Theatre as Courtroom: *The NSU Protocols* in Freiburg

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THEATRE AS COURTROOM THE NSU PROTOCOLS IN FREIBURG

THEATRE In 2015, the Freiburg Theatre initiated a series of “dramatic readings” based on the trial against the NSU (*Nationalsozialistischer Untergrund*), suspected of a series of racist murders in Germany. *The NSU Protocols* constitute in many ways a parallel trial that reveals both overt and latent forms of racism in German society and, by drawing on the “factographic” tradition of documentary theatre, specifically seek civic participation.

Between 2000 and 2006 a series of murders took place in Germany, from Hamburg to Munich, from Dortmund to Rostock. The victims all had a migration background, most of them Turkish; one woman had Greek origins. The (yellow) press came up with a rather cynical name: the “Dönermorde”, the Kebab Murders, suggesting the involvement of the victims in drug crime or mafia-related practices.

This was also how the police initially approached these murders. The possibility that neo-Nazis were responsible seemed not to have occurred to the investigators. It was only in November 2011, when two perpetrators supposedly committed suicide and a third one turned herself in, that the existence of a neo-Nazi terrorist organization in Germany, NSU (*Nationalsozialistischer Untergrund* – *National Socialist underground organization*), was revealed.

Aside from these murders, the NSU has been charged with a series of bank robberies, the murder of a police officer, and several terrorist attacks, among them those in Cologne in 2001 and 2004. The uncovering of the network caused a formidable shock in Germany, and the findings during the subsequent investigations and trial would prove even more baffling. The Freiburg Theatre transformed notes from the trial into a series of documentary performances, *The NSU Protocols*, in order to inspire a public debate.

RAISING THE PROBLEM OF RACISM IN GERMAN SOCIETY

The setting: a theatre stage in Freiburg, Germany. The scene: four chairs behind four tables forming a semicircle, surrounded by three white walls. One chair stands in the middle of the semicircle, facing the audience. A crucifix, placed by one of the actors right before the play starts, hangs on one of the wall. A 1945 BBC announcement declaring that Hitler is dead opens the play. “Play”, however, might not be the correct word to describe this performance; rather, the term “dramatic reading” seems in order. The content of this dramatic reading: the trial against the NSU, which started in 2013 and is still ongoing. Three parts have already been performed, corresponding with the three trials years so far: 2013, 2014, and 2015. The Freiburg Theatre has already announced that there will be a fourth instalment, covering what will presumably be the last trial year. This episode has, at the time of the writing of this review, not yet been staged.¹

The NSU Protocols go beyond the depiction of the crimes and their consequences. They demonstrate the cynicism of the people involved in neo-Nazi circles: accused perpetrators, accomplices, and witnesses claim “not to remember” or “to have misjudged” the events which led to the series of murders. This is not an innovative defence strategy, of course: the accused at the Frankfurt Auschwitz trial (1963-1965) produced a similar discourse. This strategy makes the NSU case a lengthy and frustrating experience. The most significant point in case was the much-anticipated but disappointing declaration of Beate Zschäpe, the prime suspect, in December 2015. She denied any involvement in the NSU and only expressed regret for not having been able to prevent the crimes purportedly committed by her accomplices.

Yet the denial and avoidance strategies of the perpetrators alone do not explain why the NSU could operate for such a long time. In Part I of the play, indeed, the criticism is directed at an institutional, but latent, form of racism in German society. The emotional testimonies of victims and relatives on stage address the way in which the police and the media criminalized them, and how their suspicions that they were targeted by right-wing terrorists were not taken seriously.

In part II, however, racism is proven more overt, with police officers being associated with a German Ku Klux Klan branch. Moreover, the *Verfassungsschutz*, an intelligence branch for domestic security, intensively used and paid neo-Nazis as informants but could neither prevent the murders from happening nor identify the perpetrators. According to several lawyers and observers, the informants were actively covering up the murders and possibly even used the recompenses from the intelligence to finance the NSU. A parliamentary investigation has been launched into the destruction of records by the *Verfassungsschutz* in November 2011, shortly after the NSU’s existence became public knowledge.

Part III of the play distinguishes itself from the first two parts. The actors are now breaking the “fourth wall” incessantly: their whispers to the audi- ●●●

(1) Since the trial is still running, one ought to be careful with accusations. If this text seems to make such accusations, the reader should keep in mind it only reflects the views of the theatre makers, who founded their work on the unofficial trial protocols written by journalists of the *Süddeutsche Zeitung* (since German courts are not obliged to keep official protocols). The fact that the play is being performed before the trial’s end extends its sense of political, social, and moral urgency.

●●● ence anticipating Zschäpe's testimony "disrupt" the play, making the other actors become barely audible. This disruption can be understood as a critique of the media's coverage of the events, and of their preoccupation with a – then still hypothetical – declaration by Zschäpe. As already indicated, her real-life declaration turned out to be a disappointment. Another focus of the play is on Zschäpe's defence: her lawyers, appointed by court, wish to be relieved, since the accused herself has found a fourth lawyer. What follows is a constant bickering amongst the lawyers and relentless sarcastic comments to the judges, *Nebenkläger* and state prosecutor, while the crimes and the victims are pushed to the background. The theatrical polemics and the constant disruptions ultimately result in a farcical portrayal of the trial, which illustrates the theatre makers' wish for closure after thirty months of cynicism and sensation.

LITERARY AND THEATRICAL TRADITIONS

Apart from the fact that the *Protocols* expose institutional racism, it is rewarding to put the performance in a diachronic perspective. After all, by its functioning as a parallel trial, it recuperates the very humanistic notion of theatre as a means to change society, but, unlike Schiller's conception,² completely renounces a fictionalized account of the events. As such, *The NSU Protocols* show some remarkable parallels to Peter Weiss's *Die Ermittlung* (*The Investigation*, 1965). *Die Ermittlung* is a literary representation of the Frankfurt Auschwitz trial, focussing not just on the Nazi crimes, but also on the involvement of industrialists in them. In this regard, Weiss aimed to break a major taboo in West German society and provoked a parallel trial on stage – the trial of capitalism. In a way, *The NSU Protocols* also stage a parallel trial, this time of the police, of the *Verfassungsschutz*, of the disrespectfully cynical media coverage, and of institutional racism. According to the theatre makers these elements explain why the NSU, whose members were known by the authorities since the 1990s, could operate with impunity for such a long time.

Both texts share the use of the Brechtian *Verfremdungseffekt* (alienation effect), albeit in different aspects. Weiss' text contains no punctuation and

deliberately refuses any resolution: the play ends with a rhetorical victory for the defendants, whereas in reality most were convicted and sentenced to prison. The use of alienation effects in *The NSU Protocols* is a bit more complex. The play contains two artistic contradictions: firstly, it incorporates anti-mimetic elements: all roles – judge, prosecutor, defendant, victim, accused – are performed by all four actors, wearing everyday clothes. The alienating aspect contrasts sharply with the play's inherently mimetic ambition of acting as a protocol of a real-life trial, even though selection and arrangement are ultimately unavoidable and inherent to it, as is it to all forms of documentary art. It seems, however, that this apparent contradiction is no coincidence: by forsaking the use of artefacts and costumes, the play reduces the NSU case to the linguistic essence of testimonial, interrogative, and investigative utterances – but also their opposites: silence, prejudice, and the destruction of records.

The constant switching of roles creates a second alienation effect, since it increases the tension in the playhouse and demands the audience's relentless attention, while hindering identification with the witnesses or perpetrators. By contrast, longer reading sequences are strategically employed to emphasize the consequences of the NSU's violence and to enable the build-up of an emotional rapport to the victims. As far as we can tell, though, *The NSU Protocols* do not fictionalize the eye-witness accounts in order to provoke an emotional response, whereas Weiss added biblical references and structured his play in a Dantesque fashion in order to illustrate the hopelessness of the concentration camp inmates.

Another interesting object of comparison, besides *die Ermittlung*, are the staged trials in the arts of the early Soviet Union of the 1920s. At the time, fictional agitation trials (russ. *agitsudy*) were a popular theatrical genre in the countryside and cities alike. The cast consisted of those parties usually present at a trial: defendant, prosecutor, defender, judge and witnesses. The performances were at times so convincing that even newspapers took them for real and could not distinguish actual from staged trials. Given the many alienating effects, *The NSU Protocols* do not create the illusion of a real trial. Rather, the theatre stage becomes an extension of the original courtroom. What *The NSU Protocols* and the early Soviet agitation trials have in common, however, is the goal of entertaining and informing at the same time.

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The NSU Protocols also show similarities with the concept of factography, which emerged in the Soviet Union in the late 1920s. This avant-garde programme tried to reunite art and life by devoting art to empiric reality rather than fiction. One of its champions was Sergei Tretyakov, a law school graduate and a member of the artistic group LEF (Left Front of the Arts). Perhaps influenced by the popularity of the agitation trials, he integrated people's courts against alleged saboteurs and faineants in factories and kolkhozes in his "literature of fact" (russ. *Literatura fakta*). Trial scenes and juridical procedures had already been a prominent asset of Russian literature, as Raskolnikov's interrogations in Dostoyevsky's *Crime and Punishment* and the great trial against Dmitri Karamazov towards the end of *The Brothers Karamazov* demonstrate. Yet Tretyakov's transfer of juridical concepts into literature is of another quality, as Susanne Strätling explains. Whereas in the past, the author appeared in his literary work as a moral authority, a distanced lawyer and judge, he can now also be the accused. The avant-garde

approach strives to render the boundary between art and justice porous (Strätling 2011, 311-313).

Strätling's historical observations are relevant for the artistic concept of the Freiburg NSU Protocols as well, since the "author" of this piece is a collective of interacting individuals, which includes the accused. By staging testimonies from a still ongoing trial, the performance intends to intervene in the real world and shape public opinion.

As in the factographic project, the *Protocols* insist on the audience's participation by asking questions and discussing the play with the cast (Fore 2015, 388-395). Each performance is followed by a public discussion, which takes place in the same room as the performance and feels like a part of it, since usually only few visitors leave before the very end. *The NSU Protocols* attract a different audience than traditional theatre evenings. Visitors do not only seek cultural delight, but also they attend because of their indignation concerning the way the NSU affair has been handled by the authorities. They seek a different medium for information and ●●●

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(2) "[Die Poesie] soll das Herz treffen, weil sie aus dem Herzen floß, und nicht auf den Staatsbürger im Menschen, sondern auf den Menschen in dem Staatsbürger zielen." (Schiller 1793, 514)

- communication. As Brecht and Tretyakov both stipulated around 1930, the audience has become a vital and necessary part of the performance. The collective process of exchange during and after the performance contributes to every visitor's judgement about the staged trial.

This is theatre with a mission, achieved in a collaborative way and based on a division of labour: *in situ* at the trials in Munich, reporters from involved newspapers like the *Frankfurter Rundschau* and *Süddeutsche Zeitung* collect factual material. In Freiburg, the theatre staff transforms news facts into a performance. Afterwards, specialists (journalists and lawyers), cast, crew, and audience discuss the topic together. As one participant noted, the factual material of speeches and counter-speeches uttered in the real-world courtroom already is a product of collective interaction no solitary mind could imagine. It is also in this regard that the *Protocols* bear similarities with the collective work that was promoted by factography.

CONCLUSION

Let's return to the performance's opening: is Hitler really dead? The question may seem provocative but should not be read in this way. The "NS" in NSU point to more than an extreme-right ideological position; they reveal an overall xenophobic mind-set in which antisemitism features prominently.³ *The NSU Protocols* offer a different perspective on Germany's reunification in 1990, which arguably led to a practical power vacuum in the former GDR, and enabled the socialization of German youths in a far-right scene. The state did not enough to prevent the radicalization of these people, who ultimately founded a violent neo-Nazi movement.

The Protocols thus expose institutional racism, and fit in a literary and theatrical tradition that seeks civic participation. Indeed, by insisting on textual rather than dramatic mimesis and using this mimesis to steer sympathy and empathy towards the victims of political violence, the performance ultimately makes an urgent appeal to civil society: to detect and acknowledge racism and other forms of discrimination, and to

fight them. This civil courage (*Zivilcourage*) ought to be the true *Verfassungsschutz* (which would translate as "Agency for the Protection of the Constitution"), since the agency has proven incapable of protecting the German constitution and its first article stipulating the inviolability of human dignity.

Yet if anything, the history of the NSU ought to be a warning to other European countries. Germany has often been heralded as the country *par excellence* that has critically and extensively assessed its own violent past. The fact that these murders were committed in Germany and remained unsolved for such a long time has put the country's much-praised self-critical attitude to question. ■

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→ Learn more

- ◆ *Die NSU-Protokolle: Das erste Prozessjahr*, 29 October 2015
 - Die NSU-Protokolle: Das zweite Prozessjahr*, 23 January 2016
 - Die NSU-Protokolle: Das dritte Prozessjahr*, 11 February 2016
- Theater Freiburg

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(3) Its members may not have killed any Jews, but they did develop a neo-Nazi version of *Monopoly: Pogromly*, where one does not buy train stations but concentration camps. Chance and Community Chest cards have been replaced by SS and SA cards, (rhetorically) rewarding anti-Semitic behaviour and sanctioning acts of sympathy or kindness towards Jews.