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The Gentle Revolution: German Unification in Retrospect

Keywords

Revolution, War, Inheritance, Real Property, Right of Property

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I. INTRODUCTION

"The entire German people remains called upon to complete the unity and freedom of Germany in free self-determination."¹ This reunification commandment or *Wiedervereinigungsgebot* operated in the Federal Republic of Germany's legal and political system during the Federal Republic's entire existence. On October 3, 1991, after nearly forty-five years of partition and separate political, economic and ideological development, the German people achieved the goal: unity created in self-determination. They fulfilled the commandment's second component, freedom, as well — at least to the extent that the beneficiaries of a social-market system understand the term. Just a little over a year passed between the beginning of grassroots opposition movements against the East German regime, including the spectacular opening of the Berlin Wall on November 9, 1989, until the December 3, 1990, completion of the merger of the two states. East German leadership, having seen only Walter Ulbricht and Erich Honecker as heads of state during its entire existence, changed hands three times during the transitional period before it finally became part of the Federal Republic.

This article will examine why the reunification, impossible to imagine only six years ago, took such a rapid pace, thereby subjecting Easterners and Westerners to the shock treatment of economic and political unity without an interim period of acclimatization. In addition, this article will address what alternatives existed to the swift unification process.

II. HISTORICAL BACKGROUND

A. From 1949 to 1989

In 1949, four years after the conclusion of World War II, the Allied Forces agreed to the creation of two German states.² The Western Allies and the Soviet Union took control of the defeated Germany immediately after the War. The partition of Germany was the result of the irreconcilable differences the allies encountered in the exercise of that control.³

After the partition, the Western state named itself the Federal Re-

1. GRUNDGESETZ [GG] [federal constitution], preamble (F.R.G.) [hereinafter GG]; see also, Gregory v.S. McCurdy, Note, *German Reunification: Historical and Legal Roots of Germany's Rapid Progress Towards Unity*, 22 N.Y.U. J. INT'L L. & POL. 253, 259 (1990).

2. Peter E. Quint, *The Constitutional Law of German Unification*, 50 MD. L. REV. 475, 629 (1991).

3. *Id.* at 479-480.

public of Germany (*Bundesrepublik Deutschland*, F.R.G.), and organized its public affairs in accordance with a quasi-constitutional political document called the Basic Law (*Grundgesetz*). The very name Basic Law, chosen instead of Constitution (*Verfassung*), evidences the fact that the F.R.G., from its inception, regarded itself as a temporary political entity. The Western state's prevalent commitment to eventual unification is manifest in a number of constitutional provisions. First, the Basic Law's language provided for the possibility of constitutional change when the remaining portions of post-war German territory acceded to the F.R.G.⁴ Second, Bonn, a historically unknown and insignificant city, became the seat of the new state, rather than Berlin, Munich, or Nuremberg, which are traditional German capital cities.⁵ Third, the Basic Law granted citizenship to all persons of German origin and thereby included all citizens of the East German state. Accordingly, all residents from the East who were exiled to or fled to the West between 1949 and 1990 enjoyed the same political and economic rights as F.R.G. citizens.⁶ Finally, the *Bundesverfassungsgericht*, the high court charged with interpreting the Basic Law, consistently held that the pre-war German Reich never ceased to exist.⁷ F.R.G.'s Western allies also supported the principle of eventual unification throughout the decades of partition.⁸

The new Eastern state took the name German Democratic Republic (*Deutsche Demokratische Republik*, G.D.R.) and adopted its own constitution in 1949. This constitution was originally intended to apply to all of Germany.⁹ Initially, the G.D.R. and the Soviet Union were not hostile to the possibility of future reunification. However, once the F.R.G. joined NATO, the Eastern position changed, viewing the two German states as separate entities. This position was codified in a revised version of the G.D.R. constitution adopted in 1968 and amended in 1974.¹⁰ The 1968 and 1974 versions included basic principles of democratic centralism to be implemented by the Communist Party: a planned economy, nationalized property, and affirmative social welfare rights.¹¹ In contrast with the F.R.G. Basic Law, the G.D.R. constitution mentioned neither the possibility nor the desirability of reunification.¹²

4. GG art. 23 (F.R.G.) states:

For the time being, this Basic Law shall apply in the territory of the Laender [individual states] Baden, Bavaria, Bremen, Greater Berlin, Hamburg, Hesse, Lower Saxony, North-Rhine-Westphalia, Rhineland-Pfalz, Schleswig-Holstein, Wuerttemberg-Baden, and Wuerttemberg-Hohenzollern. It shall be put into force for other parts of Germany on their accession.

5. McCurdy, *supra* note 1, at 257.

6. *Id.* at 259-260.

7. Quint, *supra* note 2, at 481.

8. *Id.* at 480.

9. *Id.* at 483.

10. Quint, *supra* note 2, at 483.

11. *Id.* at 488-490.

12. See CONSTITUTION OF THE G.D.R. [Verf. DDR] (1974).

Due to ideological differences between the new German states and their respective controlling superpowers, relations deteriorated during the period of 1949-1972. For example, West Germany quickly became economically superior to East Germany. Political and individual freedoms enjoyed by the Western Germans exceeded those available in the East. As a result, large numbers of G.D.R. citizens relocated to West Germany. Because of the exodus to the West, the East German government erected the Berlin Wall in August of 1961, thereby greatly aggravating the hostilities between the two countries.¹³ Many people died from guards firing at them or land mines exploding while they attempted to escape from the East.¹⁴

In 1972, the Social Democratic Government, led by Chancellor Willy Brandt, initiated an inter-German treaty with the East German government. This Fundamental Treaty (*Grundlagenvertrag*) intended to address and succeeded in solving immediate problems such as family reunions and traffic to and from Berlin.¹⁵ The Fundamental Treaty recognized each German state's sovereign power, independence and equality, and provided for separate international representation. By meeting the reality of two separate political entities, the treaty relieved some public and individual hardships.¹⁶

Although this treaty may be viewed as an abandonment of the once strong commitment to unification, the language of the Basic Treaty reflected a faint optimism regarding the possibility of future reunification. Recognition of two capitals was avoided by reference to "seats of government," and the term "embassy" was replaced by the word "government mission."¹⁷ In essence, the treaty did not purport to be a permanent solution but merely an instrument of the East-West detente that occurred during the 1970s.

Even though the unification issue has been of significant political importance to the West Germans throughout the F.R.G.'s existence, the degree of importance varied according to political party perspective. The conservative parties, *Christlich Demokratische Union* (CDU) and *Christlich Soziale Union* (CSU), considered the question of German unity to be the highest priority;¹⁸ consequently, they strongly disapproved of any attempt to legitimize the sovereign existence of the G.D.R.¹⁹ The

13. See also *Die Mauer — Symbol fuer die Teilung Deutschlands*, NEUE PRESSE, Nov. 11, 1989, at 5.

14. *Id.* at 9.

15. McCurdy, *supra* note 1, at 267. The city of Berlin was completely surrounded by G.D.R. territory.

16. See McCurdy, *supra* note 1, at 267-69.

17. *Id.* at 268-269.

18. *Id.* at 267.

19. In Bavaria, the largest and eastern-most state governed by CSU, school children were taught to refer to East Germany by its abbreviated name so as to avoid pronouncing the term "Democratic," contained in the full name. On the other hand, they were to refer to their own state by its full name, rather than its acronym, to show respect. This is from the

Liberal/Social-Democratic coalition, which governed during the 1970s, attributed high importance to the national question. However, they approached the subject with the political realism necessary for easing the ideological tensions that arose during the Cold War.²⁰

For the Greens, a relatively new party that came into existence in the late 1970s and gained seats in the parliament (*Bundestag*) in 1980, the unification issue was of low priority in relation to issues of more global, ecological or social nature. Suspicions traditionally held by twentieth-century German leftists towards nationalism explain the Green Party's disinterest in the unification question.²¹

B. *From 1989 to 1990*

In the summer of 1989, when Hungary opened its borders, thousands of Germans — mostly young adults — crossed into Austria, for ultimate relocation into West Germany. They also sought refuge in West German embassies in Prague, Budapest, and Warsaw.²²

Within East Germany, political opposition groups were formed, and popular demonstrations took place in the city of Leipzig.²³ These popular uprisings were spared the Soviet/G.D.R. sponsored military crack-downs encountered in the past. In fact, Soviet leader Michail Gorbachev warned G.D.R.'s Honecker that he would not support any kind of intervention.²⁴ Shortly thereafter, Erich Honecker²⁵ resigned as General Secretary of the Central Committee of the Communist Party (SED) and was replaced by Egon Krenz, a long-time Communist Party member.²⁶ On November 9, 1989, the G.D.R. government opened the Berlin Wall, a sudden, unexpected, and highly celebrated event that marked the beginning of rapid political changes, culminating in the unification of the two states less than a year later.²⁷ After the gates opened, masses of East Germans flooded across the border for both temporary shopping visits and permanent relocation. Initially, attempts were made to salvage the G.D.R. state by implementing immediate and fundamental reforms. Egon Krenz, distrusted by the people because of his standing within the Communist Party, was quickly replaced by reformer Hans Modrow, one of the very few officials of the SED who held the trust of the people. He replaced the parliamentary governing body (*Volkskammer*) and initiated democratic

author's personal experience.

20. McCurdy, *supra* note 1, at 270.

21. *Id.* at 273.

22. Quint, *supra* note 2, at 485.

23. *Id.*

24. *Id.*

25. In 1991, Honecker fled and is currently hiding in the Russian embassy in Chile. Russia officially requested him to be expelled from Santiago, and Germany wants his return so he can stand trial for murder and related charges. NEUE PRESSE, March 7, 1992, at 1.

26. McCurdy, *supra* note 1, at 286. See also Quint, *supra* note 2, at 630; Kohl trifft Krenz, NEUE PRESSE Nov. 13, 1989, at 3.

27. *Die Berliner Mauer bekommt Locher*, NEUE PRESSE, Nov. 11, 1989, at 1.

elections, by means of which the last G.D.R. leader, Lothar de Mazière, took leadership.²⁸ Central portions of the G.D.R. constitution were revised and changed.²⁹ A committee of East and West German academics met regularly to draft a proposal for a new G.D.R. constitution, based on the belief that the G.D.R. would continue in existence for at least an interim period, and possibly permanently as a reformed state.³⁰

Subsequent changes in inter-German relations, however, proved to be steps toward unification rather than attempts to build an interim East German state. For example, the currency reform that took effect on July 1, 1990, replaced the non-convertible, low-valued East German Mark with the stronger West German currency.³¹ The previously abolished five states (*Laender*) were reconstituted: Berlin-Brandenburg, Mecklenburg-Vorpommern, Sachsen-Anhalt, Sachsen, and Thuringen.³² Finally, on August 31, 1990, the unification treaty was signed,³³ followed by the Allies suspending their reserved rights.³⁴ On October 3, 1990, the newly revived East German states acceded to the F.R.G.³⁵ Elections for the *Laender* parliaments and for the first all-German *Bundestag* followed within the same year.³⁶

III. MOTIVATIONS FOR UNIFICATION ANALYZED

A. *The West*

The West German government, led by Chancellor Helmut Kohl of the CDU, began working towards unification as soon as the opening of the borders allowed for speculation about the disintegration of the G.D.R.. This early focus on unification was evidenced by Kohl's ten-point plan, a 1989 proposal outlining the steps by which to build a united Germany.³⁷ Kohl's drive for a rapid merger was due in part to the F.R.G.'s constitutional framework, the historical commitment of the Chancellor's party, and to the heightened political importance the issue had gained among the West German people.³⁸ Working for unity was the most important campaign issue for the 1990 *Bundestag* election.³⁹ The highly emotional aftermath of the fall of the Berlin Wall and the opening of all East Ger-

28. Quint, *supra* note 2, at 630.

29. See generally *id.* at 496-506.

30. *Id.* at 493.

31. *Id.* at 516.

32. See generally *id.* at 524-530.

33. *Id.* at 630.

34. The Allies retained certain rights following World War II, including the rights of occupation and supreme authority with respect to Germany, short of annexation. Quint, *supra* note 2, at 589 et seq.

35. Judith Reicherzer, *Der letzte Schnitt*, DIE ZEIT, Nov. 29, 1991, at 10.

36. Quint, *supra* note 2, at 630.

37. *Id.* at 486.

38. McCurdy, *supra* note 1, at 271-72.

39. *Id.* at 272.

man borders brought the unification issue to the forefront of each West German citizen's mind.⁴⁰ Accordingly, unification was a much more desirable goal politically than any interim solution for the rapidly disintegrating East German state.

The initial euphoria soon cooled. The West German people grew annoyed with the sudden and continued congestion brought about by the floods of Eastern visitors,⁴¹ and frustrated by the consumer good shortages caused by the extraordinarily high demand from the East.⁴² Westerners became more realistic about the consequences of reunification. The high costs of integrating a state as backwards as the G.D.R. and making it productive again were now unenthusiastically anticipated by the tax-paying citizens of West Germany. The government had to move forward rapidly with the process of unification in order to maximize the remaining public interest and support.⁴³

B. *The East*

After the Wall's fall, Egon Krenz believed that, as a result of legalized travel, the economically devastating exodus of educated and skilled workers would decline.⁴⁴ When instead the outflow of workers increased after the borders opened, the government realized that more fundamental changes were needed. This explains the rapid changes in leadership before unification, from Egon Krenz to Hans Modrow to Lothar De Mazière. Initially, Modrow had planned to continue the G.D.R.'s existence through a series of treaties with the West, a form of economic unity that fell short of complete merger.⁴⁵ Ultimately, the democratically elected leaders Modrow and De Mazière recognized what had long been believed in the West: that the East German state derived justification for its existence solely from the Communist bloc. The fall of the Soviet Empire, well under way at that time, was bound to result in the disappearance of the G.D.R. as a separate state.⁴⁶ Consequently, the initial plans for alternative forms of integration with the West were abandoned, and the Eastern leaders entered into agreements with the West and changed their constitution to enable the 1990 merger with the F.R.G..⁴⁷

The majority of the East German people originally opposed unification.⁴⁸ While taking advantage of the newly available freedom of travel,

40. NEUE PRESSE, Nov. 13, 1989, at 33-38.

41. See *Coburg will City sperren*, NEUE PRESSE, Nov. 15, 1989, at 1.

42. Interview with Robert Jeffares, Department Supervisor for Siemens-Nixdorf AG, in Coburg, West Germany (Dec. 1989).

43. See Jochen Thies, *Digesting Unification*, EUR. AFF., Oct./Nov. 1991, at 14-15.

44. McCurdy, *supra* note 1, at 286-287.

45. *Id.* at 290.

46. *Id.* at 255. With the *raison d'être* of the G.D.R. so closely tied to the ideology of the Soviet empire, no form of East Germany could have continued to exist on its own. Accordingly, the collapse of the Soviet Union necessitated German unification.

47. *Id.* at 290-293.

48. *Id.* at 284.

uncensored media, and plentiful consumer goods, they did not immediately embrace the idea of a political merger with the West. Forty years of indoctrination about the virtues of the Socialist system and the evils of the free market economy produced suspicion. Citizens develop significant pride in their state over time, irrespective of the hardships and deprivations the system has imposed on them.⁴⁹ Despite the comparative superiority of the Western state, many conditions in the F.R.G. elicited criticism from both Eastern and Western social justice activists, particularly conditions such as environmental exploitation, homelessness, unemployment, and the imperfections of the West German social welfare system.⁵⁰ Additionally, the resentment and arrogance exhibited by Westerners towards their Eastern cousins chilled the initial euphoria.⁵¹

Despite these negative factors, the East Germans ultimately came to favor expeditious unification. The reasons for the change are manifold. Free and easy travel to the West exposed Easterners to democracy and the social market economy of the West.⁵² Taking advantage of the material consumer bounty was easy in the beginning, as every Easterner who arrived in the West was entitled to receive a certain amount of "Welcome Money" (*Begrüßungsgeld*) from the local governments of their destination.⁵³ Businesses offered special deals to Easterners in the wake of the euphoria.⁵⁴ A freed media exposed the hypocritical and exploitative lifestyle of the East German leadership to an outraged people, further undermining the legitimacy of the socialist regime.⁵⁵ Political freedom allowed Western political parties and their leaders to preach unification in the East. Finally, massive economic aid from the West German government and widespread investment by West German businesses helped sway the Easterners to ultimately favor rapid political and economic unification.⁵⁶

IV. ECONOMIC AND POLITICAL CONSEQUENCES OF UNIFICATION

A. *The Present Reality*

Although the historical goal of unification has finally been achieved, the West inherited an economic nightmare, becoming fully responsible for the East's neglected infrastructure and a bankrupt economy. Factories, roads, power plants, buildings, and technology were mismanaged, deterio-

49. See *id.* at 284.

50. *Bahro will zurueck in DDR*, NEUE PRESSE, Nov. 15, 1989, at 3. See *Immer mehr Obdachlose*, NEUE PRESSE, Nov. 15, 1989, at 2; see also *Notstand in den Kindergaerten*, NEUE PRESSE, Nov. 15, 1989, at 18.

51. See *Doppelkassierer*, NEUE PRESSE, Nov. 15, 1989, at 17.

52. McCurdy, *supra* note 1, at 285.

53. *Begrüßungsgeld aufgestockt*, NEUE PRESSE, Nov. 16, 1989, at 1.

54. *Kultur zum Sondertarif*, NEUE PRESSE, Nov. 15, 1989, at 1; see also *Die sanfte Invasion*, NEUE PRESSE, Nov. 17, 1989, at 4.

55. McCurdy, *supra* note 1, at 288.

56. *Id.* at 293-295.

rating, and decades behind the West.⁵⁷ Even though the labor force is skilled and well educated, the Easterners' work ethic greatly differs from that of the West Germans'.⁵⁸ Core East German industries, historically supported by subsidies and artificial price controls, are no longer profitable nor maintainable in a market economy. For example, nearly the entire East German textile industry must be shut down because the low product quality and high labor costs cannot compete with imports from South East Asia. Although wages in East Germany are far lower than wages in the West, they are still higher than wages in the textile-exporting Asian countries. Attempts to upgrade portions of the industry to manufacture high-quality clothes failed because the sewing machine operators were unable to handle the high-quality textile materials as quickly as they handled low-grade fabrics.⁵⁹

The *Treuhandanstalt*, a recently created government agency acting as a public trustee, is attempting to sell East German production facilities to Western owners. However, Easterners regard the agency with increasing suspicion. The East-CDU favors a policy of preserving independent, locally-owned businesses rather than the *Treuhandanstalt's* policy of auctioning off Eastern industries to outsiders.⁶⁰ The East German workers feel that the *Treuhandanstalt* — created in Bonn by Western politicians — is more interested in high sales than in preserving work places.⁶¹

The East still struggles under widespread unemployment, which places a tremendous burden on public finances. Many Easterners actually experienced a decline in their standard of living due to increasing prices and decreasing income.⁶²

The West struggles also. Revitalization of the East will cost more than originally anticipated. Taxes have already increased and may rise even more. Many hard-working and tax-paying Westerners feel resentment towards the perceived lack of work ethic on the part of the Easterners.⁶³ Economic indicators forecast a possible recession.⁶⁴ At the same

57. See generally Thies, *supra* note 43, at 14-15 (explaining the overall economic conditions existing in East Germany).

58. Interview with Ingo Bechmann, college student and part-time construction worker, in Coburg, West Germany (December 1989). The then twenty-year-old West German Mr. Bechmann told of an incident where a crew of newly hired construction workers from the East quit working at approximately eleven o'clock in the morning. When questioned by their superior, they answered that the expected delivery of supplies had not yet arrived; from that they concluded that it would not arrive that same or even the next day. When asked why they didn't complete other tasks until the delivery arrived, they answered that nobody had told them to do so. This attitude reflects the workers' adaptation to working conditions where needed supplies could not be relied on, and individual efforts were not rewarded.

59. Reicherzer, *supra* note 35.

60. Peter Christ, *Bonn greift ein*, DIE ZEIT, Dec. 27, 1991, at 10.

61. Marlies Menge, *Gute Lage als Verhaengnis*, DIE ZEIT, Dec. 27, 1991, at 22.

62. Peter Christ, *Immer Aerger mit den Preisen*, DIE ZEIT, Nov. 8, 1991, at 10.

63. See generally Thies, *supra* note 43, at 14-15 (explaining the sentiments felt by many East and West Germans since unification).

time, politicians sympathize with the economic plight of the Easterners: "They didn't go into the streets in the fall of 1989 only to be thrown out into the streets in the fall of 1991!"⁶⁵

Unification produced another problem: an increase of right-wing extremism in both states, but particularly in the East. The rise of Skinhead and Neo-Nazi groups in the East may be a temporary reaction to the disappearance of political uniformity and censorship. Other probable reasons include the psychological effects of fundamental political change and economic depression. The self-perceived underdogs vent their frustrations and fear of future uncertainties by directing violence against those who are even worse off: political refugees with dark skin color, foreign accents, and no place of their own. Ordinary Easterners, observing this drift of ideological violence to the other extreme, feel that law enforcement authorities are appallingly passive in their task of controlling such excesses.⁶⁶

One Wall has been torn down, but because of the economic and psychological differences between the East and the West, a second wall remains. It is a psychological wall, built not by bricks and mortar, but by forty-five years of separate economies, ideologies, and public goals, and vast differences in the means available for private individuals to achieve their personal goals.⁶⁷

B. *Unrealized Alternatives*

Analyzing the current changes in Germany, one questions whether a different approach to unification would have been more sensible. The benefits of a fast unification are identifiable. Reuniting quickly creates certainty; both domestically and internationally. Any delay in the process would have continued the drain of the work force from the East into the better-paying West. The political procedure of unification was a condition precedent to the substantive task of economical and cultural re-approachment and accommodation. Additionally, the German merger provides a framework for other European states to follow.

However, one should consider the advantages of a slower speed toward unification. If the F.R.G. would have evaluated and planned the task of economic upgrading, the people subject to the changes would have had the opportunity to readjust their skills and their economic, political, and social outlook. The labor drain would have continued without unification; however, the drain goes on even after unification due to the higher wages prevailing in the West.⁶⁸ A slower pace would have soothed some of

64. *Die Zeichen stehen auf Sturm*, DIE ZEIT, Jan. 10, 1992, at 9.

65. *Zitat des Jahres: Brandenburg Ministerpraesident Manfred Stolpe*, DIE ZEIT, Jan. 3, 1992, at 2.

66. Christ, *supra* note 62.

67. Thies, *supra* note 43, at 15.

68. Reicherzer, *supra* note 35.

the present difficulties.⁶⁹

One should also consider the unrealized advantages of an alternative to the process as a whole. Rudolf Bahro proposed the co-existence of the two German states in close cooperation.⁷⁰ The G.D.R. Roundtable seriously considered this option and developed a supporting document.⁷¹

The Roundtable envisioned the constitution for the new G.D.R. to contain provisions securing a full range of liberal defensive rights and affirmative social welfare rights, including rights to shelter, medical care, and employment; a new system of property rights incorporating both private and publicly owned property; an independent judiciary; a federation consisting of the re-created *Laender* and a central parliamentary government; and a mechanism allowing for popular votes in the parliament.⁷² These intellectuals viewed the decline of the G.D.R. as an opportunity for more than a mere merger into an already existing system. They believed a chance existed for extracting the positive aspects of the G.D.R. — albeit existing largely in theory — and those of the F.R.G., and incorporating them into a new state, one with a system of democracy, affirmative entitlements and political rights.

The co-existing states may have provided an alternative to the traditional East-West dichotomy. Unfortunately, a complete renewal from an environmentally, politically and socially mismanaged state into the ideal opposite was too unrealistic to implement. The ingrained traditions produced by the G.D.R.'s communist regime fatally handicapped the possibility of such a metamorphosis. The lack of leadership and hard cash made certain this proposal's impossibility.⁷³

V. THE NEXT FORTY-FIVE YEARS AND BEYOND

A swift political unification process cannot substitute for the labors and pains necessary to economically and psychologically integrate two societies. Economically, the work has just begun. The *Treuhandanstalt's* mission of reorganizing production facilities into profitable businesses and soliciting national and international investment is far from complete. Solutions for the persisting high unemployment rates must be developed and implemented. The gap in living standards needs to be equalized to avoid a permanent division of the nation into Haves and Have-Nots. This latter issue demands particular attention because of the Basic Law's mandate for a social market economy. Finally, environmental clean-up must become and remain a priority.

69. See generally Thies, *supra* note 43, at 15 (describing the conflicting sentiments about unification held by East and West Germans).

70. Bahro *will zurueck in DDR*, *supra* note 50. (Rudolf Bahro was a prominent East-German politician who had been expelled from the G.D.R.).

71. See discussion *supra* part IIB.

72. Quint, *supra* note 2, at 494.

73. McCurdy, *supra* note 1, at 292.

These economic tasks seem most urgent and overwhelming in light of the tremendous volume of human resources lost to unemployment. Taking into account the involuntary part-timers, early retired, and those participating in retraining programs, the true unemployment rate in the East approaches thirty-eight percent.⁷⁴ The overall unemployment numbers are predicted to remain high, which is the natural consequence of the fast-paced reunification: "It is impossible to radically restructure an economy and increase the value of a currency by 300% overnight, without experiencing a collapse of the labor market. The decision for a fast change was also the decision for a massive loss of jobs."⁷⁵

As the process of unification continues, some regions in the East are experiencing significant economic recovery with prospects for labor shortages in the near future.⁷⁶ An economic turn-around for the East is generally expected to occur perhaps as soon as this year.⁷⁷ The economic challenges are being met and are likely to resolve themselves in the near future.

In the long run, however, further-reaching problems are likely to challenge the German people. The enormous legal, ethical, and psychological dilemmas created by the East's dictatorial past must be confronted and resolved. These dilemmas include: claims of property owners who were expropriated by the G.D.R. and who now have to compete with subsequently created interests of G.D.R. citizens; other problems arising from the question of the legitimacy of judicial decisions that sent political dissidents to prison; and the accountability of those who planted land mines and ordered torture and executions. The German term for the process is *Vergangenheitsbewältigung*: facing and mastering one's past. The expression describes Germany's manner of confronting its Nazi past; now it also characterizes their involvement with the Communist past. Unlike the Nazi memory, a national guilt shared by the entire German people, this new awareness of political wrongdoing, decades of human rights violations, and prostitution by the judicial and administrative systems splits the German people in half. The Westerners accuse the Easterners of murdering, imprisoning, and informing on innocent citizens. The opening of Stasi documents reveals much wrongdoing that has occurred over the G.D.R.'s existence: children spying on parents, neighbors turning in neighbors, Stasi officials hunting down their own rank and file.⁷⁸ Former low-ranking, order-taking border patrols are now standing trial and facing punishment for homicide and human rights violations to the same extent

74. Birgit Breuel, *A Social Market Economy Cannot Be Introduced Overnight*, EUR. AFF., Dec. 1991, at 28.

75. Dirk Kurbjuweit, *Jeder Dritte Ohne Arbeit*, DIE ZEIT, Feb. 14, 1992, at 10.

76. Peter Christ, *Der Osten Schreibt Rot*, DIE ZEIT, Mar. 6, 1992, at 7.

77. *Id.*

78. See Christian Wernicke, *Vorgang Auf!*, DIE ZEIT, Mar. 13, 1992, at 11; Joachim Nawrocki, *Vor einem Berg des Unrechtes*, DIE ZEIT, Feb. 28, 1992, at 5.

as high-ranking officials who issued the deadly orders.⁷⁹ They, having acted under color of East German law, have to answer for their past under West German law before West German courts.

Judicial determination of guilt poses moral and ethical dilemmas. The G.D.R. constitution guaranteed freedom of speech and association, and G.D.R. criminal law prohibited murder, manslaughter, torture, extortion, battery and kidnapping, just like the F.R.G.'s constitution and statutes.⁸⁰ However, the G.D.R. was governed not by the rule of law but by dictatorship. Once again Germany faces the ethical question of prosecuting not only those who created an unjust system but also those who lived by the system's rule:

Only if the investigation proceeds systematically . . . will we be able to penetrate through individual cases to the structure of responsibility. Then we will reach the tip of the hierarchy. Whoever planted the bug into the private apartment is really irrelevant. Responsible are those who created the system.⁸¹

Realistically, many West Germans will have difficulty differentiating between those who ordered the murders and those who carried them out. The Westerners' self-righteous engagement in witch hunts results, for many Easterners, in ruinous publicity or prohibitions on professional engagement.⁸² This antagonism may be a result of the Westerners experiencing unification as initiated by and imposed from the government above,⁸³ while having to bear the financial burdens, especially following the levy of the new "Solidarity Assessment" tax.⁸⁴

How Easterners and Westerners deal with the dynamics of public sentiment will be crucially important to the success or failure of the new nation. Gaps of such a nature take longer to bridge than solving economic problems or cleaning up severe environmental damage. The "Wall in the Head" may stand strong for a long time to come.

VI. CONCLUSION

For the West, the primary driving forces leading to swift unification were historical and cultural commitment, while economic emergency and political disintegration served as primary motivating factors for the East.

The German people are now experiencing the consequences of their rapid reunification: the West shoulders a tremendous financial burden and restructuring responsibility, while the East suffers sudden and previ-

79. *Id.*

80. Nawrocki, *supra* note 78.

81. *Id.*

82. Carl-Christian Kaiser, *Gut Verdraengt is Halb Gewonnen*, DIE ZEIT, Mar. 6, 1992, at 21.

83. Thies, *supra* note 43.

84. Interview with Corinna Machnow, computer technician with Siemens-Nixdorf AG in Lakewood, Colorado (January 1992).

ously unknown unemployment and economic depression. Both face a stressful and uncertain future. A slower and more deliberate strategy would have allowed for a greater opportunity to prepare and adjust. Additionally, a more planned approach possibly could have offered opportunities for creative development not only of the Eastern, but also of the Western political and economic structure.

Looking forward, the new states of the East are likely to adjust, and an overall economic recovery is likely to occur in the East in the near future. However, the psychological and cultural re-approachment and the confrontation with the East's dictatorial history presents a problem that will take much longer to settle among the newly unified German people.

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