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# What Happens When You Ban Nazi Symbols at a Nazi March?

Answer: The fascists have to get creative.

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BY **BETHANY ALLEN-EBRAHIMIAN**

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BERLIN — If you didn't already know what you were looking at, the massive march on the outskirts of Berlin Saturday may have been so indecipherable as to seem entirely self-defeating.

Hundreds of Germans wearing white or black shirts converged in downtown Spandau, a neighborhood to the west of the city, where they spent the day communicating in their own sort of code. Some of them waved a white, black, and red-striped flag — one that wasn't readily recognizable as that of any modern nation. (Known as the Reichsflagge, it was the flag of the German empire until the end of World War I.) Others held banners proclaiming "I do not regret anything" — a quote from the final statement of Rudolf Hess, Adolf Hitler's deputy, at the Nuremberg trials, where he was sentenced to life in prison.

hours on that breezy Saturday afternoon, the marchers stood in complete silence. No chants. No shouting. When journalists approached to ask questions, the demonstrators merely turned their backs and said nothing.

This is what a neo-Nazi march looks like in a liberal democracy that heavily restricts Nazi speech.

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In Germany, neo-Nazis are permitted to hold rallies. But they are legally prohibited from displaying swastikas, invoking certain Nazi-era slogans, and making racially derogatory comments. That means that they have to be creative with their banners and slogans — or else say nothing at all. (The rally's organizers opted for further rules as well, prohibiting marchers from talking to journalists and bringing cell phones or alcohol to the march.)

The policy results not just from the aftermath of World War II but also from decades of careful deliberation about how to balance democratic freedoms with the need to protect vulnerable minorities and democracy itself. Germany's approach to regulating extremist groups stands in stark contrast to the United States, which prides itself on near free speech absolutism. It's an interpretation Germans fervently defend.

Saturday's march, which brought neo-Nazis from all over Germany to Spandau, was held to commemorate the 30th anniversary of Hess's death. Hess was incarcerated for decades in a prison here until he hanged himself with a lamp cord on Aug. 17, 1987, at the age of 93. The prison was demolished soon after his death to prevent it from becoming a pilgrimage site for members of the far-right fringe, but that didn't stop conspiracies from growing around Hess's death: Neo-Nazis don't believe it was suicide but, rather, that Hitler's deputy was murdered to prevent him from revealing British war secrets. Since 1987, they have often staged rallies or marches on the anniversary of his death.

Even these very restricted events are sometimes banned by city or state officials. In 2007, for example, Munich courts **upheld** a ban in that city on a planned rally to commemorate Hess, while officials in the eastern German town of Jena allowed a similar rally to proceed. There are some who think the march in Spandau should have been banned as well. “I deplore the decision ... to let the right-wing extremists march through Spandau,” said Kai Wegner, Spandau’s representative in the German parliament, last week, **according** to a local paper. “The so-called Rudolf Hess memorial marches in Wunsiedel were consistently banned from 2005, and the Federal Constitutional Court has upheld this practice.”

In the end, however, city authorities **determined** that Saturday’s event in Spandau was lawful and that a ban was not appropriate. And so the rally went forward, the marchers equipped not with flaming torches but with cryptic signs and **New Balance** shoes. (When I asked a group of marchers lounging on a nearby bench why every single one of them had donned a pair, they looked at each another, smirked, and said they just really liked playing tennis.) I also saw runic letters, another neo-Nazi obsession, on the back of a hoodie and on the sleeves of matching T-shirts. One man carried a Norwegian flag with the cross in the middle colored black instead of blue; neo-Nazis idolize Nordic peoples and heritage, viewing them as members of a pure Aryan race. The only swastika I saw the entire day was emblazoned on a green and white banner held aloft by counterprotesters that read, “Nazis? No, thank you.” The logo showed a swastika disappearing into a trash can.

To many Americans, legal restrictions on hate speech may seem anathema to democracy. Since the white nationalist rally in Charlottesville, Virginia, stunned the world with its violence and overt Nazi imagery, debate has raged in the United States over whether or not hate speech should be subject to the full protection of the First Amendment of the U.S. Constitution. Republicans have denounced calls from left-wing activists to restrict hate speech as illiberal and authoritarian.

But the U.S. interpretation of free speech, which allows virtually all forms of hate speech with almost no restrictions, is actually a “big exception” among liberal democracies, according to Erik Bleich, a professor of political science at Middlebury College in Vermont whose work focuses on liberal democracy and free speech. “A number of countries outlawed Nazi symbols right after World War II — Germany, Austria, Italy, and many Eastern European countries,” Bleich said. “A wide number of other countries have provisions against Holocaust denial, and even more have provisions against incitement to racial hatred.”

“Germany has a much more active stance in combating extremism than the United States,” Bleich continued. The country “empowers itself to take steps to limit speech and groups that are seen to be a threat to democracy, even if more of a potential threat than an immediate threat.” The prohibition applies not just to Nazi symbols but also to “symbols of all parties and groups deemed a threat to the constitution,” according to Thomas Greven, a professor of political science at Freie Universität Berlin, including the German Communist Party and the Islamic State.

Germans have paid close attention to the events in Charlottesville and the ensuing debate that has engulfed American society in the past week. Photos of white men carrying torches and making the Nazi salute, as well as of the deadly violence that followed, made the front page in newspapers across the country.

But the debate over whether or not to limit hate speech doesn't resonate here. Numerous Germans I've spoken to, from Berlin to Spandau to Hamburg, shake their heads almost in confusion at the American reluctance to penalize white supremacists for shouting “Jews will not replace us.”

Matthias Jahn, a professor of criminal law at Goethe University in Frankfurt, told me that the concept of balance was key to understanding the German view on the role of freedom of speech in a democracy. “It's not a question of ‘no freedom for the enemies of freedom’ like some 200 years ago,” Jahn said, referring to the radical ideology that led to the reign of terror during the French Revolution. “It's all a question of balancing in a democratic society.”

But for all these careful restrictions, it remains hotly contested among political scientists whether or not restrictions actually prevent the spread of extremist ideas. To my American eyes, the symbols on Saturday appeared cryptic; any German onlooker would have quickly realized that this was a neo-Nazi march. It's by no means clear that replacing swastikas with discolored Norwegian flags actually does anything to cripple the underlying ideology.

“Measuring the effectiveness of any of these policies is very difficult,” Bleich said.

One common argument against restricting hate speech is that it would result in a backlash, causing affected groups to swell in anger and numbers, ultimately defeating the original purpose of the prohibitions. It's a plausible theory — but whether Germany offers evidence for it is unclear. In the far-right resurgence that has swept across the Atlantic in the past two years — seeing wins or near-wins in the United States, Hungary, France, Britain, Austria, and the Netherlands — Germany's newest far-right party, Alternative for Germany, is polling in the single digits ahead of the federal elections next month.

On the other hand, Germany is home to tens of thousands of right-wing and left-wing extremists who commit thousands of politically motivated (mostly nonviolent) crimes every year. In 2015, the number of right-wing extremists rose for the first time in years, and the number of violent right-wing extremist crimes rose dramatically as well, according to the Germany's Annual Report on the Protection of the Constitution. These numbers leveled off in 2016.

Bleich believes that education is likely a more effective route for countering extremism but that legal prohibitions, at the very least, do serve to marginalize extreme ideologies. “My own view is that they often play a role in tamping down extremism — or at least signaling its unacceptability — in the general public,” he said.

Germany doesn't have a First Amendment per se, though the German Federal Constitutional Court cited former U.S. Supreme Court Justice Benjamin Cardozo in one of its core decisions on the freedom of speech from 1958, proclaiming this freedom the "indispensable condition of nearly every other form of freedom," according to Jahn's description. At the same time, the court, drawing on the text of the Grundgesetz, the postwar German constitution, allows laws specifically targeting Nazi speech and ideology, such as in Wunsiedel decision in 2009, which upheld prohibitions against Nazi gatherings in Bavaria.

In the United States, a common argument against limitations on hate speech is that they could easily be used against vulnerable minorities and religious groups. Jahn said these concerns exist in Germany as well, but the speech restrictions stand "behind the overall conviction that a climate that would allow hate against minorities would be a bad exchange." It's again the concept of balance in a democracy — how to preserve freedoms while crippling those who would abuse them.

Germans, in any case, know how to deal with the neo-Nazis in their midst. Huge crowds of counterprotesters gathered in different locations along the route of the planned march. Political parties, unions, left-wing groups, churches, and other community organizations had all mobilized against the neo-Nazi rally, and as the march began, even onlookers joined in deafening chants of "Nazis out! Nazis out!"

As the hundreds of neo-Nazis remained silent, one counterprotester blasted anti-Nazi ditties from a speaker high up in an apartment building and hung a sign from the balcony.

"No one needs Nazis," it read.

Image credit: TOBIAS SCHWARZ/AFP/Getty Images

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# Berliners Gather at Brandenburg Gate to Denounce Charlottesville Nazis

Crowds chanted "Nazi scum go away" and collected donations for victims of the violence.

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BY **BETHANY ALLEN-EBRAHIMIAN**

AUGUST 16, 2017

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BERLIN — Hundreds of protesters gathered at Berlin's iconic Brandenburg Gate Wednesday to denounce white supremacy and express support for victims of the recent violence in Charlottesville, Virginia.

More than a dozen German and international groups attended the rally, with speeches in English and German. The crowd chanted "Nazi scum go away," and volunteers collected donations for the victims of Charlottesville. Attendees later turned to face the U.S. embassy and shouted, "Hey Trump, we see you, your daddy was a racist too."

Protesters held signs that read "Black Lives Matter" and had U.S. President Donald Trump's name crossed out.



A white supremacist march on the evening of Aug. 11 in the Virginia college town featured a crowd composed of white men wielding torches and shouting overtly racist slogans such as “Jews will not replace us.” The next day, hundreds of members of assorted far-right groups, including the Ku Klux Klan, neo-Nazis, and white nationalists, clashed with counter-protesters.

But the day took an even darker turn when a man purposely crashed his car into a crowd of counter-protesters, killing one and wounding at least 19, in what U.S. Attorney General Jeff Sessions referred to as “domestic terrorism.”

Trump did not immediately denounce the overtly racist incident, referring instead to violence committed “on many sides.” He only explicitly condemned neo-Nazis and white supremacists on Monday after coming under heavy criticism.

The president then walked back that condemnation at a press conference on Tuesday, stating that there were “very fine people on both sides” and referred to the counter-protesters as “very, very violent.” The statements sparked widespread outrage, even among some in the Republican Party — but found support on the far-right. After the press conference, David Duke, former Imperial Wizard of the Ku Klux Klan, tweeted out his thanks to Trump for his “honesty & courage to tell the truth about #Charlottesville.”

The rise of neo-Nazis in the United States has shocked many in Germany, where Nazi symbols and salutes are illegal. This week, photos of white men holding torches and the aftermath of the violence made the front page of German newspapers — many of which are headquartered in Berlin just blocks away from the Jewish Museum and the Topography of Terror, both reminders of the horrors the Nazis inflicted in Germany and across Europe during World War II.

Germany has battled a far-right resurgence of its own. The eurosceptic nationalist party Alternative for Germany (AfD) surged in the polls earlier this year, achieving double-digit support amid its anti-Muslim rhetoric and calls for reduced immigration, but has since fallen into the single digits ahead of the federal elections next month.

The rally in Berlin, organized by several groups, including The Coalition Berlin, Jewish Antifa Berlin, and a left-wing German political party known as The Left, frequently emphasized the transborder nature of racism and the far-right parties that have advanced across Europe and the United States in the past few years.

One German-language sign held aloft by protesters read, “Germany, you have a racism problem.”

“This is not an American problem, this is a worldwide problem,” said Kathleen Brown, a member of the organizing group The Coalition Berlin, at the Wednesday rally.

The Brandenburg Gate, where the rally took place, was the site of President Ronald Reagan’s famous 1987 speech, in which he declared, “Mr. Gorbachev, tear down this wall.” The Berlin wall, which had divided the city for decades, fell two years later, marking the end of the Cold War.

GREGOR FISCHER/AFP/Getty Images

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