

Eugen Kogon, “The Right to Be Wrong in Politics” (July 1947)

Abstract

While the American occupation authorities defended the denazification program, the West Germans became increasingly critical of this effort, among other things because it raised major issues of equality before the law. After all, sanctions against those who appeared before the tribunals tended to be milder if their record was scrutinized in the late 1940s, rather than in 1946. Moreover, convictions also depended on which zone of occupation the defendant lived in. It is against this background that Eugen Kogon raised a fundamental question of justice: If the person had committed no crimes, could Germans be tried for their former political views or passive membership in the Nazi Party? In his article Kogon asks the related question of whether there exists a right to make political errors.

His considerations are particularly significant because Kogon, a Catholic, was an anti-Nazi and had survived imprisonment in a concentration camp. After the war, he wrote a major study of the Nazi system of persecution and repression entitled *Der SS-Staat. Das System der deutschen Konzentrationslager* (1977), which was translated into English as *The Theory and Practice of Hell. The German Concentration Camps and the System behind Them* (1977). After 1945, he became the editor, together with Walter Dirks, of a left-Catholic intellectual journal, the *Frankfurter Hefte*, and was a professor of political science at Darmstadt University.

Source

A true labyrinth of confusing contexts, which reality spreads before us today, lets us arrive at the conclusion that we have a right to be wrong politically, and that there are very far-reaching practical consequences to be drawn from this right. We can arrive at that conclusion only through discussion, which may appear like a detour and at first glance even like a digression.

The way in which attempts have been made to liberate the German people from National Socialism and militarism for two years now has contributed a great deal to the abundantly chaotic state in which we find ourselves. Any well-informed person knows that the current result is not so much denazification as re-nazification. There's a mean-spirited joke circulating: "Since the democratic sun has been shining on us, we are getting browner and browner." German shortcomings and Allied mistakes have complemented each other with fatal accuracy, as if they had been coordinated, and have thus far almost entirely prevented the efforts of reasonable people from having any success at all.

[...]

That the so-called denazification has failed in all four zones of Germany has been shown by the circumstances described above, provided that the assertion is correct that one does not need a Hitler in order to have Nazi convictions as well as a hundredfold influence on the further development of public circumstances, and that one does not need an army in order to be a militarist waiting for the next opportunity to serve this or that power. (I think the assertion is correct.) Hitler is dead, yet he is alive; the nationalist army is crushed, yet its spirit remains alive (more than its spirit, in fact). So what has been denazified? The *apparatus*, and that only fragmentary, but with many disastrous consequences. This was due to the methods that were and continue to be used. They were different in each of the four zones; the result is similar everywhere.

Let us leave aside the Russian and French zones in this analysis since the circumstances there are partly different. Nevertheless, the conclusions also apply to them, because they originate from a deeper layer of general omissions and necessities corresponding to them.

To repeat: Quoting Goebbels and in one's own war propaganda, one regarded the entire German people as Nazis. Consequently, they have been accused as a collective entity. There was already a difference between this accusation, which cast a heavy shadow on the whole "re-education" policy from the very beginning, and the first practice of denazification prepared by the Anglo-Saxons; they brought with them lists of National Socialist categories. Apart from the lists of war criminals, they were not lists of names, as they should have been, which in Germany would have had to be completed immediately by small local, district and factory committees of knowledgeable men and women with a clean record, or even filled out at all (which at that time, in the first wave, could still have been managed, with letters of contact for absent activists, so that local, district or non-factory-workers could be checked gradually, one by one). They were formal records of the NSDAP, its branches and related organizations. They did not cover the entire German people. That was the difference to the initial thesis. But, indiscriminately, quite a large portion was covered: in the U.S. zone, by April 1, 1947, about 28 percent of the population over 18 years of age, or 3,303,557 persons out of 11,901,65 who were required to fill out a questionnaire if they did not want to be excluded from receiving ration cards; in the British zone, where a somewhat different but equally formal procedure was used, not so many persons were immediately affected, but still probably more than two million over time. All of them were considered National Socialists. A small percentage of them were interned for security reasons for longer periods – some not yet completed – or for shorter periods: in the entire British zone, nearly 4.5 percent (now 3 percent); in the American zone, about 3 percent (now 1.5 percent). All others were removed from their professional positions, – except for those who had special connections. (While that number was not particularly remarkable statistically, overall, it was much too high according to public opinion).

We have learned what the elimination of five million or more people based solely on formal criteria in the two Anglo-Saxon occupation zones alone meant for people's attitude towards the judiciary, for the policy of "re-education," for the state, the economy, society, schools, journalism, the churches and every institution of our public sphere. There is no need to describe it any further. The military governments soon saw – though late enough – that those Germans were right who urgently proposed a separate legal procedure with examination of each individual case by Germans themselves. The Law for Liberation from National Socialism and Militarism was enacted in the U.S. zone, and Executive Instruction No. 54 was issued in the British zone.

But *how!* For in the meantime, four decisive factors, which the new procedure was not able to address, had created a changed and constantly worsening situation.

The situation in Germany overall had deteriorated considerably. Some of the consequences of the political mistakes already mentioned had a crippling effect. Against this backdrop, the optimism surrounding the newly created formal democracy – with its mentally old-fashioned parties and all their trappings seemed not only artificial, but also somewhat embittered. The mood of the people had been in rapid decline for a long time. "Denazification" and its centerpiece of the employment ban, which affected everyone equally, and the decree that National Socialists, whether actual or nominal, were only allowed to be active in "ordinary work" (which gave that kind of manual labor a punitive nature and the taint of social declassification), had driven the "enthusiasm" for "liberation" down to zero. It had already been severely dampened by a confusion of dismissals that had become almost impenetrable. At that time, this oft-told story started circulating: a street sweeper is addressed by a loitering vagrant: "But Mr. District Court Judge, I didn't know you were a street sweeper. You're not a Nazi!" "Oh, Mr. Meier, of course I'm not a Nazi, but I was in the Party, and now the Yanks only let me sweep the streets." "Strange," replied the other, "they kicked me out, too, but I wasn't a district court judge, I was a street sweeper!" The Americans, receptive to criticism and good jokes, laughed at this; but this did not improve the mood of

the Germans. They wanted to get rid of the whole thing. Only reluctantly, driven by a residual sense of responsibility and by the parties, did they allow themselves to be active in the now newly created boards of judges and boards of examiners.

[...]

Revolutions are difficult to tame; they follow their own laws. And these laws are then followed by men. In Germany, too, the forces that unleashed rather than contained prevailed. Naturally, they did so with arguments of reason and with parts of the law. Why drag the *little man* before the chambers and committees, why subject *him* to the ban on employment, they said, when it was the fault of the politicians who had not resisted National Socialism vigorously enough? If the formalism of the prosecution by the Allies had been broad, these Germans now made it much broader. They drew a logical and yet false conclusion: the mere follower is not guilty in the sense of higher justice, because he only followed the one who is responsible for the political error; consequently, the responsible person belongs first in the dock! – Not at all, we answer, neither of them belongs there, if it was not a matter of crime, but of *political error*!

[...]

Let's be frank about it: *It does not constitute guilt to have erred politically.* Committing crimes or participating in them, even if only by acquiescence, is guilt. And negligence is also guilt, although of a different and lesser kind than crime and participation in crime. But political error – in all shades – including genuinely wrong decisions belongs neither before courts of law nor before a denazification panel. To err is human. It is so very human that it belongs to our nature. It is so much a part of our nature that we do not even notice the mistake we make. Sooner or later only the consequences will make it obvious to us and to our environment that we did not sufficiently take into account and did not adequately assess the variety of contexts and the quality of the forces that were at play at the moment of the decision. We have a right to be wrong, if we do not want to be slaves, puppets, or gods. Aren't we expected to recognize the mistakes we have made and to do better the next time? To learn lessons from our mistakes? But who will guarantee that we, in view of the present consequences of errors, are now free of errors and mistakes when confronted with new decisions for what is right and what is better? Our path to truth – and the mention of the word alone is unrealistic and suspicious in politics, since it is a result of necessarily conflicting thoughts and forces! – in this world of confusion, of semi-darkness, of passions and of so many different motives, our path to truth leads only through *experience*, and that means: through the realization of consequences which we cannot at all calculate in advance with mathematical certainty, which therefore arise from merely fragmentary insights and from deficient acts of will, from a mixture of truth and error. This is the *prerequisite of genuine democracy*, for in it one believes that never an individual or a group, social status or class has the whole truth; it exists only in parts and fragments, so that it must be gradually brought to a relatively perfect reality by arguments and peaceful competition. To claim, as in practice, that whoever has erred is guilty, is undemocratic, totalitarian and, moreover, pharisaic; by doing so one undermines from the outset every policy of re-education at its foundations. We quite agree with the president of the Cantonal Bernese Writers' Association, Dr. Hans Zbinden. In his book *Um Deutschlands Zukunft* (1947) [*On Germany's Future*], he calls into question the thesis of the "collective guilt of a whole people," which includes the freedom from error. He calls it a "abominable doctrine" and "a Trojan horse of totalitarian thinking." Is not the previous attempt at denazification of Germany, as we have seen, *itself* full of errors due to erroneous assessment of forces, with the best of motives? No statesman, no economist, no general, no pedagogue, no writer, no one, no human being of mind and will on God's vast earth would still be at liberty if error were punished with internment, be alive if punished by death. We would all have to imprison and kill each other. In Germany's new democracy it would mean the end for all politicians of all four parties! In the Prussian Landtag and in the German Reichstag before 1933, the Communists supported opposition and

obstruction motions of the National Socialists against all other parties about two hundred times, they alone did that. Because they wanted to pave the way for Hitler? Certainly not, but because they were against the government of the time just like the National Socialists, for whom the help of the far left was just fine. The same is true of others in similar areas. Foreign countries made pacts with Hitler – and how! – long after June 30, 1934, when the face of the brown regime was already clear to everyone who had eyes in his head and principles in his heart. Guilt? The circumstances were very complicated: just as not every German could see from the very beginning, even before 1933, that the floodgates that stood in the way of a flood of crimes would be broken, so not every foreign government before 1938 could take it upon itself to risk a world war without having exhausted the peaceful possibilities (which did not happen either). We speak of *guilt*, not of mistakes, shortcomings, neglect, errors.

[...]

Let us draw conclusions. The denazification of Germany has passed through a first stage. The result is unsatisfactory in all four zones. The method was wrong. We did not solve the problem, and we will not solve it in this way. For example, in the U.S. zone 3,303,557 people were affected. They lost their positions. In the first 13 months since the enactment of the Liberation Law, 251,845 of them stood before trial boards. How many turned out to be major offenders according to these boards? 501! 5,552 were found to be offenders, 22,194 to be lesser offenders, 176,073 to be followers. 13,756 were exonerated because they were in opposition to the National Socialist regime *and* had suffered disadvantages as a result. 33,769 of the rest had their cases dismissed because of a juvenile amnesty and a Christmas amnesty. It turned out (due to a lack of sufficient documents from the liberation ministries – only after the fact!) that almost 1.5 million affected persons were covered by this amnesty. About 1 million cases would still have to be processed. With the same result: 0.2% major offenders, 2.2% offenders? The remainder of 97.6% could only be settled in the course of five years or by 1950, if we were able to double the number of trial chambers, to be told that they do not belong to the two main groups of offenders, – more than 5% oppositionists, about 70% mere followers! Should they all in the meantime be excluded from their professional work? In the British zone, some 1,160,000 persons have so far been re-awarded “employment eligibility” by the review boards, with a year’s probation for the time being. These conditional decisions have been recognized by the British Military Government; they correspond with the classification in Groups IV and V (followers or exonerated persons) of the American zone. The result there is partially ... – see the complaint in *Weltbühne* about Hamburg! In a district of the French zone (Rhineland) a returned high-ranking Nazi functionary, against whom no less than a dozen charges of trespass, extortion, crimes against humanity, rape and more such ugly things were pending, had to be arrested the other day. Why had he returned? He had the most perfect denazification papers from the British zone! (Of course, this does not mean that *everyone who* comes with such a paper, or indeed the vast majority of them, were National Socialist criminals!) In the Russian and in the French zone things are quite the opposite.

[...]

What can still be achieved – radically and yet taking into account the given balance of power, as well as the political prestige of the ruling men on the Allied and on the German side?

First. Strict limitation of the liberation laws and orders issued (to be amended accordingly) to all those Germans who are strongly suspected of political crimes or of criminal acts of any kind in connection with the National Socialist regime. Thus, *restriction to groups I and II*. They alone are to be brought before courts, trial chambers, review and purge committees, however long that may take (it would not take very long).

Second. *Lifting of the employment ban* for all others. However, without entitlement to reinstatement of “rights” granted after January 30, 1933. Opposition members who appear formally guilty are entitled to

reparation, but their cases must be examined if this has not yet been done; they may file a corresponding application.

Third. A general *decision of atonement* is issued against those categorized as lesser offenders and followers *without special proceedings*. Their contribution to reparations for the consequences brought about by National Socialism, in which they participated for any non-oppositional reasons, may also be made voluntarily. Atonement is to be made predominantly in levies on tangible assets to the surviving dependents of victims of National Socialism, for the

housing and care of refugees and expellees or the amount of the benefit shall be paid in cash only in exceptional cases. The economic situation of the person making reparations shall be taken into account.

Fourth. The manner of *reemployment of National Socialists*, wherever it may be, shall be decided in the individual professions by responsible men and women who shall be entrusted with this task. They should be professionally competent and politically trained. The American procedure of entrusting so-called license holders in all branches of journalism with full responsibility for hiring new personnel can be applied accordingly. The bodies of professional liaison officers must be elected within the establishments, offices, and other institutions. Their independence must be effectively safeguarded, especially against party-political influences which, usually through works councils or by exerting some highly questionable pressure against management, already prevent even exonerated persons, let alone followers, who have received their valid *Spruchkammer* decisions, from finding work again. Appeals and arbitration bodies are indispensable. As a basic principle for the decisions of the liaison officers, not only a person's past should be decisive, but even more so the totality of his or her qualities and the significance of the person for the future. *Leadership functions* in the true sense of the word can be performed by National Socialists only after thorough probation, when their performance has shown that there is no doubt about their democratic irreproachability. The opportunity that everyone is given is "one time only". Anyone who abuses this opportunity politically will be removed permanently without any further consideration. Everyone else earns full equality pending the judgment of the liaison officers,.

Some may feel this *probation* to be secondary. But we think that someone who has proved himself negligent, merely following economic trends, or simply stupid – whether guided by idealistic motives or not – that such a man or woman should hardly expect that all the world will simply and benignly overlook the consequences of past conduct. In history, fortunately, this is seldom the case, with the exception, until yesterday, of the generals, who for centuries were allowed to pocket glory and pensions when they had plunged their fellow men into misery. Politicians and civil servants, at any rate, must vacate their places in democracies if they have made too many mistakes, succumbed to too many errors and displayed a below-average level of knowledge, ability, and character. It is up to the public, not the courts, to apply this past and present standard to today's politicians and civil servants.

With the proposal to lift the ban on the employment of "followers" we have crossed the border of the first stage of denazification and entered the second. It *has* a second stage, and this is far more important than the first, which has been the focus of almost all our attention so far. We mean the *positive liberation* of the German people from National Socialism and militarism! How does one imagine a "solution" in the long run that looks like this: Eliminate millions and leave them to themselves? Are they no longer there, because they have been eliminated, "excluded," pushed into the conspiracy corners, – "non-existent in their own sense," to speak with Christian Morgenstern? One can only *kill* them *or win them over*; according to the experiences of world history, enemies should never be treated differently. (And how many real enemies are already among these millions!) Killing is out of the question in this country, on the latitudes of democracy, our proclaimed humanity and the remnants of Christianity still lingering and having an effect here and there. So, they must be won over. Not by wooing them (which some people and some parties are already inclined to do both eagerly and suspiciously), but by taking them on objectively. We must *prove* that democracy is better. Consequently, we want to give them a regulated, orderly, and

supervised opportunity, – concretely, not merely in phrases. I would feed them with enlightening, life- and mind-changing facts, not just the one: Away with you! (Which then does not and cannot happen radically at all.) Whoever shows that he has learned – in self-evident, sober, unpathetic probation – belongs to us: to the struggling community of people who continue to err but strive for a system in which the right to political error need not be linked with guilt. Only real *democracy* is positive liberation.

We have tried to get to the real causes in the question of denazification and to show another, possible, viable way to complete stage one and initiate *stage two*. We will speak of this in detail when it comes closer. There are many influential forces at work among the Allies and among us in order to steer the vehicle, which for the time being bears only the *inscription* “democracy” but in truth is still no more than a wreckage removal cart, out of the undergrowth of obstacles in which it is currently stuck. Let no one in Germany speak derisively of changing course, losing prestige, being forced through hardship to admit mistakes made and the like, if soon – hopefully soon – opportunities for new initiative should open up to us. We are in the process of reclaiming the right to political error. We, from whose ranks many have made use of it in the past, not without the heaviest guilt or guilt-sharing, do not then want to impute it to those who have nevertheless paid tribute to it in this present stage of development without even a similar measure of guilt. The *objective* of liberation from fascism and militarism unites all of us, the good-willed on this side as well as on the other side of the border posts, the barbed wires, the walls of government, administration and command posts.

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