



## Germany's Insane Hate Speech Laws Explained: With Journalist James Jackson

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**Glenn Greenwald (GG):** The issue on which our show has most focused over the last year or so has been the relentless assault on free speech after October 7th. It resulted in all sorts of executive orders in the United States purporting to ban criticism of Israel or activism against it, the shutting of pro-Palestinian groups on campuses, even the shutting of TikTok as one very prominent senator admitted over the weekend that was the true impetus for shutting down TikTok in the United States, it was that it was perceived to permit too many criticisms of Israel. Meanwhile, throughout Europe, the targeting of Israel critics and pro-Palestinian activists, particularly people engaged in activism against the Israeli war in Gaza, has been even more severe. And while it's taken place throughout Europe, undoubtedly the country where it has been most extreme is Germany, which has furnished immense amounts of arms to Israel that it used to bomb and destroy Gaza and therefore has a very intent motive to prevent anyone from claiming that those are war crimes or genocide because it would make Germany complicit and there's been all sorts of attacks on free speech, as JD Vance mentioned when he went to the Munich Security Conference, though he didn't mention this particular strain, even though it's the most common. James Jackson is an independent journalist and broadcaster from the United Kingdom who is based in Berlin. He hosts *Mad in Germany*, a current affairs podcast. He has previously covered news and business and culture in Germany and Central Eastern Europe for publications like the BBC, Sunday Times and Time magazine. And he has really become one of my top two or three go-to sources for understanding events in Germany and particularly these assaults on free speech. And we are very delighted to welcome him to his debut appearance on System Update. James, it's great to see you. Thanks so much for taking the time to talk to us. I know it's late there.

**James Jackson (JJ):** Hi, Glenn. Thanks so much for having me on here; you know, long time reader and follower of yours. So really great that you've picked up the free speech cause in Germany, particularly because it's not something that has got very much attention until, of course, the Vice President of the United States and 60 Minutes as well, brought it to the world's attention. But it's been something I've been trying to get the message out on for a while. So I'm happy that it's gone global. But as you said, the most egregious attacks on free

speech JD Vance did not mention, and that is the assault in Israel. I think we understand why, you know, politics plays a very important role in this.

**GG:** Right. Sometimes politicians do constructive or positive acts, take constructive and positive steps, even if it's always not for the best motives. And who knows, you know, JD Vance is politically constrained. I've never heard him defend or demand censorship of pro-Palestinian activism, but in any event, he certainly did end up generating a lot more attention to this issue. Now, I want to just step back for a minute from current events taking place in Germany, which we'll get to in a minute, including what happened today at this film festival. I think one of the very first articles I ever wrote when I became a journalist or a blogger back in 2005, 2006 was precisely about the fact that there is a vastly different tradition in Western Europe when it comes to perceptions of free speech than there is in the United States. Sort of like one of the few unifying views in the United States was, at least until recently, the idea that even the most horrendous political views are permitted to be expressed. The state can't punish you for them. And I remember what prompted my article was a conviction in Austria of the British historian David Irving for having engaged in revisionism and denial of the holocaust, he was criminally convicted and sentenced to a prison term, and I essentially wrote that these things are unimaginable in the United States, but they're common in Europe. And in Germany in particular, after World War II, you could even say for understandable reasons, there emerged these restrictions on speech, particularly when it came to denying the reality of the Holocaust, its magnitude, trying to revise what happened, as well as praise for Adolf Hitler and the Nazi party and the Nazi ideology. And so you started off with this kind of exception to free speech justified by these extreme events of World War II and they've obviously, as we're seeing now, have expanded aggressively as censorship usually does. That's its trajectory. It starts off justified by some extreme event that people can get on board with and then before you know it, it's a power that is being used all over the place. So can you describe the evolution of censorship powers in Germany after World War II and kind of how they ended up being so expansive?

**JJ:** Well, I mean, absolutely, you're right, the tradition here is quite different. And, you know, I'm pro-free speech. I'm not, maybe not quite as strong on that, you know, I don't really like the idea of people denying the Holocaust. But then, you know, you're right that it expands. And so just to give you an example, because I was last weekend in Dresden. It was the 80th anniversary of the bombing of Dresden. And there were all kinds of problematic things there. There were people shouting: "Heil". There was the Nazi anthem sung. People were talking about the bombing Holocaust the Allies supposedly did against Dresden. And so I think what's actually even stranger in Germany is that they brought in these laws to supposedly stop the Nazis and the neo-Nazis and revisionism and all of these terrible things, but they haven't used it against them because the Nazis have realised it's very easy to avoid; they know the trigger words, they know what they can avoid saying and they just adapt their message. So these laws don't work. It does stop some of the most egregious stuff. But actually, it's crazy that really it's been much more about stopping pro-Palestinian speech in the last few years. So the history of it goes back to after the Second World. Effectively, there is a ban on, not saying that you're a Nazi, you are allowed to say: I am a National Socialist,

but it's actually the symbols of what they call "Verfassungswidrige Organisationen" in German, which means people opposed to the constitution. Now, that basically means you can't show the swastika, whatever you think of that. But then they've expanded that in recent years to include Hamas as an anti-constitutional organisation. And what they've done, legally, they've said that the slogan "From the river to the sea, Palestine will be free", is a Hamas slogan so that it's actually prosecuted under the same laws as showing the swastika. So the thing is, it's not a Hamas slogan. Multiple courts have said it's not a Hamas slogan, but the police still treat it as a Hamas slogan, in Berlin especially, which has been like a kind of burning point for this issue because it's the German capital and there's also a huge Palestinian population; I think the biggest outside of the Middle East. So the Nazis have realised, or the neo-Nazis have realised, they can play the game, they can test the waters every so often, but actually they're quite happy with how things are because ultimately, and I'm working on a long piece about this at the moment, which should be released before the election, they've realised they can use the laws which initially came in to stop neo-Nazism against Muslim groups, Muslim minorities, effectively promoting the agenda of the Nazis of excluding Muslims and supporters of Palestine, many of whom are Jewish, leftist, exactly the kind of people the Nazis don't like, they can use the anti-Nazi laws for them. And I don't think it's just them. The entire centre, you know, much of the centre and even the left of German society has gone along with these attacks. I mean, we're in the middle of an election campaign to bring it to current events, all of these events at film festivals, activist events, have happened and the left party, which is surging right now, has said nothing about it. At least the leadership, at least the people in Berlin, we've had some minor politicians from it, but really, free speech is not an issue for the left here, it's an issue for the centre right, but even then, it's not about Palestine. There's this big, gaping Palestine-shaped exception.

**GG:** Well, I want to delve into that a little bit because I suppose in a way, there's always been an irony to the fact that after World War II, Europeans decided that the way they would make amends for the Holocaust would be by vehemently supporting the state of Israel because the whole idea of the state of Israel was: We have all these Jews here, they are stateless, they're refugees, we need some place for them to go and they need to go somewhere to be safe into their own place and so we're not going to give them any part of Europe as compensation, we're just going to send them to the Middle East, take the land from the Palestinians who are there and create the state of Israel and then vehemently support it and that's what Germany has done. So I suppose, and I'm interested in hearing your views on this, that one of the ways Germany in particular thought they were making penance to Jews for the treatment in World War II and the Holocaust was by becoming vehement supporters of the state of Israel. And yet now what you see, and you alluded to this in your answer, is there are huge numbers of Jews all over the world and in Germany who are among the leading critics of the state of Israel. Here in the US with all these campus protests, a lot of the leaders and the participants were Jewish students despite how they got depicted as kind of anti-Semitic mobs, there were all sorts of Jews throughout these protests and one of the warped things to watch in Germany has been watching Jewish critics of Israel, German Jews on the left being attacked or arrested or harassed by the German police because of the expression of their views. How is this reconciled in Germany that somehow the penance for World War II and the Holocaust to

support the state of Israel and sometimes that might even manifest in harassing or arresting German Jews for saying what they believe?

**JJ:** You know, it's a really good question. I think it's a shame really that the lessons of the holocaust for Germany seem to have become: We need to give the Jews a state and arm it heavily, you know, out of all of the lessons you could learn it seems like that's the one that's stuck. But a lot of it actually I think comes down to this reconciliation, this question of shame for the Germans or what's commonly referred to as guilt. Obviously I think that causes some kind of bizarre psychological issues and you know you have many cases of Germans where they convert to Judaism coming from a Nazi family and then they go into the synagogue and they try and reorganise the synagogue. So there's definitely some kind of psychodrama in there and that's what I talk about a lot on my podcast "Mad in Germany". Mad because it's a really mad country in some ways with a lot to offer the world and teach the world but sometimes they really need to step back and think: What's going on? What makes me as a German feel like I can defame a Jewish person who may have ran away and escaped, you know, that may be descended from Holocaust survivors as an anti-Semite. And this word carries weight in Germany for good reason and yet police, government officials and of course Zionist actors, many of whom are funded by the state of Germany, throw it around and they just say: Well Jews can be anti-Semitic. I think it's a very proud intellectual culture; with a lot of best philosophers in the world coming from Germany and so they can almost talk themselves into anything and so they can talk themselves into believing that Jews are anti-Semitic but Germans are not and it's almost a redemption tale. It has some very Protestant religious elements which is strange because it's not that a religious society but I think it's given an easy answer. Germans want to feel like they're the most loyal to Israel, more loyal than the Jews themselves and that of course is really perverse when you're watching it. I mean just to give an example of this sort of legalism and how Jewish activists have been harassed and arrested, less than Arab and Palestinian activists, it has to be said but still, very sweet older Israeli women go to the protests. Berlin is actually a bit of a hub for leftist Israelis, you know, they run away from what they see as probably fascism in their own country. They come here, they might complain about, you know, what they see as a genocide happening in their name. They hold a sign up that says: "Another Jew for a free Palestine", which is pretty innocuous if you ask me, and the police will come up to them and take that from them, detain them, question them and you ask why and it's like well they think that "Another Jew for a free Palestine", coming from this nice old Jewish lady could mean we will kill another Jew to free Palestine. So it's just this obsessive bad faith interpretation of the worst interpretation possible. "From the river to the sea, Palestine will be free", for example, as a quote, and you will notice that I keep doing those quotation marks, because I don't want to be arrested for saying this phrase which has been really the focal point for most of the censorship in Germany. You know, I'm a journalist, I don't say slogans anyway but really this slogan has become for Germans almost a new Auschwitz. You can't say that because you're saying you want to kill every Jew between the Mediterranean Sea and the river of Jordan, it's like no, that's not what people mean. They mean a variety of different things as the courts have thankfully found here. But it's this obsessive bad faith interpretation of the worst way of

interpreting everything that you use to argue. So to talk about Francesca Albanese, the UN special reporter for the...

**GG:** Let me stop you there because I do want to get to what happened today but I just want to spend a little bit more time on the context and the understanding of German history and politics that led us to this point because as I think you know, I think I mentioned to you, you know, I became very enamoured of German culture and German intellectual history in college. I intensively studied German. I was obsessed with German philosophy and German writers like a lot of people have become. I spent a lot of time in Germany, especially in Austria for a variety of reasons. And sometimes I think about how amazing it would be to just travel back for 60 years in time and tell German Jews that shortly into the future, the German police are going to come and arrest you and accuse you of being anti-Semitic and say that they're acting in defence of world Jewry by assuming that they are even more stalwart defenders of the Jewish people than Jews themselves, who I guess have become dissidents in the German state and that's exactly in a sense what has happened. But let me ask you because you alluded to this earlier, you know, there's a lot of focus especially on the left about the AfD and the dangers they pose but one of the ideas that you described that has led to this kind of censorship and this obsessive devotion to the state of Israel is this idea that: Well, we have so much shame in our past, we have so much reason for needing redemption and it's still working out this kind of psychodrama in German society across the political spectrum and yet one of the things that I hear most from AfD spokespeople and adherents is this idea that: Well, we need to lose that historical shame, that it's been enough time, we can't spend the rest of eternity being ashamed of our history and our culture, we have a beautiful culture, a beautiful history, and we can't keep driving ourselves through decision-making based on the shame of what none of us actually did 80 years ago. Are there any factions in Germany that are raising concerns about this censorship attack on Israel critics and pro-Palestinian activists? And what has been the AfD's view on that?

**JJ:** Well, to answer the first part of your question, I think the only group, political grouping, that has even slightly raised this is the Bündnis Sahra Wagenknecht. Sahra Wagenknecht, of course, quite an interesting formation, I believe she's been on your show a few times. They're also really trying to break out of the mainstream left-right divide. They're running for the first time in the election, let's see whether they make it past the 5% hurdle. But otherwise, including from the left, it's been complete silence. And the AfD were actually, and I argue this consistently, they created the impetus. And it was actually the AfD who wanted to censor pro-Palestinian activists first. So in 2019, they introduced the BDS resolution in the Bundestag, which I believe was following a US resolution at the time. And they said, you know: We want to ban BDS because it's anti-Semitic. And they explicitly said this in the proposed law or proposed resolution because it comes from anti-Israel and anti-Semitic Arab groups. So they really had the Arabs in their crosshairs from the beginning with that. And what happened was a freak out among the German political class because they all scrambled around. And they said: We can't have the AfD doing more to fight anti-Semitism than us. So what happened then is every single party except the AfD and the Left, which then Sahra Wagenknecht was a senior member of, they got together and they drafted a slightly watered

down resolution which didn't explicitly mention the anti-Arab racism part, and since then, it's been almost impossible, it's technically a non-binding resolution, but there's something in the German character where they want to not just follow the rules to the letter, but sort of embody the spirit as well and take it to the furthest. And I think you can see that throughout history, sadly. They take it as far as possible. And so then they brought in the BDS resolution in 2019 with all-party, cross-party support, except the AfD and the Left. So sort of far right, far left, if you want to think about it in those terms. But since then, the AfD have sort of joined the consensus. Now, since you speak German, I'm going to drop another couple of German words in there for you. What Merkel declared was that the state of Israel, the security and its security is the Staatsräson. It's the word that comes up a lot in discussions of the topic. It means reason of state. It's actually a word that comes from Machiavelli. It doesn't have much use in modern politics. She said it in 2008 in the Knesset, the first time that a foreign head of government had spoken to the Knesset and effectively just thought it sounded quite grand. But then this word took on like a life of its own and influenced German politics. And they really thought: You know, we've got this grand word. It's not just that we support Israel. They're not just our ally. Their security is almost the reason for our existence. So in the world of diplomacy or foreign policy, having another state as the reason for your state is very strange, very unique. And it didn't actually mean anything legally, same with this BDS resolution. But then fast forward, you know, until last year, and there was an anti-Semitism resolution put through the Bundestag called Never Again is Now. So a very manipulative kind of wording. But how could you oppose that? Never again war, never again genocide, Aever again Is Now. We need to protect the Jews. Very manipulative, as I said. And in that case, actually, all the parties voted with the AfD, which is a bit of a taboo. And then the Left party abstained and the only party that voted against was Sahra Wagenkencht.

**GG:** Yeah, it's similar to the United States Congress. They don't actually describe the purpose in the terms that Merkel did. But effectively, sometimes it seems like they do. And similar to Germany, it's the one thing that can unify every part of American political culture.

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