use of the SS vocabulary employed in the coerced transfer of disposal of property to Himmler which was used to veil the original Gestapo crime, in order to justify its verdict.

Central to the case, the courts have upheld as evidence the signed transfer of power of disposal over the properties to Himmler - coerced under torture – as a legitimate contract and 'negotiated on equal terms', arguing that Friedrich was merely placed in 'protective custody' and that the Gestapo was only trying to 'restore peace and quiet' to Baruth 'while aiming to carry-out their objectives'. Again this circular reasoning is immoral to say the least.

For thirty years the German Federal Republic has displayed a willingness to legitimate Nazi property documents, to bury, withhold, "misfile" or simply refuse to process others, while stoking prejudice in order to hold on to assets confiscated by the Gestapo.

As long as the courts deny the historical circumstances, make use of Nazi euphemisms, the Nazi lexicon

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and archaic Nazi laws in order to perpetuate and cover up the original veiled crimes of the Gestapo, while politicians refuse to act according to the law until ordered to by the Constitutional Court, then sadly, despite all the speeches and celebrations to the contrary, these are markers of a state which has yet to turn the page on its past.

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