"A Blessed Act of Oblivion"

Human Rights, European Unity and

Postwar Reconciliation

Marco Duranti

In a now celebrated address delivered at Zurich in September 1946, the British Conservative politician and former prime minister Winston Churchill launched an ambitious transnational campaign to "re-create the European family in a regional structure called, it may be, the United States of Europe". He urged his audience to lift the opprobrium cast upon those complicit in the crimes committed by the Axis powers during the war. "The guilty must be punished. Germany must be deprived of the power to rearm and make another aggressive war", Churchill conceded. The Nuremberg trials were coming to a conclusion and few believed that the top Nazi leaders deserved to be spared. "But", he continued,

"when all this has been done, as it will be done, as it is being done, there must be an end to retribution. There must be what Mr. Gladstone many years ago called 'a blessed act of oblivion'. We must all turn our backs upon the horrors of the past. We must look to the future. We cannot afford to drag forward across the years that are to come the hatreds and revenges which have sprung from the injuries of the past. If Europe is to be saved from infinite misery, and indeed from final doom, there must

be an act of faith in the European family and an act of oblivion against all the crimes and follies of the past."[1]

Invoking the nineteenth-century Liberal statesman William Gladstone's address to the British House of Commons on the question of Irish Home Rule, Churchill had called for a deliberate act of forgetting in the name of social peace and a new Franco-German understanding as the basis of restoring harmony within the "European family" – a community that was "the fountain of Christian faith and Christian ethics" and now aspired to live according to the democratic principles of Franklin Roosevelt's Four Freedoms.[2] Churchill ended his speech with an extraordinary appeal for Franco-German reconciliation. "The first step in the creation of the European family must be a partnership between France and Germany", he declared. "There can be no revival of Europe without a spiritually great France and a spiritually great Germany."[3]

Just as Gladstone had miscalculated the depth of feeling against Home Rule in 1886, Churchill underestimated just how deep the scars of the war and occupation were in France, where the trials of collaborators were still underway and fears of a resurgent Germany were the overriding factor in shaping French foreign policy. The French government had no official comment, while the speech "dumbfounded" and "shocked" French opinion by ignoring the intensity of their fears of reviving German power, according to British reports.[4] Centrist newspapers such as *Le Monde* and the MRP organ *L'Aube* expressed skepticism or polite bemusement regarding Churchill's lack of realism, pointing to France's need for definite guaran-

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1 Winston Churchill, Zurich speech, 19 September 1946, in: *Documents on the History of European Integration*, Vol. 3, ed. Walter Lipgens and Wilfried Loth (Berlin: Walter de Gruyter, 1988), 664-665.

2 Ibid., 663, 665.

3 Ibid., 665.

4 An Ill-Timed Speech?, *Manchester Guardian*, 20 September 1946, 5; Franco-German Partnership, *Birmingham Post*, 20 September 1949; French Take Time to Think, *Yorkshire Post*, 20 September 1949; Churchill and Germany: Speech May Arouse Storm, *Liverpool Daily Post*, 20 September 1949.

tees on its eastern borders among other delicate questions.[5] The Socialist party organ *Le Populaire* ignored the speech altogether. Pierre Courtade of the communist daily *L'Humanité* claimed that Churchill spoke of "Europe" as a "smokescreen" for the formation of a "western bloc", another step in the process that had begun in 1925 with the Locarno accords.[6] Such views were not limited to the French alone. In Britain, *The Times* not only thought it unlikely that Churchill's plan was feasible given current French attitudes towards Germany but it feared that the proposal would jeopardize British relations with the Soviet Union: "Many will see in his speech a call, not for a United States of Europe but for a United States of Western Europe."[7] The *News Chronicle* reported that Churchill had given delegates at the ongoing international conference in Paris "new ground for mistrust and suspicion" and that the "early reactions are that nobody is happy about it. […] There is a widely expressed view that Mr. Churchill has picked a curious time to advocate a policy which was certain, as he must have known, to embarrass the hard and uphill effort which 21 nations are now making in Paris to hold together the victorious war alliance."[8]

In the months to come, Churchill and other advocates of European unity rearticulated their calls for Franco-German cooperation through European unity in a new idiom: the language of international human rights norms. Human rights discourse had entered the vernacular during public discussions over Allied war aims before becoming the subject of intense negotiations at the United Nations Human Rights Commission from 1947 onwards. The human rights projects of the European unity movements would catalyze the adoption of the European Convention on Human Rights by the member states of the Council of Europe in November 1950 and the subsequent establishment of a European Court of Human Rights in Strasbourg.

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5 Les idées de M. Churchill, *Le Monde*, 20 September 1946, 1; La France et l' Allemagne devront faire les Étas-Unis d'Europe, *L'Aube*, 20 September 1946, 1.

6 Pierre Courtade, Le coup des grands sentiments, *L'Humanité*, 20 September 1946, 3.

7 A Voice from Zürich, *The Times*, 20 September 1946, 5.

8 Denis Weaver, Churchill speech perturbs Paris, *News Chronicle*, 20 September 1946, 1. See also: Mr. Churchill Accused of 'Belligerence', *Newcastle Journal*, 20 September 1949.

This chapter examines three moments in which European unity movements inflected their visions of international reconciliation with the idiom of human rights: the May 1948 Congress of Europe in The Hague, the February 1949 conference of the European Movement in Brussels and the summer 1949 session of the Council of Europe in Strasbourg. In all three instances, transnational networks of civil society elites and opposition politicians fashioned an ideational basis for future reconciliation efforts by imagining the form of community that needed to be created – or in their words, recreated – for reconciliation to be achieved. This initiative, it will be argued, was backward-looking as well as forward-looking, retrospective as well as prospective. European unity movements invoked the language of human rights in order to recall a lost European civilization, one that had supposedly existed before the First World War. The temporal orientation of rights-based reconciliation pointed away from the divisions and crimes of the recent past and towards a Christian and liberal Europe of the deeper past. Moreover, although rights-based visions of reconciliation after 1945 distinguished themselves from *fin-de-siècle* visions of "Peace through Justice" by employing democratic rhetoric, they continued to be fundamentally elitist projects. Both early twentieth-century efforts to create a legal and institutional framework for Franco-German reconciliation and postwar rights-based reconciliation were rooted in a profound fear of the nationalist or radical ideological impulses of mass politics.

THE 1948 CONGRESS OF EUROPE AND THE ANTI-POLITICS OF INTERNATIONAL LAW

The Congress of Europe was one of the greatest transnational meetings of European elites witnessed in modern times. It was not sponsored by any state but rather had been organized by a transnational network of European unity movements coordinated by the Joint International Committee of the Movements for European Unity. The national delegations that this international non-governmental organization had invited to the Congress of Europe corresponded to the sixteen member states of the Organization for European Economic Cooperation: Austria, Belgium, Denmark, Eire, France, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Sweden, Switzerland, Turkey, and the United Kingdom. The western zones

of Germany, Liechtenstein and the Saar were also represented. In addition to this official first tier of participants, the Congress hosted a number of unofficial "observers" without voting privileges – many of them émigrés – from Bulgaria, Canada, Czechoslovakia, Finland, Hungary, Poland, Rumania, Spain, the United States and Yugoslavia. The largest contingents of delegates came from Britain and France, which combined made up almost half the total presented at the Congress. Each national contingent was composed of politicians and representatives from the arts, humanities, sciences, law, industry, trade unions, women's movements and religious organizations. Among those present at the Congress were twenty-two former prime ministers and twenty-eight former foreign ministers.[9]

The stated objective of this gathering was to develop a blueprint for progress towards greater European cultural, economic and political unity. Before the convening of the Congress, there had been much disagreement amongst the participants over a united Europe's institutional framework and political boundaries. The organizers believed that agreement on the ideal or "spiritual" bases of their project would facilitate the realization of an accord on such temporal matters. They hoped that a common affirmation of human rights and democratic principles would encourage Congress delegates to transcend national and party differences while delimiting the frontiers of a united Europe. In the name of securing the moral foundations of European unity, the Congress organizers proposed that these principles be enshrined in international law. Delegates obliged by calling for the establishment of a supranational court empowered to adjudicate claims brought by individuals or groups against states for alleged violations of a binding human rights charter.

When, during the opening ceremonies of the Congress of Europe on May 7, Churchill touched on the controversial subject of German participation in the European unity project, his words were received with mixed applause.[10] This contrasted with the sustained ovation given to Churchill when he affirmed, "The Movement for European Unity, as our Draft Report declares, must be a positive force, deriving its strength from our sense of common spiritual values. It is a dynamic expression of democratic faith

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9   Action Awaited, *News Chronicle*, 13 May 1948; Richard Vaughan, *Twentieth-century Europe: Paths to Unity* (London: Croom Helm, 1979), 85.

10 Mr. Churchill's Day at the Hague, *Manchester Guardian*, 8 May 1948, 5.

based upon moral conceptions and inspired by a sense of mission. In the center of our movement stands the idea of a Charter of Human Rights, guarded by freedom and sustained by law."[11] Churchill implicitly compared the system of human rights guarantees proposed by the Congress organizers to the "Grand Design" that Henry IV of France and his advisor Sully had devised during the first decade of the seventeenth century, using the analogy of the religious warfare that had wracked Europe at that time. He focused in particular on Henry IV's plans for a pan-European council, which was, in his words, a "permanent committee representing fifteen – now we are sixteen – leading Christian States of Europe. This body was to act as arbitrator on all questions concerning religious conflict, national frontiers, internal disturbance, and common action against any danger from the East, which in those days meant the Turks."[12] As he would do throughout the address, Churchill hinted at the identity of the "danger from the East" without addressing it by name.

The Congress of Europe's final resolutions recommended that the states of Europe establish a supranational European human rights court, i.e. one that could adjudicate on claims lodged by both state and non-state actors. This constituted a radical challenge to the Westphalian order and has rightly been regarded as an important milestone in the twentieth century's 'human rights revolution'. The requirement that all member states be democracies contrasted with the absence of such criteria in interwar schemes for European federation. The Congress of Europe did not, however, represent a complete sea change in the ideational framework of international law or European unity projects. The Congress's human rights proposals marked a recasting of the elite anti-politics that had long shaped the cultural underpinnings of these fields. It was the residue of this elite anti-politics at the Congress that enabled the emergence of an ephemeral political consensus.

Nearly fifty years before the Congress of Europe, The Hague had been the site of a peace conference that catalyzed the construction of a spectacular Peace Palace that housed the new Permanent Court of Arbitration and later the Permanent Court of International Justice. This Peace Palace anchored the culture of international law in the ideals of ancient Rome and

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11 Congress of Europe, Vol. 1., Plenary Sessions, 6, Sandys Papers, Churchill Archives Centre, Cambridge (hereafter: CAC), 9/1/8.

12 Ibid.

medieval Christendom. Its irenic utopias gave no purchase, however, to democratic principles and the defense of human rights. Instead, they masked the weak legal prerogatives of its courts, which remained bound to the Westphalian system of sovereign states. Their cosmopolitan, aristocratic sensibility suited well those Good Europeans who saw themselves as above politics and yet remained fearful of those political and social changes that threatened to sweep their class from power. Although the First World War witnessed a refashioning of the international legal field, the Peace Palace continued to embody that depoliticized vision of 'Peace through Justice' where culture and conciliation provided the surest foundations for a Europe of perpetual peace.[13]

The community of international law had long positioned itself defiantly above politics. Just as civilizational discourse had demarcated membership in the society of sovereign states, so had social class provided the shared cultural sensibility that structured the rules for participation in the international legal field. This field had crystallized social distinctions across national boundaries, discouraging diplomats and international lawyers from being tempted by the "petty" nationalism embraced by lower social orders. Such elitism had been meant to inoculate international relations from the ideological struggles that the rise of mass politics had engendered. Even after the advent of the First World War and the Bolshevik Revolution, when civilizational discourse became infused with democratic rhetoric and the League of Nations coordinated a system of minority rights protections, there continued to be no universal requirement that members of international organizations be democracies or respect fundamental rights. Although some advocates of European unity insisted that the member states of a European federation respect certain fundamental rights, even they defined the criteria for entry on the longstanding mores of European elites rather than on democratic principles.[14]

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13 Geoffrey Best, Peace Conferences and the Century of Total War: The 1899 Hague Conference and What Came After, *International Affairs* 75, 3 (1999), 619-634; Arthur Eyffinger, *The 1899 Hague Peace Conference: 'The Parliament of Man, the Federation of the World'* (The Hague and Boston: Kluwer International Law, 1999).

14 Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960* (Cambridge: Cambridge University Press, 2002);

Churchill's strategy for achieving Franco-German reconciliation through appeals for the "spiritual" unity of Europe anchored in the defense of human rights contrasted with that of Aristide Briand, who had alternated roles as French foreign minister and delegate to the League of Nations from the mid-1920s to the early 1930s. In September 1929, Briand had made a dramatic appeal in front of the League Assembly for new measures to promote international peace.[15] In addition to touching on subjects such as disarmament, Briand had told his audience "I am convinced that, of those peoples that are grouped geographically, such as the peoples of Europe, there must exist a kind of federal bond."[16] Briand's rhetoric had alluded to twentieth-century theories of solidarism, which posited that interlocking networks of communities would eventually break down barriers between peoples, whether erected by class distinctions or states. His scheme had been purportedly inspired in part by the Pan-American solidarist writings of the Chilean diplomat Alejandro Alvarez.[17] Briand's language had also echoed that of nineteenth-century liberals who believed that peace would emerge from closer contacts between peoples without infringing on the sovereign prerogatives of the Great Powers.

Most striking was Briand's insistence on preserving the principle of absolute sovereignty, or as he put it, "without affecting the sovereignty of any nations that could be part of such an association".[18] This wording had left ambiguous the question of which "nations" would be admitted to the proposed "association". Briand had implied that "bonds of solidarity" would emerge primarily through economic exchanges. He had spoken of the need for "a federal bond" arising from geographical proximity and "common interests" without specifying those attributes that formed the basis of a common European civilization. As European culture had long framed the international diplomatic and legal field, Briand had felt no need to articulate its

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James J. Sheehan, *Where Have All the Soldiers Gone? The Transformation of Modern Europe* (Boston: Houghton Mifflin Co., 2008); Paul Laity, *The British Peace Movement, 1870-1914* (Oxford: Clarendon Press, 2001).

15 Discours du M. Briand du 5 septembre 1929, in: *L'Union Européenne*, ed. B. Mirkine-Guetzevitch and Georges Scelle (Paris: Librarie Delegrave, 1931), 34.

16 Ibid.

17 Koskenniemi, *The Gentle Civilizer of Nations*, 342.

18 Discours du M. Briand, 34.

qualities. They were implicit in the aesthetics of The Hague's Peace Palace, relying more on cultural sensibility than on a precise set of characteristics that could serve as criteria for admission into a European regional organization.

None of this should obscure Briand's primary objective, which had been to contain the rising power of Germany by embedding its relations with France within a broader regional framework. His stress on economics had stemmed from the enthusiasm for European unity projects amongst French and German industrialists who wished to form a continental customs union in order to protect their business concerns from competition with the United States. Briand's proposal had also been warmly received on the part of British businessmen and advocates of Imperial Preference who wished to undermine the free-trade system favored by both the United States and the dominant political factions in Whitehall.[19] The loudest criticisms of Briand's scheme had stemmed from the perception that, first, it would undermine the authority of the League and, secondly, that it would be directed against "non-European" powers, particularly Turkey, the Soviet Union and the United States.[20]

The stunning results of the German legislative elections of September 1930, which made the National Socialists the second-largest party in the Reichstag, had made the failure of the Briand initiative all but inevitable. Whereas the Nazi party had appealed to the primordial racial bonds that united the German *Volk*, the Briand memorandum had not rooted its vision of a European union in a shared history or culture. His proposed European union had no means of defining its external and internal frontiers other than

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19 Cornelia Navari, Origins of the Briand Plan, in: *The Federal Idea*, ed. Andrea Bosco (London: Lothian Foundation Press, 1991), 211-212; Robert Boyce, British Capitalism and the Idea of European Unity Between the Wars, in: *European Unity in Context: The Interwar Period*, ed. Peter Stirk (London: Pinter Publishers, 1989), 78-81.

20 Memorandum sur l'organisation d'un régime d'Union Fédérale Européenne, in: *L'Union Européenne,* 60-61; Raymond Léonard, *Vers une organisation politique et juridique de l'Europe: Du projet d'Union Fédérale Européenne de 1930 aux Pactes de Sécurité*, published doctoral thesis (Paris: Rousseau, 1935), 198; see, in particular, the responses of Estonia, Germany, Greece, Hungary, Italy, Latvia, Lithuania, and Luxembourg in: *L'Union Européenne*.

fall back on the criteria of geography and mutual interests, which in practice corresponded to the existing organization and membership of the League.

Briand's distinctly temporal vision of Franco-German reconciliation through European unity contrasted distinctly with his collaborator Richard Coudenhove-Kalergi, the Czech count who had founded the transnational Pan-Europa Movement shortly after the First World War. Coudenhove-Kalergi had been the most prominent proponent of a rights-based approach to European unity in the interwar period. He was an outspoken opponent of National Socialism from its inception, writing at length on the fallacies of its racial and anti-Semitic theories. The Czech nobleman was, however, no democrat. Although he often cited contemporary Switzerland as a template for a future European federation, his writings strongly implied that the most salient historical model was the "cosmopolite and polyglot" Austro-Hungarian Empire, whose aristocratic political class had formed a "supranational" government that for many years checked the nationalistic tendencies of the middle classes.[21] He justified his contacts with dictators such as Benito Mussolini and Engelbert Dollfuss by claiming that Europe was above all a "cultural community" that should be governed by its "greatest geniuses," those "really educated statesmen" who would save Europe from the "half-educated" masses swayed by populist agitators of the extreme left and right.[22] Mussolini's reputation as an uncultured demagogue did little to deter Coudenhove-Kalergi from courting the Duce's favor, as the Count believed that Bolshevism and Nazism were greater evils than what he perceived as "moderate" authoritarianism.[23]

Coudenhove-Kalergi believed that a comprehensive and enlightened solution to the minorities question was essential for the peace of Europe. In 1923, he proposed in his book *Pan-Europa* "a true protection of minorities by the universal enforcement of a national edict of toleration – a Magna

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21 Richard Coudenhove-Kalergi, *Crusade for Pan-Europe: An Autobiography of a Man and a Movement* (New York: G. P. Putnam's Sons, 1943), 46-47.

22 Richard Coudenhove-Kalergi, *Europe Must Unite* (Glarus: Paneuropa Editions, 1939), 130-131.

23 Richard Coudenhove-Kalergi, *The Totalitarian State Against Man* (London: Frederick Muller, 1938), 118-120.

Carta of all European nations".[24] This "Pan-European edict of toleration deprives the state frontiers of their national meaning" and thus "inter-European points of friction which might lead to another war disappear", he wrote.[25] Shortly before the outbreak of the Second World War, Coudenhove-Kalergi's issued a new program for his Pan-Europa Movement that required "all European states, regardless of differences in their constitutions, to respect the rights of the human personality and the equality of their citizens belonging to ethnic or religious minorities". Coudenhove-Kalergi explained, "Only if this principle of national human rights is accepted can there be European reconciliation and perpetual European peace."[26]

Coudenhove-Kalergi's program had been drafted in conjunction with a committee of British notables organized by the Conservatives Leo Amery and Duff Cooper. He had initially placed Britain outside the frontiers of a united Europe.[27] In the late 1930s, however, he began to look across the Channel. In June 1938, he told an audience at Chatham House in London that they should view Europe as a second Commonwealth or "the *Lebensraum* of England", as British rule was preferable to German domination of the continent.[28] In 1939, Coudenhove-Kalergi wrote, "[O]ur common European culture is today rooted in a humanist education, in a Christian morality, and in the spirit of chivalry now incorporated in the civic ideal of the English gentleman."[29]

Coudenhove-Kalergi's address at the opening ceremonies of the Congress of Europe echoed Churchill's speech by embedding a future European organization in a broader rapprochement between peoples. "I hope that our Congress will serve not only the cause of European Union, but also that of European reconciliation", he announced. Though Coudenhove-Kalergi insisted that "Europe needs a thorough reeducation and denazification," he

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24 Richard Coudenhove-Kalergi, *Pan-Europe* (New York: Alfred Knopf, 1926), 166.

25 Ibid., 170.

26 Coudenhove-Kalergi, *Europe Must Unite*, 120.

27 Coudenhove-Kalergi, *Pan-Europe*, 35-50.

28 Andrea Bosco, *Federal Union and the Origins of the 'Churchill Proposal': The Federalist Debate in the United Kingdom from Munich to the Fall of France, 1938-1940* (London: Lothian Foundation Press, 1992), 139.

29 Coudenhove-Kalergi, *Europe Must Unite*, 131.

immediately followed this statement with a qualification. "We must reject the barbaric and totalitarian notion of collective guilt and collective punishment", he insisted. "We all must learn more tolerance, more generosity, more mercy."[30]

One of the British delegates on the Congress's Cultural Committee was David Maxwell Fyfe, former deputy chief prosecutor at the International Military Tribunal in Nuremberg. Alongside Churchill, Maxwell Fyfe would be one of the most influential British Conservatives in the early stages of the European human rights project. Maxwell Fyfe was the first to make a forceful intervention against attempts by other delegates to omit references to a charter and court of human rights in the Congress's Cultural Resolution. Citing his work at the Nuremberg trials, Maxwell Fyfe stated he felt it his "individual responsibility" to fight for the establishment of international human rights safeguards.[31] He claimed that the Nuremberg trials had posed the fundamental question, "What is the duty of a good European?" The trials were necessary for "the establishment of a sounder and saner Europe", reaffirming the principles of international law and offering Germans the opportunity to enter "back into the European stream of thought and development".[32] Reflecting on Nuremberg in retrospect, he observed, "I am certain that the Nazi leaders felt and resented most keenly that they were considered by those who watched the trial to have poisoned the great stream of western European civilization. Again and again they displayed almost what the Romans termed 'desiderium' and the Greeks 'pothos' – a vain longing to be recognized as part of the European family."[33] Subsequently, in July 1948, Maxwell Fyfe would contribute an article to the review *Round Table*,

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30 Congress of Europe, Vol. 1., Plenary Sessions, 14.

31 Congress of Europe, The Hague, Cultural Committee, Saturday, May 8th 1948, 10.15 a.m., 11, European Movement papers 502, Historical Archives of the European Union, Florence (hereafter: HAEU).

32 David Maxwell Fyfe, Prelude to European Unity: Notes for a Speech at the Literary Luncheon given by W. & G. Foyle Ltd. at the Dorchester Hotel on Friday, February 21, 1947, 5, Papers of Lord Kilmuir [David Maxwell Fyfe], (hereafter: Kilmuir Papers), CAC, dossier 7/2.

33 David Maxwell Fyfe, Notes for a Speech at Brussels made on Saturday 20th December 1947 at 4 p.m. to the Union Belgo-Britannique, Kilmuir Papers, CAC, 7/2.

writing that the resolutions of the Congress of Europe "indicate the importance of the condition of 'membership of the club' being the acceptance of a Charter of Human Rights with its implementation assured by a Supreme Court".[34] The question of which nations would qualify as members of the Council of Europe was a subject of great concern within the European Movement, which began increasingly to employ the new idiom of international human rights norms as a means of facilitating the entry of Germany into this 'club' while excluding the participation of the states in the communist bloc.

THE GERMAN QUESTION AT THE 1949 BRUSSELS CONFERENCE OF THE EUROPEAN MOVEMENT

The organizers of the Congress of Europe could claim much success in the year that followed the conclusion of that event. In July 1948, French foreign minister Georges Bidault asked the Brussels Pact countries to support the creation of a European Assembly. British foreign minister Ernest Bevin initially resisted the idea but relented in January 1949 after Bidault's successor, Robert Schuman, informed him that France would proceed without Britain, if necessary. On May 5, 1949, representatives of ten countries – Belgium, Britain, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway and Sweden – concluded the drafting of a statute forming a Council of Europe composed of a Committee of Ministers and a Consultative Assembly. The first session of the Council of Europe was scheduled to take place in August and September 1949. Here was a set of state-sponsored initiatives often driven by ulterior strategic considerations, but directed to giving form to a vision of European peace through unity.[35]

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34 David Maxwell Fyfe, Next Step for 'United Europe' (orig. manuscript for publication in *Round Table*, edition of 21 July 1948), Kilmuir Papers, CAC, 7/3, 3.

35 For national studies of the origins of the Council of Europe, see Marie-Thérèse Bitsch, Le rôle de la France dans la naissance du Conseil de l'Europe, in: *Histoire des débuts de la construction européenne (Mars 1948-Mai 1950) / Origins of European Integration (March 1948-May 1950)*, ed. Raymond Podevin (Bruxelles: Bruylant, 1986), 165-198; Marie-Anne Engelbel, La Belgique et les débuts du Conseil de l'Europe, in: *Jalons pour une histoire du Conseil de*

During this period, the Joint International Committee of the Movements for European Unity renamed itself the European Movement and assumed responsibility for developing recommendations to governments concerning future steps towards juridical, economic, cultural and political unification. It did so through a series of conferences, the first of which took place in Brussels from February 25 to 28, 1949. This conference was dedicated to drafting a proposal for a binding European Convention and Court of Human Rights. It was also responsible for issuing a more general resolution entitled "Principles of a European Policy".

Meanwhile, the U.N. General Assembly had adopted the Universal Declaration of Human Rights on December 10, 1948. The 30 articles of this nonbinding resolution enumerated a broad spectrum of civil, political, economic, social, and cultural rights. Its content, although drawing on a diverse array of philosophical traditions, Western and non-Western, reflected primarily the emergence of social democracy as the fulcrum of political consensus among anti-fascist forces during the course of the Second World War. Despite the disagreements and machinations that characterized the negotiations over the document, as well as the abstention of the Soviet bloc on the final vote, the Universal Declaration was premised on the illusory hope that a common statement of social democratic principles could bridge the ideological divide between Western democracies and communist states.

Some of the leaflets dispersed at the open-air meeting of the European Movement at the Brussels Bourse stated, "United Europe is letting in the former Nazis but keeping out the victors of Stalingrad", and asked, "What are ex-Nazis doing on the platform of the European Movement?" "Dirty German!" cried the protestors when Churchill mounted the stage. The communists were incensed at the suggestion that the Western zones of Germany join a Council of Europe and that Germans participate in the

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l'Europe: Actes du colloque de Strasbourg (8-10 juin 1995), ed. Marie-Thérèse Bitsch (Bern: P. Lang, 1997), 53-75; Rinaldo Merlone, Faire du Conseil de l'Europe 'l'Union européenne': le projet e Carlo Sforza, in: *Jalons pour une histoire du Conseil de l'Europe*, 77-98; Roland Marx, Enjeux intérieurs et choix internationaux en Grande-Bretagne (1948-1949), in: *Jalons pour une histoire du Conseil de l'Europe*, 39-51. See also John W. Young, *Britain, France and the Unity of Europe, 1945-1951* (Leicester: Leicester University Press, 1984), 108-117.

Brussels Conference on the same terms as the other delegates.[36] Germans had maintained a low profile at the Congress of Europe, keeping largely to themselves, intervening only sporadically in the discussions and having difficulty making their mother tongue understood.[37] At the Brussels Conference, by contrast, they played a more active role.

At the Brussels Conference, the Belgian communist daily *Le Drapeau Rouge* denounced Karl Arnold, the head of the German delegation and Catholic Christian democrat (CDU) minister-president of the land Northrhine-Westfalia, for hindering the denazification of German industry.[38] Arnold did not hesitate to advocate a policy of leniency towards the Germans on the part of the occupying forces and to stress the need to integrate West Germany into Western European regional organizations. He asked his fellow delegates after the rally to consider that "probably every European people has experienced turbulent times in which its duty towards the European community has been disregarded". The misery that Hitler had visited

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36 For descriptions of the European Movement's open-air meeting at the Bourse, see: M. Léon Jouhaux élu president du Conseil international, *L'Aube*, 28 February 1949; Churchill Beats Booing Reds, *Daily Express*, 28 February 1949; 60 arrests at Churchill meeting, *Daily Graphic*, 28 February 1949; Winston Talks, 60 arrested, *Daily Herald*, 28 February 1949; Churchill defeats Reds – in French, *Daily Mail*, 28 February 1949; Mr. Churchill: Half Europe is in Prison, *Daily Telegraph and Morning Post*, 28 February 1949; Churchill Booed in Brussels, *Daily Worker*, 28 February 1949; Charles d'Ydewalle, Sous les sarcasmes de M. Spaak les communists belges sont mis en déroute, *Le Figaro*, 28 February 1949; Churchill Speech Quietens the Communists, *Manchester Guardian*, 28 February 1949; William J. Humphreys, Churchill Calls Union to Prevent War, *New York Herald Tribune* (European edition), 28 February 1949; Léon Jouhaux élu president du Conseil international du Mouvement européen, *Le Populaire*, 28 February 1949.

37 Bremen to London, Impressions of a German delegate to the Congress of Europe at The Hague, 28 May 1948, British National Archives, Kew, PRO 371/73905.

38 Voilà les homes du 'Mouvement' contre l'Europe, *Le Drapeau Rouge*, 25 February 1949.

upon the German people had allowed them to undergo a process of "spiritual purification", he argued.[39]

Arnold was on the left-wing of the CDU and was co-founder of the *Deutscher Gewerkschaftsbund* trade union.[40] Like the majority of the German delegation at the Brussels Conference, Arnold had been persecuted by the Nazis for his political activities and been imprisoned during the war in a German *Lager*. In his view, these terrible hardships made the Germans uniquely suited to advancing the objectives of the European Movement. "Who is better qualified to lead the way to a better future than those who have learnt wisdom through suffering?" he asked.[41] Arnold was an early and adamant supporter of the economic integration of France and Germany as a means of advancing a rapprochement between the two countries.[42] His words at the Brussels Conference echoed those that Churchill had uttered in the House of Commons on December 10, 1948, the same day that the U.N. General Assembly adopted the Universal Declaration of Human Rights. At that time, Churchill had stated:

"The recent elections in Berlin have been a proof of the resurrection of the German spirit and a beacon casting its light on the minds of a mighty race without whose effective aid the glory of Europe cannot be revived. I hope nothing will be done by the Government – or, so far as we can avoid it, by our allies – to chill or check this important evolution of German sentiment. It is for this reason that I look forward to the day when all these [sic] hateful process of denazification and even the trials of leaders and prominent servants of the Hitler regime may be brought to an end."[43]

Churchill then had stressed the importance of Franco-German reconciliation, once again asking the French to "take the lead in bringing the German

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39 Speech by Herr Karl Arnold, 28 February 1949, European Movement papers 544, HAEU.

40 Wolfram Kaiser, *Christian Democracy and the Origins of European Union* (Cambridge: Cambridge University Press, 2007), 187.

41 Speech by Herr Karl Arnold, 28 February 1949, European Movement papers 544, HAEU.

42 Kaiser, *Christian Democracy and the Origins of European Union*, 187.

43 Great Britain and Israel, *Manchester Guardian*, 11 December 1948.

people back into the European family. In this way alone can they revive their own fame and regain their place in the world."[44]

The Political Resolution of the Congress of Europe had affirmed that "the integration of Germany in a United or Federated Europe alone provides a solution to both the economic and political aspects of the German problem."[45] The French delegation, however, had stymied efforts to press for the immediate inclusion of Germany in a United Europe. German federalists had responded that West Germany should be admitted without delay because it respected human rights and this was the only legitimate criterion for entry into that body.[46] At the Brussels Conference, in contrast, the initiative to invite Germany to join a Council of Europe came from the French delegation. This reflected a broader shift in French policy towards Germany. As a French foreign ministry memorandum explained, Germans would be more amenable to satisfying French security needs if France were to appeal to the strong "European" sentiment in that country. Without embedding Germany in a Council of Europe, Germans would either dream of Hitler's Europe or succumb to Stalin's Europe.[47]

The French Christian Democrat Robert Bichet secured votes for a motion in favor of the immediate entry of Germany into a Council of Europe, arguing that delegates should not even wait until Germany adopted a federal constitution.[48] He was president of the *Nouvelles Équipes Internationales*, a pan-European organization dedicated to supporting progressive Catholic causes and coordinating the activities of Christian Democrats across the continent. One of its primary objectives was the incorporation of Germany into a United Europe and its second meeting, which took place in Luxembourg in early 1948, had been the first postwar international con-

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44 Ibid.

45 Resolutions – Congress of Europe – The Hague – May 1948, European Movement papers 1122, 6, HAEU.

46 Baden-Baden to Paris, "Allemagne et Union Européenne", 23 December 1948, Archives Diplomatiques, Paris (hereafter: ADP), Europe (1945-60), Généralités, Box 9.

47 Memorandum: L'Allemagne et l'Union Européenne, 5 January 1949, ADP, Europe (1945-60), Généralités, Box 9.

48 Séance plénière du lundi matin 28 février 1949, European Movement papers 543, 11/1, HAEU.

gress in which an official German delegation, including future German chancellor Konrad Adenauer, had participated.[49] The final recommendations issued by the Brussels Conference stated, "Henceforth, West Germany, and all of Germany when it will be possible, must be invited to integrate itself in this new community, in which all peoples will have the same rights and the same responsibilities."[50]

GOOD GERMANS AT THE COUNCIL OF EUROPE

The inaugural session of the Council of Europe was held in the summer of 1949 in Strasbourg. The choice of Strasbourg as the site of these meetings was a daring move. The most prominent international institutions of the interwar period had been located on neutral ground, with the League of Nations headquartered in Geneva and the Permanent Court of International Justice situated in The Hague. Strasbourg, by contrast, had been at the epicenter of international conflicts for over two centuries. It had changed hands four times during the past eighty years alone, annexed by Germany after the Franco-Prussian War, restored to France at the conclusion of the First World War, seized by the Germans again during the Second World War and now once more finding itself on French soil.

The founders of the Council of Europe had calculated that their choice of locale would transform Strasbourg from a site of Franco-German antagonism into a symbol of a new age of peace through unity. Yet, scars ran deep. A great number of Alsatian youth had been conscripted to fight with the Germans on the Russian front, many never to return. For some, talk of European unity invoked Hitler's plans for a "New Order". Although no Germans would participate in the proceedings of the Council of Europe that summer, some of the residents of Strasbourg worried that the formation of a

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49 Heribert Gisch, The 'Nouvelles Équipes Internationales' (NEI) of the Christian Democrats, in: *Documents on the History of European Integration*, Vol. 4, ed. Walter Lipgens and Wilfried Loth (Berlin: Walter de Gruyter, 1991), 477-540, here: 480.

50 Conclusions et Recommandations adoptées à la Session Inaugurale du Conseil International du Mouvement Européen, Bruxelles, 25-28 Février 1949, European Movement papers 107, HAEU.

United Europe would facilitate the return of German hegemony in the name of greater "European" ideals.[51] With the West German general election scheduled to occur six days after the start of the Committee of Ministers' first session, there was much trepidation that the Germans would once again opt for nationalism over reconciliation. This time, the Alsatians feared, revanchism might take a more insidious form.

On the same day that Churchill sponsored a proposal to add human rights to the agenda of the Council of Europe's Consultative Assembly, the British opposition leader proclaimed at a European Movement rally that "[t]he life of free Europe depends on association with Germany".[52] German elections took place on August 14, 1949, paving the way for a center-right coalition government. On August 17, in a speech calling for the creation of a European court of human rights, Churchill became the first delegate to argue in the Consultative Assembly for the admission of Germany into the Council of Europe. He asked his fellow delegates to adopt a resolution in favor of an extraordinary session of the Consultative Assembly in December 1949 or January 1950 that would welcome a German delegation in its midst.[53] Konrad Adenauer understood that Germany's path to redemption in the eyes of the world lay through joining the Council of Europe. A week after Churchill's speech, he announced, "As things stand at present, Germany in my opinion would not be eligible to join the Atlantic pact. First we must be a member of the Council of Europe. Then we must quietly await further developments."[54] "It is completely obvious", *Pravda* subsequently observed, "that the European Council is one of the organs of the North Atlantic bloc system – a particular sort of servants' entrance into this system".[55]

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51 Strasbourg deviendra-t-il le siège des organismes permanents de l'Union Européenne?, *Journal d'Alsace et de Lorraine*, 13-14 February 1949.

52 Strasbourg Rally Hails Churchill, *New York Herald Tribune*, 13 August 1949.

53 First Session, Reports, Part I, 286, Council of Europe Archives, Strasbourg (hereafter: COEA).

54 Adenauer Says Europe Council is 1st Objective, *New York Herald Tribune*, 25 August 1949.

55 Quoted in: Pravda' Sniffs More U.S. Plots at Strasbourg, *New York Herald Tribune*, 31 August 1949.

The bicentennial of Goethe's birth coincided with the first session of the Consultative Assembly, providing an opportunity to cast Germans as fundamentally Good Europeans that had lost their way through succumbing to the temptations of militant nationalism during the past century. Officials from the Council of Europe laid a wreath at a statute of Goethe in Strasbourg University. In Mainz, André Poncet, the French High Commissioner, called Goethe "the great European".[56] Sandro Volta argued in *Il Corriere della Sera* Germans should not consider Goethe as part of their "national glories" but rather as a "citizen of Europe".[57] Alfio Russo, writing in the same newspaper, had already remarked on the "paradox of a Europe that includes Asiatic Ankara and, instead, excludes Frankfurt".[58]

At least one Goethe retrospective argued that the German author's humanism represented a point of synergy between Germanic and Latin understandings of human rights. Pierre Corval wrote in *L'Aube* that the bicentennial should remind Europeans that Goethe's understanding of the European spirit was based on a respect for the dignity of the human person, which was the foundation of the European Movement's human rights proposals. Europe would continue to be a "fiction" until Goethe and the European Movement's vision of "European man" prevailed over the slavery of Soviet totalitarianism.[59]

Churchill's efforts to secure a resolution in favor of an extraordinary session of the Consultative Assembly that would include German delegates were unsuccessful, due primarily to the opposition of British Labourites and the French delegates. Anxieties over the possibility of a rearmed and resurgent Germany were still too great. Yet, for those in the European Movement advocating the creation of a European court of human rights, the means to prevent the revival of antidemocratic forces in Germany had already been defined in its Draft Convention. They hoped that its eventual adoption by Germany would reassure skeptics that Germany was prepared to be a Good European.

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56 Goethe – The Great 4-Zone European, *Daily Mail*, 29 August 1949.

57 Sandro Volta, La Celebrazione a Francoforte, *Il Corriere della Sera*, 28 August 1949.

58 Alfio Russo, La necessità di legare la Germania all'Occidente, *Il Corriere della Sera*, 17 August 1949.

59 Pierre Corval, L'Homme d'abord, *L'Aube*, 27 August 1949.

Even after Churchill's gambit failed, the leadership of the European Movement would not be deterred from its advocacy of immediate German entry. On September 7, 1949, Sandys called a press conference, declaring, "The European Movement will do all it can to facilitate her admission".[60] On September 8, Layton announced in the Consultative Assembly,

"This list [of rights] which we are proposing, coupled with the right of intervention in some form or another – in the first place by protest, negotiation, and so on, and ultimately in terms of enforcement – constitutes the club rules for this Council. We are therefore drawing up the terms which will decide the admission of any future applicant or country which may be admitted here. We are drawing up conditions which Spain or Germany – to be perfectly frank – or any other country must fulfil, both as regards the items in the list, and as regards accepting the right of intervention, before they can become Members of this Council of Europe."[61]

As Raymond Millet explained in *Le Monde*, the European human rights project was intended to "render possible the admission of other states, that is, Germany. Because, they tell us, suppose that participating nation one day flouts the principles of the Council of Europe. Would it be necessary to exclude it? That would exacerbate its nationalism. By contrast, a decision from the Supreme Court of Human Rights would set it back on the right path without a confrontation."[62]

The European Movement was successful in presenting a European convention of human rights as a means of ensuring the peaceful integration of Germany into the Council of Europe. The Greek and Turkish representatives in the Consultative Assembly's Committee on Legal and Administrative Questions, for example, had initially objected to the drafting of a binding human rights convention but dropped their opposition after it was made clear to them that a convention on human rights was necessary to admit Germany into the "European community".[63] On November 10, 1949, Paul-

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60   Join Us, Says Sandys to W. Germany, *Daily Worker*, 8 September 1949.

61   First Session, Reports, Part IV, 1186, COEA.

62   Raymond Millet, L'Assemblée Européenne hésite entre la hardiesse et la prudence, *Le Monde*, 9 September 1949, 1.

63   Strasbourg to Paris, 31 August 1949, ADP, Europe (1945-1960), Conseil de l'Europe, 1949-1955, Box 26.

Henri Spaak, the president of the Consultative Assembly and an honorary president of the European Movement, would write to Gustav Rasmussen, president of the Committee of Ministers, to express his dismay that the Committee of Ministers had not yet acted upon the human rights resolution approved by the Consultative Assembly. It was imperative that the Council of Europe act quickly, Spaak argued, because its objective was to reinforce reciprocal confidence in the democratic institutions of "present and future members". Spaak was clearly signaling that it was vital to conclude a human rights convention before the admission of Germany.[64]

If members of the European Movement deployed their human rights project as a mechanism for the inclusion of Germany, they also used it as a means to justify the exclusion of communist regimes from the Council of Europe. As Maxwell Fyfe told the Assembly on August 19,

"I realise that when we lay down tests, those who fail to pass the tests must be excluded. Therefore I appeal to those nations who belong to and revere the great family of Western Europe and Christian civilisation. I make no reflection on those who do not, but I turn to the problem as it exists. Will they not adapt their Governments so as to conform to opinions which are so redolent of that tradition and of that spirit? We seek only to delimit the conditions in which alone the dignity of the human spirit will stand, free, firm and unassailed. May this test which we have propounded become not an exclusion but a passport to our midst."[65]

Just as Churchill had done in his speech at the Albert Hall in May 1947, Maxwell Fyfe did not state outright that countries in the Soviet sphere of influence would be forever ineligible to join a united Europe. Yet, his metaphor of the human rights "passport" implicitly created a two-tier system, whereby states that were members of "the great family of Western Europe and Christian civilisation" had priority over those that were not. Under this logic, there was little doubt that a Germany governed by a coalition of CDU/CSU and FDP under Adenauer would soon be welcomed into the European club.

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64 Paul-Henri Spaak to Gustav Rasmussen, 10 November 1949, ADP, Europe (1945-1960), Conseil de l'Europe, 1949-1955, Box 26.

65 First Session, Reports, Part II, 452, COEA.

On the first day of the first session of the Committee of Ministers, Derek Kartun of the *Daily Worker* had called the Council of Europe a "massive stunt". "Figuring large in the great stream of United Europe propaganda is the insistent plea that Germany must be brought back into the fold and that the existence of this new body will in some undefined – and indeed undefinable – way guard against a revival of aggressive Nazism", he wrote.[66] Kartun had not anticipated that the drafting of a binding European convention on human rights would provide those advocating German entry with a potent argument for constructing a united Europe whose frontiers would extend east of the Rhine but – with the inconvenient exception of Turkey – not beyond the pale of Christendom.

The question of German participation in common European institutions thrust the language of international human rights norms into mainstream British political discourse. The 1950 general election manifesto of the Conservative Party, issued in January, stated, "Hand in hand with France and other friendly powers we shall pursue the aim of closer unity in Europe. The admission of the Government of Western Germany into the Council of Europe will be supported on the understanding that she accepts freely and fully the Western democratic conception of human rights."[67] The use of the phrase 'human rights' was in marked contrast with the appeal to 'our ancient liberties' in the Conservative Party's previous general election manifesto. International human rights norms were presented as a means of safely reintegrating Germany into the 'West'. On 6 September 1946, US Secretary of State James Byrnes had stated that "it never was the intention of the American Government to deny to the German people the right to manage their own internal affairs as soon as they were able to do so in a democratic way, with genuine respect for human rights and fundamental freedoms".[68]

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66 Derek Kartun, Council of capitalist Europe, *Daily Worker*, 8 August 1949.

67 Conservative Party General Election Manifesto 1950, in: *Conservative Party General Election Manifestos, 1900-1997*, ed. Iain Dale (London: Routledge, 2000), 88.

68 Stuttgart address by Secretary of State Byrnes, in: *Documents on Germany, 1944-1959: background documents on Germany, 1944-1959, and a chronology of political developments affecting Berlin, 1945-1956*, ed. US Department of State Historical Office (Washington, DC: US Government Printing Office, 1959), 39.

The official title of the European Convention on Human Rights signed in Rome on 4 November 1950 was the Convention for the Protection of Human Rights and Fundamental Freedoms.

West German newspapers would describe the Federal German Republic's signing of the European Convention in November 1950 as a signal diplomatic achievement, for it was the first time that it had entered into an international accord on an equal basis with other states.[69] After West Germany became a full member of the Council of Europe in May 1951, Adenauer gave a speech to the Consultative Assembly in December of that year in which he described adherence to the European Convention as part of the German people's commitment to "European values", for "[a] bitter and very dangerous experience has taught our people that it is necessary to expend all one's energies to maintain, develop and defend the culture of the West, if it is to survive".[70] The West German government's declaration of 27 September 1951 stressing the measures that it had taken to effectuate reconciliation between Germans and Jews stated,

"The attitude of the Federal Republic of Germany to its Jewish citizens is clearly defined through the Basic Law [...]. These legal norms are the law of the land and oblige every German citizen, and especially every state official, to reject any form of racial discrimination. In the same spirit, the German government has also signed the Human Rights Convention adopted by the Council of Europe and has pledged itself to the realization of the legal concepts laid down in this Convention."[71]

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69 Hallstein unterzeichnet für Deutschland. Die Charta der Menschenrechte vom Ministerausschuß in Rom gebilligt, *Frankfurter Allgemeine Zeitung*, 6 November 1950; Ministerausschuß des Europarats billigt Konvention der Menschenrechte, *Frankfurter Rundschau*, 6 November 1950.

70 Konrad Adenauer, Discours prononcé à l'Assemblée Consultative du Conseil de l'Europe, 10 December 1951, Italian Diplomatic Archives, Rome, Segretaria De Gasperi (1944-52), Box 27.

71 Translation found in: Statement by Chancellor Adenauer to the Bundestag Concerning the Attitude of the Federal Republic towards the Jews, 27 September 1951, in: *Politics and Government in Germany: 1944-1994: Basic Documents*, ed. Carl-Christoph Schweitzer et al. (Providence: Berghahn Book, 1995), 122.

Conclusion

The West German government's statement marked an important initial step in the process of reconciliation between, not only Germans and the Jewish people, but Germany and a wider European civilization. The use of the language of European human rights law in this document was an outcome of both the broader revolution in international human rights norms of the 1940s and the particular transnational civil society initiatives that had emerged from the Congress of Europe. On the surface nothing could have been more different than the *fin-de-siècle* vision of a common European civilization in which culture trumped ideology as the basis of the community of international law and the vision of European civilization expressed by the postwar European unity movements in which the basis of a united Europe rested on the respect for human rights and democracy. Moreover, the postwar European unity movement challenged the Westphalian principle of absolute state sovereignty rather than accommodate it.

Even so, there were also striking continuities between the rights-based reconciliation initiatives of the European unity movements after the Second World War and the *fin-de-siècle* mantra of 'peace through justice'. The imagined community that was the end goal of international reconciliation continued to be framed by a backward-looking and elitist worldview. It is important to keep in mind the retrospective as well as prospective nature of visions of reconciliation after the Second World War. These were visions that looked back not to the fractured Europe of the age of total war but to an imagined Christian and liberal Europe of an earlier era. While the creation of European human rights law was a new means of bringing Germany "back" into the "European family", the civilizational discourse that framed rights-based reconciliation was not novel. It is these continuities that we must keep in mind when telling the story of both postwar reconciliation and the postwar genesis of European human rights law.