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RESURGENCE OF NAZISM IN GERMANY — AN ATTITUDE PROBLEM

*Karen Y. Crabbs**

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"There's Fatima from my class," said the little German girl with disdain. "She doesn't speak German very well." "She must speak German better than I do though," I said. "That doesn't matter," she said. "Fatima is Turkish; you're not."¹

I. INTRODUCTION

Although not outright racist, the above conversation demonstrates a not so subtle negative attitude which Germans often have toward foreigners, specifically foreigners who live and work in Germany.² Not all non-Germans are considered to be foreigners, however. For example, an Austrian or a Swiss living in Germany would not be considered a foreigner; a Turk or a Yugoslavian would be.³ The latter types or "real" foreigners, who fail to fit

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1. Conversation with a young German girl in Mettmann, Germany (July 1992).

2. *Möln Arsonists Arrested-Kohl: Democracy Is Being Put to the Test*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Dec. 4, 1992, at 1, 2.

3. Peter Millar, *Still Proud to Be German?*, THE TIMES (London), Nov. 24, 1992, at 15.

in with Germany's sense of cultural homogeneity, often seem to ignite fear or hatred in Germans.⁴

It has been over sixty years since Hitler's Nazi party took over Germany in an attempt, among other things, to create an "Aryan superrace" and to eliminate the "impure" races and foreigners.⁵ The horror of concentration camps and other sickening acts in which the Nazis engaged have not been forgotten by the world.⁶ Nor have the Germans themselves been able to forget.⁷ In fact, after World War II, the Allies and the new West German government took great pains to insure that history would not repeat itself. For instance, swastikas and the "Heil Hitler" salute, two Nazi propaganda devices, were banned.⁸ In addition, by way of atonement for past sins against "foreigners," Germany enacted one of the most liberal immigration laws in the world.⁹

Though the stain of the Holocaust has kept Germans aware of the need to be tolerant and democratic, Germany has never been a "melting pot" in the same sense as the United States.¹⁰ During subsequent decades, Germany has, in fact, erected numerous barriers to keep "non-Germans" from gaining citizenship and thus from enjoying the same rights as native Germans.¹¹ The sheer number of foreigners who nowadays apply for asylum in Germany suggests a reasonable explanation for these barriers, since approximately 70% of all immigrants to Europe seek protection from Germany.¹²

Recently, however, other more sinister reasons for this anti-foreigner attitude have been suggested.¹³ With the reunification of the two Germanys in 1990, there has emerged a rising tide of xenophobia and nationalism which some would argue is reminiscent of Germany's Nazi past.¹⁴ On the

4. Riva Kastoryano, *Integration and Collective Identities of Immigrants in France and Germany*, 19 J. ETHNIC STUD. 51, 52 (1991).

5. *Nightline: Germany's Ethnic Turmoil* (ABC television broadcast, Oct. 7, 1992).

6. Steve Crawshaw, *Nazis Provide a Lesson for More Than Just the Germans*, THE INDEPENDENT (London), Jan. 25, 1993, at 8.

7. *Waren alle Deutschen Nazis?*, 8 WIR IN OST UND WEST 18 (1992).

8. Tamara Jones, *German Police Quell Neo-Nazi Riots — For Now*, L.A. TIMES, Aug. 28, 1992, at A1.

9. *Combating Racism, After Rostock*, N.Y. TIMES, Sept. 4, 1992, at A20.

10. Kastoryano, *supra* note 4, at 52.

11. *German Citizenship and Naturalization*, FOCUS ON . . . (German Info. Ctr., New York, N.Y.), Feb. 1993, at 1 [hereinafter *German Citizenship*]; see *infra* notes 32-62 and accompanying text.

12. Richard C. Morais, *People in Glass Houses Throwing Stones*, FORBES, May 25, 1992, at 84. In 1992, 438,191 foreigners sought asylum in Germany. This number was an increase of 42% from 1991, when 256,112 asylum seekers applied to Germany. In 1990, there was a similar rise in applicants, up 37% from 1989. In fact, the only year since 1980 which has experienced a decline in asylum applicants was 1987. Political Asylum Seekers in the Federal Republic of Germany, 1980 to 1992 (German Info. Ctr., New York, N.Y.), Jan. 8, 1993, at 1 [hereinafter *Political Asylum Seekers*].

13. Tyler Marshall, *Rightist Ghost Returns to Germany*, L.A. TIMES, Nov. 10, 1992, at H1.

14. Günter C. Behrmann, *Ausländerfeindlichkeit*, 237 INFORMATIONEN ZUR POLITISCHEN BILDUNG 25, 25 (1992). A poll conducted by the Emnid research organization found that German support of right-wing

other hand, all European states have reported increasing acts of violence against foreigners.¹⁵ Not only have there been monthly and sometimes weekly reports of violence against foreigners, but a massive surge to the right in Europe has boosted the popularity of rightist parties, with some even gaining parliamentary representation.¹⁶ Germany, however, remains the fo-

groups has increased from 24% in 1991 to 35% in 1992. Another 1992 poll showed that the extremist party in Germany would win 20% of the popular vote. This result is primarily due to the "foreigner or asylum problem," as it is often called. Marshall, *supra* note 13, at H1.

15. In Spain, right-wing extremists shot at 36 immigrants from the Dominican Republic who were living in the ruins of an old building in Madrid. The extremists killed one person and seriously wounded another. Although Spain has boasted, in the past, of being one of Europe's most tolerant countries regarding foreigners, its citizens have become more and more hostile to immigrants as the immigrants' numbers steadily increase. The two most common groups of foreigners are Moroccans, who come across the Strait of Gibraltar in fishing boats, and Latin Americans, who fly to Spain with tourist visas and then remain illegally. To reduce the number of illegal immigrants, Spain recently enacted temporary legislation allowing illegal immigrants to gain legal status. This has, however, only exacerbated the problem. *Spain: Catching the Plague*, ECONOMIST, Nov. 21, 1992, at 63.

16. France has one of the strongest right-wing parties since the Nazi party. The National Front (NF), led by Jean-Marie Le Pen, actually leads popularity polls in Nice and Marseilles, and won 13.9% of the vote in France's regional elections in March 1992. Bernard Edinger, *France Recalls Nazi Deportations Amid Racism Fears*, REUTERS, Mar. 27, 1992, available in LEXIS, Nexis Library, Reuters File. Support for the NF has steadily increased over the last 10 years, in large part due to the party's open hostility to France's large African immigrant population. Rone Tempest, *Major Gains Seen for French Rightist Le Pen*, L.A. TIMES, Mar. 21, 1992, at A6. The NF would like to prevent any further immigration into France and wants to try to force out any foreigners currently living in France. Specifically, Le Pen espouses a 50-point plan to "turn immigrants into third class citizens." Morias, *supra* note 12, at 84. Several of his public statements regarding Jews have come close to subjecting him to criminal prosecution because anti-Semitic statements are banned in France, just as they are in Germany. Rolf Soderlind, *European Far-Right Thugs Target Jews*, REUTERS, Nov. 10, 1992, available in LEXIS, Nexis Library, Reuters File. As a symbol of "racial purity," Le Pen keeps a white rat by his side, which he kisses on the mouth in public. Morias, *supra* note 12, at 84. He has already been fined for saying that "the killing of millions of European Jews in Nazi gas chambers was 'a minor point.'" Edinger, *supra*.

In addition to extreme right parties like the NF, moderate right-wing parties also have experienced tremendous success in recent French elections. In fact, the two leading moderate right-wing parties have just defeated Francois Mitterrand's ruling Socialist Party. Members of the Rally for the Republic and the French Democratic Union each received 40% of the vote, whereas the Socialists received only 19%. This means that center-right parties will hold approximately 480 of the 577 National Assembly seats. The shift in voter loyalty has been traced to France's 10% unemployment rate, which the populace feels has not been properly dealt with by Mitterrand's party. Numerous allegations of political corruption over the years have also weakened the Socialists. Rone Tempest, *French Voters Turn to Right, Reject Socialists*, L.A. TIMES, Mar. 22, 1993, at A1.

Austria is another country in which rightist parties have recently gained strength. Like the French NF, Austria's main right-wing party, the Freedom Party (FPÖ), is led by a charismatic leader, Jorg Haider. The FPÖ has developed an "Austrian First" petition, which received the more than the 100,000 votes required to bring it before the Austrian Parliament for debate. The petition will be voted on in late 1993. *Antiforeigner Petition Signed by 415,000*, FACTS ON FILE WORLD NEWS DIG., Feb. 18, 1993, available in LEXIS, Nexis Library, FACTS File. The main targets of Haider's petition are Slavs and Turks. *Austria; Past Present*, ECONOMIST, Jan. 16, 1993, at 50. Approximately 517,000 foreigners live in Austria, comprising 6.6% of the population. Senthil Ratnasabapathy, *Human Rights: Austrians Reject "Racist" Parliamentary Petition*, INTER PRESS SERV., Feb. 2, 1993, available in LEXIS, Nexis Library, INPRES File.

Haider wants the Austrian government to enact several amendments to Austria's current immigration law, including an amendment which would halt all immigration into Austria until "the problem of illegal

cus of attention.¹⁷ There are two reasons for this: (1) Germany's Nazi past and (2) the viciousness and frequency of the attacks there.¹⁸ In 1992, there were 2285 incidents of racial violence reported to Germany's Federal Office for the Protection of the Constitution.¹⁹ This represents a 54% increase over 1991.²⁰ Of the incidents reported in 1992, 17 resulted in deaths, 701 were explosions or fire bombings, 598 were assault and battery cases, and 969 were reports of property damage.²¹ Due to the staggering number of incidents, the German government has enacted numerous measures designed to reduce racial violence.²² These measures have been fairly successful.²³ However, there were still 70 reports of racially related attacks made in Janu-

aliens in the country has been solved in a satisfactory way." *Id.* He also wants the constitution to state that Austria is not a country of immigrants. If adopted, both of these proposed amendments would violate international treaties. Another provision of Haider's 12-point plan on immigration is to cap immigrant enrollment in Austrian classrooms at 30%. Such a measure would cause massive bussing and deny an education to many children who speak German as their first language. It is estimated that in coming elections, Haider's party could collect as many as one million votes. Eric Frey, *Haider Plays Xenophobic Card in Austria: Right-Wing Party Leader Takes a Hard Line on Foreigners*, FIN. TIMES, Nov. 4, 1992, at 4. But despite this support, Haider's petition did not receive as many votes as had been expected. This was a source of relief to many Austrians, who feared a "Waldheim effect" and increased allegations of racism. Michael Binyon, *Party Chiefs Go as Race Petition Fails*, THE TIMES (London), Feb. 5, 1993, at 9. Nevertheless, there is an alarming amount of support for the rightist groups, particularly among Austrian students, both at the grammar school and university levels. A recent poll taken of 3000 students revealed that 7% "were either members or sympathizers of right-wing groups;" approximately 25% felt that foreigners were responsible, at least in part, for unemployment; and 44% felt that foreigners were forcing down wages in Austria by accepting lower paying jobs that Austrians would not accept. *Austria: School Reform Urged to Curb Right Wing Extremism*, INTER PRESS SERV., May 14, 1993, available in LEXIS, Nexis Library, INPRES File.

Italy is yet another example of rising right-wing support. The granddaughter of Benito Mussolini was recently elected to the Italian Parliament. Although not well-versed in politics, Alessandra Mussolini is a member of Italy's growing neo-fascist party, Movimento Sociale Italiano (MSI). Barbara Grizzuti Harrison, *La Mussolini*, L.A. TIMES, Jan. 24, 1993 (Magazine), at 30. Finally, Belgium's voters recently increased Vlaams Blok's anti-immigration party from two seats in Parliament to 12. Moreover, Paula D'Hondt, Belgium's most famous crusader for foreigners' rights, has been forced to obtain police protection after receiving numerous death threats from rightist groups. Soderlind, *supra*. Other countries experiencing a rise in extremist party popularity include England, Netherlands, Switzerland, and Latvia. *Spain, Catching the Plague*, *supra* note 15, at 63.

17. *Wiederholung der Geschichte?*, DER SPIEGEL, Nov. 30, 1992, at 30.

18. *Id.*

19. Rudolf Seiters, Overview of Right Extremist Violence in 1992, Press Release (Consulate Gen. of FRG, Los Angeles, Cal.) [hereinafter Overview].

20. *Id.* Seventy-seven of these attacks were made on Jewish memorials or other institutions. This is twice as many anti-Semitic attacks as in 1991. *Id.*

21. *Id.* In contrast, in 1991 there were only 3 reported deaths, 383 explosions and fire bombings, 449 cases of assault and battery, and 648 reports of property damage. *Id.*

22. *Id.*; see *infra* notes 227-30 and accompanying text.

23. One cannot be certain that the reduction in foreigner violence is due completely to government measures because many foreigners are loathe even to report attacks out of fear of being deported. Vietnamese, who were brought into the former East Germany as *Gastarbeiter*, are especially afraid of deportation. Accordingly, few will report attacks made against them. Tamara Jones, *Germany's Troubles*, L.A. TIMES, Mar. 7, 1993 (Magazine), at 14, 17.

ary of 1993 alone,²⁴ and the attacks appear to be continuing throughout 1993.²⁵

In addition to government measures, many German citizens have attended rallies and demonstrations in support of foreigners.²⁶ While these shows of solidarity are heartwarming and assuage the world's fear of a resurgence of Nazism, there is more to the problem of racism in Germany than simple eradication of violence. Germans need to overcome (1) their mistrust of foreigners and (2) their expectation that all foreigners integrate themselves fully into the German system.²⁷ Rather than holding on to the idea that only by conforming can one become "German," Germans must open up their minds to the idea that foreigners, without necessarily adopting every German custom or mannerism, can nevertheless be German.²⁸ Only then will Germans begin to see the benefits which they reap from foreigners.²⁹

This article focuses on these benefits and the effects which foreigners have had on Germany's economic and social structure. First, however, both the events leading up to a resurgence of Nazism in Germany and the reasons why Nazism has survived will be addressed in parts II and III, respectively. In part IV, the steps taken by the German government and many of her private citizens to combat the growing violence will be discussed. Finally, an attempt will be made to put these subjects into perspective with regard to the future of extremist parties in Germany and the effect they will have on Germany as a "world player."

II. GERMANY'S FOREIGNER PROBLEM

There are four groups of people in Germany who may, depending on the source, be considered "foreigners": (1) the asylum seekers, (2) the *Gastarbeiter* or guest workers, (3) the *Aussiedler* (i.e., ethnic Germans who

24. Overview, *supra* note 19. This number is noticeably lower than in 1991. *Id.*

25. One of the most recent attacks occurred in eastern Germany during May 1993. A hostel for foreign refugees was firebombed, and a graveyard for Holocaust victims was vandalized. Although the perpetrators were not caught, police suspect neo-Nazis to be at fault. *Attack on German Hostel for Refugees*, FIN. TIMES, May 10, 1993, at 4.

26. Craig R. Whitney, *Germans Take to the Streets to Fight Intolerance: Handicapped Experienced Fears that They Will Be Brutalized as the Next Targets of Neo-Nazis*, HOUSTON CHRON., Jan. 24, 1993, at A21; see *infra* notes 214-21 and accompanying text.

27. See *infra* notes 1-9 and accompanying text. Not only does the German public expect the integration of foreigners into the German "way-of-life," but the German government itself demands that foreigners integrate themselves into German culture and society by adopting Germany's constitution and social structure, regardless of the foreigners' own beliefs. *Foreigners in Germany: Guest Workers, Asylum-Seekers, Refugees, and Ethnic Germans*, FOCUS ON . . . (German Info. Ctr., New York, N.Y.), Nov. 1991, at 1, 2-3 [hereinafter *Foreigners in Germany*]. The government's rationale for "forced" integration is that it avoids cultural disputes between natives and non-natives. This concept is sometimes known as "structural marginalization." Kastoryano, *supra* note 4, at 56.

28. See Bill Schiller, *Germany Is Torn by Refugee Crisis*, TORONTO STAR, Nov. 21, 1992, at A1.

29. See *infra* notes 193-205 and accompanying text.

were forced to flee from their own country during or after World War II, and (4) the Jews. The first two groups consist of numerous different ethnicities and cultures including — but not limited to — Turks, Yugoslavs, Italians, Spaniards, and Greeks.³⁰ These people are not native Germans, but the latter two groups are considered to be German and thus entitled to German citizenship and all the rights that go with it.³¹ A brief discussion of some of the issues and problems pertaining to each group, as well as the solutions which have been suggested to combat the problem, follows. The efficacy of each solution will then be held up to scrutiny in the succeeding sections.

A. *The Asylum Question*

Under Article 16, Section 2 of Germany's constitution, or "Basic Law" (*Grundgesetz*), all "persons persecuted on political grounds shall enjoy the right of asylum."³² This means literally that anyone who claims persecution, whether real or imagined, is entitled to have their case heard on an individual basis by German judges.³³ Article 16 does not, however, entitle these same applicants to citizenship, a right which is granted only to "people of German ethnic origin" (i.e., children born in Germany with two native German parents or native Germans who were forced to flee the country after World War II).³⁴ But foreigners do receive room, board and even pocket money during the time they have to wait for their case to be heard. Here is where the crux of the problem with Germany's liberal asylum law lies.³⁵

Last year, there were 438,000 asylum seekers in Germany, and this number is expected to reach one million by the end of 1993.³⁶ Because of the sheer volume of applications, there is a tremendous backlog of cases. Local German governments often end up supporting an applicant for up to seven years, due to the number of appeals which the applicant can file.³⁷ The actu-

30. Kohl: *Germany Has Reached Its Limit on Capacity to Help Eastern Europe*, WK. GERMANY (German Info. Ctr., New York, N.Y.), May 8, 1992, at 1.

31. *German Citizenship*, *supra* note 11, at 2.

32. *Foreigners in Germany*, *supra* note 27, at 3.

33. Jones, *supra* note 23, at 16; see also *Federal Press Office*, Action Necessary on Right of Asylum: Current State of Asylum Issue in Germany, Press Release (Consulate Gen. of FRG, Los Angeles, Cal.), Dec. 1, 1992, at 1.

34. See *Foreigners in Germany*, *supra* note 27, at 3.

35. Jones, *supra* note 23, at 16. The amount of pocket money is currently DM 700 per month. *Rightwing Radicalism in Germany*, FOCUS ON . . . (German Info. Ctr., New York, N.Y.), Feb. 1993, at 9 [hereinafter *Rightwing Radicalism*].

36. The majority of asylum seekers are from Turkey, former Yugoslavia, Romania, and Bulgaria. *Rightwing Radicalism*, *supra* note 35, at 9.

37. Carla Rapoport, "Them," FORTUNE, July 13, 1992, at 96, 97. Although Germany's asylum law is a federal law, individual states are charged with enforcing it and thus must bear the expense of providing food and shelter for the asylum seekers. *Foreigners in Germany*, *supra* note 27, at 4.

al number of applicants who are granted asylum in Germany is incredibly low — only 4.25% in 1992.³⁸ But such statistics are no deterrent to foreigners who come from poor and war-ravaged countries and are given food and shelter in Germany, even if only for a while.³⁹ In addition, many foreigners, once denied asylum and threatened with deportation, are, oddly enough, given permission to stay by compassionate immigration officials. In fact, in 1989, two-thirds of all asylum applicants who were up for deportation were allowed to stay in Germany.⁴⁰ These “freebies” then put a tremendous financial strain on the individual German states.⁴¹ Each asylum applicant cost approximately DM 15,000 (\$9,000) per year — a sum which cannot be offset by any income an applicant could earn, since under German law, asylum applicants are not allowed to work during the application process.⁴²

All this comes at a time when Germans are struggling with the costs of reunification.⁴³ The thought that their hard-earned money is going to an ever increasing number of false applications for asylum does nothing to endear Germans’ feelings toward foreigners. For these reasons the ruling political parties are now seeking to amend Germany’s asylum law in order to lessen the number of applicants for asylum.⁴⁴ While the Christian Democratic Union (CDU) and its coalition partners, the Christian Social Union (CSU) and the Free Democratic Party (FDP),⁴⁵ have long advocated such a change in

38. *Political Asylum Seekers*, *supra* note 12, at 1. This number is lower than the 6.9% of asylum applications granted in 1991. *Id.*

39. Germany’s liberal asylum law has also spawned a group of professional gangs who smuggle foreigners into Germany in exchange for the money the foreigners receive from the government. Kirstin Ridley, *German Pro-asylum Groups Say Constitution Change No Answer*, REUTERS, Nov. 13, 1992, available in LEXIS, Nexis Library, Reuters File.

40. *Foreigners in Germany*, *supra* note 27, at 5.

41. Jones, *supra* note 23, at 16.

42. *Id.* Approximately DM 7000 of the DM 15,000 is used for the administrative costs of the asylum process, and the remaining DM 8000 is given to the applicant for food, shelter, and medical costs. *Governing Coalition Resolution Calling for Change of Asylum Law: SPD Boycotts the Vote*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Oct. 16, 1992, at 2. The total amount spent by the German government on asylum applicants is DM 8 million per year. *Was Kosten die Asylbewerber?*, DEUTSCHLAND NACHRICHTEN (German Info. Ctr., New York, N.Y.), Oct. 16, 1992, at 1.

43. Jones, *supra* note 23, at 16. The cost of rebuilding East Germany is currently estimated at \$610 billion. *Id.*

44. Peter H. Schuck, *Introduction: Immigration Law and Policy in the 1990’s*, 7 YALE L. & POL’Y REV. 1, 16-17 (1989) (arguing that the effect of European countries tightening their asylum requirements will be a greater number of immigrants to the United States). The German government has also attempted to reduce the number of foreigners in Germany by offering “secure third-[world] countries” money to take their refugees back. This plan has been unsuccessful because, even with the cash inducement, these countries cannot afford to take them. Philip Sherwell, *Bonn Turns Its Human Tide, Neighbors Fear Flood of Stranded Refugees*, THE TELEGRAPH (London), Jan. 24, 1993, at 16.

45. The FDP is not quite as enthusiastic as the CDU and CSU about changes in Germany’s asylum law and actually advocates only a mild “tightening” of the law. Tom Heneghan, *German SPD Risks Split Over Immigration*, REUTERS, Oct. 12, 1992, available in LEXIS, Nexis Library, Reuters File. Specifically, the FDP supports the proposed Schengen Abkommen (agreement) between Belgium, Luxembourg, Netherlands, France, and Germany, which allows the first country to which an asylum applicant applies to decide

the law, they cannot succeed without approval of the Social Democratic Party (SDP), which has been vehemently opposed to such a change in the past.⁴⁶

However, in December of 1992, the SPD finally agreed to a compromise.⁴⁷ This *Sofortprogramm* (immediate program) could become law as early as June of 1993.⁴⁸ In order to obtain SPD approval of the proposed legislation, the other parties had to agree to let the Article 16 guarantee of asylum to any foreigner who has been persecuted stand. However, there will be a list of countries deemed "non-persecution countries" from which no applicants will be accepted.⁴⁹ These countries will include all states which are signatories to the Geneva Convention on Refugees and the European Human Rights Convention as well as any countries which Germany determines do not persecute their citizens.⁵⁰

Additionally, the draft law would make Germany's naturalization procedures or right to citizenship laws more lenient on the condition that the applicant give up any other citizenship.⁵¹ Further requirements include (1) a minimum residency period in Germany of 15 years, (2) a foreigner's ability to support him or herself, and (3) no outstanding criminal record.⁵² The new law would also make it easier for children born to foreigners in Germany to gain citizenship. At present, under the *jus sanguinis* system of inheriting the citizenship of your parents, children born of foreigners cannot gain citizenship in Germany despite the fact that they have never been to any other country nor spoken any language other than German.⁵³ Under the new leg-

whether to grant asylum. All other signator countries would then abide by the first country's determination. *Position der FDP*, WOCHENSCHAU, Nov.-Dec. 1992, at 243. Italy, Portugal, and Spain also have recently signed the Schenger Abkommen. *Schenger Abkommen*, WOCHENSCHAU, Nov.-Dec. 1992, at 235. The CDU and the CSU, on the other hand, advocate a complete overhaul of Germany's "subjective" asylum law. They propose to ratify what they call an "institutional asylum right guarantee," which would only give protection to asylum seekers who could truly justify their need for asylum. All other applicants would be turned away. *Position der CDU*, WOCHENSCHAU, Nov.-Dec. 1992, at 242.

46. *Rightwing Radicalism*, *supra* note 34, at 9. The SPD's change in position came only after its national chairperson, Björn Engholm, convinced the other party leaders to compromise on a new asylum law. *Id.* Previously, however, the SPD had maintained its affinity for article 16's "open" asylum policy. *Position der SPD*, WOCHENSCHAU, Nov.-Dec. 1992, at 244.

The liberal Green Party was and is opposed to changes in Germany's asylum law. The party wants Germany to be a multicultural community and to become known as a land of immigrants. *Ausländer, Asylanten*, 229 INFORMATIONEN ZUR POLITISCHEN BILDUNG 25, 25 (1990).

47. *Violence Against Foreigners: Politicians Disagree on How to Combat It*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Sept. 11, 1992, at 2.

48. *Die Parteien Streiten Weiter ums Asylrecht*, DEUTSCHLAND NACHRICHTEN (German Info. Ctr., New York, N.Y.), Sept. 18, 1992, at 2.

49. Marc Pitzke, *Leading German Neo-Nazi Jailed for Racism*, REUTERS, Dec. 9, 1992, available in LEXIS, Nexis Library, Reuters File.

50. *Id.*

51. *German Citizenship*, *supra* note 11, at 3.

52. *Id.*

53. Gerald L. Nueman, *Immigration and Judicial Review in the Federal Republic of Germany*, 23

islation, young people between the ages of 16 and 23 will be granted citizenship if (1) "they have legally resided in Germany for eight years, (2) have attended a school in Germany for six years, (3) they renounce their previous citizenship, and (4) they have not been convicted of a major felony."⁵⁴

The German government hopes that, by enacting this legislation, the number of asylum cases will drop and racial tensions will be eased: the rationale is that foreigners will have more rights and be grateful for Germany's support and friendliness.⁵⁵ Unfortunately, however, these measures may not be enough to achieve what the government wishes. Even without the new legislation, foreigners can acquire citizenship if they have lived in Germany extensively and are "integrated" into the German system.⁵⁶ In fact, foreigners who are currently eligible to become citizens rarely do so. Of the Turks, who are one of the largest foreign populations⁵⁷ in Germany and number 1.6 million total, only 1243 people sought citizenship in 1990.⁵⁸ The number of other foreigners who sought naturalization was even lower.⁵⁹ These numbers would suggest that most foreigners do not care about becoming German citizens and will not be affected by the proposed new legislation.

Another criticism of the draft law is that it will have very little effect on the number of asylum seekers in Germany because it will not be retroactive. This will leave a massive backlog of cases to be decided in the next few years.⁶⁰ Meanwhile, all of the applicants will continue to receive aid until their individual cases are settled. In addition, the number of asylum applicants will not decrease over the years but will increase due to the constant influx from such states as the former Yugoslavia, whose citizens will qualify for asylum under the proposed new legislation.⁶¹ The future will also see more refugees from Africa who have suffered from recent wars and fam-

N.Y.U. J. INT'L L. & POL. 35, 45 (1990). In contrast, the United States follows a "place of birth" rule with regard to citizenship. *Id.*

54. *German Citizenship*, *supra* note 11, at 3.

55. Switzerland is another country which has traditionally had a very liberal asylum law but which, due to the massive number of asylum applications, has been forced to adopt numerous measures to restrict the flow of foreigners. This was the result of pressure from the individual cantons which, like Germany's states, were burdened with the high cost of providing the applicants with assistance. For the specific regulations which Switzerland has enacted, see Henry A.J. Ramos, *Recent Developments Affecting the International Legal Rights of Asylum-Seekers in Switzerland: An Overview and Critique*, 6 CONN. J. INT'L L. 53 (1990).

56. *German Citizenship*, *supra* note 11, at 3. Many people have made the argument that Germany's asylum laws actually promote xenophobia by giving too much priority to German ethnicity. Federal Press Office, German Naturalization Law More Liberal Than in Many Other EC Countries, Press Release (Consulate Gen. of FRG, Los Angeles, Cal.), Feb. 1, 1993, at 1, 2.

57. Turks account for approximately 32% of Germany's foreign population. *German Citizenship*, *supra* note 11, at 3.

58. *Id.* There were 1713 Turks naturalized in 1989. *Id.*

59. *Id.*

60. Jones, *supra* note 23, at 20.

61. Marshall, *supra* note 13, at H1.

ines.⁶² We may therefore conclude that the German government will have to do more than simply enact a new asylum law in order to stem the flow of foreigners into Germany and to decrease *Ausländerfeindlichkeit* or foreigner antipathy.

B. *The Rise of the Gastarbeiter*

In addition to the many foreigners who are in Germany seeking asylum, there are a large number of foreigners who have lived in Germany as *Gastarbeiter* or temporary labor. Historically, Germany has often brought in *Gastarbeiter* to do jobs which the Germans themselves felt were beneath them.⁶³ Recruitment usually came during an upswing in Germany's economy which pulled German workers into white collar jobs, leaving a void in blue collar jobs to be filled by foreigners.⁶⁴ This occurred during Hitler's reign as well as other points in German history.⁶⁵ The 1955 recruitment, which was the most recent, was facilitated through several bilateral agreements which Germany signed with countries like Italy, Spain, Greece, Turkey, Morocco, Portugal, Tunisia, and Yugoslavia.⁶⁶ Recruitment continued until 1973 when a recession in Germany and the oil crisis brought it to a halt.⁶⁷ The guestworkers stayed though and, despite the fact that Germany no longer recruits foreigners, the number of *Gastarbeiter* continues to grow due to the high birthrate and also to the arrival of family members who come to join the original *Gastarbeiter*.⁶⁸ The *Gastarbeiter*, along with the hun-

62. Paul Johnson, *The Real Lesson of the Rostock Riots: The Racial Violence in Germany Is the Result Not of Fascism but of Liberal Immigration Laws*, THE TELEGRAPH (London), Sept. 6, 1992, at 18.

63. See Peter O'Brien, *Continuity and Change in Germany's Treatment of Non-Germans*, 22 INT'L MIGRATION REV. 109, 110-15 (1988). Although most press coverage of Germany's *Gastarbeiter* focuses on former West Germany, East Germany also recruited many foreigners. The 88,100 total East German workers are comprised of approximately 59,000 Vietnamese, 15,100 Mozambicans and 8000 Cubans. Most of these workers have left or soon will leave when the agreements East Germany made with their respective countries expire. Unlike West German workers, these workers were housed in government dormitories and were not allowed to bring any family members with them. Integration into East German society was therefore less likely than with the foreigners who came with their families to West Germany. *Foreigners in Germany*, *supra* note 27, at 4.

64. Other countries have also launched recruitment campaigns for foreign labor. France, for example, recruited North and sub-Saharan Africans during the late 1960s. Roger Kaplan, *Through Kofi's Eyes*, THE ATLANTIC, Apr. 1992, at 34. During the 1980s thousands of immigrants came to Spain to take low-paying jobs that the Spaniards no longer wanted. Eugene Robinson, *Immigrants Gunned Down, Raising Specter of Racism in Spain*, WASH. POST, Nov. 18, 1992, at A27.

65. O'Brien, *supra* note 63, at 111-15. Germany also recruited thousands of Polish *Gastarbeiter* after its creation in 1871, as well as during World War I. *Id.* at 110-11.

66. *Rightwing Radicalism*, *supra* note 35, at 5.

67. *Id.* For an in-depth examination of *Gastarbeiter* policies, see Demetra K. Matsis, *Guestworker Policies and Apartheid: Does One Resemble the Other?*, 74 MARQ. L. REV. 525 (1991).

68. Neuman, *supra* note 53, at 46. In 1987, there were 700,000 children born to foreigners in Germany. *Id.* In 1989, over 60% of all foreigners in Germany had lived there for over 10 years. *Rightwing Radicalism*, *supra* note 35, at 5. At the same time that the "foreigner" population is increasing in Germa-

dreds of thousands of asylum seekers, comprise the majority of foreigners now living in Germany.

C. Ethnic Germans

Another group which has recently become the target of some anti-foreigner sentiment is a group whose members are actually Germans. Known as *Aussiedler* in Germany, they are Germans who were forced out of Germany during World War II or who were prevented from returning to Germany later on because of the Cold War. Since 1990, they have been returning to their homeland in droves,⁶⁹ with a total of 230,565 ethnic Germans resettling in Germany in 1992.⁷⁰ Some estimates claim that there are nearly 100 million ethnic Germans living in eastern and southeastern Europe and in the Soviet Union who are waiting to return to Germany.⁷¹ Like the asylum seekers and *Gastarbeiter*, they come to Germany to improve their living standard but, unlike those two groups, it is their right under German law to settle in Germany.⁷² They are nevertheless considered foreigners by many of the extremist groups in Germany and by others who vie for the same scarce housing and employment as these "new" Germans.⁷³ In addition, these "foreign" Germans have been raised in a completely different culture from their "German cousins" who have lived in Germany all these years.⁷⁴ Often, they do not even speak German.⁷⁵

In recognition of these facts and also to stem the tidal wave of foreigners arriving daily in Germany, the German government has sponsored programs to encourage ethnic Germans to stay in their "host countries" and not to emigrate to Germany.⁷⁶ Many, however, are not heeding Germany's plea. This is because they know they are entitled to the same benefits and rights as any German, and much to the chagrin of many Germans, are taking full advantage of these rights.⁷⁷

ny, the birthrate for native Germans is steadily decreasing.

69. Adelheid Herrmann-Pfandt, *Eingliederung der Aussiedler*, 222 INFORMATIONEN ZUR POLITISCHEN BILDUNG 2, 2 (1989). See generally *German Citizenship*, *supra* note 11, at 2.

70. *Ethnic German Resettlers*, WK. GERM. (German Info. Ctr., New York, N.Y.), Jan. 8, 1993, at 2. The number of *Aussiedler* who arrived between 1986 and 1988 represents the largest increase in the number of resettlers. Between 1986 and 1987, the numbers more than doubled from 42,788 to 86,000 — a 101% increase. Yet in 1988, the number ballooned to 202,673, which is a 136% increase. *Id.*

71. Michael Mertes, *Between Scylla and Charybdis*, GERMAN COMMENTS, Jan. 1993, at 18, 20. No official studies have yet been conducted in this area. *Id.* However, it is known that there are at least 3 million ethnic Germans in eastern and southeastern Europe, 2.3 million in the Soviet Union, and many more in Poland. *Foreigners in Germany*, *supra* note 27, at 5.

72. *Foreigners in Germany*, *supra* note 27, at 5.

73. Mertes, *supra* note 71, at 19.

74. *Foreigners in Germany*, *supra* note 27, at 5.

75. *Id.*

76. *Id.*; see also *German Citizenship*, *supra* note 11, at 5.

77. *German Citizenship*, *supra* note 11, at 5.

D. Jews⁷⁸

The fourth group⁷⁹ of "foreigners" who bear the brunt of Germany's anti-foreigner sentiments is the Jewish community.⁸⁰ Despite the fact that (1) overt anti-Semitism is outlawed in Germany and (2) some Germans are plagued by guilt over the Holocaust, strong anti-Semitic feelings still exist in Germany, particularly within the extremist groups.⁸¹ In a recent and shocking poll, it was found that one in every three Germans felt that Jews were to blame in part for their persecution by the Nazis and that the Nazi period had its "good side."⁸² In addition, there have been a number of cases of vandalism aimed at Jewish memorials, as well as outright racist attacks on Jews.⁸³ One-third of Germany's Jews have stated that they feel threatened by anti-

78. Jews in Germany are not foreigners *per se*, but are grouped in the "foreigner category" because they often elicit the same antiforeigner sentiments as "true" foreigners.

79. There is also a very small fifth group of foreigners who are disliked by many Germans and are known collectively as gypsies. These people are usually refugees from Bulgaria and Romania and generally are very poor. There have been numerous reports of violence against gypsies, including two massive attacks in the cities of Ketzin and Rostock. In Ketzin, a refugee shelter was firebombed by rioters. It housed about 44 Bulgarians and Romanians. Nancy Nusser, *Neo-Nazis or Just Hoodlums? Some Germans Turn to Violence Out of Insecurity*, ATLANTA J. & CONST., Sept. 4, 1992, at A2.

The attack in Rostock, which has received much publicity in Germany, involved hundreds of Germans who threw Molotov cocktails and provoked a stampede in an apartment building housing 200 Romanian refugees, destroying the Romanians' homes. The riots lasted two days, with neo-Nazi youths carrying bats and throwing bombs while chanting "Germany for the Germans" and "foreigners out or we'll get you all." The most chilling component of the Rostock attack was the lack of protest by Rostock citizens and even by the local police, who arrived shortly after the rioting began but then left the gypsies to their own devices for two days. Some of the people who watched the rioting and who made no attempt to stop the neo-Nazis seemed glad that the rioters had taken action. One woman in Rostock said, "Hitler would have known what to do about these rabble. Two shots and it would all be over." Another complained, "The gypsies are really bad. They steal your money, just like the Jews." Mark Simon, *Germany Must Fight Wave of Hate: A Renewed Tide of Immigration Spurs Revived Prejudice*, NEWSDAY, Sept. 24, 1992, at 103.

80. Approximately 40,000 Jews now live in Germany. Jack Kelley, *Violent Hatred*, USA TODAY, Nov. 23, 1992, at A1.

81. *Id.*

82. Mark Heinrich, *One Third of Germans Feel Nazi Reich Had Good Aspects*, REUTERS, Nov. 6, 1992, available in LEXIS, Nexis Library, Reuters File.

83. *Suspected Neo-Nazis Desecrate Jewish Cemetery*, REUTERS, Jan. 27, 1993, available in LEXIS, Nexis Library, Reuters File. There have been at least three incidents where memorials to Holocaust victims have been painted with swastikas and gutted. Additionally, a Jewish reporter was recently beaten while his assailants shouted "filthy Jew." Kelley, *supra* note 80, at A1. The head of Germany's Jewish community, Ignatz Bubis, has stated that he receives a constant flow of anti-Semitic mail and telephone calls from people who call him a "dirty Jew" and who are not afraid to sign or state their names. A German politician, Franz-Dieter Schlagkamp, mayor of Senheim, even addressed Bubis as "Ober-Jew Bubis." Marc Fisher, *Germans Debate Image: "How Ugly Are We?"—Anti-Foreigner Attacks Drop, but Fears Rise*, WASH. POST, Jan. 25, 1993, at A12.

In a shocking case of anti-Jewish violence, two young skinheads, aged 18 and 24, were arrested for beating a Jewish man in a bar and then setting him on fire with alcohol. After putting out the flames, the skins dumped the main in Venlo, Netherlands. *Three Turkish Residents Die in Rightwing Attack: Bonn Speaks of 'Outrage, Bitterness and Sorrow,'* WK. GERMANY (German Info. Ctr., New York, N.Y.), Nov. 27, 1992, at 2.

Semitism.⁸⁴ Jews also feel that anti-Semitism will only become stronger as the popularity of rightist parties in Germany — who are constantly chipping away at the post war taboos against racism — increases.⁸⁵

All four of the previously mentioned groups — the asylum seekers, the *Gastarbeiter*, the ethnic Germans and the Jews — have contributed to the Germans' sense of having been invaded.⁸⁶ Germans feel that their cultural identity and homogeneity are threatened.⁸⁷ But there are other reasons which account for Germany's negative attitude toward foreigners. These reasons are discussed in the following section.

III. WHY NAZISM HAS SURVIVED IN GERMANY

A. *Racism and the Rise of Nationalism*

Despite the horror of the Holocaust, a small neo-Nazi movement has always survived in Germany.⁸⁸ Germans have grown accustomed to seeing anti-foreigner sentiments in everyday phrases or practices and are no longer afraid to say what they previously only thought.⁸⁹ For example, it is normal for angry soccer fans to yell "Jew Go To Auschwitz" at umpires who make controversial calls.⁹⁰ In southern Germany, it is also normal for Germans to refuse to ride with foreign taxicab drivers. In fact, one local newspaper found that one in every three Germans will only ride with a fellow German.⁹¹ Oth-

84. Kelley, *supra* note 80, at A1.

85. *Weekend Edition: Europeans Respond to Racial Tensions* (NPR radio broadcast, Nov. 14, 1992).

86. The huge increase in the number of foreigners who have immigrated to Germany in the last few years greatly affected Germans' sense of being overcrowded. There are over 79.1 million people in Germany in a space of 137,821 square miles. This is comparable to placing one-third of the United States' population into the state of Montana. *Foreigners in Germany*, *supra* note 27, at 2.

87. Kastoryano, *supra* note 4, at 60. There is also antagonism between east and west Germans themselves. The easterners resent the higher salaries and better living standards which the westerners enjoy, while the westerners resent having to contribute more of their earnings to taxes which are intended to restore the east's economy. Michael H. Haltzel, *Rifts in Germany Scar National Psyche*, L.A. TIMES, Nov. 15, 1992, at M2. Further strain is put on east-west German relations in that they have been educated in diametrically opposite economic systems. Wilhelm Ernst, *Society in Transition*, GERMAN COMMENTS, Jan. 1992, at 35, 37.

The differences between the two Germanies have been used to create a controversial new television sitcom in Germany. In the tradition of Archie Bunker of the American sitcom "All in the Family," Motzki, both the sitcom's title and the main character's namesake, is a show about a "wessie" or west German who hates "ossies" or easterners. The show's writer, Wolfgang Menge, purposely avoids any reference to Germany's foreigner problem and focuses instead on the problems between east and west Germans. The show has created an uproar, as did "All in the Family" in the 1970s, because Motzki often says derisive things about the easterners which most Germans feel should not be said even in jest. The producers argue, however, that it is good to get these feelings out in the open. Tyler Marshall, *Sitcom Pokes Fun (Ouch!) at German Bigotry*, L.A. TIMES, Mar. 2, 1993, at H3.

88. *Die Seele des Volkes Verborgen*, DER SPIEGEL, Nov. 30, 1992, at 20.

89. *Id.* at 17.

90. *Id.*

91. *Id.*

er examples of anti-foreigner sentiments exist as well.⁹²

Such sentiments have, however, only recently escalated to the point of blatant violence against foreigners. Some newspapers have started to compare the present attacks against foreigners with *Kristallnacht* (Crystal Night), during which Hitler's army stormed through Germany smashing windows of stores belonging to Jews, thereby providing a foretaste of Hitler's genocidal solution to the "Jew Problem."⁹³ Much of the current anger has to do with the evergrowing number of foreigners who now live in Germany and who are essentially paid to stay as they await a hearing of their case. In addition, support for the right stems from dissatisfaction with the current ruling political parties, the CDU and the SDP, which have demurred on the issues of rising unemployment, lack of adequate housing and, of course, "the foreigner problem."⁹⁴ The burgeoning rightist parties have capitalized on these feel-

92. For example, CSU official Gerhard Scheu recently suggested that homosexual foreigners should not be granted asylum. Similarly, an anonymous caller to the Dresden police who claimed he would "instigate a bloodbath with foreigners" was later identified as Günter Rühlemann, a Dresden CDU city official. Rühlemann remains in office.

Bar regulars in Hamburg are known to recite an Advent poem at Christmastime which talks of Turks being burned. Numerous other songs have gained popularity. One such verse, loosely translated, is:

Oh, Mr. Asylum Swindler, how are you? I'm just fine and I bring AIDS to the Germans. I come directly from overseas; I bring drugs as white as snow, much of which I distribute during summer and winter to German children. I don't need to work because luckily the work is done by the German asshole in the factory. I lie in bed with my cable television and slowly become big and fat.

Id.

93. Andrew Borowiec, *Europe's Memory Stirred*, WASH. TIMES, Sept. 1, 1992, at A1.

94. Anne McElvoy, *Echoes of the Nazi Past*, THE TIMES (London), Apr. 10, 1992, at 16. Sixteen percent of Germans feel the rightist party, the Republicans, is "best equipped to solve the asylum issue." Tom Heneghan, *Kohl and Critics See German Emergency, Differ on Its Nature*, REUTERS, Nov. 6, 1992, available in LEXIS, Nexis Library, Reuters File. By appearing paralyzed, the German government is rapidly losing popularity. The government took very little action until recently, and many Germans feel that when action did come, it was too little, too late. Even after the human rights group Helsinki Watch demanded late in 1992 that the government take some type of action, the government did nothing. Jones, *supra* note 23, at 18.

It was not until yet another attack against foreigners appeared in the news that the German government took some prohibited measures against the violence. This attack was in the city of Mölln, where neo-Nazi skinheads threw Molotov cocktails into an apartment building inhabited by Turks. Most of the Turks had been living there for over ten years. One 51-year-old woman and two small children were killed in the attack. *Id.* at 20. One of the children was born in Germany and attended a local German elementary school. The 51-year-old woman was a 21-year German resident who had lived in Mölln for 18 years. Gerd Elendt, *Hilfe, Meine Kinder Verbrennen!*, STERN, Nov. 26, 1992, at 208. Thus the attacks did not even reach foreigners in the true sense.

A few days after the attacks, the government banned several neo-Nazis parties, arrested two of the leaders in connection with the attacks, formed an emergency task force to fight anti-foreigner violence, and seized weapons from numerous "Nazi Nests." In addition, several demonstrations were organized to protest anti-foreigner violence. Jones, *supra* note 23, at 20; see also *infra* notes 214-21 and accompanying text. Both of the arrested leaders are currently on trial for triple murder and arson. *Major World New Events Scheduled During the Four Weeks Beginning May 17*, REUTERS, May 16, 1993, available in

ings and, in some cases, have managed enough support to gain parliamentary seats.⁹⁵

While the more rightist parties claim to abhor anti-foreigner violence, their followers have nevertheless instigated numerous acts of violence aimed at intimidating foreigners into leaving the country.⁹⁶ Most Germans will not go to such lengths but there is definitely support for the "Germany for Germans" concept.⁹⁷ This is true of both eastern and western Germany, although the level of violence appears to be somewhat higher in what was formerly East Germany, as well as in the north, which is where most of the attacks have occurred.⁹⁸ According to the German Office for Protection of the Constitution (OPC), membership in right-wing extremist groups rose

LEXIS, Nexis Library, Reuters File. While one leader, Michael Peters, faces a possible life sentence, his cohort, Lars Christiansen, may receive a lighter sentence due to Germany's youth offender statutes. Both defendants have confessed to the crimes of which they are accused. They also confessed to being the parties who alerted the fire department of the fires with a phone call which ended with "Heil Hitler." Marcus Kabel, *German Skinheads Go on Trial for Turks' Murder*, REUTERS, May 14, 1993, available in LEXIS, Nexis Library, Reuters File; see also *infra* notes 153-63 and accompanying text.

95. Although not nearly as widespread a rightist groups, there is a growing leftist movement in Germany, which currently has about 6500 members. This represents a 50% increase from 1991. The members of leftist groups tend to be as violent as rightists. Helmut Kohl, *Extremism and the Rising Propensity for Violence in Germany*, Press Release (Consulate Gen. of FRG, Los Angeles, Cal.), Dec. 14, 1992, at 3. For example, at a recent demonstration attended by approximately 350,000 people in Berlin, the government intended to show support for foreigners, but approximately 500 so-called leftist autonomen threw stones and eggs at Chancellor Helmut Kohl and President Richard von Weizsaecker as the latter attempted to speak against violence. Although Kohl eventually gave up, President Weizsaecker continued to speak while hiding behind riot shields. Marc Fisher, *German Anti-Racism Rally a Fiasco*, HOUSTON CHRON., Nov. 9, 1992, at A1.

96. Many foreigners now walk the streets carrying stones, mace, and sticks to protect themselves from a sudden attack. Kelley *supra* note 80, at A1.

97. *Id.* Nationalism is a term used to describe an ideology where one's nation is at the center of one's universe. Often this involves distancing oneself from all that is foreign and viewing one's own culture and people as superior to all other cultures and peoples. *Nationalismus (Worterkklärung)*, WOCHENSCHAU, Mar.-Apr. 1992, at 55.

98. *Echoes of Nazism*, THE TIMES (London), Aug. 26, 1992, at 11. Most of the violence in Germany has occurred in the northern states. For example, Mecklenburg-Western Pomerania, a northern state, has had the highest incidence of right-wing violence with 9.52 incidents per 100,000 residents. Brandenburg, also a northern state, is second with 8.83 incidents per 100,000 residents. The states with the lowest incidence are Bavaria, a southern state, and Bremen, a northern state. These states have outbreaks of violence totalling .98 and .28 per 100,000 residents, respectively. Overview, *supra* note 19, at 3. One possible explanation for these discrepancies is that the states which are more willing to use police force to combat anti-foreigner attacks have fewer incidents of violence. Michael H. Haltzel, *Why Kohl Has Been Soft on Right-Wing Groups*, L.A. TIMES, Dec. 6, 1992, at M1.

Former East Germany also has been identified as having more neo-Nazis than former West Germany. Many neo-Nazis come from the now obsolete Communist Party. Police have reported that the "eastern Nazis" are much better equipped, with "sophisticated cellular phones and other electronic equipment." The neo-Nazis also have superior weapons. They apparently buy weapons on the black market from former Soviet and East German military forces. Two American neo-Nazis, Gary Lauck from Lincoln, Nebraska, and George Dietz from Reedy, West Virginia, as well as a Canadian, Ernst Zundel, are allegedly responsible for supplying the easterners with much of their Nazi propaganda. *ADL Issues Report on Investigation of German Neo-Nazis*, U.S. NEWSWIRE, Jan. 27, 1993, available in LEXIS, Nexis Library, USNWR File [hereinafter *ADL Issues Report*].

from 32,300 members in 1990 to 39,800 members in 1991.⁹⁹ Approximately 4200 of these members were “neo-Nazi skinheads,”¹⁰⁰ who are generally thought responsible for the violent attacks on foreigners.¹⁰¹ While these numbers are relatively small in comparison with membership in other political parties, it must be taken into account that these figures do not include the number of people who belong to (1) right-wing, *nonextremist* groups or (2) leftist groups. The figures also do not give any indication of the number of “sympathizers” among the German population at-large.

Of the right-wing extremist groups, the Republican Party is by far most prominent and has had the most political success.¹⁰² Led by Franz Schönhuber,¹⁰³ a former SS member under Hitler, the RP or “REPS” as they like to be called,¹⁰⁴ focus on two main problems — the asylum seekers and the lack of housing in Germany.¹⁰⁵ Schönhuber’s answer to Germany’s liberal asylum law is a “quota system” which is a stricter version of the United States’ asylum policy.¹⁰⁶ Under this system, only Jews, ethnic Germans and “trained Europeans” would be granted asylum.¹⁰⁷ Examples of trained Europeans include “Italian cooks” and “Spanish architects.”¹⁰⁸ All other dark-skinned people, or “the unwashed” as Schönhuber calls them, would not be allowed into Germany unless they could prove German heritage.¹⁰⁹

Despite the seemingly apparent parallels with the Nazis’ goal of creating an “Aryan” race, the Republican Party has managed to keep from being totally banned by the government. By deftly avoiding offensive Nazi symbols such as uniforms, and by claiming support for the police and for law and order, Schönhuber has appeared to support democracy while being committed to tackling the foreigner problem, which the more traditional parties seem hesitant to do.¹¹⁰ But the extent of the RP’s commitment to democratic

99. Federal Press Office, Germans Involved in Terrorizing Foreigners a Minority, Press Release (Consulate Gen. of FRG, Los Angeles, Cal.), Dec. 14, 1992, at 1.

100. *Id.*

101. *Id.*

102. *All Things Considered: Right Wingers Do Well in Germany, Racism Used* (NPR radio broadcast, Apr. 6, 1992).

103. Schönhuber was a charismatic and popular talk-show host in Bavaria. He was fired in 1982 after publishing his memoirs on serving in the Waffen-SS during World War II, a fact of which he is very proud. His book, *Ich War Auch Dabei*, has been criticized for its romantic and sensationalist portrayal of the Nazi army. It includes references to “liaisons with, among others, Polish peasant girls” and gallant portrayals of Nazi fighters. John Ely, *Republicans: Neo-Nazis or the Black-Brown Hazelnut? Recent Successes of the Radical Right in West Germany*, 18 GERMAN POL. & SOC’Y 1, 2 (1989).

104. *Id.* at 1.

105. Stephan G. Bierling, *Challenges Ahead*, GERMAN COMMENTS, Oct. 1992, at 21, 23.

106. Rapoport, *supra* note 37, at 96.

107. *Id.*

108. *Id.*

109. *Id.*

110. Ely, *supra* note 103, at 5.

methods remains doubtful.¹¹¹

The other extremist group which recently gained popularity in Germany is the German People's Union (DVU) which, together with the RP, receives approximately 65% of the far-right votes.¹¹² Like the Republicans, most of the DVU's supporters are working-class.¹¹³ In fact, every other vote for the DVU is from a blue-collar worker.¹¹⁴ In addition, two-thirds of DVU voters are men, and the majority are under twenty-five years of age.¹¹⁵ These statistics also apply in general to the Republican Party.¹¹⁶ But it is not just the lower class which votes for the right. For example, in Pforzheim, one of the most prosperous areas in all Europe, 19% of the population voted for the Republican Party.¹¹⁷

Smaller rightist groups also exist but are not nearly as popular because of (1) their blatant advocacy of violence against foreigners and (2) their anti-government stance. One such party is the Nationalist Front (NF), which was outlawed in November 1992, by the Minister of Interior, Rudolf Seiters. Seiters claimed the NF "is clearly an organization that has as its goal the overthrow of the democratic order."¹¹⁸ The NF is the tenth extremist organization to be outlawed since the end of World War II and probably will not be the last.¹¹⁹ The OPC has declared that it may ban some other organizations in the future in order to send a clear signal that violent organizations will not be tolerated.¹²⁰

The members of such organizations range from skinheads and neo-Nazis to *faschos*¹²¹ and the differences between them are marginal. The *faschos* are somewhat older than the other two groups and have a clear goal: "the complete abolition of socialism as well as bourgeois democracy, and the reestablishment of the fully militarized 1939 German Reich."¹²² Because of their secrecy, there is less information available on them than on the

111. One Republican commercial which aired on late-night television in some German cities showed foreign figurines and symbols of fire. Kelley, *supra* note 80, at A1.

112. Bierling, *supra* note 105, at 23.

113. *Id.*

114. *Die Extrem Rechten Legen Zu-Analyse des Wahlergebnisses*, WOCHENSCHAU, Nov.-Dec. 1991, at 216.

115. *Id.*

116. See Paul Hockenos, *Dark Side of the Wall*, NEWSTATESMAN SOC'Y, Jan. 12, 1990, at 16.

117. Marshall, *supra* note 13, at 1.

118. *Rightwing Party Outlawed*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Dec. 4, 1992, at 2. The NF had only about 130 members. *Id.*

119. *Id.* Before outlawing an organization, the Office for the Protection of the Constitution (OPC) collects evidence through the use of infiltration, phone tapping and review of propaganda materials. Tom Heneghan, *German Security Head Wants More Staff Against Far-Right*, REUTERS, Nov. 6, 1992, available in LEXIS, Nexis Library, Reuters File.

120. Heneghan, *supra* note 119.

121. Hockenos, *supra* note 116, at 16. In reaction to the right-wing German groups, Turks have formed their own right-wing group called the "Grey Wolves." *Rightwing Radicalism*, *supra* note 35, at 11.

122. Hockenos, *supra* note 116, at 17.

skinheads and the neo-Nazis and they receive far less publicity in Germany.¹²³

Skinheads or neo-Nazis, on the other hand, have exhibited a flagrant dislike of foreigners through random acts of violence and vandalism.¹²⁴ Usually between the ages of thirteen and twenty, they sport "buzz cuts,"¹²⁵ black steel-toed Doc Martens boots, bomber jackets, and blue jeans."¹²⁶ They also wear iron crosses and swastikas, both of which are banned in Germany.¹²⁷ Almost always male, skinheads are often youths who, due to broken families or other reasons, need a substitute family, which the "group" can provide.¹²⁸ They seem to find pleasure in ganging up on foreigners and are not afraid of being caught by the police.¹²⁹ They are extremely fraternal and loyal to one another and have found numerous ways of spreading their message.¹³⁰ For example, "oi music" or neo-Nazi rock, advocates racism and even genocide and is played in secret by neo-Nazi groups.¹³¹ The music, which has been banned by the government, is used by neo-Nazis as a recruitment tool.¹³² Some members also listen to (banned) tapes of Hitler's speeches.¹³³

The examples of outlawed behavior mentioned above would seem to suggest that a state of war exists between the neo-Nazis and local police and

123. *Id.*

124. Besides the foreigners, other groups "picked on" by the skins include communists, punks, and gays. Hockenos, *supra* note 116, at 17. In addition, skins have singled out the handicapped as their new victims. In Hannover, for example, a woman had her crutches stolen out from under her in a pedestrian zone. In Niedersachsen, a handicapped person in a wheelchair was knocked over and mishandled. Five deaf students were assaulted in Halle. *Die Seele des Volkes Verborgen*, *supra* note 88, at 24. Fortunately for the handicapped, Germans have begun to react and to come to their aid. Frank Weber, who had been bound to a wheelchair for 25 years, was surrounded by three neo-Nazis in a department store in Cologne. When others in the store noticed what was happening, they came to Weber and stood between him and his assailants, thus preventing them from harming him. A few days later, Weber and a few of his handicapped friends invited people in Cologne to form a chain of lights to show their support for the handicapped and for foreigners. More than 50,000 people showed up. This demonstration was especially timely because another handicapped man, Günter Schirmer, had committed suicide in 1992 after skins threw him down the stairs at a railroad station and told him that, had he lived in Hitler's time, he would have been gassed. In his suicide note Schirmer wrote that he was destroying the cripple. Craig R. Whitney, *Germans Take to the Streets to Fight Intolerance*, HOUSTON CHRON., Jan. 24, 1992, at A21. Neo-Nazis have even attacked homes for children who were victims of radioactive fallout from Chernobyl. Tom Post & Karen Breslau, *When Neo-Nazis Run Free*, NEWSWEEK, July 29, 1991, at 34.

125. Some neo-Nazis require new members to shave their heads as part of their initiation in the group. Jones, *supra* note 23, at 15.

126. *Id.* at 16. Thirteen-year-old and younger skins are known as "babyskins," but are just as violent as their older gang members. *Id.* at 17.

127. *Id.*

128. *Id.*

129. *Id.* at 16-17.

130. *Id.* at 17.

131. *Germany Acts to Ban Songs by 5 Neo-Nazi Rock Groups*, N.Y. TIMES, Dec. 3, 1992, at A12.

132. *ADL Issues Report*, *supra* note 98.

133. Jones, *supra* note 23, at 16.

authorities in Germany, with the skinheads being arrested and incarcerated or fined almost daily. In many cities, though, this is not the case, and anti-foreigner sentiment appears to be tolerated through simple government inaction. There are even some cases of the actual government support of *Ausländerhaß*.¹³⁴ For example, a member of Kohl's parliament and of the supposedly "centrist" CDU party, Heinrich Lummer, founded an ultra-conservative club called the German Forum in which members can share their anti-foreigner sentiments and talk over what needs to be done to combat "the foreigner problem."¹³⁵ Lummer has publicly stated that Germany does not need to become a "multicultural society" and that Holocaust reminders are no longer necessary.¹³⁶ There are other examples of government officials sympathetic to the neo-Nazi cause, although most of the more outspoken ones have been forced to resign. This includes the Mayor of Senheim, Franz-Deiter Schlagkamp, who has publicly announced on several occasions that he wants no Jew to live in his village;¹³⁷ and Hans Joachim, nominated president of the World Medical Association, who was forced to resign office after voters found out that he was a former SS member allegedly responsible for sending handicapped children to their deaths during World War II.¹³⁸

The German government has been quick to deny any rumors that the neo-Nazis have organized themselves into anything but a small protest group. Officials also maintain that all violence has been strictly spontaneous.¹³⁹ No one is certain, however, how true these assertions are. The neo-Nazis seem to have enough organization to have put out recently a nationwide bounty on a Gypsy who had been resmuggled into Germany after being deported last February.¹⁴⁰ Claiming it was to help the government catch illegal aliens, the neo-Nazi German League put up posters and passed out 40,000 flyers asking Germans to turn the Gypsy woman over to them.¹⁴¹ Several extremist magazines have also gained steadily in popularity over the years. For example, *Criticon*, a "right-wing intellectual" magazine has been quite successful in Germany.¹⁴² Some neo-Nazi groups claim that the only reason they do not organize on a massive scale is to make it harder for the OPC to spy on them.¹⁴³ They prefer to maintain their anonymity by keeping their groups

134. *Echoes of Nazism*, *supra* note 98, at 11.

135. Bill Schiller, 'Racist' German MP Gaining Ground, *TORONTO STAR*, Jan. 25, 1993, at A3.

136. *Id.*

137. *Id.*

138. *Id.*

139. *Demonstration*, *REUTERS*, Nov. 8, 1992, available in LEXIS, Nexis Library, Reuters File.

140. Tamara Jones, *Hunt for Gypsy Symbolizes Germany's Asylum Crisis*, *L.A. TIMES*, Mar. 9, 1993, at A1.

141. *Id.* at A1, A9.

142. Wolfgang Storz, *Neo-Nazi Ban Highlights Need to Fight Right-Wing Fringe*, *GERMAN TRIB.*, Mar. 5, 1989, at 4.

143. Heneghan, *supra* note 119. The OPC notes that a phenomenon called "racist tourism" has been

small.

Concern has also been expressed that the neo-Nazis may have infiltrated Germany's defense system. In 1992, twenty-four servicemen were investigated for taking part in Nazi violence.¹⁴⁴ Most of the incidents involved servicemen who were only expressing Nazi views while off-duty.¹⁴⁵ However, according to *Deutsche Presse Agentuer*, a German news agency, three of the twenty-four men have been found to be directly connected with attacks on foreigners, and one servicemen has been sentenced to five years in jail.¹⁴⁶ Germany's navy has also experienced some minor outbreaks of anti-foreigner sentiment. Three naval officers in Kiel were recently reported to have thrown a training grenade into a hostel inhabited by foreigners in order to scare them.¹⁴⁷ In what is probably one of the most shocking displays of government support for neo-Nazis, the police in Rostock last year practically stood by and watched while skinheads and locals attacked a refugee camp set up by Romanians.¹⁴⁸ Many locals also stood by and applauded the actions of the attackers.¹⁴⁹ With this small but obvious government support and sympathy for their cause, it is easy to see how the neo-Nazi movement has been able to grow and prosper.

Members of neo-Nazi groups also often receive backing from their parents and community, albeit of a more subdued type. Some parents who sympathize with the neo-Nazi movement even encourage their children to join Nazi organizations.¹⁵⁰ Nonaction by community members can also give youths positive feedback with regard to their violent acts. This in turn spurs them on to continue to commit violent acts and make racist comments. For example, in Düsseldorf, German high school students conducted an experiment in which they filmed reactions of passers-by when other youths masquerading as "thugs" surrounded a young boy and pretended to "rough him up."¹⁵¹ The concealed video camera showed Germans ignoring the violence and walking away.¹⁵² To skinheads, this may signal approval of their actions by Germany's general population or, at the very least, an attitude of ambivalence.

developing where neo-Nazis travel from one "foreigner hot bed" to the next, looking for places to start riots. Tony Allen-Mills, *Kohl Dithers as Fires of Race Hate Flare*, THE TIMES (London), Aug. 30, 1992 (Overseas News).

144. Tyler Marshall, *24 German Servicemen Linked to Extremism*, HOUSTON CHRON., Nov. 12, 1992, at A16.

145. *Id.*

146. *Id.*

147. *Id.*

148. *Echoes of Nazism*, *supra* note 98, at 11; *see supra* text accompanying note 79.

149. *Echoes of Nazism*, *supra* note 98, at 11.

150. *Echoes of an Evil Past*, ECONOMIST, Sept. 28, 1991, at 58.

151. Fisher, *supra* note 83, at A12.

152. *Id.*

In addition to the support which the neo-Nazis receive, many neo-Nazi youths are not prosecuted for the crimes they commit because of Germany's lenient juvenile offender laws. Most sanctions against juvenile offenders, which often include any offender under twenty-one years of age,¹⁵³ involve "educational measures" rather than actual incarceration.¹⁵⁴ Following educational measures, Germans usually punish youthful offenders by fines. Only after these two kinds of punishment have been tried and failed, or when the offender's culpability is great, do most courts then impose prison sentences.¹⁵⁵ The prison sentences, however, are usually brief.¹⁵⁶

Another reason why the juvenile offenders are not sentenced to jail time for their crimes is that judges in Germany have a large amount of discretion when imposing prison sentences.¹⁵⁷ If a judge is convinced that the offender who has been sentenced to jail time would not commit the crime again were he or she to be released from custody, the judge has the right to grant the offender probation.¹⁵⁸ Only recently have German judges and prosecutors begun to impose more serious sanctions (i.e. incarceration) against young offenders accused of committing racist crimes. For instance, a judge in Stuttgart ordered a twenty-five-year-old defendant who beat a fifty-five-year-old Albanian refugee to death with a baseball bat during a neo-Nazi attack to life imprisonment.¹⁵⁹ His nineteen-year-old companion, who also participated in the attack, was convicted of attempted murder and sentenced to nine years in jail.¹⁶⁰ Other courts have not been as harsh when sentencing those accused of neo-Nazi violence. In one recent case, an Eberwald court imposed sentences of four years imprisonment upon Frankfurt skinheads accused of racial violence.¹⁶¹ One of the victims actually died from the wounds the Frankfurt youths inflicted upon him.¹⁶² The prosecution could not, however,

153. Russell P. Dobash et al., *Ignorance and Suspicion: Young People and Criminal Justice in Scotland and Germany*, 30 BRIT. J. CRIMINOLOGY 306, 310 (1990). Unlike in the United States, where a juvenile is defined as a person under 18 years old, German courts have often permitted anyone up to age 21 to be prosecuted as juveniles. *Id.*

154. *Id.*

155. *Id.* at 311.

156. *Id.*

157. Thomas Weigend, *Sentencing in West Germany*, 42 MD. L. REV. 37, 41 (1983).

158. *Id.* at 42-43.

159. *German Gets Life Sentence for Refugee's Murder*, REUTERS, May 13, 1993, available in LEXIS, Nexis Library, Reuters File. The judge who sentenced the defendant to life imprisonment found that the accused, as well as the seven other neo-Nazis who participated in the attack, acted with extreme malice or, in his own words, "with dark, ill-considered, radical right-wing chauvinism." *Id.* All of the neo-Nazis involved had met the day before the incident to listen to Hitler propaganda tapes and neo-Nazi rock music. They then went to the hostel where the Albanians were living and, after kicking down the door, beat the Albanians with baseball bats. *Id.*

160. *Id.*

161. *And the First Trials*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Sept. 18, 1992, at 3.

162. *German Skinhead Jailed for Fatal Beating of Angolan*, REUTERS, May 12, 1993, available in LEXIS, Nexis Library, Reuters File.

prove that the defendants were "directly involved" in the attack.¹⁶³ A court in Wismar also recently ordered a twenty-three-year-old right winger to serve thirty-two months in jail and his nineteen-year-old accomplice to serve two years for a "non-casualty arson attack" against foreigners.¹⁶⁴ Further, many German states now advocate stricter disturbing-the-peace laws to include those who simply applaud anti-foreigner violence as, for instance, in Rostock.¹⁶⁵ In one especially violent neo-Nazi attack where a policeman stood by and watched fifty skinheads beat a foreigner, the state is prosecuting the policeman for failing to do his duty.¹⁶⁶ These changes have come about because (1) the government has mandated stricter punishment for such acts and (2) the judiciary has been shocked by the savageness with which the attacks are carried out.¹⁶⁷ Unfortunately, as some critics have argued, the new laws may have come too late to have any effect on the anti-foreigner mentality of the attackers or applauders, particularly since the problem is aggravated by Germany's increasing unemployment and housing shortage.

B. *Unemployment and Other Social Problems*

Since reunification (January 1990), unemployment in Germany has risen steadily, reaching its highest level during the current year, 1993.¹⁶⁸ The total number of unemployed in Germany rose to 2,257,600 in the former West Germany and to 1,194,400 in the former East Germany during January.¹⁶⁹ The numbers in East Germany are actually higher, because those cited here do not reflect the 2,000,000 people who are enrolled in "job creation programs, work reduced hours or [who] took early retirement."¹⁷⁰ Unfortunately

163. *Id.*

164. *Jewish Cemetery Profaned in Eastern Germany*, AGENCE FRANCE PRESSE, Jan. 27, 1993, available in LEXIS, Nexis Library, AFP File.

165. *Foreigners in Germany*, *supra* note 27, at 1. For a detailed account of the Rostock attacks, see *supra* text accompanying note 79.

166. Catherine Field, *A Blind Eye*, THE GAZETTE (Montreal), Sept. 19, 1992, at B5. This attack was against an Angolan immigrant named Amadeu Antonio. The incident spurred many Germans to protest neo-Nazi violence and resulted in prison sentences for all of the five main perpetrators. *Id.*

167. *Zahl Rechtsextremer Gewalttaten Stieg um Mehr als 50 Prozent*, SÜDDEUTSCHE ZEITUNG, Feb. 8, 1992, at 1.

168. *January Unemployment Figures Rise to Highest Level Since Unification*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Feb. 12, 1993, at 3 [hereinafter *January Unemployment*].

169. *Id.* These numbers become even more significant when compared with 1992 unemployment figures. Prior to January 1993, the number of unemployed in former West Germany was 232,200. This represents a jump from 6.6% to 7.4%, or an additional 2.2 million west Germans who became unemployed during January. In former East Germany, the number of unemployed prior to January was 93,600, making the unemployment rate there 14.7%. *Id.* In some eastern towns such as Rostock the unemployment rate was as high as 17%. *Echoes of Nazism*, *supra* note 98, at 11. The overall unemployment rate in some eastern states like Mecklenburg-Vorpommern and Sachsenhalt was 16.2% and 14.4%. Comparatively, the western states of Bavaria and Badenwürttemberg had much lower percentages, boasting 4.2% and 4.1% unemployment rates, respectively. ELEONORE BAUMANN ET AL., DER FISCHER WELTALMANACH 1993, at 312 (1992).

170. *January Unemployment*, *supra* note 168, at 3. Most of the unemployed people in the eastern states

ly, these numbers will probably not go down until at least the end of the year.¹⁷¹ The past president of the Federal Labor Agency in Nuremberg, Heinrich Ranke, has predicted that the number of unemployed in 1993 will increase by a minimum of 500,000.¹⁷² Eastern companies, in fact, are producing only a fraction of their former output.¹⁷³ Further, most of the major companies in Germany are in the process of reducing their work forces. Daimler-Benz plans to reduce its work force by 20,000 over the next two years; Volkswagen by 12,500.¹⁷⁴ BMW, too, plans to eliminate 3000 jobs in Germany.¹⁷⁵ Many German companies are also starting to switch to overseas operations, which are cheaper than producing in Germany.¹⁷⁶

Former East Germans have been particularly hard hit by these developments, since their earnings are considerably less than those of their western counterparts.¹⁷⁷ Even with an increase in wages in 1992, easterners earn only 73% of what West Germans make.¹⁷⁸ The easterners were due to receive another increase in wages of 26% in April of this year under an agreement with employers.¹⁷⁹ But in March, the financially strapped employers complained that they could not afford this increase and could offer workers a mere 9%.¹⁸⁰ This caused a demonstration on March 15, 1993 by over 22,000 workers.¹⁸¹ The government has recently held an emergency meeting to attempt to find a solution to these problems.¹⁸² While the SPD wanted to help easterners by introducing an immediate income tax hike, it was persuaded by CDU not to do so in exchange for the Christian Democrats' agreement to slash welfare benefits.¹⁸³ Thus it is not yet clear how the gov-

are women. In fact, 65% of all unemployed people in the east are women, which represents a rate of 18.8%. There are numerous reasons for this, including a general bias favoring men and an unusually large number of childless women. This has led to an increase in the number of eastern women who ask to be sterilized to increase their chances of gaining employment. To aid eastern women, the government plans to enact a "work promotion law," which would require that women be employed in newly created jobs according to their percentage of unemployment. Thus, 65% of the new opportunities would go to women. *Unemployment Among Eastern German Women Continues to Rise*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Nov. 20, 1992, at 5.

171. *January Unemployment*, *supra* note 168, at 3.

172. *Number of Jobless Hit Three-Million Mark as 1992 Drew to a Close*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Jan. 15, 1993, at 4.

173. *Eurogloom*, THE TIMES (London), Sept. 13, 1992, at 10. Former East Germany's once strong engineering industry is presently producing only 25% of what it did two years ago. *Id.*

174. Rapoport, *supra* note 37, at 97.

175. *Id.*

176. *Id.*

177. *Eastern Earnings Rose 25 Percent in 1992*, WK. GERMANY (German Info. Ctr., New York N.Y.), Feb. 12, 1993, at 3.

178. *Id.*

179. *22,000 East Germans March for Jobs, Wages*, REUTERS, Mar. 15, 1993, available in LEXIS, Nexis Library, Reuters File.

180. *Id.*

181. *Id.*

182. Tyler Marshall, *German Leaders Discuss Fiscal Impasse*, L.A. TIMES, Mar. 13, 1993, at A6.

183. Adrian Bridge, *Germans Give Go-ahead for 'Solidarity Surcharge'*, THE INDEPENDENT (London),

ernment plans to deal with the wage, as well as the overall unemployment problem.

The ongoing violence in Germany has also affected foreign investment. There has not been any boycott of German products as of yet; nor have any countries threatened to discourage tourists from visiting Germany.¹⁸⁴ But, Germany has experienced a general decline in tourism, especially among Americans, Japanese and British, all of whom have traditionally made up a great portion of Germany's tourist income.¹⁸⁵ In addition, the number of exhibitions and trade shows which are being held in Germany has dropped significantly — historically an important source of international trade for Germany.¹⁸⁶ Several German companies have also reported that potential foreign investors are asking increasingly pointed questions with regard to the violence in Germany.¹⁸⁷ Enrollment in German language courses given by the internationally renowned Goethe Institute has dropped dramatically. In some cases, such as that of Koreans, the number of enrollees has fallen off by as much as 30%.¹⁸⁸ If the anti-foreigner violence continues, more areas of the German economy will no doubt be affected in the future.

These problems are further exacerbated by a housing shortage and homeless problem in Germany.¹⁸⁹ Although most foreign asylum seekers are housed in state-run facilities, the government has been forced to use unlikely accommodations for the more recent arrivals. For example, some states are resorting to school gymnasiums, anchored ships, army barracks and tents to house asylum applicants.¹⁹⁰ Some foreigners, on the other hand, who have been living in Germany for many years, do contribute to the current housing shortage in Germany.

Many Germans blame the unemployment and lack of housing directly on the foreigners.¹⁹¹ They see foreigners as a constant threat to their livelihood.¹⁹² In reality, however, foreigners take very few jobs away from Germans.¹⁹³ This is because the number of refugees who are granted asylum in

Mar. 15, 1993, at 10.

184. Stephen Kinzer, *Germans Blocks a Big Neo-Nazi Rally Near Berlin*, N.Y. TIMES, Nov. 16, 1992.

185. *Id.*

186. *Id.*

187. *Id.*

188. *Id.*

189. Helga Herrmann, *Ausländer und Recht*, 237 INFORMATIONEN ZUR POLITISCHEN BILDUNG 8, 11 (1992). It has only recently come to light that many of the homeless are women. The Federal Ministry of Family and the Elderly issued a report estimating the number of homeless women at 50,000. *Homeless Women Evolve from Secondary Problem to Primary Concern*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Sept. 25, 1992, at 7.

190. Jones, *supra* note 23, at 17.

191. *Coalition Parties and SPD Debate Proposed Asylum Legislation in First Reading*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Jan. 22, 1993, at 1.

192. *Sobald Sie Uns die Arbeit Wegnehmen, Müssen Sie Raus*, WOCHENSCHAU, Jan.-Feb. 1990, at 16.

193. *Some Asylum-seekers Get Temporary Work Permits, Jobs*, WK. GERMANY (German Info. Ctr.,

Germany is very small. These refugees are then only placed in jobs that no German or European Economic Community member wants.¹⁹⁴ In addition, certain sectors of the German economy would actually collapse were all foreigners to be ousted. This is especially true of the catering; building, foundry and housecleaner trades.¹⁹⁵ In fact, Martin Frey, a member of the research section of the German parliament, has announced that Germany needs a yearly influx of 300,000 foreign workers "in order to maintain the labor force."¹⁹⁶ Frey also states that foreigners actually create jobs in Germany, rather than take them away. There are 150,000 foreigner-owned businesses in Germany, each of which creates hundreds of thousands of jobs.¹⁹⁷ Indeed, Turkish companies, which have created about 100,000 jobs to date, are the only companies which are interested in expanding into the former East Germany.¹⁹⁸

Germans also do not seem aware of the other advantages which foreigners bring. They pay much more into Germany's social security reservoir than they take out. In 1989, for example, foreigners contributed approximately DM 12 billion but were paid only a quarter of that sum.¹⁹⁹ Together with taxes paid, foreigners contributed DM 90 billion to the government in 1991.²⁰⁰ Foreigners also generate approximately DM 8 billion per year for Germany in "indirect taxes," for example, value-added tax and taxes on tobacco, gas and other items.²⁰¹

Most people also do not realize that foreigners produce more of Germany's GNP per person than the Germans do themselves. In 1991, foreigners produced 9% of the total GNP while comprising only 8.2% of the population.²⁰² Foreigners also spend a great deal in Germany, and the amount has been increasing. In conjunction with this, the amount which they send abroad had steadily decreased.²⁰³

People forget too that foreigners play an integral part in German sports, which in Germany are a national passion. One in every five players in the nine most important German sports is a foreigner, bringing the total number of foreign players to 426.²⁰⁴ The largest number of foreigners can be seen

New York, N.Y.), Jan. 22, 1993, at 4.

194. *Id.*

195. Foreign Press Office, *Foreigners Are Indispensable to the German Economy*, Press Release (Consulate Gen. of FRG, Los Angeles, Cal.), Dec. 14, 1992, at 1 [hereinafter *Foreigners Indispensable*].

196. *German Economy Dependent on Foreigners, Study Says*, WK. GERMANY (German Info. Ctr., New York, N.Y.) Sept. 18, 1992, at 4 [hereinafter *German Economy*].

197. *Id.*

198. *Id.*

199. *Id.*

200. *Foreigners Indispensable*, supra note 195, at 1.

201. *Rightwing Radicalism*, supra note 35, at 6.

202. *Foreigners Indispensable*, supra note 195, at 1.

203. *Id.* at 2.

204. *Rightwing Radicalism*, supra note 35, at 6.

in the national ice hockey league, where 37.2% of the players are foreigners. Most sports would, in fact, use more foreigners on their teams, if it were allowed. But there are league rules permitting only a certain number of foreigners on each team. This prevents any one team from building an unfair advantage by packing itself with foreigners.²⁰⁵

Another point which Germans often make when arguing that foreigners should be ousted is that they commit more crimes than Germans.²⁰⁶ This idea comes from published police crime statistics, which show that over 25% of total crimes are committed by foreigners.²⁰⁷ For several reasons, however, these statistics are extremely misleading. First, the percentage of foreigner-committed crimes includes all immigration violations which foreigners commit in the attempt to gain admittance into Germany. These account for over 95% of the actual crimes committed by foreigners.²⁰⁸ Moreover, many of these "crimes" consist of minor infractions, such as leaving the town, even for one night, which is responsible for that particular foreigner.²⁰⁹ The other 5% of the crimes committed by foreigners involves mainly shoplifting and in some cases forgery, since many foreigners attempt to strengthen their claims of political persecution by written proof.²¹⁰ Finally, and most significantly the number of foreigners who are actually convicted of crimes is 13%, which is much lower than the number of Germans convicted.²¹¹

Thus, many of the arguments which Germans make against having foreigners in Germany fall apart upon closer inspection; and getting rid of all foreigners as advocated by extremist groups may in fact only further impede Germany's attempt at successful reunification.

IV. THE "MAJORITY" RESPONSE

As already stated, Germany does not consider itself a land of immigrants and, in fact, prides itself on its homogeneity.²¹² For this reason, foreigners have never been made completely welcome. The majority of Germans do not, however, condone the recent violence against foreigners and have begun to take steps to show their distaste for neo-Nazi outbursts.²¹³ Organized al-

205. *Id.*

206. *Ausländer Krimineller als Deutsche?*, WOCHENSCHAU, May-June 1992, at 113.

207. *Scientists: Foreigners Not Less Law-abiding Than Germans, Statistics Skew Foreigners' Role in Crime*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Nov. 20, 1992, at 7 [hereinafter *Scientists*].

208. Herrmann, *supra* note 189, at 12.

209. *Scientists*, *supra* note 207, at 7.

210. *Id.*

211. *Id.*

212. Kastoryano, *supra* note 4, at 52.

213. In a recent survey that a German television station conducted, 58% of those polled stated that their relationship with foreigners was "good," while 15% stated it was "very good." Only 13% said that they had experienced "conflict" with foreigners. When asked what they thought was the "greatest danger to democracy" in Germany, 81% of Germans from the west and 90% from the east said right-wing violence.

most exclusively without the government's help, demonstrations have been held all over the country.²¹⁴ The first really large demonstration took place in Berlin on November 8, 1992.²¹⁵ Despite freezing temperatures, it drew 350,000 people to hear President Richard von Weizsäcker speak on the threat of right-wing violence.²¹⁶ Other smaller demonstrations had been held prior to this in which people in different German cities stood in front of foreigners' homes in order to protect them from vandalism and violence.²¹⁷ In December of 1992, about 300,000 demonstrators gathered in Munich for *Lichterkette* (chain of lights) or *Lichtermeer* (sea of lights), where they stood in silence while holding candles or flashlights.²¹⁸ Similar silent protests were staged in smaller cities for weeks afterward, including another big one in Berlin which was attended by 200,000 people.²¹⁹ Then on January 30, 1993, the sixtieth anniversary of the Nazis' rise to power, 500,000 people gathered in Wuppertal to protest the resurgence of Nazism.²²⁰ By and large, these demonstrations were peaceful.²²¹

There are other signs of German support for foreigners as well. In Hamburg, Germany's large metal workers' union elected a Turk to a position of authority for the first time.²²² There have also been numerous rock concerts and other well publicized events having the explicit purpose of promoting solidarity with foreigners.²²³ German celebrities like Steffi Graf and film director Wim Wenders have spoken out against the violence.²²⁴ In addition, certain well-known German authors have held readings to promote tolerance of foreigners.²²⁵ The German car manufacturer, Opel, offered a reward of DM 100,000 to anyone with information on the identity of the attackers in

Attacks on Foreigners Continue, but Support also Evident; First Sentences Passed, WK. GERMANY (German Info. Ctr., New York, N.Y.), Sept. 18, 1992, at 1. At the same time, feelings of national pride among Germans have gone down. Germans who are proud to be German declined from 66% in 1990 to 56% in 1991. Hans-Joachim Veen, *The Day to Day Difficulties of Internal Unification*, GERMAN COMMENTS, Apr. 1992, at 42, 44.

214. Tyler Marshall, *Hitler Anniversary Marked by Protests*, L.A. TIMES, Jan. 31, 1993, at A4.

215. *A New, and Welcome, Voice in Germany*, STAR TRIB., Nov. 11, 1992, at A20.

216. *Id.*

217. *Rightwing Radicalism*, *supra* note 35, at 4.

218. *Id.*

219. *Id.*

220. *Id.* at 5.

221. An exception was the Rostock riots, where demonstrators carried weapons and Molotov cocktails. *Tolerance, Not Terrorism*, ST. PETERSBURG TIMES, Sept. 2, 1992, at A10.

222. *Metalworkers Come Out Against Right-Wing Extremism; Elect Turk to Union Leadership*, WK. GERMANY (German Info. Ctr., New York, N.Y.), Oct. 16, 1992, at 4.

223. *Foreigners in Germany*, *supra* note 27, at 1. One German singer has completed an album called "We Are the Majority," which is wholly devoted to denouncing skinhead violence. Steve Hockman, *Pop Beat: This Rapper Backs Limits on Speech*, L.A. TIMES, Jan. 9, 1993, at F1.

224. *Foreigners in Germany*, *supra* note 27, at 1.

225. 'A Night in Germany': Authors to Hold Readings in Support of Asylum-seekers, WK. GERMANY (German Info. Ctr., New York, N.Y.), Nov. 6, 1992, at 7.

Möln who killed three Turks.²²⁶

Eventually, the government also began to take action against xenophobia by enacting measures which provide special improved police technology to combat racism, emergency telephones in asylum-seekers' homes, a ban on certain groups and their propaganda, and police units which can be dispatched at a moment's notice.²²⁷ Several amendments to the penal code have also been proposed in order to make sentencing in Germany stricter.²²⁸ In addition, the government has announced that anyone guilty of inciting others to commit acts of racial violence will be prosecuted to the same extent as the actual perpetrator of the crime.²²⁹ The German government also enacted a new plan under which foreign victims of racial violence can collect compensation for their injuries.²³⁰

To alleviate the pressure in the former East Germany, a new financial aid package has also been agreed upon by the ruling parties.²³¹ Chancellor Kohl has portrayed these measures as a sign of government sensitivity to the problem,²³² but the ruling parties have not gained as much respect as they had hoped.²³³ The German public has been critical of government delays and of

226. *Police, Carmaker Opel Offer Reward to Track Down Arsonists*, AGENCE FRANCE PRESSE, Nov. 24, 1992, available in LEXIS, Nexis Library, AFP File. Opel employs a sizeable number of foreigners, including 5000 Turks. The car manufacturer also sent the families of the slain Turks DM 50,000. *Id.* For an account of the Möln incident, see text accompanying *supra* note 94.

227. *Rightwing Radicalism*, *supra* note 35, at 7.

228. *Id.* at 2. For a complete list of government initiatives to combat xenophobia, see Federal Press Office, Interior Minister Adopts Further Measures Against Right-Wing Extremists, Press Release (Consulate Gen. of FRG, Los Angeles, Cal.), Dec. 3, 1992, at 1, 1-3.

229. Leuthusser-Schnarrenberger, Statement on the Production and Dissemination of Materials Containing Neo-Nazi and Xenophobic Ideas, Press Release (Consulate Gen. of FRG, Los Angeles, Cal.), Dec. 14, 1992, at 1.

230. *Foreigners Can Collect*, NEWSDAY, May 8, 1993, at 8. Prior to the enactment of this legislation, foreigners could not collect under a German law which compensates Germans and European Community members for injuries which are the result of criminal activity. *World News*, STAR TRIB., May 8, 1993, at A4.

231. *Details of German Financial Package*, REUTERS, Mar. 15, 1993, available in LEXIS, Nexis Library, Reuters File. The main provisions of the package include: (1) DM 5.8 billion to east Germany in 1995, to be financed mainly by an increase in income tax rates and in the federal government's deficit; (2) DM 60 billion for a housing project in East Germany; (3) social benefits to remain constant; (4) an increase of DM 3.7 billion to the German Unity Fund, one of the primary organizations helping east Germans rebuild their economy; and (5) DM 2 billion to create jobs in 1993. *Id.*

232. *Id.*

233. Overview, *supra* note 19. Several recent scandals involving top Kohl aides have further stained the federal government's reputation. Three ministers have been forced to resign in the last year alone. The most recent resignation came from German Transport Minister, Günter Krause, who was accused of misappropriation of funds. Kirstin Ridley, *Scandals Plague Germany, Transport Minister Quits*, REUTERS, May 7, 1993, available in LEXIS, Nexis Library, Reuters File. In addition, Kohl's CDU party has been hurt by allegations of unfair voter practices in Hamburg. A court has ordered a new vote for the regional election which took place there in 1991. Consequently, voter support for the SPD and CDU, who received a majority in the 1991 election, has reportedly decreased, while support for the right-wing party, the German People's Union (DVU), has increased. *Far Right-Wing Party to Run in German State Poll*, REUTERS, May 6, 1993, available in LEXIS, Nexis Library, Reuters File.

the weakness of the measures at a time of serious civil unrest.²³⁴ Chancellor Kohl has borne much of the criticism. In a recent poll, 27% of Germans stated that Chancellor Kohl was the "least likable" politician in the country.²³⁵ Another poll shows that 40% of the German population wants neither Chancellor Kohl nor SPD Chairman Björn Engholm in office next year.²³⁶ The obvious question here is whether or not this 40% is ready to turn to more extremist groups. The ruling parties are in any case worried about the 1994 elections and may have to enact more relief measures in the near future.²³⁷

V. NAZISM IN PERSPECTIVE

Government measures and public demonstrations of support for foreigners have helped to combat the rise of xenophobia in Germany and to repair the country's somewhat tarnished image in the eyes of the rest of the world. As already stated, however, this is not enough. There remains a pervasive anti-foreigner attitude among Germans which prevents foreigners from feeling at home. Of course, some Germans want foreigners to feel this way. These people must be made to realize, however, that ousting foreigners will do more harm than good. Germans would lose an important source of revenue if the foreigners were forced to leave. Additionally, certain work sectors would fall apart. As for Germany's asylum law, very few people dispute the need to change it and the government is currently in the process of doing so. The section of the amended asylum law easing the requirements for citizenship will go far towards making the foreigners feel they are actually welcome.²³⁸

Once Germans begin to allow foreigners to integrate fully into German society, the process will probably be smoother than they had ever imagined. Most of the foreigners in Germany today have lived there for over ten years, usually in the same town and even in the same house.²³⁹ They speak German better than their native language, and many, having moved up into the middle class, love the same status symbols (for example, driving a Mercedes) as the Germans themselves.²⁴⁰ The second or third generations of foreigners

234. *Foreigners Can Collect*, *supra* note 230, at 7.

235. *Poll: Kohl Germany's Second Most Unpopular Politician*, REUTERS, Jan. 27, 1993, available in LEXIS, Nexis Library, Reuters File.

236. Tom Heneghan, *Frustrated Voters Reshuffle Cards in German Politics*, REUTERS, Mar. 8, 1993, available in LEXIS, Nexis Library, Reuters File.

237. *350,000 Germans Form 'Chain of Light' to Protest Racism*, TORONTO STAR, Dec. 7, 1992, at A12.

238. Judy Dempsey, *Plea Over 'German Foreigners'*, FIN. TIMES, Dec. 9, 1992, at 2.

239. *Foreigners Indispensable*, *supra* note 195, at 2. "Two-thirds of the Turks, three-quarters of the Italians, three-quarters of the people from former Yugoslavia and 87% of the Spaniards in Germany have lived [there] for more than ten years." *Id.*

240. Tom Heneghan, *Germany's Turks Now Doubt There Is Safety in Numbers*, REUTERS, Nov. 23,

would not even know their native land if they went back.²⁴¹

To facilitate integration, the German government should sponsor a nationwide campaign to educate Germans about the benefits that foreigners bring, the small number of asylum applications actually granted, and the truth about foreigner crime and unemployment. All of these things are bases for arguments which Germans make against foreigners, yet nearly all are myths or at best half-truths.²⁴² Educational programs are particularly necessary in the case of East Germans who, having lived under communism, were not taught the evils which the Nazi movement brought about.²⁴³ Thus, many easterners do not see the parallel their actions have with those of the Nazis.²⁴⁴

To the government's credit, some educational programs have already been launched. Young people have been targeted to be taught about the Holocaust and its horrors. Funds have been expended in the former East Germany to rehabilitate young skinheads by building or buying clubhouses for them.²⁴⁵ One such club is located in Görletz and includes a disco, gymnasium, hostel, billiards hall and private offices.²⁴⁶ Neo-Nazis are also being offered all-expense paid "cultural awareness vacations," in order that they might travel to other countries and experience other cultures.²⁴⁷ In addition, the government is paying neo-Nazis to help restore certain cities in the east.²⁴⁸ In this way, the government hopes to provide the stability which skinheads seem to lack and to show them how wrong violence is. If, however, there is any indication that the youths are using the clubs as "Nazi nests," they will be disbanded.²⁴⁹ In addition, state governments have begun to develop their own educational programs, often coupled with reinforced police action.²⁵⁰

Without a doubt, all these steps are moves in the right direction. But the

1992, available in LEXIS, Nexis Library, Reuters File.

241. *Id.*

242. *See supra* notes 191-211 and accompanying text.

243. *Echoes of Nazism, supra* note 98. To aid in these educational measures, the government has called on the German media to show less violence on television because it tends to arouse the extremists. Kohl, *supra* note 95, at 6.

244. *The MacNeil/Lehrer News Hour: Hate Thy Neighbor* (PBS television broadcast, Sept. 8, 1992).

245. Friedrich Bohl, *Violence Has No Chance in Germany*, 16 STATEMENTS & SPEECHES 1, 2 (1993). Friedrich Bohl is Germany's Minister of the Federal Chancellory.

246. Tamara Jones, *Loads of Fun for Neo-Nazis*, L.A. TIMES, June 15, 1992, at A1.

247. *Id.* One "vacation" proposed by a German social worker is a trip through the Sahara Desert, during which an emergency would be staged. The skins would then have to rely on foreigners for help, thereby heightening their awareness of the plight of foreigners in their own country. *Id.*

248. *Id.*

249. *Id.*

250. *Germans Face an Old Menace*, S.F. CHRON., Nov. 14, 1992, at A20. Dresden is an example of a city using both police tactics and educational measures to successfully reduce racial violence. *Id.* In Saxony, a "round table" discussion group consisting of policemen, church members, local officials, youths and other citizens has been formed. Federal Press Office, *supra* note 99, at 3.

government must redouble its efforts at reeducating certain segments of Germany's population. Relatively speaking, Germany is already a nice place to live. It will become even better if Germans can be made to see that most of their foreigners, of whatever stripe, are a blessing rather than a curse.

