

**The Disclosures of Respect: The Public Exposure of Stasi Informers after the
German Reunification**

by

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Chapter 1

Introducing Informers and Respect

I. The Argument and the Purpose

In their most common formulation, respect and self-respect entail treating others or oneself in a certain way. To mention the classic example, in Kantian ethics, respecting a person implies treating her not only as a means to an end but as an end-in-herself. Using individuals instrumentally, according to this idea, is disrespecting them. In other formulations, respect and self-respect are understood simply as the disposition to value one's and others' worth, as well as the ability to command an attitude from others and oneself that honors that worth.

As simple as these and other conceptualizations of respect might seem, their operationalization is very likely to be untidy. Understanding how respect and self-respect might be expressed "on the ground" is a complicated matter, one that invites contextual and more circumscribed examinations. In the dissertation I offer one such inquiry. I concentrate on a theme and a particular case study, which I argue offer an ideal site to understand respect as it is reflected in concrete social practices. The theme I explore has come to be known as "coming to terms with the past," a term that directs us to what one might call, for simplicity's sake, post-conflict societies and that

encompasses phenomena such as public discussion about past wrongdoing, accountability of perpetrators, material and symbolic reparations to victims, social and political reconciliation, and so on. The concrete case I consider, from the myriad of possible cases usually falling under this rubric, is the case of post-reunification Germany and its *Vergangenheitsbewältigung* or *Aufarbeitung*, as the process of reckoning with the past has been labeled there. Even more specifically, I focus on a practice that has been regarded as part and parcel of this process: the outing of unofficial or informal collaborators (*Inoffiziellen Mitarbeiter*, henceforth IM) for the East German secret police, the infamous Ministry of State Security (*Ministerium für Staatssicherheit*, henceforth, the MfS) or Stasi.

As I mentioned in the introduction, under the German Democratic Republic (GDR), the secret police recruited a large number of informal collaborators who, without having a permanent role or an institutionalized position within the MfS, provided the latter with information about fellow citizens suspected of engaging in subversive actions. After the fall of the GDR, some of these IM concealed their past identities. Nonetheless, the laws and institutions emerging from the unified nation were designed and enforced to facilitate and even encourage the exposure of all individuals previously involved with the Stasi, regardless of their current occupation, political orientation, or walk of life.

The public exposure of IM may be understood as:

1. truth-telling mechanisms and a part of an unhindered debate about the past;
2. shaming interpellations whose purpose is to consolidate civic ideals;

3. accountability mechanisms with retributive functions, that is, substitutes for criminal punishment for IM, who, not having committed any crime and therefore not legally liable, are nonetheless subject to public criticism;
4. symbolic reparations for victims of historical injustice in the form of a public apology, which is supposed to be offered by the exposed informers;
5. necessary, though insufficient, steps towards social and political reconciliation, a process that will restore civic trust and thereby provide the cultural transformation necessary to consolidate German democracy.

I argue that each of these conceptualizations, some of which I have found in scholarly accounts, others I have reconstructed from what actors in civic and political society see themselves as doing, disregards, overlooks, or simply under-theorizes the way in which the public exposure of former collaborators promotes or undercuts the respect and self-respect of individuals. Thus, while political actors often explicitly identify the potential of outings for achieving respect for victims, and justify the practice as such, outings may be about fostering respect and self-respect in other ways, whether as side effects or deliberately,¹ even when they are justified as, for example, mechanisms for getting at the truth about the past or for creating “informal” substitutes for criminal sanctions (“civic disqualifications”). If this is the case, then political actors might be doing something they are not aware of (i.e. building respect

¹ On the question of whether self-respect can be achieved by directly aiming at producing or in the course of trying to attain some other objective, Jon Elster leans towards the second alternative in *Sour Grapes: Studies in the Subversion of Rationality*, 1983. Elster. In his expression, self-respect is “essentially a by-product.” *Cfr.* Joseph Chen and David Miller, “Elster on Self-Realization in Politics: A Critical Note,” 1991, providing grounds for a criticism of this view.

and self-respect in very thorough ways) while pursuing a different goal. By contrast, in other ways outings might not be about respect and self-respect even when actors believe they are about just that, for example when actors demand an apology or call for reconciliation (both of which promote respect) but with a goal in mind that, in fact, has little to do with respect.

To be sure, respect and self-respect play important descriptive or normative roles in some of these accounts. For instance, transitional justice literature often includes the public exposure of former perpetrators as a social mechanism to reassert or protect the respect for victims of non-democratic (totalitarian, dictatorial, etc.) regimes, in the present case of victims of the communist regime of the GDR. There is nothing new about the idea that respect is at the forefront of many of the institutions and practices associated with the process of coming to terms with the past, in Germany and elsewhere. In his theory of reconciliation, Ernesto Verdeja² argues, for instance, that mutual respect across society should be the goal of reconciliation in post-conflict societies. Likewise, Blustein³ lists respect as one of the “moral demands of memory,” that is, the duties that societies have an obligation to discharge in the present as a response to events of the past. More relevant to this dissertation, Borneman⁴ emphasizes the importance of “restoring” dignity as one of the goals of many institutions put in place after the reunification of Germany to address the legacy of communism.

² *Unchopping a Tree. Reconciliation in the Aftermath of Political Violence*, 2009.

³ Jeffrey Blustein, *The Moral Demands of Memory*, 2008.

⁴ John Borneman, *Settling Accounts. Violence, Justice, and Accountability in Postsocialist Europe*, 1997; John Borneman, “Public Apologies as Performative Redress,” 2005.

The purchase of most of these works is normative; they offer prescriptions about what ought to be done in order to respect individuals in post-conflict societies. By contrast, although not fully agnostic with regard to such questions, the main goal of this text is to take some of the weight off of normative theorizing in order to pursue two additional goals. First, to offer a richer conceptualization of how some of the dimensions of outings might be said to be practices of respect *or* disrespect, even when the political actors involved might not articulate their actions in those terms. If one is to take seriously the idea that the public exposure of IM has something to do with respecting individuals, then one needs to explore all avenues of respect. Second, this dissertation considers other dimensions of outings that are presumably about achieving respect but where different interests or social logics seem to be at stake.

In sum, as this cursory account shows, and as I will explain in-depth in the dissertation, at every stage of the practice of outing, important questions about respect and self-respect may be posed. The practice holds, as it were, many layers of respect. Robin Dillon argues that respect may be seen as a “presumed disclosure,” in which “what is disclosed is the worth or worthiness of the object.”⁵ This dissertation is an exploration of the multiple disclosures of respect in a specific context. Through the outings of IM something more crucial than the personal identity of informers is disclosed, namely, the worth of the actors involved in the practice, including the informers themselves.

⁵ Robin Dillon (ed.), *Dignity, Character, and Self-Respect*, 1995, 18.

II. The Contributions

I hope to make at least two theoretical contributions in this dissertation. First, this dissertation seeks to recalibrate the lens of respect in transitional justice scholarship. The relevant scholarly literature tends to consider practices such as outings mechanisms of compensatory or restorative justice and therefore tends to concentrate on their potential to promote respect for victims.⁶ For instance, commenting on the work of the German equivalent of so-called truth commissions, one of whose functions has been to facilitate and encourage public exposure of IM, Meier⁷ argues that they carry out forms of “weak retributive justice” and contrasts them with instances of “strong retributive justice” (i.e. legal punishment). In both cases, he claims, the point of this form of retributive justice is “to reequilibrate the perceived power between perpetrator and victim;” to “mobilize belated public opprobrium against the perpetrators;” and to “publicly acknowledg[e] the suffering of the victim.” Shaming disqualifications of informers are appropriate, in this view, merely because they are instrumental in recognizing the wrong inflicted upon victims. While such focus on victims might make sense from a normative point of view, it does not press the question of respect far enough and therefore fails to conceptualize the complex relationship that, I claim, exists between respect and outings, one that goes beyond the vindication of victims to view outings as a form of respect for wrongdoers as well.

⁶ Amy Gutmann and Dennis Thompson, “The Moral Foundations of Truth Commissions,” 2000; Elizabeth Kiss, “Moral Ambition Within and Beyond Political Constraints: Reflections on Restorative Justice,” 2000; David Crocker, “Truth Commissions, Transitional Justice, and Civil Society,” 2000; Margaret Urban Walker, *Moral Repair: Reconstructing Moral Relations after Wrongdoing*, 2006; Ernesto Verdeja, *Unchopping a Tree*, 2009.

⁷ Charles S. Meier, “Doing History, Doing Justice: The Narrative of the Historian and of the Truth Commission,” 2000, 268.

The second and more general theoretical pay-off of the dissertation is that it takes issue, at least partly, with a familiar standard distinction made in respect scholarship: the distinction between recognition and appraisal respect.⁸ While perhaps useful in analytic terms, these two forms of respect so easily slip into each other in the empirical world, and particularly in judgments made in public discourse, that one wonders and this dissertation explores, whether the distinction might not hide some partial constitutive relationship between the two notions.

According to the aforementioned distinction, when we talk about respect, we usually bundle together two different things, the sense of respect as a regard or attitude that individuals may command from others simply because they are persons and the sense of respect as an evaluation from others of one's conduct or character. In the first sense, what is at stake is recognizing the importance of a person as such; in the second one, evaluating the quality of her conduct and character. In either case, to respect someone is to perceive and value her as having worth, but worth might attach to mere personhood *or* to merit. The thin, though important, normative purchase of this distinction is to argue that the recognition one is owed as a human being should not be connected to the evaluation of one's qualities as, say, a piano player, or to any other contingent property such as social status, talents, etc.

⁸ Stephen Darwall, "Two Kinds of Respect," 1975. Darwall adds elsewhere (*The Second-Person Standpoint: Morality, Respect, and Accountability*, 2006, 126) that recognition respect is second-personal. We respect someone when we give her standing (authority) in our relations to her. We have earned recognition respect when we "have the competence and standing to address demands as persons to other persons, and to be addressed by them, within a community of mutually accountable equals."

An orthodox and oft-rehearsed interpretation of Kant's *Groundwork for the Metaphysics of Morals* points to this text as an example of the idea that individuals have dignity qua individuals and are therefore entitled to respectful (in the recognition sense) treatment no matter what and under any circumstances. In the Kantian story captured in *Groundwork*, all rational beings capable of moral agency have dignity and are therefore entitled to respect. The capacity to set ends, or value things through rational judgment, and the capacity to be autonomous are the necessary and sufficient conditions for dignity. From this perspective, dignity cannot be diminished or lost through morally bad behavior. Individuals cannot forfeit dignity, and therefore the right to respect, no matter what they do or refrain from doing. In the same vein, respect is not something that individuals earn or might fail to earn (provided they possess the two capacities mentioned above) but an attitude they are owed. Moral merit or demerit simply do not count towards the entitlement of respect.

Kant's view is actually much more nuanced than this standard view suggests.⁹ Even by Kantian standards recognition respect is not completely independent from the appraisal of one's standing and merits. Whether or not an individual may command respect is dependent on whether she possesses a valid standing to do so. Mika LaVaque-Manty argues that the appraisal/recognition distinction is historically unwarranted because "we take someone's being a doer to be perhaps the key aspect of what makes her a person."¹⁰ Thus, the suggestion that there is something like a

⁹ Robin Dillon, *Dignity, Character, and Self-Respect*, 1995; "Emotions in Kant's Later Moral Philosophy: Honour and the Phenomenology of Moral Value," 2008; Mika LaVaque-Manty, *The Playing Fields of Eton. Equality and Excellence in Modern Meritocracy*, 2009.

¹⁰ Mika LaVaque-Manty, *The Playing Fields of Eton. Equality and Excellence in Modern Meritocracy*, 2009, 8.

performative view of respect, which maps onto appraisal respect, as opposed to an ontological version of it, which maps onto recognition respect, might be wrongheaded.

Colin Bird¹¹ argues along similar lines with Kantian theories of punishment in mind. According to his interpretation of these theories, punishment involves treatment towards others that would normally be deemed impermissible. Punishment on Kantian theoretical frameworks, he claims, becomes acceptable because the restrictions that would normally govern relations between agents are lifted because there has been a change in the reprobates' moral status. Put in slightly different terms, to recognize a person as a criminal or malefactor is to understand that restrictions that would normally prohibit certain forms of treatment are removed. But the weight and number of the prohibitions a person commands are the appropriate indices of the (recognition) respect **she is** owed. Therefore, the removal of those prohibitions amounts to a sort of moral demotion. It is true that malefactors retain some "residual dignity" that disallows barbaric punishment or abject humiliation, but they have still been deprived of some moral standing.¹² Bird concludes by arguing that moral status, at least to a certain extent, is contingent on actually existing social forms and practices, an artifact of a particular public culture.

¹¹ Colin Bird, "Status, Identity, and Respect," 2004, 227-228.

¹² In other words, the claim to respect cannot be absolute. Aristotle would be willing to accept a proportional theory of respect for persons; he would not be committed, à la Kant, to an absolute respect for persons. A commentator thinks that, for Aristotle, "the degree of respect which one ought to have for each person is in proportion to the character of the relationship which one has to that person." Thus, one might have reasons to respect the interests and claims of members of one's family, one's fellow citizens, even for those with whom one shares an intellectual community. One has fewer reasons (but not none) to respect the interests and claims of foreigners and slaves, barbarians. Preus, "Aristotle and Respect for Persons," 1991, 223.

Outings, and potentially other cases related to transitional justice as well, are a site where the distinction between an evaluative basis of respect and recognition respect does not seem to track the sort of judgment political and social actors make. Hardly anyone would argue that breaking a minor law (crossing a red light) should strip a citizen of her moral status and right to free expression. Appraisal of your poor qualities as a law-abiding citizen should not translate into a loss of civil liberties. But beyond those clear-cut cases lies a vast penumbral area where it is not entirely clear how the distinction could be helpful. In these cases, what one might call (at the cost of piling adjectives) civic or political recognition respect (respect I am owed as a political agent, the recognition of my political status) depends upon political or civic appraisal respect (my qualities as an upright citizen). In the present case under study, when citizens and authorities of the German polity make determinations about how to deal with former informants and subsequently act upon those determinations, an evaluative component inevitably comes into play, and the negative judgment about their (the informants') past behavior (appraisal disrespect) is factored into the assessment about the regard and treatment they are able to command. Among some circles at least, IM are not recognized as citizens with full standing because the appraisal of their ("uncivic") actions is very negative. The belief underlying these public debates seems to be that since IM behaved in morally and politically problematic ways, that should influence the way we treat them today. The same idea, that recognition respect partly rests on appraisal respect, holds true for self-respect. To show this, an Aristotelian-inspired approach would prove more appropriate than a

Kantian one. Self-respecting (in the recognition sense) citizens lose such status when they behave in ways that betray a civic standard (respect in the appraisal sense).¹³

III. The Method and the Sources

The type of political theorizing I do in this dissertation is empirically oriented. By this I mean that the theoretical puzzles and themes addressed in it have emerged from a somewhat close observation of concrete social practices—outings—, in particular as they are embodied in legal cultures/institutions and public discourses.

I focus on primary sources in order to tease out a minimal social “grammar” of respect as it is reflected in political practice and in political claim-making in the German public sphere, that is, from the claims made regarding outings in public discourse. The main actors, both in civil society and in political society (elites) involved in outings justify or reject that practice on the basis of arguments that, in turn, rely on a conceptual universe clustered around the notion of respect or worth. They frequently frame public discourse about IM in terms of the notion of respect (*Respekt, Achtung*), or in terms of notions that, as I will show in the dissertation, are substantively connected to it, such as reputation (*Ansehen*), degrading

¹³ For a conception of self-respect as the ability to appreciate, and act upon the appreciation of, one’s worth, which include the willingness to engage in acts of protest and resistance, see Bernard Boxil, “Self-Respect and Protest,” 1976; Laurence Thomas, “Self-Respect: Theory and Practice,” 1983; Michele Moody-Adams, “Race, Class, and the Social Construction of Self-Respect,” 1992. For a notion of self-respect, understood as living without falling below a standard of conduct that one has imposed on oneself, see Thomas Hill Jr., “Servility and Self-Respect,” 1973; Thomas Hill Jr., “Self-Respect Reconsidered,” 1985. All of this articles are reprinted in Robin Dillon (ed.), *Dignity, Character, and Self-Respect*, 1995.

(*Entwürdigung*), civic courage (*Zivilcourage*), responsibility (*Verantwortung*), and forgiveness (*Verzeihung, Vergebung*).

Having fleshed out these practical and discursive patterns, I turn to a rich scholarly literature on reputation, shame, forgiveness, and responsibility (all of which are conceptually linked to respect in the ways I will elaborate on in the dissertation) in order to understand these patterns. This very simple contrast between the discourse and practice of outings, on the one hand, and respect scholarship, on the other, will allow me to shed light on some neglected aspects of outings. While these frameworks are helpful in tracing a more complete map of respect with regards to outings, their help is limited in that they do not do justice to the complexity of the social and political phenomenon.

The motivation to zoom in on concrete instantiations of outings is to avoid inferential fallacies of the following type: if some actors in civil society are outing IM, it must mean they are doing it for X reasons. They are outing, ergo they must (or should) be interested in unveiling the truth about the past. They are outing, therefore they must (or should) be interested in retribution. In most cases, such quick ascriptions of meaning do in fact capture part of what is going on. But the ascriptions also obscure dimensions of outing that are related to respect. Avoiding this inferential fallacy will give me a greater opportunity to grasp how respect may be at work in the public exposure of IM.

I follow Lisa Weeden's work to avoid the inferential pitfall just described. According to Weeden one needs to look closely at social practices to see how and why actors

invest political phenomena with meaning, instead of simply making extrinsic ascriptions about what they mean. Inferences about social practices not based on what one might call “native intelligibility”—what actors themselves believe they are doing—run the risk of misrepresenting what is happening on the ground. Consider a fairly standard political practice such as voting.¹⁴ I can observe that a person uses “a pen and checks off a box with a name beside it on a piece of paper, deposits that paper in a box, and later they tally the number of times each name is checked off and the one with the most votes makes political decisions for the next four years.” Yet it is an open question what people mean to be doing when they are doing it: “It may be a game, a religious ceremony, a farce, a political event, or something else, or it may be a combination of these things.” Weeden argues that social scientists, and, I would add, political theorists, must be able to know and to show that their interpretation is based on a grasp of “native intelligibility, that in checking off a ballot the citizen is affirming the community's norms, or voting, or both, or neither.”

A more interesting example, for its more prominently symbolic content, is a practice like the pledge of allegiance to the flag in the United States.¹⁵ An observer’s knee-jerk reaction might be to interpret it as an act of patriotism. However, it would be a mistake to infer symbolic patriotism from its resemblance to flag ceremonies elsewhere. By contrast, from the perspective of analysis under discussion, the first step is to make the practice intelligible in order to see whether there is, indeed, a relationship between pledging allegiance and patriotism. The task calls for a number of additional studies, involving, among others, revising the history of pledging

¹⁴ Lisa Weeden, “Conceptualizing Culture: Possibilities for Political Science,” 2002, 721.

¹⁵ Lisa Weeden, “Conceptualizing Culture: Possibilities for Political Science,” 2002, 722.

allegiance, ethnographies, open-ended interviews and surveys, evidence from court cases and protest movements, materials from "popular culture" media, such as newspaper reports, films, jokes, cartoons, and songs, that may offer alternative ways of seeing the pledge of allegiance. Such an analysis would allow us to discern whether the pledge of allegiance could be a banal, routinized practice, an activity invested with and productive of patriotism, or both. The relationship between discourse and practice is what Weeden calls a "semiotic practice."

The methodology I described above is fieldwork intensive. For the purpose of the dissertation, however, I do not need to carry out, or rely heavily on, ethnographies or surveys nor do I need to do a thorough coverage of media reports, but I do need some command of available empirical sources. I draw on as many as it takes to interrogate theoretical understandings of respect or, by contrast, to point towards unacknowledged theoretical dimensions of respect that, I would claim, the facts on the grounds shed light on. To gauge the tenor of public discourse in relation to IM outings, I have examined a large sample of articles and editorials from relatively recent mainstream newspapers, such as *Die Welt*, *Spiegel*, *taz*, *SuperIllu*, *Frankfurter Allgemeine Zeitung*, *Frankfurter Rundschau*, to name a few. I have also followed online discussions, political elite discourse available on the Internet, and websites from victims and former collaborators of the Stasi. Finally, I examined semi-academic journals and magazines that focus on coming to terms with the Stasi past (*Gerbergasse 18*, *Deutschland Archiv*, *Horch und Guck*, etc.). I also looked at court cases and legal frameworks. The quantity of potentially useful information, however, is virtually unlimited.

IV. About the Main Arguments of the Chapters

The goal of the second chapter of this dissertation is to explain the reasons for the modest, though important, success that former informers have had in thwarting attempts to expose their past to the public eye. The main reason that some former informers have successfully prevented, or at least hindered, exposure of their past is that they have “activated” resources in German law that limit the dissemination of information about an individual’s past when such information is deemed to be stigmatizing and harmful to the individual’s reputation. Probably the most important of such resources is the right of personality. This right in particular reflects the concern of German legal culture for protecting individuals from shaming exposures. In the chapter I have found it useful to compare American and German legal cultures not only on the assumption that American readers might appreciate the reference to U.S. legal culture, but, most importantly, because the contrast brings to light the importance of reputation in German legal culture, reputation being above all a juridified notion of respect. A brief discussion of Kantian respect will draw attention to the fine lines that need to be noticed when trying to understand how a social practice might or might not promote respect. A Kantian “understanding” of respect, which would probably endorse IM outings, insofar as publicity in this context functions an accountability tool, would also point out that this particular tool does not come without potentially self-defeating elements, namely, that it could shame IM and makes them subject to contemptuous treatment. Public shaming and contempt do moral work by treating the exposed individual as a responsible agent. At the same

time, they could threaten her standing without necessarily providing the grounds on which she might reacquire that standing.

The third chapter cashes out some of the strains of public discourse that conceive of outings as social practices that contribute to upholding an ideal of upright citizenship. Such discursive patterns rest on an understanding of self-respect that is worth examining. I draw attention to the argument, present in such discourse, that collaboration with the Stasi as an unofficial informer was degrading, that is, an act of self-disrespect. Even bystanders degraded themselves by keeping silent, according to that demanding standard. But the degradation of IM was, in this view, particularly troublesome, because, unlike bystanders, informers were approached by the secret police, asked to collaborate, and acquiesced. Such acquiescence is a particularly strong token of degradation. The worth of individuals rests on the modest and moderate bravery of saying no, on avoiding complicity even under strenuous conditions. This view, ensconced in public discussions, reflects a view of respect along the lines suggested by scholars, some of them of vaguely Aristotelian provenance, who suggest that respect means, among other things, not falling below a standard of conduct, particularly a civic one.

The fourth chapter explores the theme of moral responsibility in public discussions about outings. I argue that the public debates about the degrees and kinds of moral responsibility that must be ascribed to IM are in and of themselves a deliberative practice that promotes respect. For one thing, the debates highlight the fact that the defunct German state disrespected IM insofar as it used them merely as means to its ends—presumably, the defense of the socialist *Heimat* from external or internal

threats. For another thing, although the state created the need for informers, this does not answer the question whether one may or may not ascribe responsibility to them for their decision to collaborate with the secret police. IM were not “cogs” in the Stasi machinery. Although systemic incentives and fear of the consequences of their refusal to work for the secret police were undoubtedly strong causal factors shaping their behavior, IM are nonetheless held accountable by some publics (or counter-publics, depending on the perspective one takes) because they carried out their service to the Stasi through interpersonal and civic deceit; in other words, they abused relationships of trust. Finally, the debates about the ascription of moral responsibility may serve to exculpate those IM who were genuinely coerced into collaboration.

The fifth chapter tackles the theme of public apologies. The chapter begins by distinguishing between different levels of apologies (personal, interpersonal, collective) and goes on to add that while apologies (or personal forgiveness) at all levels play a crucial role in fostering respect for victims, public apologies, as may be gauged from public discourse and political action in Germany, are particularly relevant: they are a form of publicly validating the status of victims as social co-participants of equal standing. Nonetheless, the chapter also argues that showing respect for victims is not the motive of every instance of public apologizing. This is not because unofficial collaborators might be offering “fake apologies,” but because, strikingly, victims often do not even seem to at the “receiving end” of public apologies. It is the polity at large, or rather, some of its representatives, that expect and exact the repentance and public apology from IM.

The sixth chapter deals with the issue of reconciliation. Reconciliation in public discourse is often framed as the potential reward attending IM for the open acknowledgment of their repentance and their public apologies. Public apologies, in this view, can bring about the restoration of political relationships, that is, the reconstitution of trust at least for the sake of living together in a collective enterprise. However, this chapter argues that as it actually turns out, in contemporary Germany, the prospects for reconciliation following a public apology are uncertain. If the point of reconciling with a former unofficial collaborator is conferring to her full status as a political agent, it follows that she should not be barred from holding elected positions in government. In the German context, militating against this reconciliatory praxis is a strongly ingrained distrust of IM, one that some political elites have carefully cultivated with strategic purposes, and that the public atonement of IM often cannot counter. Here outings breed distrust: they create a political environment in which some citizens cannot be fully “rehabilitated.” In this sense, they are practices of disrespect.

V. Ideological and Partisan Reductions

In studying IM outings and examining their theoretical relevance, this dissertation will try to avoid an approach that reduces the phenomenon merely to the outcome of current struggles for power between the main parties in the German political system, or to ideological disputes around the legacy of the communist past, where, depending on whether the latter is cast in a positive or a negative light, the exposure of citizens

for public verbal lynching is regarded as illegitimate or receives a seal of approval. Although ideological and partisan struggles undoubtedly stand in the background of outings, there is more to be said about outings once their ideological motivations or the partisan interests behind them have been uncovered. Beneath the crust of ideological convictions and party interests lie repositories of arguments whose theoretical significance I explore in this dissertation.

Bearing in mind that the ideological and partisan reductions regarding the public exposure of IM are, by themselves, theoretically impoverishing, let me nonetheless offer a brief account of how ideological and partisan variables are relevant to the topic to be developed here.

Of the five larger political parties in contemporary Germany, four¹⁶ have clearly defined institutional positions with respect to IM outings, and many of their members make frequent interventions in public debates. In general terms, The Left (*Die Linke*) is the fiercest detractor of the persistent exposure of IM, while parties such as the Christian Democratic Union (CDU), the Christian Democratic Union (CSU), or the Alliance '90/Greens are usually among their most enthusiastic promoters. Although initially sympathetic to outings, in recent years the Socialist Democratic Party (SPD) has maintained an ambiguous position. Some of its representatives share the views of *Die Linke* regarding the benefits of outings, others are more likely to support pro-outing activist in the other parties.

¹⁶ The other major national party, the Free Democratic Party, has had a marginal participation in public debates around outings.

It is not difficult to fathom the reasons for the existence of such contrasting views vis-à-vis the public exposure of Stasi collaborators. As the inheritor of the communist party of the GDR –the Socialist Unity Party of Germany or SED (*Sozialistische Einheitspartei Deutschlands*)—*Die Linke*, has an obvious interest in discouraging outings. Among its cadres are prominent (Gregor Gysi or Manfred Stolpe come to mind) as well as not so conspicuous politicians who were deeply involved with the SED or worked closely with the Stasi. Some of them were even IM themselves. Obviously, *Die Linke* disavows the GDR’s undemocratic nature, and its systematic violations of human rights. Nonetheless, a recurring strategy in *Die Linke*’s political discourse is to “retrieve” the “positive” elements of the communist regime. Thus, while its political program is “sanitized” from many of the positions formerly advocated by the SED, it endorses what it regards as the social agenda of the former regime. More controversially, *Die Linke* has been criticized for its alleged efforts to “embellish” or trivialize the crimes of the GDR.¹⁷ By contrast, many of the former civil rights activists and dissidents during the GDR—and today administrators of *Stasi-Aufarbeitung*—belong to parties such as Alliance ‘90/Greens and the CDU/CSU. Their opposition to *Die Linke* and the set of views it espouses in relation

¹⁷ *Die Linke*’s role in instigating relatively favorable attitudes towards the communist regime, critics say, is part of a broader phenomenon (sometime called *Schönrede*) that consists in “softening” the harshness of the now extinct regime. For example, the film *12 heißt: Ich liebe Dich* caused a stir in public opinion for no other reason. The movie narrates the romance of a Stasi victim and her captor at a Stasi prison. The movie did not air without a group of demonstrators requesting that the film be banned. The time spent in a secret service jail was extremely harsh, critics argued in publicly criticizing the film, not an opportunity to begin a love affair. A positive portrayal of the GDR cannot be executed, critics further argue, without throwing the mantle of oblivion over facts. Once that is done, the nature of the “ancient regime” is up for grabs; it becomes a matter of opinion. In view of this distortion of the past, it becomes a public interest to spell out a clear and detailed account of past events, including the precise identity of perpetrators, so the argument goes.

to *Aufarbeitung* are generally based on ideological (as well as experiential) grounds. From a more cynical perspective, of course, their criticism of *Die Linke* is not divorced from electoral profit.

A site of contention illustrating the irreducible conflict between these two ideological and partisan positions is the debate around whether the GDR was an *Unrechtsstaat*, a regime that disregarded the rule of law. It is quite common for representatives from *Die Linke* to deny the claim that the GDR was an *Unrechtsstaat*. They contend, like co-leader of the party Gesine Löttsch, that the notion of *Unrechtsstaat* in the context of German reunification is a “propaganda battle cry” (“*propagandistischer Kampfbegriff*”) that does not clarify anything “but is intended to stigmatize (*brandmarken*).”¹⁸ Slightly more complex criticisms point out that the notion of *Unrechtsstaat*, as applied to the GDR, is unduly overreaching. The state, one critic says, is not an entity independent of society but the “political constitution of society.” Therefore, the designation of the GDR as an *Unrechtsstaat* applies to society too. In this way, *Unrechtsstaat* puts all GDR citizens “under moral suspicion” and casts them as second-class citizens.¹⁹

On the other side of the controversy are political actors such as former president (*Bundespräsident*) Roman Herzog, a CDU member who in 1996 designated the GDR as an *Unrechstaat*, using straightforward and simple criteria: the regime denied

¹⁸ Löttsch notes that incumbent authorities in Germany shy away from designating autocratic political regimes such as China, Zimbabwe, and Iran as *Unrechtstaate*, while being unhesitant about classifying the German communist regime as such. For Löttsch, this double standard goes to show the partisan motivation of the *Unrechtsstaat* label. See <http://www.gesine-loetzsch.de/fileadmin/sites/gesineloetzsch/PDF/Unrechtsstaat.pdf>

¹⁹ Gesine Schwan, “In der Falle des Totalitarismus,” *Die Zeit Online*, 25.06.2009. Schwan is a member of the SPD, not of Die Linke, but her arguments in this respect are strikingly similar to those of many representatives of the latter.

democratic rights to its citizens, violated basic human rights, censored the press, and intimidated dissidents.²⁰ Along the same lines, Chancellor Angela Merkel, CDU leader, noted in applying the controversial term to the GDR that the “SED-System” was an *Unrechtsstaat* system because it required that many lives be lived with lies; because it was based on a structure that operated on fear (*Grundstruktur der Verängstigung*); because it prevented and punished public expression of political views; because it produced its own “truth;” and because that it engineered electoral fraud.²¹ The Chancellor also warned against presenting distorted views of the ancien régime. She argued that even though many citizens had been able to live “normal” lives under the GDR, which to some proved that the term *Unrechtstaat* should not apply, the system was still profoundly unjust. “Surveillance and spying were ever present companions in daily life.” Thus, Merkel urged politicians and citizens to reject SPD leader Franz Müntefering’s opinion that *Die Linke* should not continue to be evaluated based on its ideological ties with the GDR.

These ideological/partisan dynamics stand in the background of many of the cases I develop in the dissertation. For example, in the case of pastor Kabisch and his outing of IM Schubert, which will be referenced in several chapters, and in that of Kerstin Kaiser, which will be addressed in the last chapter, the partisan and ideological motivations underlying the behavior of some political actors is undeniable.

²⁰ He argued: “Die DDR verweigerte ihren Bürgern die grundlegenden demokratischen Rechte, sie machte Oppositionelle mundtot, und schreckte in Einzelfällen nicht einmal vor Mord und Verschleppung zurück. Sie war ein Unrechtsstaat! [...] Es stünde schlimm um die Staatengemeinschaft, wenn Menschenrechtsverletzungen, Unterdrückung, Pressezensur und Minenfelder international üblich und dazu noch allgemein akzeptiert wären.” “Rede von Bundespräsident Roman Herzog vor der Enquete-Kommission “SED-Diktatur” in Berlin, 26.03.1996.

²¹ “Kanzlerin Merkel rechnet mit DDR als ‘Unrechtsstaat’ ab,” *Die Welt*, 09.05.2009.

VI. Nazi-*Vergangenheitsbewältigung*: Responsibility Deficit as a Legacy

This dissertation deals with the second German *Vergangenheitsbewältigung*. Before setting out, however, a word about the first “coming to terms with the past” is in order. The Nazi-*Aufarbeitung* precedent has, in many occasions, influenced the tenor and the thematic axes of public discussion around Stasi-*Aufarbeitung*. In the opinion of numerous critics, the first *Aufarbeitung* left an immense deficit and reflected the failure of German private citizens and the two German states to assume responsibility for the Final Solution. An early proponent of this view was Hannah Arendt. She criticized the inability of Germans to grapple with the consequences of the war, their “deep-rooted, stubborn, and at times brutal refusal to face what really happened.” Arendt further argued that such an escape from reality is also an escape from responsibility (“*Flucht von der Verantwortung*”). The average citizen in Germany, she added with sarcasm, “looks for the causes of the lost war not in the acts of the Nazi regime, but in the events that led to the expulsion of Adam and Eve from paradise,” and she criticizes the bad habit of West Europeans, especially Germans, of blaming their misfortunes on some force out of their reach.²² Arendt also railed against those who blame “all deeds or events on historical trends and dialectical movements” and who hold “a deep-seated [...] fear of passing judgment, of naming names, and of fixing names.”²³

²² Hannah Arendt, “The Aftermath of Nazi Rule. Report from Germany,” 1950, 342.

²³ Hannah Arendt, “Personal Responsibility Under Dictatorship,” 2003, 21.

After the fall of the wall in 1989, the precedent of the responsibility deficit of Nazi-*Aufarbeitung* was pressed against those who were reluctant to carry out an immediate and comprehensive collective scrutiny of the communist past. For political activists looking to unveil the Stasi past in reunified Germany, Nazi-*Aufarbeitung*, with its compound of amnesia and amnesty, was a road not to be taken again. In view of the importance of the assessment of the progress of Nazi-*Aufarbeitung* for the trajectory of Stasi-*Aufarbeitung*, let me offer a swift overview of some of the features that inform the belief that the first *Aufarbeitung* offered insufficient mechanisms to deal with the Nazi-past.

In East Germany, Nazi-*Vergangenheitsbewältigung* was the victim of one of the communist regime's foundational myths, and of its ideological commitments. Even though the GDR did not actually exist in the Third Reich, East German public officials portrayed the regime as the inheritor of the victims of Nazism. The Reich's persecution of communists was "owned," as it were, by the communist regime. Part of the legitimacy of the GDR, in fact, rested on its previous Nazi "occupation." By virtue of this official doctrine of co-victimhood, the East German government saw itself relieved from any responsibility for the annihilation of Jews or, for that matter, any of the crimes committed by Nazis. Moreover, Marxist ideology was projected onto the past in order to simplify German history. Pinning blame on "fascist" and "capitalist" forces absolved the majority of the population from confronting its complicity. While the GDR claimed the German past for its own progressive and

socialist tradition, the 12 years of the Nazi regime “were reduced in antifascist rhetoric to ‘state monopoly capitalism’ and dissociated from the GDR.”²⁴

This government conception with respect to the Holocaust was radically transformed only after the fall of the wall. Early in 1990, speaking on behalf of the newly reorganized East German government, its Prime Minister announced the latter’s recognition of “the responsibility of the entire German people for the past” and its readiness to offer material compensation to those persecuted in the past. Shortly afterwards, the first democratically elected East German Parliament offered an unprecedented statement: “We ask the Jews of the world to forgive us. We ask the people of Israel to forgive us for the hypocrisy and hostility of official East German policies toward Israel and for the persecution and degradation of Jewish citizens also after 1945 in our country.”²⁵

The West German process of coming to terms with the past was, according to numerous scholars, as lacking as the East German one, which was attributed to factors as diverse as the Cold War in the international context or the persistent anti-Semitism within the nation. According to Norbert Frei, West German Nazi-*Aufarbeitung* went through four stages:

1. From 1945 until the end of Ally rule in 1949: This period was defined by the inability of Allies and new German authorities to fully disavow Nazi ideology and anti-Semitic views. Surviving victims of the Holocaust began to be gradually

²⁴ Jeffrey Peck, “East Germany,” 1996, 452.

²⁵ Peck, “East Germany,” 1996, 447.

reabsorbed into society, although many still endured precarious conditions and were not compensated in monetary terms.

2. The second period, called *Vergangenheitspolitik*, starts with the founding of the Federal Republic and takes full swing under the aegis of Chancellor Konrad Adenauer. This period was characterized by important, though insufficient, attempts to both reckon with the past *and* draw a closing line (*Schlußstrich*) under it. According to Frei, these policies show an “apparent tendency of the Germans to diminish the fundamentally unjust character of the Nazi regime [...] in the collective consciousness.”

3. The third period, which Frei calls *Vergangenheitsbewältigung*, is defined by the emerging sense of an unresolved past and the public demand for a more critical analysis of the Nazi legacy.

4. Frei calls the fourth stage *Vergangenheitsbewahrung* (maintenance of the past). This process has been one of maintaining the efforts started in the previous stage.

The measures adopted in the second and third stages of Frei’s chronology are particularly revealing of the way in which, according to many scholars, post-war German authorities and civil society failed to take full responsibility for Nazi crimes. The general sense about their results is one of disillusionment. Many voices in public opinion agree that Nazi-*Aufarbeitung* advanced at an insufficient tempo and without an appropriate degree of thoroughness. In aspects as diverse as the purge of Nazi officials from the new government, the financial compensation for Jews

(*Wiedergutmachung*), or the treatment of the Holocaust by artists and historians, the notion of deficit sums up the state of progress of Nazi *Aufarbeitung*.²⁶

For instance, according to Andrei Markovits, the denazification policies of the fifties in West Germany were poorly designed and enforced. The Trials of Nuremberg, to mention the most important legal process against Nazi perpetrators, were highly selective and had a very restrictive scope, as they sentenced only upper level officials. Moreover, denazification efforts at the regional level were futile, because they relied on voluntary action: an “honorary system” was put in place so that Nazis would confess to their crimes of their own accord, which they almost never did. Furthermore, denazification in West Germany did not contribute to the creation of “native” statelike structures for rendering justice, as most trials against Nazi criminals were “administered” by the Allies in what was perceived by many citizens as an external imposition of justice. There are no instances of German publics turning against German citizens for their involvement with the Nazi regime. Instead of achieving some measure of success in the “cleansing of Nazis from public life,” denazification “guaranteed the alleviation of any collective or individual responsibility via the efficient legal reintegration.”²⁷ In West Germany, in fact, denazification was quite unpopular, a trend that persisted in the years to come. Thus,

²⁶ To say that the literature on Nazi *Vergangenheitsbewältigung* is extensive is an understatement. This section is based on a limited number of sources that have summarized such literature. Andrei Markovits, “West Germany,” 1996, and Jeffrey Peck, “East Germany,” 1996. For a succinct characterization of the changing approaches to the legacy of the past see Norbert Frei, 2006, and also by Frei, his monumental *Vergangenheitspolitik*, 1996. On the very distinct approaches to dealing with the Nazi Past from Konrad Adenauer, Kurt Schumacher, and Theodor Heuss, see also Jeffrey Herf, “The Emergence and Legacies of Divided Memory,” 2003.

²⁷ Andrei Markovits, “West Germany,” 1996, 405.

opinion polls consistently showed that the Auschwitz trials, held between 1963 and 1968, were widely regarded as an unnecessary witch-hunt. From the point of view of those directly responsible for the commission of crimes, the notion of *Befehlsnotstand* (“just following orders”) emerged as a quite popular defense strategy to eschew individual moral and political responsibility.²⁸

Other legal measures point in the same direction as denazification. Two amnesty laws were granted during the second stage. They exempted Nazi officials and SS members from legal prosecution, or, in the case of the so-called “131er” law, they enabled the reintegration of a substantial number of previously displaced civil servants, as well as compensation for former professional soldiers who lost their jobs in 1945. Many convicted criminals were released under the auspices of these laws.

One of the most important pieces of Konrad Adenauer’s *Vergangenheitspolitik* was his policy of monetary reparation for victims of the Holocaust, for which Israel became West Germany’s foremost interlocutor. Adenauer’s *Wiedergutmachung* took the timid reparation measures implemented by Allies shortly after the war to a higher level. *Wiedergutmachung* was preceded by Adenauer’s attempt to address Israel’s complaint that Germany had failed to denounce Hitler’s war against Jews:

The Federal Government and with it the great majority of the German people are aware of the immeasurable suffering that was brought upon the Jews in Germany and the occupied territories during the time of National Socialism [...] Unspeakable crimes had been committed in the name of the German

²⁸ Andrei Markovits, “West Germany,” 1996, 423.

people, calling for moral and material indemnity [...] The Federal Government is prepared, jointly with representatives of Jewry and the State of Israel [...] to bring about a solution of the material indemnity problem, thus easing the way to the spiritual settlement of infinite suffering.

These lines suggest that *Wiedergutmachung* was partly driven by moral considerations, but their timing and their addressee suggest that it was also an attempt to restore West Germany's legitimacy within the international community. The administration, in turn, considered that a good relationship with Israel was a crucial step in this direction. For this reason, monetary compensation "avoided more confrontation with the past than it engaged. It led to an acknowledgment of German responsibility on an instrumental level rather than to an act of genuine collective contrition."²⁹

The absence of public policies focused on raising awareness of the Final Solution also reflects the poverty of *Nazi-Vergangenheitsbewältigung*. The treatment of the Holocaust in history books and its mandatory incorporation into the curricula of West German schools at all levels happened only in 1961. Even then, the subject did not receive uniform treatment in German schools. Holocaust education was treated more thoroughly in the elite gymnasias than in the less academically oriented *Hauptschulen*.

German writers and artists did not make up for these deficiencies in confronting the magnitude of the Holocaust, as is illustrated by the fact that even those writers who did cover the Nazi past and displayed a philo-Semitic attitude, "omitted the specific

²⁹ Markovits, "West Germany," 1996, 410.

plight of the Jews, thus rendering their accounts of Nazi brutality *judenrein*.”³⁰ Neither public authorities nor civil society initiated a process of responsibility-taking at the cultural or educational level. There were, of course, remarkable exceptions. One of the greatest influences on the intellectual debate around the *Aufarbeitung* of the Nazi past is Karl Jaspers’ 1946 *Die Schuldfrage* (*The Question of German Guilt*). The book exerted substantial influence on the discourse of German responsibility through its critical reception and through related essays that addressed it. In the book, Jaspers made a famous distinction between moral guilt that is based on what one does and moral guilt that is based on who one is. He argued that the latter, which he calls “metaphysical guilt,” could be distributed to all members of a community who stand by while their fellows do harm, e.g., murder Jews. In this context, being morally blameworthy for harm is largely a matter of belonging to an “evil” community without asserting one’s own moral powers over the community to cleanse it of such evil. According to Jaspers, “[t]here exists a solidarity among men as human beings that makes each as responsible for every wrong and every injustice in the world, especially for crimes committed in his presence or with his knowledge. If I fail to do whatever I can do to prevent them, I too am guilty.” Jaspers, as it should become clear from the foregoing quotes, rejected collective categories and emphasized the role of the individual in the process of *Aufarbeitung* (an argument that was shared by most of his contemporaries). Instead of collective responsibility, he advanced the notion of shared responsibility (*kollektive Haftung*).³¹

³⁰ Markovits, “West Germany,” 1996, 406.

³¹ A good discussion of this debate in Jennifer M. Kapczynski, *The German Patient Crisis and Recovery in Postwar Culture*, 2008, 48.

The Cold War created the political climate that mostly accounts for the poverty of Nazi-*Aufarbeitung*. In West Germany, for instance, the United States and its European Allies encouraged a premature abandonment of denazification. Allied powers were pressed to establish the *Bundesrepublik* (West Germany) as an ally and a counterposing force to East Germany, and the Soviet bloc more generally. The sooner the remembrance of the *Shoa* was left behind, the better.

Several decades had elapsed before one single event—the broadcasting in public television, with record viewings, of the American film *Holocaust* in 1979—managed to raise awareness about the magnitude of the Final Solution among the West German public. Among its concrete effects, *Holocaust* changed social perceptions about the desirability of Nazi trials. For instance, an unusual display of public outrage followed the acquittal of several of the defendants in the Madjanek trials, one of the country’s last trials of Nazi camp guards. Furthermore, prior to *Holocaust*, the Bundestag, the German Parliament, had succeeded in extending the term of permissible prosecution of war criminals only amidst controversy. After *Holocaust*, the Bundestag succeeded in abolishing the statute of limitations altogether.

The belief that German government and society did not confront the Nazi past appropriately has become an incentive and a justification for actors in political and civil society in reunified Germany to confront the communist past in a thorough, sometimes painstaking, manner, especially with regards to the Stasi and its informers. Obviously the difference in nature and modality of operation of the two “dictatorships” would warrant a different kind of confrontation with the past for each case. The nature and the acts of the Nazi and communist regimes are different on a

number of fronts. The communist regime, as one critic put it, did not produce as many corpses as did the Nazis. At the same time, the latter lasted only about 12 years, while the former was in place for several decades. The Nazi regime collapsed purely as a result of external interventions, while in the communist case endogenous political change was critical. Furthermore, Nazism was regarded as a native phenomenon, while communism came to be regarded as a foreign “product,” for which the blame could always be assigned to the U.S.S.R.³² Despite all the differences, the Nazi-*Aufarbeitung* deficit has symbolic weight whose imprint in Stasi-*Aufarbeitung* is beyond question.

³² Eckhard Jesse, “‘Entnazifizierung’ und ‘Entstasifizierung’ als politisches Problem. Die doppelte Vergangenheitsbewältigung,” 2008; Rainer Eckert, “‘Entnazifizierung’ und ‘Entstasifizierung,’” 1997.

Chapter 2

The Case(s) of the Litigating Spies: Reputation and Respect

I. Introduction: Of Veils and Pillories

The public exposure of IM is a practice usually regarded as part and parcel of the process of “coming to terms with the past,” and in the last years it has followed a curious path, which will be the focus of the chapter. Roughly put, the situation is the following: the secret police mustered an army of informal collaborators who, without having a permanent role or an institutionalized position within the MfS, spied on other citizens and provided the Stasi, as the secret police were called, with information about those suspected of being “enemies of the people.” After the fall of the GDR, some of these IM retreated into the shadows, under the rubble of the collapsed regime, preferring to conceal past deeds, and hoping, perhaps, that they would slip into oblivion. And yet the laws and institutions emerging from the unified nation, as well as its leading politicians, were explicit in their resolve to turn every stone over and expose *all* individuals previously entangled with the Stasi, regardless of their current occupation, political orientation, or walk of life. Of late, however, that task has encountered some difficulties. Not that the stone turners have grown weary, anxious, or worried about what they would find concealed under the rubble; or that with the passing of time, the public has lost interest in tracking down and exposing

informal collaborators. The main problem for pro-outing activists is that they have encountered a boulder that complicates their efforts. The rock is the right of personality (*Persönlichkeitsrecht*). Private citizens who are shown to have had a tie with the Stasi, no matter how weak or how strong, how steady or how transient that link was, appeal to their personality right and take to court those who try to publicly disclose their identity and past deeds. According to them, that right has substantial weight and cannot be cast aside by the tides of public interest. In contrast, critics say that, in the context of informal collaboration with the Stasi, *Persönlichkeitsrecht* is an empty shell. Public interest shatters it, or it simply does not apply. The issue highlights the tension between freedom of expression and of the press, on the one hand, and self-presentation, on the other. In the language of rights, the conflict is between expressive and personality rights, the latter being most notably captured, but not exhausted, by legal guarantees against privacy invasion and reputational harm.

Arguably, in other legal and political contexts, such as the American one, publicly exposing a person as an informant (“outing” her) would be a relatively uncontroversial action, one legitimated and made legally immune for the sake of its contribution to the public interest. But in the context under consideration, no such *absolute* immunity and legitimacy can be taken for granted. The public identification of former collaborators in order to collectively shame them is regarded in some quarters as unduly disrespecting them by stigmatizing and holding them in contempt. This chapter illustrates how such concern draws on a set of beliefs and values embodied in laws and expressed in public debates. Put differently, I explore how reputational interests, which are reflective of the importance of respect for individuals

and the logics of self-presentation that are implied by it, shape the judgments and the boundaries determining the degree to which publicity may be used to shame former Stasi collaborators.

The first four sections of this chapter discuss judicial and legal cases in reunified Germany. I have introduced some loose comparisons between American and German jurisprudence in order to bring clarity to the latter. I will draw on comparative constitutional law scholarship contrasting German and American cases and the relatively distinct way in which they deal with issues regarding the balance between free expression and personality rights (constant reference to American cases as a contrast category will be found in the chapter). In fact, this chapter is, in part, a contribution to this scholarly literature. After I have illustrated how the concern for the reputation of the individual influences judgments about, and sometimes even circumscribes the scope of, the publicity of the identity of former informal collaborators, paying particular attention to legal and judicial settings, in subsequent sections I look beyond those spheres and broaden the scope of the inquiry. These sections probe post-reunification discourse around outings in order to show how the public exposure of IM is often portrayed in political discourse as a form of disrespect in that it prevents individuals from controlling their self-presentation and thus avoiding shaming exposures.³³ The chapter concludes by arguing that some German

³³ Recent scholarship on shame addresses some of the theoretical insights to be used and developed in the chapter. Among these: Chesire Calhoun, "An Apology for Moral Shame," 2004; Jill Locke, "Work, Shame, and the Chain Gang: The New Civic Education," 2000; Jill Locke, "Shame and the Future of Feminism," 2007; Toni Massaro, "Shame, Culture, and American Criminal Law," 1991; Toni Massaro, "The Meanings of Shame. Implications for Legal Reform," 1997; Martha Nussbaum, *Hiding from Humanity: Disgust, Shame, and the Law*, 2006; Thomas Scheff, "Shame and the Social Bond: A Sociological Theory," 2000;

publics oppose outings on the grounds that they are wrongly *motivated*; they regard them as the expression of victor's justice and of revengeful citizens. In the German case, however, and probably in many other cases involving shaming penalties, the motivations of the actors who are publicly exposing informers are immaterial to the question of whether outings promote or undercut respect.

II. The Right of Personality: Losing Face or Gaining Respect?

During the Communist era, the Protestant Church became one of the staunchest and most independent bulwarks of opposition to the official regime. It is no wonder that many of the dissidents that emerged in the years leading to the collapse of the regime had close ties with the Church. It is no surprise either that the Stasi had a special interest in keeping a close eye on its activities. In 2008, a former pastor Edmund Kabisch from the region of Bavaria and his religion students put together the exhibition "Christian Activities in the DDR," documenting how the Communist regime besieged religious institutions and monitored their internal life. In the exhibition, the real name of an ex-informant, IM "Schubert," was in full display. Schubert had infiltrated the Church under the pretense that he was a Christian in order to inform on several of the parishioners, including Kabisch himself.

With the help of his lawyer (a member of *Die Linke*, Germany's successor party to the old East German Communist SED), Schubert brought suit to a local court, which

Christina Tarnopolsky, "Prudes, Perverts, and Tyrants. Plato and the Contemporary Politics of Shame," 2004; David Velleman, "The Genesis of Shame," 2001; Bernard Williams, *Shame and Necessity*, 1993.

delivered a temporary injunction prohibiting further allusion to Schubert's real name. The injunction noted that the exhibition used personal information "to degrade (*herabzuwüdigend*) the reputation (*Ansehen*) and esteem (*Wertschätzung*) of the plaintiff in the public eye." The provisional ruling relied on the right of personality. But Pastor Kabisch was categorical in his resolve to out IM "Schubert:" "Without naming names, *Aufarbeitung* makes no sense whatsoever."³⁴ And members of the local Christian Democratic Union party, supporting the pastor politically and financially in his litigation against "Schubert,"³⁵ agree that those who knowingly and voluntarily collaborated with an unjust state to harm their fellow citizens, deserve to have their unjust acts reported along with the full letters of their names: "The Stasi was an essential pillar of the GDR regime. Whoever knowingly and willingly supported this state of injustice and harmed his fellow men must accept that this injustice is called by its full name."³⁶ Unsurprisingly Marianne Birthler, the current head of the agency in charge of administering the Stasi files, is also on board: "*Aufarbeitung* is incompatible with anonymity, it demands clarification (*Aufklärung*)."³⁷

IM Schubert's case, to which I will continually return, is an ideal point of entry to clarify the right of personality as well as its scope of coverage, its origin, and its

³⁴ "Streit um IM-Klarnamen bald wieder vor Gericht," *Der Tagesspiegel*, 31.05.2008.

³⁵ The cost of litigating when a former Stasi informer brings suit are usually so high that many citizens cannot afford them. In light of the costs of litigation, Birthler argues that ex-Stasi agents' suits are forms of intimidation.

³⁶ Also, the town's mayor: "Wenn sich einer aus niedersten Beweggründen taufen lässt und andere ans Messer liefert, ist das für mich Grund genug, den Namen öffentlich zu nennen."

³⁷ "Inhaltliche Entscheidung zu Klarnamen wäre besser," *Mitteldeutsche Zeitung*, 22.04.08.

concern for the protection of individual self-presentation.³⁸ *Persönlichkeitsrecht* stems from the *Grundgesetz*'s (that is, the Basic Law or Constitution) protection of human dignity, which may be regarded as the most important constitutional value in the German legal order, contained in Article 1 of the Basic Law.³⁹ But human dignity is a broad concept even in the legal context, so much so that discussions of its precise contours rival debates over the meaning of the due process clause in American constitutional law.⁴⁰ Given that breath, the Federal Constitutional Court has construed its meaning more narrowly, and according to its interpretation, the right to personality encompasses the protection of private, personal, and intimate spheres (*Privat, Geheim, und Intimsphäre*); the right to one's word and image; the right to informational self-determination (*informationelle Selbstbestimmung*); and the protection of honor (*Ehrenschutz*). It is, to put it bluntly, a right to self-presentation, that is, a right to choose how individuals wish to present themselves before the public. The right in question carves out a domain of private life where one can develop one's individuality, what doctrine calls personal development (*Personale Entfaltung*). This, according to the German legal doctrine, has a direct impact on the individual's social

³⁸ There is no such thing as a constitutionally embedded right of personality in the U.S. The protection of some of the interests covered by that right in the American context is based on tort law, torts like defamation, privacy, or the infliction of emotional distress. Johann Neethling, "Personality Rights: a Comparative Overview," 210-245.

³⁹ Article 1: "(1) Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority; (2) The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world; (3) The following basic rights shall bind the legislature, the executive, and the judiciary as directly applicable law." Also relevant is article 2, relating to personal freedoms: "(1) Every person shall have the right to free development of his personality insofar as he does not violate the rights of others or offend against the constitutional order or the moral law. (2) Every person shall have the right to life and physical integrity. Freedom of the person shall be inviolable. These rights may be interfered with only pursuant to a law."

⁴⁰ The analogy is Donald Kommers' in *The Constitutional Jurisprudence of the Federal Republic of Germany*, 1997.

identity (*soziale Identität*). To the extent that the right guarantees that one may decide for oneself what contents of one's life one wants to disclose and what personal image one wants to convey, it prevents the person from being affected "in her social reputation (*gesellschaftlichen[s] Ansehen*) [...] and as a consequence that her feelings of self-worth (*Selbstwertgefühl*) are undermined."⁴¹

The right of personality in Germany has a long history. It was born in the late nineteenth century, in a society strongly attached to norms of respectability and honor, and it embodies a complex cultural pattern of the maintenance of respectful interpersonal relations.⁴² Two are its legal foundations: the ancient Roman law of insult and the law of artistic property, both of which are corpora of law that carry high sensitivity to immaterial interests. As to the first one, nineteenth-century German jurists of a Hegelian bent engaged in a large-scale reinterpretation of the ancient Roman law of insult. They saw their interpretive enterprise as one of furthering the process of extending legal protections from material and monetizable interests to guarantees against immaterial, non-economic interests (protection against verbal insult, for instance, or protection of one's name, photographed image and correspondence), whose unfolding they traced back to the development of Roman law itself. The law of artistic property underwent a similar process of expansion, from mere copyright to include a broader right to control the use of one's work, in the name of protecting one's reputation as an artist. As a combination of these two forces

⁴¹ Ann Gosche, *Das Spannungsverhältnis zwischen Meinungsfreiheit und Ehrenschatz in der fragmentierten Öffentlichkeit*, 2007, pp. 43-57. For a comparative sketch of German and Canadian laws of privacy, see John Craig and Nico Nolte, "Privacy and Free Speech in Germany and Canada: Lessons for an English Privacy Tort," 162-180.

⁴² James Whitman, "Enforcing Civility and Respect: Three Societies," 2000, 1282.

and their development, by the early part of the twentieth century there were plenty of “personality” protections scattered throughout German law. Although the 1900 Civil Code did not endorse the right of personality, the protection of personality progressively flourished, in particular after the Basic Law of 1949 (the current German Constitution) embraced the German tradition of personality protection.⁴³

In order to get a firmer handle on the values and interests involved in *Persönlichkeitsrecht*, let me draw a brief parallel between one of the aspects of the right (privacy) and the “equivalent” American notion, covered by the tort of privacy. The contrast, which is not absolute by any means, is a foil that will help to shed light on the particular aspect of the German right of personality that I have been emphasizing so far: self-presentation. Legal scholar James Whitman has insisted that the values and interests covered by the notion of privacy in Germany and the United States are not entirely the same, even though there are clear and important juxtapositions. To put it bluntly, in Germany, the protection of privacy puts *emphasis* on the right to control one’s public image, while in the United States the *main* goal is to preserve the home as a citadel of individual sovereignty. The loss of public face seems to be the major threat under the former conception; for the latter, the main threat is the invasion of the state into the domestic sphere.⁴⁴ Thus, privacy protections in Germany are “a form of protection of a right to *respect* and *personal dignity*.”

⁴³ James Whitman, “The Two Western Cultures of Privacy: Dignity versus Liberty,” 2004.

⁴⁴ This is not to say that under American jurisprudence, the right to control one’s public persona is not protected. The development of the modern tort of privacy branches out in four different directions. Violation of privacy might mean one of the following: an unreasonable publicity given to another’s private life; an unreasonable intrusion upon the seclusion of another; an appropriation of another’s name or likeness; or publicity that unreasonably places another in a false light before the public. The first branch protects individuals unwanted public exposures. See *Restatement (Second) of Torts* §§ 652A-E

These legal guarantees are “rights to control your public image—rights to guarantee that people see you the way you want to be seen. They are, as it were, rights to be shielded against unwanted public exposure, to be spared embarrassment or humiliation.”⁴⁵

III. The List of Informers and the Courts: the Threats of Publicity

In the following sections I argue that the right of personality and the values associated with it have decisively shaped the way in which courts, the law, and some publics in contemporary Germany grapple with the phenomenon of informal collaboration. Even in those cases in which courts rule in favor of expressive and press interests over reputational ones (and that, as we will see, is not always the case), upon closer inspection their decisions regarding the problem of informal collaboration reflect the importance of dignity as an intractable, hard-to-dispel value. Embedded in the right of personality are logics or grammars of “self-presentation” that are deeply connected to the notion of dignity in ways that will be clarified in the following lines.

The reputation of an individual is at risk when unpopular information about her past is made public. However, it is usually the rule among liberal democracies like Germany or the United States that the reputational interests of the individual are not protected when the item of information that is supposed to affect them is part of, or would make a contribution to, public deliberation about issues of public interest. When public deliberation is conducted for the purpose of understanding public

⁴⁵ James Whitman, “The Two Western Cultures of Privacy: Dignity versus Liberty,” 2004.

matters and persons become the subject of investigation, an uneasy tension between privacy and what may be called “a normative theory of public accountability” is generated. According to this theory “the public should be entitled to inquire freely into the significance of public persons and events, and [...] this entitlement is so powerful that it overrides individual claims to the maintenance of information preserves,” information preserves being a kind of “territory” which contains a “set of facts about [oneself] to which an individual expects to control access.”⁴⁶ In other words, the public is entitled to unveil certain information about individuals, who would rather keep it to themselves, even if that might harm their dignity (understood as the protection of an individual’s interest in being included within the forms of social respect, or in being able to command attitudinal respect from others) to the extent that such disclosure undermines that protection or impedes that ability.⁴⁷

Courts in Germany often endorse this theory. However, they seem to embrace it less ardently than, to go back to the contrast category of the paper, American courts. To elaborate: German and American courts approach defamation and privacy cases in different fashion, the former being, in general terms, more restrictive than the latter.⁴⁸ To be more precise: in deciding defamation or privacy cases, courts in the United States will assume at least two things: that free speech is fundamental for the public realm, and that the purported injury to the individual will be cured by “more speech,” as Justice Brandeis famously argued. In contrast, German courts will not favor speech

⁴⁶ Robert Post, *Constitutional Domains. Democracy, Community, Management*, 1995, 80.

⁴⁷ This definition of dignity is recurrent in Robert Post’s body of work. See also “Three Concepts of Privacy,” 2001, 2092, and “The Social Foundations of Defamation Law,” 1986.

⁴⁸ Even if there are converging tendencies. See Georg Nolte. “Falwell v. Strauss: Die rechtlichen Grenzen politischer Satire in den USA und der Bundesrepublik,” 1988.

a priori and instead engage in an *ad hoc* balancing process. Thus, the American principle is one of priority while the German one is a balancing principle.⁴⁹ And the latter methodological approach to deciding free speech cases (balancing) leaves room for a more careful consideration of the risks posed by the publicity of one's unpopular and compromising (by contemporary standards) past, and for a higher degree of protection against that publicity.

For instance, a regional court ruled in 1979 that a magazine accusing a former Nazi collaborator of being responsible for the deaths of 20 children in a concentration camp could not recover for *üble Nachrede* (defamation). Not only was the plaintiff unable to prove that the statement was false (truth is a defense, but the burden of proof is on the plaintiff in the German jurisprudential context). More importantly, but related to this, the press has a legitimate interest, the court argued, "in reporting concretely the facts that are essential for evaluating a former period of time, in preserving the memory of the era of national socialist rule, in contributing to an impartial view by its readers of these horrible acts of power, and even to help toward a clarification of particular criminal acts through the publication of further details." The court admitted that, in some cases, the interest in publicity conflicts with the interest of the plaintiff in remaining "undisturbed" and in being able "to develop his personality (*Persönlichkeit*)." The court argued that it had not overlooked the fact that

⁴⁹ Pavel Lutomski, "Private Citizens and Public Discourse: Defamation Law as a Limit to the Right of Free Expression in the U.S. and Germany," 2001. On the differences in the methodological approaches (and also the substantive ones) between the two cases see also Frederick Schauer, "The Exceptional First Amendment," 2005; Frederick Schauer, "Freedom of Expression Adjudication in Europe and America: A Case Study in Comparative Constitutional Architecture," 2005.

the former collaborator, “now seventy years old, for whom the alleged wrongs lie over thirty years in the past, has a strong interest in not having to confront these horrible reproaches which must distress him and bring him into contempt in the eyes of his friends and acquaintances and the public.” But the court affirmed that since the former Nazi collaborator had not proven the falsity of the accusation, the interest in publicity, for the reasons mentioned above, outweighed his interest in developing his personality.⁵⁰

When we turn to the case of former informal collaborators, the certitude about the appropriate balance between expressive and reputational rights seems to waiver, especially in recent years. Consider the following example, which I develop in the rest of this section. The *Neues Forum* was a civic/political movement formed in East Germany shortly after the collapse of the DDR. It was critical of the regime and relatively successful at mobilizing the citizenry. Having initially been described as an organization contrary to the state and the constitution, the *Neues Forum* was given official recognition in the months leading up to the German reunification. One of its post-reunification activities in Halle in 1992 was to make available for public consultation a list of about 4,500 names of former IM. The purpose, according to one of its members, was to have the town undergo an episode of “psychological cleansing.” To my knowledge, this constitutes the first case in which a former IM brought suit arguing that her personality right had been affected by such a disclosure, although the argument of the plaintiff in this case was that the information was inaccurate, and she denied she had been an informer.

⁵⁰ James Gordley, *An Introduction to the Comparative Study of Private Law; Readings, Cases, Materials*, 2009.

Before the Halle case made it to the highest tribunal of the land, the *Bundesverfassungsgericht*, two lower courts ruled in favor of the plaintiff. One stated that “mentioning that the plaintiff had been active as an unofficial employee is enough to ruin her public reputation and to pillory her [...] Through this ‘branding’ the plaintiff was largely affected in her claim to social reputation (*soziale Geltung*) and hit in the core of her personality.” Briefly put, the plaintiff’s outing had put her at the pillory and thereby had tarnished her reputation, degraded her public esteem, and compromised her social image.

But the *Bundesverfassungsgericht* objected to the rulings of the lower courts. First, it argued that those courts had “misjudged” the free speech interest of the defendant. The highest court listed a number of reasons why the publication of the list should be considered as a part of the “public debate of ideas” (“*öffentliche Meinungskampf*”) on the question of Stasi *Aufarbeitung*. In particular, it stressed the fact that the protection of free expression requires that not only the content of an expression be protected but also the form in which it is delivered. Thus, the court argued, the constitution protects the expressive vehicle (outing) that in this particular case the defendant used to advance a subject of public interest. In other words, the court protected the view of the defendant that, “The reality of the Stasi oppression can only be understood when the phenomenon ‘Stasi’ is pulled away from the abstraction of official documentation and statistics, and is presented to the affected person in a concrete and understandable way.” The court also argued that it was *not* its task “to bring public discussions to a close or to declare that a debate as ended.”

But the *Bundesverfassungsgericht* also admitted that some public statements, even if made in the interest of public discussion and even if amounting to truthful remarks about particular facts, were not constitutionally protected. Such is the case of remarks that may “stigmatize” the accused: “The protection that is granted by *Persönlichkeitsrecht* is also effective even if the statement is true and therefore becomes a point of origin for social exclusion and isolation.” In light of this limitation to free expression, the court took pains to explain why in this particular case there is no threat that the plaintiff may become socially ostracized. First, it argued, strictly speaking IM did not commit criminal deeds. Second, and important for the court, the list was not widely distributed, which mitigated the list’s potential exclusionary effects: “the publication of the list did not reach a broad audience. The appellant [who published the list] did not make it accessible through the media [...]. Only a relatively small number of people got to see the list.” In other words, the identity of the plaintiff was not exposed to a large number of citizens, the ruling further affirmed, and therefore the plaintiff’s reputation was not unduly affected. Third, the court asserted that past unofficial collaboration did not lead to a “withdrawal from social recognition (*soziale Anerkennung*),” as would be the case, for instance, of child molestation (in the court’s example). Informal collaboration with the MfS was, the court continued again without further argumentation, “a mass phenomenon” and therefore could not earn a single individual “a sustained exclusionary *Isolierung*.” Finally, the court argued that the plaintiff was not singled out as a sole collaborator. Her name was buried among 4,499 other names, a fact

which further dispels the possibility of “an exclusionary stigmatization” for the plaintiff.

I reproduce with some detail the Court’s line of reasoning to illustrate the care with which it grapples with the phenomenon of collaboration. The Stasi is a subject whose importance for public deliberation is beyond dispute. Yet, reasoning as if it were dealing with a controversial topic, the court goes through the work of explaining why, given the particularities of the case, this is not a case in which the personality right of the plaintiff has been affected. It believes it important to note that the list only reached a limited audience, thus mitigating the potential harm to her reputation. But had her public disclosure reached a wider audience, as happened in other case, some of which will be examined below, would its decision have been any different? The name of the IM was not singled out in the list, which further mitigates the potential harm to her reputation, the Court continues. But again had it been singled out, like other IM have had their names singled out, what might the Court’s ruling have been? Moreover, it is hard to fathom what the Court means by designating informal collaboration as a “mass phenomenon.” How many citizens does it take for a “phenomenon” to be “mass”? Only about two and a half percent of the population was active as an IM, which would not seem to qualify as a mass phenomenon. The factual inaccuracy is noteworthy because it furnishes the basis for the court’s argument that the list could not produce “a sustained exclusionary *Isolierung*.” Here the implication is that, had informal collaboration not been a mass phenomenon, then the risk of a sustained *Isolierung* of the former IM might have been real, and an element worth serious consideration.

I do not wish to keep piling counterfactuals. What I want to point out is that the Court moves extremely carefully through its subject because the reputation of an individual is at stake, even if the individual is a former informant for the Stasi. Although the uneasy tension between free expression and reputation is often resolved on the side of publicity, the claim about reputational harm has considerable weight and the German Constitutional Tribunal is careful to explain it away. It is represented as an intractable issue, a valid claim that must however be sacrificed for the sake of public debate.

IV. The Law of the Archives: Reputation's Wedge

Consider the following examples: A tribunal in Berlin rules against a local magazine, *Super-Illu*, for publishing the name of a former IM.⁵¹ A researcher is taken to court in Hamburg, for having footnoted the name of two former denunciators. The editor of a publishing house (Propylaeen press) chooses what he calls “preemptive obedience” (“*vorausseilenden Gehorsam*”) by leaving out of a book about the crimes of the DDR dictatorship (*Die Fluchttunnel von Berlin*) the identity of individuals involved in those crimes, and justifies this course of action as excessive prudence (“*überzogene Vorsicht*”) in order to avoid delays or re-impressions on judicial order.⁵² These examples may not be an unambiguous and transparent sign of generalized concern for the reputation of former collaborators in German political culture, on the side of publishers, or even of courts. But they illustrate an environment in which reputational

⁵¹ http://www.superillu.de/aktuell/Stasi-Spitzel_864264.html. Last seen on November 2009.

⁵² “Recht Auf Vergessen?,” *Der Spiegel*, 47 (2008).

claims exert some pressure on legal, judicial, and even editorial decisions. How is this possible?

The *Gesetz über die Unterlagen des Staatssicherheitsdienstes* is the law that governs the access and use of information contained in the Stasi archives. I will not go over it in detail.⁵³ For the purposes of this dissertation, I need only to underline its main goal, which is to make sure former German citizens receive, upon request, a detailed account of all the information about them that the communist regime collected, and the uses to which it was put. The law calls this the “clarification” (*Aufklärung*) goal. Such guarantee forms part of a broader right that citizens have to know who collected, kept, and used what information about them and for what purposes, which, as we have seen, goes under the heading of the right of informational self-determination of the personality right. Subject to public interest and the rights of other individuals, a breach of these rights is a breach of the right of personality. The problem with this is that it raises a conflict between two right-of-personality claims, because the vindication of the personality rights of Stasi victims cannot be done without disclosing the names of former IM and hence infringing *their Persönlichkeitsrecht*. The *Gesetz* itself gives a clear indication of how the tension should be settled: there is a public interest in the *Aufklärung* purpose and, before such a public interest, some personal rights of Stasi agents must give way. So the victim’s privacy is protected,⁵⁴ not the perpetrator’s. The interest of the perpetrator to hide his

⁵³ A good analysis of the law may be found in John Miller, “Settling Accounts with a Secret Police. The German Law on the Stasi Records,” 1998, 305-330.

⁵⁴ Hence Helmut Kohl’s legal battle to prevent his Stasi file from becoming public, after accusations that under his leadership the CDU had received illegal funding, some of which had been under the radar of the Stasi, even in the face of increasing public pressure and

or her complicity with the secret police is, according to the law, not worthy of protection. The statute seems to assume that, through his or her former contact with the Stasi, the perpetrator forfeited much of his right to personality. IM can ask no more than that their privacy interests be balanced against the victim's right or the researcher's interest in learning about the secret police. The *Bundesbehörde für die Stasi-Unterlagen* (BStU), the government agency that controls the balancing process, is, by its own admission, more solicitous of the latter than of the former.⁵⁵ Even some courts, the examples offered before notwithstanding, have ruled that scientific works may name names of former IM.⁵⁶

But even the *Gesetz* is not completely inattentive to the rights of personality of former IM, insofar as it proposes a (timid) guideline to guarantee them whenever possible. Thus, for instance, it establishes that when the quality and the nature of an academic investigation related to the Stasi is not affected by the omission of specific names, then the author should instead use aliases, informant X, for instance.⁵⁷ This is certainly a low standard of protection for IM. However, even this standard would have hardly survived the scrutiny of an American court. Consider two illustrative landmark cases in American jurisprudence. They involve situations in which individuals were denied privacy and reputational guarantees with regards to information that would have appeared to be private, because courts ascribed political

arguments that a disclosure of his file could confirm or dispel the charges of corruption against him. On this: Annina Pollaczek, *Pressefreiheit und Persönlichkeitsrecht*, 2007.

⁵⁵ *Gesetz über die Unterlagen des Staatsicherheitsdienstes* §34

⁵⁶ See for instance the ruling discussed in Johannes Weberling, "Zur Veröffentlichung der Namen ehemaliger Stasi-Mitarbeiter in einem wissenschaftlichen Bericht," 2006, 272-273.

⁵⁷ Philipp Hasso Andreas Rein, *Zugang zu Stasi-Unterlagen und Persönlichkeitsrecht*, 2008, 111-127.

significance to it, hence making it susceptible to public scrutiny. In one case,⁵⁸ an author faced libel and privacy suits for publicizing a man's "failure as a worker and a husband through drunkenness, bad temper, and adultery," and for describing the subsequent break-up of his marriage (the man had later remarried, had a steady home and job, and was even a deacon of his local church) in a book that narrated the history of the migration of millions of blacks from impoverished rural areas to more urban sites under the auspices of the U.S. federal government in its efforts to eradicate poverty, particularly in the late 1960s. The Court ruled against the plaintiffs, arguing that readers of the work had a "legitimate interest" in those aspects of the protagonists' behavior, because one of the major themes of the book

was the transposition virtually intact of a sharecropper morality characterized by a family structure 'matriarchal and elastic' and by an 'extremely unstable' marriage bond to the slums of the northern cities, and the interaction [...] of that morality with government programs to alleviate poverty. Public aid policies discouraged [the couple] from living together; public housing policies precipitated a marriage doomed to fail.

From that point of view, the Court continued, the book "tells a story not only of legitimate but of transcendent public interest." Before it, the plaintiffs' right to privacy or reputation was overridden.

Or take the case of Oliver Sipple, the man who frustrated an assassination attempt against President Gerald Ford in San Francisco in 1975. Several publications reported

⁵⁸ Haynes v. Alfred A. Knopf, Inc. 8.3d 1222 (7th Cir. 1993).

Sipple's "heroic deed" but also his homosexuality (filtered to the media by Harvey Milk, the first openly gay mayor in the U.S.), which he had struggled to keep secret and the disclosure of which had estranged him from family and relatives and, he claimed, brought embarrassment and humiliation upon him. Sipple brought suit for disclosure of private facts. A California appellate court rejected the claim on the grounds, first, that his story was "newsworthy." The publications reporting it, the court said,

were not motivated by a morbid and sensational prying into appellant's private life but rather were prompted by legitimate political considerations, i.e., to dispel the false public opinion that gays were timid, weak, and unheroic figures and to raise the equally important political question whether the President of the United States entertained a discriminatory attitude or bias against a minority group such as homosexuals.⁵⁹

The court ruled that contributing to the task of dismantling entrenched stereotypes against homosexuals and dispelling doubts about the president's attitude towards homosexuality were legitimate reasons for publicizing information that would otherwise be private. I am very aware of the fact that domestic abuse and sexual preference are not private matters. To argue so would be to endorse a dichotomy that has been widely discredited, especially among feminist scholars. My point, rather, is that personal information of the sort described above (sexual orientation, drinking habits, etc.) usually falls within the "informational preserves" whose protection is a

⁵⁹ For an analysis of this case see Jones, *Insult to injury: Libel, slander, and invasions of privacy*, 2004.

matter of respect for the individual. And yet, in the U.S., publicity claims override such information preserves in the name of public interest. There is more room for maneuvering in Germany, even in a case of clear public concern such as Stasi collaboration, as a result of personality rights.

V. *Resozialisierung* and the Right to Forgetfulness

“If they cannot be put in jail, it should at least be possible to subject them to social ostracism” (“*Wenn schon kein Gefängnis, sollte wenigstens eine gesellschaftliche Achtung möglich sein.*”) This is how a *Frankfurter Allgemeine Zeitung* reader responded to the question of whether former informal collaborators should be exposed to the public. Even if not a true threat, the statement is a moderate form of stigmatization. In this section I discuss the judicially sanctioned mechanisms designed to prevent social stigmatization that have made their appearance in the context of political and legal discussions about former collaborators, and show how the justification for these mechanisms leads back to the logic of self-presentation, a logic that is intertwined with the concern about individual respect.

Resozialisierung (resocialization) is a legal term of art that captures the expectation that citizens should not be “ostracized” as a result of crimes or activities they committed in the past, and should instead be given the opportunity to be “reincorporated” into society.⁶⁰ The notion has been evoked explicitly in several IM

⁶⁰ For instance, Matthias Platzeck, the Minister President of Brandenburg, argued late in 2009 that former Stasi collaborators deserved a chance to “resocialize.” “Platzeck kennt keine

outings. It also made its appearance in the famous Stolpe Case. Manfred Stolpe was an active member in the Protestant church during the GDR years and held several posts within its governing bodies, a position that put him in close contact with Stasi officials. He became the representative of the church vis-à-vis GDR authorities, largely because he was prepared to have dealings with those in power, something that others within Protestant circles were not prepared to do. As the Stasi files became public, he soon faced the accusation, which he denied, of having been a Stasi collaborator all along (IM "Sekretär") and came under pressure to resign from public office, which he did not.

Before a parliamentary commission, formed in order to investigate the nature of Stolpe's Stasi past, and which in the end controversially accepted his version of the events in a decision made along party lines,⁶¹ Stolpe made the argument that he had never acquiesced to work for the MfS even if the secret police considered him one of its informers, and that, in any case, his "pact" with the Stasi had been one of necessity, what he envisioned as the only way to protect the church. In any case, one of the arguments used in the Stolpe Committee was that "No one should be denied the chance of personal development and the desire to redirect their life."⁶² This is the spirit captured by the concept of *Resozialisierung*.

"Jammer-Ossis," *Süddeutsche online*, 22.11.2009. This case will be discussed thoroughly in the last chapter (<http://www.sueddeutsche.de/politik/33/488429/text/>).

⁶¹ Barbara Miller, *Narratives of Guilt and Compliance in Unified Germany. Stasi Informers and their Impact on Society*, 1999, 80.

⁶² Protocol of the Debatte zum Bericht des Parlamentarischen Untersuchungsausschusses 1/3 des Landtages: 'Aufklärung der früheren Kontakte des Ministerpräsidenten Dr. Manfred Stolpe zu Organisationen des Staatsapparates der DDR der SED sowie zum Staatssicherheitsdienst und der

Resozialisierung, a notion that has considerable political-rhetorical purchase, could go so far as to curtail the publicity of information that might create obstacles for the *resocialization* of an individual. The most salient illustration of this restriction in German constitutional jurisprudence is the so-called *Lebach*⁶³ case, a landmark judicial ruling of the Constitutional Tribunal that has been explicitly deployed as a relevant precedent in the Halle case, but also, more vigorously, in some of the cases mentioned in the previous section. In *Lebach*, the Federal Constitutional Court decided on a case where a convicted robber was able to stop the broadcasting of a documentary depicting, accurately, his participation in a notorious armed robbery of an army munitions depot that resulted in the death of four soldiers. Lebach had already served his term in prison by the time the film was supposed to air. Lebach obtained injunctive relief against the distribution of the film, a decision that in American jurisprudence would constitute a very strong form of prior restraint. The Federal Constitutional Court affirmed that there were two interests in conflict. On the one hand, a public interest in receiving information about the commission of a crime, including the identity of the criminal and the events leading to the criminal act, whose presentation is the “quintessential” task of the media. On the other hand, the interest of the accused of the crime, whose “intimate sphere” might be intruded upon as a consequence of the negative image of his person conveyed by the public report of the crime in which his identity is provided. In balancing these interests, the court argued that a crucial standard in figuring out the limits to broadcasting is “the criminal’s

in diesem Zusammenhang erhobenen Vorwürfe’, 16 June 1994, *Schriften des Landtages Brandenburg*, 2 (1994), Quoted by Barbara Miller, *Narratives of Guilt and Compliance in Unified Germany. Stasi Informers and their Impact on Society*, 1999, 83.

⁶³ BVerfGE 35, 202.

interest in rehabilitation or in recovering his position in society.” In more detail: “The criminal’s vital interest in restoring him to his social position must generally have precedence over the public’s interest in a further discussion of the crime.” Put in slightly different terms, beyond a certain temporal threshold, albeit an admittedly imprecise one, “perpetrators” have a right to have their past deeds thrust into oblivion. They have, in other words, a *right to forgetfulness* (a notion that is neither the Court’s nor a legal term, but which certainly captures the spirit of what the Court does say). *Resozialisierung* and the right to forgetfulness thrive on logics of self-presentation that are geared towards protecting citizens from receiving an undignified treatment, even if this protection constrains public discourse.

Let me compare one more time the jurisprudence of Germany to that of the United States and briefly discuss a case that on the surface has little to do with the Stasi and its informants but that touches upon the issue of resocialization and self-presentation. *Melvin v. Reid*⁶⁴ is a judicial case about a former prostitute who brought suit against the producers of a film for accurately depicting the facts of her life and using her name. Melvin, the plaintiff, who claimed she had abandoned her previous life and tried to “rehabilitate” herself, alleged that this caused her harm and ridicule and exposed her to obloquy. A local court agreed that it was unnecessary to use the plaintiff’s real name in connection with the facts of her case. “One of the major objectives of society as it is now constituted, and of the administration of our penal system, is the rehabilitation of the fallen and the reformation of the criminal.” The court put emphasis on the importance of an individual's ability to rehabilitate and felt

⁶⁴ 112 Cal. App. 285, 297.

that the unnecessary use of Melvin's real name inhibited this right. Although, not phrased in this way, the rehabilitation of the individual hinges, in the *Melvin* court's view, on her ability to control her self-presentation. Although similar to *Lebach* in its concern for the "resocialization" or "rehabilitation" of the culprit, *Melvin* is of doubtful validity⁶⁵ after *Cox Broadcasting Corp. v. Cohn*,⁶⁶ however. In *Cox*, the Supreme Court laid down a standard favorable to publicity, ruling that once information (in this case, the name of rape victims) is available in a public document, the state cannot prohibit its dissemination by the media.⁶⁷ In other words, the argument for restricting publicity in order to guarantee the resocialization of individuals is discredited in the United States. In the German case, by contrast, the argument seems to persuade some courts; the Stasi files are public documents, and yet the latter place some restrictions on their diffusion. Critics of outings, in other words, defend an informal right to forgetfulness, on the grounds that it will help the individual to be resocialized.

VI. The Pillory and the Mechanism of Shame: A Tale of Two (Harmful) Brothers

In the previous sections I illustrated how concern for the reputation of individuals influences judgments about, and sometimes even circumscribes the scope of, the

⁶⁵ Richard Posner, *Overcoming Law*, 542.

⁶⁶ 420 U.S. 469 (1975).

⁶⁷ The majority in *Cox* writes: "We are reluctant to embark on a course that would make public records generally available to the media but forbid their publication if offensive to the sensibilities of the supposed reasonable man. Such a rule would make it very difficult for the media to inform citizens about the public business and yet stay within the law. The rule would invite timidity and self-censorship and very likely lead to the suppression of many items that would otherwise be published and that should be made available to the public."

publicity of the identity of former informal collaborators. I paid particular attention to legal and judicial settings. The following sections (and chapters) broaden the scope of the inquiry and focus on public discourse. They do this by highlighting a set of particular cases that are taken to be representative of larger debates about, or reflective of problems related to, the adequacy of unveiling former IM and exposing them to the public.

A recurrent theme in public discourse in Germany is that outings are forms of pillorying and are therefore disrespectful. The image of the pillory, which is a typical representation of shaming punishments,⁶⁸ is recurrent in public discussion,⁶⁹ an image that captures the perception of outings as practices that trigger what one may call the mechanism of shame. Scholarly literature on shame might be helpful in capturing what this means. David Velleman, for instance, argues that individuals are self-presenting creatures who compose a persona for an audience in social life; they display an outward face, an overt self.⁷⁰ If the individual loses her ability to control her public persona, her social standing might be compromised: “Threats to your standing as a self-presenting creature are [...] a source of deep anxiety, and anxiety

⁶⁸ On this Jon Elster, *Alchemies of the Mind: Rationality and the Emotions*.

⁶⁹ Two local newspapers title their articles covering a public exhibition on the Stasi: “Stasi-Exhibition: Names still in the Pillory” (*Freie Presse RB*, 6. March. 2008) and “Persönlichkeitsrecht against Liberty of Expression: Is a Former Stasi Member Placed in the Pillory when his Name is Named in an Exhibition?” (*Freie Presse ZW*, 9. April 2008). *Ein Volk am Pranger?*, Aufbau, 1991 is the telling title of a book published two years after the fall of the wall, whose goal was to weigh in on the debates about the DDR legacy and propose ways to grapple with it.

⁷⁰ This is the general thesis of the so-called symbolic interactionism school. Its main insight is that individuals do not engage in social action simply for the sake of that action, but that, instead, all actions are social performances whose goal is not only achieving whatever “inherent” purposes the action may have had, but also giving off and maintaining certain desired impressions of one’s self to others. Goffman’s *The Presentation of the Self in Everyday Life*, 1959 is the seminal study. See also his *Stigma: Notes on the Management of Spoiled Identity*, 1963.

about the threatened loss of that standing is [...] what constitutes shame.” In a sentence, “shame is the anxious sense of being compromised in one’s self-presentation in a way that threatens one’s social recognition as a self-presenting person.”⁷¹ Thus, as Thomas Scheff argues, shame is “a threat to the social bond.” It produces a “fear of social disconnection,” of “being adrift from understanding and being understood by others.”⁷²

In this section I want to illustrate the mechanism of shame through a very concrete example drawn from the media annals of IM exposures, a particularly interesting indicator of the set of beliefs that mirror, inform, or shape the way in which citizens evaluate that practice. Amidst the numerous tales of familial betrayal of Stasi informers (husbands informing on their wives, parents telling on their sons, brothers or sisters spying on their sibling...), that of the Schädlich brothers (the last name is the German word for harmful, an ominous sign as it turns out) bears more than a passing mention.

In 1992, very shortly after the Stasi files became public, Hans-Joachim Schädlich, an acclaimed German writer, learned upon reading his Stasi act that his brother Karlheinz, a historian, had spied on him during the GDR years. In 2007, only a year after he was outed a second time for informing on novelist Günter Grass, Karlheinz shot himself in the head at a Berlin park in the Prenzlauerberg district. Not surprisingly, the gruesome death received wide press coverage, in particular by newspapers in Berlin, which reported on the suicide in a very peculiar way. First, they

⁷¹ David Velleman, “The Genesis of Shame,” 2001, 37, 50.

⁷² Thomas Scheff, “Shame and the Social Bond: A Sociological Theory,” 2000, 95.

portrayed Karlheinz as a victim of “the system,” which turned him into a *Spitzel* (informer). Then they depicted his life after his outing as a progressive but inexorable demise. Thus, the *Berliner Morgenpost* talks about “the perversity of the Stasi denunciator system,” which, through threats and blackmail, injected fear into his life and forced him to cooperate: “The traitor [the IM] was not only a perpetrator. He was also a victim.” And more: “his tranquility Karlheinz Schädlich did not find. He had to live with the shame of having betrayed friends and relatives to the Stasi. Now he publicly ended his life.”⁷³ The *Berliner Zeitung* voices (and apparently sympathizes with) the opinion of an anchor for ZDF, one of Germany’s largest public television broadcasters: “I think that Karlheinz had two faces, like a Janus [...] He was in many ways a traitor, but at the same time he was also a victim of the dictatorship.” The newspaper then describes the aftermath of his outing:

he tried to be unreachable for anyone and again fled to a friends’ weekend house in Bad Saarow. His friend who owned the house remembered that ‘he was totally hysterical and in panic’. Schädlich had called several people to apologize. He wanted to restore relationships, build bridges – without success. He said he didn’t hurt anyone. That’s what everyone says who is exposed.⁷⁴

Even the tabloid *Bild-Zeitung*, bending the story to fit it into its salacious molds, as it often does, puts a relatively favorable spin to Karlheinz’s life: “His life—a mixture from resistance and Stasi, between treason and self-commiseration.” And: “He rushed into obedience to come to a pact with the Stasi, and delivered others to the knives. His

⁷³ “Stasi-Spitzel erschießt sich auf Parkbank,” *Berliner Morgenpost*, 18.12. 2007.

⁷⁴ “Der Gentleman IM,” *Berliner Zeitung*, 02.02.2008. See also “Vielleicht war es Scham,” *Die Welt*, 19.12.2007.

victims did not forgive him. A former friend: ‘probably because he did not show any regrets.’⁷⁵

The editorializing of Karlheinz’s story conveys to the reader a very clear lesson: he was the perpetrator/victim, whose outing compromised his ability to control his self-presentation, put him in a state of anxiety, and thrust him into a sea of shame and panic in which he eventually drowned. The bridges Karlheinz tried to build crumbled into that sea: he became a castaway, ostracized himself, lost face. His standing in the eyes of others was lowered, and his efforts to reassert his place in the community were useless.

VII. The Two Veils: Anonymity and Philanthropy

Let me consider Karlheinz’s story in light of Kant’s usually ignored discussion about defamation.

In a passage of the “Doctrine of Virtue” in the *Metaphysics of Morals*,⁷⁶ Kant discusses what he calls defamation (*obtrectatio* is the Latin he uses for clarification purposes). Part of the passage goes as follows:

It is, therefore, a duty of virtue not to take malicious pleasure in exposing the faults of others so that one will be thought as good as, or at least not worse than, others, but rather to throw the veil of philanthropy [*Menschenliebe*] over

⁷⁵ “Tod eines Spitzels,” *Bild-Zeitung*, 19.12.2007.

⁷⁶ For a discussion about the differences between Kant’s earlier and later philosophy see Allen Wood, “The Final Form of Kant’s Practical Philosophy, 2002.

their faults, not merely by softening our judgments but also by keeping these judgments to ourselves; for examples of respect that we give others can arouse their striving to deserve it. For this reason, a mania for spying on the morals of others (*alotrio-episcopia*) is by itself already an offensive inquisitiveness on the part of anthropology, which everyone can resist with right as a violation of the respect due him. (AK 6:466)

There is much to be rescued from this passage. Notice that Kant calls it a duty to throw a veil of philanthropy over moral failures by moderating and reserving judgments about others, that is, by not making them public. A compelling exegesis of the passage takes Kant to be arguing, among other things, for interpretive generosity: because we can never be sure of the *motives* of others, we must be generous.⁷⁷ Thus, this passage may be read against a different passage from the *Metaphysical Principles of Virtue*, in which Kant discusses the way in which reproach of vice should *not* be expressed: it should never “burst out in complete contempt or deny the wrongdoer all moral worth, because on that hypothesis he could never be improved either.” (MMV 463-464/129) For Kant, then, particular signs of disrespect are to be avoided and regarded as inconsistent with the end of respecting the dignity of others, which for Kant is what he calls a perfect duty of virtue.

To be sure, for reasons I will explain in a moment, the fit between defamation as Kant understands it and the public exposure of Stasi collaboration is far from perfect. In referencing his criticism of defamation, as he understands that concept, I do not intend to suggest that it provides ammunition against outings, or that it provides a

⁷⁷ Christine Korsgaard, *Creating the Kingdom of Ends*, 1996, 174, 211.

benchmark against which to classify outings as morally inadmissible. What I argue is that the case for “interpretive generosity,” as Kant calls it, often resonates in public discourse as a caveat against harsh recrimination and ostensible (public) showings of contempt towards other individuals. The objection is that “spying on the morals” of former spies and publicly exposing them is not only ungenerous but also disrespectful.

Put briefly, two veils fall when Stasi collaboration comes into the open: the veil of anonymity and the veil of philanthropy.

By defamation Kant does not mean the more common/legal understanding of the notion we use today; he refers to that as slander or *false* defamation. Instead, the term alludes to the action of bringing into the open “something prejudicial to respect for others” without “particular aim in view.” That action, he argues, is detrimental “to the respect owed to humanity as such; for every scandal given weakens that respect, on which the impulse to the morally good rests, and so far as possible makes people skeptical about it.” (AK 6:466) He goes on to argue, in a passage where the first formulation of the categorical imperative is clearly discernible:

The intentional *spreading (propalatio)* of something that detracts from another’s honor—even if it is not a matter of public justice, and even if what is said is true—diminishes respect for humanity as such, so as finally to cast a shadow of worthlessness over our race itself, making misanthropy (shying away from human beings) or contempt the prevalent cast of mind, or to dull

one's moral feeling by repeatedly exposing one to the sight of such things and accustoming one to it.

What is the point of harking back to this passage, in which Kant has malicious gossip in mind and not the exposure of informers who denounced other citizens under a now extinct non-representative and non-democratic regime? Moreover, the information spread about Karlheinz was true (he was a collaborator during communist rule) and, it might be argued, there is a public interest (though this is controversial) in outing former collaborators.

Despite these considerations, which speak against bringing the discussion of Kantian defamation into this context, the reason to do so is that the terms of Kant's discussion suggest an interpretation of the media framing of Karlheinz's or of any other informer collaborator's outing, one in which several elements of an emotional economy of honor come to the fore, even if not explicitly mentioned.

Viewed from this honorific perspective, the media coverage seems to be saying the following. First, Schädlich "dishonored" (disrespected) himself through his conduct. He was no longer the honorable Herr Professor Schädlich, but simply a dishonest man. And because he dishonored himself through his past collaboration, he thereby lost, to an extent, any claim to respectful treatment. (Incidentally, Schädlich's suicide becomes something of a modern version of an honor suicide. His exposure damaged his reputation beyond the point where he could rebuild it. He tried to restore his honor but was unsuccessful at doing so, poorly understood by others, marginalized. And

because he was put into that predicament, from which he could not escape, he preferred dying than living without his honor.⁷⁸⁾

Second, even though Schädlich did something that did not suit his role as a citizen, let alone his social position as a “learned scholar,” to use Kant’s term, he nevertheless had a legitimate honorific claim to avoid shame, even more so because his moral culpability is partially mitigated, according to the media reports I described above, by the fact that Karlheinz was a victim of the Stasi. To be sure, there is also a legitimate publicity interest that trumps Schädlich’s claim. None of the newspapers objects to the declassification of the Stasi archives. In fact, they all make good and profitable use of them. But they also spell out a concern for the consequences of the outing. Part of what protecting one’s honor is about is safeguarding individuals from shameful exposure. Kant himself admitted, after all, that the avoidance of shame is a legitimate human concern, a point he illustrates in the *Rechtslehre*, where he argues that filicides, although morally unacceptable, are, at the same time, motivated by shame-avoidance drives (namely the desire to avoid the embarrassment of giving birth out of wedlock), whose legitimacy flows from a moral source—self-regard. In view of this, the state should hesitate before punishing mothers who are trying to reassert their honor.⁷⁹ Karlheinz probably wanted to brush his collaboration with the Stasi under

⁷⁸ Take for instance, Kant’s “forfeiture principle,” which runs as follows: “If a man cannot preserve his life except by dishonouring his humanity, he ought rather to sacrifice it [...] if he can no longer live honourably, he cannot live at all; his moral life is at an end [because] it is no longer in keeping with the dignity of humanity [...] Thus it is far better to die honoured and respected than to prolong one’s life for a few years by a disgraceful act and go on living like a rogue.” Kant 1979, 156. The indelible trace of the ethics of honor in Kant’s ethical system surfaces here. There are circumstances in which it is no longer worth living when one’s honor has been tarnished.

⁷⁹ On this, Elizabeth Anderson, “Emotions in Kant’s Later Moral Philosophy: Honour and the Phenomenology of Moral Value,” 2008; Mika LaVaque-Manty, *Arguments and Fists*.

the rug and see to it that the evidence of his past activity would vanish, so he could escape “social (and eventually actual) death.” But after he was outed, he was no longer able to hide his own misbegotten child.

Schädlich did not appeal to his *Persönlichkeitsrecht* to prevent his identity from being exposed. But his example is, I think, an instance of what the right of personality could be seen as trying to protect: claims that have an honor-based grounding. It is no wonder that the genealogy of the right of personality, as I argued in the previous chapter, reaches back to guarantees protecting honor that were associated with aristocratic privilege in the eighteenth century but were later generalized, subject to egalitarian pressures.

One should be careful about drawing extremely liberal analogies between moral and legal themes. However, there is a point to be made about the insightful parallel between the honorific grounding and subsequent egalitarian transformation of both Kant’s ethics and the right of personality. Kant’s ethics, like the legal doctrine that underpins the right of self-presentation, radically transform ethics of honor in the service of universal and egalitarian values. While the ethics of honor reserve respect exclusively for people of superior social rank, Kant’s ethic, by contrast, universalizes respectful standing to all rational agents, who are thereby entitled to rights. Yet that transformation is not fully and thoroughly achieved, and some features of Kant’s ethics still bear the imprint of the ethics of honor.

Political Agency and Justification in Liberal Theory, 2002; Mika LaVaque-Manty, “Dueling for Equality: Masculine Honor and the Modern Politics of Dignity,” 2006.

To sum up, when the issue of informal collaboration comes to the fore in public debates, we do not find an uncontroversial endorsement for the exposure of former Stasi, but an ambivalent public opinion, with strong doses of skepticism in relation to IM outings. Part of that skepticism is rooted in the rejection of the mechanism of shame that public exposures often trigger in the present context, as it is illustrated in the extreme case of Karlheinz Schädlich. Although priorities have been set in German society today, and the goal of “coming to terms with the past” seems to authorize and legitimate random outings, one can discern social grammars of self-presentation that pose a caveat to freewheeling public exposures.

VIII. The (Opaque) Politics of Shame: “*Sieger- und Rachejustiz*”

In the acrimonious debates around outings, the question of the motives of those who encourage outings surfaces constantly. The highly polemical question frequently hovering over these debates is: What reasons do the advocates of public exposures of IM have for doing so? Taking revenge? Holding accountable? Punishing? Humiliating? The ambiguity of the answer gives rise to an “opaque” politics of shame, in the sense I explain below.

The Internet has not been exempted as an outlet where IM are publicly exposed. At least two Internet websites run by victims of the Stasi have posted the names of several IM who, during Communist rule, informed on them or on people in their circle. One of the websites sparked a legal controversy in which one ex-informer brought suit before the regional court (*Landgericht*) of München, asking that his

name and photograph be removed from one of the websites. He lost the case but generated a public discussion.

The reaction of the readership of the newspaper *Die Welt* before and after the ruling of the court illustrates the terms of the discussion. Some readers believe former IM do not have such a right and wonder how informants can be so “shameless” to claim for themselves rights that they “denied” to other citizens (“It is remarkable that ex Stasi persons claim rights that they actively refused to citizens of the DDR. How messed up and blind must a person be to not feel ashamed for that?”). Others believe that not a single one of those who willingly worked for a “wicked” regime should be forgotten (“Each one must be clear that he worked for the evil by betraying independent individuals within society. That is why one can never forget and each victim must decide whether he can forgive.”).⁸⁰ Yet some readers believe that ex-IM do have a right to be forgotten and advance arguments that, in a non-juridified fashion, are reminiscent of the notions contained in the Court opinions sketched above, in particular the following one:

What would be the benefit of continuing to denounce (*anprangern*) the informants of the Stasi after thirty or twenty years [...] Some people can't draw the line: they just want to get revenge, and not only once, but repeatedly. That's sick and hardly tells them apart from the perpetrators. I would not want to publicly destroy the life of a person by openly calling for her verbal lynching (*Rufmord*).

⁸⁰ Or this one: “Dieser Mann hat auch die persönlichen Rechte seine DDR Mitbürger mit den Füßen getreten, also soll er sich nicht so anstellen. Alle die in einer Diktatur die Machthabenden unterstützen, können sich danach nicht als Unschuldslämmer darstellen.”

Others contend that too long a period of time has already elapsed (“People, 20 years have gone by. Worrying about these hideous small informers after all those years is nonsense.”) or that the number of people who collaborated or turned a blind eye is so high that pointing fingers is simply absurd and rather a problematic enterprise (“They simply want to criminalize a whole generation of DDR citizens.”).⁸¹

The reaction of the same readership to the decision of *Landgericht*, ruling against this IM, shows the same pattern. There are satisfied and enthusiastic readers who would go so far as to expel once unofficial collaborators (“All denunciators must get out of Germany!”), but there are also disapproving ones, whose arguments decry the exclusionary dimension of outings and take them to be manifestations of the *Siegerjustiz*, or “justice of the winners” (“This ruling stirs up hatred towards, and calls for the exclusion of, those who over forty years ago protected us from the dismantling of democracy and social welfare, and from the adventures of German militarism. Down with *Siegerjustiz*!”). Others even draw comparisons between denunciators and other criminals that intimate some legal savvy and suggest the detrimental effects of outings (“Why then couldn’t child molesters and rapists also be publicly placed in the pillory on the Internet?”), and yet others ask very reasonable questions about the extent to which “coming to terms with the past” actually requires that actual names be named (“How would *Aufarbeitung* be hindered if, for instance, only the initials of former members of the MfS were disclosed?”).⁸²

⁸¹ These are actual quotes from online readers of following the article: “Haben Ex-Stasi-Spitzel ein Recht auf Vergessen?”, *Die Welt Online*, 18. March. 2009.

⁸² “Ex-Stasi-Spitzel muss Identifizierung hinnehmen,” *Die Welt Online*, 15.04.2009.

These exchanges document the perception that, according to some people at least, outings lower the social standing of those who collaborated with the Stasi in the eyes of others. More importantly for this section, these exchanges reflect the widespread uneasiness about the lack of transparency as to what interests and goals motivate the outings.

In reunified Germany there is considerable disagreement about whether the IM deserve condemnation, given the very different political and social circumstances of the past. Second, beyond this disagreement, the waters are further muddied by what are often regarded in public debates as the dubious motivations of those who carry out the outings. It is unclear to the targets of shaming revelations, and even the audience, whether the purpose of the outing is to evince the sort of recognition that might trigger moral and political deliberation, or if the goal is to start a witch-hunt, motivated by revenge. Third, further contributing to the lack of transparency is the sensationalist manner in which the press media, where outings are often ventilated, expose many former informants, without in-depth consideration of the particular circumstances of each case.⁸³ Finally, German society after the reunification has often been characterized as being in the grips of a cultural and political tension between the “East” German values and elites and their “Western” counterparts. This cultural and political conflict spills over into outing debates, and East German citizens come to consider outings as an example of the imposition of the political values of West Germany over East Germany, a perception that, again, impregnates the politics of outings with ambiguity.

⁸³ Even the most enthusiastic defenders of publicly exposing IM admit that. See Joachim Gauck, “Dealing with a Stasi Past,” 1994, 281.

The idea that the motivations of actors behind public shaming, if inappropriate, might distort the purpose and the legitimacy of such shaming practices is widespread, even among shame scholars. According to Christina Tarnopolsky,⁸⁴ for instance, public shaming may be compatible with respectful treatment. Shame, Tarnopolsky argues, is the moment consisting of a “discomforting and perplexing cognitive recognition of the gaze of another that reveals an inadequacy in the self, or in the ‘other’ by which one currently measures the self.” Furthermore, the discomfort and perplexity created by shame are “potentially salutary” because they are necessary for self-consciousness, self-criticism, and moral and political deliberation. Shaming, in her view, does not necessarily exclude respect by stigmatizing individuals, and then using the stigma to strip them of dignity and deny them political standing. Rather, shaming can work within a political structure of respect and dignity. For that to happen, she claims, shaming must unfold within a political situation in which it is clear that producing the kind of cognitive recognition described before is the *goal* of the acts of shaming for all parties engaged in democratic deliberation and/or of the structures that enable these deliberations. In other words, the *motives* behind the shaming must be clear to all—they must be *transparent* to all parties involved, especially to those who are being shamed, and not be driven by other motives such as revenge or resentment.⁸⁵ Otherwise, the possibility of the salutary moment is foreclosed, and shaming spirals into embarrassment or humiliation, in a word—disrespect.

⁸⁴ Christina Tarnopolsky, “Prudes, Perverts, and Tyrants. Plato and the Contemporary Politics of Shame,” 2004, 476-479. Tarnopolsky is in dialogue with Jean Bethke Elshtain, *Democracy on Trial*, 1995 and Michael Warner, *The Trouble with Normal: Sex, Politics and the Ethics of Queer Life*, 1999

⁸⁵ Tarnopolsky, “Prudes, Perverts, and Tyrants,” 2004, 480, 485, 486.

In articulating her view of what she calls “respectful shame,” Tarnopolsky builds on the basis of Platonic dialogues. In her example, Socrates’ interlocutors often feel vexed about the manner of his ironic interaction with them. Many of them believe that he is simply ridiculing them. However, motivating his seemingly impolite manner of “exposing” the nonsense or the contradictions of his interlocutors is Socrates’ pursuit of truth. The latter, however, are unaware of this, which causes their sense of vexation, Tarnopolsky concludes.

In epistemic or deliberative contexts, the lack of clarity about motives (are you trying to ridicule me or to clarify a philosophical question?) bears relevance for the simple reason that, say, if I am not clear about your intentions, I might simply stop the conversation and leave. Notice a point that Tarnopolsky does not fully appreciate: the impolite manners of Socrates notwithstanding, he is taking his interlocutors as agents worthy of address. He could simply ignore them, presupposing that they are not capable of holding a philosophical discussion with him. Instead he engages them, albeit sarcastically and impolitely. That he is willing to engage them in conversation is an expression of (epistemic?) respect.

There is a useful analogy here between philosophical discussion and political action. Critics of outings might be right about the interests motivating such practices. However, regardless of the intentions of advocates and promoters of outings, by publicly exposing IM they hold them responsible, and an assumption of respect is implicit in this action. Motivational accounts, in other words, are insufficient to account for the effects of political action.

IX. Conclusion

In this chapter I argued that when courts and the law address the outing of IM, the question of respect for former IM, including their ability to control their self-presentation, is central, even more central than in the United States, which has been the contrast category throughout the chapter. Legal and political discussion about outings in Germany emphasizes the worry that some information, even when of public concern, might be detrimental to the standing of individuals in society, and that risk persuades courts and some lawmakers to place restriction on the publicity of information regarding informers that in contexts such as the American would be impermissible. In the U.S., even sexual preferences or drinking habits may be problematized in such a way that they are subject to public scrutiny, claims to individual respect notwithstanding. By contrast, in the German case, information that clearly touches on a public issue of historical and contemporary relevance (the Stasi and its collaborators) may be restricted, even if not fully, in order to protect the individual from threats to her standing and reputation.

Chapter 3

Civic Interpellations: Denunciation as Self-Disrespect

I. Introduction: The Rhetoric of *Zivilcourage*

Jean-Jacques Rousseau was very aware of the vilifying potential of publicity. As Elisabeth Noelle-Neumann suggests, Rousseau was among the first philosophers to use profusely (and rather unsystematically) the notion of public opinion (*l'opinion publique*). At times, Rousseau regarded public opinion as a tribunal from whose disapproval one must guard oneself because it harms one's reputation. He was "highly sensitive" to the "threatening aspect of publicity," Noelle-Neumann argues. She quotes Rousseau: "I saw nothing but the horror of being recognized, publicly proclaimed, in my presence as a thief, liar, slandered." And again: "All this did not hinder the excited crowd [...] from getting stirred up against me little by little to the point of rage, insulting me publicly in broad daylight and not only outdoors and on country paths, but even in the middle of the streets."⁸⁶

But according to Noelle-Neumann a double valence pervades Rousseau's body of work. At the same time that the private citizen Jean-Jacques dreads the reputational harm of public opinion, Rousseau the social contract theorist regards *l'opinion*

⁸⁶ Elisabeth Noelle-Neumann, *The Spiral of Silence: Public Opinion--Our Social Skin*, 81.

publique as a sort of guardian of “public morality” (the guarantee of the “rectitude” of “manners and morals”) whose institutional embodiment is the peculiar office of the censor, as Rousseau describes it in *The Social Contract*, an office whose role is to “honor” the “virtuous citizen” and “shame” the “man of bad mores.”⁸⁷

Why draw on this double dimension of Rousseau’s work in this context? Outings can have the reputation-harming effect that I mentioned in the last chapter. But they are also practices that contribute to the process of setting up and upholding a standard of ideal citizenry, whereby public honor is bestowed upon the righteous citizens, and public shame upon on the informer. In this chapter, I make the case for an interpretation of the public exposure of IM based on an examination of public discourse and political practice. I argue towards the conclusion that outings are part and parcel of a political process that is aptly captured by the notion of shaming interpellation, the construction of a deviant “other” whose status as such helps to consolidate the position of the “proper” citizenry. Outings, in other words, are part of a process to embed a political ideal in German public opinion. They provide the model of the corrupt citizen, the non-citizen, or the citizen of lesser degree, which contrasts to that of the proper citizen, who behaves courageously in the context of non-democratic regimes, and is therefore the standard of political agency in the new polity. In other words, outings are social practices that contribute to the creation of a national identity by conveying an image of how German citizens ought to behave, and ought to have behaved in the recent past.

⁸⁷ He further argues: “Whoever judges mores judges honor.” J.J Rousseau, *The Basic Political Writings*, 1987, 219f.

The notions of respect and self-respect play a key role in the interpellation process. First, the ideal of proper citizenship is constructed against the presupposition that “citizens” of the GDR somehow “degraded” themselves, that is, that they lacked self-respect. According to this view, IM were the utmost instantiation of the degraded citizen: they could have refused to collaborate, and yet they did not. They became, in the words of Joachim Gauck, head of the BStU, “barbarians.” But barbarians, to follow this rhetorical excess, are subject to public dishonor, the general and open disapproval of citizens, and have lost their status as citizens, even as persons, precisely because of what they have done. This is one of those penumbral cases mentioned in the introduction, which, I claim, blur the distinction between appraisal and recognition respect. The *collective* assessment of *political* conduct or character might deprive some individuals of their civic status, in a symbolic and even in a material way. For it seems that the recognition one can claim as a citizen and as a person is not one that may be commanded simply by virtue of who one *is*; it is contingent upon how one behaved in the past. It is not purely *ontological* but *performative*.

The structure of the chapter is as follows. Section two develops the notion of shaming interpellation and shows how it is put to work in the context of post-Stasi Germany. Outings, in this section, will be presented as instantiations of shaming interpellations. Section three explains how outings aim to expose those who lacked civic courage and cast them as individuals who must be publicly condemned. Because such individuals behaved in self-disrespectful and dishonorable ways, they lost the standing to prevent such exposure. In the final section I explain how the process of interpellation has

been reinterpreted in the context of the cultural tensions that have ensued since the reunification of the German Republic. The process of consolidation of an ideal of proper citizenry is contested and open to being resignified because the ideal that the interpellation advances is disputed.

II. The Filth of Denunciation: Shaming Interpellations

In 2009, the daughter of the writer who made his appearance in the previous section, Hans-Joachim Schädlich, Susanne, wrote a memoir⁸⁸ about the Schädlich brothers in which, she says, she hoped to bring some clarity to the background and the events leading to the suicide of Karlheinz, her uncle. In an interview to *Der Spiegel*, which the magazine entitled “The Filth Remains,” she claims that the purpose of writing and publishing these memories is to set the record straight and correct the false representation that the “Berliner press” spread about Karlheinz Schädlich. “The poor uncle,” she quips, “was always the uncle, but also a traitor—that had more weight in the end.” Karlheinz was an opportunist and became an IM voluntarily, she says (“He thought of himself. He received benefit from his work as an informer, and he also protected himself.”), and adds that she wrote her memoir “to rehabilitate my family, that was put in the pillory. All of a sudden he was the victim and we the villains, because we did not forgive him.” She is skeptical about the suggestion that her uncle’s intention in committing suicide was to die as a victim, but complains that

⁸⁸ Susanne Schädlich, *Immer wieder Dezember*, Droemer, 2009.

newspapers in Berlin certainly did take his death as proof of his “innocence.”⁸⁹ In any case, the filth remains, Susanne says, even now that he is dead.

That a disembodied filth should remain even after Karlheinz’s death is an odd idea. What Susanne Schädlich might be describing here is a personal feeling, but the notion evokes the oft-used trope in post-communist rhetoric that the nation needs to be “cleansed” or “purified”⁹⁰ from its communist remnants. And this rhetoric should be borne in mind in the context of our discussion, because outings are precisely social practices that help identify and expose the kind of “filth” that denunciators are supposed to be. Like Karlheinz, they are considered to be individuals to whom a high degree of guilt may be ascribed because their actions were, ultimately, of their own choosing. Informers, in this bleak diagnosis, are no longer considered full-fledged citizens. Rather, their status is that of abject, “filthy” individuals. And precisely on account of such status they deserve the treatment they get: to be publicly exposed as misfeasors. Their status justifies their treatment.

Thinking of outings in terms of William Miller’s understanding of what is involved in shaming and humiliation rituals might be useful to clarify these points. For Miller, the two rituals, although usually conflated in the literature on the subject, are not the same. Humiliation rituals, on the one hand, are a sort of test or rite, that pave the way for the attainment of good standing as a group member. Shaming rituals, on the other

⁸⁹ “Der Schmutz bleibt,” *Der Spiegel*, February 2009 (11).

⁹⁰ The language of cleansing is very common in several post-communist European contexts (for instance, Eastern European nations like Poland or the Czech republic) where communism is portrayed as an alien force (the ideological manifestation of Soviet influence), making nationalism a continuing political process necessary for the purification of the nation. To the extent that the GDR was relatively autonomous from Soviet dominance, this deployment of the notion referred to “indigenous actors” in the German context.

hand, hold the opportunity for reintegration within the group at a lower status than previously held, if they allow reintegration at all. In both cases, then, social status or standing is at stake. The former type of ritual is usually a practice that might earn you a desirable status; the latter is a practice that calls into question a standing you presumably had before your own actions put it at risk. Outings are shaming rituals in that they brand IM as filth and assign them a lower status than they previously had.

But there is an additional dimension to the outings that the notion of a shaming ritual, to my mind, does not fully emphasize, and that the concept of shaming *interpellation* does underscore. Roughly put, a shaming interpellation is the process in which some individuals are constituted as deviant in order to underwrite a community of people whose identity is constructed or reaffirmed against these deviant “others.” Shaming interpellations, in other words, intend to provide a form of social cohesion. Relying on this category, Jill Locke’s work, for instance, studies the re-emergence of “chain gangs” in some southern states in the U.S., and argues that such punishments provide a social bond for Americans who are anxious about American identity. The criminals of the chain gang form an ostensible, visible, and abject “other” whose status reaffirms the identity of upright, hard-working, and honest American citizens.⁹¹

The process that I identify as a shaming interpellation operates through the use of legal categories and other informal or extra-legal forms of categorization advanced in public discourse, particularly government discourse; in the discourse articulated in

⁹¹ The notion comes from Judith Butler and is applied by Jill Locke, “Work, Shame, and the Chain Gang: The New Civic Education,” 2000.

mass media; in informal social networks; and through reiterated public performances. I now turn to explaining these two aspects of interpellations.

Categories

The figure of the “denunciator” is not a mythical invention of re-unified Germany. There existed under the GDR a small army of informers who denounced fellow citizens, constituting about two and a half percent of the population. What the interpellation does, however, is simplify taxonomies of complicity and resistance that are in fact complex in order to create the abject individual that is interpellated. General studies about transitional justice identify at least three robust categories of wrongdoers (fanatics, opportunists, and conformists),⁹² and a study on the GDR proposes four categories of wrongdoers (collaborators, opportunists, conformists, and those who acted with good conscience).⁹³ But the relevant law in Germany creates legal categories that erase these nuances. The *Gesetz über die Unterlagen des Staatssicherheitsdienstes* divides the identity of the persons contemplated in the archives into four categories (affected persons, collaborators, advantaged persons, third parties) but ultimately, as it comes to their respective rights, boils them down to the victims/wrongdoers dichotomy.⁹⁴ As soon as a tie with the Stasi is presumed, regardless of the particularities of each case, actors instantly fall within one of these two categories. The absence of a more fine-grained categorization of complicity might in part be attributed to the difficulty of translating the complexities of social

⁹² Jon Elster, *Closing the Books. Transitional Justice in Historical Perspective*, 2004, 137.

⁹³ Referenced by Elster, *Closing the Books*, 2004, 137.

⁹⁴ John Miller, “Settling Accounts with a Secret Police. The German Law on the Stasi Records.” 1998.

and political realities into the language of the law. However, a pull towards some smaller, more precise categories of complicity would not have been difficult to imagine. In fact, in some of the so-called screening cases, to be discussed later, courts narrowed down the grounds for the dismissal of former informers, for which they created subcategories of IM complicity that factored in the varying degrees of involvement with the Stasi.⁹⁵

Extra-legal categories of the abject informer are also found in public discourse, where Stasi collaborators are often represented as individuals who are prone to lie, who are shameless, and who proved to be cowards through their actions (*Lüge, Frechheit, Feigheit* are common currency terms associated with IM.⁹⁶). To illustrate in greater detail, consider the book *Die Täter sind unter uns. Über das Schönreden der SED-Diktatur*⁹⁷ by Hubertus Knabe, an activist who could be best described as a “moral entrepreneur”⁹⁸ who puts the political public sphere to work by drawing attention towards presumably neglected issues.⁹⁹ The text is a political tract addressing the

⁹⁵ On the “pull” towards smaller legal categories in law, see Frederick Schauer, “Categories and the First Amendment: A Play in Three Acts,” 1981.

⁹⁶ Consider this round of commentaries from a 2008 *Frankfurter Allgemeine Zeitung* article on Fritz Schaarschmidt, mentioned above: “It is imprudent and cowardly that even criminals - and that is Stasi informers for me - use all avoidable available legal means, to take advantage of a free society with all the advantages, whichever the system, in which they preliminary work, that their victims have not been granted, ‘East Germany was economically, politically and morally bankrupt;’ ”I call it simply cowardice, what these gentlemen allow. First spy on other people, blacken and thereby destroy their existence, then do not even want to take responsibility and stand up for the injustice committed. Through this alone, they show their true - namely terrible – character.”

⁹⁷ List, 2008.

⁹⁸ The notion comes from Jürgen Habermas, “Hat die Demokratie noch eine epistemische Dimension? Empirische Forschung und normative Theorie,” 2008, 166f.

⁹⁹ Knabe is the author of several books on the Stasi and makes regular media appearances to discuss anything related to the secret police. His activism has earned him aliases like “Opfer Messiah” or “Hassfigur aller DDR-Nostalgiker und verharmloser.” See for instance

legacy of the communist regime. It is worth more than a passing mention because it is an eloquent lamentation illustrating the tenor of public discourse around the outing of former Stasi collaborators in Germany. *Die Täter...* is a *Streitsbuch* in the Nietzschean tradition (due proportions kept), which attempts to cash out what it regards, if not as a *transvaluation*, at least as a *devaluation* of values in German political culture. It warns against the attempt by the cadres of the old regime to trivialize (“*bagatelisieren*”) the DDR dictatorship and forget its injustices. *Die Täter...* discusses the “spectacular exposures” (“*spektakulären Enttarnungen*”) of former IM with political ambitions. The author concludes that these outings were acts of “*symbolic self-purification*” of individuals who lent themselves to the “degrading” (*entwürdigend*) double game of denunciation. He adds: “The whole nation participated in the collapse of betrayal and lies. The perpetrators were not sent to prison, but they resigned office and lost their *social status*. After forty years of denunciations, moral standards were thus restored.” He adds that those who refused to cooperate with the regime during the “dictatorship” saw confirmation of the integrity of their behavior. “Society reencountered its *values*, one of which says: ‘the greatest scoundrel in the whole land is and remains the denunciator.’”¹⁰⁰

The diagnosis is quite puzzling in many ways, but three remarks are worth noting for now. First, in the passage public exposures are a *collective* practice: the whole country “participates” in them. Second, they stand in the place of a criminal sentence: collaborators are not branded criminals, but they are socially *disqualified* or demoted.

“Muntere Stasi-Aktivisten. Eine Abrechnung mit allen DDR-Nostalgikern,” *Sueddeutsche Zeitung*, 16.04. 2006.

¹⁰⁰ H. Knabe, *Die Täter sind unter uns. Über das Schönreden der SED-Diktatur*, List, 167. The emphasis throughout is mine).

Third, outings are *restorative*: they trigger a process of collective evaluation of Stasi collaboration that presumably leads to its public disapproval and an endorsement of a set of vague values defined in opposition to such collaboration. The accuracy of each of these aspects is of course disputable. What “country” participates in outings? Does it encompass an all-German public or just East Germany? What values are outings supposed to restore? At any rate, the point to bear in mind is that informers are, on this narrative, degraded “scoundrels” who lost their social status, a category that the shaming interpellation creates.

Public Performances

To go back to Jill Locke’s example, which discusses the re-emergence of “chain gangs” in some southern states in the U.S. as a punitive measure, this type of punishment, she claims, provides a social bond for Americans who are anxious about American identity. The criminals of the chain gang form an ostensible, visible, and abject “other” whose status reaffirms the identity of upright, hard-working, and honest American citizens. Chain gangs are always there, in the eyes of the public, and every glance cast upon them is likely to spark a judgment of reprobation, so their promoters expect. Outings resemble chain gangs at least partly: they too follow the logic of public reiteration that is typical of shaming interpellations, for the reasons and with the consequences I now turn to develop.

After the reunification, although not without controversy, public officials in the newly unified nation were committed to grappling with the communist past from the outset *and* sustained that policy unremittingly throughout the years. For this reason, outings

of all sorts kept stirring public opinion even years after the East German Parliament authorized the opening of the files in 1990. Several factors explain the “eagerness” of German *Aufarbeitung*. For one, the precedent of Nazi *Aufarbeitung*, which garnered many critics, who argued that the latter had been too lenient and mild,¹⁰¹ made current public officials and activists more reluctant to avoid following their predecessors’ footsteps.

But at least as important as historical variables are structural ones, especially those regarding the manner in which, per law, the BStU declassified the Stasi archives, which in turn created the conditions for frequent public exposures of IM and steadfast, undeterred coverage of them. They are the following.¹⁰² First, for the BStU a sufficient ground for releasing a file containing the identity and further information about IM is the request of a citizen for her own file. The number of such requests has steadily risen over the course of the years, as some of the citizens who in the past hesitated before asking for their files have eventually done so. Second, the BStU also declassifies the files per request of other government agencies and, to a lesser extent, of private organizations carrying out screening processes for past Stasi involvement. This process goes on to date. Third, the media may request from the BStU information regarding suspected IM, and, as I have illustrated in the first chapter, in many instances it has a reasonable chance of broadly disseminating information regarding former denunciators, either on public interest grounds, or for purely sensationalist interests. Fourth, there is an academic division within the BStU, which,

¹⁰¹ See next chapter.

¹⁰² For a good overview: Bärbel Broer, *Die Innere Struktur der Behörde fuer die Unterlagen des Staatssicherheitsdienstes der ehemaligen DDR*, 1995, 148-158.

as I also mentioned in chapter one, carries out historical research, with the tempo proper to the nature of the academic profession (parsimony) and with the additional burden of organizing (this is the fifth point) a daunting archive. Indeed, the BStU organizes and examines an overwhelming number of files (more than 100 kilometers).¹⁰³ It is even committed, with uncertain prospects of success, to reconstructing more than 15,000 sacks of material that MfS officials shredded at the last minute in an attempt to wipe out incriminating evidence. All these procedures can only be done in a piecemeal fashion.¹⁰⁴ In sum, the outcome at the aggregate level is an ever-present supply of opportunities for outing one or another IM. And the continued occurrence of outings throughout time makes possible the sort of reiteration that is part and parcel of the process of shaming interpellation.

The consequence of the reiteration of outings is the constitution of what one might call civic publics. The idea of the “publics” that I have in mind is Michael Warner’s. When one makes reference to the concept of public, Warner argues, the referent is usually “a kind of social totality” (the people in general) or a concrete audience. But the idea of *a* public is distinct from *the* public or from any bounded audience. *A* public refers to a space of discourse that comes into being in relation to texts and their circulation. A public, Warner continues, is organized by nothing other than discourse

¹⁰³ The office works through what it calls “the legacy of the Stasi,” by which it refers to the 112 km of documents (including photos, films, video, and sound recording, even shredded documents intended to be destroyed) that were in the hands of the MfS.

¹⁰⁴ Some findings are even casual. A case illustrating this last scenario involves the infamous Karl-Heinz Kurras who shot dead Benno Ohnesorg, a student participating in a West Berlin demonstration against the Shah of Iran (Ohnesorg’s death contributed to the radicalization of the student movement and the rise of urban terrorism in the nation in the late 1960s). More than 40 years after the incident, 20 after the fall of the wall, an accidental finding in the Stasi archives revealed that the policeman who was tried and absolved for the murder of Ohnesorg was a Stasi denunciator. The news made it to the headlines of most national newspapers, which reiterated the abjection of denunciation.

itself. It is “autotelic” because it exists by virtue of being addressed. The reality of a public lies in the reflexivity between a context of reception and rhetorical address “by which an addressable object is conjured into being in order to enable the very discourse that gives it existence.” Publics, as Warner understand them, are partial (as there might be an infinite number of publics within the social totality); open-ended (as they exist by virtue of their address); impersonal (as their primary orientation is reaching out to strangers; their discourse addresses people who are identified primarily through their participation in the discourse and who therefore cannot be known in advance); and, finally, are constituted through attention (as they commence with the moment of attention and cease to exist when attention is no longer predicated). The reiteration of outings, as just described, create publics of the sort theorized by Warren. These publics, in other words, are the result of shaming interpellations.

III. Citizens and Barbarians: Encouraging Civic Courage

The Stasi Files: Archives of *Zivilcourage*

“Memory managers” know that for the purposes of consolidating national identity, it is easier for citizens to relate to heroic narratives, particularly those involving acts of courage, solidarity, etc.¹⁰⁵ The flip side of the abject denunciator is the “proper” or

¹⁰⁵ Walter Ch. Zimmerli and Joachim Landkammer, “Erinnerungsmanagement und politische Systemwechsel: Kleine Versuche zur Erklärung eines grossen problems,” in Joachim Landkammer, Thomas Noetzel, and Walter Ch. Zimmerli, *Erinnerungsmanagement. Systemtransformation und Vergangenheitspolitik im internationalen Vergleich*, 2006, 268.

“normal” citizen. How that citizen is created is the subject of this section. The following vignette will introduce us to the subject.

A Stasi past runs counter to the aspirations of the new democratic regime, according to the rules of the *Bundesrepublik*, and therefore screening for Stasi complicity in German public service is considered to be a crucial task in the new era. The so-called *Stasi-Überprüfung* extends not only to key government positions but also to every bureau funded with taxpayer money. Even agencies in charge of the promotion and organization of sports are not exempt from the painstaking screening process. Such was the case of the German Ski Union (*Deutscher Skiverband* or DSV), which confronted the Stasi past of one of its trainers, Harald Böse, whom the Stasi files showed to have been an informer. Although he claimed he had been blackmailed into service, the regional bureau for the BStU pleaded for dismissing Böse in 1998, who despite the petition remained in his post. Complaining that the DSV had shown very little involvement and concern for the GDR-Sports victims, a commentator added: “The taxpayer-funded elite sports should be decisively separated from those tainted Stasi people who represent no role model for young people. Otherwise, the politics will also be untrustworthy with its praise songs of moral courage.”¹⁰⁶ I want to emphasize that the reason for advocating Böse’s dismissal according to this view is that he set a negative example for the “youth,” and that Böse’s permanence within the ski union would call into question the government’s commitment to publicly acknowledging the value of civic courage.

¹⁰⁶ Thomas Purschke, “Nur die üblichen Berichte,” *Gerbergasse 18* 2003 (1), 9.

To illustrate the policy of publicly praising civic courage during the GDR era, consider the work of the Stasi Records Office. According to a leaflet for public dissemination, the explicit goals of the bureau are: 1) giving citizens “the right to examine Stasi documents relating to oneself and to find out the extent to which the State Security Service of the GDR influenced one’s own life;” 2) promoting “the examination and reappraisal of the MfS’s activities” and “the ruling mechanisms of the former GDR and the National Socialist past,” for which ends the bureau makes documents available to scholars, the media, and private organizations dealing with the past; 3) assisting public and non-public offices in screening requests, that is, in finding out “whether people occupying high positions in politics, sports, and administration worked for the State Security Service.” The bureau also processes inquiries from the agencies responsible for the rehabilitation and restitution of victims of the communist regime, as well as those responsible for clarifying pension matters.¹⁰⁷ But the leaflet also includes a message from the head of the office, Marianne Birthler, which I want to highlight here. In her message, she draws attention to the fact that in the records of the MfS one finds not only “reports about people who spied on and betrayed their fellow citizens in the service of the Stasi, but also examples of civic courage, of many people’s bravery and their longing for freedom.”¹⁰⁸ This is a point she makes constantly.¹⁰⁹ Her predecessor, Joachim

¹⁰⁷ The results, as of May 2008, indicate that since 1991, about 6.2 million applications have been made to the BStU. Around 2.5 million have been personal reviews of files, 3.2 million, screening requests, 20,600 requests have come from the media or research institutions; 442,000 have served the purpose of rehabilitation, restitution, and criminal prosecution. Federal Commission for the Records of the State Security Service of the Former German Democratic Republic, “BStU. The Stasi Records Office.”

¹⁰⁸ “BStU. The Stasi Records Office,” Pamphlet.

Gauck, set the example when he claimed that the files of the BStU contain not only “the protocols of oppression,” but also testify “to the courage and determination of many who refused to be the henchman of this [GDR] dictatorship.” This behavior, Gauck claims, was extremely risky, for those citizens did not know what to expect from their refusal. Nevertheless “thousands of people refused to work with this system of oppression. The open files testify to this, and it is something of which the East Germans can be proud.”¹¹⁰

Beyond noting the public celebration of Zivilcourage, the further rhetorical move in public discourse that I wish to draw our attention to is the connection between civic courage (or absence thereof) and respect (or lack thereof). More concretely, the claim is that IM did not act courageously, and thus failed to respect themselves. In other words, IM performed very poorly in the evaluative scale of citizenship¹¹¹ and therefore lacked self-respect. In turn, this omission made them subject to well-deserved public dishonor. But such dishonor is ultimately a form of disrespectful treatment. The first claim, that lack of Zivilcourage is demeaning, suggests that dignity is not a given but a property that might be lost if not exercised. The second point, that dishonoring behavior calls for public reprobation, suggests that the kind of

¹⁰⁹ See for instance, an interview given to the Spanish newspaper *El País* ('Un archivo guarda el horror y el coraje de muchos,' 23.05.10) in the context of the discussion of the law of historic memory in Spain.

¹¹⁰ Joachim Gauck, “Opening of Files and Public Access to them: an Important Contribution to Dealing with the Communist Dictatorship,” 2006, 432-33.

¹¹¹ Consider the following rough template defining the notion of citizenship as a form of *political agency* aimed at (a) a *common good* within (b) a *bounded community* in which the agent can claim (c) the *status of membership*. The exercise of this agency expresses (d) a *public role* of the citizen, fulfilled by the performance of (e) *activities or functions* characterized by (f) a set of *virtues*, where virtues are evaluative criteria for distinguishing better from worse performances of the roles and practices of citizenship. Melissa S. Williams, “Citizenship as Agency within Communities of Shared Fate,” 2009.

respect one may command is contingent upon the exercise of one's dignity. The claims are obviously never stated in such an explicit way, but these formulations capture the crucial issues that are at stake. I now turn to develop them more fully.

The Barbarization Thesis

Key in addressing the first point is the notion of degradation. Elaborating on a different subject, Elizabeth Anderson describes degradation as treating someone or something "in accordance with a lower mode of valuation than is proper to it. We value things not just 'more' or 'less,' but in qualitatively higher and lower ways."¹¹²

The definition is useful in making sense of what the head of the *Stasi-Beauftragte*, Marianne Birthler might have in mind when she says that: "There is a lot of shame in the East [...] Shame about the fact that we accepted that [life under the Stasi], that we lived under so degrading (*entwürdigenden*) conditions." She continues: "Citizens from East Germany are ashamed, and want to forget "that they were afraid and did not open their mouths when it was necessary to do so."¹¹³ Joachim Gauck argues along similar lines, when he affirms in rhetorical but telling excess that: "The records now also indicate that oppression, war and hardship not only turn people into barbarians, but also into people willing to overcome hardship, into martyrs, and into

¹¹² Elizabeth Anderson, "Is Women's Labor a Commodity?" 1990, 77. Respecting some one means valuing her in a higher way than one would if one merely used her. Treating a citizen as an informer means, under a Kantian light, treating her as an instrument (of governance) rather than holding her as a citizen worthy of respect. The fact that IM were often remunerated is often presented as evidence that IM acted on selfish grounds, but it would also be evidence that some citizens were used as means to accomplish the state's ends. Not viewing citizens as ends-in-themselves, but as instruments of socialist society (welfare of the majority).

¹¹³ "Unterm Strich," *die tageszeitung*, 04.14.2006. See also "Viele wollen nicht daran erinnert werden," *Frankfurt Allgemeine Zeitung*, 18.05.2009.

dignified citizens (*würdevolle Bürger*).¹¹⁴ When Birthler says that the people under the communist regimes yielded to living in degrading condition, and when Gauck argues that some individuals let themselves turn into barbarians, what they mean is that they accepted being valued and treated in a less than dignified manner.

Political actors like Gauck and Birthler are publicly self-proclaimed Arendtians, which comes as no surprise given the influence of Arendt's published reflection on post-Nazi Germany. In view of this, consider one of the most interesting aspects of Arendt's work: her focus not on the gross war criminal or the grand perpetrator, but on the average man during Nazi Germany. Her famous characterization of the "family man" goes to this point. Arendt describes him as a "bourgeois," a devoted "*paterfamilias*" and laments the "transformation of the family man from a responsible member of society, interested in all public affairs, to a 'bourgeois' only concerned with his private existence and knowing no civic virtue."¹¹⁵ She adds: "It became clear that for the sake of his pension, his life insurance, the security of his wife and children, such a man was ready to sacrifice his beliefs, his honor, and his human dignity."¹¹⁶ After such "degradation," she concludes, this man was prepared to do anything.¹¹⁷ Arendt's *paterfamilias* or bourgeois and Gauck's barbarian are equivalent. The point Arendt and Gauck make is that no self-respecting citizens

¹¹⁴ Quoted in Norbert Robers, *Joachim Gauck. Die Biografie einer Institution*, 2000, 183.

¹¹⁵ Hannah Arendt, "Organized Guilt and Universal Responsibility," 2003, 153.

¹¹⁶ Hannah Arendt, "Organized Guilt and Universal Responsibility," 2003, 152.

¹¹⁷ Principled action involves a particular kind of "courage," one that does not necessarily involve the willingness to gladly risk one's life "for the sake of being as thoroughly and intensely alive as one can be only in the face of danger and death." Instead, what is at stake is a simpler kind of courage: "It requires courage even to leave the protective security of our four walls and enter the public realm, not because of particular dangers which may lie in wait for us, but because we have arrived in a realm where the concern for life has lost its validity." Hannah Arendt, *The Human Condition*, 1958, 186.

would endure an “undignified” treatment at the hands of state officials. Such treatment should bring out one’s civic courage. In the absence of such courageous action, citizens degrade themselves. The argument is roughly equivalent to Kant’s objection to servility. Servility, Kant claims, is a form of self-disrespect because it amounts to showing a deferential role vis-à-vis others simply out of laziness, timidity, or a desire for some minor advantage. Such attitude shows little concern for one’s moral and political status, that is, for one’s rightful place in a moral and political community, which leads one to overlook the fact that one is equal with every other person, which sometimes need to be affirmed openly. Protecting one’s standing within a community requires effort and courage, the lack of which, Kant argues, might result from placing low value on one’s worth.¹¹⁸

In sum, what I want to underscore about this way of understanding citizenship and of passing judgment upon the past behavior of IM is that it reflects the belief that dignity is tied to a performance. It reflects, in other words, a *performative* view of dignity. Dignity, in Arendt’s view, is not a given, but rather something that might be lost if not exercised, an insight that is fully consistent with what Kant, an influence for Arendt, has to say about dignity. As I mentioned in previous sections, even Kant, who strongly endorses the ontological view of dignity, admits that dignity could

¹¹⁸ This interpretation of Kant’s objection to servility comes from Thomas Hill Jr., “Servility and Self-Respect.” In turn, the interpretation stems main from the Doctrine of Virtue in Kant’s *The Metaphysics of Morals*. For analyses emphasizing the normative link between self-respect and courage, see also Bernard Boxill, “Self-Respect and Protest;” Thomas Hill Jr., “Self-Respect Reconsidered,” all included in Robin Dillon, *Dignity, Character, and Self-Respect*, 1995.

sometimes be forsaken.¹¹⁹ Dignity, in other words, is for agents, not for patients; for citizens, not for barbarians.

Exposing Barbarians: On Public Dishonor

In the view under consideration, civic degradation determines to a good extent how citizens ought to be treated. If the past is to be remembered even against the preference of some citizens, it is because that past shows the demeaning way in which citizens behaved. If the Stasi files should be disclosed, even against the will of some individuals, it is because they show how individuals may be turned into barbarians, and how others may resist this transformation and behave like dignified (*würdevolle*) citizens. Thus, Gauck argues that there is a large group of people for whom the memory of the dictatorship is painful because “it reminds them of their lack of civic courage (*Zivilcourage*).” They don’t want to be told that over and over again. They want “to forget quickly. However I lead an agency that keeps memory awake.”¹²⁰

The idea that the seat of dignity is a quasi-universal entitlement tends to obscure the extent to which practices of respect depend upon an evaluation of one’s actions. This is what Michael Walzer has in mind in the following passage:

Egalitarian philosophers commonly hold that in a democratic community the citizens are entitled to equal respect. [There is] some sense in which the claim

¹¹⁹ It would be the case, in the context of Kant’s epoch, of the soldier who failed to challenge to a duel someone who called his bravery into question; of the mother who refrained from taking up whatever means necessary (even immoral ones) to save her honor before losing it to an out-of-wedlock child; of the woman who must fight her assaulter to death before accepting to live with the “dishonor” of rape. I am drawing heavily on the interpretations of Kant by LaVaque-Manty and Anderson, referenced above.

¹²⁰ *Süddeutsche Zeitung*, 23.04.1995.

is justified; but [from a different perspective] it would make more sense to deny it. The law is no respecter of persons. When citizens petition their government, they are entitled to equal attention; when offices are available, to equal consideration; when welfare is distributed, to equal concern. But when respect is at issue, “deferential esteem,” special regard, ritual eminence, they are entitled to none at all until they have been found to deserve it.¹²¹

The crux of this passage is that respect-worthiness is something to be earned, not a given. Citizens are not necessarily entitled to equal respect because there is a component of respect that does not depend on an intrinsic worth of individuals but on desert--on what one does or fails to do.

A view like Walzer’s is relevant to the discussion I am developing because it clarifies the sense in which IM were subject to “civic disqualifications,” in Claus Offe’s terms—they were publicly exposed in order to brand them and condemn their “non-civic” behavior. But this disqualification is, in the eyes of those who do the disqualification, well deserved. Outings are dishonoring but not disrespectful.

The case of Hans Hartleb aptly illustrates how outings of IM have been socially conceived as dishonoring practices. Hartleb was a trainer at the women’s national skiing team and had an honorary appointment (*Ehrenamt*) as vice-president at the skiing-union of Thüringen. While in the exercise of both of his duties, a report by the weekly magazine *Der Spiegel* revealed that he had collaborated with the Stasi as IM Falun. By request of the secret police, he had written incriminating reports on some

¹²¹ Michael Walzer, *Spheres of Justice. A Defense of Pluralism and Equality*, 1983, 267.

of his colleagues, as a result of which some of them had lost their jobs as professional athletes. Hartleb even delivered private information about other colleagues and received monetary compensation for all of his services. One of the athletes he informed on was enraged that none of the 16 informers that had been set on him had come out and apologized to him.¹²² Despite pressure from some quarters of public opinion, Hartleb was not dismissed from his job at the national team as a consequence of *Der Spiegel's* note. What he did lose, however, was his *honorary* post. Presumably because he did not deserve the honor.

Courageous Action: Saying No

The question at this point is: What would constitute dignified political action in the context of communist rule? What was the courageous response to a recruitment offer from the Stasi? To answer that question let me turn to Walzerian respect one more time. Public honor, Walzer argues, is conferred only on the basis of desert, as determined by an “objective measure:” “What is called for is an absolute judgment. When the church designates its saints or the state its heroes, questions are asked that have to be answered with a Yes or a No. The miracle did or did not occur; the courageous action was or was not performed.”¹²³ Part of what the shaming interpellation does is precisely to set an objective standard determining what constitutes a courageous action as opposed to a degrading, dishonorable one.

Saying no was, in the eyes of some publics, the courageous course of action. *Ich habe Nein gesagt. Zivilcourage in der DDR [I said No. Civic Courage in the GDR]* is the

¹²² On this see: Thomas Purschke, “Nur die üblichen Berichte,” *Gerbergasse 18* 2003 (1), 7-8.

¹²³ Michael Walzer, *Spheres of Justice. A Defense of Pluralism and Equality*, 1983, 259.

title of a book collecting some anecdotes about citizens who refused to work for the Stasi. The book includes a preface where prominent politician and former Neues Forum member Wolfgang Thierse's praises the courage of those who led the "right life" in the "false system." "Self-determined thinking, as well as courageous and responsible action, were also among the possible options under the complicated conditions of everyday life under the GDR"¹²⁴ Thierse celebrates those who in spite of the "psychological pressure," and of the uncertain consequences of their decision, rejected the offer to become denounciators.

Notice that in Thierse's praise of the righteous citizen, a connection is posited between courage and responsibility. Something similar is implied in Hannah Arendt's passage discussed before, where she laments that the (non-courageous) paterfamilias ceased to be a responsible member of society during the Nazi period. What sort of responsibility is at stake in the courageous action of the non-collaborator? Paradoxically, the responsibility entailed in the civic courage as it is commonly defended in German public discourse is not a political one, in the sense of presupposing some degree of collective and public action, but rather a moral one, something close to conscientious refusal. Let me explain.

To follow Iris Young's interpretation of Arendt's understandings of responsibility, she (Arendt) advances two different understandings of responsibility, one moral and the other political.¹²⁵ Moral responsibility is private, religiously held, and focused on

¹²⁴ Marco Hecht and Gerald Praschl, *Ich habe Nein gesagt. Zivilcourage in der DDR*, Kai Homilius Verlag, 2002, 13-14.

¹²⁵ Here I rely heavily on Iris Young's reading of Arendt in "Guilt versus Responsibility: A Reading and Partial Critique of Hannah Arendt," 2005, where she teases out an alternative

the self. It is the responsibility of the person who would refuse to collaborate with the Stasi. In writing about Nazi Germany, Arendt discusses a real scenario, roughly analogous to the one faced by informers during the communist regime, in which two young men who were about to be drafted into the *Waffen-SS*, an armed organ of the Nazi Party, refused to sign the induction papers at the last minute because they knew enough about the mission of this particular branch.¹²⁶ These people, Arendt says, “practically speaking, did nothing.” They are free from guilt. They engaged in actions that were praiseworthy from a moral point of view. “Their ability to tell right from wrong had remained intact, and they never suffered a ‘crisis of conscience’ [...] They were neither heroes nor saints, and they remained completely silent.”¹²⁷ According to Young, this last remark suggests that their actions, to the extent that they were not public, were not political either. Many citizens tried to distance their actions from complicity with Nazism or positively made efforts to help those in danger, but they did so on their own, privately, without making much of an issue of it. Their actions are acts of moral refusal, not political resistance, Arendt concludes.

Political responsibility, by contrast to the moral kind, is ethical, public, secular, and based on the conditions of the world. Here again there are distinctions to make. Arendt advances two understandings of political responsibility. The first one, explicitly formulated by her, hinges on membership to a group. She writes: “I must be

Arendtian understanding of political responsibility drawing on Eichmann in Jerusalem and Arendt’s short essay “Organized Guilt and Universal Responsibility,” 1983.

¹²⁶ Arendt gives other examples. For instance, the artisan who gave up his independent existence and went to work in a factory rather than join the Nazi Party. Some academics gave up their positions rather than swear an oath to Hitler (e.g. Karl Jaspers). Some did what they could to try to help Jews they knew by hiding them or helping them leave the country.

¹²⁷ Hannah Arendt, *Eichmann in Jerusalem. A Report on the Banality of Evil*, 1963, 103-104.

held responsible for something I have not done, and the reason for my responsibility must be my membership in a group (a collective) which no voluntary act of mine can dissolve.”¹²⁸ The term “shared responsibility”¹²⁹ aptly captures Arendt’s notion.

The second and, I think, most compelling understanding of responsibility (although the two may be associated)¹³⁰ is not as explicit as the previous one, and it needs to be teased out from different parts of her work.¹³¹ It is a more specific and active understanding of responsibility than mere membership to a collectivity. On this understanding, we bear political responsibility not simply by virtue of membership in a community but according to more concrete social relationships and actions. Legal guilt or active commission¹³² should not be presupposed in order to ascribe responsibility, on this reading. Responsibility falls, in Arendt’s view as explained by Iris Young, on “those who dwell within the social system that enables the crimes and supplies that system with at least *passive* support. In this case, their *passivity* produces a political vacuum. The attitudes and behavior of the majority of people is so privatized that little organized public space exists in which actors can appear to others with their judgments of events, let alone join in collective action to transform them.” (my emphasis)¹³³ Put differently, they bear the responsibility for having

¹²⁸ Hannah Arendt, ‘Collective Responsibility’, 1987, 45.

¹²⁹ Cassie Striblen, “Guilt, Shame, and Shared Responsibility,” 2007, 469-485.

¹³⁰ More than Young is probably willing to admit. See Annabel Herzog, “Arendt’s concept of responsibility,” 2004, 39-52.

¹³¹ Iris Young, “Guilt versus Responsibility: A Reading and Partial Critique of Hannah Arendt,” 2005.

¹³² Guilt, to begin with, is to be distinguished from responsibility. One might be one without the other. In her examples, most Nazi officials were both guilty and responsible, the likes of Eichmann might have been guilty without being responsible, to the extent that they lacked the capacity to judge.

¹³³ Iris Young, “Guilt versus Responsibility: A Reading and Partial Critique of Hannah Arendt,” 2005.

“evacuated any space of popular organization and critical accountability, leaving isolated and ineffectual the few of their fellow members who were inclined to think and criticize.”¹³⁴

Iris Young’s interpretations of Arendtian responsibility might overstate Arendt’s case for open political action and its importance under totalitarian conditions (and the same might be said about Jeffrey Issac’s analysis of human rights in Arendt’s work), while overlooking the relevance of strategic passivity as a form of responsible action. Under the special conditions of totalitarianism, not taking part in and withdrawing from a corrupted pseudo-public, could count as a form of resistance. Under totalitarian conditions, Arendt argues, no one can be expected to risk one’s life by displaying open resistance; not playing along and avoiding the logic of lesser evils by not participating in the regime is a form of responsible behavior and a substitute for political action where such action is virtually impossible.

Be that as it may, the aforementioned distinction between the two types of responsibility is useful for the present purposes in that it suggests that, in the view of prominent voices in German public discourse, the kind of courageous action expected from citizens in the GDR was something along the lines of moral responsibility: saying no, even if open and collective political action was impossible. Even such private forms of resistance were a clear manifestation of self-respectful behavior.

¹³⁴ Iris Young, “Guilt versus Responsibility: A Reading and Partial Critique of Hannah Arendt,” 2005.

IV. Interpellation Failed?

In suggesting that a socially constructed “objective measure” should determine the distribution of public honor and dishonor, Michael Walzer, whose understanding of public honors I return to for the last time, anticipates some of the complications that await the formulation and the enforcement of such a standard. First, it is likely to be contested. Second, it is vulnerable to the manipulation of authorities for “utilitarian reasons [...] so as to encourage politically or socially useful performances.”¹³⁵ Walzer’s points are compelling on both scores, especially with regards to the first point. The search for objective standards may on occasion be frustrated by disagreements as to what constitutes such standards in specific contexts. In fact, the difficulty or impossibility of creating such a standard, one that is persuasive and widely accepted, may very well be a sign of what Jill Locke calls an interpellation failure.

Honorable Action: Saying Yes?

Those who defend the model of the praiseworthy citizen as I just described, usually advocate it as if it were a self-evident and uncontroversial standard. Their arguments resemble those that were used in the infamous case of East German border guards, who were prosecuted for some of the shooting incidents that occurred along the Berlin Wall in the years leading to the collapse of the regime. The successful prosecution of many of those soldiers relied on an appeal to natural law and the rejection of positivism, with its non-retroactivity principle (*nulla poena sine lege*).

¹³⁵ Severed from the commitment to personal desert, he argues, the risk is run that authorities “might well think it best to invent a performance and to ‘frame’ an appropriate performer so as to make sure that they are encouraging exactly what they want to encourage.”(262).

The debate between positivist and natural lawyers is a well-rehearsed one, and I need not go into its details. The point I want to underscore here is that the judge who convicted one of the guards contended, closely following the standard natural law argument, that no one had “a right to ignore his conscience when it comes to killing people on behalf of the power structure.” The reliance on these arguments can only be successful by postulating the existence of a transparent and uncontroversial moral code (and objective measure) and by imputing to the accused individual the knowledge that his actions were contrary to this code and, therefore, plainly wrong, even if sanctioned by positive law.¹³⁶ The interpellation of IM rests on a similar logic.¹³⁷

And yet, there is no moral code on which to rest, without controversy, the case against IM. Those citizens who are mildly sympathetic to informers argue that having “said yes” is not necessarily a sign of “barbarism,” since political virtues are by and large regime dependent. Therefore, casting judgment upon the actions of political actors of a defunct regime (i.e. East Germany) based upon the evaluative standard of a different one (i.e. West Germany) is unfair. This is one way of formulating the familiar objection to the imposition of the “victor’s” justice. In the case of IM, the objection would be that publicly exposing IM reflects just this type of (in)justice.

¹³⁶ Kif Augustine Adams, “What is Just?: The Rule of Law and Natural Law in the Trials of Former East German Border Guards,” 1995, 172.

¹³⁷ Furthermore, although as just seen, the prosecution against guards ultimately rest on a natural law argument, there was some ambiguity as to whether under East German law, guards had committed a crime. No such ambiguity exists in the case of informers: they committed no legal crime. Because there was clearly no law against informing in the books (actually informing was encouraged and even rewarded by the state). Therefore, an even stronger case needs to be made that informers knew they were doing something wrong.

Consider the language and the ceremony that characterized recruitment as an IM, which injected a sense of civic duty to Stasi informal collaboration. It is a noteworthy fact that, upon being recruited, prospective informers were asked to sign a letter of commitment or duty (*“Verpflichtungserklärung”*). The letter seems to have been less a legal document than a sort of civic oath or pledge. According to a standard format of the letter, the IM who signed it was encouraged to see herself as a tool “against all attacks of the enemy and for the sustaining of peace” (*“gegen alle Anschläge des Feindes und der Erhaltung des Friedens”*). Aside from demanding the utmost secrecy about her task (not even family members were to learn about the IM’s “duty”: civic bonds supersede familial ones in the context of the task assigned to the informer) the letter usually read something along these lines: “I commit to give the Ministry of State Security voluntary support and to share all information, that suggest an enemy action, with the known agents of the Ministry.”¹³⁸ Informing, then, was portrayed as a patriotic activity to defend and to be honored by the state. It was seen as a form of political agency clad in the robes of civic behavior.

In sum, in casting the action of IM as an abject activity and the antithesis of upright citizenship, the shaming interpellation disregards alternative social meanings of what it means to have been an informer for the Stasi.

The Disingenuous “We”

Citizens can contest shaming interpellations and, when resistance is considerable enough, interpellations are subject to failure. To illustrate failed interpellations, Jill

¹³⁸ Helmut Müller-Enbergs, “Der ‘inoffizielle Mitarbeiter:’ Anatomie eines Spitzels,” 1993, 17.

Locke offers a Foucauldian account of the disappearance of some forms of public punishments in eighteenth and early nineteenth-century France (chain gangs or public labor). The purpose of these punishments, as I have already mentioned, was partly interpellative, and they were discontinued largely due to the fact that, instead of aggrandizing the power of the monarch and conveying a normative message, which was their intended purpose, they tended to create a form of solidarity between the convict and passers-by and defied the message that was intended to be communicated to audiences, unleashing “a whole set of significations wholly out of the control of the people who put them [public punishments] there.”¹³⁹ Similar punitive measures such as forced public labor could go as far, in the United States, as “subverting the very distinction between vice and virtue,”¹⁴⁰ as the criminal garners empathy from the public. Briefly put, interpellations fail when the authority to punish abject individuals, as well as the legitimacy of the punishment itself, is called into question and when, instead of upholding a model of ideal behavior, interpellations create unexpected bonds of solidarity between culprits and audiences.

The case of IM is not fully analogous to those just mentioned. Outings are not forms of punishment but civic disqualifications. Nevertheless, the unintended consequences and the counter-productive effects they generate are analogous to those associated with public punishments like chain gangs or public labor. First, the authority of the BStU, in theory a mere provider of information in the service of citizens and other branches of the government, but in practice the main promoter of interpellations, has been disputed on account of its motivations and goals and has been contested as a

¹³⁹ Jill Locke, “Work, Shame, and the Chain Gang: The New Civic Education,” 2000, 293.

¹⁴⁰ Jill Locke, “Work, Shame, and the Chain Gang: The New Civic Education,” 2000, 290.

representative of those who stand by the so-called victor of the conquerors. Second, I mentioned before that public punishments threaten to create a bond of solidarity between the misfeasor and the audience, one that may even lead to the subversion of the moral and even legal parameters that turned the individual into a misfeasor. In an analogous fashion, outings have fostered a kind of solidarity between informers and some publics, which ultimately leads these publics to doubt and contest the validity of the moral and political bases for condemning informants. The following lines illustrate these two contentions.

Signs of social and political discontent with the work of the Stasi agency are common. “This agency achieves nothing but propagandistic goals and the disparagement of individuals.”¹⁴¹ Those are the strong terms in which a reader of the newspaper *Die Welt* expresses her discontent with the work of the bureau in charge of administrating the Stasi archives. Not even scholarly critics,¹⁴² one of whom calls the agency an “apparatus of memory control;” complains that it was guided “by a man [Joachim Gauck] who, as a pastor, had a professional stake, and as a former dissident, a personal stake, in seeing the world divided into light and darkness and in classifying its inhabitants as either righteous or sinners;” and insists that it “has done its best to keep these distinctions clean by sheltering the victims and by exposing the

¹⁴¹ A response to the article "Viele Stasi-Spitzel im Westen noch nicht enttarnt," *Die Welt online*, 24.05.2009.

¹⁴² Many scholars have cast doubt upon the assumptions held by, and the desirability and effectiveness of, the Gauck and Birthler agencies, as they have also come to be known. Claus Offe has been skeptical that “civic disqualification” strategies, of which outing is an instance, can render their desired purpose of reconciliation and points out that they lend themselves to misuse (as when they are used as political weapons or as opportunities to blackmail others) or incite acts of revenge; more importantly, he claims, these strategies violate several rule of law principles and rely on files whose accuracy is very dubious. See Claus Offe, "Disqualification, Retribution, Restitution: Dilemmas of Justice in Post-communist Countries", 1993, 17-44.

perpetrators to public shame;”¹⁴³ not even unsympathetic scholars, then, put their disagreement with the bureau so roughly as this reader does. Her language is as incisive as it is puzzling, especially in its use of the notion of disparagement, which is an illegitimate loss of standing. In what sense can the agency be seen as an instrument of disparagement?

The complaint is part and parcel to a broader phenomenon: the *belief*, wide-spread mostly in East Germany and amply documented, that after the German reunification, the nation was left with a set of conflicting political and moral values—those of the citizens of the West and those of the East—tensely coexisting,¹⁴⁴ and that Western values were “imposed” on the whole of the nation, just like the *Grundgesetz*, the Constitution of the *Bundesrepublik*, was adopted after the reunification to become the constitutional order of the whole of the nation. With this phenomenon in mind, some scholars¹⁴⁵ have argued that East German self-identification has taken shape as a reaction to what are perceived as “colonialist” stereotypes and narratives encouraged by Western elites seeking to legitimize their predominance in ruling positions in unified Germany; discredit Eastern intelligentsia; and construct an imagined community predicated upon a distorted and patronizing view of the GDR and its

¹⁴³ Inga Markovits, "Selective Memory: How the Law Affects What We Remember and Forget About the Past. The Case of East Germany," 2001, 540-2. The same commentator casts doubt upon the extent to which Gauck's agency is really conducting a job to help victims make peace with their own past and likens the agency to “the recollection process in which what actually happened in the past is gradually filtered and condensed into a few handy images that fit the self-perception and political interest of those who do the recollecting.

¹⁴⁴ I could not offer an exhaustive catalog of those two sets of values, and maybe the differences between the two are overstated.

¹⁴⁵ For example, Dolores Augustine, “The Impact of Two Reunification-Era Debates on the East German Sense of Identity,” 2004, 563-578; Paul Cooke, *Representing East Germany since Unification. From Colonization to Nostalgia*, 2005.

citizens. According to these scholars, East Germans, as recent cultural productions coming from the East (such as literary works or autobiographical texts) make it very clear, have tried to counter these negative images by supporting public figures who allegedly collaborated with the Stasi and afterwards struggled to maintain their public standing in unified Germany. Manfred Stolpe's is one such case, writer Christa Wolf's is another. These "indigenous" leaders who had not directly participated at the higher echelons of the communist regime turned out to be appealing to the average East German, so the argument goes, because, like her, they were perceived as fallible individuals who were forced by circumstances to conform outwardly with the regime, yet cunning in using the system to achieve positive goals.

In sum, for those who resist the interpellation, informers like Stolpe or Wolf are not abject individuals who lacked the civic courage to resist authorities and who therefore deserve to be put in the pillory. According to them, the moral compass that casts informing as a barbaric and degrading activity is an example of victor's justice. Instead, they claim, IM represent the average East German citizen and their actions are read in a sympathetic light: they were simply a survival mechanism. Thus, instead of enshrining a model of appropriate citizenship, and creating a civic "we," civic interpellations strengthen a bond among the abject "they."

V. Conclusion

In a very different context, a different kind of outing has been justified on the basis of an argument about moral and communal responsibility. During the 1980s gay

liberationists in the United States engaged in a series of outings of prominent members of the community, against the latter's claims to privacy, and their justification for doing so was based on the argument that these members were turning a blind eye to active discrimination against homosexuals and were keeping their own homosexuality hidden while benefiting from the status quo. By acting in this way, so the rationale went, not only did they turn their backs on the gay community, to which they owed a measure of accountability and allegiance,¹⁴⁶ they also "debased" (i.e. disrespected) themselves.¹⁴⁷ The argument in the case of unofficial collaboration is analogous. Not all informal collaborators were, as I already suggested, notorious figures within the political community. That lack of notoriety notwithstanding, public discourse often stresses the fact that they presumably overlooked their allegiance to their fellow citizens and that they failed to behave according to the standard accepted by the community, hence the justification to out them, to shame them for their actions. The BStU, through the outings it encourages in civil society, is a government agency that plays the role of censor in Rousseau's social contract: it honors the "virtuous citizen" and shames the "barbarian."

¹⁴⁶ Larry Gross, *Contested Closets, The Politics and Ethics of Outing*, 1993. Gross is skeptical about the plausibility of talking about homosexuals as a community. Class and racial identities, he claims, militate against homosexual bonds of commonality. There is no superceding gay identity, according to him. On gay outings see also: David Mayo, "Privacy and the Ethics of Outing," 1994, and Mark Chekola, "Outing, Truth-telling, and the Shame of the Closet," 1994.

¹⁴⁷ Richard Mohr, *Gay Ideas: Outings and Other Controversies*, 1992.

Chapter 4

Stasi Agents or Responsible Agents? Responsibility and Respect

I. Introduction: Responsibility and Respect

This chapter revolves around the question of the moral responsibility of IM for their collaboration,¹⁴⁸ an aspect that only entered “side-ways” in the previous chapter. The key point I make is that IM outings open up windows of opportunity for publicly discussing the contours and degrees of responsibility of informers. Such collective pondering about boundaries and levels of responsibility, which I will approach through a circumscribed, albeit insightful angle, is a sign of respect. Put differently, I argue that the *public debate itself* is an expression of respect for IM, and, as it turns out, such public inquiry can only be the product of public exposures.

Some publics and public officials offer global arguments about the moral responsibility of IM. IM are either culpable, and therefore deserve to be exposed, or are victims of the system, and therefore do not deserve to be publicly “lynched” and stigmatized. Given the variety of types of IM, according to their motivations for

¹⁴⁸ The debate has dominated discussion ever since the reunification and has an obvious precedent: the debates around German guilt in the post-war era, with Karl Jaspers and Hannah Arendt among its most prestigious participants. For a recent rendition of the debate see Jennifer M. Kapczynski, *The German Patient Crisis and Recovery in Postwar Culture*, 2008.

collaborating with the Stasi, the degree of their involvement, their current evaluation of their past behavior, and the context in which their collaboration took place, global arguments of the previous sort dispense with the opportunity to make fine-grained assessments of the moral responsibility of particular IM. By contrast, outings enable precisely such assessments. They make it possible to ascribe moral responsibility to IM who acted voluntarily, unscrupulously, out of self-interest, and are unapologetic today about their Stasi past—IM, that is, who would seem to be responsible for their actions. Such treatment may be characterized as proportional or just, but what matters here is the characterization of the treatment as respectful. Likewise, IM outings provide the grounds for exculpating those individuals who acted “under the yoke of necessity,” to use the Aeschylean phrase, and went on to do what they had very little choice but to do, for instance those informers who agreed to collaborate out of fear or under duress or who were manipulated or blackmailed into collaboration. Such treatment would also be respectful. Put succinctly, outings dispel doubts about whether it is appropriate to ascribe moral responsibility to IM on a case-by-case basis.

Social and political actors for or against the public exposure of IM do not act on any fully formed idea of what respect entails. Many social and political actors who promote outings regard such acts merely as substitutes for legal punishment: while Stasi officials who committed acts violating human rights should be criminally prosecuted, IM should be subject to “civic disqualifications” through outings. According to this view, outings are a matter of just desert. But, as I have already mentioned in a previous chapter, it is an important theme of the dissertation that actors may be promoting or undercutting respect even if their purpose is not to do so.

This chapter has five more sections. The first lays out one line of reasoning of what one might call the skeptics of responsibility: the idea that, in a context of political oppression such as the one prevailing in the GDR, where the preconditions for the exercise of autonomous agency were absent, dwelling on the theme of moral responsibility is a trivial and disrespectful pursuit. While indeed there may be grounds to support the view that the exercise of free political agency was not permitted in the GDR, and that therefore informal collaborators had little choice but to collaborate, political discourse is teeming with objections to this view. One of these objections, which I address in section three, tries to show that, regardless of the perverse incentives of the system, the personal motivations of actors can still be said to matter. Sections four and five cover a different but related disagreement between skeptics and anti-skeptics of responsibility attribution to IM. This disagreement focuses on the “epistemic burdens” of moral responsibility: can IM appeal to the excuse of factual and moral ignorance (“I didn’t know that I was causing harm to others,” “I was doing my best to survive,” “I didn’t know I was doing anything wrong”) in order to eschew the attribution of moral responsibility? The last section discusses the famous and controversial case of Manfred Stolpe, a politician who claims to have collaborated with the Stasi only for the common good. The section examines moral responsibility in the context of a “dirty hands” situation.

II. Skeptics of Responsibility: “The Most Important Weapon Against the Enemy”

The public exposure of IM is a contested practice, as was noted in the previous chapter, and as is suggested by a survey showing that 65% of Germans agree that an end should be put to asking whether or not people worked for the Stasi.¹⁴⁹ In answer to the question of whether the exposure of IM is just (*gerechtfertigt*) or whether that policy should be drawn to a close, 49% answered with the former, while 46% chose the latter.¹⁵⁰ More important, however, is that in German public discourse, there is no consensus about whether the political and social circumstances during the communist regime were such that we should ascribe moral responsibility to IM or that it matters that we do. Some publics and even some scholars underscore the role of the “system” in producing and manipulating informers; in turn, such systemic variables and not the personal intentions of informers, are supposed to account for their behavior and therefore render superfluous, even malicious, the question of the moral responsibility of IM. By contrast, other publics and state officials are reluctant to pull the debate away from the intention of IM and cling to the idea that informers are morally responsible for what they did.

Unsurprisingly, IM are extremely vocal about pressing the point that under the GDR the conditions for the exercise of free agency were absent, a belief that resonates with many publics in Germany, especially in the East. After his public exposure as an IM, actor Thomas Lawinky explains his collaboration with the Stasi as originating in

¹⁴⁹ “Sollte man endlich aufhören danach zu fragen, ob jemand in der DDR fuer die Stasi gearbeitet hat?” Statista.org, *GESIS*.

¹⁵⁰ “Halten Sie die Enttarnung von ehemaligen inoffiziellen Stasi-Mitarbeitern weiterhin fuer gerechtfertigt oder sollte ein Schlussstrich gezogen werden?” Statista.org, *Der Spiegel*.

a situation of embarrassment, shame, and disgrace. Of course I could have said that I didn't want to have anything to do with them. But at the age of 21, 22, in a state of shock, a scenario that the Stasi created, you only think about how to get out of it. You're overwhelmed and frightened [...] I didn't have much time to think it over whether or not to sell myself to the devil. Furthermore I had one goal in mind: I wanted to get to the West, and I looked for an opportunity to get there – with or without Stasi.

After confessing to his Faustian pact, Lawinky goes on to hum the usual incantation to dispel his guilt (“we all collaborated”) and even proposes a new terminology to classify the nature of one's complicity with the DDR regime: “There are victims, perpetrators, victimperpetrators, and perpetratorvictims. We all lived in a system where people had to ‘bend,’ some more than others. Distinguishing between victims and perpetrators does not lead anywhere, and neither does outing one another.”¹⁵¹ Lawinky portrays himself and all Germans as fearful victims of political circumstances, a fact that in his view is a mitigating or even absolutory factor. Even conceding this point to Lawinky, does it follow that outings “lead nowhere” and are pointless? There is a point, I argue, at which Lawinky is taking advantage, even if he does not admit it or is not aware of it. His outing gives him the opportunity to make a case for his exculpation.

A review of some of the ways in which the Stasi recruited and controlled its informers suggests that there are grounds to concede the point that *some* IM bear little

¹⁵¹ “Im Bauch bin ich Opfer, im Kopf bin ich Täter.” *die tageszeitung*, 04. April. 2006. On Lawinky, see also: “Menschen brechen,” *die tageszeitung*, 12. February 2007, a note covering a theater piece where Lawinky plays the role of his own *Führungsoffizier*.

if any moral responsibility for their actions, even if these considerations do not apply to the specific case of Lawinky. These recruitment and control mechanisms suggest that the decision-making of some of those individuals who were eventually enrolled by the Stasi was unduly burdened, and therefore their decision to collaborate in some cases was not *fully* consensual. For instance, the MfS seldom recruited voluntary comers as IM on the assumption that such individuals were suspicious, as they might hide disloyal reasons to serve the Stasi. The MfS itself “selected” prospective IM from among the population after a thorough search. It then applied varied persuasion mechanisms, ranging from brainwashing and mild threats to upfront blackmail and intimidation.¹⁵²

The case of adolescents is perhaps one of the most telling ways in which the Stasi could subtly manipulate individuals in order to recruit them. Since adolescents are in the process of forming their character, moral and political theories tell us they are not entirely rational and have not developed the capacities of fully-fledged agents. They are therefore more easily manipulated. According to the estimations of the BStU, of the 173,000 IM registered as of 1989, between 6% and 10% were under the age of 18. Many of them were 13 or 14 years old at the time when they were recruited. *Führungsoffiziere* (IM supervisors) received explicit instructions as to how these young candidates should be enrolled. According to Stasi guidelines, of particular interest were young individuals who for one reason or another were going through a difficult stage in their lives. They should be the prime targets. The *Führungsoffizier* was instructed to establish a relationship based on trust (*Vertrauensverhältnis*), “a

¹⁵² Helmut Müller-Enbergs, “Über Ja-Sager und Nein-Sager –Inoffizielle Mitarbeiter und stille Verweiger,” 2002, 159.

particular and deep human relationship” (*eine besondere und intensive menschliche Beziehung*).¹⁵³ Stasi guidelines discouraged the use of an authoritarian pedagogy (*Erziehungsstil*). By contrast, the *Führungsoffizier* should approach young prospects with sensibility (*Feingefühl*) and tact and take an interest in their needs (*Bedürfnisse*), their professional interests, and the development of their personality (*Persönlichkeitsentwicklung*). The point, according to the guidelines, was to leave a lasting impression on the adolescent so that he created emotional bonds with the Stasi and could therefore be safely relied upon: “it is essential to concentrate on such causes and problems, which emotionally touch the IM, which deeply influence his life and in coming to terms with help and support, to leave behind a real strong binding effect to the Stasi.”¹⁵⁴ A commentator discussing this particular aspect of the Stasi’s modus operandi argues that this recruitment strategy used “human sciences” in order to abuse (*missbrauchen*) citizens. The relationship of trust was, in his view, fraudulently obtained (*erschleicht*). The strategy of the Stasi vis-à-vis prospective adolescents candidates was successful at least some of the time. In a letter addressed to one of the citizens he spied on, one of these IM writes that *Führungsoffiziere* “were not bad people. They were public officials (*Beamte*) who were doing their duty for the people and the homeland (*Volk und Vaterland*). They were truly concerned for the well-being of citizens.”¹⁵⁵

¹⁵³ Hans Bernhard Kaufmann, “Verstörte Gewissen – beschaedigte Seelen. Junge Menschen wurden als IM missbraucht,” *Horch und Guck* 20 (1/97), 1-11.

¹⁵⁴ Hans Bernhard Kaufmann, “Verstörte Gewissen – beschaedigte Seelen. Junge Menschen wurden als IM missbraucht,” *Horch und Guck* 20 (1/97), 3.

¹⁵⁵ Hans Bernhard Kaufmann, “Verstörte Gewissen – beschaedigte Seelen. Junge Menschen wurden als IM missbraucht,” *Horch und Guck* 20 (1/97), 4. For an account of how *Führungsoffiziere* sought to gain the trust of female IM, and the gender implications of this,

Once they had been recruited, IM were discouraged from seizing the opportunity for engaging in autonomous decision-making, as the Stasi riveted the locus of evaluation and judgment in IM supervisors.

Stasi officials crafted and constantly revised guidelines for IM and their *Führungsoffiziere* to avoid informers evaluating the information they passed along to their supervisors. The significance of that information was to be determined elsewhere, and informants were to perform as mere conduits, instruments, or operators simply passing information along. According to guidelines instituted in 1979, for instance, instructions given to informants were to be more concrete and detailed, and the range of independent actions or maneuvering exactly specified. Instructions were to be so detailed as to eliminate the possibility of “any confusion,” on the belief that situations in which it was not entirely clear how to proceed might invite informants to question what they were doing. At the same time, Stasi supervisors circulated misinformation to these informants so as to obscure their actual objectives. Stories were to be fabricated and given to informants more often so that they would “never know the exact goal of the supervising officer.”¹⁵⁶ Put briefly, the Stasi sought to disguise their objectives on the one hand, while also looking to minimize the ambiguity or lack of clarity that these informants were likely to encounter as they went about their work. The purpose of both strategies was to turn

see Alison Lewis, “En-Gendering Remembrance: Memory, Gender and Informers for the Stasi,” 2002, *passim*.

¹⁵⁶ Joan Hackeling, “To whom, and for whom, must I respond? Negotiating responsibility during the last years of East German state socialism,” 2002, 28-29. Hackeling’s information on the Stasi comes from Müller-Enbergs, *Inoffizielle Mitarbeiter des Ministeriums für Staatssicherheit: Richtlinien und Durchführungsbestimmungen*, 1996, 51, 123, 125, 327-328.

IM into cogs in the machine, to reduce their margins for autonomous-decision making.

By way of contrast, compare these strategies for reducing the decision-making autonomy of IM to the admonitions of a Lutheran pastor about the proper exercise of responsibility under the communist regime.¹⁵⁷ In a sermon he delivered to a group of young men about to begin their military service in 1982, he admonished them about their unconditional moral autonomy in the following terms: “Do you allow your personality to conform to circumstances due to stress, exhaustion, drill, structures of authority? Some people, as soon as they put on a uniform, become other people entirely, and do things for which they would be ashamed in civilian life.” In a different sermon, addressed this time to a group of students contemplating conscientious objection, the pastor suggested they ask themselves: “How far can I go? Where is the end? Do I know my own limits or is my conscience infinitely malleable?” This is the sort of deliberation an autonomous and rational agent engages in to be the author of her own life, based on her own conception of what is best. The pastor is more Kantian than Kant: he will not even endorse Kant’s distinction between the public and private uses of reason, according to which, to put it bluntly, a person might use her reason to address “the entire public” unless she is enmeshed in

¹⁵⁷ The example and the accompanying discussion is borrowed from Joan Hackeling, “To whom, and for whom, must I respond? Negotiating responsibility during the last years of East German state socialism,” 2002, 28-29.

relations of command and obedience, in which case she must be restricted in her use of reason.¹⁵⁸

Given the foregoing considerations, it comes as no surprise that documents from the Ministry describe IM as mere instruments, as the “most important weapon (*Hauptwaffe*) in the fight against the enemy,” as the “high road” (*Hauptweg*) satisfying the informational needs of the state. But to what end were this weapons to be used? “To the protection of the socialist society from significant disturbances, damages and losses, to the timely prevention of hostile and negative actions as well as to ensure effective anti-damage work.” IM, then, were to be “used” (“zu nutzen”) as *tools* of the MfS, expecting the minimum of autonomous action from them.¹⁵⁹

It is against this background that one should understand Jürgen Habermas’ suggestion that the succession of the two German “dictatorships” (that is, the Nazi and the communist regimes) created a “panoptic state, which not only directly subverted public life [...] but also its foundation, civil society and the private sphere,” and produced “the structural dispossession of citizens who were robbed of their social and legal autonomy.”¹⁶⁰ Claus Offe argues roughly along the same lines. He contends that the role people play under any political regime “is mandated by systemic requirements and cannot fully be reduced to their personal intentions and moral qualities,” and that social roles, built-in constraints, and preferences shaped through

¹⁵⁸ This is the famous distinction introduced by Kant in “Beantwortung der Frage: Was ist Aufklärung?” [“An Answer to the Question: What is Enlightenment?”], (1784)

¹⁵⁹ Helmut Müller-Enbergs, “Der ‘inoffizielle Mitarbeiter.’ Anatomie eines Spitzels,” 1993, 17.

¹⁶⁰ Jürgen Habermas, “Burdens of the Double Past,” 1994, 514-515. This piece has been compiled in *The Berlin Republic*. University of Nebraska Press, 1997.

indoctrination and manipulation explain more about the functioning of the regime than the moral responsibility and culpability of agents. In the case of the GDR, Offe argues, the regime's survival relied on practices of "epistemic policing" (hunting down "truth-telling" dissidents), a phenomenon that created opportunity structures for an army of informers.¹⁶¹

The point I want to drive home in sketching the foregoing structural or systemic accounts is that they posit that the margins of free moral and civic agency under the GDR were minimal; by positing this, these accounts explain away or bracket the question of moral and political responsibility. Lawinky's self-exculpation does the same thing. And in some cases the suggestion is that, for these reasons, the ascription of moral responsibility is unwarranted and would be disrespectful. Not only would IM have been disrespected in the past, having been treated by the communist regime merely as means and not ends-in-themselves, to put it in Kantian terms, (recall that Kant objects to spying on the grounds that it amounts to treating persons as mere means and not as ends, or as he puts in *Towards Perpetual Peace*, to making use "only of others' dishonesty" [AK 8: 347]), but also they would be disrespected for being attributed responsibility when they, in fact, were blameless. Outings can clarify whether moral responsibility is being wrongly ascribed.

¹⁶¹ Claus Offe and Ulrike Poppe, "Transitional Justice in the GDR and Unified Germany," 2006.

III. Dissipating Skepticism: The Recalcitrance of Personal Intentions

In sketching the skeptical line of reasoning against the attribution of moral responsibility to IM in the previous chapter, I lumped together two very different types of skepticism that should be kept separate. They differ in the way in which they construe the notion of responsibility. I turn to distinguish these conceptions of responsibility in order to show how each of these skepticisms is challenged in German public discourse.

Christine Korsgaard argues that responsibility can be construed in two ways: as the characteristic of a person (theoretically) or as the adoption of an attitude, something that we do (practically). On the first “standpoint,” it is a fact about the person or her conditions that determine whether we hold her responsible or not. On the second “standpoint,” the decision to attribute responsibility may be made on the basis of the consideration of the “reciprocal relations you already stand in or plan to stand in or hope to stand in to the person in question.” We view ourselves in one way when the (theoretical) task is to describe and explain our behavior. We view ourselves in a different way when the (practical) task is deciding what to do. There is explanation and prediction to do on the one side, choice and justification on the other.

To illustrate: if I am considering becoming an informer (say, IM “Kant”), reflections on the disadvantage of my circumstances (say, facing perverse structural incentives or co-existing with people who are subservient to authorities) are irrelevant. I must act under the idea of freedom, and so I must act on what I regard as reasons. Living under these circumstance may sometimes cause selfish behavior (say, informing on fellow

citizens), but it is not a reason that can be offered in support of it by a person engaged in it. So although we do not *necessarily* say of IM Kant: “the opportunity structures he faced, or the structural dispossession in which he was immersed, gave him incentives to deal with, but still it is up to him whether he treats them as reasons,” that is what he must say to himself. And whether we say it or not depends on whether we have decided to enter into reciprocal relations with him and so to hold him responsible. This is better regarded as something we say not about him but to him. If anyone besides IM Kant has the right to make this judgment, it is the circle of those with whom he interacts.

Anti-skeptics in civil and political society address the responsibility of IM from both standpoints. When they speak as social scientists or as detached observers, they try to debunk the idea that the perverse incentives that presumably caused the behavior of IM, including their decision to collaborate in the first place, were actually determining components of their behavior. By contrast, when anti-skeptics argue like citizens from the practical point of view, discussions about incentives are beside the point. As fellow German citizens, they are not seeking explanations; they simply demand a justification from IM.

Theoretical Responsibility: Outwitting the Structures

The first strategy to undermine the structural approach is to argue that the historical argument about the absence of a space of unrestrained free agency is actually blown out of proportion. Thus, Helmut Mueller-Enbergs, the Stasi bureau expert on IM, discounts the significance of the threats that the Stasi made to prospective candidates.

At the time when citizens were made a recruitment offer from the secret police, he claims, they ignored what the consequences for rejecting it could be. Nonetheless, he continues, although Stasi acts reveal that most citizens were in fact fearful about what would ensue if they declined the offer, some did. Confrontational rejections of the sort: “I will not work for the red Gestapo” were seldom, but more diplomatic ones were common.¹⁶² In most cases, those who refused to work for the Stasi did not suffer any consequences, although, to be sure, there were instances of IM recruitment through blackmail, where this case might be harder to make. In other word, in this a posteriori diagnosis, the negative incentives used by the secret police were surmountable. Even if individual behavior was overwhelmingly shaped by structural considerations, it is still an open question how particular individuals negotiated those structures.

Take Angela Merkel’s example. In an interview given in the midst of her campaign for re-election, which she won, the German Chancellor made a public revelation probably with an eye to electoral profit. At the end of the seventies, as she was applying for a job at a university in the GDR, a Stasi official attempted to recruit her as an informant for the secret police. She declined the offer. With a candor attuned to campaigning times, she explained that in anticipation of such an eventuality, she had even devised a strategy in order to reject such a proposition without upsetting the MfS: “I am not a suitable candidate for a job whose main requirement is secrecy and discretion,” she told the Stasi official, “because I cannot keep my mouth shut, and

¹⁶² Helmut Müller-Enbergs, “Über Ja-Sager und Nein-Sager –Inoffizielle Mitarbeiter und stille Verweiger,” 2002, 159.

would immediately confess the truth to friends and relatives.”¹⁶³ If the Chancellor successfully refused to collaborate, could others not do the same?

Not all attempts to dissipate the skepticism about moral responsibility are hard pressed to discredit the idea that, in fact, political circumstances made it almost inevitable to yield to Stasi pressure. The moral integrity of the citizens who collaborated with the Stasi remains a salient issue in public discourse, regardless of the existence of such circumstances. Usually the initial presumption is that collaboration is a sign of moral weakness and that IM are individuals who are prone to lie, who are shameless, and who proved to be cowards.¹⁶⁴ Reproducing or creating these paradigms of collaboration, the media eagerly goes after evidence showing how this or that particular IM received a stipend, a medal, or a trip to the U.S.S.R. in return for their services or how this or that particular IM produced abundant and detailed reports on colleagues, neighbors, even patients¹⁶⁵ or family. The public

¹⁶³ “Stasi wollte Angela Merkel anwerben,” *Der Spiegel Online*, 19.05.2009.

¹⁶⁴ Consider this round of commentaries from a 2008 *Frankfurter Allgemeine Zeitung* on-line article on Fritz Schaarschmidt, mentioned in the second chapter: “Es ist schon frech und erbärmlich, daß sich gerade Verbrecher - und das sind Stasi-Spitzel für mich - sämtlicher vermeitlich zur Verfügung stehender juristischer Mittel bedienen, um von einer freiheitlichen Gesellschaftsordnung mit allen Vorzügen zu profitieren, welches das System, dem sie zuarbeiteten, ihren Opfern nicht zugestanden hat.” “Die DDR war wirtschaftlich, politisch und moralisch pleite;” “Ich nenne das schlichtweg Feigheit, was diese Herrschaften sich erlauben. Erst andere Mensche bespitzeln, anschwärzen und dadurch deren Existenz zerstören, dann nicht einmal die Verantwortung übernehmen wollen und gerade zu stehen für begangenes Unrecht. Alleine dadurch zeigen sie ihren wahren - nämlich miesen - Charakter;”

¹⁶⁵ Some physicians reported on their patients. “Fragen Sie Ihren Arzt und Spitzel,” *die tageszeitung*, 21.11.2007. According to the study reviewed by *taz*, up to 5% of physicians in the GDR were informers.

framing of collaboration as morally flawed may even be accompanied by photographs of IM with sinister looks.¹⁶⁶

The tenor of public discourse in relation to IM is no doubt influenced by journalistic sensationalism: the grimmer the type of IM, the more appealing the article. There are abundant examples of both in *Stasi Aufarbeitung*. But the insistence of paying attention to the moral integrity may not be ill-founded. Harry Frankfurt famously argues that the presence of circumstances that prevent the actor from acting otherwise does not rule out the possibility that the actual motivation to perform the action was independent of such circumstance. Frankfurt contends that, even if in a particular case, the circumstances prevailed, we still do not know whether the person would not have performed in the way she did regardless of them. For example, with the case of the Stasi in mind, it is not enough to say that a threat (the circumstantial factor) was present in making the action. What needs to be said is that the threat actually accounts for having performed that action, which incidentally is a hard thing to prove. The possibility (the doubt) remains that she would have acted in the same way regardless of the circumstances. She might be morally responsible after all, even if the circumstances “made” her do what she did.¹⁶⁷

Practical Responsibility: A Breach of Interpersonal Trust

If, instead of adopting the position of the detached observer, one takes the standpoint of the citizens engaged in “reciprocal relations” with IM Kant, then one is less

¹⁶⁶ This perception quite often takes absurd and ludicrous turns. A recent emission of the highly popular sitcom *Tatort* broadcasted an episode about the Stasi and its IM, who in the show were “active” and in the business of informing on innocent citizens in the year 2010. See “Schneewittchen” und die Stasi-Schergen,” *Stern online*, 31.05.2010.

¹⁶⁷ In his classic article “The Principle of Alternate Possibilities,” 1969, 828–39.

concerned with getting an explanation of his actions than one is with demanding a justification from him for his actions. This conception of responsibility is a political one to the extent that its attribution is contingent upon the interests and reasons advanced by citizens in the polity.¹⁶⁸

In the case of IM Schubert, discussed before, many citizens adopted this practical standpoint. For the present purposes, the most interesting part of the controversy around the outing of IM Schubert is an open letter written by a group of Stasi-victims, asking him to stop his litigation against Kabisch and instead come out before the public. The letter puts the question of responsibility in the forefront: “Take on the responsibility –the letter says-- like we had to do. [...] We hope that you succeed at taking responsibility for your actions at the time [during the GDR regime]. Only those who learn to think about their past responsibly win liberty for future life.”¹⁶⁹

What exactly does IM Schubert need to take responsibility for in the view of these citizens? I have already pointed out that he informed on pastor Kabisch, but he informed on others. Let me briefly review another one of his denunciations in order to answer this question. In the GDR, institutionalized spaces for the expression of political dissent were virtually non-existent. The outlets and the manner for manifesting political dissent had to be improvised and carried out carefully. Sabine Popp was a gardener during the day and a graffitist at night in the town of Reichenbach. As a gardener, she could move around stealthily without raising

¹⁶⁸ Such an understanding has been developed in Mika LaVaque-Manty, “Kant's Children,” 2006, 369-383-388 and *passim*.

¹⁶⁹ The letter is entitled: “Erinnern kann nicht gerichtlich verboten werden. “Zur Ausstellung "Christliches Handeln in der DDR" im Rathaus Reichenbach.

suspicions. This mobility she used to fill Reichenbach's walls with political slogans: "Class mission: Reunification" (*Klassenauftrag: Wiedervereinigung*), "Down with the wall" (*Mauer weg*), or "Liberty, not Socialism" (*Freiheit statt Sozialismus*). Under an autocratic regime like the GDR, such laconic and seemingly harmless expressions of political non-conformity were considered highly subversive. Local authorities were genuinely alarmed by the graffiti. The police and the Stasi tried to find their author but to no avail. The graffitist from Reichenbach remained on the loose until she became acquainted with the man who, she learned many years later, after the reunification, turned out to be IM Schubert. Before meeting him, she had successfully exercised self-restraint and had been extremely secretive about her political activism. But IM Schubert was a charming fellow, she says. He gained her trust and she let her secret slip. Shortly afterwards she was arrested, spent two years in prison, and was finally deported to West Germany. She was forbidden to return to the East.¹⁷⁰

IM Schubert betrayed the trust of pastor Käbisch and his circle in the church of Reichenbach as well as that of the local political graffitist just mentioned. This breach of interpersonal trust, a disrespectful action in and of itself, is what the citizens in the open letter mentioned before holding him responsible. They demand a justification for his actions, regardless of what provoked them.

¹⁷⁰ Steffen Reichert, "Verraten und Verhaftet," *Horch und Guck* 2(2008) 60, 48-50.

IV. Skeptics of Responsibility: The Epistemic Burdens

In disclosing their past and making sense of it, some IM use an extensive battery of excuses that resonate with certain publics, especially in East Germany. I already pointed out some of them in Lawinky's case: "I was confused, I did it because at the moment I thought it was the right thing to do;" "Fear had gotten the best of me, and I needed to leave Germany at any cost." There were others: "At the time that I did it, I did not know I was causing harm to others." "How could I know the use that the information I provided was going to be put to." These self-exculpations, of which I note only some paradigmatic forms to spare the reader a large catalogue, often parade in public discourse as objection against the ascription of responsibility. As in the previous section, I take them as representatives of the skeptical side of the debate about the moral responsibility of IM. I specifically underscore the way in which such exculpations make an argument about the epistemic grounds of moral responsibility.

Common to many exculpations circulating in public discourse is that they rely on what one may call "arguments from ignorance." One type of ignorance is *factual*, as in not knowing that certain circumstances will bring about a wrong action. Falling under this category, the following is perhaps the most common public exculpation: I could not know that the information I passed on to the Stasi while I was an informer would "end up delivering people to the knives," that is, that it would put people under the radar of the Stasi and that it might get them fired from their jobs, deported, or imprisoned. Recall Karlheinz Schädlich's case in last chapter for an illustration of this appeal to ignorance.

The other type of ignorance is moral, as in not knowing that one's action is wrong, or in being unclear about what is right or wrong in the first place. This type of ignorance may arise in any moral deliberation, regardless of the political context. Gideon Rosen argues that the epistemic obligation to distinguish between the right and the wrong course of action may be extremely difficult to discharge: "One can fail to know what one ought to do in some particular case; one can fail to know a general moral rule. One can fail to know that people have certain rights, or that one has certain duties. One can fail to know that a certain act would be cruel or abusive, and so on."¹⁷¹ The epistemic route might be long and winding, and one might expect the agent to get lost in the labyrinth. Even if the road is not one that invites confusion, indeterminacy pervades moral deliberation, Rosen continues: "Which considerations loom as most important, which analogies strike one as compelling, the order in which the arguments present themselves: all of these factors may have decisive bearing on the final outcome. When the operation of these factors is subtle and perhaps random, it may be that an agent who has flouted no procedural norm in arriving at the wrong answer could easily have arrived at the right one if his deliberation had taken a slightly different course."¹⁷²

To repeat, what I just described are the epistemic difficulties that *anyone* deliberating about what she ought to do might face regardless of her political or social circumstances. For the present purposes those circumstances matter, because they may increase the epistemic difficulties that are supposed to be already present in

¹⁷¹ Gideon Rosen, "Culpability and Moral Ignorance," 2003, 61-84.

¹⁷² Ibid. Contra Rosen, see William FitzPatrick, "Moral Responsibility and Normative Ignorance," 2008.

determining what is the proper course of action. For instance, the circumstances may be such as to produce what Rosen calls “moderate amoralists.” A moderate amoralist “differs from the rest of us in thinking that moral considerations are typically quite weak, and in particular, that they are easily outweighed by non- moral considerations of partiality or self-interest.” Lawinky should come to mind as one such case.

Rosen argues that it is extremely difficult¹⁷³ for individuals to “rethink the uncontroversial normative principles that form the framework for social life.” He goes on to argue: “One is obliged to reflect in hard cases, in response to serious criticism, in response to known diversity of opinion and in response to perceived tension in one's moral view. But when what one takes to be a transparently correct moral verdict meets with no such friction, one is neither negligent nor reckless in failing to subject that verdict to special scrutiny.”

The question is whether under a “framework for social life” such as the one prevailing in the GDR, moral injunctions against denouncing fellow citizens were uncontroversial. Could informing have struck some citizens as being the right thing to do given the *circumstances*? The positive answer is plausible in a nation whose succeeding political regimes (the Nazi regime and Communist rule) made extensive use of informers for a span of roughly five decades. Notwithstanding the fact that denunciations in the GDR were more institutionalized, regulated, and routinized than in Nazi Germany, where they flowed freely from below,¹⁷⁴ the fact is that, while

¹⁷³ And in his view supererogatory, not obligatory.

¹⁷⁴ Robert Gellately, “Denunciations in Twentieth-Century Germany: Aspects of Self-Policing in the Third Reich and the German Democratic Republic,” 1996, 931-967. See also Herbert Reinke, “Policing Politics in Germany from Weimar to the Stasi,” 1997, 91-106.

some German citizens were enthusiastic informers on purely self-interested and opportunistic grounds, others had arguably been socialized in a polity that made informing a politically acceptable action.¹⁷⁵

Some even perceived informing as a civically engaged action. Among IM there are those who say they believed they were doing the right thing by informing on other citizens. The extreme case is that of the so-called red pastor, who affirms to have believed “that the Church can only survive if it strives actively towards the fulfillment of the goals of socialist society.”¹⁷⁶ In consonance with that belief, the red pastor did not hesitate to inform on those citizens who failed to work towards such goal. Or take the case of Olympic athlete Ingo Steuer, which I will be commenting on more extensively in another chapter. After his outing, Steuer offered clarifications of the following sort about his involvement with the Stasi as an IM: “At the moment in which I did it, I did it in full conscience [...] But not because I intended to cause any harm to any one, but because I found it to be the right thing to do.”¹⁷⁷ Or “I am so ashamed that I had cooperated with the Stasi. At that time I was not at all clear about what I was doing.”¹⁷⁸ Steuer’s sincerity is beside the point. Relevant here is his claim that he believed that he deemed his collaboration to be “the right thing” and that he

¹⁷⁵ Note also that in the postwar period only very few Gestapo informers were actually sentenced for denouncing other citizens.

¹⁷⁶ Michael Ploenus, “Der Fall des ‘roten Franz’ von Kapellendorf,” *Gerbergasse 18 IV* (2006), 16.

¹⁷⁷ “Die Schuld des Ingo Steuer hilft Offenheit, dem Eislauftainer zu verzeihen?” <http://www.3sat.de/3sat.php?http://www.3sat.de/kulturzeit/themen/122983/index.html>. Last seen on May 2009.

¹⁷⁸ “Ingo Steuer: ‘Schandfleck’ in meinem Leben,” *Frankfurter Allgemeine Zeitung*, 20.03.2006.

insinuates that the epistemic barriers erected by the Stasi prevented him from discerning what the right course of action was.

The conclusion to draw from the foregoing remarks is not that we can never know whether an agent is morally responsible for any of her wrong actions and that, therefore, ascriptions of moral responsibility are never fully warranted in any particular case. Rather, the point I make is that *if* epistemic burdens really were hard to discharge in the GDR, then legitimate ascriptions of moral responsibility need to be done carefully.

V. Dissipating Skepticism: Second-Order Responsibility

The existence of epistemic burdens too heavy to be carried is often the excuse advanced to exculpate IM. Note, however, that the epistemic burdens causing factual and moral ignorance are not always blameless. Most advocates of outings argue that, in the context of Stasi collaboration, factual and moral ignorance is indeed culpable.

Some ignorance is the result of recklessness and can be prevented. If you are walking with your nose stuck to your book, and as a result you crash into someone who comes your way, saying that you did not know she was there is not an exculpating excuse. Other types of ignorance, however, can be prevented only at a very high cost. If while visiting a city where fences are unknown, you inadvertently enter into someone's private property and claim ignorance upon being interpellated, the excuse may be acceptable: nobody expects you to have a map of the city inside your head, especially if you are a tourist. Thus, whenever a person causes some wrongdoing as a result of

ignorance, the question arises whether she has discharged her epistemic obligations. Ignorance is blameless if the agent has discharged them but culpable if it is the consequence of recklessness or negligence in her epistemic conduct.¹⁷⁹

It is a contextual and contestable question where the threshold is set past which one might be said to have discharged one's epistemic duty to know the moral and factual stakes of one's actions and should therefore not be held morally and politically responsible for one's action. In the case of GDR citizens who were lured into collaborating with the Stasi, the publics that empathize with them set the threshold very low, as was seen in the previous section, while other publics, to be discussed below, advance a higher standard.

Against the notion that factual ignorance exculpates those who worked as IM (after all, the press and other media were under the control of the communist regime), these publics assume that unofficial sources of information, ranging from gossip to informal networks of communication, were readily available to any citizen and that therefore it is disingenuous for an IM to argue that she was unaware of the harmful consequences of her actions. Moreover, precisely because IM ignored how their reports would be used, that ignorance had to act as a self-deterrent: "Ingo Steuer did something that is morally reprehensible. He spied on friends, colleagues, and athletes. What came of this information from each case, no one can judge. Therefore, the sentence 'I did not mean to hurt anyone' is at least naive."¹⁸⁰ In the same vein, it

¹⁷⁹ Gideon Rosen, "Culpability and Moral Ignorance," 2003.

¹⁸⁰ Historian Martin Sabrow, interviewed on "Die Schuld des Ingo Steuer, hilft Offenheit, dem Eislauftrainer zu verzeihen?" Available at <http://www.3sat.de/3sat.php?http://www.3sat.de/kulturzeit/themen/122983/index.html>

would be disingenuous to deny that IM Schubert had a clear idea about the consequences of denouncing the subversive gardener.

What of moral ignorance? How could IM muster the normative resources necessary to question the principles emanating from the “framework of social life.” If IM collaborated because they were embedded in a context in which it was difficult, or at least not easy, to see other moral horizons, as they had been socialized in a system in which informing had an ambiguous status, how could they critically evaluate their actions?

To circumvent the appeal to epistemic burdens as an excuse to avoid the attribution of moral responsibility, advocates of outings resort to a view that brings to mind the distinction between first and second order responsibility. Even conceding that some of the citizens who became informers were in the grips of a social norm that made it hard to assess critically the wrongness of their collaboration, this would release them only from their first-order responsibility: their duty to resist, or at least not collaborate with, an oppressive regime to the extent of the possible. Thomas Hill Jr. argues for the existence of a second-order responsibility: the duty to cultivate the mind and the disposition that will allow us to understand and implement our primary responsibility to oppose, eliminate, or not collaborate with an oppressive regime. More specifically, second-order responsibility is one of deliberation and is prior to and, to some extent, independent of the special circumstances of each case of oppression. It is the responsibility “to make ourselves ready of mind and will to see what we must do and to follow through on our best judgment,” and it involves a duty of due care in moral

deliberation, a duty of moral self-scrutiny, and a duty to develop moral virtue.¹⁸¹ Thomas Hill Jr.'s is, it seems to me, a stylized view of what some of the most articulate promoters of outings advance as the appropriate standard for ascribing responsibility.

Joachim Gauck, first head of the Stasi files in reunified Germany and also a former clergy and dissident in the GDR, authored a book that is one of the very first public testimonies about the importance of the archival legacy of the Stasi.¹⁸² The work documents some of the ways in which the secret police enrolled its IM and some of the reasons why a number of citizens turned down the offer to inform on other citizens. On the former point, he clarifies that money was never an important variable in accounting for the collaboration with the secret police. On the latter point, and more important for the present purposes, he constantly underscores the idea that it was always possible for citizens to decline an invitation to work for the organization and, in so doing, he appeals to such second-order responsibilities laid down above by way of a Biblical reference. He argues that prospective candidates could appeal to their attachment to a strong ethical code (physicians and devout believers are his examples) in order to excuse themselves. In the archives he finds a written rejection of a man who adduces his Christian conviction in order to turn down an offer by the Stasi: "For what will it profit a man if he gains the whole world and forfeits his soul?" (Matthew 16: 26). This anonymous hero, after moral deliberation and self-scrutiny, refused to "forfeit his soul." By contrast, Lawinky is not a reader of the Gospel. He

¹⁸¹ Thomas E. Hill, Jr., "Moral Responsibilities of Bystanders," 2010, 28–39. According to Hill Jr, these responsibilities are articulated in Kant's later ethical writings.

¹⁸² Joachim Gauck, *Die Stasi-Akten. Das unheimliche Erbe der DDR*, 1991.

was willing to sign a Faustian pact and sell his soul for a travel pass to West Germany. On Gauck's view Lawinky is, after all, morally responsible. Referring to the outing of writer Fritz Rudolf Fries (IM Pedro Hagen) a commentator argues: "Perhaps everyone has a right to cowardliness, but as a writer, particularly in Germany, he will be judged more severely, because of the moral responsibility of the 'master of the word.'"¹⁸³ Some members of German society, it seems, acquired moral responsibility of the second order on account of their professions.

The public exposure of IM triggers a debate about the appropriate grounds for ascribing moral and political responsibility. If in the place of such a debate, there were global and sweeping attributions of innocence or culpability, the result would be ascribing responsibility to the blameless, and sparing the culpable from such ascriptions. The sort of collective deliberation triggered by outings may never determine whether or not IM are morally responsible for collaborating with the Stasi, but the goal appears to be just that: distinguishing between the IM whose moral ignorance is culpable and those whose ignorance is blameless. This deliberation promotes respect.

VI. Dirty Hands and Respect: When in Doubt, Out

I have argued so far that the debate about the responsibility of IM is an expression of respect. The debate makes it possible to hold morally responsible IM who are culpable; it exculpates IM who are not morally responsible. The cases covered in

¹⁸³ Manfred Jaeger, "Fritz Rudolf Fries – IM >>Pedro Hagen<<," *Deutschland Archiv* 29 (1996) 4, 348.

previous sections fall somewhere in a socially constructed continuum of blameworthiness. In one extreme we find the cynical IM who acted on purely self-interested grounds and is unrepentant about her actions. At the other extreme we find the IM who was recruited by the Stasi when she had not yet become a fully-fledged political or even moral agent (i.e. she was underage) and today acknowledges the problematic nature of her actions and apologizes for them.

I conclude this chapter by considering a case whose placement in this continuum has been hard to make in contemporary Germany: the case of the citizen who was not “morally ignorant” as, let us concede, Lawinky was. By contrast, the citizen under consideration knew the moral stakes of his actions but carried them out nonetheless. He claims that, in collaborating with the Stasi, he dirtied his hands for the sake of the common good. The case of politician Manfred Stolpe,¹⁸⁴ a key figure in contemporary Germany, is a good example of this, and it will be the focus of the following lines.¹⁸⁵ Reflecting upon Stolpe’s case, Jürgen Habermas writes: “The ambivalent nature of post-Stalinist entanglement, which has been illuminated by the Stolpe case and of which we in the West have only a vague understanding, makes it even more difficult to come to any moral judgment on individual cases.”¹⁸⁶ I wish to underline the difficulty that Habermas notes about coming to clear moral judgments about Stasi collaboration in cases like Stolpe’s. If the difficulty is real, then the possibility of

¹⁸⁴ Critics of Stolpe argue that his self-outing in the aftermath of the fall of the Berlin was simply a preemptive strategy to limit the damage that any evidence found in the recently opened Stasi files might have on his political prospects.

¹⁸⁵ He contributed both to the rapprochement and ulterior reunification of the two German Republics. After the reunification, he became Prime Minister of Brandenburg with the SPD, and then Minister of Transport under the Schröder government.

¹⁸⁶ “Bemerkungen zu einer verworrenen Diskussion. Was bedeutet ‘Aufarbeitung der Vergangenheit’ heute?” *Die Zeit*, 03.04.1992.

establishing the culpability or blame of political agents like Stolpe seems unlikely. And if moral responsibility cannot be accurately ascribed, then it is unclear that outings can be instrumental in promoting respect in the sense described in previous sections. Instead, in cases like Stolpe's, I argue, the public exposures of IM establish that "political necessity" does not excuse morally. They also identify improper behavior in order to demarcate the boundaries of acceptable political action and, in consonance with what was said the previous chapter, they implicitly designate the act of dirtying one's hands as a degrading one.

Manfred Stolpe was an active member of the Evangelical church during the GDR years. He held several posts within its governing bodies, a position that put him in close contact with Stasi officials. He became the representative of the church vis-à-vis GDR authorities, largely due to the fact that he was prepared to negotiate with those in power, something others within evangelical circles were reluctant to do. Stolpe became one of the architects of a *modus vivendi* between the church and the state that came to be known as "*Kirche im Sozialismus*" (Church in Socialism), which could be characterized as a point of balance between blind conformity to the existing political conditions of the GDR and open rejection of them.¹⁸⁷

As the Stasi files were declassified after the demise and fall of the GDR, Stolpe soon faced the accusation of having been a Stasi collaborator (IM Sekretär) and came under pressure to resign from public office. He refused to do the latter and denied the former. He went as far as to sue CDU politician Uwe Lehmann-Brauns, who in a television broadcast affirmed that, to paraphrase him, the fact that Stolpe had become

¹⁸⁷ Anne Sa'adah, *Germany's Second Chance: Trust, Justice, and Democratization*, 1998.

governor (*Ministerpräsident*) of Brandenburg despite his past as an informer was something that gave him a headache.¹⁸⁸ After a long and winding nine-year legal process, Stolpe won his defamation suit. The *Bundesverfassungsgericht* argued that dubious and speculative affirmations must be presented as such by the speaker, and that, to avoid a legal process, she needs to clarify the meaning of ambiguous statements, none of which CDU politician Uwe Lehmann-Brauns was willing to do. This view, legal scholars argue, only refines precedent, it does not depart from it.¹⁸⁹ But while the Court ruled in favor of Stolpe, the media “ruled” against him. A “black day for freedom of expression and of the press in Germany,” is the way the newspaper *taz* communicated its disappointment the day after the *Bundesverfassungsgericht* reached its decision. Commentators in that newspaper¹⁹⁰ argued that *Persönlichkeitsrecht* in this context produced a chilling effect on the press, an argument that would have found a fair amount of resonance under American jurisprudence.¹⁹¹ The newspaper went on to explain that before the Stolpe decision the Federal Constitutional Court had laid down the precedent that whenever an expression was potentially threatening to another’s personality rights, in this case one’s honor, but was so open-ended that it could be interpreted in several ways, then

¹⁸⁸ His exact words: “Die Tatsache, dass Herr Stolpe, wie wir alle wissen, IM-“Sekretär,” über 20 Jahre lang im Dienste des Staatssicherheitsdienstes tätig war, dass er die Chance erhält, hier Ministerpräsident zu werden...das verursacht mir doch ... Kopfschmerzen.”

¹⁸⁹ Kirsten Teubel, “Unterlassungsanspruch bei mehrdeutigen Äusserungen und zweifelhaftem Wahrheitsgehalt,” 2006, 20-24. For a friendly reading of the *Bundesverfassungsgericht*’s decision, arguing that it does not in any way threaten freedom of expression and that is actually consistent with precedent, mainly with the Lueth case, see Martin Hochhuth, “Kein Grundrecht auf üble Nachrede –Der Stolpe-Beschluss des BVerfG schützt das Personal der Demokratie,” 2006, 189-191.

¹⁹⁰ “In Zukunft mit Schere im Kopf,” *die tageszeitung*, 18.11.2005. See also, the day before, “Im Zweifel fuer die Ehre,” *die tageszeitung*, 17. 11.2005.

¹⁹¹ Under First Amendment law, *New York Times v. Sullivan* 376 U.S. 254 (1964), the press cannot be successfully sued for defamation unless reckless intention to disregard the truth is shown to be its motivating force.

the courts should rule against the plaintiff insofar as at least one of the interpretations of the expression was not offensive to one's honor. With the *Stolpe* decision, so *taz* concluded, the Federal Constitutional Court abandoned strong judicial protection of freedom of expression. Underlying this fierce defense of free expression is, of course, a tacit reprobation of Stolpe's behavior.

Before a parliamentary commission, formed to investigate the nature of Stolpe's Stasi past,¹⁹² Stolpe made the argument that he had never acquiesced to work for the MfS. Stolpe denied having been enrolled as an IM, but he admitted to having had very close contacts with the Stasi. He did some of the things one would expect informers to do, for instance, he gave the Stasi information about fellow members of the Evangelical church, betraying their trust. And yet his reasons for acting in this way, he claimed, reflected his best judgment about the ideal strategy to benefit the church. He claimed that he had been a "middle man" between the church and the Stasi, and that in any case, whatever "pact" he had crafted with the Stasi during this time should be regarded as one of political necessity, what he envisioned as the only way to protect the church. In describing his reasons for working closely with the Stasi, he even put a Weberian label to his work: "Demystification of power" (*Entzauberung der Macht*).¹⁹³ His intention all along, he said, had been to understand the inner functioning of the system.

In the same commission, which in the end controversially accepted Stolpe's version of the events in a decision made along party lines, one deputy turned to Kant's 1797

¹⁹² For a discussion about the commission, see Barbara Miller, *Narratives of Guilt and Compliance in Unified Germany. Stasi Informers and their Impact on Society*, 1999, 80.

¹⁹³ Manfred Stolpe, *Schwierige Aubruch*, 1992.

text on what he called the “alleged” right to lie out of love for humanity in order to evaluate Stolpe’s involvement with the Stasi. The deputy quoted Kant:

Thus a lie, defined merely as an intentionally untrue declaration to another, does not require what jurists insist upon adding for their definition, that it must harm another (*mendacium est falsiloquium in praeiudicium alterius*). For it always harms another, even if not another individual, nevertheless humanity generally, inasmuch as it makes the source of right unusable (Ak. 8:426).¹⁹⁴

Here one of the most demanding aspects of Kant’s ethics is put to the service of *Aufarbeitung*.

What is one to make of this allegedly Kantian recrimination of Stolpe’s actions? One way of explaining it is as mudslinging behind a philosophical façade: Stolpe’s antagonist is not really taking sides on a complex moral issue but simply using incriminating information from the Stasi files to discredit a rival. This would be another case, so typical in transitional justice contexts, of misuse or manipulation of information about the old cadres of the ancien régime in order to oust them from the new political order.

A less cynical way of interpreting the Kantian criticism of Stolpe’s dirty hands is to see it as emerging from the clash between two types of ethical outlooks, namely, to use Max Weber’s classic dichotomy, between an ethics of convictions of those who followed strict codes of conduct that prevented them from compromising with the

¹⁹⁴ Ehrhart Neubert (ed.), *Abschlussbericht des Stolpe-Untersuchungsausschusses*, 1994, 273. The translation comes from Emmanuel Kant, “On a Supposed Right to Lie from Philanthropy,” 1996, 612.

Stasi and an ethics of responsibility of cunning political actors, like Stolpe, who were willing to relax rigid moral standards out of political necessity. Mary Fulbrook argues that in the context of the GDR, the appeal to this distinction falsely leaves the impression that there actually was a choice to be made under the communist regime: one could either yield to the Stasi and work *from within*, or one could refuse to entertain any contacts with the Stasi and put up resistance working against it *from the outside*. According to Fulbrook, however, the political circumstances in place in the GDR were such that the two courses of action were not antagonistic to each other but symbiotic.¹⁹⁵

By referencing the classic Weberian distinction, I simply intend to clarify the spirit of the deputy's recrimination, which could be interpreted as follows: even if Stolpe did indeed collaborate with the Stasi in order to consolidate the position of the church and the community vis-à-vis political authorities through the *Kirche Im Sozialismus* doctrine, he did something that rubs against ordinary morality. Stolpe might have deemed it inevitable to soil his hands, believing political necessity dictated he do so. But political necessity, our Kantian deputy seems to imply, is not morally redeeming. In other words, political necessity does not override basic moral principles such as the prohibition against betraying the trust of fellow citizens. Reprobation of Stolpe's immoral actions needs to be socially expressed, our deputy believes. They warrant neither indulgence nor absolution, but deserve some form punishment. Otherwise, the ordinary "moral code" would be called into question.

¹⁹⁵ Mary Fulbrook, *Anatomy of a Dictatorship. Inside the GDR 1949-1989*, 1998, 87-128.

Michael Walzer's formulation of the dirty hands dilemma captures the concern about Stolpe's collaboration with the secret police, as articulated in the previous paragraph: if the politician who dirties his hands is allowed to get off scot-free, what does that say about everyday morality? Walzer examines some canonical ways of thinking about the sort of treatment attendant on political actors who have dirtied their hands by breaking a moral code in order to achieve a political good. The Machiavellian "model," according to him, says nothing about the penalty that awaits political actors who commit morally wrong actions. The Machiavellian political actor dirties his hands and then gets away with it and with a conscience about which we know nothing. The Weberian model, in turn, addresses "the problem of dirty hands entirely within the confines of the individual conscience." For Weber, the politician with dirty hands is a "tragic hero" who suffers as a result of his decision; such "self-awareness," Walzer argues, is valuable but insufficient. He explains: "sometimes the hero's suffering needs to be socially expressed (for like punishment, it confirms and reinforces our sense that certain acts are wrong)." Walzer explains at greater length that society needs

to imagine a punishment or a penance that fits the crime and so to examine closely the nature of the crime. [...] Once he has launched his career, the crimes of Machiavelli's prince seem subject only to prudential control. And the crimes of Weber's tragic hero are limited only by his capacity for suffering and not, as they should be, by our capacity for suffering. In neither case is

there any explicit reference back to the moral code, once it has, at great personal cost to be sure, been set aside.¹⁹⁶

Stolpe is cast by his critics as what William Miller calls a “moral menial:” an individual who performs a vital role for the functioning of a political public order that most people consider immoral, even disgusting. Miller writes: “Moral menials deal with moral dirt, or they have to get morally dirty to do what the polity needs them to do. And despite the fact that we need to attract people to this kind of labor, we still hold them accountable for being so attracted.”¹⁹⁷ Menial work, one should add, can be a degrading activity, and morally menial work is no exception. It needs to be done, lest the political system function improperly. Stolpe was the architect of “Kirche im Sozialismus;” the construction, he claims, could not be done without menial work, which he did. No matter how beneficial that arrangement was for society, it holds him accountable on two scores: for the transgressions to the moral code and for the degrading quality of the work. Society, Walzer writes, “must make sure he pays the price. We won't be able to do that, however, without getting our own hands dirty, and then we must find some way of paying the price ourselves.”

VII. Conclusion

Even when political actors do not justify public exposure of former collaborators in these terms, outings expose past practices of disrespect from the state because they shed light on the fact that IM were used merely as means of the secret police. This

¹⁹⁶ Michael Walzer, “Political Action: The Problem of Dirty Hands,” 1973, 160–180.

¹⁹⁷ William Miller, *The Anatomy of Disgust*, 1997, 184.

does not mean that they were “cogs” in the Stasi machinery, to use the language that Hannah Arendt used to evaluate Adolf Eichmann’s exculpations before the Israeli Court. Although systemic incentives and fear for the consequences of their refusal to work for the secret police were undoubtedly strong causal factors shaping their behavior during the GDR, many publics in Germany argue that IM still retained agency, and this opens up conceptual room for considering two additional forms of disrespect at play in the activity of informing. IM failed to respect fellow citizens during the communist regime because their collaboration was carried out through interpersonal and civic deceit; in other words, they abused relationships of trust.

Being recognized as capable of being responsible is a sign of respect. Treating respectfully a former informer implies that we will hold her responsible and accountable for her complicity with the Stasi. Ideally, she would need to come out in public and give reasons why she decided to collaborate or at least acknowledge that she did, but whether she does that or not is inconsequential to the point being made: she should be treated that way, lest we think of her as something less or other than a fully-fledged agent. That is the sort of respect she is due as a person. To hold someone responsible is to regard her as a free and equal person, capable of acting both morally and rationally. This is not to say that deciding whether responsibility can be ascribed or not is an easy matter. Holding someone responsible is indeed under normal circumstances a respectful action. But holding someone responsible when she did not have the resources, the possibility of behaving like a responsible agent is exactly the opposite: to disrespect her. For example, it disrespects handicapped people to treat them as if they could do what able-bodied people can do if only they

wanted to. In such a case, the failure to recognize their limitations is a form of disrespect. Put briefly, ascriptions of responsibility hinge on some basis for recognizing the conditions of possibility for the meaningful exercise of responsible agency. The public exposure of IM and the public debates ensuing them provide such basis for recognition.

Chapter 5

The Apology for Public Apologies: Asking for Respect?

I. Introduction: Informing, Apologizing, Respecting

In this chapter I continue the task of interpreting the purpose and logic driving the outings of former denunciators for the secret police in post-reunification Germany. I do this by closely examining the public discourse that grapples with that practice¹⁹⁸ (that is, by examining the reasons political actors and citizens advance in order to justify the public exposure of unofficial collaborators for the Secret Police of the GDR), as well as by analyzing the contexts in which such discourse arises. One of the most salient features of public discourse around IM is the way it traffics in the language of forgiveness and related terms, such as apologies, repentance, atonement, regret, etc. I will be arguing, given the language employed in public debates, that outings are practices that seek to evince public apologies from former denunciators for the Stasi and forgiveness from their victims and other citizens; practices, in other words, that provide a context in which IM may apologize in public for their complicity with the Stasi and in which their victims and the polity at large may forgive them for such complicity. Based on this, I further argue that outings are acts

¹⁹⁸ One that is common in different forms in other post-communist East European societies. See for instance Kaminski and Nalepa, “Judging Transitional Justice: A New Criterion For Evaluating Truth Revelation Procedures,” 2006.

that, in the various ways that will be explained throughout the chapter, seek to (re)establish the ideal of respect for others and, more generally, of equal dignity among citizens.

The reading of outings I advance here complements other interpretations of outings such as Anne Sa'adah's¹⁹⁹ and A. James McAdams's,²⁰⁰ both of which address only tangentially the role of forgiveness in making sense of the practice and instead interpret them, accurately but incompletely, as trust-building procedures encouraged mostly by GDR dissidents.²⁰¹

More importantly, I intend to make a theoretical contribution to recent scholarship on political forgiveness.²⁰² Engagement with this scholarly literature has the advantage, valuable in its own right, of bringing conceptual clarity to my analysis of outings. At the same time, outings and the practices of forgiveness associated with them speak to one of the more relevant themes of the scholarship in question—its efforts to carve out a political understanding of forgiveness. Ordinarily we speak of forgiveness as a

¹⁹⁹ *Germany's Second Chance*, 1998, chapter 2.

²⁰⁰ *Judging the Past in Reunified Germany*, 2001, 58-9.

²⁰¹ According to these interpretations, having grown marginalized from mainstream politics and pressed to justify their permanence in the political arena, dissidents made of the task of exposing the “misdeeds” of IM their *raison d'être*, claiming that such exposures were an important way to ensure the creation of the “trusting relationships.”

²⁰² The list of articles and books is extensive, but some of the major works used in this chapter are the following: Lucy Allais “Wiping the Slate Clean. The Heart of Forgiveness,” 2008; Christopher Bennet, “Is Amnesty an Act of Political Forgiveness?” 2003; John Borneman, “Public Apologies as Performative Redress,” 2005; P.E. Digeser, *Political forgiveness*, 2001; Trudy Govier, *Forgiveness and Revenge*, 2002; Charles Griswold, *Forgiveness: A Philosophical Exploration*, 2007; Jeffrey G. Murphy, *Getting Even: Forgiveness and Its Limits*, 2003; Andrew Schaap, “Political Grounds for Forgiveness,” 2003; Nick Smith, *I Was Wrong: The Meanings of Apologies*, 2008; David Sussman, “Kantian Forgiveness,” *Kant-Studien*, 2005; Nicholas Tavuchis, *Mea Culpa. A Sociology Of Apology And Reconciliation*, 1991; Margaret Urban Walker, *Moral Repair: Reconstructing Moral Relations after Wrongdoing*, 2006; Ernesto Verdeja, “Official Apologies in the Aftermath of Political Violence,” 2010.

strictly moral action whose motivations, effects, and rationale can be extrapolated to the political realm. However, as most authors within this paradigm argue, political forgiveness is akin to, but also ultimately and crucially distinct from, “ordinary” (personal, interpersonal, private, apolitical) forgiveness. Outings offer a site where the distinctiveness of political forgiveness emerges in full clarity. Therefore, reflecting on the meaning of that practice will allow me to critically examine, test, and refine many of the theoretical insights stemming from the aforementioned scholarship.

With rephrasing my central contention with this distinction in mind, I argue that outings initiate a process with the potential to lead towards acts of *political* forgiveness. What is political about this type of forgiveness is that its main goal is not solipsistic forgiveness, where one individual comes to terms with her own vindictory emotions such as resentment, anger, or hatred. Neither is it interpersonal forgiveness, where one individual confronts her wrongdoer and both come to terms with their common past in a private setting. Some of the markers of ordinary forgiveness are present in outings, to be sure. But the kind of forgiveness that is characteristic of outings has to do with *publicly* acknowledging that harm was done to a group of individuals and with *publicly* offering perpetrators the opportunity to have their civic and political status fully restored after their victims have forgiven them. The question of respect is crucial in both regards. In the first case, the public recognition confers respect to victims by acknowledging their right to an apology and their standing to demand that right. In the second case, the public apology is a mechanism of membership reaccreditation that earns respect for the perpetrators.

The structure of the chapter is as follows: In the next section I provide a general understanding of the notion of political forgiveness. The order of the exposition in subsequent sections follows my attempt to fully explicate the aforementioned distinction between the two kinds of forgiveness. The theoretical progression is as follows: I start by conceptualizing forgiveness as a personal and self-regarding act and then proceed to flesh out the multiple ways in which forgiveness needs to be reconceived for it to become a political (hence collective, public) practice. In the third section I develop the idea that political forgiveness is more about creating or encouraging repentance in IM than it is about eliminating the resentment of victims; repentance in this view restores a moral and political balance among citizens that the activity of informing had previously disrupted. But repentance is still not political enough. In the fourth and fifth sections I develop the idea that what is at stake in outings is the public recognition of citizens who were victims of informers. In the final section, I argue that outings are forms of membership reaccreditation: apologies are required if former denunciators are to be included as respected members of the polity (whether they are in fact readmitted is the topic of next chapter).

II. What is Political Forgiveness?

Outings are acts that trigger practices of political forgiveness. To make this claim intelligible, in the following lines I flesh out what is distinctive about political forgiveness, in particular by contrast to ordinary forgiveness. Hannah Arendt's seminal reflections on what she calls "the faculty of forgiveness" in the "realm of

human affairs” (what I am calling political forgiveness) foreshadow contemporary efforts to carve out a political understanding of forgiveness and are therefore the place to begin the inquiry. Arendt’s theorization of forgiveness is part of her broader reflection on political action. According to Arendt, political action puts agents into two “predicaments:” the irreversibility of action and its unpredictable nature. We are unable to undo what we have done, and we often cannot predict the consequences of what we have done. But political action also has two “potentialities” that “redeem” the actor from the irreversibility and unpredictability of her actions: respectively, forgiving and promising.

Like her conception of political action more generally, Arendt’s understanding of forgiveness depends on human plurality and therefore upon the actual (physical) presence of others. No one, Arendt says, can forgive himself on his own. Forgiving enacted in solitude or isolation remains “without reality and can signify no more than a role played before one’s self.” Later she adds: “Closed within ourselves, we would never be able to forgive ourselves any failing or transgression because we would lack the experience of the person for the sake of whom one can forgive.” These ideas are part and parcel to Arendt’s “*Existenz Philosophy*,” the set of theoretical insights she developed in reaction to Heidegger’s contempt for what she calls “being-in-the-world” [*Mitsein*].²⁰³ Forgiveness is for Arendt a public and political act. Thus, without publicity, without a public, there can be no political forgiveness.

²⁰³ This story is told in Seyla Benhabib, *The Reluctant Modernism of Hannah Arendt*, 2003. For an interesting contrast between Arendt’s and Kristeva’s understanding of forgiveness, see Sigrid Weigel, “Secularization and Sacralization, Normalization and Rupture: Kristeva and Arendt on Forgiveness,” 2002.

This basic insight is at the basis of recent scholarship on forgiveness, whose main goal consists precisely in demarcating a distinct notion of political forgiveness, different from, although related to, ordinary or moral forgiveness. Even if not always explicitly addressing the work of Arendt, this scholarship directly or indirectly continues Arendt's attempt to carve out a politically relevant understanding of forgiveness. Let me briefly identify some of the main themes I will be developing and expanding throughout the paper.

From scholars such as Digeser and Grovier,²⁰⁴ I take the idea that crucial in distinguishing between the two kinds of forgiveness is that the ordinary kind should be conceptualized, in part, as the banishment of resentment from the victim's mental states, whereas political forgiveness has to do with the transgressor's public expression of regret. In clearing the heart of the victim from resentment, no publicity is at stake. By contrast, in evincing repentance, publicity, in various degrees, plays a crucial role. Nicholas Tavuchis's work also focuses on the political import of repentance, but from the point of view of the transgressor. One of his main contentions is that political forgiveness is an act that should not be confounded with the therapeutic relief of the perpetrators. Political forgiveness is a way for her to reaccredit membership into the community, to obtain, in other words, the "[r]ecertification of bona fide membership and unquestioned inclusion within a moral order."

Charles Griswold offers the most systematized attempt to conceptualize political forgiveness. He makes a distinction between forgiveness at an interpersonal level and

²⁰⁴ See the footnote for reference of the authors mentioned in the rest of the introduction.

what he calls political apology, which bears a “family resemblance” with interpersonal forgiveness but is distinct from it. The former, he claims, is a moral concept, at home in the interpersonal level. The second is a political concept, at home in the public level. Beyond this, there are multiple analogies and disanalogies between the two concepts. He lists six conditions that a candidate for ordinary forgiveness would have to meet. At this level, what an individual does when she asks for forgiveness is to: 1) acknowledge that she was the responsible agent; 2) repudiate her deeds, by acknowledging their wrongness, and herself as their author; 3) express regret to the injured at having caused this particular injury; 4) commit to becoming the sort of person who does not inflict injury to her victim and show this commitment through deeds as well as words; 5) show that she understands, from the injured person’s perspective, the damage done by the injury; 6) offer a personal narrative accounting for how she came to do wrong, how that wrongdoing does not express the totality of her person, and how she is becoming worthy of approbation.

Roughly speaking, the first four conditions are also necessary for political apologies. This is where ordinary and political forgiveness overlap. Points 5 and 6, however, are not required for political apology. Instead of a sympathetic understanding of the damage done by her injury, what is required at the political level is some sort of *public* acknowledgement that harm was done unto others, a recognition that, as we will see, dignifies the victims. And instead of the personal narrative of ordinary forgiveness, where the perpetrator details the mistakes of his or her past behavior and offers credible promises to make amends, a political apology requires a collective storytelling constructed by a plurality of voices, a process that also dignifies the

victims in ways that will be illustrated below. The criteria for the accuracy about what happened in the past, according to the narrative, will be intersubjective.

I now turn to German public discourse to unpack and engage this minimal framework.

III. Deliverance from Resentment or Delivery of Repentance?

Political forgiveness is not about what we oftentimes associate ordinary forgiveness with: clearing the offended party from resentment. Instead, a political apology requires a display of repentance and that is precisely what the discourse and practice of outings oftentimes seek and elicit: an ostensible, unambiguous display of regret from former IM.

In 1989, a year before the formal dissolution of the communist regime, the GDR's foremost authority Erich Honecker was forced to resign in the face of mounting social and political discontent. After his resignation, he and his wife started the pilgrimage of the defenestrated. Their journey began in the residence of Lutheran Pastor Uwe Holmer, where they stayed for ten weeks. Many years later, Pastor Holmer gave the following answer as to why he opened the doors of his home to them and why, more generally, he forgave public officials and "Stasi-people" who did not show any repentance (*Reue*) for their actions, Pastor Holmer gave the following answer, which I quote at length:

Obviously it is better if the other one repents. [...] But forgiveness simply means to be delivered from what has become a poison within oneself. How the other one should deal with my forgiveness, I leave that to God's hands. I simply expel that poison, and refuse to remember the past any longer, to torment myself any longer. I know that is hard, particularly for those who experienced such terrible things as political persecution or the families of those who were shot in the wall. But one becomes a prisoner of its hate if one does not forgive perpetrators. [...]. They [victims] must forgive so that they do not become bitter. Victims who still carry in the heart the bitterness and hate from back then will become sick.²⁰⁵

I make reference to Pastor Holmer's understanding of forgiveness in order to contrast it to the kind of forgiveness that, I argue, underlies outings. Holmer casts forgiveness as a practice that can be reduced to an act of generosity, inspired by a religious doctrine, and performed for the sake of releasing the potential forgiver from her own resentment or from retributive emotions.²⁰⁶ Forgiveness à la Holmer, then, to the extent that it amounts to a reaction whose main purpose is to purge one from, or mitigate, resentment, is a self-regarding action, an affective, privatized form of forgiveness that can take place away from the public eye and can even be done sotto voce—I can forgive you without you (or others) even knowing it. This is not forgiveness in its political sense, but what Michael Oakeshott calls self-enactment,

²⁰⁵ Der Mann, bei dem Honi wohnte: »Ich habe ihm damals schon verziehen«, *SuperIllu*, 04/12/09.

²⁰⁶ For an account that calls into question the idea that ordinary forgiveness actually involves this banishment from resentment see Lucy Allais "Wiping the Slate Clean. The Heart of Forgiveness," 2008.

that is, the ability to choose or alter the sentiments on which one acts. Forgiving, in the ordinary sense of the notion, is a form of self-fashioning, not a political act. Furthermore, it is a moral virtue: the overcoming, on moral grounds (not out of instrumental reasons: getting a better job, passing as generous), of vindictive passions such as anger, resentment, and hatred.²⁰⁷ No repentance is asked but freedom from resentment.

Hannah Arendt is one to note (although without duly emphasizing) the limits of viewing forgiveness as the mitigation of vindictiveness and to stress the role of repentance in the practice of political forgiveness. Surprisingly for a theorist who often turned to Jewish political thought as a source of inspiration, Arendt draws on the Scriptural legacy of Christianity. Jesus, she argues, is the “discoverer of the role of forgiveness in the realm of human affairs,” and the political import of his ideas has been “neglected because of their allegedly exclusively religious nature.”²⁰⁸ However, she claims, couched in a religious language, many insights in the New Testament have secular and political validity. Such is the case of the awareness of the necessary role of forgiveness in correcting the inexorable damages occasioned by political action. In one of the several passages Arendt quotes from the New Testament, she highlights the role of repentance: “And if he trespass against thee seven times a day, and seven times in a day turn again to thee, saying, I repent; thou shalt forgive

²⁰⁷ Jeffrey G. Murphy, *Getting Even: Forgiveness and Its Limits*, 2003, 16.

²⁰⁸ Hannah Arendt, *The Human Condition*, 1958, 239.

him.”²⁰⁹ Repenting, understood in this context as changing one’s mind and “sinning” (offending, transgressing) no more,²¹⁰ is a necessary step towards forgiveness.

But why is the prescription of repentance valued over the proscription of resentment? What does the display of regret accomplish that the self-enactment of resentment-avoidance does not? The answer is that the expectation of repentance is crucial in thinking about forgiveness relationally, as a practice that opens up the possibility of restoring a moral or political (civic) relationship and asserts the equal worth of the parties involved.²¹¹

To illustrate this point, take the following commentary published in the *Bild-Zeitung*, a German newspaper/tabloid that, like most German press, engaged the debate about IM and the appropriate way to “come to terms” with their role in the GDR. The *Bild-Zeitung* weighed in on the discussion by straightforwardly posing the question: “How should we deal with former Stasi denunciators? Isn’t it time for reconciliation just yet?” To respond to it, the newspaper summoned the Evangelical Bishop from Brandenburg and Berlin, who began his reply by offering something of a parable, the parable of the informer, as it were. I imagine, the Bishop says, that an unknown man (he calls him Günter) comes to my confessionary. He has a great need to speak. He

²⁰⁹ Hannah Arendt, *The Human Condition*, 1958, 240.

²¹⁰ See Arendt’s accompanying discussion on the alternative translation of the passage. She argues that the original verb in New Testament Greek *metanoein* means something along the lines of “change of mind,” “return,” “trace back one’s steps,” rather than “repentance” with its psychological emotional overtones.

²¹¹ Part of the injury of being wronged is the degrading message that you are less worthy than the wrongdoer, or unworthy enough that she may use you merely as a means or as an object in the service of her desires and projects. If the wrongdoer sincerely repents, however, she joins you in repudiating the degrading message, allowing you to relate to her as an equal. Jeffrey G. Murphy, *Getting Even: Forgiveness and Its Limits*, 2003, 35. See also *Making Amends: Atonement in Morality, Law, and Politics*, 2009, 94.

tells me, the Bishop continues, he was an IM; he told on people around him and wrote reports on them. After the reunification, “he said, he had tried to repress/hide his participation [with the Stasi]. This was a new era, one simply remained silent and tried to forget. But the past weighed on him more and more. Now Günter wanted to finally get rid of this increasingly heavy burden.” Then comes the crux of the story: reconciliation cannot be achieved, the Bishop argues, simply by appeal to perpetrators.” Rather, it is the other way around: reconciliation presupposes that the perpetrators have taken the first active steps by contacting those to whom they have caused harm. The Bible, he says, calls these steps “reversal” (*Umkehr*). “The Gospel begins with Jesus’ call to repent.” Such steps pave the way towards reconciliation, a lesson, he claims, that the evangelical church followed after 1945 in the Nazi *Aufarbeitung* (coming to terms with the past). The road to reconciliation is, in his view, a long one, and we can only start thinking about forgiveness when have taken the first steps. “The effects of the regret of the perpetrator are uncertain, the regret runs the risk of not being accepted. But without it there is no reconciliation.” He concludes: “If Günter were to actually knock on my door, I would probably advise him to seek contact with those to whom he has wronged. Next he would have to ask for forgiveness. Whether his apology would be accepted or not is uncertain. But at least the first step would have been taken.”²¹²

The Bishop, unlike pastor Holmer, values the importance of repentance. One might be misled by the Bishop’s narrative in thinking that the sole point of repentance is to assuage IM Günter’s guilt and to allow him to carry out a self-regarding act of

²¹² Markus Droege, an Evangelical Bishop from Berlin and Brandenburg. “Was würde Jesus dazu sagen?,” *Bild-Zeitung*, 26.11.2009, 17.

contrition. That would be no less an apolitical act than Holmer's act of reigning in his vindictive passions. But what the Bishop emphasizes over Günter's emotional report and his desire to relieve himself of the burden of guilt is the imperative of taking the initiative to restore a relationship. The Bishop's is an admonition to understand forgiveness as a practice that can only thrive in a relationship between a victim and a perpetrator; otherwise it is unachievable.

The appeal to repentance is not a monopoly of religious figures, as my previous examples might lead one to suspect. Even thoroughly secular political discourse highly values the place of repentance in successfully achieving political forgiveness. Consider the case of an important dissident during the GDR regime, Ulrike Poppe. I have already discussed the role of dissidents in bringing about the collapse of the communist regime. Dissidents of her kind were very likely to be surrounded by unofficial collaborators. Monica H., alias Karin Lenz, was one of them. She infiltrated a circle of dissidents in East Berlin, and befriended and then informed on several of them. The activists themselves in 1989, however, eventually uncovered Karin Lenz. Instead of following Günter's way of hiding and keeping silent, she was willing to work through her complicity along with the activists she informed on, an exchange that was published as a book and constitutes what a scholar called a successful "model of reconciliation." "on the part of the perpetrator there is a willingness to tell her story frankly, to admit wrongdoing, to explain motives, to express her shame. On the part of victims, there is also a preparedness to listen, to

understand, and eventually to forgive.”²¹³ In a different context, but still addressing the same problem, Poppe underscores the importance of such repentance: “Some, very few unofficial collaborators have even asked for an informal conversation and apologized to me. Some regretted their activity and showed remorse. Others tried to justify their Stasi activities. For me it is crucial how people today relate to their history.”²¹⁴

In sum, I have identified a crucial element motivating outings: the existence, restoration, and cultivation of a civic relationship. This is part of what is at stake in the demand that IM take the first steps in the pursuit of forgiveness by contacting their victims and showing regret.

IV. Interpersonal Repentance or Public Recognition?

In conceptualizing political forgiveness in the previous section, I argued that the emphasis is put on urging repentance from the perpetrator, not on purging resentment from the victim, as it is done with private forgiveness. Likewise, the accent lies on the malefactor’s display of regret, not on her personal contrition. These conceptual clarifications, as critical as they are for teasing out the notion of political forgiveness, are still insufficient for fully explicating it because they remain grounded in interpersonal interactions. The additional layer that needs to be fleshed out, as it were, is the public dimension of political forgiveness. Political forgiveness entails two

²¹³ Alison Lewis, “En-Gendering Remembrance: Memory, Gender and Informers for the Stasi,” 2002, 121.

²¹⁴ “Ulrike Poppe: “‘Es gab ein richtiges Leben im falschen,’ Kuenftige Stasiunterlagen-Beauftragte,” *Der Tagesspiel Online*, 9.12.2009.

forms of *public recognition*, albeit of two distinct kinds: that of the victims, which I develop next, and that of perpetrators, which I leave for the next section.

The former type of recognition suggests that political forgiveness is premised on the idea that victims have stories to tell about the harm done to them and that they should be heard, the recognition, put differently, that they are citizens with stories worth telling to a public. Political forgiveness presupposes this kind of storytelling. Second, political forgiveness is premised on the recognition not only that victims are bearers of a moral and political right to an apology when they have been wronged, but more importantly, that they belong to a political community whose citizens have authority to demand an apology when they are wronged, that they have, in other words, an equal standing in the polity as political agents who may demand an apology when they are subject to wrongdoing.

To argue these points, let me go back to the outing of IM Schubert. In chapter two I mentioned how one of his victims, Pastor Kabisch, outed him in a museum exhibition in 2008, originating a legal dispute between the two. In the context of the public debate around such dispute, the local Christian Democratic Union (CDU),²¹⁵ sympathetic to Pastor Kabisch's cause, circulated a pamphlet collecting donations for the costs of the trial against Kabisch and asserting that those who had knowingly and voluntarily collaborated with an unjust state to harm their fellow citizens deserved to have their unjust acts reported with the full letters of their name.²¹⁶

²¹⁵ “Die Stasi macht wieder mobil – wehret den Anfängen!”

²¹⁶ “Die Stasi war eine tragende Säule des DDR-Regimes. Wer sich für diesen Unrechtsstaat wissentlich und willentlich hergegeben und seinen Mitmenschen geschadet hat, muss es hinnehmen, dass dieses Unrecht buchstäblich beim Namen genannt wird.”

These costs were so high, Kabisch claimed, that he could not afford them. Commenting on this and similar cases in which other citizens faced similar suits, the head of the Stasi files, Marianne Birthler, argued that former denunciators used legal demands as a form of “intimidation.” Kabisch and Birthler’s statements echo the widely shared opinion that those who want to expose informers are intentionally made subject to financial and other threats. The perception, more to the point, is that some informers attempt to silence the reckoning with the past through litigation and that this silence perpetuates an asymmetry of power in the midst of civil society, which is the legacy of the communist regime. But Kabisch was vocal about the fact that he was not going to yield to the pressure of IM Schubert and his legal assault. Kabisch acts as if he had, in the words of a prominent German political actor, a “right to an apology, to the regret of the perpetrator,”²¹⁷ as well as the standing to demand such a right. Kabisch himself said in a public forum that he had received letters from former Stasi officials who wanted “to create fear, like they had always done.” But, under the applause of the audience, he made it clear that he would not budge from his resolve to continue his exhibition.²¹⁸ On his part, IM Schubert remained unapologetic about his actions. In this he was no more different than other IM, Kabisch claimed. In the mid-nineties, he continued, he met about a third of the 62 IM who had collaborated with the Stasi to his detriment. None of them had a word of regret or apology. By contrast, most of them affirmed, sincerely or not, that they thought that

²¹⁷ “Reue vor Versöhnung; Umgang mit Stasi-Spitzeln: SPD-Politiker Steffen Reiche fordert Entschuldigung der Täter,” *die tageszeitung*, 24.11.2009

²¹⁸ “Vergeben ja, vergessen nein,” at <http://www.freiepresse.de/NACHRICHTEN/HINTERGRUND/HINTERGRUND18/1432299.php>. Last seen on May 2010.

through their collaboration they were helping to avert the third world war and guarantee world peace.²¹⁹

It is noteworthy that right from the beginning, and throughout the whole process, Kabisch's intention was to tell his story. First, Kabisch organized a public exhibition in the city of Zwickau to expose the ways in which the Stasi besieged him and other members of the Church, and it was this exhibition that triggered the legal conflict mentioned above and in previous chapters. Later, in the face of what he called "intimidating" pressure against him and his exhibition, he attended public fora to make his point that he would not yield to such threats of IM. He even created an Internet site to document and publicize the details of his exhibition and of his legal and political defense against Schubert. Kabisch, and his case is by no means the only one among Stasi victims, is addressing and thereby creating a public; he organized, along with others, a social space where his narrative could circulate and appeal to strangers.²²⁰ In this he resembles another victim who said he needed to come to terms with the past ("*Ich muss endlich mit der Vergangenheit aufräumen*") and to that end proceeded to create an Internet site (ddr-ausreise.de) that included a narrative of his experience as a victim of the Stasi.²²¹ Victims like Kabisch might have been looking for what, as a public commentator puts it, is "largely owed to them: public recognition (*öffentlichen Anerkennung*) and empathy (*Einführung*),"²²² or, in the

²¹⁹ Cathrin Wilhelm, "Was macht eigentlich Pfarrer Kabisch?" *Cicero*, June 2008.

²²⁰ This is a roughly Warnerian framework, more amply discussed in the previous chapter.

²²¹ The victim, Schaarschmidt, had been subject to multiple forms of harassment (*Zerstörung*) by the Stasi and was later forced to leave East Germany, as a result of which his daughter quit her studies. Unable to cope with the pressure, his wife later committed suicide. See *Der Spiegel*, "Recht Auf Vergessen?," 47 (2008).

²²² Ines Geipel, "Kontaminierte Gessellschaft," *Die Welt*. 31.4.2007.

words of a magazine editorial, what is being recognized is “the worth (*Würde*) of victims.”²²³

The point of examining Kabisch’s case closely, as a representative of a broader set of cases, is to shed light on the logic of respect that underlies it. Apologies in the context of IM outings express victims’ attempt to humble former denounciators before a public; they also express the victims’ attempt to assert their rights to demand an apology and the prerogative to request a public one. In both cases, then, respect for the victim is at stake, and an apology made in the presence of other citizens is the appropriate mechanism to redress the victim and restore her respect.

The function of public apologies is amply documented in the political forgiveness literature and largely reflects some of these points. For example, based upon Christopher Bennet’s historical example of the South African Truth and Reconciliation Committee, the actions of wrongdoers express “values inimical to any form of society premised on mutual recognition,”²²⁴ and wrongdoers themselves must repudiate them before they can be accepted as partners in a shared democratic enterprise. Bennet asks: “how can victims share a civic space with wrongdoers, when these wrongdoers do not acknowledge that their victims are worthy of an apology.” Without such repudiation, citizens cannot regard each other as equal partners in the polity.²²⁵ According to Andrew Schaap, such repudiation works more effectively when a collectivity orchestrates it. Since the purpose of politics is the generation of relationships and the experience of meaning, “a political undertaking to forgive is a

²²³ “Kein Schlussstrich,” *Focus*, 30.4.2007.

²²⁴ Christopher Bennet, “Is Amnesty an Act of Political Forgiveness?” 2003, 69.

²²⁵ Christopher Bennet, “Is Amnesty an Act of Political Forgiveness?” 2003, 73.

struggle to settle the meaning of the wrongful act in the past for the sake of our life in common.” A wrongful deed in the past, he claims, “‘may persist as a present threat’ to a particular category of people within a polity so long as its memory remains a testament to their inferior social status.”²²⁶ A public apology can undo the meaning of a wrong by the communal negation of the claim to superiority implicit in the wrongdoer’s original act. Were a wrongdoing to go without an ensuing apology, the wrongdoer would get away with a false claim to superiority.

Charles Griswold offers a roughly equivalent argument about the balancing effect of political apologies. He claims that the function of such apologies is “to communicate a moral point publicly.”²²⁷ Political apologies, Griswold argues, bring “the offender to a level of moral parity with the offended by recognizing the capacity and fact of moral error on the former’s part.” Through the apology, he further argues, “the offended is due a public expression of that recognition [;] political apology is a public act: the offended person’s comparative status is reaffirmed by it.”²²⁸ Finally, in a similar vein, anthropologist John Borneman argues that political apologies “are a form of performative redress that link the fate of the wrongdoer and the victim in a public event, which seeks to defeat the wrongdoer’s claim to mastery over the victim.” They affirm, he further argues, the equality of both the victim and the perpetrator, in the sense that through the apology both become “intersubjective political agents exercising free will, the minimal condition of humanity in democratic

²²⁶ Andrew Schaap, “Political Grounds for Forgiveness,” 2003, 82.

²²⁷ Charles Griswold, *Forgiveness: A Philosophical Exploration*, 2007, 142. Sometimes apologies are even impersonally, as when a government or a church apologizes to a group of its citizens or its followers.

²²⁸ Charles Griswold, *Forgiveness: A Philosophical Exploration*, 2007, 142.

state.” A political apology, then, amounts to, among other things, a “retroactive recognition of dignity.”²²⁹ They are symbolic exchanges, whereby the wrongdoer voluntarily lowers his own status as a person.

The interpretation of outings I am advancing is more in line with the interpretation John Borneman has made of the work of many of the commissions setup in the workplace of certain firms (in particular, the Commission of Vindication/Rehabilitation--*Rehabilitierungskommission*). From late 1989 through 1994, these firms took it upon themselves to address, not claims related to material redress (say, obtain monetary retribution, or reclaim property), but rather to “moral” injuries that had occurred in those firms during the GDR regime. For instance, in their appearances before the commission, most people simply asked for acknowledgment of having been unfairly fired for their criticism of communist authorities. Some of the most common remedies for these wrongs were formal apologies, whose purpose was, according to Borneman, “to restore the dignity of victims of the old regime through acts of vindication or rehabilitation.” He argues that the relation of the victim to the perpetrator is usually the crux of the process of vindication, “for in order to confirm the victim’s importance through a procedure of vindication, it is often necessary to lower the unjustly elevated status of the wrongdoer. To reestablish the self-worth and value—the dignity—of the victim requires that an event be staged whereby there is a public repudiation of the message of superiority that initially caused the diminishment

²²⁹ John Borneman, “Public Apologies as Performative Redress,” 2005.

in the victim's worth." This "public recognition," he claims, contributes to the "restoration of dignity."²³⁰

In sum, all of these authors point out the importance of public apologies and their relevance for dignity concerns. Their conclusions may be extended to the German case. In particular, the analysis of these scholars clarifies how private apologies of IM could not accomplish the restoration of respect in the same way as public apologies. Outings are the unwilling exposure of informers to the public but also the voluntary public exposure of the victims who, through outings, demand recognition. It is on such public recognition that the practices of political forgiveness and respect that concern us at present are predicated.

V. From Emotional Report to Membership Reaccreditation

I mentioned before that, for a victim, forgiving her perpetrator in a political sense is not the same as clearing her own heart from resentment. By the same token, from the point of view of the perpetrator, the function of an apology, offered in a political context, is not to report an emotion. In IM Günther's example, mentioned before, this guilt-ridden man went to the confessionary in order to assuage his guilt; his admission was, to a large extent, a therapeutic act. This sort of motivation, however, is politically irrelevant. It is not the point of political forgiveness to provide emotional relief to the perpetrator.

²³⁰ John Borneman, *Settling Accounts. Violence, Justice, and Accountability in Postsocialist Europe*, 1997, 113.

Political forgiveness, then, involves neither the emotions of the would-be forgiver nor those of the would-be forgiven. Likewise, it cannot be reduced to interpersonal forgiveness. I already argued for this point in the previous section, but let me develop it further here. It might be tempting to understand outing simply as the victims' and activists' strategy to force IM to contact and apologize to the latter, since they will not offer words of apology voluntarily. This, indeed, is part of the explanation. As I mentioned before, scholar Anne Sa'adah offers a similar account in explaining public exposures of IM in the early years of the reunified nation. During that period, she claims, New Forum activists worked intensely to put the IM question on the public agenda, not by arguing for legal punishment for former denunciators but by calling for the formation of "tribunals" in which perpetrators and victims would come together and confront one another verbally across a common table. To repeat what I said in a previous chapter, the spirit of these "tribunals" was summarized by one of its advocates in the following way: "We plead for individual or group conversations with absolute confidentiality. Psychologists, jurists, clergy, together or individually, should be available for these conversations."²³¹ In the view of activists, Sa'adah argues, such private encounters would have enormous benefits for victims: they would help establish a new hierarchy of power between the parties involved, one based on moral merit. The ideal situation would be that the IM confess her guilt and her betrayal of trust, apologize, and finally ratify a new "power relationship," where she would be dependent on the forgiveness of the former victim. Unsurprisingly, however, instances of this model of dialogue and reckoning with the past between informers

²³¹ Quoted by Anne Sa'adah, *Germany's Second Chance: Trust, Justice, and Democratization*, 1998, 74.

and their target were seldom. Against the best hopes and efforts of activists, IM did not rush into these “tribunals” to incriminate themselves. For this reason, Sa’adah concludes, activists began to take a more “punitive and exclusionary” direction. Among other things, a newspaper close to the movement published the names of informants who had been involved with the Stasi. This publicity, then, was an explicit reaction to the lack of responsiveness from former perpetrators for failing to confront their victims in the “confidential” encounters that the activists tried to stage.²³²

This interpretation might accurately describe *some* outings as an ersatz for the “private tribunals” of forgiveness, which give victims the means to unveil the identity of and confront their offenders, or as radical measures designed to set a general example to other IM (this is what happens to those who do not respond to the call) and encourage them in the future to take part in “confidential” (i.e private) meetings a la New Forum. However, I argue that the outing of IM can be interpreted at least partly in terms that are irreducible to private forgiveness. This requires that we take note of the fact that the public nature of outings is relevant in its own right; that is, outings are not public simply because they may help to bring about a private confrontation between victims and wrongdoers, penalizing the latter in case she refuses to participate in them. Outings are public in the more meaningful sense that they stage a collective encounter or “ritual” in which wrongdoers offer a public *mea culpa*. This takes us to the second form of recognition that is at stake in political forgiveness and in outings: the perpetrators’ public recognition of their actions and

²³² Anne Sa’adah, *Germany’s Second Chance: Trust, Justice, and Democratization*, 1998, 74 and *passim*.

their acknowledgment that such actions contradicted social and moral codes that were presumably in place under the GDR.

A dialogue from J.M. Coetzee's novel *Disgrace* will help begin to clarify these points. Facing an accusation of sexual abuse, its main character, David Lurie, is offered an opportunity to resume his job at his university in exchange for "apologizing" to the "complainant" and the University.²³³ To his reply that repentance, "belongs to another world, to another universe of discourse," the following dialogue between the spokesman of the disciplinary committee and Lurie ensues:

"You are confusing issues [...]. You are not being instructed to repent. What goes on in your soul is dark to us, as members of what you call a secular tribunal if not as fellow human beings. You are being asked to issue a statement."

"I am being asked to issue an apology about which I may not be sincere?"

"The criterion is not whether you are sincere. That is a matter, as I say, for your own conscience. The criterion is whether you are prepared to acknowledge your fault in a public manner and take steps to remedy it."²³⁴

Notice two things about the dialogue. First, the type of repentance expected from David Lurie cannot take place within the four walls of a university office because its

²³³ Jeffrey G. Murphy uses David Lurie's example, although he uses it for a completely different purpose (namely, to argue for the desirability of sincere repentance) and makes very little use of it. See his *Getting Even: Forgiveness and Its Limits*, 2003, 37.

²³⁴ J.M. Coetzee, *Disgrace*, 2000, 58.

envisioned function is not the personal transformation of the would-be forgiven, and it is more than the simple the restoration of the relationship between Lurie and his victim, damaged through the former's actions. Being divorced from any concern for the mental states or the sentiments of the parties involved and being more than a private encounter between the two of them, Lurie's repentance is an act with social and political dimensions, one wherein a previous wrongdoing, and the set of values that speak against it, is publicly acknowledged. It is the publicity of the repentance, and only to a lesser extent its sincerity, that determines the relevant "criterion" for the committee. To draw again on Digeser (who again borrows from Michael Oakeshott), what political forgiveness requires is a form of civil behavior or, in Oakeshott's words, an "act of self-disclosure."²³⁵ The sincerity of the apology matters, but its publicity seems to matter just as much if not more, so that even a coerced apology will do.²³⁶

The second point to notice is that what the disciplinary committee is offering goes beyond employment guarantees. The bid is not simply that if the offender apologizes he gets to keep his job, but that he will be readmitted into the University *community*. The apology earns the supplicant a form of social reaccreditation. In sum, the committee is not asking for an emotional report from the culprit rendered in all honesty (although sincerity would indeed be appreciated); instead it is waiting for a gesture on his part, most aptly articulated in the form of an apology, that signals his

²³⁵ "Consequently political forgiveness can only make sense if we believe that the public relationship between the parties is worthy of respect and repair." P.E. Digeser, *Political Forgiveness*, 2001, 28.

²³⁶ By coerced apologies I mean those that are "those offered in circumstances where a threat or offer significantly compromises someone's ability to choose not to apologize." Nick Smith, *I Was Wrong: The Meanings of Apologies*, 2008, 151.

willingness to re-enter the community, whose norms the culprit transgressed. Without such signals, he cannot be fully “rehabilitated” as a member of the polity. Similar arguments are at work in German public discourse related to Stasi outings: the citizenry of reunified Germany expects a signal from IM that they acknowledge the kind and the extent of their wrongdoing.

To address this issue, it might be useful to rely on a distinction made by Nicholas Tavuchis²³⁷ between apologies and accounts. When I apologize, I declare voluntarily that I have no excuse, defense, or justification for an action that has offended or wronged someone else. Instead of apologizing, however, I might give, in the context of offering an explanation for a transgression, an account: an excuse or a defense that diverts the attention from the agent of the action (myself) to conventional categories of causality (accident, coercion, incapacity). Put differently, when I offer an account I distance myself from my actions, I deny the imperatives of responsibility and answerability through an appeal to my impaired self, my diminished capacities, the intervention of external forces, etc. When I offer an apology, by contrast, I do not detach myself from my deeds; I acknowledge them and remember them and add a declaration of regret: “I have no excuse for what I did or said. I am sorry and regretful. I care. Forgive me.”

The distinction between an account and an apology is useful in understanding a crucial function of the latter. As Nicholas Tavuchis argues, apologies are “symbolic foci of secular remedial rituals that serve to recall and reaffirm allegiance to codes of behavior and belief whose integrity has been tested and challenged by transgression,

²³⁷ Nicholas Tavuchis, *Mea Culpa. A Sociology Of Apology And Reconciliation*, 1991.

whether knowingly or unwittingly.” Political apology reaffirms the social validity and moral legitimacy of the rules that were transgressed and thereby gave rise to the practice of forgiveness. In this sense, although an apology cannot undo the act that provoked it, that act “cannot go unnoticed without compromising the current and future relationship of the parties, the legitimacy of the violated rule, and the wider social web in which the participants are enmeshed.” An apology is “a relational symbolic gesture occurring in a complex interpersonal field, with enormous reverberatory potential that encapsulates, recapitulates, and pays homage to a moral order rendered problematic by the very act that calls it forth.”

Thus, when the transgressor has broken a moral code, his ties of membership to the communities risk being severed. An apology dispels this threat. It serves as a mechanism for “reaccrediting membership and stabilizing precarious relations.” Here it is useful to return to regret. I said before that victims expect some form of regret from transgressors if they are to forgive them for their wrongdoings. But the point of demanding regret may not be limited to a simple exchange in a moral economy of forgiveness: you show me repentance, I forgive you. Regret can have a public dimension: it may be seen as a “shared loss,” a consequence of one’s actions. It refers to something done (or not done), said (or not said) “that betrays and threatens whatever defines, binds, and is deemed worthy.”²³⁸ Regret is both recognition and yearning: recognition that my actions (my breach of trust) brought about my estrangement (the alteration of my place in relation to others) and a plea for the restoration of a prior valued state.

²³⁸ This string of quotes comes from Nicholas Tavuchis, *Mea Culpa. A Sociology Of Apology And Reconciliation*, 1991, 13, 14, and 20.

According to Tavuchis, a proper and successful apology is the middle term of a moral syllogism that commences with a *call* and ends with *forgiveness*. The call occurs when the action in question “is semantically and symbolically transformed into apologizable discourse.” The call is the beginning of a moral dialectic. We think like members when we can anticipate, recognize, and name that which an apology can heal prior to the call. When we respond to the call after the offense by apologizing, we are seeking reconfirmation of our credentials as members by publicly recalling their unstated grounds. Tavuchis writes,

Just as the precipitating event is transformed into an occasion for apology by virtue of a call, our participation in the ensuing exchange engages us (and our interlocutor[s]) in serious discourse about the moral requisites of interpersonal, group, or collective membership [...] If the goal of apology is ultimately forgiveness as a prelude to reunion and reconciliation, then we must convince the other of our worthiness.²³⁹

With some nuances, these theoretical insights capture part of the logic that precipitates the public exposure of IM. The grammar of outings begins with a call to turn Stasi denunciation into apologizable discourse, and it ends, ideally, with an apology on the part of the informal collaborators that restores them (or should restore them) to their status as full-fledged members of the polity.

²³⁹ The “social achievement” of an apology is “to transfigure the meaning ascribable to the raw transgression into the idiom of apology, that is, one symbolizing responsiveness to a call that inaugurates apologetic discourse and is discerned as such by the victim and concerned others.” Nicholas Tavuchis, *Mea Culpa. A Sociology Of Apology And Reconciliation*, 1991, 28.

Consider, to illustrate the points just made, the case of Ingo Steuer, an (in)famous ice-skater whose international victories turned him into a local celebrity, but whose involvement with the Stasi made him the target of numerous criticisms. Steuer's exposure as an IM sheds light on the importance of forgiveness as an act to reaccredit membership and is particularly relevant in light of the social expectation, very explicitly stated, that athletes be role models and represent "ideal" social values.²⁴⁰

Steuer's outing took place shortly before the 2006 Olympics Games, which he was supposed to attend as an officially appointed trainer. After his outing, however, he was dropped from the German delegation, since German sporting bodies, namely the National Olympic Committee (NOK), like other federal governmental agencies, are not allowed to appoint and compensate monetarily individuals who were involved with the Stasi. Indeed, the strenuous screening process in place in unified Germany, of which I will have more to say in the next chapter, was at full work in the public agencies in charge of governing sports affairs in the nation. Steuer, critics claimed, was legally disqualified to become an Olympic trainer due to his involvement with the secret police. In the end, Steuer was able to attend the Games thanks to a temporary injunction issued by a Berlin court, the injunction serving as evidence for

²⁴⁰ Thus, a commentator sympathetic to the institutional mission of the BStU, the agency in charge of managing the Stasi files, reminds his audience that since public funding for sports in Germany is justified on the basis of what the founders of the German Sports Association described in the fifties as, in their own words, "die Pflege des Geistigen im Sport" and die "Schaffung einer ethischen Sportregel," therefore "Betrug, Manipulation, Doping können ebensowenig geduldet werden wie Verunglimpfungen, Denunziantentum und Foulplay, will der Sport seine Existenzberechtigung nichts aufs Spiel setzen." Herbert Fischer-Solms, "IM Torsten. Der Stasi-Fall des Eislauf-Trainers Ingo Steuer." *Deutschland Archiv. Zeitschrift für das vereinte Deutschland* 2 (2006).

those who were unsatisfied with the so-called “Stasi-screening” process in the world of sports and regarded it as too lenient and arbitrary.²⁴¹

Steuer’s involvement with the Stasi was by no means fleeting or disengaged. According to the BStU officials, his voluminous Stasi act contains denunciations made by Steuer (hand-written and even recorded ones) of fellow athletes. In one of his reports, for instance, he alerts authorities of his suspicion that a fellow ice-skater might attempt to flee the GDR, another that a West German radio station is interviewing East German sportsmen behind the back of GDR authorities. Two additional reports provide private information about some of his colleagues, which the Stasi could later use to blackmail them.

Steuer offered clarifications about his involvement with the Stasi: “At the moment in which I did it, I did it in full conscience [...] But not because I intended to cause any harm to any one, but because I found it to be the right thing to do.”²⁴² Or “that was a different life, a different regime, that is all in the past”²⁴³ And his closest manifestation to an unambiguous display of regret: “I am so ashamed that I had cooperated with the Stasi. At that time I was not at all clear about what I was doing.”²⁴⁴ Accounts (in Tavuchis’ sense of the term) of this sort did not strike many of the publics invested in Stasi *Aufarbeitung* as genuine acknowledgments of responsibility, let alone as authentic apologies. A civil rights activist during the GDR

²⁴¹ Herbert Fischer-Solms, “IM Torsten. Der Stasi-Fall des Eislauf-Trainers Ingo Steuer.” *Deutschland Archiv. Zeitschrift für das vereinigte Deutschland* 2 (2006).

²⁴² “Die Schuld des Ingo Steuer hilft Offenheit, dem Eisläufer zu verzeihen?,” <http://www.3sat.de/3sat.php?http://www.3sat.de/kulturzeit/themen/122983/index.html>. Last seen on 01.05.2009.

²⁴³ <http://www.mdr.de/sachsenspiegel-extra/2537921.html>. Last seen on April 2010.

²⁴⁴ Ingo Steuer: „Schandfleck“ in meinem Leben, *Frankfurter Allgemeine Zeitung*, 20.04.2006.

regime and current director of a Stasi museum (an institution, that is, in charge of encouraging collective memory of the secret police), opposing Steuer's appointment as an Olympic trainer, argued the following: "If *Aufarbeitung* (coming to terms with the past) is to be meaningful, it must be made clear that denunciation in the service of a dictatorship has consequences under a democracy. Prior to forgiveness there must be an admission of guilt. So far, however, Steuer has been fully unapologetic before the public." A public official from the BStU (another institution in charge of providing the political context for collective memory-preservation) leveled his criticism along similar lines: "To this day I have heard no public word of apology from Mr. Steuer, so I find it hard to fully understand his own personal transformation and how his insight has grown."²⁴⁵

The point I wish to emphasize about the line of reasoning of these recriminations of Steuer's presumably unrepentant public self is the salient omission of concrete victims. Victims are not factored into this equation of political forgiveness.²⁴⁶ Instead, what is crucial is whether or not Steuer atones in public (*Öffentlichkeit*), whether or not he utters a public word (*öffentliches Wort*) of apology. What matters is that Steuer expresses publicly his allegiance to a moral and political code²⁴⁷ ("Ingo Steuer did

²⁴⁵ "Gauck setzt sich für Stasi-Spitzel ein; Belasteter Trainer Steuer "soll Beruf ausüben können" - Kritik von Bürgerrechtlern," *Die Welt*, 04.05.2007. See also "Vergangenheit on Ice", *Der Spiegel*, 03.04.2008.

²⁴⁶ See also, to illustrate, Thomas Purschke, "Bemerkenswerte Stasi-Personalie," *Gerbergasse 18*, 2003 (IV), 5. A former representative from the *New Forum*, and currently a public official involved with the management of Stasi affairs, complains that while in service only ten IM have come to him. Why would anyone need to approach *him*?

²⁴⁷ Steuer did not break any legal code. Contrary to that, he was actually acting under the auspices of the law existing at the time being. The "code" he failed to live by is an a posteriori reconstruction. Problematic as it may be to argue for its existence under the GDR regime, the appeal to such code is there.

something that is morally reprehensible,” as yet another public official from the BStU puts it²⁴⁸), and that he openly disapproves of his past actions, which contradict them.

A different IM, to leave Steuer’s case behind, describes her own outing as equivalent to having been “put in a pillory” and publicly shamed and then adds: “The worse for me was the loss of respect, the feeling that I had no longer any worth, that I did not appear as trustworthy anymore.”²⁴⁹ Key in her statements are the notions of respect and trust. They confirm the thought that membership in a group requires some form accreditation and is contingent upon the trust citizens ascribe to each other, and whose ascription qualifies them as co-members of the group. Thomas Scanlon has recently defended the idea that the notion of blame is neither a simple negative judgment whose function is to sanction nor a form of punishment whose purpose is to produce evaluations of people. What we do when we blame a person, Scanlon says, is state that the action for which that person is blameworthy (say, informing) shows something about her attitudes towards others that impairs the relations that others can have with her.²⁵⁰ Blame, in other words, involves withholding or modifying trust and reliance, seeing the blameworthy person as not eligible, or less eligible, to be a participant in co-operative relations. Being eligible as a co-participant in a social enterprise is not something to which anyone has an unconditional claim. We do not owe it to anyone unconditionally to trust her to be our friend or co-participant no matter how she treats us.²⁵¹ Such willingness is contingent upon her actions.

²⁴⁸ Reference lost.

²⁴⁹ “Kabarettistin Gisela Oechelhaeuser schämt sich für Stasi-Vergangenheit,” *Die Welt*, 30.07.2002.

²⁵⁰ Thomas Scanlon, *Moral Dimensions: Permissibility, Meaning, Blame*, 2008, 128.

²⁵¹ Thomas Scanlon, *Moral Dimensions: Permissibility, Meaning, Blame*, 2008, 186-187.

Apologies are an attempt to *repair* a relationship that has been *impaired* by a breach of trust. It is a way to validate one's credentials as trustworthy members of the republic. Outings, then, are the opening acts of the process of political forgiveness.

Go back to that piece of moral entrepreneurship that I referenced in a previous chapter –the book *Die Täter sind unter uns (The Perpetrators are Among Us)*— as constituting an example of a shaming interpellation. In that work, the author comments on the loss of social status of IM under reunified Germany. He explains what informers miss when they avoid the public eye and remain unaccountable. What they lose, in his words, is “their chance [of] forsaking the morally degrading façade they thrust upon themselves in order to serve the regime.” More relevant for the present purposes is that, in this author's words, by remaining anonymous IM fail to “redeem” themselves by “cleaning their record”: “Repentance and shame, if being sincere, can be astonishingly disarming and earn you respect and recognition (*Respekt und Anerkennung verschaffen*).”²⁵² Repentance and shame are here placeholders for an apology, whose alleged potential for “getting you respect” is underscored.

In sum, outings expose IM, who are then expected to offer a public apology. It does not seem to be necessary that actual IM victims ask for one, because part of the point of apologizing in this context is not to restore the terms of an interpersonal relationship. The function of the political apology is to encourage the wrongdoer's recognition that she behaved in ways that contradict a widely accepted, though controversial, moral and political code.

²⁵² Hubertus Knabe, *Die Täter sind unter uns*, 2008, 167.

VI. Conclusion

In this chapter I have argued for an interpretation of IM outings as acts that organize social practices of political forgiveness. By triggering a cycle of forgiveness in which public apologies are asked for, given, and accepted, outings promote, if only symbolically, relationships based on the idea of equal respect among citizens. Thus, an examination of the exposure of unofficial collaborators provides an opportunity to reflect on the general theme that guides the dissertation: the public dimensions of respect.

Robin Dillon argues that respect may be seen as a “presumed disclosure,” in which “what is disclosed is the worth or worthiness of the object.”²⁵³ This suggests that through the outings of IM, something more crucial than the personal identity of informers is disclosed, namely the worth of the multiple actors involved in the outings, including informers themselves. This chapter has focused on these disclosures by considering the practices of political forgiveness involved in outings. By asking for an apology, victims of IM behave as self-respecting political agents. The roughly Aristotelian idea behind this view is that failing to demand redress when one has been the subject of wrongdoing reflects a lack of appreciation for, and the unwillingness to defend, one’s worth. In this vein, were the victims of the GDR to refrain from asking for an apology to IM for the harm they inflicted upon them during the communist regime, they would show little appreciation for their own value as

²⁵³ Robin Dillon, *Dignity, Character, and Self-Respect*, 1995, 18.

citizens, even as persons. Thus, a demand for an apology is an outward manifestation of self-respect. In turn, the demand for a public apology, whose motivation is the self-respect of victims for the reasons just explained, is an expression of respect towards perpetrators. Just as I argued in the second chapter that outings are a way of holding informers responsible for their actions, the expectation of an apology from informers is part and parcel of the same process of accountability. Moreover, outings offer to IM the possibility of giving symbolic redress to victims for their wrongdoings. This is yet another way of viewing them as responsible agents, but it is also a way of recognizing that they may make amends in order to become members of the polity with full standing, which is a sign of respect.

Chapter 6

The Politics of Reconciliation: Offering Respect?

I. Introduction: Forgiveness and Reconciliation?

Towards the end of last chapter I touched on the subject of political forgiveness and its potential to accomplish membership reaccreditation: the terms under which victims and society at large might offer the possibility of “rehabilitation” to members who transgressed presumably self-evident social norms (do not tell on your neighbor, resist oppressive authorities to the extent of your capabilities, never compromise) but wish to regain social and political standing within the polity by offering public apologies. The question addressed in this chapter is whether IM who meet these requirements, in particular that of offering a public apology, are genuinely “credited” as fully-fledged members, that is, as political agents with unrestricted access to the whole set of rights attached to citizenship status. Put in different terms, this chapter explores the relationship between public apology and political reconciliation, a relationship that emerges not only in German public discourse but also in scholarly literature on political forgiveness.

I argue towards the conclusion that with regards to IM there is a divorce between the promise of reconciliation and its genuine “supply.” On the one hand, the two

processes (political forgiveness and reconciliation) are supposed to go in tandem: offer a public apology, and only then is reconciliation possible. On the other hand, the prospects of post-apologetic reconciliation are slim and subject to strategic manipulation by political actors.

The inconsistency of political and social actors in making the case for the need to strive towards reconciliation, while, in practice, falling short of meeting their own standards, has two implications. First, there arises something of a *respect asymmetry*. Former victims and the polity at large ask for an apology from IM. As I argued in the previous chapter, such an apology may in fact be conceptualized as an expression of respect for past victims and the present society. But now that both the former and the latter are in a position to adopt a forgiving and reconciliatory disposition, one that, like asking for forgiveness, may also be conceptualized as respectful treatment, they (former victims and a considerable segment of the polity at large) choose to withhold such disposition. Political and social actors themselves speak the language of respect: provided that IM have apologized, society owes them, as a matter of respect, a reconciliatory disposition. Nonetheless, their praxis is somewhat ambivalent. Second, there arises something of a *distrust perpetuation*. While the purpose of outings is supposed to be the reduction or elimination of distrust towards public officials, and even fellow citizens, and more generally the reconstitution of social trust for the sake of successfully pursuing a collective endeavor, outings seem to maintain and “administer” distrust, rather than eliminating it. Political and social actors themselves speak the language of trust: outings are supposed to trigger public apologies, which would then carry the seeds of trust. Nonetheless, their praxis is not in line with their

discourse. On both scores (promoting respect and fostering trust) the phenomenon is one in which the values or goals that are presumably supported are actually undercut through the very vehicle (outings) that is supposed to bolster them.

The rest of the chapter has four sections. The second section briefly discusses some of the theoretical insights most directly relevant to the set of questions that arise in public debates in Germany in relation to reconciliation. What is at stake in reconciliation? Can perpetrators be offered reconciliation in the fullest sense of the word? On what terms? Is political forgiveness a precondition for reconciliation? Is it a moral and political obligation for victims and society? Based on the preceding theoretical framework, the third and fourth sections examine public discourse and practice in Germany in order to tease out what I have called respect asymmetry and distrust perpetuation in the German context. The fifth section briefly concludes.

II. An Ethics and a Politics of Reconciliation: Of Suspension and Release

Commonplace in scholarly literature is the argument that the point of a process of reconciliation is to restore a relationship that was damaged or that came to a halt as a consequence of one of the party's wrongdoings. Political reconciliation, in particular, aims at reestablishing bonds of what one might call civic friendship. It might seem obvious that reconciliation is in and of itself a desirable process, without need for further justification. Why, after all, would it be better *not* to restore a relationship than to restore it? Yet, it is not always the case that victims want to be reconciled with perpetrators. For instance, they might prefer to avoid any contact in the future with those who wronged them (say, because they are reminded of the harm done to them),

in which case reconciliation is unnecessary, even undesirable from a moral and political point of view. The previous example should not be taken as a suggestion that reconciliation is or should be contingent upon the victim's wishes. Actually, both alternatives—reconciliation as a self-evident political and moral virtue and reconciliation as the victim's prerogative— provide only limited guidance to grapple with social phenomena such as outings that trigger processes of reconciliation. My point is that a careful examination of the justification for reconciliation is necessary to understand what is at stake in the process.

Philosopher Linda Radzik²⁵⁴ offers a theoretical framework that will be useful in examining some of the cases that will be presented in the next section. Let me therefore develop some of her points at some length, noting that in so doing I am more interested in their usefulness to conceptualize the topic at hand than in their prescriptive import. Radzik discusses the idea that reconciliation depends on the victim's and the community's *willingness* to forgive an offender who has made a sincere and proportional atonement. This constitutes the so-called "victim's prerogative." Radzik argues that such a prerogative entails that the wrongdoer would need the cooperation of the victim in order to atone; the offender cannot do it by herself. There are no objective criteria that the wrongdoer might fulfill in order to atone for her misdeed and consider herself "redeemed" regardless of the participation (or lack thereof) of her victim. It is up to the latter whether the wrongdoer can atone or not.

²⁵⁴ Linda Radzik, *Making Amends: Atonement in Morality, Law, and Politics*, 2009, 111-152.

Radzik makes a qualified case for the victim's prerogative. Among other arguments supporting her endorsement of this principle, she considers the idea that, since victims have privileged epistemic access to the damage caused by the wrongdoing that needs to be repaired, they are entitled to lay the conditions for successful reconciliation. She offers an example to make her case: imagine A ridicules two of her colleagues at work, B and C, but later acknowledges her fault and sincerely apologizes to them in private. B might accept the private apology, but C might ask for a public apology instead. According to Radzik, both B and C would be justified in asking for different types of apologies. While B cares about being respected and esteemed by A and takes the private apology as sufficient proof that A values her as a person and as a colleague, C cares more about the harm A did to her standing vis-à-vis other colleagues; she therefore believes she deserves a public apology, which, for her, entails the appropriate expression of respect. Radzik concludes that B and C, as the victims, get to judge which aspects of the wrong are significant and which forms of redress signal respect.

Although sympathetic to the victim's prerogative, Radzik also expresses some reservations with respect to it. The potential danger with the victim's prerogative is not difficult to fathom: if we presuppose that reconciliation requires some sort of atonement from wrongdoers, but atonement can only take place with the participation of both the wrongdoer and the victim, then the former is at the mercy of the latter, and therefore reconciliation is uncertain and contingent upon the wishes of former victims. In view of these considerations, Radzik notes that the authority to impose the conditions for reconciliation should be limited. For instance, she claims, victims have

authority to dictate the terms of reconciliation, but such authority should be subject to some form of justice, broadly understood. Thus, to note one such restriction, victims should not impose conditions that are degrading of the wrongdoer. To list another restriction, the atonement imposed on the wrongdoer should be proportional to her wrongdoing.

The import of Radzik's reservation about an unqualified victim's prerogative is that, stretched beyond reasonable boundaries, the prerogative casts reconciliation as an optional matter, a conclusion to which she objects. Consistently, she criticizes the view that likens reconciliation to a gift freely given. If this analogy were accurate, reconciliation could be regarded as a supererogatory act of generosity, not as the obligatory action that she believes it to be, a process to be regulated, even if minimally, by desert and duty. Radzik claims that there are some modest, *prima facie* duties that victims have to reconcile with wrongdoers. The reason has to do with the relationship between reconciliation and the possibility of renovating trust: when a victim reconciles with a wrongdoer she accepts that the latter is once again trustworthy in the relevant matter. One might argue (but this Radzik rejects) that since judging someone to be trustworthy is making a prediction about the future and since such predictions are usually somewhat speculative, "then trust and reconciliation will always require a generous leap of faith from victims." Being unable to produce conclusive evidence, wrongdoers will never be able to *earn* renewed trust and reconciliation. The problem with this view, according to Radzik, is that trustworthiness is so important in social life that the standard to regain it should not be so demanding.

These are, briefly sketched, some of the theoretical insights Radzik advances in order to clarify her qualified endorsement of the victim's prerogative. It bears repeating that for the present purposes the value of Radzik's theory is not normative but conceptual. It should put us in a better position to establish more clearly the relationship between political forgiveness and reconciliation: public apologies are a requirement for political reconciliation. Fleshing out the relationship between political forgiveness and the process of reconciliation, P.E. Digeser argues that an effect of the former is that it invites the generation or restoration of trust and thus lays the groundwork for the latter. In more concrete terms, he claims that when a victim forgives, in the political sense, she opens up the door to restoring the other party's civic position. Political forgiveness, then, is an invitation to restore the transgressor to the status she held prior to her transgression; it is an invitation for others, in slightly different terms, to reconsider the standing of that individual in the dealings they have with her. The act of political forgiveness invites seeing the transgressor as an equal, and in doing so it enables reconciliatory efforts.²⁵⁵

When reconciliation is understood as the cultivation of civic relationships, it should be relatively clear why ordinary forgiveness, as I defined that notion in the previous chapter, does not necessarily pave the way for it: I may be able to curb my resentment in isolation and, after forgiving you, I might want to never see you again. Or I might mitigate my anger towards you, but it is a long way from there to actually resuming a relationship: "We can amend our attitudes without reconstructing our

²⁵⁵ P.E. Digeser, *Political forgiveness*, 2001, 68-70.

relationships.”²⁵⁶ On this view, forgiveness and reconciliation are independent phenomena, just like Pastor Holmes in the previous chapter suggests, and the former is simply about setting oneself free from anger or hate, a personal endeavor that is distinct from the cultivation of a relationship.

To conclude this section, let me be clear about how the reconciliation and its stepping-stone—political forgiveness—are relevant in consolidating or undermining practices of respect. Both at the moral and political level, reconciliation and political forgiveness offer the possibility of a fresh start, a new beginning. This means, for victims, suspending judgment about certain meanings of past actions, thus releasing perpetrators from the moorings of the past, from fixed identities that foreclose the possibility of moral improvement and hinder the reestablishment and cultivation of future relationships. Without the “suspension” of moral and political judgment and without “release” from past deeds, agents would not be able to command respect. Let me explain these points in greater depth.

At a moral level, the argument that not reconciling with an atoning and apologizing malefactor amounts to an act of disrespect relies on the idea that the existence of an “indestructible ledger” that records our moral failures and forever affects our moral standing runs counter with the notion of a genuinely fresh choice and the related concept of an agent’s moral progress. As Harvey argues, “it is not true that once a thief, always a thief. Without the possibility of fresh choices and moral progress, the

²⁵⁶ Trudy Govier, *Forgiveness and Revenge*, 2002, 77.

commitment to a life of moral endeavour makes little conceptual sense.”²⁵⁷ When the agent is denied the possibility of improvement, she is not being treated as a moral agent capable of making her own choices, hence the disrespect. “For a victim to fail to morally reconcile in response to a thoroughgoing atonement [...] would be to fail to show proper respect for the wrongdoer. It would be to deny his status as a moral agent.”²⁵⁸ Without a fresh choice and without release from the weight of the indestructible ledger, there is no agency and therefore no respect. If, as I considered in the second chapter, the failure to hold agents responsible for their actions is a sign of disrespect, so is the tendency to fix permanently, as it were, responsibility for past actions, to deny to agents “release” from such actions.²⁵⁹

But this release requires something along the lines of what David Sussman calls the “teleological suspension of the ethical.” In fleshing out Kant’s views on forgiveness, Sussman argues that when a supplicant apologizes, what she does is to ask us to understand our relationship to her “not solely in terms of what has gone between us [in the past], but in terms of the relationship we might come to have in the future, the relationship we might now set ourselves to realizing.” Apologizing is offering something along the following lines: you were morally indebted to me, but I relieve you from that debt. As Sussman puts it:

²⁵⁷ Harvey, quoted by Radzik, *Making Amends: Atonement in Morality, Law, and Politics*, 2009, 131.

²⁵⁸ Radzik, *Making Amends: Atonement in Morality, Law, and Politics*, 2009, 131.

²⁵⁹ In a similar vein, Trudy Govier argues: “We have an obligation to allow each other fresh starts, provided the wrongdoing is not too serious.” See her *Forgiveness and Revenge*, 2002, 44.

The supplicant bids us to see him through the lens of the person he intends to and might become, if only we do so consider him and receive him back to ourselves. In a sense, the supplicant asks us to trust in him enough to reestablish a relationship through which he may become worthy of that very trust, although nothing about him as he actually is now morally necessitates such an attitude.”²⁶⁰

At the political level, similar arguments are at work. The idea here is that when we fail to reconcile with a political actor who has done wrong, we deny her the possibility of removing the identity of the perpetual enemy and wrongdoer. We reject the possibility that he might become a co-member of the polity, hence the (political) disrespect. Hannah Arendt is the classic representative of this view. She claims that the most important benefit of political forgiveness (a term into which she subsumes the idea of reconciliation) is that it releases political actors from the permanent reiteration of vengeance and creates the possibility of a new start. Forgiveness, Arendt argues, is necessary “in order to make it possible for life to go on by constantly releasing men from what they have done unknowingly.”²⁶¹ As an Arendt scholar argues, the word “releasing” in the previous sentence is crucial because it “implies being unbound from the past in order to go on.”²⁶²

Arendt specifies that failure to offer the possibility of a new beginning boils down to a lack of respect. She makes this point by analogizing respect to love under most of

²⁶⁰ David Sussman, “Kantian Forgiveness,” 2005, 104.

²⁶¹ Hannah Arendt, *The Human Condition*, 1958, quoted by Elisabeth Young-Bruehl, *Why Arendt Matters*, 2006, 100.

²⁶² Elisabeth Young-Bruehl, *Why Arendt Matters*, 2006, 100.

its forms (as *eros*, *caritas*, *fraternitas*, *compassio*). Love, she says, is the relationship that most readily makes forgiveness (and reconciliation, which again for her is subsumed into the former) possible. Its closeness, intimacy, and in general its emotional attachments make it possible for individuals under its influence to forgive each other more easily. But the political theorist in Arendt is quick to note that love is an anti-political force because it destroys what she calls the in-between that is constitutive of politics. According to Arendt, love belongs in the private realm not in the public sphere because, as the emotion that it is, it tends to disregard the outside world and forms a closely-knit circle of intimates that may estrange themselves from the community. Love, in other words, weakens common bonds.²⁶³ By contrast, politics is action in concert with others, and such action requires these common bonds.

The substitute for love “in the realm of public affairs,” the “force” that strengthens, instead of undermines, mutuality and togetherness, is respect. Arendt defines respect, “not unlike the Aristotelian *philia politike*,” as a kind of friendship without intimacy or closeness, a “regard for the person from the distance which the space of the world puts between us.” Arendt elaborates the Aristotelian assumption that friendship constitutes the prime condition for political activity. The type of friendship that Arendt has in mind is an *analogia publicae* or proto-public sphere, a close “resemblance or image to the public activity of citizens, characteristics of which can

²⁶³ The notion of forgiveness itself, however, is in the last instance a basic form of the Christian notion of love (*agape*). *Agape*, Arendt argues, is unable to ground the public bond in social life because of its otherworldly tendency and because of its subjectivity. But Arendt tries to make of a properly circumscribed version of *agape* (forgiveness) a political concept by detaching it from its religious and ethical concepts and appreciating its political potential in creating political institutions and identities.

consist in spontaneity, discussion, speech, common deliberation, persuasion, cooperation, or absence of hierarchy.”²⁶⁴ Briefly put, just as lovers would forgive one another on account of the love they have for each other, citizens should forgive each other on account of the respect that they have for one another. The point of analogizing love to respect is to claim that just as an unforgiving lover would be a contradiction in terms (as the unwillingness to forgive would undercut the claim to love), so in the public realm the disrespectful citizen, that is, the political actor unwilling to forgive a fellow citizens, would betray a lack of respect.²⁶⁵

If, at the moral level, reconciliation involves the teleological suspension of the ethical, at the political register, it involves the suspension or annulment of the friend/enemy distinction. Andrew Schaap²⁶⁶ argues that when citizens politically forgive other citizens what is implied is a suspension of judgment. Not the judgment of the wrongness of the act but the judgment that the transgression confirms the other as one’s enemy in the present. And this, he further argues, is a form of respect because the suspension of judgment is ventured “for the sake of establishing a new relation based on mutual recognition of each other as co-builders of a common world.” Arendtian forgiveness, then, presupposes the idea of respect for the other as co-builder of a common world. This form of respect differs from the Kantian notion of respect in that while the latter applies to individuals as autonomous beings who

²⁶⁴ Shin Chiba, “Hannah Arendt on Love and the Political: Love, Friendship, and Citizenship,” 1995, 520.

²⁶⁵ In *Eichmann in Jerusalem*, Arendt discusses the notion of the unforgivable, specially in relation to the Holocaust.

²⁶⁶ Andrew Schaap, “Political Grounds for Forgiveness,” 2003, 82.

share the universal capacity for reason, the former applies to individuals as political beings who share a particular world as their common end.

III. Ritualized *Vergangenheitsbewältigung* or *Neubeginn*?

A clarification about the notion of reconciliation as it is deployed in German public discourse is in order before I turn to address the relationship between the latter and political forgiveness. The concept of reconciliation, just like that forgiveness, is usually used in different registers (i.e. personal and political). At a personal register, reconciliation is often cast as a strictly private affair that cannot be compelled or made subject to regulation. For instance, the head of the BStU Marianne Birthler says: “Reconciliation is not a political category, but something personal. You cannot organize it or plan.”²⁶⁷ Defending the agency’s aggressive policy of file declassification, she further argues: “Reconciliation presupposes, I think, that people ask for reconciliation or for forgiveness [...] I believe that access to the files itself is already reconciliation. We are on the right way. I know many people who, by studying their files, by addressing their past, have entirely reconciled themselves with it and found their peace.”²⁶⁸

By contrast to Birthler’s understanding of the notion, in public debates reconciliation refers to a political act whose goal is to restore or create civic relationships. The tendency in public discourse is to associate political forgiveness and reconciliation. In

²⁶⁷ “Birthler gegen Platzecks Stasi-Kurs,” *Der Tagesspiegel*, 03.01.2010.

²⁶⁸ A broadcast from Deutschlandradio. The transcription can be accessed at http://www.dradio.de/df/sendungen/interview_dlf/904231/

the previous chapter, I offered several examples of public figures arguing that there can be no reconciliation without a public apology. Many voices in German public discourse hold that citizens have a kind of civic duty to reconcile themselves politically with former denunciators. The language is explicitly normative. Provided that there a public acknowledgment by former Stasi collaborators of their past political missteps, as well as an unambiguous reprobation of those missteps, informers “should” be reincorporated into society. A former dissident in the GDR, unsympathetic both to the past action of IM and to their present silence, claims in this spirit that the latter have a “right to error or to return” (“*Recht auf Irrtum und auf Umkehr*”).²⁶⁹ If this informal right is not an empty formulation and is supposed to be somehow exercised, it must mean that former informants must be given a “second chance.”

Take for additional illustration the reconciliatory plea (as well as the public response to it) made by the Bishop of the Evangelical Church in Central Germany, Ilse Junkermann, in which she called for a “differentiated coming to terms with the past” (*differenzierten Aufarbeitung*) and argued that, even if many among the ranks of the Church had suffered in the hands of IM and other Stasi officials during the communist regime, “those people who were close to the regime should not be locked in drawers.” She further clarified that reconciliation with Stasi denunciators is a task that belongs “in front of and not behind the church.” This plea for reconciliation, endorsed by the Synod of her church, was met with deep skepticism.²⁷⁰ Union of

²⁶⁹ “Wie sollen wir es mit der Stasi halten, Frau Poppe?” *SuperIllu*, 16.12.2009.

²⁷⁰ A regional commissioner for the Stasi agency argued, for instance: “Die meisten der Verantwortlichen aus SED und MfS ducken sich doch ab und geben sich nicht zu erkennen.”

Victims of Stalinism (*Vereinigung der Opfer des Stalinismus*), a Berlin-based organization that supports victims of the communist regime, criticized the Bishop's offer for "blank reconciliation," characterizing it as a slap in the face for victims of the Stasi, that is, a sign of disrespect. The union furthermore argued that reconciliation "could only succeed if the perpetrators from the regime showed repentance."²⁷¹

Criticisms of this sort were also leveled against Brandenburg Governor Matthias Platzeck (SPD) for advancing a similar argument for reconciliation with former IM.²⁷² In an essay entitled "Taking reconciliation seriously,"²⁷³ he infuriated readers and politicians alike by making reference to the allegedly reconciliatory gesture of Kurt Schumacher, the SPD's first post-war leader who, he said, was willing to meet and engage with former members of the Nazi *Waffen-SS*, of which he had been a victim himself. The example of Schumacher, Platzeck claimed, should be taken as the standard to follow in regards to the question of how to deal with former Stasi informers.

In drawing this historical parallel, Platzeck was treading on dangerous territory. Nazi-*Aufarbeitung* is a highly contested subject in German historiography and public opinion. As I mentioned in the introduction to this dissertation, there is far-reaching

He doubted that reconciliation is possible, "wenn eine verschwiegene Front von ehemaligen Verantwortungsträgern vor einem steht, die Wahlbetrug, Mauertote und die Rechtsordnung der DDR rechtfertigen."

²⁷¹ "Reue vor Versöhnung; Umgang mit Stasi-Spitzeln: SPD-Politiker Steffen Reiche fordert Entschuldigung der Täter," *die tageszeitung*, 24.11.2009.

²⁷² It bears mention at this point that Brandenburg has had a moderate "destasification" policy, in comparison to other Eastern Länder. A. James McAdams, *Judging the Past in Unified Germany*, 73, 2001, 5-6.

²⁷³ "Versöhnung ernst nehmen", *Der Spiegel*, 02.11. 2009.

agreement around the idea that after a somewhat mild effort to confront the Nazi past in the aftermath of the war (at least in the West Germany), Chancellor Konrad Adenauer's so-called *Vergangenheitspolitik* encouraged the termination of that process through strong doses of amnesia and amnesty, instead of endorsing a more thorough investigation of and, where necessary, legal prosecution for past crimes.²⁷⁴ Against this historiographical consensus (that German post-war regimes failed to give a comprehensive and immediate treatment to a problematic past), Platzeck's historical analogy and his call for the "integration" of IM was likely to be looked upon with suspicion, as a step taken in the road trodden by Adenauer. Among other signals that many publics interpreted in just this way was the fact that Platzeck seemed to be offering a kind of reconciliation predicated on oblivion, on wiping the slate clean without any need for former IM to publicly apologize. In his essay on reconciliation, none of the notions related to forgiveness (*Verzeihung*, *Vergebung*, *Entschuldigung*) are even mentioned. When Platzeck prescribes reconciliation, repentance is nowhere to be found in the list of conditions leading to it. The essay considers mainly what society must do to "integrate" former collaborators, at least those who did not commit criminal acts, but no particular thing is asked from them. Instead the emphasis is put on the need to offer malefactors the opportunity for new beginnings: "If we draw the right lessons from history, [reconciliation] turns less on a ritualized

²⁷⁴ For a succinct characterization of the changing approaches to the legacy of the past see Norbert Frei, "From policy to memory: How the federal republic of Germany dealt with the Nazi legacy," 2006, and also by Frei, his monumental *Vergangenheitspolitik. Die Anfänge der Bundesrepublik und die NS-Vergangenheit*, 1996. On the very distinct approaches to dealing with the Nazi Past from Konrad Adenauer, Kurt Schumacher, and Theodor Heuss. See also Jeffrey Herf, "The Emergence and Legacies of Divided Memory: Germany and the Holocaust after 1945," 2003.

Vergangenheitsbewältigung that in our willingness to encourage active new beginnings.”²⁷⁵ It took very little for Platzek, in view of the criticisms he faced, to reconsider the importance of apologies and repentance and to claim that, indeed, it was apposite to the process of reconciliation “that one admits to one’s own erratic behavior and displays active repentance (*tätige Reue*).”²⁷⁶

I do not want to take Platzek’s statements at face value. It might very well be the case that in recalling the integration of former members of the *Waffen-SS* in postwar Germany, he was attempting to construct a façade of magnanimity around his maneuvers to build a parliamentary coalition, presenting them as acts for reconciliation and against political exclusion (*Ausgrenzung*). This possibility notwithstanding, it is nonetheless telling that the nerve of the criticism against both reconciliatory pleas (Platzek’s and Junkermann’s)²⁷⁷ is that they sell reconciliation for too little. Public atonement is left for a later day. By contrast, their critics posit that political forgiveness (asking for an apology and giving it) is a necessary, if not sufficient, condition for reconciliation.

The preceding discussion should have made it clear that, for many social and political actors in Germany, reconciliation is not just any progression of steps that ultimately leads to some sort of pragmatic agreement to settle the past, or to construct a temporary *modus vivendi*, where citizens are no longer at each other’s throats. Such a

²⁷⁵ “Versöhnung ernst nehmen”, *Der Spiegel*, 02.12.2009.

²⁷⁶ “Stasi-Verstrickungen; Platzek fühlt sich getäuscht und geprellt,” *Die Welt*, 4.12.2009.

²⁷⁷ To the question whether Platzek “was right” in his demand for reconciliation, the majority (72%) of over a thousand readers of the online edition of *Die Welt* said no, while only a minority supported this demand (28%). “Platzek fordert Versöhnung mit Erben der SED,” *Die Welt*, 31.10.2009.

process, understood as the aspiration towards harmonious relationships, could be undertaken simply by attempting to forget the past. But opposition to forgetfulness as a route to reconciliation has been vocal and relentless in Germany.²⁷⁸ *Vorwärts und Vergessen*²⁷⁹ is the laconic formula, commonly used in political discourse with a disapprobatory spirit, that best captures this opposition. *Nazi-Aufarbeitung*, with its compound of amnesia and amnesty, is the road not to be taken.

One way of interpreting Platzcek's statements is that they intend to play down the importance of *Vergangenheitsbewältigung* (coming to terms with the past), in order to give priority to political "reintegration" or reconciliation. Thus, they suggests that a perpetual ban from public office is neither an appropriate measure to come to terms with the past nor a proportionate penalty for IM; rather, such a ban is simply a "ritual" in the pejorative sense of that term: a knee-jerk reaction divorced from any claim of justice. Platzcek further implies, as will be seen more clearly below, that reconciliation is a matter of respect: it is owed to IM, provided they apologize in public.²⁸⁰ Offering reconciliation for little would be disrespectful to victims, as the Union of Victims of Stalinism complains, but offering no reconciliation at all would be disrespectful to atoning perpetrators.

²⁷⁸ And in fact, in several Eastern European nations and in Spain (although this is changing) forgetfulness seems to have been understood as the appropriate route for reconciliation, although for different reasons in each case.

²⁷⁹ See, for example, the book by Uwe Müller and Grit Hartmann, *Vorwärts und Vergessen! Kader, Spitzel und Komplizen: das gefährliche Erbe der SED-Diktatur*, 2009.

²⁸⁰ A line taken by most forgiveness scholars is that justice and reconciliation embody conflicting sets of values. But if reconciliation and political forgiveness are implied by respect, then they too might be related to justice.

IV. One Closure Takes Two Self-Disclosures: From *Mitarbeiter* to *Miteinander*?

Political forgiveness paves the way for reconciliation according to the norms upheld in German public discourse. However, when we step away from discourse and turn to actual practices, it does not appear to be the case that informers who offer apologies get reconciliatory dispositions in return. Either because public apologies are a necessary but insufficient condition for reconciliation or because the political and social actors who weave a political narrative about the virtues of public apologies do not actually bring themselves to actually reconcile with IM when they hear their apologies, I will argue in this section that often the cycle of political forgiveness (demand, offer, and acceptance of apologies) fails to offer IM the prospects of a slate wiped clean. To illustrate this, I examine a case in which a public apology from a Stasi unofficial collaborator did not go all the way in removing the legal and/or political limitations on public office eligibility, which that have been commonly imposed on many former informers because of their complicity with the secret police. The subsistence of this kind of restriction, I argue, is an indication of the reluctance of citizens to “venture trust” and promote reconciliation in the German polity. It is also an example of a disposition that undercuts respect, as actors themselves understand the notion.

Positing this gauge (eligibility for public office) as a measure of the extent of the commitment to political reconciliation is historically warranted in Germany. In the aftermath of reunification, the country enforced an aggressive screening process for

removing former Stasi member, including its informants, from public service. Targeted were not only members of federal and state governments and parliaments but also employees of public service, church members, attorneys, and even notaries, among others. The measures implemented to undertake the screening process in Germany were more moderate than the so-called lustration policies enforced in the former Czechoslovakia and later in the Czech Republic, but more intrusive than those implemented in other Eastern European countries.²⁸¹ For reasons that I cannot explain here, the process of vetting for Stasi activity was carried out unsystematically, without any uniform standard of application and with a force and direction that might have been excessive. It was not until several years after the reunification, when the courts (federal, administrative, labor) were thrust into the process, that the grounds for dismissal were progressively refined and narrowed. Over the course of the years, the tendency in the courts' decisions was to set the standard of disqualification for public service to Stasi involvement that led to proven violations of serious human rights.²⁸²

In any case, the explicit motivation for most of these disqualifications was to cut through what Anne Sa'adah calls the "thick film of distrust"²⁸³ that Stasi activism helped produce and that covered, in particular, public service. Joachim Gauck epitomized this view by arguing that if "after more than 55 years of Nazi and communist dictatorship citizens were going to trust elected officials under the new

²⁸¹ For a varied pallet of the screening processes undertaken by several transition regimes in the last two decades see Kaminski and Nalepa, "Judging Transitional Justice: A New Criterion For Evaluating Truth Revelation Procedures," 2006.

²⁸² A. James McAdams, *Judging the Past in Unified Germany*, 2001, chapter 3.

²⁸³ Anne Sa'adah, *Germany's Second Chance: Trust, Justice, and Democratization*, 1998, 68.

democratic system, it was important that those officials be trustworthy.” He added that the purpose of barring IM from public office was “to respond to the East German people’s minimal demand that persons who had conspired with the regime, unbeknown to their fellow citizens, should be deemed unsuitable for public positions of trust.”²⁸⁴

The most swift and most efficient way of materializing the entreaty to remove the post-communist layer of distrust appears to be, in Gauck’s view, a simple purge of all former IM. But a radical lustration policy inspired on the Czech model, the exact opposite of leaving a public official’s past wholly unexamined, was ruled out in Germany to the dismay of some and to the relief of others. The rejection of this draconian method (simply let all the heads role) strengthened the expectation from political and social actors that IM would at least make amends, such as showing their repentance and offering public apologies, especially if they were to occupy prominent positions in society. This opens up the question of whether the satisfaction of the forgiveness cycle would give the malefactor the opportunity to fully participate in politics, the possibility of the vaunted “new beginning” that reconciliation is supposed to offer. In the case of IM, a reconciled denunciator would, through her apology, (re)gain her status as a fully participating citizen, which would allow her not only to elect her representatives but also to be eligible for public office. Does political

²⁸⁴ Quoted by A. James McAdams, *Judging the Past in Unified Germany*, 2001, 58-9. The argument from trust is in fact one justification as to why members of the Stasi, and not members from the ruling party during the GDR, the SED, had not been (and should not be) disqualified from occupying positions within the government. The latter did not betray, as did the former, the public confidence, since their allegiance to the SED was not a secret, as involvement with the Stasi was.

forgiveness contribute to “resocializing” or “rehabilitating” (to use the terms current in public discussions in Germany) IM in these ways?

If the question is considered in light of the case of Kerstin Kaiser, a politician from *Die Linke*, the descendant of the communist party in the GDR (the SED), and one of the IM involved in the recent controversy around the so-called red-red coalition in Brandenburg (briefly mentioned in the last section), the most compelling answer is no. Following state elections in Brandenburg in 2009, SPD Governor Matthias Platzeck entered into a governing coalition with *Die Linke*, a political move that many voices deemed inappropriate given *Die Linke*’s communist genealogy. The political maneuver came under fire when some of the politicians appointed by the *Die Linke* to integrate the ruling coalition, Kaiser among them, were exposed as former informers for the Stasi. In the midst of the controversy, Kerstin Kaiser offered a handful of public apologies for her involvement with the Stasi, in particular a written plea for forgiveness.

Kaiser’s public apology is noteworthy on at least two scores. The *Linkspartei*, her party, and its immediate predecessor, the PDS, have a record of disavowing the undemocratic acts of the communist regime while at the same time refusing to offer public apologies for the violations of human rights perpetrated by the Stasi. A memorable instance of such discursive resource/legerdemain was its refusal to offer a public apology for the construction of the Wall on its 40th commemoration. The PDS chair, today a politician from the unapologetic *Die Linke*, argued that she shared “the view that nothing is clarified with rituals of apology. [Coming to terms with the past]

is not about atonement (*Abbite*).²⁸⁵ Another prominent PDS member argued in 1999 that the erection of the wall had been a “legally (*völkerrechtlich*) permissible and appropriate action at that time.” Yet another distinguished PDS representative (today in *Die Linke*) went so far as to say that “in 1961 the Wall brought peace to Europe and the world. It would help nobody if we apologized for the Wall.”²⁸⁶

Kaiser’ case is all the more interesting in grasping the extent of forgiveness’ power to “rehabilitate” individuals, particularly politicians, because she was not outed by her victims, by a sensationalist tabloid, or by a more respectable newspaper or magazine searching to enrich public debate, which are the most common avenues for publicly exposing IM. Kaiser outed herself, that is, she engaged in a voluntary act of self-disclosure. In fact, to be precise, her involvement with the Stasi came as no surprise. She had repeatedly acknowledged her previous engagements with the Stasi over the years, and in 1994 she had even renounced to a seat in the Bundestag for the same reason she was declining to participate in Brandenburg’s governing coalition 15 years later.²⁸⁷

²⁸⁵ Gesine Löttsch, “Unrechtstaat,” accessible in her website: www.gesine-loetzsch.de

²⁸⁶ Gerd Langguth, “Plädoyer für eine Entzauberung der Linkspartei,” *Der Spiegel Online*, 25.09.2009. The author of this piece is a former representative from the CDU.

²⁸⁷ Although she had been democratically elected three times before for the local congress in Brandenburg (*Landtag*), local politics seems to have been the limit imposed on her. She was appointed through parliamentary negotiations (democratically) for an executive position, but she had to resign because of pressure from public opinion. The fact that Kaiser was disqualified, de facto if not de jure, from holding public office, at least at the higher echelons, raises interest concerns from the point of view of democratic theory that I cannot fully address here. Kaiser herself complain about the “Diskreditierung des bereits geplanten demokratischen Verfahrens zur Stasi-Überprüfung der Abgeordneten.” “Stasi-Verstrickungen; Platzeck fühlt sich getäuscht und geprellt,” *Die Welt*, 4.12.2009.

Kaiser calls her written public statement about her involvement with the Stasi a “clarification” of her political past.²⁸⁸ Although the title does not foreshadow an apology, the content of the statement contains many of the elements of what Nick Smith calls a categorical apology.²⁸⁹ She begins by offering a factual record of the events salient to her wrongdoing, apparently trying to share an understanding of the context in which it happened, and offering full access to all the facts material to judging the transgressions. Thus, she admits to having informed on 12 students while they were at Leningrad (today Saint Petersburg). Stasi officials told Kaiser (“IM Katrin”) that they were worried that the secret service of “capitalist” nations would try to approach East German students, so an eye had to be kept on them. She was doing a service to her country, she believed back then, “But I did not draw the necessary consequences from today’s perspective.” She asks, “Why didn’t I have—as an eighteen year old girl—any doubts about the legitimacy of the requests of the Stasi officers and about the rightness of my decision? Who and how I was then that I had no doubt whatsoever?” She offers a tentative response: “Evil existed elsewhere for me.” In Pinochet’s *coup d’Etat*, in occupied Vietnam, elsewhere in the capitalist world, but not in the GDR.

As can be seen, the apology is not without mitigating excuses.²⁹⁰ These are not exculpatory excuses or “accounts,” in Tavuchis’s sense, but additional considerations the “transgressor” introduces in order to lessen the gravity of her offense by putting

²⁸⁸ “Zu meiner politischen Vergangenheit. Erklärung zur Zusammenarbeit mit dem MfS.”
Accessible at: http://www.kerstin-kaiser.eu/persoendlich/meine_vergangenheit/

²⁸⁹ I’m following a standard proposed by Nick Smith, *I Was Wrong: The Meanings of Apologies*, 2008, 140-142.

²⁹⁰ On the distinction between mitigating and exculpatory excuses see Govier, *Forgiveness and Revenge*, 2002.

her actions in an institutional and ideological context where they appear to be legitimate, and by displacing some of the responsibility for those actions towards the state. Kaiser produces further mitigating excuses. I quote her at length:

Looking back today with all of what I have learned these past years, with all of the knowledge that I have acquired, it is hard to imagine that my decision at that time did not appear wrong to me. I believed in the state in which I lived in and I was thankful for this state. These were obvious reasons for my behavior. [...] The fact that I was only eighteen years old at the time does not excuse the fact that it was a mistake, but it is one of many reasons why I made this mistake.[...]

I can say that I never wanted to denounce anyone. Never. And from today's perspective I have to say that the moment in which one has already declared himself ready to have conversations with a secret intelligence service this intention is no longer of any use. It is no longer up to you whether you denounce someone or not, simply because you have no control over what will be done with the information you have given. The best intention can have the worst results because the intelligence service decides the outcomes, not the informant. That was, I say today, always like that and it could be found everywhere.

Further on, Kaiser begins to make her way towards a less ambiguous apology. First, she clearly acknowledges her "mistake," as she calls it, and admits blame. Second, she openly declares that she had already apologized in a private setting to her

“victims” (she had already taken “the first steps”), which, according to what I have argued before, amounts to a recognition of her “victims” as respect-worthy interlocutors:

From the very start I did not want to hide myself. From 1992-1994 I could speak with nearly all of my classmates that were affected by my actions. I found out that I had luckily not harmed anyone. Critical discussions and insights about “our earlier life”, but also forgiveness and trust defined our meetings and conversations [...] Before 1989 I had already spoken with close friends, previous classmates and my family about the contact with the Stasi in Leningrad. That was difficult and uncomfortable. It was clear to me that this cooperation had been a mistake. I had realized that to have given opinions about the life and the political reliability of classmates was in this case not only overbearing personally and politically, but was also a step too far.

Kaiser uses the German word *Anmaßung*, a notion that carries both the notion of usurpation and arrogance. Kaiser acknowledges not only that she did something that did not correspond to her to do, but also that she behaved in a way that positioned her in an unduly elevated political status. By offering an apology, she voluntarily lowers her “illegitimate” superior standing.

Kaiser then proceeds to articulate an apology in a clearly political sense, where it is hard to miss the Arendtian undertones. She could not be forgiven in isolation, she says; she needed a “*Miteinander*,” a notion that is a conceptual pillar in Arendt’s

theoretical architecture, as we have seen. She also makes a straightforward argument for publicity as the most appropriate vehicle for forgiveness:

It became clear to me at this point that I wanted cooperation in politics like the cooperation found in private life; cooperation that respected the rights and opinions of the individual, because a self-made, fulfilled life is impossible in a family or in a society filled with concealment, distrust, bullying and surveillance or a society where everyone simply “turns a blind eye” to wrongdoing. [...] This was also why “suppression and forgetting” was not an option for me.

Next, comes her public (the apology is available on her website) and categorical display of repentance, where she advances yet another notion reminiscent of Arendtian political thought: responsibility as the ability to say no.

What I did wrong will torment me for the rest of my life. Torment me because with today’s point of view I can say, “It would have been possible to say no, to not have given in.” No, I cannot say whether it would have led to different consequences or what these consequences would have been, but the option would have been there and that is an important realization for everything that I do today. Just as important as the realization that there may be many reasons to make a mistake, but all of these reasons do not change the fact that it is a mistake and that you have to stand by this mistake if you want to be involved in politics and plan to solicit the trust of others.

Finally, her bid to reform and to forbear from reoffending, a particularly important promise from a politician who has held public office in the past, wishes to continue to do so, and therefore values credibility as one of the most important assets:

I want to, can, I must do things differently today. I do not want to accept it when people are shut out and made helpless by the ruling power. If I ever come across something I do not agree with I must criticize it openly and search for alternative ways. My personal dealings throughout the day up to every vote in parliament has a social and political dimension to it and only I am answerable for these dealings.

In sum, Kaiser's apology was unambiguous. The reception of the apology, however, was ambivalent. Some voices appreciated Kaiser's gesture and contrasted it to the unapologetic behavior of other IM who mobilize legal resources in order to remain anonymous and thereby spare themselves the trouble of offering an apology. With these IM, a commentator argued, he would not wish to be reconciled.²⁹¹

These expressions of approval notwithstanding, most voices chose to disregard the apology and instead highlighted Kaiser's initial "silence" over her involvement with the Stasi, which earned her a "loss of credibility" (*Vertrauensverlust*),²⁹² as a national newspaper put it, even though the news about such involvement had already belonged

²⁹¹ See for instance Richard Schröder, "Versöhnung – mit wem?," *Der Spiegel*, 9.11.2009. This author writes, "I thought it was a noble gesture that Kerstin has said it waived a ministerial position because she knows that for many in the SPD would be a problem. That speaks highly of her. I would not have asked that from her. But there is a very different kind of IM, who use all judicial in order to prevent that their names are clearly named, and that even intimidate their victims [...]. With those I would not reconcile myself in the future. Their behavior is contemptible."

²⁹² "Stasi-Verstrickungen; Platzeck fühlt sich getäuscht und geprellt," *Die Welt*, 4.12.2009.

in the public domain for over 15 years. More interesting than the trenchant and unfavorable assessment of Kaiser's credibility, of a piece with the political environment cultivated by former GDR dissidents like Joachim Gauck, is the fact that Kaiser's full-fledged demand for forgiveness could not do away with the unsympathetic public judgment cast upon her. According to the weekly newspaper *Die Zeit*, Platzeck is said to have complained to those in his closer circle that informers were hardly ever "forgiven" (i.e. allowed to resume an unimpeded political career). He made his point by way of a questionable comparison: some murderers, he pondered, may be set free after 15 years, moderate criminal offenses are erased from the records, but "the Stasi-stain of IM remains." Kaiser herself complained "that always the same standard can be set against, that one part of my biography is singled out and remains all-powerful." Even *Die Zeit*, reporting on these statements, had to concede that as far it may be judged, Kaiser "had accomplished a full reversal (*Umkehr*), externally and internally."²⁹³

One reason why Kaiser's apology might have been incapable of cleansing the "Stasi-Stain" of distrust might be that her apology was publicly perceived as an instance of what Nick Smith calls a purely instrumental apology, that is, apologizing with the sole goal of furthering one's interests (in Kaiser's case, her political prospects of being appointed a Minister). As Smith himself suggests, a demand for forgiveness that follows the "apology-script" too closely, risks raising the suspicion of lacking authenticity.²⁹⁴ A suspicion of that sort may be inferred from what a newspaper

²⁹³ "Die Grenzen der Schuld," *Die Zeit*, 12.11.2009.

²⁹⁴ Nick Smith, *I Was Wrong: The Meanings of Apologies*, 2008.

editorial covering Kaiser's story calls the "sorry pattern" (*Entschuldigungsmuster*).²⁹⁵ Alternatively, no such perception of dishonesty exists, and the public outcry for Kaiser's attempt to participate in Brandenburg's government simply reflects the reluctance of political elites to accept the apology offered by Kaiser on equally strategic grounds, as hers might have been. That is, if her apology is solely a strategic façade to appear in the eyes of the public as an upright civil servant, its rejection is also part of a scheme orchestrated by other politicians to harm the prospects of a parliamentary coalition. The lack of a forgiving disposition may be no less instrumental than an instrumental apology.

Be that as it may, the reception of Kaiser's apology and her decision to abandon the governing coalition in Brandenburg cast doubt upon forgiveness' restorative and reconciliatory power in Germany. Even though Kaiser offered an apology, she was nevertheless *de facto* prevented from exercising her political right to hold public office, as she was pressured into giving up her aspiration to become a Minister. Offering an apology does not necessarily render the would-be forgiven a full political "rehabilitation." The self-disclosure of the offender alone does not lead to a closure of the offense and the opportunity for a "new beginning;" this type of closure also takes, I argue, the self-disclosure of would-be forgivers, that is, their willingness to abide by the *public* norms that organize the practice of forgiveness. In the rest of this section I unpack this argument.

P.E. Digeser argues that political forgiveness is a "performative self-disclosure." This means that forgiving someone in a political sense entails adapting certain dispositions

²⁹⁵ "Die Grenzen der Schuld," *Die Zeit*, 12.11.2009.

towards the supplicant, without which the would-be forgiver cannot be said to have authentically forgiven the latter. More concretely, the would-be forgiver needs to engage in an exercise of self-disclosure. The sense of the term is not Arendtian. Instead, as was already mentioned, Digeser is borrowing from Michael Oakeshott, who understands self-disclosure as “choosing an action in pursuit of a desired end according to a set of publicly recognized norms and practice.”²⁹⁶ In the case of forgiveness, its success as a course of action depends on whether one lives up to the public rules that govern its practice. This would require, for instance, that the perpetrator of an offense (say informing on someone else) once forgiven, be treated in a different way. Digeser explains this idea as follows: “If A forgives B for missing the meeting that B promised to attend, and A then mentions this failure every time they come together, or uses this absence to disparage B publicly, then B can probably call into question whether A had actually forgiven him. If A had truly forgiven B, then he would treat B as he had prior to the wrong.” On Digeser’s framework, then, the success of politically forgiving an informer would depend on the willingness of the would-be forgiver not to say anything more about the matter and instead treat her as she was treated prior to her wrongdoing. On this view, if forgiving means giving the supplicant the opportunity to not be bound by past failures and offering her the possibility of “a fresh start,” then her apology should be reciprocated with a complete political rehabilitation. Otherwise, there is reason to question (and the informer has reason to question) whether she has been truly forgiven.

²⁹⁶ P.E. Digeser, *Political forgiveness*, 2001.

V. Conclusion

I want to steer the discussion towards the theme of respect, and to do that let me go back to Kaiser's complaint that her Stasi involvement remains all-powerful and defines her relationship to other citizens in the present, especially the electorate. The point is not to vindicate her but to clarify how the idea that citizens are owed respect is in the background of her complaint about the pertinacious stain of distrust and the difficulty of removing it from IM. If former informants repent in public and ask for forgiveness, she asks, do they not "deserve" the chance to be forgiven and given the opportunity to have a "new beginning," as Platzeck puts it, on account of the respect that is owed to them as fellow citizens?

Chapter 7

Conclusion

I. Tying Up Loose Ends

In this dissertation, I have examined the public exposure of IM in order to illuminate some notions of respect. By way of conclusion, I will sharpen some of the theoretical points I made in the previous chapter. Furthermore, I will revisit and develop some of the normative insights that, although not central to the project, I made along the way. I will concentrate on four themes. First, I make an argument about why the public exposure of IM may be understood as an acceptable mechanism to reckon with the Stasi past. The normative purchase of this argument notwithstanding, I next turn to consider some of the ways in which IM outings might raise moral and political concerns from the point of view of respect, even if in the final analysis the latter are overridden by the argument about the ethical imperatives of outing IM. One such concern is the idea that civic disqualifications turn into professional degradations. Another concern is that public apologies of IM become performances that eliminate an important component of what underlies the very idea of receiving an apology. Finally, the last concern has to do with the stringency of the conditions some German citizens set for forgiving or reconciling with IM.

II. Epistemic Humility: The Wisdom of Outings

The BStU, the agency in charge of the archival legacy of the Stasi, is not merely a “neutral” institution in charge of administering the files and providing citizens and other government agencies with the information they request. Oftentimes, the BStU is a sympathetic promoter of outings. Nonetheless, outings are by and large a social enterprise. The public exposure of Stasi informers is the work of activists of civil society, even if, certainly, the complicity (and sometimes the upfront instigation) of political elites is an important ingredient. Outings are public (or semi-public) forms of social criticism that serve the purpose of historical clarification, transparent responsibility attribution, and the construction of civic forms of political agency.

Consider outings, and *Aufarbeitung* more generally, in the least generous light of its benefits. At the risk of depriving *Aufarbeitung* and outings of their gravity, it might be useful to analogize them to a more (apparently) trivial human pursuit: gossip.²⁹⁷ The analogy is useful not only because sometimes the motivation to out collaborators seems to be propelled by an interest in revealing sensational facts about individuals (such as their past as denunciators) in order to spread them and “manufacture news,” a profitable endeavor at the expense of the infamous secrets of IM. That is, the interest is not historical or political but plainly commercial. There are several interpretations regarding what gossip is and, more importantly, what gossip does. From one vantage point, it is low-value speech, to borrow a judicial term, a parasite to

²⁹⁷ Edwin C. Baker, “Autonomy and Informational Privacy or Gossip: The Central Meaning of the First Amendment,” 2004. See also Jeanne M. Hauch, “Protecting Private Facts in France: The Warren & Brandeis Tort is Alive and Well and Flourishing in Paris,” 1994.

serious public discussion that can only entrench prejudices, feed the mills of media sensationalism, and lead to defamation and invasion of privacy. In a sentence, gossip is an impoverished form of public discourse that can be dispensed at no cost and without much loss. But from a more sympathetic view, one that does not necessarily turn a blind eye to the sleaze that usually accompanies it, gossip plays a crucial role in enforcing social norms about proper civic behavior, and, insofar as it does that, it ought to be tolerated. What is one to do if the cement of social order is mixed with some sleazy materials? To suppress gossip would be to hinder the functioning of one mechanism—gossip—that structures civility rules in a society, so the argument goes. One may portray *Aufarbeitung*, in relation to informal collaboration, as massive and well-orchestrated gossip. It “operates” in order to endorse certain forms of behavior, namely civic ones, and condemn others. Putting obstacles such as personality rights in its way would be problematic because it would stifle the spontaneous dissemination and enforcement of social norms. Likewise, gossip is a practice that allows people to have informal conversations with others about how one would respond to certain concrete moral dilemmas. In this way, civic relationships may be developed through communication about ethics. Outings may trigger just this process.

As in Germany, civil society in other nations has struggled to come to terms with a violent past, and many political and social actors in such societies have deployed similar strategies to outings in order to contribute to this goal. An example is the public denunciation known as the “*escrache*” or scratching of collaborators of the military dictatorship in Argentina, where activists alert neighbors of a given district that a person suspected of “genocide” is living among them (*Genocida en el barrio*).

As in the German case, *escrache* is a concrete mechanism that Argentine society, through its representatives, has deemed suitable to come to terms with the past actions of denunciators. The existence of this and other forms of non-state mechanisms of civic accountability in other societies suggests that the public exposure of former perpetrators plays a crucial role in coming to terms with a problematic past.

III. Civic Disqualification or Professional Degradation?

But conceding the point that the public exposure of IM is a legitimate practice to address the legacies of the Stasi past does not mean that outings do not at the same time generate parallel normative worries. They do, and they should not go unaddressed. These concerns might in the final analysis be overridden by higher-order concerns about the benefits of outing. Nonetheless, the former should be spelled out clearly. In this section, I consider two such concerns. First, outings are forms of civic disqualifications that commonly translate into professional degradations: because IM were bad citizens, their professional development cannot advance beyond a certain level. This slippage between political and labor realms (between politics and work) should be a source, if not of concern, at least of attention. Related to this point, outings cancel out what I referred to in a previous chapter as the (informal) right to forgetfulness. And while this sort of historical amnesia surrounding past misdeeds entails the objectionable side of impunity for perpetrators, it may have, on the flip side, a less negative dimension: the possibility for IM of thriving under new political circumstances.

Let me pick up these two themes through an example that integrates both of these concerns. Consider a 2008 broadcast in *Das Erste*, Germany's largest publicly owned television channel, in which a senior reporter outs a number of IM whose identities he found in his own Stasi file. What one of them does and says, though, is particularly worth our attention. He is asked his opinion about the fact that a former IM is currently a fellow journalist at the same local newspaper where he works. He replies that we should not derive any consequences from an event that happened more than 20 years ago. He further says that every man should "receive a chance to rehabilitate himself through work." He is also asked whether he had any involvement whatsoever with the secret police, which he rapidly (and somewhat stiffly) denies. The reporter is skeptical about this answer, so the next day he approaches him again and insists. Did he really not have any relations to the Stasi? The individual finally admits his complicity. He used to be an IM: he wrote reports about other citizen's activities for the Stasi. Does he consider it a mistake?, the reporter asks. Cornered, he yields: he regrets his involvement with the Stasi; he admits he flagrantly erred.²⁹⁸ Our beleaguered IM would have probably preferred his past affiliation with the Stasi to remain secret and to "rehabilitate" himself through work. His personality type was common among IM according to a recent study (he had no particular misgivings about his IM activity, performed it as "voluntary work," and was even proud of having distorted some of his reports in order to benefit other citizens). He probably had, like another former informant, "the sincerest hope that his file [would] molder

²⁹⁸ "Verdrängen, verklären, bereuen." The interview is available at <http://daserste.ndr.de/panorama/media/stasi104.html>. Last seen on March 2009.

quietly in an archive” and currently fostered “the modest ambition [...] to maintain a quiet life for himself and his family in unified Germany.”²⁹⁹

The example illuminates an intuition that, as noted in the second chapter, is commonly expressed in public opinion and even in judicial opinions: sometimes the histories of individuals need to be removed from the public eye if these individuals are to be rehabilitated in society. For that to happen, some dose of social forgetfulness might be necessary. However, as we have seen, most political actors and citizens in Germany are unwilling to administer them.

A recurrent “punishment” following IM outings has been the dismissal of informers not only from government positions but also from jobs in the private sector. Private employers who do not wish to acquire the reputation of being the “protector” of Stasi denunciators do not think twice about how to proceed. Although the lay-off frenzy of the first years of the reunified republic subdued with the passing of time, an exposed IM may still get fired today. If a sound engineer at a public radio station turns out to have been an informer, the expectation is that she resigns. If a former informer is currently a hotel manager, the likelihood that he will be fired is extremely high.

IM did not commit any crimes, according to the books. Their actions might have been immoral, if anything, but not illegal. Since this is the case, the search for a proportional punishment cannot turn to the stipulations of the law. Therefore, even acknowledging that informing for the Stasi should be subject to social condemnation in the present, the difficulty consists in setting a standard for punishment proportional

²⁹⁹ John Schmeidel, *Stasi. Shield and Sword of the Party*, 2008, 49-53.

to the misdeed. The professional degradations that frequently come as a result of civic disqualifications are a standard practice and, in many instances, seem to have been deemed a proportional punishment to the wrongdoing of IM denunciation. Some individuals say they want to “do their job” in order to forget, but society does not want to forget IM, even if that means that some of them will lose their jobs.

IV. Public Apology: A Less Respectful Kind of Apology?

State apologies (Clinton apologizing for U.S. inaction in the face of the Rwandan genocide, Chilean President Patricio Aylwin apologizing for Pinochet’s dictatorship) are particular examples of public apologies. State apologies have an inherent problem: they produce what Ernesto Verdeja calls “illocutionary pitfalls.” What the state does in offering an apology is actually to *issue* it rather than to *ask* for it. The difference is not trivial. In the first instance (issuing an apology) the action annuls, at least in part, the importance of the reaction of the would-be forgiver. The would-be forgiven’s act of issuing the apology is what really matters. An example of the latter case is when state authorities apologize, on their own behalf or on that of their predecessors, to victims who are no longer living (the victims of state terrorism, for instance). State apologies, then, are not subject to rejection. They are unilateral through and through.³⁰⁰

I noted before that IM outings are, for the most part, socially orchestrated practices. Nevertheless, Verdeja’s analysis of state apologies illuminates a problematic aspect

³⁰⁰ Ernesto Verdeja, “Official Apologies in the Aftermath of Political Violence,” 2010.

of the sort of public apology that is expected from IM. As in the case of state apologies, when IM (or any wrongdoer for that matter) *issue* public apologies, the risk is that what comes to matter in the eyes of the polity is the public *performance* of the apology. It suffices that the wrongdoer utters public words of apology, while the acceptance or rejection of such words on the side of the would-be forgiver loses importance; the latter is thereby erased from the horizon of forgiveness. But the fact that the victim “vanishes” in this way undercuts part of the apology’s purpose, which is not only that the wrongdoer shows repentance for her actions, but also that she affirms the equal *respect* between the victim and herself. Apologies entail some sort of “respect negotiation,” as it were, a complex form of interaction, not a single-sided declaration. Such presupposition is behind the principles of the victim’s prerogative, explored in the previous chapter. Apologies, in other words, have an element of coming together to exchange forgiveness.³⁰¹

While with respect to IM some political actors emphasize the importance of private manifestation of repentance and apologies, others (many others indeed) insist on the utterance of public words of apology. The risk, again, is that the performative or declarative aspect on the side of the IM takes precedence over the interactive or process-based one. The actual purpose of the apology, which, as I claimed before, is expressing respect for the victim, might be lost in the public performance of IM. If

³⁰¹ This understanding of forgiveness is contrary to Jacques Derrida’s, who maintains that an act of “forgiveness” must be fully unconditional; otherwise it is not really forgiveness but a transaction that involves some sort of return in the future. Forgiveness takes an unbounded act of generosity. The “*aporia*” of forgiveness, in his view, is that strictly speaking one can only forgive what is unforgivable. An excellent study of Derrida’s view’s on forgiveness is Janna Thompson, “Is Apology a Sorry Affair? Derrida and the Moral Force of the Impossible,” 2010.

respect was supposed to serve as one justification for demanding the apology in that it made a perpetrator *seek* the victim's forgiveness, then the public apology seems to provide the former with a way out of this search. In other words, public apologies might be a way of striving towards forgiveness at a very low price, and that depreciates respect for victims.

V. A Fading Prerogative: The Elevated Threshold of an Unforgiving Polity?

As I noted in chapter six, the victims' prerogative (it is up to the victim, within acceptable parameters, to set the terms for forgiving her wrongdoer) is a generally accepted normative principle not only among scholars but also in German public opinion. Following Nir Eisikovits, let me highlight the fact that one of the properties of the prerogative is its fading quality, something that is quite often disregarded when political forgiveness becomes embroiled in party politics. That the prerogative is "fading" simply means that the further away one moves from the party directly wronged, the less sense it makes to think through forgiveness or reconciliation in terms of the prerogative. To illustrate the fading quality of the victim's prerogative, consider the following example. X is a person who gets injured in a bus bombing perpetrated by a terrorist. It makes sense, from a normative point of view, to say that she is entitled to demand for an apology, and, moreover, that within certain limits she should be able to set the conditions for forgiving the terrorist. It can also make sense to entitle her parents to demand an apology and to set the conditions for forgiving the perpetrator, though daughter and parents might not be forgiving the same thing (the

extent of X's physical pain is obviously greater than that of her parent's, but the degree of their emotional anguish might have well been higher than hers). It would be more problematic, however, to speak of X's neighbors forgiving the bus bomber for X's injuries, and even more problematic to speak of people whom X has never met forgiving the bomber. Thus, the entitlement to "grant" forgiveness, and to set the conditions thereof, fades away as we move away from the victim. There is, put differently, a limited radius in which it makes sense to speak of forgiveness. This means that if forgiveness is going to be posited as a precondition for political reconciliation (reconciliation with a terrorist group, in this example), it might be appropriate to exclude a potentially significant part of the polity from the process.³⁰²

Bearing the foregoing ideas in mind, one might argue that in the German case, forgiving IM is incumbent upon those who, after the collapse of the GDR, came to learn that a colleague, "friend," neighbor, or even family member had informed on them to the Stasi. Even the relatives and the acquaintances of those citizens under Stasi surveillance might raise a legitimate grievance against IM and therefore feel entitled to an apology, although such entitlement would certainly be diluted. But does the rest of the polity have a claim to set a high standard for forgiveness and reconciliation? In creating the expectation for a public apology, political and social actors might be making impermissible forays into the radius of forgiveness. Another way to put this is that endorsing the victim's prerogative leaves open the question about degrees of victimhood. The strength of the claim to forgive or reconcile is contingent upon the degree of victimhood: the higher the degree, the stronger the

³⁰² Nir Eisikovits, "Transitional Justice," *Stanford Encyclopedia of Philosophy*, 2009.

claim should be. This relationship is important because it emphasizes the fact that a genuine claim to victimhood must ground “forgiveness discourse.” Otherwise, the purpose is, to say the least, suspicious.

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