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To cite this article: Florian Schmaltz (2022): Brain research on Nazi “ethanasia” victims: Legal conflicts surrounding Scientology’s instrumentalization of the Kaiser Wilhelm Society’s history against the Max Planck Society, Journal of the History of the Neurosciences, DOI: [10.1080/0964704X.2021.2019553](https://doi.org/10.1080/0964704X.2021.2019553)

To link to this article: <https://doi.org/10.1080/0964704X.2021.2019553>



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Published online: 08 Feb 2022.



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Brain research on Nazi “euthanasia” victims: Legal conflicts surrounding Scientology’s instrumentalization of the Kaiser Wilhelm Society’s history against the Max Planck Society

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ABSTRACT

In 1985, historian Götz Aly published an article showing that the director of the Kaiser Wilhelm Institute for Brain Research, neuropathologist Julius Hallervorden (1882–1965), had acquired brains of Nazi “euthanasia” victims and brain specimens of at least 33 children gassed at the Brandenburg killing center on October 28, 1940, which were still kept by the Max Planck Institute for Brain Research. Aly criticized that the Max Planck Society had suppressed articles by journalist Hermann Brendel in the 1970s claiming that institutes of the Kaiser Wilhelm Society had conducted brain research within the framework of “euthanasia.” New sources show that these articles, which were the subject of a lawsuit, were published in a newspaper called *Freiheit* run by the German branch of Scientology, of which Brendel was editor-in-chief. The articles were part of Scientology’s antipsychiatry campaign. They mixed historical facts about racial hygiene and “euthanasia” in Nazi Germany with ludicrous and unfounded accusations alleging that violent, racist, and dehumanizing research methods typical in Nazi research were still carried out at the Max Planck Institute for Psychiatry. The legal conflict between the Max-Planck-Gesellschaft (MPG) and Scientology about the role of brain researchers in the Nazi era is analyzed here through combining perspectives from the history of neuroscience and socio-legal history. In contrast to trials of Nazi war crimes against “euthanasia” perpetrators, the civil law case of the MPG against Scientology from 1972 until 1975 instead concerned the instrumentalization of the Nazi past of psychiatry and brain research for ideological and commercial motives. The Scientology case caused social and legal ripples, and its after effects extended to 1986, when the MPG considered taking legal steps against Aly’s publication.

KEYWORDS

Julius Hallervorden; Kaiser Wilhelm Institute for Brain Research; Kaiser Wilhelm Institute for Psychiatry; Max Planck Gesellschaft; Nazi “euthanasia”; Nazi Germany; psychiatry; Ernst Rüdin; Scientology

Max Planck Society responds defensively to historical research about the Nazi past of the Kaiser Wilhelm Society

In 1985, West German historian and journalist Götz Aly published a path-breaking article containing new findings concerning the involvement of the Kaiser Wilhelm Institute for Brain Research (KWIBR) in Berlin-Buch in Nazi crimes (Aly 1985). Neuropathologist Julius Hallervorden (1882–1965), director of the KWIBR since 1938, had received hundreds of

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brains from victims of Nazi “euthanasia,” on which he did active neuropathological research. He collaborated with Hans Heinze (1895–1983), a psychiatry and neurology specialist who headed the children’s ward at the Landesanstalt Brandenburg-Görden.

When Hallervorden became head of the Department of Neuropathology at the KWIBR in January 1938, he remained a prosector (adjunct pathologist) in the pathology department of Potsdam’s *Brandenburgische Psychiatrische Landesanstalten*. Presumably in December 1939, six kilometers east of the “asylum” in Brandenburg city center, the former penitentiary *Zuchthaus Brandenburg* was turned into a Nazi “euthanasia” killing center. To conceal this, it was named *Landes-Pflegeanstalt Brandenburg* (Brandenburg an der Havel State Welfare Institute) and guarded by members of the SS wearing police uniforms. A gas chamber was installed in a shed-like annex located next to the wing of the former penitentiary, and it went into operation in early January 1940 (Ley and Hinz-Wessels 2012, 18–23). Hallervorden’s brain collection was later evacuated with the KWIBR to Dillenburg, Hesse, in May of 1944, and survived the war before being relocated to the successor institute—the Max Planck Institute for Brain Research (MPIBR) in Gießen—which was reestablished in February 1950.¹ In 1962, the collection moved to Frankfurt/Main, where the MPIBR shared a new building with the Edinger Institute of Goethe University (Henning and Kazemi 2016, 654, 660; Topp and Peiffer 2007, 564–65, 578–79).

Hallervorden’s collection remained largely unknown for many decades. This article starts with an in-depth examination of the difficulties Aly faced when he requested access to Hallervorden’s records. The fact that Hallervorden had collected hundreds of brains of “euthanasia” victims for research purposes was documented for the first time during Allied investigations into Nazi war crimes by the Austrian-American psychiatrist and neurologist Leo Alexander (1905–1985).² In his capacity as medical advisor to the Chief of the U.S. Counsel for War Crimes, Telford Taylor (1908–1998), he evaluated captured German documents and interrogated leading scientists, including Hallervorden. His findings were compiled in several comprehensive intelligence reports used by the prosecution in the Nuremberg Doctors’ Trial of 1946–1947. During his investigations, Alexander documented Hallervorden’s crucial statement during a conversation in Dillenburg, on June 14, 1945, in which he confirmed that he had “obtained 500 brains from the killing centers for the insane” with carbon monoxide. He admitted having initiated this collaboration. When he had heard what was going on, he told the Nazis, “Look here now, boys, if you are going to kill all these people, at least take the brains out so that the material could be utilized.” He claimed he could examine an unlimited number delivered by the *Gemeinnützige Krankentransport Gesellschaft* (the Public Ambulance Society). As Alexander noted, Hallervorden confirmed, “There was wonderful material among those brains, beautiful mental defectives, malformations and early infantile disease. I accepted these brains of course. Where they came from and how they came to me was really none of my business.” (Alexander 1945, 20)

Forty years later, in 1985, Aly confirmed Alexander’s report that the brains of hundreds of murdered children from Brandenburg had been used for research, and he also identified 33 children gassed at the Brandenburg “euthanasia” killing center whose brains entered the

¹See also the article by Frank W. Stahnisch in this special issue.

²Diary of Leo Alexander, Nuremberg Document L-170 = RF 1427, pp. 177–78. On this key quotation, see also Schmidt (2004, 98), Schmuhl (2000, 6), and Peiffer (1997, 44).

KWIBR's brain collection. To prove which brains had been used in Hallervorden's neuropathology research, Aly analyzed the dissection protocols stored in the registry of the MPIBR at Frankfurt/Main.

A crucial step in the implementation of Nazi "euthanasia" was the appointment of the advisory group Reich Committee for the Scientific Registration of Serious Hereditary and Congenital Illnesses (*Reichsausschuß zur wissenschaftlichen Erfassung von erb- und anlagebedingter schwerer Leiden*) by Hitler's Chancellery in the summer of 1939. The *Reichsausschuß* started to systematically register births and children with disabilities and, from 1940 onward, established a centralized bureaucracy run by Hitler's Chancellery to organize the mass murder of adult psychiatric patients. To carry out the killing of patients and children with disabilities in the German Reich and in annexed Austria, gas chambers were put into operation in six extermination centers in existing psychiatric hospitals and "asylums" at Grafeneck, Hartheim near Linz, Sonnenstein in Pirna, Bernburg, Hadamar, and at the former prison in Brandenburg, and mobile gas vans were used in occupied Poland (Aly 1987a, 2013; Dörner 1967; Friedlander 1995; Hinz-Wessels et al. 2005; Kaiser, Nowak, and Schwartz 1992; Klee 2010; Reicherdt 2010).

While Götz Aly was conducting research for a study about the history of the *Reichsausschuß* in 1982, he learned in a conversation with the administrative director of the MPIBR Gerhard Kolb that the papers and collections of Hallervorden and Spatz were preserved in the Institute. In a letter to the Federal Archives of Germany, Aly suggested in December 1982 that the archives should obtain and store Hallervorden's records for "political, moral and also legal reasons."³ In January 1983, Federal Archives president Hans Booms (1924–2007) informed MPG president Reimar Lüst (1923–2020) about Aly's letter, recommending the records to be transferred from Frankfurt to the MPG Archives in West Berlin.⁴

In early 1983, the MPG Archives informed Aly that some of the KWIBR files had been destroyed, but personal records might still be kept by the headquarters of the MPG. On February 15, 1983, he therefore wrote a letter to the MPG headquarters in Munich asking for permission to access those records.⁵ The MPG headquarters answered Aly, saying that Hallervorden's pre-1945 personnel file had been destroyed during air raids, was therefore incomplete and contained no mention of the *Reichsausschuß*. They also said they did not provide access to personnel files as "a matter of principle."⁶

Also on February 15, 1983, Aly sent another letter to the neuroscientist and managing director of the MPIBR, Wolf Singer (b. 1943), seeking permission to access the records of the KWIBR and Hallervorden's brain collection to identify "euthanasia" victims and further investigate the personnel, scientific, and institutional links between the KWIBR and Nazi Germany's "euthanasia" killing centers.⁷ Although Singer was willing to provide access to the records and collections for scientific purposes, the MPG headquarters and the Archives

³Aly to Oldenhager (Bundesarchiv), December 15, 1982, Archives of the Max Planck Gesellschaft (AMPG), III. Abt., ZA 219 (Wolf Singer papers), No. 40.

⁴Booms to Lüst, January 27, 1983, AMPG, III. Abt., ZA 219, No. 40.

⁵Aly (FU Berlin) to MPG, February 15, 1983, AMPG III. Abt., ZA 219, No. 40.

⁶Beyer (MPG) to Aly, March 3, 1983, AMPG III. Abt., ZA 219, No. 40.

⁷Aly to Singer, February 15, 1983, AMPG III. Abt., ZA 219, No. 40.

responded reluctantly. Aly's request was debated at a meeting of the archive's advisory board on March 16, 1983. The MPG Archives refused to accept the patient files from MPIBR, arguing that the records and the brain collection should not be separated.⁸

A week later, Aly wrote to Singer suggesting that Hessian Data Protection Officer Spiros Simitis (b. 1934) be involved in the event that he or the MPG had any concerns regarding accessibility to Hallervorden's patient records for research purposes. Aly argued that the strict data protection laws applied to regular patient histories with mutual trust between patients and physicians but not for patients killed in the Nazi euthanasia program in which, by definition, this relationship had been "violated, abused and destroyed."⁹

On March 1983, Marion Kazemi, deputy director of the MPG Archive, visited the MPIBR at Frankfurt to examine Hallervorden's files. She concluded that there was "no evidence of killing or of 'cases' being ordered," but only references in medical reports to the "poor general condition of the patients" and to "malnutrition." She had been informed that the collection was "still used, although not frequently."¹⁰

While Singer wanted the Hessian Data Protection Commissioner to evaluate whether the files were subject to data protection, the MPG General Administration consulted its own data protection commissioner.¹¹ In May 1983, Gerhard Kalb, from the MPG headquarters' legal department, informed Aly that access to patient files was not permitted, as they contained sensitive medical information, which was subject to professional secrecy (German Penal Code § 203) and the legal protection of personal patient rights.¹²

When his request was declined, Aly again asked the Federal Archives of Germany for advice. Archivist Heinz Boberach (1929–2008) then asked the MPG for information concerning the conditions under which access to the files would be permissible.¹³ The MPG's legal department answered in July 1983 that, even in anonymous form, patient files could only be used for medical purposes.¹⁴

The Hessian Data Protection Commissioner Simitis had informed Singer in the meantime that he saw nothing that might object to Aly examining the records.¹⁵ Finally, in April 1984, a detailed legal opinion provided by the Hessian Data Protection Office led to a decision. The MPG legal department was informed that protecting personal rights had to be weighed against the freedom of science and research provided for in the Basic Law: "If the files had been in a state archive or in the Federal Archives, they could be accessed today in accordance with the applicable regulations."¹⁶

According to his legal opinion, access to the files was admissible for a historical clarification, which "cannot impair the human dignity of its victims," but rather "prevents collective repression and, by working through the National Socialist past, it first and foremost

⁸*Ergebnisprotokoll der 6. Beiratssitzung von Bibliothek und Archiv*, March 16, 1983, p. 6, AMPG, II. Abt., Rep. 71, No. 79, p. 85.

⁹Aly to Singer, March 21, 1983, AMPG III. Abt., ZA 219, No. 40.

¹⁰Kazemi: memo on the meeting with Prof. Singer and Prof. Thomas (Edinger-Institut) on March 24, 1983, AMPG, II. Abt., Rep. 71, No. 79, pp. 83–84.

¹¹Kazemi: memo on the meeting with Prof. Singer and Prof. Thomas (Edinger-Institut) on March 24, 1983, AMPG, II. Abt., Rep. 71, No. 79, pp. 83–84; Kazemi to Marsch, March 29, 1983, AMPG, II. Abt., Rep. 71, No. 79, p. 82.

¹²Kalb to Aly, May 24, 1983, AMPG, II. Abt., Rep. 1, No. 411. See also Aly (2015, 208–09).

¹³Boberach (Bundesarchiv) to Kalb, June 23, 1983, AMPG, II. Abt., Rep. 71, No. 79, p. 78.

¹⁴Kalb to Boberach, July 14, 1983, AMPG, II. Abt., Rep. 71, No. 79, p. 76.

¹⁵Simitis to Singer, August 4, 1983, AMPG III. Abt., ZA 219, No. 40; Kalb to Preiß (AL II), July 4, 1984, AMPG, II. Abt., Rep. 71, No. 79, p. 108. In August 1983, Simitis asked Singer to explain his point of view to his collaborator Eckart Hohmann (b. 1946), who was instructed to write a statement on behalf of the Hessian Data Protection Commissioner's office. Simitis to Singer, August 4, 1983, AMPG III. Abt., ZA 219, No. 40, p. 269.

¹⁶Hohmann to Kalb, April 9, 1984, AMPG, II. Abt., Rep. 71, No. 79, p. 72. See also Aly (2015, 209).

establishes dignity for the mentally ill.”¹⁷ Since the physical destruction of the patients was planned from the beginning, a “relationship of trust between doctor and patient, which is constitutive for medical confidentiality, has not or has only partially been fulfilled in the cases of euthanasia,” the Data Protection Commissioner argued. Therefore, “under the condition of strictest confidentiality concerning personal data, a qualitative analysis of the files” would be permissible. As MPIBR physicians had been permitted access, “a refusal to allow Dr. Aly as a political scientist to evaluate the files would be arbitrary and unlawful.”¹⁸ The MPG gave way and changed its policy following the Data Protection Officer’s intervention, being aware that a “continued refusal to allow access would have strengthened the suspicion that the MPG wanted to conceal material on euthanasia because it could be linked in some way to KWG.”¹⁹

Consequently, the MPG asked the Hessian Data Protection Officer to inform Aly that the MPG would grant access by a contractual arrangement guaranteeing that patients’ personal data would be protected.²⁰ In May 1984, after more than two years of negotiations, Aly finally accessed and examined the patient files at the MPIBR (Aly 2013, 130–31; Weindling 2012, 237–38).

Another important source, Aly wrote in his article, was the interrogation of Heinrich Bunke (1914–2001), a “euthanasia” doctor who participated in the Brandenburg killings and confirmed Hallervorden’s involvement in the pathological dissection of children’s bodies (Aly 1985, 68–69). Aly was thus able to reveal that Hallervorden had actively participated in dissecting children’s corpses after they had been gassed at the killing center in Brandenburg. This went beyond what Hallervorden had admitted in his conversation with Alexander in 1945.

Aly also revealed that Hallervorden’s collection of victims’ brains was still at the MPIBR, and he demanded that these no longer be exploited for research and that the collection be “destroyed.” Concerning the MPG’s handling of its Nazi past, Aly pointed out that, in the 1970s, the president of the society had suppressed articles claiming that institutes of the Kaiser Wilhelm Society had conducted brain research within the context of “euthanasia”: “Still in 1974, the Max Planck Society, represented by Professor Adolf Butenandt, had a Munich journalist banned from asserting that institutes of the Kaiser Wilhelm Society had conducted brain research within the framework of ‘euthanasia.’ It [the MPG] felt ‘offended’ by this assertion.”²¹

In later publications, Aly also referred to a judgment by the Bavarian Higher Regional Court (Az. 30 0 106/73 LG Mü. I) against journalist Hermann Brendel (Aly 2013, 137, 315, fn. 202; 1987b, 71, fn. 182; 1985, 78, fn. 182). However, neither Aly nor other scholars who mentioned this judgment provided any contextual information about the journalist, the newspaper, or the judgment (Topp 2013, 262; see further in Peiffer 2005, 10). Did the Nobel laureate and MPG president Adolf Butenandt (1903–1995) suppress publications concerning brain research with patient specimens from the Nazi euthanasiaprogram? Who was the journalist the MPG had targeted with an injunction from the *Landgericht München* (District Court Munich)? And what, precisely, were the respective publications about?

¹⁷Hohmann to Kalb, April 9, 1984, AMPG, II. Abt., Rep. 71, No. 79, p. 73.

¹⁸Hohmann to Kalb, April 9, 1984, AMPG, II. Abt., Rep. 71, No. 79, p. 73.

¹⁹Kalb to Legal Department, July 4, 1984, AMPG, II. Abt., Rep. 71, No. 79, p. 107.

²⁰Kalb to Hohmann, April 12, 1984, AMPG, II. Abt., Rep. 71, No. 79, pp. 113–114.

²¹Aly (1985, 71). In 2013, Aly slightly changed the wording and dated the action for an injunction initiated by Butenandt to 1973 (Aly 2013, 137).

This article will analyze these questions for the first time and show that the journalist in question had a very different motivation than Aly. Whereas the latter wanted to critically investigate the Nazi past of a renowned scientific institution and how its brain researchers took advantage of the Nazi extermination policy by using the brains and specimens from euthanasia victims for research, new-found sources show that the journalist, Hermann Brendel (b. 1950), was indeed the editor-in-chief of *Freiheit*, published in Munich by the German branch of Scientology since 1972. Its first issue in August 1972 published several anonymous articles leading to the aforementioned lawsuit between the MPG and Scientology.²²

Scientology and antipsychiatric belief systems and campaigns

The incriminating articles marked the beginning of a longer campaign by Scientologists against the Max Planck Institute for Psychiatry (MPIP), in which Nazi medical war crimes were instrumentalized to delegitimize current psychiatric treatments as a violation of human rights and as criminal in general. Scientology's founder, L. Ron Hubbard (1911–1986), and his followers aimed to replace psychiatric treatments with their so-called “auditing” process. Scientology advertises its auditing methods as the only treatments with the potential to cure psychological problems and disorders. Using interrogating techniques and “E-meters”—primitive forms of polygraphs that measure electric skin resistance—Scientology auditors confront their test persons or patients with traumatic events in order to identify “engrams” and “clear” them (Harley and Kieffer 2009; Thomas 2019; Whitehead 1975).

However, the theories and practices of Scientology are not based on empirical research or on proof gained from experiments (Fox, Davis, and Lebovits 1959). In 1971, a court ruling forced Scientology to include disclaimers in E-meters warning that it is “forbidden by law to represent that there is any medical or scientific basis for believing or asserting that the device is useful in the diagnosis, treatment, or prevention of any disease.”²³

In the international social and political context of movements demanding psychiatric reforms and the Psychiatry *Enquête* of the German Parliament (1971–1975), Scientology sought to ride the wave of antipsychiatric social movements that developed from the 1960s onward, following the fundamental criticism of concepts of mental disorders, medicalization, coercive treatments, and mental institutions (Cooper 1967; Laing 1960). Antipsychiatric campaigns were used to recruit new paying clientele for Scientology's auditing courses (Harley and Kieffer 2009, 191).

In 1969, the Scientology-affiliated organization Citizen Commission on Human Rights (CCHR) was established in the United States with support of psychoanalyst Thomas Szasz (1920–2012), who denounced mental disorders as a “myth” (Szasz 1961). In 1973, Scientology founded the German branch of its Commission for Violations of Psychiatry against Human Rights (*Kommission für Verstöße der Psychiatrie gegen Menschenrechte e.V.*, KVPM; see Charet 2017). Scientology initiated campaigns through CCHR and KVPM to

²²See the articles, “*Wir sind jung—wir wagen nicht zu vergessen*,” in *Freiheit*, No. 1, August 1972 (Anonymous 1972a) and “*Höchste Zeit, daß sich etwas ändert. Erster entsetzender Bericht der Kommission für Menschenrechte*,” in *Freiheit*, August 1972, No. 1, p. 3. (Anonymous 1972b).

²³United States of America v. Founding Church of Scientology et al., 333 F. Supp. 357 (D.D.C. 1971). No. D.C. 1–63, 365 and (Urban 2013, 63, see also pp. 49–51, 62–63, 106–07).

systematically delegitimize institutional psychiatry and neurology as harmful and violent to patients. Psychiatry was attacked as unscientific, as a form of torture, as criminal, and as fascistic (Citizens Commission on Human Rights International 2006). In Germany, the Nazi past of psychiatric institutions played a key role in the antipsychiatric campaigns of Scientology and continue to do so.²⁴

In the 1970s, Scientology expanded internationally and founded so-called “franchises” (later termed “missions” from 1981) in Europe. West Germany’s first Scientology franchise was established in Munich in 1970. To advocate Scientology’s methods as the only effective cure for psychological problems, the organization not only attacked the legitimacy of psychiatry as an institution and practice but also instrumentalized German psychiatry’s Nazi past for this purpose. The Munich branch of Scientology launched a campaign against the MPIP in 1972, in which the Nazi past of the Kaiser Wilhelm Institute for Psychiatry (KWIP) and the former KWIBR in Berlin-Buch played a key role. Before the campaign kicked off, Scientology’s activities had experienced a setback in Munich due to an article in the local newspaper *Abendzeitung* on July 17, 1972. The author criticized Scientology’s approach as a “business of fear” conducted by “clever managers of an American sect” to gain “hard capital.” The *Abendzeitung* had also interviewed David Mantell, an MPIP researcher who criticized Scientology as a “charlatan organization” that used “modern, hard management methods” to promote “unverifiable doctrines of salvation” (Mysliewicz 1972).

The first edition of the Scientology newspaper *Freiheit* in August 1972 made severe allegations against the KWIP and the MPIP. The authors claimed that the director of the KWIP, Ernst Rüdin (1874–1952), had continued the tradition of racial hygiene established by physician Alfred Ploetz (1860–1940) in Munich by conducting psychiatric experiments: “One of those was a five-year experiment with microscopic investigations of brain smears from fresh infant corpses from the Haar mental asylum [*Nervenheilanstalt*]. The death certificates of those children stated pneumonia as the cause of death” (Anonymous 1972a, 1).

Scientologists claimed that “renowned scientists from the Kaiser Wilhelm Institute in Munich” had “gratefully accepted several hundred kilograms of fresh and bloody child brains” (Anonymous 1972a, 1). Following World War II, Scientologists said that the Kaiser Wilhelm Institute had changed its name to the Max Planck Institute, but a “Department for Psychiatry and Racial Hygiene” still existed and continued such “research” to the present day. As such, they stated that KWIP scientists had given support to the mass murder of the mentally ill in Nazi-occupied Poland:

In the occupied territories of Poland, 30,000 mentally ill people were slaughtered in the name of racial hygiene. Those atrocities were conducted by psychiatrists who received support from the Kaiser Wilhelm Institute (Psychiatric Department), which has been re-named as the Max Planck Institute in the meantime (but nevertheless still applies the same theories and methods). (Anonymous 1972a, 2)

²⁴In the mid-1990s, supported by Scientology and the KVMP, a book was published propounding a conspiracy theory that the actual driving forces responsible for Hitler coming to power in 1933 were psychiatrists (Röder and Kubillus 1994). An English translation was published a year later (Röder, Kubillus, and Burwell 1995).

The anonymous author of the article thereby linked historical atrocities against psychiatric patients in occupied Poland by the Nazis (Jaroszewski Z, and the Polskie Towarzystwo Psychiatryczne 1993) to the alleged support of psychiatrists from the KWIP, while also suggesting that such murderous science continued institutionally both in theory and in practice:

Psychiatry at the Max Planck Institute has not changed much since the days of human experiments and death camps under the leadership of the managing psychiatrist. Supplies of human genital organs that were torn from the abdomens of young girls in the local asylums have ended. The fresh and warm child brains from the psychiatric institutions on the verges of Munich do not arrive anymore. However, many of the psychiatric methods have remained, even though the names and faces of those responsible have changed. (Anonymous 1972b)

Although the Scientology newspaper had a rather low print run and was limited in its outreach, the allegations were amplified by critical reports in West Germany's political magazine *Der Spiegel* in August 1972 (Anonymous, 1972c).

A conflict about the Nazi past: The MPG takes legal action

In response to these allegations, the MPG and the then executive director of the MPIP, psychiatrist Gerd Peters (1906–1987),²⁵ filed a request for an immediate injunction at the *Landgericht* (District Court). The MPG lawyer submitted two testimonies objecting to the allegations published in the newspaper *Freiheit*. One statement was written by Edith Zerbin-Rüdin (1921–2015),²⁶ head of the research group of Psychiatric Genetics (formerly, the Department of Genealogy and Demography) at the Institute for Basic Research (*Theoretisches Institut*) at the MPIP; the other was submitted by managing director Peters himself.

Concerning the alleged psychiatric experiments at the KWIP and the involvement of Rüdin in Nazi racial hygiene (Count 1), Peters emphasized that racial hygienists Eugen Fischer (1874–1967) and the anthropologists Wilhelm Gieseler (1900–1976) and Emil Breitingner (1904–2004) had not been active in Munich. According to Peters, Rüdin did head the Department of Genealogy and Demography of the *Deutsche Forschungsanstalt für Psychiatrie*, but “psychiatric experiments have never been conducted in this

²⁵Gerd Peters studied medicine in 1926 and 1931 at Bonn and Berlin. His Ph.D. concerned the impact of x-rays on microorganisms. After working at clinics in Solingen and Ürdingen, the Pathological Institute in Bonn, and the Psychiatric and Neurological Clinic at Bonn, he completed his habilitation under neuropathologist Walter Spielmeyer at Munich University in 1938. Peters was in the SA from 1933 until 1936 and in the NSDAP from May 1937 (see Parteistatistische Erhebung 1939, BArch, R 9361-II, No. 798775). Between 1939 and 1943, he worked at the KWIBR. In 1943, he became head of the Neuropathological Department at the University of Freiburg. During World War II, Peters was *Stabsarzt* at the Institute of Aeromedical Pathology of the German Air Ministry at the University of Freiburg. From 1942 onward, he was delegated to the *Außenabteilung für Gehirnforschung* in Berlin-Buch of the Aeromedical Institute of the *Deutsche Versuchsanstalt für Luftfahrt*. There he investigated brains of animals that had died in hypothermia experiments (Büchner 1943, 91). After a short time as a POW, he worked at the Neurological Clinic of the University of Bonn, where he received the chair for neuropathology 1952. In 1956, he became director of the *Universitätsinstituts für Neuropathologie* and the *Rheinische Landesklinik für Hirnverletzte*. Between 1961 and 1974, he was director of the Neuropathological Department at the MPIP (Kreutzberg 1987; Klee 2005, 454–55; Schmuhl 2000, 37).]

²⁶Edith Zerbin-Rüdin studied medicine in 1941 and 1945 in Munich. From 1947 onward, she worked at the Department of Genealogy and Demography of the *Deutsche Forschungsanstalt*, later MPIP. Her Ph.D. (1950) concerned highly gifted high-school graduates. From October 1955 until April 1956, she attended the Galton Laboratory in London. She specialized in human genetics and schizophrenia and twin studies. In 1972, she habilitated and became an adjunct professor at the *Ludwig-Maximilians-Universität* in 1978. For a critical review of her schizophrenia research, see Köttgen (1987, 181–82). For a publication list, see AMPG, IX. Abt., Rep. 1, file Edith Zerbin-Rüdin.

department, in fact, only purely objective, strictly scientific research, completely unaffected by the ideology at the time.”²⁷ Rüdin’s daughter, Edith Zerbin-Rüdin, seconded this in her statement that, in Munich, “no Nazi racial experiments” had taken place, artificially reducing the term to medical-scientific laboratory experiments in order to distance racial-hygienic and genealogical research from its violent consequences in the Nazi regime, which implied forced sterilization and “euthanasia.”²⁸ She explained that her father was accused after the war but “after a thorough and lengthy” denazification process, he was “fully rehabilitated and categorized only as a ‘follower’ (*Mitläufer*) due to his party membership.”²⁹ She claimed:

He never had anything to do with euthanasia and protested fiercely when he unofficially learned about it. The government and party agencies responsible had not informed him, never mind asked him to collaborate, since they knew his attitude. Neither he, nor the Kaiser Wilhelm Institute (Deutsche Forschungsanstalt für Psychiatrie) led by him then participated in any euthanasia programs.³⁰

In his statement, Peters also emphasized that Rüdin had “fiercely protested against” Nazi euthanasia.³¹

But historical research has not identified any evidence for this claim. To the contrary, in December 1939 Rüdin declined to support an initiative by Hans Roemer (1878–1947), the director of the Illenau Asylum, protesting patient deportations. And in mid-1940, neurologist Karsten Jaspersen (1896–1968), director of the *Westfälische Diakonissenanstalt Sarepa*, failed to win over Rüdin for a protest note against the “euthanasia” killings (Schmuhl 2016, 318–19; Roelcke 2012, 307; 2000, 131–32; Klee 2010, 117–18, 185; with an apologetic interpretation: Weber 1993, 272).

Moreover, in October 1942, Rüdin sent a proposal to Reich Health Leader (*Reichsgesundheitsführer*) Leonardo Conti (1900–1945) for a research project to improve the definition of the criteria by “which children (infants)” could “clinically and in terms of their biological heredity” be “faultlessly characterized as inferior and worthy of being eliminated” for euthanasia in “their own interest and the interest of the German people.”³²

In debates about the reorganization of psychiatry in Nazi Germany, Rüdin and psychiatrists Carl Schneider (1891–1946) in Heidelberg, Max de Crinis (1889–1945) in Berlin, and Hans Heinze in Görden coauthored a memorandum in June 1943 concerning the future of psychiatry and the elimination of patients unfit for work, which they sent to Reich Health Leader Conti (Schmuhl 2016, 274–78; Roelcke 2000, 132–36; Weber 1993, 193; Schmuhl 1987, 267; Aly 1985, 42–48).³³

²⁷Statement by Gerd Peters, August 12, 1972, Historical Archives of the Max Planck Institute for Psychiatry (HA-MPIP), Papers of Detlev Ploog (DP) 187, p. 106.

²⁸Statement by Edith Zerbin-Rüdin, August 14, 1972, HA-MPIP, DP 187, p. 112.

²⁹Statement by Edith Zerbin-Rüdin, August 14, 1972, HA-MPIP, DP 187, p. 112.

³⁰Statement by Edith Zerbin-Rüdin, August 14, 1972, DP 187, p. 113.

³¹Statement by Gerd Peters, August 12, 1972, HA-MPIP, DP 187, p. 107.

³²Rüdin to Reichsgesundheitsführer, FAO Dr. Schütz, October 23, 1942, HA-MPIP, *Genealogisch-Demographische Abteilung* (GDA) 8; Ernst Rüdin (Munich), de Crinis (Berlin), Carl Schneider (Heidelberg), Hans Heinze (Görden), Paul Nitsche (Berlin): *Gedanken und Anregungen betr. Die künftige Entwicklung der Psychiatrie*, Bundesarchiv (BArch), R 96 I/9.

³³*Gedanken und Anregungen betr. Die künftige Entwicklung der Psychiatrie*, BArch, R 96 I/9.

In his statement, Peters called the alleged “five-year experiment” mentioned in *Freiheit* (Count 2) an “infamous untruth.” He denied that “microscopic examinations of brain smears from the fresh corpses of children” took place in the KWIP, because they “would not offer any possibilities for examinations.”³⁴ The KWIP had, in his view, nothing to do with the murder of children.³⁵

Peters denied that a Department for Racial Hygiene existed at the KWIP and the MPIP (count 3).³⁶ Zerbin-Rüdin confirmed this, explaining that a Department for Genealogy and Psychiatry existed at the KWIP, which was now the MPIP’s Department of Psychiatric Genetics.³⁷ Peters also refuted links between the killing of 30,000 mental patients in occupied Poland (Count 4) and the scientists of the *Deutsche Forschungsanstalt für Psychiatrie* in Munich. He considered the accusation in the Scientology newspaper that the “same theories and methods, i.e. also euthanasia, were still applied” at the MPIP (Count 5) to be a “severe insult to the institute in Munich and its scientists.”³⁸

Zerbin-Rüdin denied the KWIP had supported killings in Poland, emphasizing that the Institute’s “leading psychiatrist” at that time, Professor Kurt Schneider, was an acknowledged opponent of National Socialist and racial hygienist theories.³⁹ Zerbin-Rüdin also rightly denied in her statement that the KWIP had ever received “human genital organs” (Count 6), as it could not have done anything with them.⁴⁰ Concerning the accusation about insufficient medical examinations of patients (Count 7), Peters said that medical records could clarify everything as soon as patients’ names were given.⁴¹

On August 18, 1972, the *Landgericht* granted a preliminary injunction against Hermann Brendel, editor-in-chief of *Freiheit*, with the standard sanction of “a fine of an unlimited amount or imprisonment of up to 6 months” in the event the following statements were to be repeated:

- (1) that psychiatric experiments had been conducted at the Kaiser Wilhelm Institute in Munich under Professors Eugen Fischer and Giesler, Dr. Breitingner, and Professor Rüdin;
- (2) that a five-year experiment had been conducted at the Kaiser Wilhelm Institute with microscopic examinations of brain smears from the fresh bodies of children;
- (3) that at the Kaiser Wilhelm Institute or at the Max Planck Institute for Psychiatry a Department for Psychiatry and Racial Hygiene had existed or still existed;
- (4) that the Kaiser Wilhelm Institute assisted in killing 30,000 mentally ill patients in Poland;
- (5) that the Max Planck Institute for Psychiatry practiced the same methods today or still conducted psychiatric experiments today on patients of the Max Planck Institute for Psychiatry;
- (6) that the Kaiser Wilhelm Institute had received human genital organs; and
- (7) that the patients in the Department of Psychiatry at the Max Planck Institute did not receive a thorough medical examination.⁴²

³⁴Statement by Peters, August 12, 1972, HA-MPIP, DP 187, p. 107.

³⁵Statement by Peters, August 12, 1972, HA-MPIP, DP 187, p. 107. This was also attested by Zerbin-Rüdin, August 14, 1972, HA-MPIP, DP 187, p. 113.

³⁶Statement by Peters, August 12, 1972, HA-MPIP, DP 187, pp. 106–08.

³⁷Statement by Zerbin-Rüdin, August 14, 1972, HA-MPIP, DP 187, pp. 112–14.

³⁸Statement by Peters, August 12, 1972, HA-MPIP, DP 187, p. 107.

³⁹Statement by Edith Zerbin-Rüdin, August 14, 1972, HA-MPIP, DP 187, pp. 113–14.

⁴⁰Statement by Edith Zerbin-Rüdin, August 14, 1972, HA-MPIP, DP 187, p. 114.

⁴¹Statement by Gerd Peters, August 12, 1972, HA-MPIP, DP 187, p. 107.

⁴²*Landgericht München I*, 30. *Zivilkammer* (Az. 30 O 136/72): *Einstweilige Verfügung vom 18.8.1972 in Sachen MPG gegen Hermann Brendel*, HA-MPIP, DP 187, pp. 102–04.

Before the court could decide, the public prosecutor rejected MPG's attempt to file a complaint of "libel" against Brendel, because only individuals and not organizations could entertain complaints of this kind.⁴³

In September 1972, Scientology representatives informed Detlev Ploog (1920–2005), Peters's successor as executive director of the MPIP, about upcoming publications about psychiatry in Germany, while requesting an informal meeting with him. Ploog declined this wish, as he saw no reason to discuss further publications of untrue allegations.⁴⁴

In early October, *Freiheit* published another article and cited Hallervorden's statement about receiving 600 brains from "euthanasia" victims (Anonymous 1972d, 1). In the same issue, Scientologists printed in full the text of the court's preliminary injunction (Anonymous 1972e, 5). The *Abendzeitung* reported the story on October 13, 1972. Citing Stefan Füss, from MPG's legal department, the newspaper wrote that the MPG had obtained a court order against "rather disgraceful allegations" (*ziemlich infame Vorwürfe*) by Scientologists maintaining that, at the MPIP, "lives of humans were put at risk or shortened by experiments, patients lost their mind due to electric-shock treatments or they were turned into wrecks due to medical malpractice" (Mysliewicz 1972a).

Scientology's campaign against psychiatry and brain research continued, and a demonstration against "psychiatric methods" took place in Munich on November 29, 1972.⁴⁵ In April 1973, Scientology's lawyer filed a motion to have the injunction from August 1972 dismissed. He questioned whether legal entities such as the MPG could, on principle, be insulted at all.⁴⁶ Eight months after the preliminary injunction, Scientology's lawyer presented an objection along with exhibits to counter the statements of Peters and Zerbin-Rüdin.

Gathering and considering the evidence

This section analyzes the court proceedings in detail to show how the court evaluated the evidence presented. These were mainly contemporary publications from the Nazi period and some books by American authors, as archival documents were, to a large extent, not accessible. The matter of evidence was complicated, as critical publications and groundbreaking academic studies on Nazi "euthanasia" did not appear until the late 1970s.⁴⁷ The Scientologists' motion responded to the seven counts of the preliminary injunction of August 18, 1972. It argued that each of the statements that the court had barred from being repeated was true. In the event, Scientology was not successful on any of these issues, and the *Landgericht* granted a permanent injunction on August 6, 1973. In this section, the reasoning of Scientology's lawyer with regard to each count is analyzed, followed by the legal assessment of the court.

⁴³Grill to MPG, August 23, 1972, HA-MPIP, DP 187, p. 156.

⁴⁴Ploog circular letter to Ludwig von Manger-Koenig (Federal Ministry for Youth, Family and Health) et. al., September 27, 1972, HA-MPIP, DP 186, pp. 12–14.

⁴⁵Ed., *Demonstration gegen Methoden der Psychiatrie*, *Süddeutsche Zeitung*, November 29, 1972.

⁴⁶*Rechtsanwalt Ulrich Daum to Landgericht München I*, 30. Zivilkammer (Az: 30 O 136/72), April 12, 1973, HA-MPIP, DP 187, pp. 88–102.

⁴⁷For an early exemption, see Platen-Hallermund (1948), without archival references (Kaul 1973). For critical publications and academic studies from the late 1970s onward see, for example, Aly (1987a; Friedlander 1995; Kaiser, Nowak, and Schwartz 1992; Klee 1983; Nowak 1977; Schmuhl 1987).

With regard to Count 1, the lawyer attempted to substantiate the allegations concerning “psychiatric experiments.” He argued that psychiatry was a branch of medicine and could not abstain from experimental research. Citing from an extract from contemporary publications, the lawyer claimed that, under Rüdín’s directorship, the KWIP had “scientifically prepared many legislative measures in the field of public health and racial care” (*Rassenpflege*) and that departments of “Genealogy and Demography” and “Experimental Therapy” existed (Telschow 1940, 29).⁴⁸ Moreover, he claimed that Rüdín had been chairman of the *Deutsche Gesellschaft für Rassenhygiene* (Lehmann and Martin 1938, 187).⁴⁹

However, in its judgment of August 6, 1973, the court held that the “defendant had failed to show evidence” proving psychiatric experiments on human subjects in the field of “racial hygiene.” Moreover, the court determined that the article’s presentation of the term “psychiatric experiments” implied “experiments on humans of the type carried out under the Nazi regime which generally ‘risked or shortened the patients’ life’” (Anonymous 1972b).⁵⁰ However, the controversy regarding the correct name of the department obscured the fact that Rüdín had been a leading figure in promoting racial hygiene in Germany and had acted after 1933 as an expert consultant to the Nazi bureaucracy in implementing the Law for the Prevention of Genetically Diseased Offspring (Gütt, Rüdín, and Ruttke 1934), as historical studies have shown (Roelcke 2012, 2002; Weber 1993).

Concerning Count 2, on the alleged “five-year experiment,” the Scientology lawyer was only able to submit a short note from the book *The Final Judgment*, written by Victor H. Bernstein (1904–1992), a foreign correspondent at the Nuremberg Tribunal. The note read, “For five years, the Institute’s laboratory technicians in Munich were microscopically examining brain smears from children who had died in the nearby Asylum for the Insane at Harr-Eglfing” (i.e., Eglfing-Haar).⁵¹

All other sources the Scientology lawyer presented confused the KWIP in Munich with the KWIBR in Berlin-Buch. According to the French publication *Le massacre des aliénés*, Hallervorden was director of an annex of the “Kaiser-Wilhelm-Institute” in Dillenburg (Ternon and Helman 1971, 147). The lawyer then cited from Alexander Mitscherlich’s and Fred Mielke’s English edition of selected documents from the Nuremberg Doctors’ Trial, which was first published in German in 1947 on behalf of the Working Group of the West German Medical Associations. Mitscherlich and Mielke stated that Hallervorden “had no connection with the euthanasia proceedings” but “received at his own request 600 specimens of brain from the euthanasia stations,” which “were placed at his disposal . . . in batches of 150 to 250 at a time, by the ‘Limited Company for the Transport of Invalids in the Public Interest’” (Mitscherlich and Mielke 1962, 252).⁵²

Finally, the lawyer referred to a judgment by the Jury Court of the *Landgericht München I* from March 1951 against neurologist Hermann Pfannmüller (1886–1961), the former director of the *Heil- und Pflegeanstalt Eglfing-Haar*, responsible for selecting “euthanasia” victims as a T4 expert (*T4 Gutachter*): “The corpses of the murdered children were all

⁴⁸Daum to Landgericht München I, April 12, 1973, p. 5, HA-MPIP, DP 187, p. 92.

⁴⁹Daum to Landgericht München I, April 12, 1973, p. 5, HA-MPIP, DP 187, p. 92. Other sources on racial research in the Kaiser Wilhelm Society cited by Scientology’s lawyer did not refer to the KWIP, but to the Kaiser Wilhelm Institute for Anthropology, Human Heredity, and Eugenics in Berlin. For the history of this institute, see Schmuhl (2011).

⁵⁰*Landgericht München I: Urteil* (Az.30 O 106/73), August 6, 1973, HA-MPIP, DP 187, pp. 48–49.

⁵¹Bernstein (1947, 157), cited by Daum to Landgericht München I, April 12, 1973, pp. 5–6. HA-MPIP, DP 187, pp. 92–93.

⁵²The lawyer did not cite from the German edition of Mitscherlich and Mielke’s book but submitted this citation retranslated from the English edition into German.

dissected upon instruction of the defendant, the brains sent to a research institution [*Forschungsstelle*] in Berlin for the preparation of brain slices.”⁵³ In combination with the documents mentioned before, the lawyer concluded that the research institution had been the Kaiser Wilhelm Institute located in Berlin.⁵⁴

According to the court, however, the defendant had not provided “full proof of the truth” concerning the claim that a “five-year experiment” had taken place. The documents presented were only capable of proving that “Hallervorden had investigated brains of children,” but not that he “had received the fresh brains of maliciously murdered children in order to conduct microscopic investigations in a five-year experiment.”⁵⁵ The court ignored Alexander’s report containing Hallervorden’s admission that he had accepted the brains of child victims, which was introduced by the French prosecution to the International Military Tribunal against Major Nazi War Criminals in 1945 (International Military Tribunal 1947, 95). The court held neither the book excerpts nor Alexander’s report amounted to admissible evidence under the Code of Civil Procedure, as neither of them constituted documentary evidence under its rules.⁵⁶ The court also held that it was not bound by the 1951 judgment of the Criminal Court in Munich against Pfannmüller in the “euthanasia” case, as decisions of the criminal courts were generally not binding for the civil courts. The judgment from 1951 did not mention the KWIBR by name but referred to an anonymous “research institution in Berlin” that had received brains from “euthanasia” victims in order to produce brain tissues. It was therefore uncertain whether this institution was identical with the KWIBR.⁵⁷

As to Count 3, the alleged existence of a Department for Racial Hygiene at the KWIP and MPIP, the Scientology lawyer referred to the *Deutsches Biologen-Handbuch*, where such a department was allegedly mentioned.⁵⁸ He added that, in National Socialism, disciplines like genealogy and genetics would have been conducted mainly as racial hygiene. Rüdin had been head of the association *Deutsche Gesellschaft für Rassenhygiene*. The German *Führer-Lexikon 1934/1935* presented him as working in the areas of psychiatry, hereditary biology, and racial hygiene, and he had been heading the association *Deutscher Verband für psychiatrische Hygiene und Rassenhygiene*, commissioner of the Reich Ministry of the Interior in the *Deutsche Gesellschaft für Rassenhygiene*, and convener of the Ministry’s Working Committee on Racial Hygiene and Racial Policy. The Scientology lawyer therefore concluded that racial hygiene research had indeed been conducted in the KWIP and that “a department for psychiatry and racial hygiene existed,” even if the name of the department had been changed to “psychiatric genetics,” as the research would still cover “racial hygiene in the sense of the Third Reich’s terminology, today denominated as eugenics.”⁵⁹

⁵³Daum to Landgericht München I, April 12, 1973, p. 6, HA-MPIP, DP, No. 187, p. 93.

⁵⁴Daum to Landgericht München I, April 12, 1973, pp. 6–7, HA-MPIP, DP 187, p. 93–94. For the citation, see the edited judgment against Pfannmüller in Rüter-Ehlermann, Fuchs, and Rüter (1972, 288).

⁵⁵Landgericht München I: Urteil, August 6, 1973, HA-MPIP, DP 187, pp. 49–50.

⁵⁶The German judges argued that Alexander’s report did not reveal “how and for what motive it was produced” or “for what reasons” Hallervorden had made the “statements quoted” therein. *Landgericht München I: Urteil*, August 6, 1973, HA-MPIP, DP 187, p. 50.

⁵⁷Landgericht München I: Urteil, August 6, 1973, HA-MPIP, DP 187, pp. 50–51.

⁵⁸The *Deutsches Biologen Handbuch*, however, mentions an “Institute for Genealogy and Demography,” not a Department of Racial Hygiene. See Lehmann and Martin (1938, 41b).

⁵⁹Daum to Landgericht München I, April 12, 1973, HA-MPIP, DP 187, p. 95.

As opposed to this, the court, in its decision of August 1973, held that genetics and demography were “not identical with the unscientific concept ‘racial hygiene’ in the sense of the author’s terminology.”⁶⁰

Objecting to Count 4, the Scientology lawyer suggested that the article in *Freiheit* did not raise any allegations against the Kaiser Wilhelm Institute of having directly supported the killing of 30,000 patients in Poland. To establish *prima facie* evidence of KWI participation in euthanasia killings, the lawyer referred to an article by Leo Alexander accusing the director of the Kaiser Wilhelm Institute for Anthropology, Human Heredity, and Eugenics, Otmar von Verschuer (1906–1969), of having received a “collection of eyes from identical twins with heterochromatic iris” that “was traced from the Auschwitz concentration camp to the laboratory of the geneticist” in Berlin, “but the *corpora delicti* were never found” (Alexander 1950, 83).⁶¹

Referring to Max Weinreich’s book *Hitler’s Professors*, published in 1946, the lawyer continued that von Verschuer, as founder of the Institute for Hereditary Biology and Racial Hygiene (*Institut für Erbbiologie und Rassenhygiene*) of the University of Frankfurt, had employed Josef Mengele (1911–1979) as his assistant. Mengele went on to become SS-*Hauptsturmführer* and physician in the Auschwitz extermination camp (Weinreich 1946, 198). The lawyer erroneously assumed that von Verschuer had obtained the above-mentioned collection of eyes from Auschwitz.⁶² Other alleged links between the KWIP and “euthanasia” killings in occupied Poland remained vague.

None of this convinced the court. It decided that the arguments submitted did not provide evidence that it was true that the KWIP had been “involved in any way in the mass murder in Poland.”⁶³

In order to strike down Count 5, the Scientology lawyer attempted to substantiate that the MPIP had continued the same experimental methods on patients as the KWIP. He referred to several experimental departments using the Institute’s organizational chart. He claimed that, in an experiment by David Mantell at the Research Center for Psychopathology and Psychotherapy (*Forschungsstelle für Psychopathologie und Psychotherapie*), which had been institutionally separated from the MPIP since 1966, 101 human test subjects had been exposed to electric shocks on an “electric chair.”⁶⁴

As a matter of fact, this description was a misinterpretation of what had actually happened. The horrific image painted by the lawyer obscured the facts. Mantell’s experiment was a replication of the “Milgram experiment” conducted in 1963 by psychologist Stanley Milgram (1917–1984) at Yale University, in which the test subjects never received any real electric shocks.⁶⁵ This social psychology experiment showed that a majority of participants abused other participants once they had been ordered by an alleged authority to administer severe punishment in a learning experiment.⁶⁶ The Scientology lawyer was,

⁶⁰Landgericht München I: Urteil, August 6, 1973, HA-MPIP, DP 187, pp. 51–55.

⁶¹Daum to Landgericht München I, April 12, 1973, HA-MPIP, DP 187, p. 96.

⁶²Daum to Landgericht München I, April 12, 1973, HA-MPIP, DP 187, p. 96. In fact, research about heterochromatic eyes was conducted by Karin Magnussen at the Kaiser Wilhelm Institute for Anthropology, Human Heredity, and Eugenics. On the connections between von Verschuer, the institute, and Auschwitz, see Schmuhl (2011, 362–86), Massin (2003), Hesse (2001), and Sachse and Massin (2000).

⁶³Landgericht München I: Urteil, August 6, 1973, p. 20, HA-MPIP, DP 187, p. 52.

⁶⁴Daum to Landgericht München I, April 12, 1973, pp. 12–13, HA-MPIP, DP 187, pp. 98–99.

⁶⁵See Milgram (1974, 1963). For a historical perspective on the Milgram experiment, see Blass (2004 and Perry (2013).

⁶⁶The problem as to what extent the Milgram Experiment or the replication conducted at the MPIP exposed test persons to extreme psychological stress was reflected upon neither by the lawyers of the state prosecutor nor by the judges. For a critical review of the Milgram experiment, see Lemov (2005, 222–41)

however, aware of the fact that the electric shocks had been fake and none of the alleged “victims” was harmed. Yet he still defended the allegation that the methods were the “same as 30 years ago” during the Nazi era.⁶⁷

The court rejected this argument. It emphasized that no experiments were conducted at the MPIP on “incurable patients,” as the article in *Freiheit* had claimed. The court saw no connection between experiments during the Nazi era on the incurably sick “whose life generally was risked or shortened” and present-day experiments conducted at the MPIP.⁶⁸ The Scientologists had failed to offer any evidence that MPIP continued to apply “the same methods” as the former KWIP, as this claim referred to atrocities and the killing of 30,000 patients in Poland, the court added.⁶⁹

With regard to Count 6, concerning the accusation that genital organs from young girls had been delivered to the MPIP for experiments, the court similarly held that the lawyer had been unable to bring forward any evidence supporting this claim.⁷⁰

Finally, the accusation leading to Count 7—namely, that insufficiently thorough medical examinations had been carried out—the Scientology lawyer named a witness who had spoken to an employee of the MPIP.⁷¹ The court did this not regard as admissible because it was mere hearsay from a witness.⁷²

Having examined the totality of the evidence presented by the Scientology lawyer, the court saw no need to question the validity of the statements made by Peters and Zerbin-Rüdin or to gather further evidence. In its judgment of August 6, 1973, it prohibited the repetition of any of the seven allegations. The court thus confirmed the preliminary injunction of August 18, 1972, and barred Scientology from repeating the following accusations, while using more specific and precise wording:

- (1) that Ernst Rüdin and other psychiatrists had continued the work of Alfred Ploetz in racial hygiene and had been conducting “psychiatric experiments” at the Kaiser Wilhelm Institute;
- (2) that one of the five-year experiments had been conducted at the KWI for Psychiatry using “microscopic studies of brain smears taken from fresh child corpses” from the mental home at Eglfing-Haar and “renowned scientists from the Kaiser Wilhelm Institute in Munich had gratefully received several hundred kilograms of fresh and bloody brains from children murdered treacherously by psychiatric colleagues”;
- (3) that the Kaiser Wilhelm Institute had simply changed its name to Max Planck Institute, while a department of psychiatry and racial hygiene still existed there;
- (4) that psychiatrists who had received “support by the psychiatric department of the Kaiser Wilhelm Institute had committed atrocities, namely the slaughter of 30,000 mentally ill persons in the occupied territories of Poland in the name of racial hygiene”;
- (5) that the Kaiser Wilhelm Institute had been renamed the Max Planck Institute but continued to “apply the same methods as in the past,” including “experiments on incurably sick people”;
- (6) that the “Kaiser Wilhelm Institute had received human genital organs that had been torn from the abdomens of young girls in local mental homes”; and
- (7) that “patients in the psychiatric department of the Max Planck Institute had not received a thorough medical treatment.”⁷³

⁶⁷Daum to Landgericht München I, April 12, 1973, p. 23, HA-MPIP, DP 187, p. 99.

⁶⁸Landgericht München I: Urteil, August 6, 1973, p. 22, HA-MPIP, DP 187, p. 54.

⁶⁹Landgericht München I: Urteil, August 6, 1973, p. 22, HA-MPIP, DP 187, p. 55.

⁷⁰Landgericht München I: Urteil, August 6, 1973, p. 23, HA-MPIP, DP 187, p. 55.

⁷¹Daum to Landgericht München I, April 12, 1973, pp. 9–11. HA-MPIP, DP 187, pp. 95–97.

⁷²Landgericht München I: Urteil, August 6, 1973, p. 24, HA-MPIP, DP 187, p. 56.

⁷³Landgericht München: Urteil, August 6, 1973, HA-MPIP, DP 187, pp. 34–35.

In sum, the court held that it would be illegal to continue to claim or propagate the above-mentioned allegations, and if Scientology did not adhere to the injunction, the sanction would be a fine of an unspecified amount or a prison sentence of six months.⁷⁴

By August 1974, however, the legal conflict between Scientology and the MPG was not yet over, and the organization filed a new lawsuit in September.⁷⁵ Final closure came with an out-of-court settlement in April 1975, in which Scientology agreed not to repeat the statements and value judgments. In return, the MPG waived all rights and claims arising from the injunction and the final judgment and agreed to bear the costs for the lawyers' fees and half of the court fees. This settlement was still a success for the lawyers of the Max Plank Society, as the entire organization of Scientology (not just the editor Herman Brendel, who had since left Germany) was ordered under subpoena not to repeat the incriminating accusations.⁷⁶

Repercussions: From legal conflicts to historical debates about brain research in Nazi Germany

The legal conflict with Scientology had repercussions when Götz Aly's above-mentioned article was published (Aly 1985). It caused concern in the MPG General Administration and both MPIs, whose predecessor KWI's were affected due to their involvement in research using brains from euthanasia victims (see Aly 2015). The MPG Archives director from 1984 until 2006, Eckart Henning, drew the General Administration's attention to Aly's article in January 1986. In a letter to Edmund Marsch, who was head of the MPG General Administration's department responsible for international relations and public relations, Henning suggested obtaining statements from both Max Planck Institutes concerning Aly's conclusion that the KWIP and the KWIBR had cooperated with the "euthanasia" killing centers.⁷⁷ Henning found Aly's conclusion that a *Kindertötungsabteilung* (child-killing department) had been installed at the KWIBR in Berlin-Buch "with almost complete certainty" (Aly 1985, 64) both "annoying" and an "outrage." He was upset about Aly's interpretation that Hallervorden had been involved "organizationally in institutional killings." Henning disputed that Hallervorden's records kept at the MPIBR gave evidence of a "clear connection between his research work and killing" (Aly 1985, 68).⁷⁸ Henning also picked up on Aly's reference to the MPG's request for an immediate action for an injunction against Hermann Brendel (Aly 1985, 71). He suggested Aly had gone so far because he assumed that the MPG would not dare to go to court against him, as it wanted to avoid causing a stir. However, Henning suggested to the MPG's General Administration that it should consider taking legal action against Aly.⁷⁹

⁷⁴Landgericht München I (Az. 30 O 136/72): *Einstweilige Verfügung*, August 18, 1972, HA-MPIP, DP 187, p. 102.

⁷⁵See *Rechtsanwalt Dr. Daum an das Landgericht München I—Zivilkammer: Klage der Scientology Kirche Deutschland gegen die 1. Max-Planck-Gesellschaft*, 2. Herrn Stefan Füss, 3. Detlev Ploog, 4. das BKA vertreten durch Horst Herold, u.a., September 2, 1974, HA-MPIP, DP 186, pp. 147–62 and *Beschluss des Landgerichts München I*, 9 (Az. 9 O 399/74), July 11, 1974, DP 186, pp. 167–68.

⁷⁶*Terminbericht: MPG gegen Brendel vor dem OLG*, Az. 99UU 1007/75, April 15, 1975, HA-MPIP, DP 188, pp. 590–94.

⁷⁷Henning to Marsch, January 6, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁷⁸Henning to Marsch, January 6, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁷⁹Henning to Marsch, January 6, 1986, AMPG, II. Abt., Rep. 1, No. 410.

Marsch informed the former director of the MPIP, Gerd Peters, as well as Wolf Singer, the director of the MPIBR, that the General Administration's legal department was "currently considering whether it is possible to take legal action against the unproven allegations" by Aly.⁸⁰ He pointed out that Aly had referred to legal proceedings conducted by the then MPG President Butenandt against the "allegations of Scientology Church's press officer." Even though "there was not much to be found in the records of the trial proceedings," Marsch asked Peters and the managing director of the MPIBR to submit statements concerning the "so-called child-killing department."⁸¹ The managing director of the MPIBR, Heinz Wässle (b. 1943), answered in February 1986 that Aly's article contained "conclusions that are shocking for our Institute as well as for the Max Planck Society as a whole." Wässle, however, discouraged the General Administration from entering into a legal conflict with Aly for tactical reasons, reminding them that a tribunal was soon to be reopened in Frankfurt against three physicians involved in "euthanasia" killings, which was receiving a great deal of media attention.⁸²

A few days later, Marsch called Wässle and asked him whether Hallervorden might have worked with the brains of "euthanasia" victims after the end of World War II. Wässle read Hallervorden's postwar publications from between 1945 and 1960 to see which cases were mentioned, confirming that Hallervorden had used brains from the years between 1939 and 1945. However, Wässle did not investigate in detail "whether these were the brains of euthanized people, or whether the cause of death was natural with subsequent dissection." Because he "did not believe that Prof. Hallervorden distinguished in his documentations where these cases came from, there is at least some degree of suspicion that they may have included the brains of euthanized people." Wässle concluded, "it could well be that Prof. Hallervorden worked with this material in his research until 1958 at the Max Planck Institute for Brain Research in Gießen."⁸³

Wässle could not answer whether the brain specimens were still being used for research between 1960 and 1980, after the MPIBR had moved to Frankfurt am Main, and he advised the General Administration to ask the former director of the Neuropathological Department, Wilhelm Krücke (1911–1988), about this.⁸⁴

In a letter to Marsch, Krücke complained in April that Aly's article was "the most awful mixture of errors and facts."⁸⁵ Like Wässle, the former director of the MPIP, Gerd Peters, also telephoned Edmund Marsch to say that taking legal steps against Aly might do more harm than good.⁸⁶ In February 1986, Marsch came to the conclusion that legal steps were counterproductive, "because there is a danger that public attention will be drawn even more to the publications with the untrue allegations."⁸⁷

⁸⁰Marsch to Peters, Jan. 27, 1986, AMPG, II. Abt., Rep. 1, No. 410 and Marsch to Singer, Jan. 27, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁸¹Marsch to Peters, Jan. 27, 1986, AMPG, II. Abt., Rep. 1, No. 410 and Marsch to Singer, Jan. 27, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁸²Wässle to Marsch, February 5, 1986, AMPG, II. Abt., Rep. 1, No. 410. Wässle referred to the trial (1986–1987) against Aquilin Ullrich, Heinrich Bunke, and Klaus Endrweit for their participation in the mass murder of patients in the killing centers at Brandenburg, Bernburg, and Sonnenstein. See Dreßen (1996, 49–54). Referring to his letter, Wässle explained in 2015 in an interview that in "retrospect, I would have said, 'no law-suit', because Aly is absolutely correct. But at the time my reasoning was a different one, and I must say this was a misjudgment on my side" (Wingfield 2016); <https://www.youtube.com/watch?v=umuTD2md1uE>

⁸³Wässle to Marsch, March 12, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁸⁴Wässle to Marsch, March 12, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁸⁵Krücke to Marsch, April 1, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁸⁶Marsch, memo regarding the KWI, Berlin-Buch, and the *Deutsche Forschungsanstalt für Psychiatrie Munich* concerning alleged participation in the euthanasia program of the Third Reich, February 19, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁸⁷Marsch, memo regarding the KWI, Berlin-Buch, and the *Deutsche Forschungsanstalt für Psychiatrie Munich* concerning alleged participation in the euthanasia program of the Third Reich, February 19, 1986, AMPG, II. Abt., Rep. 1, No. 410.

Krücke criticized Aly's work for failing to present "any reference or evidence" that a *Kindertötungsabteilung* had existed in Berlin-Buch.⁸⁸ However, the source cited by Aly was a letter from a consultant from the *Reichsausschuß* (Reich Committee)—the pediatrician Ernst Wentzler (1891–1973)⁸⁹—to the *Reichsausschuß* on November 21, 1942, which gave a strong indication that this claim may be founded. According to this letter, the chief physician of the *Städtische Kinderklinik*, Dr. Gertrud Soeken (1897–1978), had expressed her willingness to collaborate with the *Reichsausschuß* and had confirmed a meeting with Wentzler the next day, at which they were to have a detailed informal conversation on this matter.⁹⁰ Krücke refuted this as evidence because, in his eyes, the establishment of a such a department would have been a violation of Hitler's order from August 24, 1941 to "stop" the "euthanasia" killings.⁹¹

Historical research has established that the activities of the *Reichsausschuß* continued after Hitler's order was issued (Peiffer 2002, 164). Soeken wrote in a letter to Oskar Vogt from December 30, 1942, that she would have enough patients because the *Reichsausschuß* had asked her "to cooperate and to refer cases to me." She continued, "I have suggested that I be primarily assigned to neurological diseases and hope to be able to continue promoting my work despite the war."⁹²

Krücke, who between 1945 and 1962 had worked at the Edinger Institute of the University of Frankfurt, claimed he had no knowledge about any postwar publication in which Hallervorden had used the brains of children killed by Nazi "euthanasia." After the MPIBR had moved from Gießen to the building of the Edinger Institute in Frankfurt in 1962, he did not use his brain collection anymore, he wrote. Krücke admitted that he had destroyed some of the brains from Gießen after Hallervorden's death in 1965.⁹³

In 1986, no proper investigation had been conducted to evaluate if and how many postwar publications of the MPIP and the MPIBR had used the brains of children killed in the Nazi "euthanasia" program. In 1999, a neuropathologist from Tübingen named Jürgen Peiffer published his findings on the question concerning how many brains from "euthanasia" victims obtained during World War II by the KWIP and the KWIBR from the killing centers had been used in the successor organization. Peiffer defined three groups concerning the references to brains investigated: (1) "reliably documented victims," (2) "cases which are very probably victims," and (3) "cases suspected to be, but not sufficiently documented as victims." According to Peiffer, "at least 2,097 brains" of victims of the "euthanasia" program were examined, of which "at least a total of 170 cases were used in thirty-seven scientific publications" (Peiffer 1999, 350). Peiffer's data are summarized in Table 1. The number of cases and publications confirmed by Peiffer might change, as an investigation by an independent research group fostered by the MPG is ongoing (for details, see Weindling et. al. 2021).

⁸⁸Krücke, Statement, April 1, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁸⁹For the biography of Wentzler, see Beddies and Schmiedebach (2002).

⁹⁰Wentzler to Reichsausschuß, November 21, 1942, BAArch, NS 51/227, p. 12. See also Schmuhl (2000, 49–50), Wolff and Kalinich (1996, 124), and Aly (1985, 64–65).

⁹¹Krücke: Statement, April 1, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁹²Soeken to Oskar Vogt, December 30, 1942, Cecile and Oskar Vogt Archives (Düsseldorf), vol. 104, cited after Topp (2004, 36–37; Schmuhl 2000, 49–50).

⁹³Krücke: *Die Sammlung Hallervorden. Zu Götz Aly: Reform und Gewissen 'Euthanasie' im Dienste des Fortschritts*, April 1, 1986, AMPG, II. Abt., Rep. 1, No. 410.

Table 1. Publications based on the examinations of brains of victims.

Institutions	Until 1945	1945– 1959	Total
Kaiser Wilhelm Institute for Brain Research (Berlin); Max Planck Institute for Brain Research (Dillenburg; Gießen)	8	18	26
German Research Institute for Psychiatry – Deutsche Forschungsanstalt für Psychiatrie (Munich)	—	11	11
Total	8	29	37

Source: Peiffer (1999, 348, 353–55)

On April 4, 1986, Marsch submitted all statements by Wässle, Krücke, and Peters to then MPG Vice-President Benno Hess (1922–2002).⁹⁴ The MPG’s legal department continued to examine legal steps against Aly until May 1986, when it concluded that there was no “legally promising way to use the MPG to protect the honor of the name of the KWG or its members,” as “only the heirs of any directly named researchers can undertake action here, no matter how easily Mr. Aly’s assertions can be refuted in individual cases.” The legal officer considered the possibility of provoking Aly to sue the MPG. This might be achieved by using a clear case in which Aly had been demonstrably wrong and claiming publicly that he had conducted “useless work, sloppy investigations, unproven allegations,” and so forth. This, in turn, might incentivize Aly to file for an injunction in order to protect his honor (and thus generate a judgment showing that the respective statement was false). Yet the legal officer concluded that such legal action by Aly would not be “in the MPG’s own interest.”⁹⁵

Conclusion

The conflicts in processing the Nazi past (described by the German term *Vergangenheitspolitik*) have changed over time, albeit slowly. Several factors contributed to this slow transformation, including generational differences between involved historical actors and their successors as well as the gradual change in mentalities concerning the perception and processing of the Nazi past, which often varied depending on individual experiences and roles during World War II. Archival retention periods also complicated historical research, especially for papers of scientists and patient records. The archival retention periods in accordance with the Federal Archives Act were adopted by the MPG’s private archives, although they were not legally binding for nongovernmental archives. Because important archival sources became accessible in Germany long after the original crimes, historical knowledge about brain researchers’ involvement in Nazi “euthanasia” victims depended for many decades on available documents and interrogations from Allied War Crimes Tribunals and other trials against perpetrators from the “euthanasia” killing centers.

In the 1970s, when many archives were still closed for historical research and only a rudimentary scientific analysis of psychiatry in National Socialism existed, the debates about Nazi “euthanasia” took place primarily in criminal court cases against perpetrators from medical institutions. The civil case of the MPG against Scientology before the Munich Regional Court from 1972 until 1975 represents a special case in

⁹⁴Marsch to Hess, April 4, 1986, AMPG, II. Abt., Rep. 1, No. 410.

⁹⁵Handwritten note by Weidmann to Marsch, May 9, 1986, on the letter Marsch to Peters, January 27, 1986, AMPG, II. Abt., Rep. 1, Nr. 410.

this respect, as it was not primarily about Nazi crimes by “euthanasia” perpetrators but, rather, about using the Nazi past of psychiatry for ideological and commercial motives.

Scientology’s antipsychiatry campaign mixed historical facts with half-truths, abstrusely invented horror stories, and untruths. As the statements of MPIP scientists Peters and Zerbin-Rüdin show, contemporary witnesses denied any involvement in the “euthanasia” crimes or in the unethical use of victims’ brains in research of their predecessors and relatives. Both scholars represent problematic personal continuities that hindered an unre-served clarification of their predecessors’ Nazi past.

MPG’s petition for an injunction against unjustified accusations in Scientology publications also implicated historical judgments about the Nazi past of the Kaiser Wilhelm Society. When the court suppressed allegations that “euthanasia” victims’ brains had been used in research by KWIP and KWIBR scientists, their involvement in racial politics and Nazi crimes was denied, despite existing historical evidence to the contrary.

In the 1980s, controversies about the Nazi past in West Germany and elsewhere shifted from the legal to the academic field. As more critical studies of the history of medicine in the Nazi era emerged, our knowledge of the Nazi “euthanasia” crimes expanded and led to a more differentiated picture of the involvement of the scientists in these crimes. The MPG no longer reacted to this academic debate with court injunctions, although they were considered an option, as the case of Götz Aly in 1985 shows. The MPG took no legal action against Aly because the chances of success were little, and the institute wished to avoid headlines concerning existing Max Planck Institutes and their involvement in Nazi Medical War Crimes.

Critical historical research into Nazi “euthanasia” and the accompanying media echo raised awareness that the brains of Nazi victims were still preserved in medical collections in MPG institutes and universities, and they should no longer be used in research for ethical reasons. After initial defensive reactions from the scientific community, further research on medical preparations from Nazi victims was recognized as being ethically inadmissible by German political and scientific directives and guidelines against the background of international public pressure. This led to a first review of medical collections containing brains and brain preparations of Nazi victims, which were separated, removed, and buried in 1989 and 1990 (Weindling 2012).

The MPG did not take the initiative, either in the 1980s or in the 1990s, to conduct a comprehensive and independent historical investigation of the Nazi past of its predecessor organization, the Kaiser Wilhelm Society, nor did it attempt to publish the results transparently. This required a generational change among the responsible decision makers in the MPG, the gradual opening of its archives, and further publications by critical historians outside the MPG, which created the necessary political pressure in Germany and abroad that led to a rethinking. A turning point was the establishment of the Presidential Commission “History of the Kaiser Wilhelm Society under National Socialism” and a research program by MPG President Hubert Markl in 1997.⁹⁶

⁹⁶For further information on the Presidential Commission, “History of the Kaiser Wilhelm Society in National Socialism,” see <https://www.mpiwg-berlin.mpg.de/KWG/engl.htm> and <https://www.mpg.de/history/kws-under-national-socialism> (accessed February 13, 2020).

Until then, the MPG had spent a long time discouraging empirical research into its Nazi past. And in some cases, it had even actively hindered external researchers in their work—on the erroneous assumption that this would protect the reputation of the scientific organization. It can be assumed that the mental blockades and defensive attitudes toward an unprejudiced critical historical investigation and reappraisal among MPG scientists and decision makers were enforced and consolidated by the many years of legal struggles with Scientology, which focused on the Nazi past of the Kaiser Wilhelm Society.

Acknowledgments

Thank you to the Archives of the Max Planck Society in Berlin and Britta Leise, former director of the MPIP archives, for their helpful support. Lea Marquart and Natalie Jensen-Nelson supported me in archival research. I also thank my colleagues Mitch G. Ash, Thomas Beddies, Christian Bonah, Herwig Czech, Anne Hinz-Wessels, Astrid Ley, Carola Sachse, Frank W. Stahnisch, Anne Sudrow, Sascha Topp, and Paul Weindling for advice and important hints in my research. I would like to express my gratitude to Stefan Vogenauer for his instructive advice regarding legal matters and the translation of legal terminology.

Disclosure statement

No potential conflict of interest was reported by the author.

Funding

Research travel, access to digitized and printed sources, as well as institutional interview arrangements were provided through financial support and organizational assistance by the Research Program on the History of the Max Planck Society at the Max Planck Institute for the History of Science, Berlin, Germany.

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