

Extract from “Punishing German war criminals in Poland”.

Source:

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Część 1. Terminologia zbrodni i niemiecka polityka historyczna
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We are grateful to Dr Joanna Lubecka and the Association of Freedom and Independence (Zrzeszenie Wolność i Niezawisłość) in Poland for allowing the explanation why the proper terminology associated with German crimes committed on occupied Polish territory during WWII is essential in preventing confusion and historical relativism. This is shared here with permission of Victor Woldanowski.

Part 1 CONCEPTS of CRIME and GERMAN HISTORICAL POLITICS

CONCEPTS of CRIME

After World War II (WWII) in Poland, there were several terms in use to describe crimes committed by the German invaders. During World War II and immediately after, it was quite logical to speak of German crimes as there was no doubt that the torturers and the civilian and military occupation administration represented the German state.

So, when a decree¹ of 10 November 1945 created the *Główna Komisja Badania Zbrodni Niemieckich w Polsce* (Central Commission for the Investigation of German Crimes in Poland)², along with district branches, Poles would have considered the name to be self-evident. But this choice of words started to become problematic from 1949 onwards, because there were two German states.

According to Soviet propaganda, the Federal Republic of Germany (FRG) was the place where Nazi war criminals found shelter with the support of Western imperialists, while the Germans who lived in the German Democratic Republic (GDR) had been, at worst, neutral towards the

¹ Legal acts in Poland are published in the *Dziennik Ustaw* (Journal of Laws), abbreviated as Dz.U. in notes that follow.
² Dz.U. 1945, nr 51, poz. 293, Dekret z dnia 10 XI 1945 r. „Główniej Komisji i Okręgowych Komisjach Badania Zbrodni Niemieckich w Polsce”.

Nazi regime. German crimes were no longer to be ‘German’, so as not to offend ‘peace loving’ East Germans, and began to be called Hitlerite or Nazi crimes.

The Commission no longer investigated German crimes but rather Nazi crimes, explicitly associated with the FRG³. By order of the Minister of Justice in 1984, *Instytut Pamięci Narodowej* (Institute for National Remembrance) was added as an extension to the Commission’s name⁴. This was not just a cosmetic change since the ‘new’ institution was to undertake research studies, even after the expiry of legal routes to bring indictments for war crimes or crimes against humanity.

Along with earlier legislative work leading to the 1964 Act ‘to disallow time limitations in relation to perpetrators of the worst Nazi crimes’⁵ and with the adoption of adequate international law by the United Nations⁶, the Commission became a high-profile institution, actively engaged in the study of German war crimes.

Legislation in 1991⁷ not only brought about radical changes in the Commission’s name but also in its range of activities. The newly re-named Central Commission for Investigation of Crimes against the Polish Nation - Institute of National Remembrance was now to study, document and prosecute not only German crimes, but also crimes committed against the Polish nation up to 1956 (the 1991 statute calls these ‘Stalinist crimes’).

Further legislation in 1998 dissolved this Central Commission and its district offices and replaced it with the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation, in Polish abbreviated as *IPN - Instytut Pamięci Narodowej*⁸. The archives and resources of the previous Commission were passed to the newly formed IPN.

The early 1990s and the steps towards Polish-German reconciliation were not favourable for revising historical terminology. The term ‘German crimes’ was not used, to avoid offending Germany which had become an advocate of Polish interests in the European Union.

Whatever the reasoning behind the political decisions at the time, there is no doubt that Polish views carried weight in Germany. And United Germany had to take into account opinions of the international community more than ever before in its post-war history. In addition, there was a very strong pro-Polish lobby of prominent intellectuals in Germany⁹, and leading German politicians had no intention of disassociating themselves from responsibility for crimes during

³ Full name: The Central Commission for the Investigation of Nazi Crimes in Poland

⁴ Dz.U. 1984, nr 37, poz. 194, Rozporządzenie Ministra Sprawiedliwości z dnia 25 VI 1984 r. „w sprawie utworzenia okręgowych komisji Głównej Komisji Badania Zbrodni Hitlerowskich w Polsce – Instytutu Pamięci Narodowej”.

⁵ Dz.U. 1964, nr 15, poz. 86, Ustawa z dnia 22 IV 1964 r. „w sprawie wstrzymania biegu przedawnienia w stosunku do sprawców najcięższych zbrodni hitlerowskich popełnionych w okresie II wojny światowej”.

⁶ The UN Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, 26 November 1968. See: <http://www2.ohchr.org/english/law/warcrimes.htm>.

⁷ Dz.U. 1991, nr 45, poz. 195, Ustawa z dnia 4 IV 1991 r. o zmianie ustawy o Głównej Komisji Badania Zbrodni Hitlerowskich w Polsce – Instytucie Pamięci Narodowej.

⁸ Dz.U. 1998, nr 155, poz. 1016, Ustawa z dnia 18 XII 1998 r. o Instytucie Pamięci Narodowej – Komisji Ścigania Zbrodni przeciwko Narodowi Polskiemu.

⁹ E.g. Marion von Dönhof, Karl Dedecius, Rita Süßmuth and others.

World War II, even though some of them emphasised *Die Gnade der späten Geburt*¹⁰ (the grace of later birth).

The terminology associated with war crimes committed by German invaders on Polish territory is still not agreed. There are many terms in use both in professional literature and in everyday language: German crimes (more often colloquially than in the literature), Nazi crimes and Hitlerite crimes¹¹.

But this subject needs a precise vocabulary. Consistent and logically derived standards for the use of specific terms to describe the crimes of occupying German forces are necessary to:

- prevent confusion and historical relativism,
- support accurate historical education, and
- encourage responsible patriotism.

A uniform approach also allows authorities at central and local levels to make clear and coordinated responses to accidental or deliberate distortions that appear in the international arena.

The first steps to influence public opinion in Poland have already been taken, such as the written appeal in 2007 by the IPN to local authorities to use ‘German crimes’ rather than ‘Nazi crimes’ in places commemorating the victims of World War II. Another spectacular example is the renaming in 2006 of the concentration camp at Auschwitz-Birkenau from ‘Concentration Camp Auschwitz’ to the current ‘Former Nazi German Concentration Camp Auschwitz-Birkenau’¹². As some elements of the German press criticised both events, it is worth looking closely at their arguments since their logic has become increasingly widespread in Germany.

The most outraged - Arno Widmann of Berliner Zeitung gives two types of arguments. First, a moral point: nobody has the right to reduce the symbol of genocide *auf ein deutsches Ereignis zwischen 1940 und 1945 zu reduzieren*¹³ (to a German event of the years 1940 to 1945). Second, a practical aspect: it is hard to imagine German, Jewish or American students saying to one another, “We are going to the Former Nazi German Concentration Camp Auschwitz-Birkenau”.

There are also frequent opinions negating the legitimacy of assigning responsibility for crimes motivated by a murderous ideology (Nazism, Communism) to an entire nation. “Not all Germans were Nazis and not all Nazis were Germans”, said British MEP Baroness Sarah Ludford,

¹⁰ Such an expression was used by the then Chancellor Helmut Kohl on 24 January 1984 when speaking in the Israeli Knesset to highlight the lack of personal responsibility for German crimes, but without compromising accountability of the entire German nation.

¹¹ See: S. Durlaj, J. Gmitruk (red.), *Zbrodnie hitlerowskie na wsi polskiej w latach 1939–1945. Wspomnienia, pamiętniki i relacje*, Kielce–Warszawa 2008; J. Gumkowski, T. Kułakowski, *Zbrodniarze hitlerowscy przed Najwyższym Trybunałem Narodowym*, Warszawa, 1967; C. Pilichowski, *Zbrodnie hitlerowskie na dzieciach i młodzieży polskiej 1939–1945*, Warszawa 1969; A. Klafkowski, *Obozy koncentracyjne hitlerowskie jako zagadnienie prawa międzynarodowego*, Warszawa 1969; B. Jaśkiewicz, *Zbrodnie niemieckie w Małopolsce środkowej w czasie wojny obronnej 1939 roku*, „Rzeszowskie Zeszyty Naukowe. Prawo – Ekonomia”, t. 17: 1995; B. Warzecha, *Niemieckie zbrodnie na powstańcach śląskich w 1939 roku*, „BIPN”, 2003–2004 nr 12–1(35–36); M. Maranda, *Nazistowskie obozy zagłady. Opis i próba analizy zjawiska*, Warszawa 2002; J. Kosiński, *Niemieckie obozy koncentracyjne i ich filie*, Stephanskirchen 1999.

¹² It is worth emphasising that the initiative to change the name of the camp was taken as a result of more frequent usage of the term ‘Polish concentration camps’ in the Western press. German claims that the term ‘Nazi German’ is too long are groundless, since ‘Nazi’ alone does not indicate the country that determined and legitimised the criminal procedure.

¹³ A. Widmann, *Auschwitz lässt sich nicht umbenennen*, Berliner Zeitung 1 IV 2006.

ostentatiously refusing to sign a resolution celebrating the 60th anniversary of the liberation of Auschwitz, saying that the camp was not built by Germans, but by German Nazis¹⁴.

Expositions and pronouncements by Germans should receive the greatest attention and a vigorous Polish rebuttal because in this case the use of anti-Polish expressions is unlikely to arise from ignorance, lack of diligence or carelessness.

GERMAN HISTORICAL POLITICS or an ACCIDENTAL LACK of CARE?

The origin of the purposeful development and use of the idea of 'historical politics' can be found in Germany (*Geschichtspolitik*). While German historians such as Leopold von Ranke or his student Heinrich von Sybel were first to emphasise a professional approach to historical studies, others such as Heinrich von Stein¹⁵ or Wilhelm von Humboldt openly used history as a political tool, but did so impartially. Yet it has to be said that the application of historical politics is not of itself detrimental so long as the crucial element of impartiality is present.

As its German founders emphasise, historical politics must avoid manipulation (*Geschichtsfälschung*) and the creation of myths (*Mythologisierung*). An ethical historical politics may be used to stimulate and develop social responsibility for the actions of one's forebears. It may also support a multifaceted view of events, so fostering attempts to understand other interpretations of the same events. But in no way does it imply using 'political correctness' principles to force mutually acceptable evaluations¹⁶.

Neutrality was the foundation and practice of German historical politics, as only neutrality could avoid the exploitation of history for myth and manipulation and guarantee the trust that German historians affirmed. Of course, the National Socialist regime produced a dramatic departure from this principle. The FRG then witnessed two spectacular post-war debates about the most recent history of the German nation.

First there was the well known historians' dispute (*Historikerstreit*), followed by the discussion around the role of the newly-reunited Germany. Arguments used on both these occasions are being revived today, especially in Polish-German dialogues. The international situation post 1945 was favourable for appeasing German consciences. Inconvenient questions remained unanswered as the FRG fell into the arms of the West due to the Cold War. And, even worse, West German society became indifferent as regards the Third Reich¹⁷. Those that noticed this trend wrote with indignation and embarrassment about 'compounded German guilt' (being the suppression and negation of the underlying crime), or 'the amnesia of indifference', or with blunt sarcasm about the 'greatest feat of rehabilitation' for those guilty of war crimes¹⁸.

¹⁴ K. Zuchowicz, P. Zychowicz, Trzeba ścigać autorów tekstów o „polskich obozach śmierci”, Rzeczpospolita 25 I 2005.

¹⁵ Heinrich von Stein initiated and created a collection of documents dealing with German history, the Monumenta Germaniae Historica of 1819. Publication of a similar Monumenta Poloniae Historica started in 1864.

¹⁶ See: J. Rüsen, Westliches Geschichtsdenken: Eine interkulturelle Debatte, Göttingen 1999; Zerbrechende Zeit. Über der Sinn der Geschichte, Köln 2001; F. Jaegger, J. Rüsen, Geschichte des Historismus. Eine Einführung, München 1992; A. Giddens, Nowoczesność i tożsamość, Warszawa 2001 presents a very interesting British perspective.

¹⁷ The attitudes of East German society were equally dependent on the policy of the USSR.

¹⁸ R. Giordano, Die zweite Schuld oder Von Last Deutscher zu sein, Hamburg 1987; J. Friedrich, Die kalte Amnesie. NS-Täter in der Bundesrepublik, Frankfurt am Main, 1985.

The essence of the historians' dispute was an article by the German historian Ernst Nolte published in the *Frankfurter Allgemeine Zeitung* in 1980. He claimed that Nazi terror, and the extermination of the Jews during the Second World War (WWII) in particular, was not a 'pioneering' invention of German Nazis but rather a natural response to the brutality of Bolshevik oppression. So, according to Nolte, Auschwitz represented a sequel to the Gulag¹⁹. This article raised a storm among German historians. Left wing liberal intellectuals mounted a particularly vigorous challenge, and among them Jürgen Habermas described Nolte as simply a 'neoconservative revisionist' and criticised the presentation of the Holocaust as 'a singular instance of annihilating Jews'²⁰.

Discussion around this controversy continued for several years, gaining momentum in parallel with the process of German unification. While neither side in the dispute gained a decisive advantage, this was the first public debate about the history of the Third Reich since the creation of the FRG. Not only did it result in a change of German attitudes to their own past, but it also initiated attempts to show this history in a seemingly more objective academic light, as had been described by Bogdan Suchodolski already in 1945²¹: *The German mentality has a tendency to conceal the biased nature of its aims and opinions behind an illusion of impartiality promoted as a universally binding principle that gives them the right to speak and act on their own behalf, when the reality is one of expressing exclusively their own opinions and seeking to achieve their own aims. This attitude ... will become apparent eventually as a routine feature of politics in a Germany that has for centuries presented what it does for its own self interest as performing a service to universally accepted principles such as 'Christianity', 'Culture' or even 'Europe'.*

The 'great powers' were caught unaware by the process that unified Germany during 1989-1991, but then so were the Germans themselves since they had no logistical infrastructure adequate to handle it, nor a clear vision of a unified Germany itself or its role in Europe or on the world stage. Discussions within Germany were closely watched by the major powers but in particular by unified Germany's immediate neighbours. Most historians and political scientists agree that the thorny issue of national consciousness has led to a fundamental difference between the German model of democracy and that of other Western European states.

While Western value systems are long established and have evolved gradually along with changes in social attitudes, political values in Germany are not rooted firmly in historical experience – indeed they have been deliberately cut off from it. So, contrary to expectations, German intellectuals stress the acceptance among Germans of the defeat of 1945 as a positive phenomenon that gave rise to a new democratic phase in the country's development (in West Germany alone)²².

As a consequence, the situation post 1945 has become known as the period of normality (*Normalität*) as opposed to the 'uniquely German development route' concept (*deutsche Sonderweg*) popular in the 19th and early 20th centuries. This discussion became relevant once

¹⁹ R. Augstein, *Historikerstreit. Die Dokumentation der Kontroverse um die Einzigartigkeit der nationalsozialistischen Judenvernichtung*, München-Zürich 1987.

²⁰ Ibidem; J. Habermas, *Eine Art Schadenabwicklung. Apologetische Tendenzen in der deutschen Zeitgeschichtsschreibung*, „Die Zeit“, 11 VII 1986.

²¹ B. Suchodolski, *Dusza niemiecka w swietle filozofii*, Poznan 1947, page 39.

²² For an interesting development of this topic see W. Wette, *Sonderweg oder Normalität? Zur Diskussion um die internationale Position der Bundesrepublik*, "Blätter für deutsche und internationale Politik", 1996 nr 1.

again on unification. German political vocabulary had no other vision or concepts apart from the negative *Sonderweg* and positive *Normalität*, so the question now became, how should this new phase be defined?

The Germans continued discussing the new role of their country for several years after unification. In parallel with stabilisation of the international situation, fear of a resurgence of German nationalism disappeared. This was replaced by a growing belief that united Germany had a securely established democracy and, what is more, would not take decisions without agreement or consultation with its EU and NATO partners²³. However, in reality, it appears that united Germany is making masterful use of a soft approach to foreign policy, with historical politics as one of the main tools. While early policy was focused on building a positive image of the Federal Republic, the more recent approach includes changing the perception of Germany's activities in the past.

GERMAN TERMINOLOGY

History texts in Germany show a preference for using the phrase 'Nazi criminals' (*Nazi-Verbrecher*) rather than 'German crimes', which over time has served to erase public awareness of the identity of the Nazis²⁴.

An excellent example of German thinking is an article by Klaus Bachmann, a German professor, who is otherwise well disposed towards Poland²⁵. In response to the IPN's 2007 appeal to local authorities mentioned previously²⁶, Bachmann suggests that 'German crimes' distorts history, since equating ideology and nationality identifies responsibility with only one national group. He then adds that *not all Germans were Nazis and very many fanatical Nazis were not German*. In support, he proposes the ultimate outcome of such an approach: *that the crimes of some Italians towards others would become Italian rather than Fascist crimes; and that Soviet crimes would become Russian crimes*²⁷.

While Klaus Bachmann is factually correct, he ignores one fundamental aspect. An Austrian Nazi, a German clerk working in occupied territories, and a concentration camp guard (even if not a Nazi) all represented the German state – the Third Reich. Their involvement not only legitimised its activities but also its crimes (even though often indirectly)²⁸. So, 'German crimes' are not ascribed to a nation but to the German Nazi state.

So long as the world's press, Germany's included, uses the description 'Polish Extermination Camps' (*polnische Vernichtungslager*) Poland cannot afford to call them 'Nazi Camps' because

²³ In Germany this was known as the 'policy of restraint' (Politik/Kultur der Zurückhaltung).

²⁴ The first entry of an internet search on 'deutsche Verbrechen' (German crimes) was found to be (under construction): Historische Dokumentation von Verbrechen an der Deutschen Bevölkerung (historical documentation concerning crimes against the German nation) at <http://www.verbrechen-an-deutschen.de>. This site is about WWII and its impact on Germany. The authors write about 15 million German victims, including more than 2 million that were savagely killed or that died during evacuation or resettlement. German politicians and tribunals often use the phrase 'Verbrechen im Namen des Deutschen Volkes (crimes in the name of the German people), while some members of the Association of Expellees speak of 'Hitler's war' and 'Hitler's crimes'.

²⁵ K. Bachmann, *Historia w krzywym zwierciadle*, „Gazeta Wrocław”, 14 XII 2008.

²⁶ To use 'German crimes' rather than 'Nazi crimes' in places commemorating the victims of World War II.

²⁷ Ibidem.

²⁸ One could accept that in Germany itself many Germans might not have known about crimes that were being committed in occupied territories. But it is impossible to defend a view that people who were present in the occupied territories (especially in the East) were not aware of German crimes.

that will blur the responsibility for the crimes. Any and all assertions that this refers just to a geographic location are simply compounding an error because people's knowledge of Europe's WWII history is not that obvious now and will become even weaker over time. This is evident since such terminology first appeared in the US and Australian press – which can be explained by inadequate understanding and lack of professional care²⁹.

But how can one explain that highly reputable European newspapers use this very same approach? A report from the Polish Ministry of Foreign Affairs states that in 2009 alone there were 103 instances of 'Polish concentration camps' being employed, the most frequent (20 times) in the German press³⁰. It is disappointing to note that the papers resorting to this choice of words are not provincial or niche publications, but mainly large circulation daily or weekly opinion formers. They include: Der Spiegel, Bild, Der Tagesspiegel, Die Welt, Die Zeit and two news agencies: Reuters German office and the DPA (*Deutsche Presse Agentur*). It has taken many interventions by the Ministry and editors of the Rzeczpospolita newspaper to obtain apologies and corrections from German journalists. Even so, there have been occasions when it was claimed that scrolling internet news publications simply cannot dedicate space to a description such as 'concentration camps set up on Polish territory occupied by Germany'³¹.

HOW DO OTHERS BEHAVE?

Others engage in historical politics in defence of their national interests, but not always according to the ideal model conceived by German historians. In the simplest terms this trend amounts to avoiding confrontation with one's own faults – everyone prefers the role of innocent victim that accuses and sits in judgement.

A state has many ways of influencing the perception of history both internally and externally. The most powerful internal method is education since the best defence of national interest is a society aware of its own history; one that recognises its own wrongdoing but also understands the scale and logic of historical processes and the sequence of events.

The external focus of historical politics is the creation of the most favourable image of each country that applies it ('good PR' in current parlance), but regrettably this often requires a manipulation of history. The German example, discussed at length, is quite specific as it relates to the perpetrators of war crimes. So, what happened in countries that were caught up in WWII as victims of German invaders?

Just as in post-war Poland, the USSR used 'German crimes' (*niemieckije prestuplenia* or *germanskije prestuplenia*) until 1949 and re-emphasised 'Hitlerite crimes' on formation of the GDR – this description had also been in use previously (*gitlerowskije prestuplenia*). Poles, Russians and nations that fought on the side of the USSR in the 'great patriotic war' all understood 'Hitlerite' and 'Nazi' as interchangeable with 'German' crimes.

²⁹ Researched interviews with pupils in US schools show clearly that not only are concentration camps associated with Poland but also revealed the generally accepted view that the Nazis were Polish. On this see: J. Ławrynowicz, M. Ławrynowicz, „Polish Concentration Camps”. Zarys chronicznego problemu, „Przegląd Polski”, 28 I 2005; K. Zuchowicz, P. Zychowicz, Wygrywamy walkę o prawdę, „Rzeczpospolita”, 22 IV 2006.

³⁰ K. Klinger, MSZ nie radzi sobie z kłamstwami, „Dziennik. Gazeta Prawna”, 10 XII 2009.

³¹ K. Zuchowicz, P. Zychowicz, Trzeba ściagać autorów tekstów o „polskich obozach śmierci”, „Rzeczpospolita”, 25 I 2005.

While the French situation is more complex, it is similarly characterised by conscious support by the state of a mannerism whose repetition aims to confirm the image of a country under occupation, at the same time avoiding negative connotations arising from the collaboration of the Vichy government. In all places where the French state cooperated with Germany, responsibility for crimes is attributed to Nazis, and disregards that they were French Nazis or simply members of the French administration³². In contrast, where German occupiers were responsible for crimes without French involvement such crimes are called ‘German’ or ‘Hitlerite’.

LESSONS for POLAND

Several factors are producing changes to the memories being perpetuated about the events of WWII. The last witnesses are passing away, both victims and perpetrators. For younger generations that time-frame is becoming as distant and abstract as that of the 19th century. But change in awareness is also being brought about by the historical politics utilised by various states. relativisation of German crimes by the Germans themselves is latterly gathering pace – and this especially requires a consistent and unequivocal Polish response. Firm insistence on using the ‘German crimes’ definition, rather than ‘Hitlerite crimes’, appears to be vital, as the latter will be translated regardless into other languages as ‘Nazi crimes’.

Also, as a matter of principle, the assertions put forward by the journalist A. Widmann (discussed already) and of the *Bund der Vertriebenen* (Association of Expellees) must be countered vigorously.

With respect to Widmann’s view that Auschwitz is a symbol of human rights abuse and genocide, and not just an example of Nazi crimes: It must be re-iterated that while Auschwitz and other labour and death camps do show the extent of people’s capabilities, this does not relieve anyone of the obligation to assert who created such places.

With respect to the Association of Expellees: Constant reminders are needed about the logic and sequence of events (e.g. if Germany had not attacked Poland there would not have been expulsion of Germans; if Germany had not attacked Western Europe there would not have been carpet bombing of Dresden; and so on). One cannot allow German suffering to be divorced from its historical context.

Above all, the Polish government must produce a forceful response to combat every attempt at historical relativism³³.

³² A good example is the commemorative plaque on the site of the concentration camp at Drancy supervised by French police and gendarmerie until 1 VII 1943. The inscription reads, “This is a memorial to the suffering of French Jews, victims of Nazi barbarity”. A picture was available on 19 IV 2011 at http://upload.wikimedia.org/wikipedia/commons/d/db/Drancy_memo.JPG.

³³ Experts suggest that court proceedings should be pursued against authors using the term ‘Polish death camps’, a proposal supported by several Polish Ministers for Foreign Affairs, lawyers and other experts (including B. Geremek, S. Hambura, J. Kocharowski, A. Rotfeld, experts from the Foundation for Polish-German Reconciliation). For a wider discussion see: K. Zuchowicz, P. Zychowicz, Trzeba scigać...; This would no doubt meet with social approval but would also involve significant procedural difficulties.