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South Africa

## Op-Ed: Coming to terms with the past – lessons from Germany

- PHEPHELAPHI DUBE  
PHEPHELAPHI DUBE  
Phephelaphi Dube is Director of Centre for Constitutional Rights (<http://www.cfc.org.za/>).
- South Africa (<http://www.dailymaverick.co.za/section/south-africa/>)
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Photo: Stones are left behind as tribute and in commemoration of the victims on steles in the former Nazi concentration camp Buchenwald Memorial, near Weimar, Germany, on International Holocaust Remembrance Day, 27 January 2016. Attending to a wreath-laying ceremony on the same day together were concentration camp survivors, representatives of the state government and parliament. In Buchenwald with its 136 satellite camps, the SS detained approximately 250,000 people from around the world, of which about 56,000 did not survive. EPA/MARTIN SCHUTT

(<http://www.dailymaverick.co.za/article/2016-10-18-op-ed-coming-to-terms-with-the-past-lessons-from-germany/>)

How does a nation come to terms with its past? Is there a right way to remember the past? How can a multicultural society forge a common identity for the sake of social cohesion? These were the recurring themes during the course of a study tour to Berlin, Germany, and its surrounds. By PHEPHELAPHI DUBE.

Together with a motley crew from business, government, academia and civic society, I participated in a study tour during the last week of September, generously funded by the Konrad Adenauer Foundation. Germany, with its fraught and often contested 20<sup>th</sup> century history under the National Socialists, as well as the communist dictatorship in the former German Democratic Republic (GDR), served as the perfect backdrop with which to examine the South African experience.

The week-long exercise involved excursions to key memorial sites, offices, museums – including the Berlin Hohenschönhausen Memorial, the Sachsenhausen Memorial and Museum – as well as the Cottbus Centre for Human Rights. The varied visits included meetings with organisations such as Stolpersteine Berlin, and the Remembrance, Responsibility and Future Foundation.

For the South African, perhaps it was important to remember that the National Socialists, with Adolf Hitler at the helm, came into power through democratic means in 1933, as a result of the seats that his party held. Following a fire in the Parliament

Building (of which the perpetrator is still greatly debated to this day), Parliament enacted laws suspending civil liberties, which then saw the start of even greater repressive measures.

These culminated in the Second World War, with the systematic genocide of Jews, Sinti and Roma, gays, those deemed to be social misfits, and people with disabilities, as well as political opponents opposed to the National Socialists.

Following Germany's surrender to the Allied powers, the Union of Soviet Socialist Republics (USSR) oversaw the creation of the German Democratic Republic (GDR, commonly known as East Germany), with the Socialist Unity Party establishing a *de facto* totalitarian state until Germany's reunification in 1989. The communist dictatorship was characterised by a repressive regime complicit in gross human rights violations.

There are obvious lessons for South Africa in the manner in which Germany deals with its past. Immediately one is struck by the fact that the National Socialists came into power through democratic means and further that certain decisions made, such as the "final solution to the great question", were legal administrative decisions.

While South Africa is a progressive constitutional democracy whose preamble – "We, the people of South Africa, recognise the injustices of the past..." – acts as the grand narrative through which its laws and conduct should be viewed, it is not enough for South Africans to rest on the laurels of this achievement. Democracy must be guarded and the powers of the state need to be consistently kept in check, while state functionaries are held accountable to its citizens.

In the words of Primo Levi, a Holocaust survivor, "It happened therefore, it can happen again..." It is thus vital that we maintain constant vigilance in defence of constitutional democracy and the rights and freedoms which it affords.

While the Rule of Law in South Africa is a founding value of the Constitution, arguably state conduct should not be merely premised on legality, but should infuse other values, such as equality, dignity and the advancement of human rights and freedoms.

Justice Albie Sachs, in the *Port Elizabeth Municipality v Various Occupiers* decision, in the context of eviction law, discusses how the courts are called upon to "infuse elements of grace and compassion into the formal structures of the law" – an enjoiner for a value-based legal system in which a common humanity is recognised and protected.

That said, the question of how the past should be remembered looms large for both Germany and South Africa.

I was perhaps most struck at how Germany appears to deal with the more unpleasant aspects of its history. Projects such as the Stolpersteine (stumbling stones) implemented across many cities in Western Europe – where tiny brass stones are placed on pavements, with information about the victims of the Nazi era – are a reminder that the victims were humans and not abstract historical statistics.

A visit to Germany's Parliament building revealed, among other things, perfectly preserved graffiti on its walls, left by victorious soldiers of the Soviet Army following Germany's fall in April 1945.

The archive of German Members of Parliament holds about 5,000 metal boxes labelled with the names of all the Members of the German Parliament democratically elected between 1919 and the inauguration of the refurbished Parliament building in 1999. All the boxes are similar in shape and size, save for those MPs murdered by National Socialists, whose boxes are marked with a black stripe as "Victims of National Socialism". A single black box in the middle of the passageway stands for the years from 1933 to 1945, in which time Germany did not have a democratically legitimate Parliament. Adolf Hitler's box stands too, since he was democratically elected in 1933.

Recently, South Africa has seen renewed debates on how problematic historical figures such Mahatma Gandhi and Cecil John Rhodes should be remembered. Activists called for the removal of Gandhi's statute in Johannesburg, while others defaced it, arguing that he should not be given a place of prominence given his racist views in the time in which he resided in South Africa.

The University of Cape Town removed a statue of Rhodes after student-led protests objected to his memorialisation, given his prominence as one of the architects of colonialism. A recent Constitutional Court decision implied that given the proximity of the Afrikaans language to the apartheid state, there could no longer be space to name streets after Afrikaner figures. Perhaps, like the German approach, instead of removing, instead of wiping off as a way to forget that which is hurtful, we should not just leave the past as it is, but also take concrete steps to ensure a culture of remembrance through education programmes aimed at learning about the past and its historical figures, as a means of avoiding a repetition of the past.

Of course, Germany did not embark on an introspective journey immediately after the fall of the National Socialists. It was perhaps only in the 1960s, largely at the behest of student protesters, that Germany was forced to fully confront its past. While the fall of the Wall was synonymous with the fall of the communist dictatorship, the atrocities and rights violations they committed did not garner an immediate large-scale response, and indeed these rights violations and atrocities are debated in some quarters.

South Africa too finds itself, 20 years after the inception of its final Constitution, at a crossroads. With vibrant youth movements questioning the “rainbow nation” and “non-racialism”, including asking whether Nelson Mandela sold out – with similar accusations about FW de Klerk selling out white South Africans – perhaps now is the opportune time to pick the scabs of history, within the framework of constitutional democracy. But we should do so in the understanding that other nations too, fight, and win, the battle for remembering history, while building cohesive societies. **DM**

*Dube is Director of Centre for Constitutional Rights* (<http://www.cfc.org.za/>).

*Photo: Stones are left behind as tribute and in commemoration of the victims on steles in the former Nazi concentratiuon camp Buchenwald Memorial, near Weimar, Germany, on International Holocaust Remembrance Day, 27 January 2016.*

*Attending to a wreath-laying ceremony on the same day together were concentration camp survivors, representatives of the state government and parliament. In Buchenwald with its 136 satellite camps, the SS detained approximately 250,000 people from around the world, of which about 56,000 did not survive. EPA/MARTIN SCHUTT*

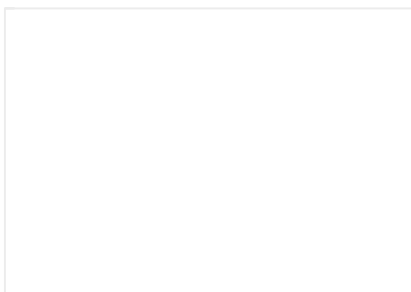
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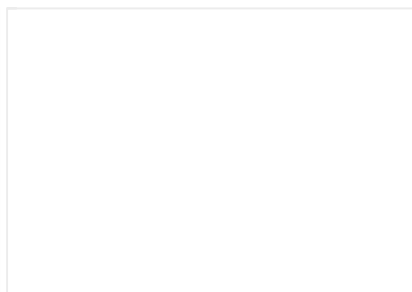
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