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### **REVISING THE 'MYTH' OF A 'CLEAN WEHRMACHT': GENERALS' TRIALS, PUBLIC OPINION, AND THE DYNAMICS OF VERGANGENHEITSBEWÄLTIGUNG IN WEST GERMANY, 1948-60\***

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Among one of the most consistent claims made by the organizers and supporters of the 'Wehrmacht exhibition'<sup>1</sup> has been that the 'myth' of a 'clean Wehrmacht' took root in the Federal Republic of Germany in the early 1950s, lasting well into the 1980s, only to have been finally shattered by the exhibition itself in the mid-1990s. Although this thesis has very little to do with the actual content of the exhibition – which examined the role of the *Wehrmacht*, and the army in particular, in co-operating with SS units in the final solution in the Soviet Union, in executions of enemy personnel, and the extermination of countless civilians through the device of declaring them to be partisans – it has been repeated consistently by a number of historians.<sup>2</sup>

\* This article derives from a lecture given at the GHIL on 13 May 2003. As much of the research on which the arguments in this article are based is to be found in A. Searle, *Wehrmacht Generals, West German Society, and the Debate on Rearmament, 1949-1959* (Westport, Conn., 2003), readers seeking more extensive references to primary source material are referred to this work.

<sup>1</sup> The major themes of the exhibition can be found in H. Heer and K. Naumann (eds.), *Vernichtungskrieg: Verbrechen der Wehrmacht 1941 bis 1944* (Hamburg, 1995). The intensity of feeling surrounding the exhibition is captured well in Hamburger Institut für Sozialforschung (ed.), *Krieg ist ein Gesellschaftszustand: Reden zur Eröffnung der Ausstellung 'Vernichtungskrieg: Verbrechen der Wehrmacht 1941 bis 1944'* (Hamburg, 1998).

<sup>2</sup> K. Naumann, 'Die saubere Wehrmacht: Gesellschaftsgeschichte einer Legende', *Mittelweg* 36, 7/4 (1998), pp. 8-18; O. von Wrochem, 'Keine Helden mehr: Die Wehrmachtselite in der öffentliche Auseinandersetzung', in M. T. Greven and O. von Wrochem (eds.), *Der Krieg in der Nachkriegszeit* (Opladen, 2000), pp. 151-65; P. Reichel, 'Der deutsche Soldat hat seine Ehre nicht ver-

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But as there have been no really convincing attempts to justify it on the basis of a thorough examination of primary sources, it seems time to subject this claim to closer scrutiny. This should not be misconstrued as an effort to take issue with the exhibition itself – which has, after all, done much to revive interest in the *Wehrmacht* – but rather as a call to historians to reconsider the issue of *Vergangenheitsbewältigung* ('coming to terms with the past') during the 1950s, and many of the unsubstantiated assumptions surrounding its undercurrents and dynamics, particularly those aspects relating to the way in which Germans came to terms with their *military past*.

In seeking to identify trends in public perceptions of the *Wehrmacht*, one route would seem to offer potentially high dividends: the reaction to trials of former generals. In addition to the Nuremberg trials, so far historians have shown some interest in the trials by the British of Field Marshal Albert Kesselring in Venice in 1947 and Field Marshal Erich von Manstein in Hamburg in 1949.<sup>3</sup> However, a series of trials of generals in Federal German courts for the execution of soldiers under their command has been ignored almost completely.<sup>4</sup> In the only two attempts so far to examine the prosecution of former members of the *Wehrmacht* before German courts, not one of the six cases is even mentioned.<sup>5</sup> This seems to be a quite remarkable oversight. Yet, in many ways it merely reflects

loren." Wie in der Nachkriegszeit der Mythos von der sauberen Wehrmacht entstand', *Süddeutsche Zeitung* (hereafter SZ), 27 Nov. 2001.

<sup>3</sup> O. von Wrochem, 'Die Auseinandersetzungen mit Wehrmachtsverbrechen im Prozeß gegen den Generalfeldmarschall Erich von Manstein', *Zeitschrift für Geschichtswissenschaft*, 46 (1998), pp. 329–53; D. Bloxham, 'Punishing German Soldiers during the Cold War: the Case of Erich von Manstein', *Patterns of Prejudice*, 32 (1999), pp. 25–45; K. von Lingen, 'Konstruktion von Kriegserinnerung: Der Prozeß gegen Generalfeldmarschall Albert Kesselring vor einem britischen Militärgericht in Venedig (1947) und das Bild vom Krieg in Italien', *Militärgeschichtliche Zeitschrift*, 59 (2000), pp. 435–50.

<sup>4</sup> The exception is Searle, *Wehrmacht Generals*, ch. 7.

<sup>5</sup> R. B. Birn, 'Wehrmacht und Wehrmachtangehörige in den deutschen Nachkriegsprozessen', in R.-D. Müller and H. E. Volkmann (eds.), *Die Wehrmacht: Mythos und Realität* (Munich, 1999), pp. 1081–99; A. Streim, 'Saubere Wehrmacht? Die Verfolgung von Kriegs- und NS-Verbrechen in der Bundesrepublik und der DDR', in Heer and Naumann (eds.), *Vernichtungskrieg*, pp. 569–97.

some of the broader failings of the research over the last decade on *Vergangenheitsbewältigung*, not least the lack of attention which has been paid to the effect of trials for National Socialist crimes on public attitudes.<sup>6</sup>

The failure to take account of the generals' trials, some of which were major media events, can be explained on three counts. The first cause lies in the initial direction of research into trials for National Socialist crimes. Much of the early interest in post-war trials was in what they could offer in terms of material for research into the crimes of the Third Reich: the trials were seen only as a source of documentary material.<sup>7</sup> The second reason has been that where historians have sought to examine reactions to post-war trials, the focus has usually been on those proceedings directly involving the Holocaust, or crimes committed specifically by the SS. Moreover, these works have tended to focus more on the 1960s because the assumption has been that only after the 1958 *Ulmer Einsatzgruppenprozeß*, the trial in Ulm of former members of a security task force, did the Federal Republic turn its attention to dealing seriously with the past. Indeed, some historians argue that the first Auschwitz trial in Frankfurt, which began in December 1964, was an even more important landmark.<sup>8</sup> The third reason is the claim in more recent studies that the *Wehrmacht* was 'whitewashed' in the 1950s. The logic behind this research appears to be that since German society was only interested

<sup>6</sup> In a recent volume on trials in Cologne for Nazi crimes containing 15 essays, only one dealt with media reactions, and in a mere seven pages, referencing only secondary literature. See H. Lichtenstein, 'Niemand spricht für die Zeugen: Medien, öffentliches Interesse und NS-Prozesse', in A. Klein and J. Wilhelm (eds.), *NS-Unrecht vor Kölner Gerichten nach 1945* (Cologne, 2003), pp. 158–64.

<sup>7</sup> See here P. Steinbach, 'NS-Prozesse und historische Forschung', in H. Lichtenstein and O. R. Romberg (eds.), *Täter – Opfer – Folgen: Der Holocaust in Geschichte und Gegenwart* (Bonn, 1985), pp. 136–53. One of the earliest attempts to make use of trial documents for research into National Socialist crimes, and perhaps still the most successful, is H. Jäger, *Verbrechen unter totalitärer Herrschaft: Studien zur nationalsozialistischen Gewaltkriminalität* (Olten, 1967).

<sup>8</sup> H. Lichtenstein, 'NS-Prozesse: Zum Ende eines Kapitels deutscher Justizgeschichte', in id. and Romberg (eds.), *Täter – Opfer – Folgen*, pp. 114–24; J. Friedrich, *Die kalte Amnestie: NS-Täter in der Bundesrepublik* (Frankfurt am Main, 1984), pp. 321–412.

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in constructing a myth of a 'clean *Wehrmacht*', there can be no point in examining the confrontation with the military past in the 1950s as, quite simply, none took place.<sup>9</sup>

In assessing 'the generals' trials' in the Federal Republic, this article will challenge the thesis that the 'myth' of an honourable *Wehrmacht* dominated perceptions of the military past during the 1950s. It will be argued that some of the 'generals' trials' represented, in fact, an important chapter in the early attempts to come to terms with the National Socialist past. The six individual cases, which involved eight separate trials, saw one field marshal and five generals appear in the witness-box. As they extended from 1948 to 1960, they provide a means of analysing attitudes towards the *Wehrmacht* throughout the 1950s, and thus offer a chance to put the hypothesis of the 'myth of a clean *Wehrmacht*' to the test. The discussion will focus on four areas: first, the need to view these cases as a trial category in their own right; second, the significance of the trial of Theodor Tolsdorff in June 1954; third, the three major trials which took place in the second half of the 1950s; and fourth, the impact of the trials on perceptions of the *Wehrmacht* and the way in which public attitudes can be related to recent research on 'victimization' in West German society.

### I. *Trials of Wehrmacht Generals, 1948–60: An Overview*

What makes the eight 'generals' trials' particularly instructive for the analysis of changing perceptions is that they extended over three clearly identifiable phases in the development of West German public attitudes towards the war, the National Socialist state, and its armed forces.

The first period in the evolution of post-war opinion towards the *Wehrmacht* ran from the collapse of the Third Reich in May 1945 to the emergence of the rearmament debate in late 1949. In this period there was a form of 'sullen resentment' towards generals in particular. On

<sup>9</sup> Even studies which make some use of primary source material seem marked by a lack of analytical rigour and a strongly polemical style of argument. See here H. Heer, 'Vom Sieg der Geschichte über die Erinnerung: Das Bild der Wehrmacht im kollektiven Bewußtsein der Bundesrepublik' in id., *Tote Zonen: Die Deutsche Wehrmacht an der Ostfront* (Hamburg, 1999), pp. 257–86; D. Bald, J. Klotz, and W. Wette, *Mythos Wehrmacht: Nachkriegsdebatte und Traditionspflege* (Berlin, 2001).

the one hand they were seen as responsible for the 'lost war' yet, on the other, the negative attitude towards them was an early manifestation of a clear rejection of Nazi militarism. None the less, with hunger rife and the major cities in ruins, it is hardly surprising that the first two trials aroused very little interest: the proceedings against *General der Panzertruppe a.D.* Hermann Balck before the Landgericht Stuttgart in May 1948 led to a prison sentence of three years,<sup>10</sup> those against former *Generalmajor* Rudolf Hübner in November 1948 before the Landgericht Munich to sentences totalling ten years.<sup>11</sup>

The second phase, which ran from approximately late 1949 to mid-1954, was dominated by the government's fight for sovereignty, the question of rearmament, and the concomitant campaigns for the release of Germans imprisoned by the Western Allies. The desire to bargain for better conditions for the planned armed forces by refusing to participate until the 'so-called war criminals' were released saw this period marked by an overt aggressiveness towards any suggestion that the crimes of the past needed to be confronted. This period saw two further cases against generals come before the courts. The first, which was heard before the Landgericht Hamburg in January 1953, led to former *Generalmajor* Georg Benthack being pronounced 'not guilty' after two charges of manslaughter had been heard.<sup>12</sup> His case, in keeping with the atmosphere of the time, provoked almost no media interest. The second trial, that of *Generalleutnant a.D.* Theodor Tolsdorff in June 1954, which saw the general sentenced to three and a half years' prison by the Landgericht Traunstein,<sup>13</sup> did by contrast arouse considerable press interest, though it does conform very clear-

<sup>10</sup> III Kls 9/48, verdict, Landgericht (hereafter LG) Stuttgart, 25 May 1948, and, 1 Ss 112/48, decision of Oberlandesgericht Stuttgart, 15 Sept. 1948, in A. L. Rüter-Ehlmann and C. F. Rüter (eds.), *Justiz und NS-Verbrechen: Sammlung deutscher Strafurteile wegen nationalsozialistischer Tötungsverbrechen 1945–1966* (Amsterdam, 1968–), ii, pp. 539–49, 550–8.

<sup>11</sup> 1 Kls 143/48 and 1 Kls 152/48, verdict, LG Munich I, 25 Nov. 1948, and, 1 Ss 71/49, decision of Oberlandesgericht Munich, 30 June 1949, in *Justiz und NS-Verbrechen*, iii, pp. 553–68, 569–73.

<sup>12</sup> (50) 18/52, verdict, LG Hamburg, 30 Jan. 1953, in *Justiz und NS-Verbrechen*, x, pp. 295–336.

<sup>13</sup> Institut für Zeitgeschichte (hereafter IfZ), Gt 01.01, Ks 4/53, verdict, LG Traunstein, 23 June 1954.

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ly to this phase of public opinion in so far as strong disapproval of the verdict was expressed.

The third phase ran from approximately September 1954 to the end of the rearmament debate in November 1960.<sup>14</sup> It was marked by a remarkable *volte face* in public opinion, a wave of anti-militarism sweeping the country, clearly noticeable in the changed attitudes towards the remaining four trials: that of Field Marshal Ferdinand Schörner in Munich in October 1957 (verdict: guilty, four and a half years);<sup>15</sup> the following year the first retrial of Theodor Tolsdorff in September 1958 (case abandoned under the provisions of the Amnesty Law of 1954);<sup>16</sup> then in August 1959 the proceedings against *General der Panzertruppe a.D.* Hasso von Manteuffel in Düsseldorf (verdict: guilty, eighteen months);<sup>17</sup> and, finally, the second retrial of Theodor Tolsdorff, again in Traunstein, in May/June 1960 (verdict: not guilty).<sup>18</sup> The first three were of particular significance for public opinion.

Bearing in mind that all six cases involved prosecutions for illegal executions, four general observations can be made. It is interesting to note that, first of all, the prosecutions were almost exclusively for actual or attempted manslaughter, only one of them, that of Hübner, involving charges of murder and attempted murder, although on these counts he was found not guilty. Second, of the eight trials, only two ended with a verdict of not guilty: Georg Benthack in 1953, and

<sup>14</sup> Within the context of the arguments in this article, it seems appropriate to accept Norman Drummond's claim that the end of the rearmament debate was marked by the SPD conference at Hanover in November 1960, at which the Social Democrats declared the debate to be over. See N. Drummond, *The German Social Democrats in Opposition, 1949–1960: The Case Against Rearmament* (Norman, Okla., 1982), pp. 7, 287.

<sup>15</sup> 3 Ks 10/57, verdict, LG Munich, 15 Oct. 1957, and, 1 StR 51/58, decision of 1. Strafsenat, Bundesgerichtshof, 25 July 1958, in *Justiz und NS-Verbrechen*, xiv, pp. 359–90, 391–9.

<sup>16</sup> Staatsarchiv Munich (hereafter StAM), OLG 306, Ks 4/53 (644/55), verdict, LG Traunstein, 29 Sept. 1958.

<sup>17</sup> 8 Ks 1/59, verdict, LG Düsseldorf, 21 Aug. 1959, and, 2 StR 622/59, decision of 2. Strafsenat, Bundesgerichtshof, 10 March 1960, in *Justiz und NS-Verbrechen*, xvi, pp. 25–41, 42–5.

<sup>18</sup> Ks 4/53, verdict, LG Traunstein, 3 June 1960, in *Justiz und NS-Verbrechen*, xvi, pp. 389–414.

Theodor Tolsdorff in 1960, the latter only as the result of a second retrial. Third, as all these cases centred on execution orders issued by the generals which were carried out on German nationals, serving in the *Wehrmacht*, for military indiscipline – whether mutiny, drunkenness, or failing to open fire on the enemy – they cannot be considered, in a strictly legal sense, to be National Socialist crimes of violence. What made a crime 'National Socialist' was that it took place in an area detached from the main combat zone. Fourth, the fact that the central legal issues were essentially the same in all six cases suggests that they can be approached as a homogeneous group, opening up interesting comparative possibilities. Thus while each of these trials concerned a specific incident or incidents, separated in time and by geographical location, each of them revolved essentially around the same problem in military law, and all of them occurred during the final eighteen months of the war.

The cases all differed from the much more frequent proceedings against junior officers and NCOs for executions quite simply because the generals could not employ the principle of *Befehlsnotstand*. This allowed a junior commander to justify his carrying out of an execution order if he had believed that failure to do so would have led to his own execution.<sup>19</sup> In the generals' trials, this approach did not have any serious legal basis as, in each case, the general gave the order on his own initiative, as the final legal authority of his unit or command area.<sup>20</sup>

However, the generals and their defence lawyers frequently cited Paragraph 124 of the Military Criminal Code, the *Militärstrafgesetzbuch*, this representing the principle of *Befehlsnotrecht*. The relevant passage laid down that:

<sup>19</sup> On this issue, see H. Buchheim, 'Das Problem des sogenannten Befehlsnotstand aus historischer Sicht', in P. Schneider and H. J. Meyer (eds.), *Rechtliche und politische Aspekte der NS-Verbrecherprozesse* (Mainz, 1967), pp. 25–37.

<sup>20</sup> Thus, if one wishes to make use of Herbert Jäger's typologies of Nazi criminality, the orders could be defined as acts of initiative, *Initiativtaten*. However, there are no straightforward answers, and his category of acts governed by orders, *Befehlstaten*, could also be applied (Jäger, *Verbrechen*, pp. 44–75).

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- (1) The actions undertaken by the commander in order to prevent a violent attack by his subordinate, or to achieve obedience to his orders in the case of extreme emergency or immediate danger, are not to be regarded as misuse of his authority.
- (2) This applies also to the eventuality that an officer, in the absence of other means, in order to maintain the necessary obedience, finds himself in the position of having to make use of weapons in order to resist a violent subordinate.<sup>21</sup>

This section of the Military Criminal Code was discussed by the court in each of the cases, except that of Hübner, although in none of them did it achieve any success. The situation provided for here was more that of a disintegration of morale and discipline during a retreat or a battle. None of the executions ordered by generals fitted this description; none of the decisions were made in the midst of a retreat or an engagement with the enemy. In each instance, the court decided that other means more appropriate could have been employed.

None the less, the generals also used specific orders issued by Hitler, Keitel, and Himmler, known collectively as ‘catastrophe orders’, to justify their decisions. In the case of *Generalmajor* Hübner, he had been appointed in March 1945 as head of a ‘flying court martial’ by Hitler personally.<sup>22</sup> In the Balck trial, while the court made detailed reference to the increase in severity in the Military Criminal Code in the last two years of the war, such as the 5. *Verordnung zur Ergänzung der Kriegssonderstrafrechtsverordnung* of 5 May 1944, it could not be proved whether Balck had received an order directly from Hitler at the end of September 1944, demanding that he use draconian measures to restore discipline.<sup>23</sup> In the Benthack trial, the court accepted that the accused had been issued with an order personally by Hitler in September 1944 permitting him to take any measures he thought fit to maintain discipline. The same order was issued once again on 30 January 1945, a copy of which was available to the court.<sup>24</sup> In the Tolsdorff trial in June 1954, while the court

<sup>21</sup> *H.Dv. 3/1. Militärstrafgesetzbuch II. Kriegssonderstrafgesetzverordnung* (Berlin, 1940), § 124.

<sup>22</sup> 1KLs 143/48 and 1 KLs 152/48, in *Justiz und NS-Verbrechen*, iii, p. 554.

<sup>23</sup> III KLs 9/48, in *Justiz und NS-Verbrechen*, ii, pp. 545–7.

<sup>24</sup> (50) 18/52, in *Justiz und NS-Verbrechen*, x, pp. 309–10.

rejected the applicability of § 124 of the Military Criminal Code to the case out of hand, they took up the question of the 'catastrophe orders', referring to the so-called Keitel order of 18 January 1945, and Himmler's subsequent 'flag order'. In pursuit of the case, the court in Traunstein later spent a considerable time attempting to establish the exact wording of many of these orders.<sup>25</sup> The Keitel order also played a particularly prominent role in the trial of Ferdinand Schörner in October 1957,<sup>26</sup> while in the trial of Hasso von Manteuffel in August 1959 it was the 'Führer Order No. 7' of 24 February 1943 which stood at the centre of the proceedings.<sup>27</sup>

Although it has been argued that these cases did not, strictly speaking, represent instances of National Socialist crimes of violence, the claim by both the accused and many of the military witnesses that the 'catastrophe orders' had been legal, and the reliance on these orders by generals as part of their defence, cast doubts on the claims made by the General Officer Corps that the *Wehrmacht* had been resistant to National Socialist ideology. Moreover, each of the trials contained further potential to arouse negative reactions as, from the experience of the war among *Wehrmacht* veterans, witnessing the execution of a German soldier, or, worse still, a comrade from one's own unit, was among the war's most traumatic experiences. It provoked a combination of outrage, shock, and fear, making it an experience which was never forgotten.<sup>28</sup> Whether and in what way the public, journalists, jurors, or judges reacted to the implications of the details of these cases depended on the particular phase of public opinion in which the respective trial took place. The range of reactions possible depended in turn upon what sort of associations and connotations

<sup>25</sup> IfZ, Gt 01.01, Ks 4/53, 23 June 1954, pp. 21–2; StAM, OLG 306, Oberstaatsanwalt Traunstein to Generalstaatsanwalt Munich, 3 Nov. 1955, the subsequent correspondence, and copies of various orders.

<sup>26</sup> 3 Ks 10/57, in *Justiz und NS-Verbrechen*, xiv, pp. 381–7.

<sup>27</sup> 8 Ks 1/59, in *Justiz und NS-Verbrechen*, xvi, pp. 35–6, 38–41. The exact text of the order is reproduced in 'Um den "Führerbefehl Nr. 7"', *Soldat im Volk*, 8 (Sept. 1959), p. 2.

<sup>28</sup> E. Mende, *Das verdammte Gewissen: Zeuge der Zeit. Jugend und Zweiter Weltkrieg* (Bergisch Gladbach, 1985), pp. 160–1, reporting on the carrying out of a death sentence in occupied France in early 1941, which 'deeply shocked ... all the soldiers ...'. It was the topic of conversation among soldiers for weeks after.'

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the trial of a general held at any one point in time. And it is in the reactions they produced that the real significance of 'the generals' trials' lies.

Of course, it should not be forgotten that the remarkable public impact of the Tolsdorff trial in June 1954, the Schörner trial in 1957, the first Tolsdorff retrial of September 1958, and the Manteuffel trial of 1959 was to a considerable extent due to the fame of those on trial. Tolsdorff was, after all, the most highly decorated infantry officer in the *Wehrmacht*, Schörner had been a Field Marshal, while Manteuffel had been not only a leading tank general, but also a member of the *Bundestag* between 1953 and 1957. Thus the sentences which were pronounced against all three, while interesting in terms of the legal aspects of the respective cases, should not be used as a means of measuring the success or failure of the trials. It is not, ultimately, of central importance whether Manteuffel should have received more than eighteen months, or whether four and a half years was too harsh or too lenient a sentence for Field Marshal Schörner. What is significant is that a field marshal could be brought to trial and sentenced, and that a prominent veterans' leader, and former member of parliament, could be convicted. In bringing these cases to trial the Federal legal system opened a window on the behaviour of generals during the war, instigating a public debate on the *Wehrmacht* which was not tarnished with accusations of 'victors' justice'.<sup>29</sup>

During the period 1945 to 1949, attitudes towards the *Wehrmacht* were, on the whole, conditioned by the first shock of the Nuremberg trials, coupled with details from many of the *Spruchkammer* hearings, which also saw generals called to answer for their actions during the war. While there was an initial wave of condemnation of generals, by the end of 1949 Nuremberg was beginning to be seen by many as

<sup>29</sup> Interestingly, a new work on the trials in the 1920s in Leipzig of 'war criminals' makes a similar point, namely that the trials should not be seen as a 'failure' because sentences were too lenient, or too few of the accused were convicted. See G. Hankel, *Die Leipziger Prozesse: Deutsche Kriegsverbrecher und ihre strafrechtliche Verfolgung nach dem Ersten Weltkrieg* (Hamburg, 2003), pp. 15–16. The insight that the significance of trials often lies outside the purely legal aspects is, however, sadly lacking in research on trials after the Second World War.

*Siegerjustiz* (victors' justice). In the second phase in the evolution of public opinion towards the *Wehrmacht* and its generals, from late 1949 to mid-1954, attitudes were dominated by the public campaign for the release of the 'so-called war criminals', and, because of the drive for rearmament, by numerous politically motivated attempts to portray the German military in a more positive light. Thus it was hardly surprising that the trial of Georg Benthack, which falls squarely within this period, was more or less ignored. In a sense, then, by the time the trial of Theodor Tolsdorff took place, in June 1954, two reactions to trials of generals were possible: either a negative one, which viewed the prosecution of generals as pandering to the Western Allies and damaging to German interests; or one of suspicion towards generals, coupled with anticipation as to what the details of a case might reveal.<sup>30</sup>

## II. *The Tolsdorff Trial, June 1954*

In terms of the development of post-war perceptions of the *Wehrmacht* in Western Germany, the first three trials – those against Balck, Hübner, and Benthack – are only significant in so far as they make plain the lack of interest in such cases in the late 1940s and early 1950s. The trial of Theodor Tolsdorff in Traunstein in June 1954, however, represents a departure as it provoked considerable press coverage. Tolsdorff, a former Lieutenant-General, stood accused of manslaughter for having ordered the shooting of an army captain and First World War veteran, Franz Xaver Holzhey.

The interest of many journalists seems to have been awakened for three main reasons. First, Tolsdorff had enjoyed a meteoric career in the *Wehrmacht*: having risen through the ranks after joining the army in 1934, he was promoted to Lieutenant-General in March 1945. He had been wounded fourteen times, and had won the Iron Cross in the Polish Campaign, subsequently receiving the Knight's Cross, with swords, oak leaves, and diamonds, making him the most highly dec-

<sup>30</sup> J. Echternkamp, 'Arbeit am Mythos: Soldatengenerationen der Wehrmacht im Urteil der west- und ostdeutschen Nachkriegsgesellschaft', in K. Naumann (ed.), *Nachkrieg in Deutschland* (Hamburg, 2001), pp. 421–43, recognizes that there were two competing views of the *Wehrmacht* in the immediate post-war years, but still emphasizes that in the West there was 'no doubt about the basically honourable nature of the soldier' (p. 442).

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orated infantry officer in the army.<sup>31</sup> Second, the incident involving Captain Holzhey had already been immortalized in one of the best-sellers of the early 1950s, Ernst von Salomon's *Der Fragebogen*. In the fictional account, a retired officer living in the Bavarian village of Eisenärzt removed a sign marking a military zone from in front of his house, placing it 20 metres further down the road. Observed by an SS officer, he was arrested and shot.<sup>32</sup> However, it emerged that the incident on which the account was loosely based had not involved an SS officer: the execution order had been given by Tolsdorff, and the Captain had placed a Red Cross sign in the vicinity of a local hospital. Third, the appearance of two prominent military personalities in court as witnesses—Field Marshal Albert Kesselring and former *General der Infanterie* Friedrich Foertsch—was considered eminently newsworthy.

However, contrary to what one might have expected, the court delivered a verdict of guilty, sentencing Tolsdorff to three-and-a-half years' prison for what it saw as a capricious and arbitrary decision to have the Captain shot without having given him a chance to explain himself, or even having bothered to examine his papers. Tolsdorff had argued in court that he had heard a 'flag order' being read and assumed that this gave him the power to shoot those who displayed white flags or neutrality symbols. The fact that Tolsdorff was convicted stands in stark contrast to the atmosphere of the time, made only too clear in the press coverage of the trial. Quite apart from the strong desire of the public prosecutor in Munich for a verdict of guilty to be reached, there may, in fact, have been another factor which influenced the decision of the jurors: the rolling Rs and booming voice of the accused quickly gave away his East Prussian origins, and seem to have offended local Bavarian sensibilities.<sup>33</sup>

None the less, the press reaction to the verdict was disapproving. Where reports offered no specific comment on the sentence, there

<sup>31</sup> Tolsdorff has not been the subject of a biography. 'Die Ruhe selbst: Theodor Tolsdorff', in *Helden der Wehrmacht* (Munich, 2000), pp. 204–205 is a short sketch. Accurate biographical details can be found at Bundesarchiv-Militärarchiv, Freiburg i.Br., MSg. 109/10853.

<sup>32</sup> E. von Salomon, *Der Fragebogen* (Hamburg, 1951), p. 442.

<sup>33</sup> See the trial coverage in the *Traunsteiner Wochenblatt*, 22, 23, and 25 June 1954.

was at least the implication that the execution had been justified by the need to continue resistance long enough to allow German units from the east and the south to reach friendly lines, and thus American rather than Russian captivity. Those papers which offered specific comment on the verdict came down almost universally on the side of the general. The non-partisan *Kölner Stadtanzeiger* began its editorial by arguing that while the court had been able to reconstruct the execution, 'the atmosphere of the first days of May 1945 cannot be recreated in a courtroom'. One question which could not be answered by the jurors was: 'What is guilt, what is fate?' While the paper judged the execution to have been wrong, it was the political system which Tolsdorff had fought for that was to blame, not the general. An article in the *Süddeutsche Zeitung* asked how nine years later, with the blown bridges now repaired and the destroyed farms rebuilt, the chairman of the court and 'the satisfied and well-fed jurors' could evoke the atmosphere of the final days, the strong implication being that a civilian court was not in a position to pass judgement on military command decisions. To find any criticism at all of the verdict one has to go to the Communist paper, *Freies Volk*, hardly representative even of minority left-wing opinion, which blustered: 'That is Bonn "democracy", when a mass murderer like Kesselring is allowed to appear as a defence witness in every trial of fascist generals.'<sup>34</sup>

The written verdict which was passed on to the *Generalstaatsanwaltschaft* (Office of the Director of Public Prosecutions) in Munich after sentencing, and was thus the product of the deliberations of court employees rather than the jury, shows that the legal officials in Traunstein were only too aware of just how politically charged the decision was. The guilt of the accused was not in question, but it was highlighted that Tolsdorff, 'like the overwhelming majority of the Officer Corps, did not approve of National Socialism and its intention to infiltrate the *Wehrmacht* politically'. While he was described as having become a tool of Hitler, this was the result of his limited outlook and concentration on his purely military duties. Moreover, the

<sup>34</sup> 'Das Urteil von Traunstein', *Kölner Stadtanzeiger*, 24 June 1954; ' "In fünf Minuten werden sie erschossen ...": Der Prozeß gegen den ehemaligen Generalleutnant Tolsdorff in Traunstein', *SZ*, 24 June 1954; 'Der Tolsdorff-Prozeß' ', *Freies Volk*, 25 June 1954.

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verdict concluded with the remark that Tolsdorff's action represented one of the few exceptions when the usual rules of chivalry and correctness were broken. It was also noted that the 'good reputation of the German *Wehrmacht* and its correct behaviour during the war' was now being acknowledged once again in the formerly occupied countries.<sup>35</sup>

This is not to say that there was no criticism of the *Wehrmacht* at this time. Newspapers did contain critical comment on trials of former junior officers, while generals were still subject to verbal attacks in articles and editorials. This trial, however, had an unwelcome political dimension because of the pressure which veterans were still exerting on the government. The argument ran that Germans could not be expected to don a uniform in the new armed forces when war veterans, with numerous wounds and as many decorations, were being subjected to legal prosecution for simply having carried out their duty. Veterans also pointed out that trials by German courts could jeopardize the efforts for the release of those former soldiers still in Allied captivity. Likewise, the suggestion that the state prosecutors in Traunstein had been put under pressure to secure a conviction was one which certain veterans' groups were only too happy to make.<sup>36</sup>

Although veterans appeared angered at the court's decision, by June 1954 the emotions surrounding the war criminals issue were not running nearly as high as they had been in 1951 and 1952. In fact, over the following year the atmosphere in Western Germany was to change radically. This can be seen in a report on the decision in June 1955 of the Federal Court of Appeal to overturn the original sentence. The *Traunsteiner Wochenblatt*, which had studiously avoided any criticism of Tolsdorff in June 1954, noted with satisfaction that attempts by the generals' lawyers to have the case transferred to another court had failed. More significantly, the paper remarked dryly that the Appeal Court had 'directed the assize court in Traunstein towards every point and legal provision on the basis of which Tolsdorff's crime could be assessed differently, whether the assessment led to a verdict of not

<sup>35</sup> IfZ, Gt 01.01, Ks 4/53, verdict, LG Traunstein, 23 June 1954, pp. 4, 30.

<sup>36</sup> 'General a.D. vor deutscher Ziviljustiz', *Der Heimkehrer*, 5 July 1954; 'Weisungsgebundene Staatsanwälte? Der Tolsdorff-Prozeß', *Der Fortschritt*, 1 July 1954.

guilty, or to a decision to invoke an amnesty'.<sup>37</sup> These were very different tones to those of June 1954. What had caused the change?

Between September 1954 and February 1955, a veritable wave of anti-military sentiment swept the Federal Republic. The main catalyst appears to have been the rejection of the European Defence Community treaty by the French parliament on 30 August 1954, which sparked the resurgence of anti-rearmament groups. It was further fuelled by regional elections. Popular culture, in particular the novel *08/15* by Hans Hellmuth Kirst, released as a film in September 1954, and the release of the film version of Carl Zuckmayer's successful play, *Des Teufels General*, in February 1955, interacted with more general political developments, sowing the seeds of a new popular political culture which was demonstratively anti-military. Above all, the return to German soil on 30 January 1955 of Field Marshal Ferdinand Schörner, reputed to have been one of the most brutal army commanders in the *Wehrmacht*, unleashed a wave of hysteria, numerous press reports appearing on the crimes he was alleged to have committed.<sup>38</sup>

The nature of the change in the climate of public opinion is a most interesting event in the history of the Federal Republic. Although here we are dealing primarily with the reactions to Germany's military past, the change seems to go much deeper and to be of a more fundamental nature than many historians have realized. Hans Ehlert has pointed to the rejection of the European Defence Community treaty by the French parliament as a major factor in the upsurge of anti-military feeling and in rekindling hope among anti-rearmament groups that they might be able to hinder the creation of new armed forces. His conclusions appear to be well buttressed by the evidence of public opinion polls, which identify a clear rise in anti-rearmament—and hence, by implication, anti-military—feeling between September 1954 and February 1955. While he notes the part played by emotions, his analysis concentrates on mainstream political debates and controversies.<sup>39</sup>

<sup>37</sup> 'Urteil gegen General Tolsdorff aufgehoben', *Traunsteiner Wochenblatt*, 9 Sept. 1955.

<sup>38</sup> Searle, *Wehrmacht Generals*, ch. 6; 'Heimkehrer: Schörner. Der laute Kamerad', *Der Spiegel*, 9 Feb. 1955, pp. 11–18.

<sup>39</sup> H. Ehlert, 'Innenpolitische Auseinandersetzungen um die Pariser Verträge und die Wehrverfassung 1954 bis 1956', in *Militärgeschichtliches For-*

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In dealing with attitudes to the past and the strange currents which affect them, historians have, though, generally underestimated the psychological impact of 'non-political events'. It may well be the case that a psychological 'turning point' of some importance was Germany's 3-2 victory over Hungary in the football World Cup Final in Berne on 4 July 1954. The emotions it produced seem to have marked a form of inner release from the oppressive atmosphere of the early 1950s. The aggressive defensiveness of Germans towards the occupying powers and the world at large, based on a feeling that they were permanently being accused of something, was cast off. For the first time since the end of the war Germans felt that it was possible to have pride in themselves. The *Deutsche Michel*, portrayed until this point in caricatures as down-at-the-heel, under-nourished, with bowed head, and cap in hand, before the reproving figure of an Allied occupation official, was now able to walk tall, at least in the world of international sport. Not without good reason was the 3-2 victory subsequently described in quasi-religious terms as the *Wunder von Bern*.<sup>40</sup>

In terms of *Vergangenheitsbewältigung* the event is of considerable interest because the feelings of release which the victory caused may well have assisted many Germans in the following months in freeing themselves from their defensive attitude towards the past. With their pride and self-esteem at least partially restored, there was a willingness to start to deal with the events of the war and the crimes of the past themselves. With the new positive perception of their own national identity, the points had been changed within German society. All that was required now was for the anti-rearmament express to speed down the track and veer off in a new direction. At the very least, the victory in Berne acted as a catalyst. If one accepts this thesis, then the Tolsdorff trial of June 1954 represents, as such, the last important event in the second phase of the process of coming to terms with the military past.

schungsamt (ed.), *Anfänge westdeutscher Sicherheitspolitik 1945–1956*, iii: *Die NATO-Option* (Munich, 1993), pp. 321–32.

<sup>40</sup> A useful general treatment is Arthur Heinrich, *Tooor! Toor! Tor! 40 Jahre 3:2* (Berlin, 1994). The phrase *Wunder von Bern* only came into usage much later. At the time the victory was referred to as the *Fußball Wunder*.

### III. *The Shift in Public Opinion and the Three Major Trials*

The new anti-military attitude among the population, politicians, and in the press which had established itself by early 1955 was not a fleeting phenomenon. It can be seen clearly in the press coverage of the proceedings against Field Marshal Ferdinand Schörner in Munich in October 1957, the first retrial of Theodor Tolsdorff in September 1958, and the trial of Hasso von Manteuffel in Düsseldorf in August 1959. The extent of the press coverage was much greater than during the 1954 Tolsdorff trial, and the trials of Schörner and Manteuffel experienced wide coverage in the popular press, turning them into major media events. Given the attention which these three cases generated, it is worth examining each in more detail.

In the case of Ferdinand Schörner,<sup>41</sup> despite the fact that during 1955 he had enjoyed the status of 'Public Enemy No. 1', especially in the illustrated weeklies, the court proceedings represented a new development in attitudes to the *Wehrmacht*: here a Field Marshal was being put on trial by his fellow countrymen. In keeping with his reputation, the reports in the press were suitably critical. Schörner's apparent memory loss in relation to the two cases for which he was being tried was subjected to ridicule, this ridicule being extended to the chief defence witness, Field Marshal Albert Kesselring. While some more conservative newspapers, such as the *Frankfurter Allgemeine Zeitung*, chose not to comment on the sentence of four-and-a-half years, others made the most of the opportunity to attack what they saw as the perfect symbol of a 'Nazi general'. Writing in the *Süddeutsche Zeitung*, Ernst Müller-Meiningen talked of the 'rasping casino tones' of the Field Marshal which had begun 'to grate on civilian nerves'. In another article, punning on the German word 'Brillant', he accused Schörner of having become corrupted by awards, stating that the award of 'diamonds to the Knight's Cross did not make a brilliant Knight' ('Brillanten zum Ritterkreuz noch lange keinen brillanten Ritter ausmachen'). The article was accompanied by a cartoon

<sup>41</sup> There are two biographies of Schörner, both of which make reference to the trial: E. Kern, *Generalfeldmarschall Ferdinand Schörner: Ein deutsches Soldatenschicksal* (Oldendorf, 1976); and R. Kaltenecker, *Schörner: Feldmarschall der letzten Stunde. Biographie* (Munich, 1994).

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which showed a hand opening up the Field Marshal's head to reveal a pistol and a pile of iron crosses inside.<sup>42</sup>

But the press coverage did not focus only on the person, one could say the caricature, of Schörner. During the preliminary investigations, and during the trial itself, the role of military judges in the *Wehrmacht* awakened considerable interest. In April 1956 it had emerged that the man in the Ministry of Defence put in charge of gathering evidence against the Field Marshal had actually been a senior military judge at his Army Group Headquarters. It was also reported that four former military judges were not sworn in by the court as witnesses because of suspicion that they had been involved in some of the offences. *Der Spiegel* noted that the four men were now leading civilian court officials in Oldenbourg, Hamburg, Berlin, and Bückeburg. For the more astute observers the trial had directed attention for the first time to the fact that military judges had been able to continue their careers unhindered after the war: 'the military judges of yesterday and at the same time the legal colleagues of today', as the *Süddeutsche Zeitung* put it.<sup>43</sup>

The following year saw the first of two retrials of Theodor Tolsdorff. This trial ended with the case being abandoned under the provisions of the Amnesty Law. Much more significant than the court's decision was the press reaction to the case, in particular the strong criticism of the verdict. Indeed, in the build-up to the trial, and in the reports on the courtroom proceedings, the press coverage differed quite dramatically from that during the first trial in June 1954. There were, in fact, several dimensions to the proceedings which caught journalists' attention.

For one, there were the obvious parallels with another trial being held at the same time in Nuremberg, where a former *SS-Hauptsturmführer*, Heinz Müller, stood accused of manslaughter, likewise for having ordered an execution shortly before the end of the war. His defence was also based on the infamous 'flag order'. While no newspaper went so far as to suggest directly that one of the most highly

<sup>42</sup> ' "Durchhalten" sagte der Marschall und floh', and 'Das Schörner-Urteil', *SZ*, 5/6 and 16 Oct. 1957.

<sup>43</sup> 'Beamte: Des Marschalls Richter', *Der Spiegel*, 25 April 1956, pp. 16-17; 'Justiz: Kriegsrichter. Wer half Schörner?', *Der Spiegel*, 16 Oct. 1957, pp. 22-4; 'Das Schörner-Urteil', *SZ*, 5/6 Oct. 1957.

decorated officers in the *Wehrmacht* was no better than an SS general, the similarities between the two cases were highlighted in some reports, and can only have led many readers to draw this conclusion for themselves.<sup>44</sup>

The obvious implications of the case for contemporary military policy also caught the eye. The fact that Bundeswehr manoeuvres were taking place in the Traunstein area at the time of the trial was picked up by many journalists. More than one newspaper mentioned that an observer from the Ministry of Defence was present in the courtroom, as there was apparently interest in employing Tolsdorff in the new armed forces. There seemed to be a remarkable contemporary relevance to a general being tried for manslaughter, while outside the courtroom soldiers of the new armed forces were carrying out manoeuvres. The concern was that there was still apparently a very real danger that old *Wehrmacht* commanders would simply take up where they had left off in May 1945.<sup>45</sup>

But perhaps the most striking element in the reporting was the emotional reference to the victim in the case, Franz Xaver Holzhey. It is noticeable that several reports began or concluded with the words which were on Grave No. 314 in the military cemetery on a hill overlooking Eisenärzt, the village where the execution had taken place: 'He died for Eisenärzt.' The *Frankfurter Rundschau*, in describing the soldiers' cemetery where Holzhey was buried, stated that they did not know whether the man who had appointed himself as the 'merciless judge' over an old war hero from the First World had ever been to pay his respects to his victim. 'Probably not', they concluded, 'as the Generalleutnant a.D. ... would be too proud.' *Die Welt*, in an article which used the words on the gravestone as its headline, cited *Landgerichtsdirektor* Schmidt, who told witnesses from Eisenärzt that 'Holzhey put himself in the firing line for you'.<sup>46</sup>

<sup>44</sup> 'Flaggenbefehl kein Geheimnis mehr: Parallel-Prozeß in Nürnberg zum Traunsteiner Verfahren gegen Tolsdorff', *Münchener Merkur*, 26 Sept. 1958; ' "Die Leute extra scharf gemacht": Totschlagprozesse in Traunstein und Nürnberg', *Frankfurter Rundschau* (hereafter FR), 25 Sept. 1958; 'Flaggenerlaß hin oder her', *SZ*, 27/28 Sept. 1958.

<sup>45</sup> E.g., 'Der General ließ erschießen und zog ab', *SZ*, 25 Sept. 1958.

<sup>46</sup> ' "In Ordnung gegangen", sagt Kesselring', *SZ*, 25 Sept. 1958; 'Die letzte Tat des "tollen Tolsdorff"', *FR*, 30 Sept. 1958; 'Er starb für Eisenärzt', *Die Welt*, 26 Sept. 1958.

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Even more telling were the reactions to the verdict. The question of Tolsdorff's responsibility for his actions was taken up by several newspapers. An editorial in the *Frankfurter Rundschau* took the court to task for the way in which it had seen the accused's military record as somehow compensating for his actions, and for its failure to decide whether the 'flag order' had been legally binding. In the *Süddeutsche Zeitung*, Ernst Müller-Meiningen was as blunt as he had been during the Schörner case, remarking sarcastically, 'if it was alright to proclaim an SS-General Simon not guilty, why should one not give General Tolsdorff at least an amnesty'. For the journalist, it seemed that 'one did not want—for military-psychological reasons, so to say—to hurt a "branch" which is making a comeback: the military. What a weak people, who on 3 May 1945, when the "Tolsdorff Case" occurred, did not want to fight resolutely for "Führer und Vaterland"'. He accused the court in Traunstein of having 'made everything just a little too easy for itself', and concluded that Tolsdorff's act remained, 'as it was committed on 3 May 1945, straightforward murder'. This editorial was supported visually by a cartoon drawn by Ernst Maria Lang, entitled 'Pilatus Tolsdorff & Co.'. It showed the general washing his hands in a bowl with the word 'Amnesty' on it, which was being held by a kneeling judge wearing a pious expression.<sup>47</sup>

Following the retrial of Tolsdorff, another major case came to court the following year, this time in Düsseldorf, proving to be just as spectacular as the proceedings against Schörner. Former *General der Panzertruppe* Hasso von Manteuffel<sup>48</sup> was charged with having ordered an execution, again without having followed the correct legal procedures. The trial hit the headlines throughout Western Germany because Manteuffel was not considered to be a 'Nazi general', but rather a model citizen of the new republic. One of the first advocates of rearmament, he had also been active as a spokesman for veterans' organizations. Moreover, he had been elected to the German Parliament in 1953 as a member for the Free Democrats, and

<sup>47</sup> 'Irrtum', *FR*, 1 Oct. 1958; 'Am 3. Mai 1945 ...', *SZ*, 1 Oct. 1958.

<sup>48</sup> For biographical details, see J. v. Schaulen, *Hasso von Manteuffel: Panzerkampf im Zweiten Weltkrieg* (Berg am See, 1983); and F. W. von Mellenthin, *German Generals of World War II as I Saw Them* (Norman, Okla., 1977), pp. 239–50.

had played a prominent role in security debates as a member of the parliamentary select committee on defence affairs. But in 1957 it emerged that while commanding the 7th Panzer Division on the Russian Front in January 1944 he had ordered a soldier to be shot, overturning the decision of a court martial which had initially sentenced the soldier to two years' prison for failing to open fire on a Russian patrol. It was once again a case of an illegal execution. Once again the court wrestled with the problem of 'catastrophe orders'. In reaching a verdict of guilty, the jury decided on eighteen months' prison.

Even before the trial had begun, some newspapers expressed reservations, the conservative paper *Das Deutsche Wort* writing: 'The question remains whether one can, fifteen years on, from the security of Düsseldorf in summer, assess how a general should have acted in the January days of 1944 on the Eastern Front – under completely different mental and physical conditions.' In the days following the decision, numerous newspapers passed comment on the verdict. On balance, the majority were critical. The *Rheinische Post*, for example, took issue with the court's view that Manteuffel had a responsibility to inform himself of the exact wording of the 'Führer Order No. 7', commenting sarcastically: 'In defensive battles, menial clerks and lawyers were not in demand.' In describing the verdict as 'harsh', it concluded that 'no war can be judged by the standards of peace'. One journalist from a smaller, regional newspaper argued that Manteuffel's action needed to be interpreted as stemming from his feelings of responsibility for the situation at the front and the need to rescue as many men as possible from the advancing Russians. He could not be viewed as a 'Nazi general', and it was argued: 'Nor was he a general who would later have gone into captivity wearing *Lederhosen*.' This last remark was a reference to Schörner, who had been captured by the Americans wearing Bavarian attire.<sup>49</sup>

The claim that Manteuffel had not been a 'Nazi general' and could not be compared to Schörner indicates that the trial had thrown up a critical question, one which had effectively already been posed by the second Tolsdorff trial. Although the debates on the founding of new

<sup>49</sup> 'Nach 15 Jahren: Manteuffel vor Gericht', *Das Deutsche Wort*, 15 Aug. 1959; 'Gericht über den Krieg', *Rheinische Post*, 22 Aug. 1959; 'Befehl aus Verantwortung', *Westfalen-Zeitung*, 22 Aug. 1959.

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armed forces in the period 1950–4 had led to the view that only a minority of *Wehrmacht* generals had been supporters of Hitler and the regime, that they were 'Nazi generals', first the Tolsdorff case and then the proceedings against Manteuffel raised the unpleasant thought that perhaps the views of Schörner on military discipline had actually been held by the majority of *Wehrmacht* generals. Even if this question was not posed openly, it could be found between the lines in many reports, particularly during the Manteuffel trial. Despite all the attempts to defend Manteuffel, the genie was now out of the bottle.

Indeed, there were several newspapers which, given their support of the verdict, seemed to have decided that there was not very much difference between Schörner, Tolsdorff, and Manteuffel. The Frankfurt *Abendpost* argued that in the light of the evidence presented, 'no other judgement was possible' because 'even when here it was "only" a question of a single young person ... in the name of humanity, which even in wartime cannot be allowed to disappear, no acquittal could have been passed'. The *Frankfurter Rundschau* was more aggressive: 'What sort of person takes the judgement of a—certainly not squeamish—court martial ... and turns it with the stroke of a pen into a death sentence!' It went on to pose the rhetorical question as to why Manteuffel had not been shot for failing to hold the town of Shepetovka since he had, after all, sought to justify the death sentence by arguing that it needed to be held at all costs.<sup>50</sup>

There was another element in the critical articles which is of importance—the emotional focus on the victim in the case. The *Frankfurter Rundschau* had noted that no one had remembered the soldier's name: 'The general also does not know the name of the man he had shot. But the general knows the "Führer Order No. 7" —and sleeps well.' The *Süddeutsche Zeitung* picked up on the youth of the soldier who had been executed. In an article entitled 'The General and the Soldier', Ernst Müller-Meiningen dramatically portrayed the scene of the execution. The youth of today were criticized for being too violent, yet this soldier had been shot for not being violent

<sup>50</sup> 'Rot angestrichen: Das Urteil', *Abendpost*, 22/23 Aug. 1959; 'Der General schläft gut', *FR*, 22/23 Aug. 1959.

enough. He stood accused of cowardice in the face of the enemy, yet 'he refused to have a blindfold bound around his eyes, and died with astounding composure ... a young man, a child, barely nineteen years old.' And, accusingly, the journalist demanded: 'What is a coward, Herr General?' The attack on Manteuffel was then extended to all generals.<sup>51</sup>

This new found interest in the victim, first identifiable in the Tolsdorff trial of September 1958, may have helped prepare the way mentally for the remarkable success enjoyed by the anti-war film, *Die Brücke*. Released just two months after the Manteuffel verdict, on 22 October 1959, the film portrayed teenage soldiers—ordered to defend an unimportant bridge, some dying in the process—as young victims of war. What seems significant about this milestone in West German popular culture was that its message had already been confirmed in advance as 'historically accurate' by the Manteuffel trial. Thus, by the end of 1960—with Manteuffel's appeal having been rejected by the Federal Court of Appeal, and the second Tolsdorff retrial completed—a process of transformation in public attitudes towards *Wehrmacht* generals, and arguably towards the *Wehrmacht* itself, had taken place. The Tolsdorff trial of 1954, the Schörner trial, the first Tolsdorff retrial, and the Manteuffel trial did not only reflect changing attitudes, they also helped to form them.

#### IV. The 'Generals' Trials' and Attitudes to the Wehrmacht

It is not, of course, being suggested here that the trials were the sole or necessarily the dominant factor in forming perceptions of the *Wehrmacht*, even in the latter half of the 1950s. But the fact that they interacted with other trials, the depictions of officers in films such as *08/15* and *Die Brücke* and, above all, with the debates on rearmament and military reform, makes plain that at the very least they can offer important insights into the dynamics of *Vergangenheitsbewältigung* in the Adenauer era. Specifically, when all eight 'generals' trials' are considered together, a number of conclusions can be drawn which have an obvious relevance for the issue of the alleged 'myth' of a 'clean *Wehrmacht*', which supposedly achieved an unassailable position in West German society in the 1950s.

<sup>51</sup> 'Der General schläft gut', *FR*, 22/23 Aug. 1959; 'Der General und der Soldat', *SZ*, 24 Aug. 1959.

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The first and most obvious is that the trials highlight the remarkable sea-change in public opinion which took place between September 1954 and February 1955. While the first three trials were barely noticed, the Tolsdorff trial did provoke a surprising degree of media coverage. However, the fact that the reactions to the Tolsdorff trial were decidedly negative shows that public opinion had not yet turned the corner. But the anti-military attitudes which could be identified during the Schörner trial of October 1957, the Tolsdorff trial of 1958, and the Manteuffel trial of 1959, indicate that a fundamental shift in attitude towards the military past took place in the late 1950s. The degree of interest which the later trials provoked – reports appearing not just in the quality press but also in popular daily and evening papers – suggests that they not only confirm how strong the change in attitude was, but also that they contributed to it.

Secondly, in the reorientation of attitudes towards the *Wehrmacht* during the second half of the 1950s, the Schörner, Tolsdorff, and Manteuffel trials played a key role precisely because they took place at a time when the number of convictions for National Socialist crimes had sunk to an all-time low.<sup>52</sup> Until now, it has been assumed that there was not much interest in confronting the past in the second half of the decade because the number of trials sank noticeably during this period. This assumption seems, however, to be based on the notion that a 'productive period' in dealing with the past was dependent on an 'adequate number' of cases reaching the courtroom. As the eight 'generals' trials' illustrate, such an interpretation seems to ignore almost completely the role of public opinion, which was much less responsive to the number of trials and more affected by specific and, arguably, spectacular cases. Moreover, as the Schörner, Tolsdorff, and Manteuffel proceedings took place at this time of low legal activity, they did not have to compete for newspaper column space, allowing them to become major media events. Likewise, the fact that these three cases all took place within a year of each other seems to have produced a form of cumulative effect, the scepticism which Schörner's defence strategy provoked being carried over to the Tolsdorff and Manteuffel trials.

Thirdly, the remarkable impact of the trials which took place from 1954 on can only be fully understood if one takes into account the dif-

<sup>52</sup> 'Vorwort', *Justiz und NS-Verbrechen*, i, p. v.

ferent levels at which they functioned, the way in which they fulfilled different psychological needs, and what they revealed about the *Wehrmacht* and its relationship to National Socialism. At one level they seem to have satisfied the desire of many people to work through their own experience of military justice during the final months of the war. They provided an impetus for citizens to identify with the victim, most notably during the second Tolsdorff trial and the Manteuffel case. At another level, they fulfilled a growing need after 1955 for a serious discussion of the complex issue of military justice during the war. Yet at the same time they also led to a debate on the problems of attempting to deal with the past through the courts, specifically the re-emergence of old wartime hierarchies during the proceedings, with all the implications that these held for the impartiality of the courts.<sup>53</sup> A further dimension was their contribution to exposing what seemed to be the real character of the army's commanders. The remarks made by some generals in unguarded moments during the court proceedings created the impression of a mask dropping for a few seconds, presenting a fleeting and shocking glimpse of the true of face of the *Wehrmacht*, apparently revealing the generals' cynical attitude to human life.

Fourthly, the impact of the later trials lay to a great extent in the unspoken assumption that they were somehow representative. The phrase 'the generals' trials' could be found in newspaper articles.<sup>54</sup> This should not be seen as journalistic exaggeration, but more as an indication of the effect they had had on public perceptions. There was the implication in much of the reporting that the generals on trial stood as representatives of the General Officer Corps as a body. By the end of the Manteuffel and Tolsdorff proceedings, a form of military collective guilt thesis had been established, leading not only to deep suspicion and antipathy towards generals, but also to criticism

<sup>53</sup> Considerable controversy was aroused during the Manteuffel trial when the representative of the public prosecutor, *Oberstaatsanwalt* Lünen, addressed the general by his name and not as 'the accused'. The fact that at the beginning of the trial Lünen had greeted Manteuffel with a handshake, and that he had served under him during the war, led to a parliamentary question in the North-Rhine Westphalian *Landtag*. ('Das letzte Wort des Angeklagten', *Rheinische Post*, 22 Aug. 1959; 'Manteuffel und die Sozialdemokraten', *Die Welt*, 28 Oct. 1959.)

<sup>54</sup> E.g., 'Prozesse und kein Ende', *Die Welt*, 11 June 1960.

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of the *Wehrmacht* as an organization. The fact that respected frontline generals were appearing in court led to the feeling that the *Wehrmacht* itself was on trial.

These conclusions are quite startling as they directly contradict some of the central assertions of recent research on *Vergangenheitsbewältigung* in the 1950s, namely, that German society showed an inability to come to terms with the past during the 1950s; that a usable and sanitized past was created by pressure groups and old élites; that there was a cult of victimization; and that a myth of a clean *Wehrmacht* achieved a hegemonial position in West German society. If such a dramatic turnaround in public attitudes towards the *Wehrmacht* took place, it is legitimate to ask how historians could have missed it. Furthermore, it should be asked whether there were any additional factors which might explain the transformation in public opinion.

At least two factors could be cited to explain the fact that historians have missed this critical sea-change in public attitudes. To begin with, there has been a tendency to transfer the results of research on the early 1950s directly and uncritically to the second half of the decade.<sup>55</sup> This tendency has been exacerbated by the problem that possibly the key standard work, Norbert Frei's *Vergangenheitspolitik*,<sup>56</sup> covers developments only up to the Amnesty Law of 1954. At the same time, there has been a surprising fixation on 'the state', seemingly viewed as the only real force behind the early attempts to come to terms with the National Socialist past. Such an approach naturally leaves public opinion, not least its unpredictability and irrational oscillations, out of the equation.

However, these strange failures of historical research over the last decade do not in themselves fully explain the remarkable transformation in attitudes towards the *Wehrmacht*. Yet, quite apart from the fact that after May 1945 there had not only been voices defending the *Wehrmacht*, but also consistent condemnation of its commanders in

<sup>55</sup> Two recent, and symptomatic, examples are: Echternkamp, 'Arbeit am Mythos'; and N. Gregor, ' "Is he still alive, or long since dead?": Loss, Absence and Remembrance in Nuremberg, 1945-1956', *German History*, 21 (2003), pp. 183-203.

<sup>56</sup> N. Frei, *Vergangenheitspolitik: Die Anfänge der Bundesrepublik und die NS-Vergangenheit* (Munich, 1996).

the press, it should also be borne in mind that the reaction against generals, which became more strident in February 1955, was able to develop the intensity it did because it could draw on previous prejudices and beliefs from the war. After Stalingrad, a clear 'anti-general' attitude established itself within the German psyche, a direct product of Goebbels's propaganda: the generals had been responsible for Stalingrad and other disasters in the East, not the Führer. The longevity of this notion can be seen in the aggressive reception which former *General der Artillerie* Walter von Seydlitz, one of the leading figures in the Soviet-sponsored National Committee 'Free Germany' movement, received upon his return to the Federal Republic in October 1955.<sup>57</sup> But this reactivated Nazi attitude, although it contributed to the momentum of anti-military feeling, gradually became diluted by a greater willingness to confront the past, made possible in part by the attainment of sovereignty and a sense of distance between the present and the events and experiences of the war.

There is, none the less, an obvious objection which can be made to the argument that the 'generals' trials' provide evidence of a deep change in perceptions of the *Wehrmacht* from the mid-1950s onwards. Given that the trials were all for executions of German soldiers, some would argue that this is simply another example of post-war West German attempts to create a political culture of 'victimization'.<sup>58</sup> However, this objection is unconvincing for several reasons. To begin with, the fact that the courts only prosecuted generals for crimes against their own soldiers was, quite apart from unavoidable political considerations, partly a result of Allied laws, which initially forbade German courts from trying cases involving anything other than crimes committed against Germans and stateless citizens.<sup>59</sup> However, the identification with the victim in the later trials represented a clear departure from earlier attitudes for two reasons: first, to iden-

<sup>57</sup> E.g., 'Schweigen Sie, General von Seydlitz', *Schwäbische Rundschau*, 15 Oct. 1955.

<sup>58</sup> For examples of this interpretation, M. L. Hughes, ' "Through no Fault of our Own": West Germans Remember their War Losses', *German History*, 18 (2000), pp. 193–213, and R. G. Moeller, *War Stories: The Search for a Usable Past in the Federal Republic of Germany* (Berkeley, 2001).

<sup>59</sup> The final removal of the restrictions imposed by Allied laws took place at the end of August 1951 (Streim, 'Saubere Wehrmacht?', pp. 572–5).

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tify with the victim meant taking sides against a former 'state official'; and second, by unleashing intense emotions, it broke the culture of silence and denial which characterized the early 1950s. The implications of accepting the guilt of the generals were considerable, implying at the very least an admission that the *Wehrmacht* did not have a clean record. Moreover, the efforts to create 'victim identity' were undertaken by those who sought to maintain and perpetuate the value system of the *Volksgemeinschaft*, embodied in many ways by the culture and demands of the *Heimkehrerverband*. But the attempt to perpetuate 'victim status' drew much of its political *raison d'être* from the claim that the Allies were treating the Germans unfairly. With the attainment of sovereignty and the release of the last large group of POWs from the USSR in 1955, two of the main planks supporting the feelings of victimization broke away.

To understand the change in perceptions also requires, beyond an awareness of the change in political and societal climate in 1954–5, one to take note of the intensification of criticism which occurred during the Schörner, Tolsdorff, and Manteuffel trials. Cartoons published in newspapers and journals can provide some important insights into decoding the changing connotations and symbols which the trials provoked. One which provides a useful starting point appeared in *Simplicissimus* in February 1955, illustrating the return of Schörner from Russian captivity. The Field Marshal is depicted walking down an alley of damaged trees, lined with veterans in *Wehrmacht* uniforms. Three figures on crutches are visible, one an amputee. In the foreground is the figure of a woman, obviously a widow. From the trees hang a number of empty nooses. Schörner comments that his military police have obviously slipped up. The geographical location is a specific one: somewhere in Czechoslovakia towards the end of the war, where mass hangings were alleged to have taken place on Schörner's orders. The gaunt faces of the soldiers are striking. The *Volksgemeinschaft* and its victims are looking accusingly at the Field Marshal.<sup>60</sup>

Yet when one compares the *Simplicissimus* cartoon with two by Ernst Maria Lang of 1958, the gallows are still present, but seem to

<sup>60</sup> Front cover, *Simplicissimus*, 12 Feb. 1955, cartoon by H. M. Brockmann entitled 'Ave Schörner...', with the caption: 'Na, Kameraden, da scheint meine Feldgendarmarie zum Schluß ja schön versagt zu haben!'

have taken on new connotations. In the first, dated April 1958, a biting comment on the trial of *Waffen-SS* General Max Simon before the Landgericht Nürnberg-Fürth,<sup>61</sup> the door of the court has blown open, and the spectre of Hitler floats in the centre of the courtroom, proclaiming 'I was German law'. Just outside the door are armed figures from the SS and three sets of empty gallows.<sup>62</sup> Here it can be assumed the gallows are references to the hangings carried out by the SS in the final months of the war. However, in the cartoon of Tolsdorff, published four months later, in which a grinning, burly figure in general's uniform is pictured washing his hands in a bowl marked 'Amnesty', numerous gallows can be seen in the background, which has no obvious geographical association. This time corpses are suspended from them.<sup>63</sup>

The Tolsdorff cartoon raises an interesting question. Given that the case for which he was tried involved an execution by firing squad, is the cartoonist referring to the hangings carried out by the SS in the 'final period' of the war on German soil? Or is it possible, given that he served as a soldier himself on the Eastern Front, that he is making a visual reference to the hangings of 'partisans' in the East, with the underlying suggestion that the *Wehrmacht* was involved? Although here we can only speculate, the latter explanation seems more likely. Certainly, whether intended or not, many would have understood the reference. And although it was a subject still too controversial to be discussed in print in 1958, the cartoon is one indication that it was on people's minds. Likewise, it cannot have been too great a jump in logic to consider that if generals had been willing to shoot their own soldiers without any compunction, they were more than likely to have done the same with enemy personnel or civilians in the occupied countries. This visual reference in 1958 to war crimes committed by Germans shows just how far public perceptions had come since 1955.

<sup>61</sup> 1171 Ks 10/57, verdict, LG Nürnberg-Fürth, 23 April 1958, in *Justiz und NS-Verbrechen*, xiv, pp. 699-727.

<sup>62</sup> Cartoon by E. M. Lang entitled 'Spuk in Nürnberg', *SZ*, 26 April 1958, with the caption: 'Ich war das deutsche Recht.'

<sup>63</sup> Cartoon by E. M. Lang entitled 'Pilatus Tolsdorff & Co.', *SZ*, 1 Oct. 1958, with the caption: '... und sie waschen ihre Hände in Unschuld ... '

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### V. Conclusion

This survey of eight trials of former *Wehrmacht* generals for executions of soldiers under their command, conducted in West German courts between 1948 and 1960, has attempted to show that remarkable differences can be identified in the reactions to trials which took place before July 1954 and those thereafter up to 1960. In the proceedings against Theodor Tolsdorff, there was a dramatic difference between the press coverage in June 1954 and September 1958, although essentially no new details had come to light since the first trial. It has also been suggested that a shift in societal attitudes towards the *Wehrmacht* had begun even earlier than 1957, a process of transformation occurring between September 1954 and February 1955. Thus the evidence of the trials strongly suggests that the thesis of a 'myth of a clean *Wehrmacht*' cannot be applied to the 1950s as a whole. There are grounds for arguing the case for the period 1950 to mid-1954 – although the matter is not quite as clear-cut as some historians seem to think – but for the entire decade the thesis seems wide of the mark.

Some might counter that the involvement of the *Wehrmacht* in the Holocaust in the East was not discussed. This is, of course, correct, but it would be a mistake to ignore the parameters of the time. It should be remembered that in the late 1950s public awareness of the full scale of the Holocaust was still in a formative period. Moreover, the British and Americans only began to start returning the 350 tons of captured *Wehrmacht* documents to the Federal Republic in 1959.<sup>64</sup> What is significant is that out an atmosphere of silence and denial, West German society made remarkable progress from 1955 onwards in its confrontation with the *Wehrmacht*'s past, within the limitations of what was then possible. The fact that this was accomplished in part through trials which focused on relatively minor incidents should not be seen as evidence of a failure to take the past seriously. In the Schörner, Tolsdorff, and Manteuffel trials, a microcosm of the war was put under the spotlight which made the problem of the *Wehrmacht*'s disciplinary system, and hence the effect of National

<sup>64</sup> The return of the documents held by the British was completed in 1965, those held by the Americans in 1970. See H. H. Herwig, 'An Introduction to Military Archives in West Germany', *Military Affairs*, 34 (Dec. 1972), pp. 121–4.

Socialist ideology on the military, intelligible and mentally digestible to the ordinary citizen.

The details which emerged during the later proceedings gave the impression that new aspects in the history of the *Wehrmacht* were being brought to light for the first time. The contrast with the previous idealized image of the *Wehrmacht*, and the shortcomings in the legal proceedings, infused much of the newspaper-reading public with a new found cynicism towards the military. The 'generals' trials', therefore, contributed to a process of de-mythologization of the *Wehrmacht* in the second half of the 1950s. This process, however imperfect it may have been in retrospect, is of considerable importance for any broader understanding of *Vergangenheitsbewältigung*. It could be argued that the trials provided German society with the opportunity to deal psychologically with one of the traumatic experiences of the war – summary executions. This was in itself an important psychological step before the Holocaust could be seriously confronted. Only when an individual's own traumas had been dealt with, was it then possible for him or her to confront the crimes of the Nazi regime and the question of the guilt of German society.

In debunking the 'myth of a clean *Wehrmacht*', this article has also sought to draw attention to the gaps in much of the research on *Vergangenheitsbewältigung*. It seems remarkable that one of the central assumptions in this field, namely that coming to terms with the past only really began with the *Ulmer Einsatzgruppenprozeß* of April 1958, has not led to any serious primary research into the reactions to this trial. However, even a relatively cursory look at the evidence makes plain that a change in societal values began during the second half of the 1950s. Despite its limitations, the confrontation with Germany's military past at this time was of fundamental significance. When one considers that during the Leipzig trials of 'war accused' (*Kriegsschuldigte*) in the 1920s for offences committed during the Great War the German military judicial system effectively came to the conclusion that the term 'war crimes' could not be applied to anyone who had worn a German uniform,<sup>65</sup> one begins to understand precisely to

<sup>65</sup> Hankel, *Die Leipziger Prozesse*, pp. 91–104. Moreover, Hankel shows that in the proceedings against Field Marshal August von Mackensen and *General-leutnant a.D.* Karl Stenger, the judges made it clear that they did not take accusations of war crimes against high-ranking commanders seriously (pp. 123–42, 295–300).

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what extent the 'generals' trials' in the 1950s represented a major turning point in German military and legal history.

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