

# The Changing Face of Germany's Crime Rate since Unification

**Helmut Kury and Ursula Smartt analyse the real crime figures that have emerged since East and West Germany joined a little over a decade ago.**

*'Every West German who ever visited a friend or relative in jail was reminded of this experience when they crossed the border into the GDR: the floodlights, the stark neon lights and automatic locks, the one-way mirrors; the passes, the searches and identity checks.'* Götz Aly, Berliner Zeitung, 1 August 2001.

For over 40 years, the two Germanies – the Federal Republic (FRG) in the West and the German Democratic Republic (GDR) in the East – developed under totally different governmental administrations and jurisdictions. The 'real-existing socialism' had an enormous effect on GDR citizens: no proprietary rights in their land or property, a censored press and no freedom of expression, no freedom to travel to 'capitalist' states, no watching of West German TV. Formal and informal social and state controls touched on all walks of life, including the criminal justice system. The GDR was neither democratic (and therein lies the misnomer of the country's title), nor was it sovereign; its dependence on Moscow was total. Unauthorised crossing of the East/West German border (the Iron Curtain) by East Germans was a criminal offence, punished by long-term imprisonment. Those who were caught in flight were invariably shot. Since the mid-1990s,

with imported organised crime from the Eastern Bloc.

The five newly incorporated *Länder*, or states, had to undergo rapid change. GDR citizens were given enormous freedom overnight which meant that many were just not ready to meet the challenges of a free-market economy. Feelings of insecurity and existential fears rose with mounting social unrest, resulting in a growing fear of crime. After Unification in 1990, it became clear that GDR crime statistics could not be taken at face value and had to be viewed with some scepticism. Whilst a considerable dark figure of unreported crime continued to exist in Western nations, this too had to be attributed to the GDR (about 90 per cent, Kury 2001).

Eisner had calculated a steady increase of recorded crime from 1950 to 1992 of six western European countries (England and Wales, France, West Germany, Italy, Sweden, The Netherlands). The growth in the total crime rate in all six of these countries during the period of 1951 to 1960 amounted to 3.3 per cent; from 1961 to 1970 it was 4.4 per cent; from 1971 to 1980 it was 5.3 per cent; and from 1981 to 1990 it amounted

***GDR citizens were given enormous freedom overnight which meant that many were just not ready to meet the challenges of a free-market economy.***

former East German border guards who followed orders to shoot, resulting in the deaths of escapees, have been prosecuted in (West) German courts.

Through the 1980s, East Germany was drained of young and professional people. In 1989, the population of the FRG was approximately 62 million and that of the GDR about 17 million. The 'emigration' from East to West that continued throughout the 1990s shows in the census of 1999 which counted approximately 67 million in the West and 15 million inhabitants in former East Germany. The primary reasons for the continuing exodus were the continuing unfavourable living conditions, increased unemployment and low income in the states formerly in East Germany. German Unification took the world completely by surprise when the Wall suddenly came down on 8th November 1989. But this historic event has to be seen against the on-going democratisation of the Eastern Bloc, enhanced by former Russian President Gorbachev's 'Glasnost' mediation politics with the West. With Germany situated in the geographical heartland of Europe, bordering Eastern European former socialist-communist countries such as Poland and the Czech Republic, the crime structure has changed considerably,

to 3.3 per cent. He established that the average crime rate (per 100,000 population) at the beginning of the 1990s was five times higher than during the 1950s, which was not matched by 'official' GDR figures. For West Germany there was a steady increase in the total recorded crime rate from the mid-1960s into the 1990s; from the second half of the mid-1990s, however, a steady decrease was recorded. "Given that most recorded crimes are property crimes (two-thirds), the development of overall crime rates may be assumed to be a good indicator of the development of property crimes. However, trends of violent crime rates do not seem to have differed much from the overall trend." (Eisner, 1994). Serious and violent offences in (West) Germany steadily increased, though there was a notable downward trend during the mid-1980s, mirrored by a decreasing imprisonment rate (Kury and Obergfell-Fuchs, 1996).

In 1980, the GDR registered 772 criminal offences (per 100,000), compared with 6,180 in the FRG. In 1985 there were 681 recorded crimes in the GDR

compared with 6,909 in the FRG. In 1989 only 601 crimes were recorded in East, compared with 7,031 in West Germany. According to Western calculation models, the lower recorded crime rate of the GDR cannot wholly be attributed to the harsher sanctions and seemingly tougher punitiveness of the socialist-communist regime. Hence, some of these large East/West discrepancies can partly be attributed to increased social control, draconian state sanctions and reduced opportunity structures, but also to an East German mentality which had learnt to comply with and adhere to traditional social values, attitudes and beliefs. Towards the end of the GDR era, the population could largely be described as apathetic which, in turn, reduced the conflict potential. After Unification, it was established that the rather 'different' means of GDR crime recording practices were also to blame for the apparent decrease in the crime rate. The Politburo and the 'Ministry for State Security' (STASI - *Staatssicherheitsdienst*) had also endeavoured to 'massage' the crime figures, to demonstrate that criminality in the GDR was low due to 'effective' political leadership. The 'official' GDR crime rate during the 1980s was around ten per cent that of West Germany.

Von der Heide and Lautsch recalculated East and West Germany's crime rates in line with the 'western' statistical model. They established that the GDR crime rate was in fact three times higher than previously recorded (at 2,364 per 100,000), totalling 393,940 recorded crimes -- the 'official' GDR crime rate for 1988 had been 119,124, i.e. 715/100,000 (Von der Heide and Lautsch 1991). The rate of solved crimes in the GDR, about twice as high as that of West Germany, was also skewed. 'Mass crimes' were left out of any equation (e.g. bicycle theft, youthful offences or police-registered misdemeanours). For this reason, the GDR recorded 84.5 per cent solved crimes in 1985, compared with 47.2 per cent in the FRG. If one takes the new western calculation model, the GDR solved-crime rate comes down to 55.2 per cent (taking 'mass crimes' into account). After Unification, the crime rate in the *Neue Bundesländer* (states of the former GDR) rose quickly matching that of West Germany (a 50 per cent increase during the early 1990s). During the latter half of the 1990s, victim surveys showed that the crime rate in the *Neue Bundesländer* had moderately risen above that of the *Alte Bundesländer* (Kury and Obergfell-Fuchs 1996). In 1999, the police recorded crime figures were 7,682/100,000 (a slight decrease) and all crimes totalled 3.3 million, increased by hate crimes against 'non-Germans' (e.g. Turkish 'guestworkers' and asylum seekers). In 1998, there were 217 prison establishments with a total prison population of 69,817 (total certified normal accommodation at 73,980, representing 94.4 per cent of total capacity in 1995-6, i.e. 91 per cent). Whilst 120 years ago, the courts of the '*Deutsches Reich*' had largely used imprisonment as the main form of punishment, the German courts towards the end of the millennium tended to use 'sanction diversion measures', such as victim-offender mediation, fines or community sanctions; only five per cent of custodial sentences were implemented by the courts (Kaiser 1996).

Increased fear of crime, hyped by the media, particularly regarding sex offenders, has led to an increased demand for harsher sanctions within the popular 'law and order' debate, in spite of a steady decrease in the recorded crime.

The new *Sex Offender Treatment Act* 1998 makes the treatment of violent and sexual offenders in a 'therapeutic prison unit', with a sentence over two years, compulsory. Furthermore, additional 'secure custody units' can be ordered more easily by the sentencing judge, which increases a prisoner's security category. The reasoning for this is the increased protection of society from violent and sexual offenders. Since January 2001, the state of Baden-Württemberg has the judicial sentencing power to keep a prisoner beyond his sentence for an indefinite period if it is felt that s/he continues to present a future risk to society as a violent or sex offender. Against this increased punitive policy, numbers in secure custody units have grown. There has been a recent popular belief that youth crime has increased dramatically of late; this is not, however, supported by official statistics. This attitude has led to a popular demand to lower the age of criminal responsibility from 14 down to 12. Kury and Ferdinand advocate increased preventive measures, such as parental responsibility and educational support, which could more meaningfully assist the reduction in youth crime. They doubt that increased custodial sanctions and longer sentences will reduce criminality.

In summary, Germany's criminal justice policies of the 21st century mirror those of other western European countries (with the possible exception of the Scandinavian states). There is an increased use of custodial sentences and longer (as well as extended) prison sentences, which, in turn, has led to a rise in the prison population since 1999 (85/100,000). Prisoners now largely complete their full sentences (similar to the US 'truth in sentencing' legislation) with prison administrations of the 16 *Länder* increasingly reluctant to reduce a prisoner's level of security in order to grant early release.

*Helmut Kury is Professor of Psychology at the University of Freiburg, Germany and Senior Researcher at the Max Planck Institute for Foreign and International Penal Law, Freiburg. Ursula Smartt is Senior Lecturer at Law and Criminology at Thames Valley University, London and a Visiting Professor at the Max Planck Institute, Freiburg.*

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# Book review

Lee Delaney reviews *The Culture of Control: Crime and Social Order in Contemporary Society* by David Garland. Oxford University Press.

**T**he *Culture of Control* follows in the footsteps of Garland's previous books *Punishment and Welfare* (1985), and *Punishment and Modern Society* (1990). He retraces the steps of these works, bringing them together in a larger analysis of the forces which have propelled the criminal justice system in the USA and UK throughout the last century. From a correctionalist philosophy, through the law and order agenda, to the populist policies of the modern mainstream political parties.

Yet it covers more than merely the development of the criminal justice system. While it is undoubtedly an institution with its own driving force and internal dynamics, it does not exist in a vacuum. The thrust of Garland's argument is that the shape the criminal justice system now takes has been moulded by the development of wider society, in particular the transition of the Western capitalist nations into the period of late modernity. This transition has brought about a shift in social relations, which have had widespread repercussions.

Modernity, for Garland, is embodied by the welfarist policies and philosophy that came to

were much lower, the phenomenon of crime itself was less visible, and there existed a significant spatial gap between the upstanding citizenry of the ruling classes and the delinquent lower classes, in whose areas crime was seen to be concentrated.

But what happened to undermine the dominance of penal-welfarism? Garland takes us through the history of the political and economic events of the 20th century out of which the backlash against penal-welfarism was able to grow. Crime rates have increased steadily over the last century and came to reach record levels towards the later decades. Western liberal democracies have thus become high crime societies, as Garland terms them. The growth of the media has meant that crime was not only occurring more often, but it was also becoming more and more visible. This in turn affected the political world. As crime rates continued to increase year by year, the methods of the criminal justice system began to be questioned.

Crime was no longer a fact of life only for the lower classes. It was a society-wide phenomenon. It was now on the doorsteps of the middle-class

***Prevention becomes a matter of individuals investing in alarm systems, steering-wheel locks, etc. Crime is big business.***

characterise the American and British states up until the 1970s. The industrial revolution and subsequent growth of capitalism had increased class antagonisms as the middle and upper classes enjoyed growing wealth and prosperity off the labour of the working class. The introduction of welfare provisions in the USA and UK was a response to these antagonisms, a peace offering from the bourgeoisie to lull the workers into acquiescence.

Welfarism provided better housing, better education and better healthcare for those in need and was intended to take the edge off the more extreme realities of capitalism. However it was the middle class who had the most to gain. They grew in strength and confidence as their children took advantage of free education to follow their parents into new areas of work, social care, probation, psychology etc., that were maintaining welfare policies.

The effect of modernism on the criminal justice system was one of professionalisation. The main policies for dealing with crime and punishment were created by policy makers, who looked to criminal justice experts. These experts became the very members of the middle classes who were benefiting from welfare provision. Crime was not at that time the major political issue it is today -- rates of crime

professionals and became an issue of great importance in the political realm. Furthermore, the return of the economies to the boom and recession cycle meant that full employment became a dream. There now existed a steady and consistent group who were unemployed, sitting idly by, 'sponging off' welfare while everyone else went out to work. The middle classes began to question their support for welfarism, and hence the rehabilitative ideals of the criminal justice system. Now that crime was on their doorsteps it became harder for them to be so sympathetic towards the perpetrators of these acts. They no longer saw criminals as poor and deprived, in need of help. Now they were a threat to their property and their safety.

After the 1970s we began to see an admission within criminal justice circles, that the war against crime was being lost and the best that could be done was to try and control it and maintain it at a certain level. This paved the way for the reassertion of retributionist penalty. If criminals could not be corrected to stop them committing crimes, then the best thing to do would be to just punish them for punishment's sake.

The punitive philosophy of today's criminal justice system is a more extreme form of what was actually intended, and has strong elements of social control.