

# Rhetorics of judge-penitence: Claiming moral superiority through admissions of past wrongdoing

Memory Studies

0(0) 1–16

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DOI: 10.1177/1750698013511978

mss.sagepub.com



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## Abstract

Over recent decades, public admissions of *our* past wrongdoing have become increasingly widespread. Usually, these practices are viewed as facilitating more inclusive modes of assimilating collective memories into collective identities. However, this article argues that such admissions can enable claims for having learnt the lessons which ultimately justify discrediting an external *other* as morally inferior vis-a-vis *us*. I do so by drawing on Albert Camus' novel *The Fall* and its leitmotif '[t]he more I accuse myself, the more I have a right to judge you'. I demarcate such *rhetorics of judge-penitence* from claims for having learnt the lessons which are not based on narrating past wrongdoing as *our* wrongdoing (*rhetorics of judging*) and self-critical admissions (*rhetorics of penitence*). By differentiating and conceptualising these three utilisations of the claim for having learnt the lessons, and by drawing on a wide range of examples, I illustrate that even penitent sinners might turn into complacent judges.

## Keywords

age of apology, Albert Camus, collective memory, ethics of memory, *historia magistra vitae est*, politics of regret

## Introduction

'The more I accuse myself, the more I have a right to judge you'.

Albert Camus (2006: 88)

Perhaps Foucault's (1979: 59) claim that (Western) man has become a 'confessing animal' has never been truer. After all, not only individual confessions but also public admissions of *our* past wrongdoing, such as the paradigmatic kneeling of the then German Chancellor Willy Brandt in Warsaw in 1970 and the French president François Hollande's (2012) recent speech to commemorate the detention and deportation of French Jews in 1942, are now 'coming from all corners of the world' (Brooks, 1999: 3).<sup>1</sup> In this mnemonic landscape, referred to as, for example, the 'politics of regret' (Olick, 2007) or the 'age of apology' (Brooks, 1999; Gibney et al., 2008), groups increasingly

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construct their collective identity by narrating collective memories of their wrongdoing (Halbwachs, 1992). They thereby delegitimise (outright) denial of past wrongdoing while turning these admissions into sources of legitimacy.

This reflexive mode of assimilating collective memories into collective identities is usually contrasted with traditional modes, for example, the silencing of wrongdoing in narratives of past glory and heroism. From this dichotomising perspective, admissions of wrongdoing are generally welcomed, as they enable ‘good’, that is, more open, identities, while a lack of facing up to a dark past reproduces inter-group confrontation. For example, Barkan (2001: xx) speaks of the emergence of a ‘neo-Enlightenment morality’, Alexander (2002) elaborates on the spread of ‘moral universals’ through ‘tragic narratives’ and ‘cultural trauma’ and Giesen (2004: 109) sets out the possibility of the ‘trauma of perpetrators’ in which ‘victims assume the position, that before, was the place of heroes’ (2004: 3).<sup>2</sup>

While building on these insights, this article looks beyond this dichotomy. By conceptualising a third position, I suggest that the ‘politics of regret’ renders possible public claims such that, precisely because of *our* admissions, *we* have successfully faced *our* dark past, have learnt the lessons and can thus ‘legitimately’ take the moral high ground from which *we* can judge *others* as morally inferior. Following the French intellectual Albert Camus (1913–1960), I will conceptualise this argument in terms of *rhetorics of judge-penitence*.

Other authors have pointed to similar phenomena. For example, Finkelkraut (2004: 123) explicitly draws on Camus in his philosophical reflection on contemporary European anti-Semitism. Elaborating on the link between anti-Semitism and anti-Americanism, Markovits (2007: 210) briefly points to Habermas and Derrida’s essay *February 15* (2003) and notes that they seem to draw on ‘a special kind of moral qualification due to Europe’s dark past’. Concerning the same essay, Kumar (2008: 96) speaks of ‘a certain self-congratulatory air’ which ‘can become a source of European superiority’. Similarly, Schwab-Trapp (2007: 203–211), in an analysis of German newspaper articles published in the second half of 2002, points to a discursive construction of the country as politically (and morally) mature vis-a-vis the United States due to its successful process of ‘coming to terms with the past’. Lübke (2001: 24), in a discussion of rituals of confession of guilt, suggests the possibility of ‘exploiting’ admissions of wrongdoing in order to portray others as less moral.<sup>3</sup> With regard to speeches by European officials, Forchtner and Kølvråa (2012; cf. Kølvråa, 2012 for a related discussion of Europe as a global player) reveal arguments mirroring judge-penitence. What is, however, missing in these accounts is a more abstract conceptualisation of this phenomenon which both contextualises it within a wider mnemonic landscape while making it recognisable across a variety of cases.

Against the background of the increasingly future-oriented nature of contemporary politics of memory (Levy and Sznaider, 2002), I conceptualise rhetorics of judge-penitence, rhetoric understood as ‘the faculty of discovering the possible means of persuasion’ (Aristotle, 1982: I, 2, 1), vis-a-vis *rhetorics of judging* and *rhetorics of penitence*.<sup>4</sup> That is, I demarcate these three structures of communication along the lines of three uses of the claim for having learnt the lessons of the past.<sup>5</sup>

The first of these three structures, rhetorics of judging, facilitates a more traditional mode of assimilating collective memories into collective identity by pointing to a past wrong and claiming that *we* have learnt the lessons. In contrast, the contemporary *other* is denied such progress and is thus inferior. However, and crucially, this past wrong is not (primarily) narrated as *our* wrong. The politically maybe most significant example in my sample is the ‘appeasement argument’, which has featured prominently in public struggles over, for example, the Cold War, the third Iraq-war and a (possible) Iranian nuclear bomb. In contrast, rhetorics of penitence emphasise the continuous necessity to demarcate the contemporary in-group from its past wrongdoing as the lesson. The current ‘politics of regret’ is driven by such rhetorics, one of the paradigmatic cases being Germany’s by now almost proverbial ‘culture of remembrance’ (Confino, 2006).

Transcending these two modes and the widespread perception of ‘bad’ silence versus ‘good’ admissions of *our* wrongdoing, this article conceptualises a third way of utilising claims for having learnt the lessons. That is, *we* admit *our* past wrongdoing and stress the *successful* process of ‘coming to terms’ with it in order to present *us* as morally superior vis-a-vis an external *other*. Here, I draw on a figure in Camus’ last published novel, *The Fall* (1956), a judge-penitent. The latter’s motto – ‘[t]he more I accuse myself, the more I have a right to judge you’ – indicates how the increasing legitimacy of admissions of wrongdoing renders possible projecting the in-group as a penitent sinner who can, implicitly or explicitly, claim to have learnt the lessons, and thus to be morally superior. In consequence, *others* can be depicted as morally inferior exactly because a self-humbling stance towards *our* painful past elevates *us* above *them*.

Indeed, public struggles over ‘the right lessons’ are paradigmatic ‘mnemonic battles’ (Zerubavel, 1996: 295f) – and it is via such political dramas that the ‘moral regulation of social life’ (Smith, 2005: 12) takes place, through the separation of actors, events and ideas along the lines of an imagined civil–uncivil binary (Alexander, 2006). In other words, claims for having learnt the lessons, because they concern the normative core of what *we* should be, are particularly powerful in struggles over representing *us* as, for example, purified, rational, reasonable and moral, while constructing *them* as, for example, polluted, irrational, hysterical and immoral. But while claims for having learnt are often made, humbling oneself adds particular force by mobilising deep-seated cultural structures. This explains why rhetorics of judge-penitence, with their self-critical references to the past, might be particularly forceful in present-day struggles over representations of *us* and *them*. Such a sociological analysis does, however, first and foremost not assess claims for having learnt the lessons but focuses rather on how they define positions and demarcate actors as civil or uncivil, morally superior or inferior.

Throughout this article, I draw predominantly on examples taken from discourses on the Iraq-war in 2003, particularly in Austria and Germany. However, I neither attempt to map these debates nor to evaluate the war itself. Instead, I simply assumed that this conflict provided fertile ground for diverse claims for having learnt the lessons of the past. Similarly, Austria and Germany are not treated as cases but were expected to provide examples as they constitute two paradigmatically different responses to World War II and the Holocaust. While narratives about the past in Germany have long centred on the script of the penitent sinner, public discourses in Austria have traditionally shifted the blame to Nazi Germany – although self-critical stances have spread over the last two decades in line with wider European developments.<sup>6</sup> Opting for newspapers as well as book publications as sources, finally, reflects the fact that ‘mnemonic battles’ rely largely on public intellectuals and, sometimes, politicians as carrier groups who aim to provide master interpretations of the world. It furthermore shifts the focus away from a few highly ritualised official apologies to ‘everyday’ admissions of wrongdoing and claims for knowing the lessons in the reproduction of collective identities.

In the following section, I lay the ground by briefly conceptualising and exemplifying struggles over representation via rhetorics of judging before turning to rhetorics of penitence in Section 3. Section 4 introduces the innovative core of this article, rhetorics of judge-penitence, and conceptualises as well as exemplifies this argument and its varieties. Throughout this article, I focus on how knowledge of the past is constructed and what purposes it serves. While ontological and moral questions concerning the accuracy of these memories or their ‘legitimacy’ are thus avoided, I close this section by briefly commenting on this dimension. I do so by drawing on the role of the listener in Camus’ novel and Foucault’s thoughts on confessing, as well as Glynos’ and Habermas’ comments on identity and its relation to the past. I conclude in Section 5 by returning to the insights Camus offers for understanding contemporary struggles over the moral high ground and the representation of *us* and *them*.

## Struggles over representation I: rhetorics of judging

In *Beyond Good and Evil*, Nietzsche (1973: §68) described the relation between memory and identity as one in which the desire for a positive self-image trumps historical truth: “‘I have done that’, says my memory. ‘I cannot have done that’ – says my pride, and remains adamant. At last – memory yields’. This insight lucidly summarises the traditional mode of assimilating collective memories into collective identities where social relations are narrated through mythologising in-group glory, heroism and suffering while constructing an external *other* negatively.

In the context of such traditional attempts, claims for having learnt the lessons of the past link the premise that a particular past was wrong and the conclusion that similar actions proposed today by *others* should be avoided. However, such rhetorics of judging do not (primarily) include a critical stance towards this past as *our* past. That is, although rhetorics of judging do not necessarily deny *our* past wrongdoing, they do not foreground it as *our* wrong either. Rhetorics of judging are often observable in performances of the script ‘The Lessons from Munich’, which identify a past wrongdoing (‘appeasing Hitler’), formulating lessons (‘stop dictators sooner rather than later’) and directing it against an *other* (‘the left is appeasing’). That is, rhetorics of judging tend to ‘exclude’ both *our* wrong past, which is not problematised, and the *other* as not having learnt. Let me start by illustrating this through a less clear-cut extract by the German journalist Mariam Lau (2003):

Those who still enjoy irony may note that it is Munich again which has become the venue for Europe’s disastrous security policy. The idea that an army of blue helmets could vest efficiency to inspectors (which would not exist without a threat of violence), has anyway only the purpose to be rejected by Saddam and the USA in order to save the French and the Germans a loss of face – which is imminent on Friday. Blue helmets have shown in Srebrenica what they are capable of doing. What inspectors are capable of doing against the will of a dictatorial regime was visible, for example, in Terezín which, at that time, was de facto labelled as a holiday camp by the Red Cross.

Lau does certainly not question German guilt but is seemingly not narrating failed attempts to stop Hitler in 1938 (‘Munich’) and the failure of inspectors/the Red Cross (‘Terezín’) as wrongs her political position (her in-group) has to admit, before referring to the recent past (‘Srebrenica’) and a possible future catastrophe in Iraq. The lessons she presents are clear: because history teaches that inspectors fail in such situations, we should omit this option today. These lessons are not self-critically directed against *us* (the conservative readership of this newspaper and, more generally, those sceptical of then widespread anti-war sentiments) but serve to pollute German and France war opponents as being solely interested in securing face, not serious politics, and ignoring the lessons from history.

The following extract from Fritz Molden (2003), a well-known public figure in Austria, ends with a stark warning to the vast majority of anti-war Europeans:

It already sounded like that anno 1938. This time too, two generations later, there is no longer a trace of gratitude to be seen for Europe’s liberation from Nazi rule by the USA or for the Marshall Plan. Anti-Americanism has asserted itself. Already 65 years ago, the Western powers should have had the courage for a preventative war against Hitler. Then Europe would have been spared the agonies and victims of the Second World War. That shows that the wise Europeans in contrast to the ‘Texas cowboys’ à la Bush have not learnt anything from their own history – and almost seem to yearn for an ‘Appeasement 2003’.

Like Lau, the former member of the Catholic resistance to Nazism Molden performs the drama of ‘The Lessons of Munich’ by blending past and present. An if-then construction (if the Allies had launched a pre-emptive attack, suffering would have been avoided) enables Molden, who does not

narrate his political position as responsible for this past wrong, to claim to know the lessons and to exclude the present-day *other* as almost, 'yearn[ing]' for a repeat of this history. Again, rhetorics of judging do not incorporate self-critical doubts but are driven by a certainty which provides the speaker with the (alleged) authority to judge and construct *others* as morally inferior.

In both cases, it could be argued that pointing to 1938 (or the Dutch/UN failings in Srebrenica) implicitly acknowledges *our* wrongdoing. Yet, even if parts of the audience might understand the text in such a way, these 'admission' do not form the key element which justifies the 'othering'.

## Struggles over representation II: rhetorics of penitence

Rhetorics of penitence are the fuel of the 'politics of regret'. Successfully performed, they 'shift problematic patterns of inclusion and exclusion by recognizing the legitimacy of voices, subject positions, and recollections that had previously been written out of the "official story"' (Celermajer, 2006: 175). Such scripts are about penitent sinners which, by taking serious the survivors' dictum that 'it happened and therefore it can happen again' (Levi, 1989: 167), regain their lost moral status through 'public confession of collective guilt' (Giesen, 2004: 151). Although many admissions do not live up to their own aspirations or are cynical manoeuvres, it is too drastic to devoid all of them of value in re-narrating the symbolic boundaries of groups. And while the most prominent uses of rhetorics of penitence occur in official political apologies (e.g. Barkan and Karn, 2006; Brooks, 1999; Cunningham, 1999; Gibney et al., 2008), these rhetorics are not limited to main political performances but have trickled down into more profane public discourses.

In rhetorics of penitence, claims for knowing the lessons lead to demands for the continuous facing up to *our* wrong past through self-critical admissions. In other words, identity is still created through difference, albeit through demarcating *us* not from an external *other* but an internal one, *our* own past. Thus, the contemporary self is imagined by 'othering' its own past. This bonds the in-group through narratives of a 'bitter past' (Eder, 2009; more fundamentally on the narrative construction of identity, cf. Somers, 1994) and widens the symbolic boundaries of this group as the suffering caused to *others* is recognised. These scripts draw on cultural memories of, for example, Jewish prophets such as Jeremiah who called for repentance as a sign of regret and conversion. Similarly, preachers of the High and Late Middle Ages galvanised large crowds by visualising humanity's sinfulness, warning of God's imminent punishment and practices of public self-flagellation (Cohn, 1970: 127–140). The religious connotations of this meaning structure are long lost but have spilled over, beyond the religious variant, into myriad secular forms.

The first example illustrating rhetorics of penitence is taken from a reprinted speech by the then German head of state, Johannes Rau (2003), while the second one is taken from a newspaper article by the then president of the German parliament, Wolfgang Thierse (2003):

The Second World War, knowledge of guilt, of responsibility for another's suffering and the experience of one's own suffering – that has left a very deep mark on the Germans up to the present day and it will continue to accompany them.

[f]or centuries Europe was the continent of wars which experienced both of the most terrible wars – the responsibility of the Germans – in the 20<sup>th</sup> century. (...) With fundamental support from the USA the European peoples – at first in the West – drew a central and long-lasting lesson from that: the great work of peace that is the European Union.

In both cases, present day Germany (and Europe) is constructed through rather unambiguous cathartic public admissions of wrongdoing (Alexander, 2002: 29–31), through taking responsibility for 'another's suffering', a practice which has long transcended Germany. In both cases, the

passage rejects *our* past, preferring to foreground the continuous need to remember ('has left a very deep mark' and 'up to the present and it will continue' in the former; the rejection of closure through reference to 'peace' in relation to a still developing political structure in the latter). While other formats might speak more directly to the previous *other*, for example Brandt's aforementioned kneeling the aforementioned speech by Hollande, these two examples illustrate a narration of the in-group which opens up its symbolic boundaries to previous *others* who are granted recognition and can, in turn, recognise *our* identity narrative as well.

### Struggles over representation III: rhetorics of judge-penitence

So far, I have pointed to future-oriented claims for having learnt the lessons from past wrongdoing which either tend to facilitate traditional 'othering' or reflexive opening. I now move into new territory by connecting rhetorics of judging with more recent performances of penitence. This phenomenon, rhetorics of judge-penitence, could only emerge in a mnemonic landscape in which silencing past wrongdoing is not only increasingly illegitimate but in which admitting *our* wrongdoing even generates legitimacy. Let me start by briefly returning to the above interventions by Rau and Thierse before conceptualising the phenomenon and providing further exemplification and theorisation.

Both extracts were introduced as examples of penitence. However, both illustrate that rhetorics of penitence can transcend the script of the penitent sinner and evolve into rhetorics of judge-penitence. Rau (2003), who had unambiguously foregrounded German guilt and responsibility, continues his intervention by saying that

[w]e Germans have come a long way. We have learnt from our history. [...] We have drawn a further consequence from the Second World War. In the rubble of Europe it has risen to our awareness that we have to act together. [...] Europe is a historical contract which the people who suffered endlessly from persecution, war and displacement have given to us.

Similarly, Thierse (2003), starting from the premise that the most terrible wars are the responsibility of Germany, concludes that

[t]he European Union neither wants to nor can step into a race with the last remaining military superpower on earth. But, if it reflects on its own experiences, it can put its civilising and cultural power in the balance.

Both extracts move from a focus on admissions of *our* past wrongdoing to the coding of *us* as morally purified, as having successfully faced the past and, at least morally, superior vis-a-vis an external *other*, the United States. There are, of course, differences – varieties of judge-penitence (thus 'rhetorics' in the plural). For example, Thierse used the conditional 'if', while Rau is arguably less ambivalent when speaking of lessons which *we* 'have learnt' and consequences which *we* 'have drawn'.

Drawing on Camus' *The Fall*, the following conceptualises this phenomenon. The novel's main character, Clamance, lives by the motto '[t]he more I accuse myself, the more I have a right to judge you', which Camus elaborates through a staged dialogue between a narrator, Clamance, and a (for most parts of the story) silent listener. The former is a previously successful and seemingly altruistic Parisian lawyer who, through a series of incidents, most importantly his reluctance to help a probable suicide victim, recognises pure vanity behind the facade of altruism. Haunted by memories of his failings and self-pity, his pride in being an altruistic lawyer suddenly appears purely selfish to him. He takes the outbreak of World War II as an opportunity to cross over to

Africa where he is soon interned by German forces close to Tripoli. In front of comrades, he publicly confesses his weaknesses and, thereby, becomes their leader. Within this community, he is now responsible for the distribution of water. When, on one occasion, he drinks the water of a dying comrade, he recognises that nobody, not even Christ, can remain innocent in this world and that justice has necessarily become disconnected from innocence. Clamance (Camus, 2006: 86) summarises his insights by, first, pointing to a 'dangerous' problem:

Was I to get up in the pulpit, like many of my illustrious contemporaries, and curse the human race? Very dangerous! [...] The judgement that you are passing on others eventually blows right back in your face and may do some damage.

Second, this leads him to conclude that

one could not condemn others without at the same time judging oneself, one should heap accusations on one's own head, in order to have the right to judge others. Since every judge eventually becomes a penitent, one had to take the opposite route and be a professional penitent in order to become a judge.

I am not concerned with Camus' existentialism or a literary interpretation of the theme of generalised guilt in *The Fall*. Instead, the novel is of interest here to the extent that Camus goes beyond traditional 'othering' as in rhetorics of judging (the first quote) while also diverging from rhetorics of penitence. Instead, the second quote points to the legitimising force of admitting one's own wrongdoings in order to claim moral superiority vis-a-vis *others*. This rests on deep-seated ideas that if someone humbles herself or himself by admitting wrongdoing, she or he should get credit for doing so. This might be traced back to the Judeo-Christian tradition of self-humiliation and self-sacrifice: 'in order to relieve of the burden of collective guilt' (Giesen, 2004: 134). Giesen points to this dynamic in his discussion of Brandt's kneeling, a discussion which indicates that this cultural pattern has long been secularised and is too fundamental to be (nowadays) affected by the Catholic-Protestant divide. Still, the pattern is most clearly expressed in Jesus' parables aimed at those who are sure of their own goodness, '[f]or everyone who exalts himself will be humbled, and whoever humbles himself will be exalted' (Luke 18:14, *The New English Bible*).

Accordingly, rhetorics of judge-penitence rest on, first, admissions of *our* wrongdoing (the more one wears sackcloth and ashes, the more force one's rhetorics of judge-penitence have). These are followed by, second, an implicit or explicit claim for thus having learnt the lessons from this past. Thirdly, this justifies the conclusion that *their* apparent lack of this sign of moral progress makes *us* morally superior. While *our* past wrongdoing is thus emphasised and possibly internalised as in and through rhetorics of penitence, the *other* is again an *external* one as in rhetorics of judging. This puts *us* on the civil side of the binary code of the civil sphere; after all, who would argue against lessons if they are not only stated but justified by painstaking self-questioning?

The uses of admissions of wrongdoing can be further explored by drawing on Foucault (1979: 60) for whom

the obligation to confess is now relayed through so many different points, is so deeply ingrained in us, that we no longer perceive it as the effect of a power that constrains us; on the contrary, it seems to us that truth, lodged in our most secret nature, 'demands' only to surface.

Foucault's position on admitting wrongdoing as being less about revealing the truth and more the (self-)production of actors is compatible with the aforementioned perspective on admissions of wrongdoing as a means of narrating *us*, *our* symbolic boundaries, into being. Crucially, however, Foucault (1979: 104) adds that

one does not confess without the presence (or virtual presence) of a partner who is not simply the interlocutor but the authority who requires the confession, prescribes and appreciates it, and intervenes in order to judge, punish, forgive, console, and reconcile.

By thematising the listener, Foucault touches on a second dimension which characterises rhetorics of judge-penitence, demarcating this structure of communication from both rhetorics of judging and penitence. In the case of rhetorics of judging, the *other* is imagined against the background of accommodating an (allegedly) innocent in-group. In front of such listeners, *our* wrong is not crucial. Thus, one only speaks about the *other*, not with the *other*. In the case of rhetorics of penitence, in particular in the paradigmatic case of an official political apology as envisaged by Giesen (2004: 150f), the initial partner who ‘prescribes and appreciates’ the confession might be an international public. As Giesen argues, such publics do not appreciate chauvinist performances but request *us* to accommodate *them* via foregrounding admissions of *our* wrongdoing and, thereby, open *ourselves* to the previous *other*. However, contemporary admissions might also (re-)produce a reflexive narrative while ‘only’ addressing the in-group. In such cases, there is no external listener (imagined), and thus *our* confession can be self-complacently followed by *us* granting absolution to ourselves. As in Camus’ novel, the listener who might assess *our* admission and *our* claim to know the lessons remains silent and is simply not considered. In the case of rhetorics of judge-penitence, this enables the speaker to authorise her or his claims as being sufficient, that is, the speaker declares herself or himself to have successfully learnt in order to claim *our* moral superiority.

Having conceptualised rhetorics of judge-penitence, let me move to a series of examples. As we have seen so far, an analytical demarcation, not surprisingly, becomes messy when approaching empirical cases. For instance, rhetorics of judging can contain self-critical traces and Thierse is arguably cautious in constructing *us* as superior through the choice of ‘if’. These shades are reflected in the following five examples, moving from weak to strong cases of rhetorics of judge-penitence.

My first example is taken from a text by the Nobel Prize winner Günther Grass (2005) which, interestingly, is not concerned with the Iraq-war:

The memory of the suffering that we have inflicted on others and ourselves has been kept alive through generations. We have often had to force ourselves to do it. In comparison to other peoples which respectively live with otherwise guilt-ridden shame – I cite Japan, Turkey, the former colonial powers – we have not shaken off the burden of our past. As a permanent challenge it will remain a part of our history. It can only be hoped that we will cope with the present danger of a new totalitarianism, for which the last remaining ideology stands.

The main concern here is the power of capital and, as such, neither references to Germany’s National Socialist past nor the use of rhetorics of judge-penitence was expected. Yet, claims for having learnt the lessons facilitate a counter-intuitive move from a premise (a difficult past which has been faced) to a self-granting of authority in order to, in an almost casual remark, judge almost all Western powers. Although speaking of a ‘permanent challenge’, thus not marking past wrongdoing as bygone but as being of continuous significance, this self-authorisation ‘legitimises’ the construction of *others* as morally inferior. It is only because *we* are successfully facing this burden that *we* might be able to face contemporary challenges.

Next is a more explicit manifestation of rhetorics of judge-penitence. Its author, the Austrian Robert Menasse (2003), is a prominent public intellectual known for his interventions against xenophobia and public ignorance about the country’s Nazi past:



'It's our job!' said Bush. The self-evidentiality and certainty, with which an American believes that this sentence legitimises what he's doing shows the difference between the USA and Europe in the face of history and with a view to the future: Here the sentence 'I only did my duty' is rightly disavowed for all times. But the American can never understand what the great European lesson is: no one has the right only to do his duty!

This passage illustrates the often highly contextualised form that rhetorics of judge-penitence take. By claiming that "'I only did my duty" is rightly disavowed', Menasse accommodates to his left-liberal audience for which this utterance is linked to the way the then Austrian President, Kurt Waldheim (and, more generally, the country; cf. Endnote 6), defended his role as a Wehrmacht officer during World War II. The statement has become synonymous with *not* facing up to one's own difficult past – and rejecting it equates to an admission of *our*, Austrians', past wrongdoing. While both Austria and Europe understand this, the *other*, the United States, 'can never understand this great European lesson'. It might be argued that Menasse refers only to Bush but, in light of the character of the text and Menasse's previous reference to 'the difference between the USA and Europe', it is more plausible that this paragraph, including 'he' and 'the American', is understood (and meant) in a generic sense. In this example too, we thus observe the utilisation of a claim for having learnt the lessons, which connects the premise (*we* reject 'I only did my duty' and admit *our* past wrongdoing) and the conclusion (since *they* 'can never understand' this, they are morally inferior).

Another, this time international, public intellectual, Bauman (2004: 129f), provides a more easily recognisable example of rhetorics of judge-penitence:

Europe has learned, the hard way and at an enormous price paid in the currency of human suffering, how to get past historical antagonisms and peacefully resolve conflicts and how to bring together vast array of cultures and to live with the prospect of permanent cultural diversity, no longer seen as only a temporary irritant. And note that these are precisely the sorts of lessons the rest of the world most badly needs.

A rocky road ('the hard way', 'enormous price', 'human suffering') lies behind *us* ('has learned'). It is exactly because Europe has successfully wandered it that Bauman can narrate Europe into being as now guaranteeing diversity, as now offering lessons to the rest of the world, thus applying rhetorics of judge-penitence.

Most damaging and explicit attempts to 'other' are found in the following two examples by, first, a leading figure of the Austrian *Greens*, the country's second-largest parliamentary leftist party, Peter Pilz (2003: 244), and second, the German author Georg Klein (2003):

However, so goes the objection, the Nazis were Europeans – and not Americans. That is true, the National Socialists were above all Germans and Austrians. In principle the EU is nothing other than the successful attempt to draw lessons from fascism in Europe. Europe has learnt. America's learning from its own history is still yet to happen.

Pilz explicitly pollutes the United States by drawing on the ultimate sign of evil, the Nazis and the Holocaust. He does so by granting not only Austria and Germany but the whole of Europe a successful learning process. Again, those actually affected by these crimes are not asked or addressed. Instead, this process is replaced by a *self*-granting of learning. Furthermore, the speaker is not only denying the United States any learning but intensifies the difference between *us* and *them* as *we* learnt from the most self-polluting crime possible. Arguably, Klein radicalises Pilz's position even further:

We have played 'Punch, Devil, Policeman' long enough in Europe. The puppets went all around. Germany has held its hand in the mould of the Prince of Darkness quite enough. And the worst thing is: we can even still remember it. The USA will not forgive us for exactly that: we know the game which is to be played. And in the former superpowers of Europe, in our dithering and in our scrupulous thinking, America, once more on the offensive, senses its distant future, a state, in which things just have to go on without ecstatic outbursts. The USA must not forgive us for that! The tunnel vision of the American commanders is starting to flicker irritably. Europe, however, is experiencing happy days: in the eye of American paranoia, there where their pupil is really black, our truth also sparkles.

While the first half of Klein's essay juxtaposes old Europe (cautious, experienced and full of wisdom) with young America (unburdened, rash in actions and inexperienced) in a rather conventional way, this second part moves to metaphoric admissions of wrongdoing ('The arch evil one', 'Punch, Devil, Policeman' and 'Prince of Darkness'). Given the all-inclusive 'we' as well as the reference to 'Germany', this performance is neither ambiguous nor triumphant but presents Europe as a post-heroic 'appeaser of the great moral emphasis', 'dithering' and only 'scrupulous[ly] thinking'. The United States too is presented as a monolithic entity which, however, is not willing ('will not', 'must not') to forgive *us* because *we* remember the past. This characterisation is carried to an extreme by almost 'pathologising' the USA twice. First, it is by claiming that the United States 'has assembled to eradicate [*ausrotten*] the evil of the world root and branch'. As *ausrotten* carries National Socialist connotations or, at least, relates to the destruction of vermin, Klein pollutes the United States symbolically. Second, he diagnoses the *others'* 'paranoia' which not only affects its commanders but is 'American'. Here, rhetorics of judge-penitence facilitate the construction of a radical difference between Europe the penitent sinner and the United States the half-savage.

Let me finish by addressing a possible objection: can we not separate appropriate critique of the *other* based on lessons learnt from inappropriate instrumentalisation? Such a question turns from a more descriptive focus on how the past is utilised in the present to a normative perspective which includes an evaluation of these representations. Indeed, already, *The Fall* has been interpreted from a normative point of view as illustrating a 'pathology of pride', a 'condemnation of resentful pride and superiority, pride that refuses to recognize itself as such and superiority that proves itself only by stealth and subversion' (Solomon, 2004: 48).

Instead of claiming a superior theoretical standpoint from which 'true' and 'false' lessons are identified or references to historiography (factual accuracy), a procedural view on the openness and closeness of the claims seems most promising (for related discussions on the ethics of memory, cf., for example, Margalit, 2002 and Thompson, 2009). Such a position, and I can only indicate this briefly, can be 'grounded' in two usually opposing positions: following a post-structuralist agenda, Glynos (2000) proposes 'a deconstructivist ethics of the political [which] is one that privileges guilt, or at least a lingering doubt as to whether one has acted or decided in good consciousness'. That is, ethical performances avoid closure through complacency, as in rhetorics of penitence. Similarly, Habermas (1984: 22) has linked learning processes to the openness of utterances and consequently suggests a relation to the past which does not 'close the books' by affirming the past. Instead, the latter should constantly challenge *us*, thereby causing constant 'discomfort' (Habermas, 1998). Thus, both traditions evaluate claims for having learnt the lessons in terms of their ability to facilitate self-critical openness instead of self-complacent closure. In other words, a successful learning process cannot be self-granted or claimed, especially not in order to enable closure towards a new external *other*. What seems to characterise judge-penitence is indeed double closure, both disqualifying the contemporary *other* as representing a non-enlightenment position as well as the previous *other* who is backgrounded as *we* grant absolution to ourselves.

In line with this, Habermas (1994: 28) rejected assessments by the Czech historian Jan Kren, who praised the German process of coming to terms with the past, saying that ‘maybe this is something that *someone* else can say. But the moment we [Germans] were to compliment ourselves in this way, such a claim [...] would be rendered null and void’. Indeed, the moment of closure in which *we* grant ourselves redemption would render such efforts ‘null and void’. But is this not exactly what is happening in rhetorics of judge-penitence in general – as well as in one of the most well-known interventions during the Iraq-war debate, Habermas and Derrida’s (2003) *February 15* which addresses differences between Europe and the US, in particular?

Contemporary Europe has been shaped by the experience of the totalitarian regimes of the twentieth century and by the Holocaust – the persecution and the annihilation of European Jews in which the National Socialist regime made the societies of the conquered countries complicit as well. Self-critical controversies about this past remind us of the moral basis of politics. [...]

A bellicose past once entangled all European nations in bloody conflicts. They drew a conclusion from experiences of military and spiritual mobilization against one another: the imperative of developing new, supranational forms of cooperation after the Second World War. The successful history of the European Union may have confirmed Europeans in their belief that the domestication of state power demands a mutual limitation of sovereignty, on the global as well as the nation-state level.

Each of the great European nations has experienced the bloom of its imperial power. And, what in our context is more important still, each has had to work through the experience of the loss of its empire. In many cases this experience of decline was associated with the loss of colonial territories. With the growing distance of imperial domination and the history of colonialism, the European powers also got the chance for reflective distance from themselves. Thus, they could learn from the perspective of the defeated to perceive themselves in the dubious role of victors who are called to account for the violence of a forcible and uprooting process of modernization. This could have supported the rejection of Eurocentrism, and inspire the Kantian hope for a global domestic policy.

As it becomes clear from the closing section of their essay, a ‘bitter past’ is narrated. This narrative of failing is, however, supplemented by a more self-complacent outlook: ‘[s]elf-critical controversies’ ‘remind us of the moral basis of politics’. Subsequently, the performance is able to claim a European learning process (‘drew a conclusion’, ‘reflective distance from themselves’ and ‘they could learn’; note the closure via the use of the past tense as in many previous examples), providing a potentially self-complacent end to the narrative of Europe.

## Conclusion

Let me summarise this article’s main point by returning once more to *The Fall*. As Clamance introduces his leitmotif, he confesses to hiding a lost panel of the van Eyck brothers’ altarpiece *The Adoration of the Lamb*. The latter celebrates the redemption of a guilty man by Christ, while the missing panel shows a group of just judges approaching the innocent lamb. By having separated the panel from the wider altarpiece, Clamance justifies his claim for cutting the intuitive link between judging and innocence, thus enabling judge-penitence (Camus, 2006: 80f; cf. also Meyers, 1974).

Rhetorics of judge-penitence, while admitting wrongdoing in a way that is not simply discardable as a meaningless fad but might well signify a genuine internalisation of *our* wrong past, are not necessarily reducible to intentional attempts to mitigate such admissions. In their emphasis on *our* past wrongdoing, they thus differ from rhetorics of judging. At the same time, rhetorics of judge-penitence share with the latter the ‘othering’ of an external *other* – in contrast to rhetorics of

penitence which ‘other’ an internal *other*. This subtle way of demarcating civil from uncivil, moral superiority from inferiority, is facilitated by the self-authorized assertion that *we* have successfully learnt from *our* dark past; a claim which becomes ‘legitimate’ due to our admissions of our past wrongdoing.

Although the above conceptualisation has focused on a particular context, the examples have illustrated that both the penitent sinner (*self*) and the, allegedly, morally inferior *other* can vary considerably. In contrast, the Holocaust and, more broadly, World War II (the wrong past) have been central to all examples. Given the Holocaust’s significance as ‘the epoch’s marker, its final and inescapable wellspring’ (Diner, 2000: 1), this is not surprising. Yet, due to wider societal developments (cf. Endnote 1), not even the *wrong past* is necessarily about the Holocaust but is, like *self* and *other*, an empty structural position. Thus, the suggested conceptualisation of rhetorics of judge-penitence provides a language for capturing a range of realisations, that is, of different ‘penitent sinners’, ‘past wrongs’ they admit and ‘inferior *others*’.

In line with this, I have indicated the continuum on which these rhetorics are performed and facilitate closure, ranging from cautious uses (for example Thierse and Grass) to narrations of an almost civilisational divide. But while some examples of the latter, for example Pilz and Klein, might be too explicit for (parts of) the audience, rhetorics of judge-penitence as in, for example, Bauman, Habermas and Derrida, might prove particularly useful in cases where it can hardly be denied that *we* share key values with the *other*. In such cases, claims for *our* superiority cannot simply be justified through reference to *our* allegedly superior values. Instead, rhetorics of judge-penitence help to ‘legitimise’ our superiority by arguing for *our* privileged access to these sacred values which ‘the world most badly needs’ (Forchtner and Kølvråa, 2012: 392). That is, *we* are particularly aware of their true nature and how to interpret and apply them. This indicates that while such rhetorics might be utilised beyond the case of the Iraq debate, there are limits to such discursive legitimations of *us* versus *them*. Such discursive legitimisation might be mobilised when claiming moral superiority vis-a-vis those with whom *we* share key values, for example Europe in relation to the United States, and, for example and more implicitly, in the construction of a wider European identity (Forchtner and Kølvråa, 2012). In contrast, there is no need for such subtle manoeuvres in cases where the *other’s* (apparent) moral inferiority is widely accepted. Among the many current conflicts, the case of the construction of Iran and its nuclear programme springs to mind.

As repeated several times, it is only due to the fact that shared self-critical memories of the past are nowadays narrated that rhetorics of judge-penitence have become possible. While they are probably too subtle to become a dominant public structure of communication, their existence highlights new mnemonic opportunities to capture the moral high ground in the ‘age of apology’. Thus, this article draws heavily on recent research on self-critical constructions of *our* past within the field of memory studies. At the same time, the article points to the counter-intuitive consequences of such practices and thereby adds an interesting and original dimension to this now established field. As such, this article has questioned the intuitive assumption that self-critical narratives immunise communities against self-aggrandising or self-complacent modes of identity construction. Although rhetorics of judge-penitence do not devoid every admission of wrongdoing of value – and rhetorics of penitence persist – penitent sinners might indeed turn into self-complacent judges.

## Acknowledgments

I am thankful to Christoffer Kølvråa and Irit Dekel for their comments on an earlier version of this article.

## Funding

This work was supported by a DOC fellowship from the *Austrian Academy of Sciences* and an ESRC studentship at the Department of Linguistics and English Language at Lancaster University.

## Notes

1. I prefer the phrase ‘admissions of wrongdoing’ in order to avoid religious connotations of ‘confessions of guilt’ or the far-reaching concept of ‘(political/official) apology’. Among the various reasons for this self-critical turn, a couple of points are particularly significant. While the end of the Cold War enabled debates about previously silenced pasts, it also blurred the demarcations between good and evil. Memories of past wrongdoings enable a redrawing of this boundary, in particular, in a climate in which memory and remembering are ‘replacing progress and revolution as the master metaphors of history’ (Giesen, 2004: 10). Simultaneously, the long-term rise of civil values and post-heroic attitudes and the parallel decrease in the significance attached to national honour and a military ethos (Schwartz, 2008; Sheehan, 2008) have facilitated a turn towards *our* difficult past. Finally, ‘the lessons from the past’ (‘Never Again’) were publicly discussed in light of the ‘ethnic’ conflicts in the former Yugoslavia and in Rwanda, which pointed to the importance of human rights. At the same time, the growing significance of the Holocaust – due to, for example, the identity politics of the American Jewish community (Novick, 2000), generational changes to do with the death of survivors, generational conflicts within societies as in the case of Germany, and the so-called Stockholm process – has affected this wider development and is being affected by it.
2. Compare with also a recent special issue on repairing historical wrong and reconciliation of *Social & Legal Studies*. Those sceptical of the ‘politics of regret’ too often reproduce this dichotomous perspective in order (sometimes rightly) to point to the shortcomings of admissions, for example, being hypocritical and cynical, or being structurally unable to live up to their own standards (cf. a recent special issue, on reconciliation and memory, of *Memory Studies*, for example, Short, 2012; more fundamentally, Trouillot, 2000). For thoughts on how cacophonous talking might silence a wrong past, compare with Vinitzky-Seroussi and Teeger (2010).
3. German journalists (Broder, 2012: 170f; Herzinger, 2003) have criticised Germany’s apparent *Sündenstolz* (pride in sins). However, the notion of *Sühnestolz* (pride in repentance) – resembling judge-penitence – is more appropriate, given that what ‘legitimises’ moral superiority is not pride in wrongdoing but pride in how such wrongdoing has been dealt with.
4. This interest in the persuasive character of language use as well as in the connection between language and identity is linked to the wider methodological framework according to which this study was initially conducted: the discourse-historical approach in critical discourse analysis (cf. Reisigl and Wodak, 2009). Here, analysis focuses on the ‘substantively linguistic and discursive nature of social relations of power’ (Wodak, 1996: 18) by investigating, for example, the nominations and predications of actors, events and processes as well as related argumentation schemes in the construction of *us* and *them*, via a wide range of pragmatic and rhetorical categories. Importantly, these help to realise ‘discursive strategies’ which are ‘more or less intentional plan[s] of [discursive] practices’ (Reisigl and Wodak, 2009: 94). This implies that the three rhetorics discussed in this article are not to be reduced to intentionally manipulative practices. However, this article focuses on conceptual work, instead of textual analysis of these three forms. For such detailed analysis of rhetorics of penitence and rhetorics of judge-penitence, compare with Forchtner and Kølvrå (2012).
5. The related topos of *history is life’s teacher* (*historia magistra vitae est*) goes back to at least Ciceroian rhetoric (Cicero, 1960: II, 9, 36): ‘[h]istory [...] sheds light upon reality, gives life to recollection and guidance to human existence’. For a broader perspective on this topos, compare with Koselleck (1985).
6. The difference between the two countries is not due to a lack of potentially controversial events and statements in Austria, but to the failure to scandalise them successfully. While Germany, like Austria, shifted the blame and focused on its victims after 1945 (Moeller, 2001), increasing legal efforts, political debates and wider public controversies did ultimately enable a self-critical public stance towards its past (e.g. Confino, 2006; Giesen, 2004: 120–141; Olick, 2007; of course, this does not imply that there are no attempts to portray Germans as victims, cf. Niven, 2006). In contrast, a selective reading of the so-called *Moscow Declaration* (1943) – which, among other things, spoke of Austria as Hitler’s first victim – prevented any comparable legal, political or wider public discussion of the past in Austria (e.g. Uhl, 2006). It was only with the Waldheim scandal (Uhl, 2006: 61–63) that the victim thesis started to erode and co-responsibility became acknowledged. Yet, both the Wehrmacht exhibition at the end of the 1990s and beginning of the 2000s (Heer et al., 2008) as well as the so-called *Year of Thoughts* (*Gedankenjahr*) in

2005 (De Cillia and Wodak, 2009) illustrated the remaining consequences of decades of Austrian silence. For a comparison of earlier controversies and differences, compare with Wodak et al. (1994).

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