

# Border Exceptionalism

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This essay probes the structure of exceptionalism claims in German memorial culture by focusing on how the Berlin Wall is remembered both in monuments and in judicial engagements with border violence. In these disparate sites of memory, the Berlin Wall's uniqueness is emphasized to the detriment of drawing attention to the broader structures of border violence. The essay considers the effects of this "border exceptionalism," stressing that a more multidirectional memory of borders opens space for solidarity and political engagement across different borders.

What are memories good for? The debate about 'The German Catechism' (Moses) and 'multidirectional memory' (Rothberg) has surfaced many questions about nationalism, whiteness, and the relationship between antisemitism, islamophobia, and anti-Blackness. Which memories become public, and how are the relationships between different memories and the people who hold them narrated? Drawing on previous contributions to this debate, especially by Zoe Samudzi, Tiffany Florvil, and Mirjam Brusius, I want to add another layer and an apparent detour to this conversation. German memory practices not only feature an unwarranted "genocide exceptionalism" (Samudzi), but, I argue, this mode of exceptionalizing histories of violence extends to GDR history as well. Germany specializes in exceptionalisms. The memory of the Berlin Wall, authoritatively imprinted in physical monuments as well as Federal Supreme Court (Bundesgerichtshof, BGH) decisions on the deaths at the border, codify a "border exceptionalism" that treats the violence at the GDR/FRG border as uniquely violent and evil. This framing disallows multidirectional memory practices that would allow all residents of Germany to consider their current and past implication in the violence at the EU borders.

Dirk Moses' 'The German Catechism' powerfully speaks to the exclusion of racialized migrants and minorities from German memory culture. Muslims in particular are often projected as harbingers of antisemitism. Yet, as Fabian Wolff also points out, Moses' incisive contribution skirts the question of how East German voices and memory practices fit in this debate. Moses writes: "many German families witnessed the scene of generational confrontations during the 1960s and 1970s," and states ambiguously that during the 1980s, "the understanding of the Holocaust as historically special had broken through in the West." Where is East Germany in this picture? For most of my family, the defining event of 1968 was the Soviet Union's crushing of the Prague Spring followed by increased repression at home, not the student movement of the transnational West. As Tiffany Florvil has already suggested, we all stand to benefit from recovering different strands of memories—Black German, migrant German, but also East German—that allow for solidarities across different experiences. Migrants to Germany as well as East Germans come to the table with different family histories. Yet we are expected to not only learn about the history of (West) Germany, but also to master the appropriate emotions to be felt about important events. As Sara Ahmed has written, the boundaries of nations are constituted through shared emotions, what scholars call affects. Belonging requires the mastery of expected affects or, failing that, inconspicuous silence.

In the mid-2010s, I was invited to be part of a Canadian delegation discussing possible collaborations with a research institute in Berlin. After a long day of workshops and presentations, our hosts had planned one touristic activity before dinner at a nice restaurant. They guided our visit of the Berlin Wall

Memorial in Bernauer Strasse. I was familiar with the memorial: on my sabbatical, I had visited it while researching the prosecutions of border guards and their superiors. The memorial included a wall with the names and photographs of the people who had been shot along the Berlin Wall. Some of these names were familiar: the deaths of these young men had been investigated, prosecuted, and adjudicated in the court judgments I had pored over. Yet as I looked at this wall of victims, seeing 138 names (the current tally is 140), my thoughts wandered to the TV footage of the perilous journeys of migrants from Africa and the Middle East to European shores. “138 deaths is like a bad week in the Mediterranean,” I said, probably too loudly. There was no verbal response, only an icy glare. My affective reaction to the memorial to a border that had divided my family was judged to be out of place.

East German critiques of West German memory and legal practices are frequently rendered suspect as “*Ostalgie*” (nostalgia for the old East) or evidence of insufficient familiarity with West German ways. In preparing to write this essay, I went back to the Supreme Court decisions on the border deaths that I have researched, trying to connect my unease at the memorial with my unease about the legal judgments. Law isn’t a neutral site of adjudication. Law is memory. It is a practice of making certain pasts relevant and visible, of passing judgment on them, and on filing these judgments away for future study and citation. Under its technical and disciplined surface, German law is replete with ghosts: when former East German judges were on trial for “bending the law” (*Rechtsbeugung*) in the 1990s, their judges saw specters of the Nazi judges who had never been held accountable.

According to the Berlin Wall memorial, at least 140 people were killed at the Berlin Wall between 1961 and 1989. This number includes East German border guards. In 2015 alone, at least 2,078 migrants died in the Mediterranean in an effort to reach European shores to claim asylum. Numbers can become dehumanizing abstractions, but they can also become tools for grasping the enormity of the situation and for thinking across contexts.

It would be misleading to see the drowning deaths in the Mediterranean as accidental or unintentional: the EU penalizes ferries and airlines for bringing persons without entry permit into the EU, and Greece has prosecuted fishermen as well as NGO workers helping migrants to arrive safely. More recently, Italian authorities have detained the captain of a vessel that brought rescued migrants to an Italian port. In addition to using law as barbed wire, the EU weaponizes the sea itself: the merciless sun, the high waves, the salty waters, and the vast expanse of water that swallows boats, bodies, and dreams. Law has turned the sea into a Wall and criminalizes those who try to tear it down.

The Berlin Wall has become not only the symbol for the GDR “*Unrechtsstaat*,” but it has also been exceptionalized as a border regime. The West German State had never fully accepted the sovereignty of East Germany. In the trials of border guards for the killing of border crossers, the border was described as the “*innerdeutsche Grenze*” (intra-German border). Legal judgments not only decide on questions of law, they also mirror and enshrine social judgments on values and principles. In a 1993 judgment, the Federal Supreme Court described that the two border shooting victims wanted “to leave the GDR via the administrative boundary [*Bezirksgrenze*] between Treptow and Neukölln.” The desire to cross the border was rendered natural not only by downplaying the status of the Wall, but also by rendering all Germans collective victims of the border regime: “Germans from the GDR had particular reasons for wanting to cross the border to West Berlin and West Germany: they were connected to the people on the other side of the border as members of the same nation” and had “familial and other personal relationships.” In 1992 and 1993, the Federal Supreme Court saw this specific border as an obstacle to the values of

national and familial unity. During the same years, the German parliament negotiated and passed the “asylum compromise” that significantly restricted the rights of asylum seekers. In this logic, the Berlin Wall was wrong because it impeded the movement of Germans on German lands. The right to cross borders was turned into a privilege attached to whiteness and nationality.

The understanding of the Berlin Wall as an exceptional border is not only a product of law, but also of official and private commemorative practices largely driven by West Germans. Starting in 1971, an association of West Berlin citizens started to put up white crosses commemorating the people who have been killed trying to cross the Wall. This memorial project has taken different shapes throughout its history. In its current iteration, the crosses are installed at a location along the former border and within sight of the Bundestag building. Six crosses bear the names and dates of death of selected victims, and the seventh cross is dedicated to the “unknown” victims. In 2014, the Center for Political Beauty, a Berlin-based performance art collective emphasizing “moral beauty, political poetry, and human magnanimity” moved these crosses to sites along the EU external border. In the artists’ words: “The art installation of »white crosses« collectively left the city’s government quarters to escape the commemoration festivities for the fall of the Berlin wall’s 25th anniversary. In an act of solidarity, the victims fled to their brothers and sisters across the European Union’s external borders, more precisely, to the future victims of the wall. Since the fall of the iron curtain, the EU’s border has taken 30,000 lives.” The collective planned this unauthorized memorial mobility as a critique of “the self-involved German tradition of commemorating.” In photos accompanying the project, African migrants in legal limbo in Morocco are seen posing with the crosses that are commemorating East German border crossers. The photos are uncomfortable at many levels: they juxtapose the commemorated deaths of East Germans with the devalued lives of Africans about to embark on a perilous journey, posing questions about the differential grievability of lives lost at different borders.

The representatives of the political elites who had planned to commemorate the 25th anniversary of the opening of the Berlin Wall only to find a gap where the crosses would have been condemned these actions as “lacking piety” and “theft.” The Center clarified that they never intended to keep the crosses; they merely took them on a journey to the new borders at which people are killed. The activists practiced a form of “multidirectional memory” (Rothberg) that tries to bring different injustices in relationship and conversation with one another. They state that their “fundamental conviction is that the legacy of the Holocaust is rendered void by political apathy, the rejection of refugees, and cowardice.” Their goal is to use the dominant ethical sensibility towards the Berlin Wall as a resource for denouncing EU actions and inactions in the Mediterranean.

If we look back at the Federal Supreme Court’s 1993 decision on criminal responsibility for the death of Chris Gueffroy, one of the victims named in the white crosses, we can see that the Court carefully separated Gueffroy’s attempted migration and death from the suffering at other borders. The Court described the building of the Berlin Wall as a “desperate situation” for citizens of East and West Germany because it tore families and the nation apart. Under these specific circumstances, the Court added, “unpaid aid to escape was widely understood by people on both side of the border as a humanitarian duty.” The Berlin Wall stood accused not as a border, but as a symbol of a state that was understood to illegitimately divide a nation. Aiding migrants was a patriotic act in divided Berlin, but the “humanitarian duty” was based on shared nationality and not shared humanity.

In a second “operation,” the Center for Political Beauty highlighted the deaths at the border in a more

visceral way. Reminding the public that the EU borders “are the world’s deadliest” and the victims “are buried in masses in the hinterland of Southern European states,” the Center, in its own words: “took these dead immigrants from the EU’s external borders right to the heart of Europe’s mechanism of defense: to the German capital.” The Center claims: “Together with the victims’ relatives, we opened inhumane graves, identified and exhumed the bodies and brought them to Germany.” It is not clear if the coffins that were ceremoniously buried in Berlin contained the bodies of border victims. The Center encouraged Germans to create “graves” in cities all over the countries, viscerally reminding citizens of the deadly consequences of EU policies. This “operation” was not uncontroversial in its focus on dead migrants without the inclusion of migrants within Germany and in its use of German Christian burial iconographies. Yet in bringing reminders of the deaths to Germany and bridging the spatial divide between the centers of political powers and the sites of death, the project raised important questions about the locus of responsibility. In his recent book, Michael Rothberg proposes the concept of the “implicated subject” as a position “aligned with power and privilege” without being direct “agents of harm” (1). Implicated subjects are produced in “interlocking systems of oppression” that leave very few people truly uninvolved in injustices (202). The point of this concept is to call for a responsibility beyond “legalistic guilt.” This focus on judgment beyond law is all the more important once we recognize that law is capable of justifying and legitimating grievous harms.

Thinking through different sites of border violence in juxtaposition and comparison, we can realize that many of us have found ourselves on different sides of a range of borders. This can be a basis for building solidarity and recognizing different forms of implication in border violence without denying differences. These conversations across current and former borders can also help us remember that it takes two to border. West Germany was implicated in the East German border regime by offering immediate citizenship to East Germans and by trading East German political prisoners for oranges (sometimes without the prisoners’ consent). Post-unification Germany is also implicated on both sides of the border crisis in the Mediterranean: many migrants have fled countries that have suffered under European colonialism, IMF/World Bank structural adjustment policies, and (in the case of Iraq and Afghanistan) decades of armed conflict driven by Western imperialism. The claim to border exceptionalism shares a defining feature with claims of genocide exceptionalism: the “shocking deprioritization of and disinterest in both living and dead Black people” (Samudzi).

Law and public memorials are important sites of designating injustices, victims, and perpetrators. Yet, as this reading of the Berlin Wall judgments alongside the criminalization of rescue in the Mediterranean border shows, these sites can easily be used to exceptionalize specific episodes and numb us to our implication in others. Solidarity requires that we develop a vocabulary for understanding different sites of oppression in their connectedness and that we start assuming responsibilities for one another beyond the law.

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