

Working Paper OP-3

*The Politics of Restitution for Nazi Victims in Germany West and East (1945 – 2000)*

by

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**Abstract**

On first sight, a comparison between restitution for Nazi victims in Germany West and East does not seem to leave ample space for interpretation: While the Federal Republic at least in principle accepted their obligation to compensate former Nazi victims and paid huge amounts for that purpose over the last 50 years, the GDR only offered elaborated social security for the tiny faction of Nazi victims who decided to live in the GDR after 1949. As a consequence, while restitution in the West has been a predominantly Jewish affair, restitution in the East was chiefly a communist matter. However, in my talk I will not focus on a comparison of material payments. Rather, I am interested in the different structure of the answers of two German societies to the same problem: the persecution and killing of millions of people by the Nazi regime. This implies three sets of questions. *First*: On which perception of the events between 1933 and 1945 were the respective attempts at rehabilitation and compensation for Nazi victims in the two German societies based? *Second*: What relation between former Nazi victims and German post war societies underpinned the respective attempts at restitution? And *third*: What consequences did German reunification have for this process?

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## **The Politics of Restitution for Nazi Victims in Germany West and East (1945 – 2000)<sup>1</sup>**

Over the last few years, restitution for victims of historical injustice has become increasingly important both on the political and the historical agenda. Yet there are conflicting assessments: Some authors, like Elazar Barkan, who adheres to a cultural concept of restitution, point to the potential power of restitution to settle deep rooted conflicts between nations and ethnic groups. Restitution, from this viewpoint, may be described as a means of reinventing the past, with the result of altered identities, by fusing “polarized antagonistic histories into a core of shared history to which both sides can subscribe and from which each will benefit”<sup>2</sup>. Others, like John Torpey, are more concerned about the cultivation of victimhood which in his opinion goes hand in hand with the new politics of restitution. While for Barkan settling disturbing issues of the past is a means of gaining a better future, for Torpey the actual trend toward restitution is rather a symptom of the now prevailing catastrophic view of 20<sup>th</sup> century history, synonymous with the end of utopia. In Torpey’s view, universalistic ideas for a better future are very often replaced by the particularistic attempts of ethnic groups to improve their situation by utilizing their historical suffering as a political weapon.<sup>3</sup> So the question is whether the current politics of restitution are a symptom of a negative utopia based on the loss of universalistic ideals, or if they are rather an honest attempt to revive the ideals of the enlightenment in a post-modern, globalized world.

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<sup>1</sup> Some parts of this paper were previously published in: Constantin Goschler, *Zwei Wege der Wiedergutmachung. Der Umgang mit NS-Verfolgten in West- und Ostdeutschland im Vergleich*. In: Hans-Günter Hockerts and Christiane Kuller (eds.), *Nach der Verfolgung. Wiedergutmachung nationalsozialistischen Unrechts in Deutschland?* (Göttingen: Wallstein, 2003), pp.115–137. The author is currently preparing a comprehensive study on the “Politics of Restitution in Germany, 1945–2000”.

<sup>2</sup> Elazar Barkan, *The Guilt of Nations. Restitution and Negotiating International Justice* (Baltimore: Johns Hopkins University Press, 2001), p. 329.

<sup>3</sup> John Torpey, “Making whole what has been smashed”: Reflections on reparations. In: *Journal of Modern History* 73 (2001), pp. 333–358; *idem*, Introduction. Politics and the Past. In: *idem* (ed.), *Politics and the Past. On Repairing Historical Injustices* (Lanham: Rowman & Littlefield, 2003), pp. 1–34; *idem*, *An Avalanche of History: The “Collapse of the Future” and the Rise of Reparations Politics*. Unpublished Paper at the Conference “Historical Injustice in International Perspective” of the German Historical Institute, Washington, D.C., March 27.–29, 2003.

In a way, these conflicting views echo the old Nietzschean chant, urging for a proper balance between past and future orientation in the interest of the present generation. However, in my opinion, the problem with this quarrel is its inherent presentism, since it is very much focused on developments in the 1990s. Therefore I propose to recontextualize historical examples of restitution. With respect to this, the German case of restitution for Nazi victims after 1945 is an especially useful case, not only because it is frequently used as a point of reference for recent restitution claims – ranging from slavery and other consequences of colonialism to a variety of war victims. A further advantage of a historical study of the German case is that it offers a quasi-experimental situation: How did two different political systems deal with a shared historical burden?

On first sight, however, a comparison between restitution for Nazi victims in Germany West and East does not seem to leave ample space for interpretation: While the Federal Republic at least in principle accepted their obligation to compensate former Nazi victims and paid huge amounts for that purpose over the last 50 years,<sup>4</sup> the GDR only offered elaborated social security for the tiny faction of Nazi victims who decided to live in the GDR after 1949<sup>5</sup>. As a consequence, while restitution in the West has been a predominantly Jewish affair, restitution in the East was chiefly a

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<sup>4</sup> See especially *Die Wiedergutmachung nationalsozialistischen Unrechts durch die Bundesrepublik Deutschland* Ed. by the Federal Ministry of Finance in cooperation with Walter Schwarz, six volumes (Munich: Beck, 1974–1985); Ludolf Herbst, Constantin Goschler (eds.), *Wiedergutmachung in der Bundesrepublik Deutschland* (Munich: Oldenbourg, 1989); Constantin Goschler, *Wiedergutmachung. Westdeutschland und die Verfolgten des Nationalsozialismus, 1945–1954* (Munich: Oldenbourg, 1992); Corneliu Pawlita, „Wiedergutmachung“ als *Rechtsfrage? Die politische und juristische Auseinandersetzung um Entschädigung für die Opfer nationalsozialistischer Verfolgung (1945 bis 1990)* (Frankfurt/M.: Peter Lang, 1993); Hermann-Josef Brodesser *et.al.*, *Wiedergutmachung und Kriegsfolgenliquidation. Geschichte – Regelungen – Zahlungen* (Munich: Beck, 2000); Christian Pross, *Paying for the Past. The Struggle over Reparations for Surviving Victims of the Nazi Terror* (Baltimore: Johns Hopkins University Press, 2001); Hans Günter Hockerts, *Wiedergutmachung in Deutschland. Eine historische Bilanz 1945–2000*. In: *Vierteljahrshefte für Zeitgeschichte* 49 (2001), pp. 167–214; Karl Doehring, Bernd Josef Fehn, Hans Günter Hockerts, *Jahrhundertsschuld – Jahrhundertssühne. Reparationen. Wiedergutmachung. Entschädigung für nationalsozialistisches Kriegs- und Verfolgungsunrecht* (Munich: Olzog 2001); Hockerts/Kuller (eds.), *Nach der Verfolgung*.

<sup>5</sup> Peter Ralf Kessler, Hartmut Rüdiger, *Wiedergutmachung im Osten Deutschlands 1945–1953. Grundsätzliche Diskussionen und die Praxis in Sachsen-Anhalt* (Frankfurt/M.: Peter Lang, 1996); Constantin Goschler, *Nicht bezahlt? Die Wiedergutmachung für Opfer der nationalsozialistischen Verfolgung in der SBZ/DDR*. In: Christoph Buchheim (ed.), *Wirtschaftliche Folgelasten des Krieges in der SBZ/DDR* (Baden-Baden: Nomos, 1995), pp. 169–191; Karin Hartewig, *Zurückgekehrt. Die Geschichte der jüdischen Kommunisten in der DDR* (Cologne: Böhlau, 2000), pp. 274–314; Hockerts, *Wiedergutmachung in Deutschland*; Christoph Hölscher, *NS-Verfolgte im „antifaschistischen Staat“. Vereinnahmung und Ausgrenzung in der ostdeutschen Wiedergutmachung (1945–1989)* (Berlin: Metropol, 2002).

communist matter. However, in my talk I will not focus on a comparison of material payments. Such comparisons are very much indebted to the Cold War struggle for the title of the “better Germany”. Rather, I am interested in the different structure of the answers of two German societies to the same problem: the persecution and killing of millions of people by the Nazi regime. This implies three sets of questions. *First*: On which perception of the events between 1933 and 1945 were the respective attempts at rehabilitation and compensation for Nazi victims in the two German societies based? *Second*: What relation between former Nazi victims and German post war societies underpinned the respective attempts at restitution? And *third*: What consequences did German reunification have for this process?

In the remaining time I will argue that given the infinite scope of destruction and murder during the Nazi era, a simple restoration of the *status quo ante* was simply not feasible – there was no so to speak “natural” way of restitution. As a result, the structures of restitution could not have been identical to the structures of persecution. On the contrary, any attempts at restitution had to create something new. Consequently, restitution in both Germanies was not only shaped by different outlooks on the past and the future, but also by differing models of justice. In the long run, German restitution for Nazi victims was neither the outcome of a negative utopia, nor did it result in shared narratives between former victims and perpetrators. Rather, it was the result of a painful political bargaining process which tried to deal with the critical relation of *Schuld* and *Schulden* – i.e. “guilt” and “debts”. Both sides, German society and Nazi victims, have always had quite different perspectives on this relation, which is a source of endless quarrels between those who strive for a “clean break”, and those who consider restitution as an open ended process. In reality, the philosophical question, what kind of restitution might be acceptable as “just”, has always been dealt with as a political question. So restitution is not just about money and morals, it’s also very much about power.

### *1. Decision making: Arcanum policy versus party rule*

To begin my discussion, I would like to ask how the field of restitution policy was structured in Germany West and East. What were the rules of the game? And who

were the players – and who was excluded? And how did changes come about? With respect to this, sharp contrasts between West and East Germany existed which already emerged during the period of Allied occupation. The Western Allies, especially the United States, were heavily interested in the matter of restitution and indemnification for Nazi victims. During the first 10 years after the end of the war, they established a comprehensive system of legislation to compensate Nazi victims. The problem with German efforts in this realm was that, by and large, they considered the Allied obligations as a standard. Only a minority claimed that restitution should be a genuine German effort which should not limit itself to fulfilling Allied obligations. Actually the Allies, notably the United States, were for a long time also interested in limiting reparations for Nazi victims since they competed with other urgent demands. This was especially true during the Cold War, when there was a vital interest in substantial German military contribution.<sup>6</sup>

Since the 1950s, a strong bilateralism was established in the field of restitution policy: While on the one side the German Federal Ministry of Finance took on major responsibility, on the other side the Jewish Conference on Material Claims against Germany took the lead. The latter – which had been established in 1951 as a voice of the Jewish diaspora during the Wassenaar negotiations with Germany – was not an organization of Nazi victims, but rather an amalgamation of international Jewish organizations. Most of these member organizations were from countries who had not directly suffered from the Holocaust. Thus, from the beginning a conflict between individual Jewish Nazi victims and the Claims Conference emerged. It is only since the 1980s that this situation has changed. Since then both individuals and organizations of “Holocaust Survivors” have challenged the monopoly of the Claims Conference in this field.

Other groups of non-Jewish Nazi victims did not have a strong voice for many decades. Immediately after the war, a German organization for all Nazi victims was established – the *Vereinigung der Verfolgten des Naziregimes*. But it soon fell under communist influence, and due to the effects of the Cold War, rapidly disintegrated. Only since the 1980s, Non-Jewish groups of Nazi victims – like gypsies and

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<sup>6</sup> See in more detail Goschler, *Wiedergutmachung*

homosexuals – have established their own organizations and thus contributed to the multilateralization of the policy of restitution. As a consequence, the political style which so far had prevailed in this field, also changed. In the first decades, the policy of restitution had been characterized by an attempt to avoid publicity. Neither German politicians nor the Claims Conference were expecting much support for restitution from the German public. Hence, two levels were established: Firstly, experts from the Claims Conference, the Federal Ministry of Finance and the *Bundestag* intensively negotiated all aspects of restitution. Among them, Nazi crimes were frequently addressed since they were relevant to the details of restitution. Secondly, Konrad Adenauer, the first German chancellor, in particular, and Nahum Goldmann, the first president of the Claims Conference, established a pattern of top-down politics. These were not talks between “perpetrators” and “victims”, but talks between political representatives of Germans and Jews which were held in a cultured atmosphere and tried to revive an illusion of German-Jewish pre-war discourse. Goldmann and Adenauer were not discussing the Holocaust, but chatting about “Bach, Goethe and God knows”<sup>7</sup>.

Hence, in the Federal Republic until the 1980s, a sort of Arcanum policy prevailed in the field of restitution. It was characterized by a fundamental tension which is still valid today and also played an important role in the recent negotiations for the establishment of a German foundation for “Memory, Responsibility, Future” which benefits so far excluded Nazi victims. The West German Government expected restitution to come to an end at some point. Since the mid-sixties there have been frequent demands for politics to finally turn to the future, and close the door on the past. Paying the bill, from this perspective, was combined with expectations of clearing guilt. This was not accepted on the Jewish side: Money and morals were not to be confused, since there could be no acceptance of a “clean break”. At the same time, the Claims Conference animated German motivations by repeatedly offering them the sought-for “clean break” in exchange for further improvements in the realm of restitution. In the long run, however, this produced deep disturbances, the German side considering these to be “salami tactics”.

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<sup>7</sup> Interview with Nahum Goldmann, Nov. 24, 1971, William E. Wiener Oral History Library of the

To a certain extent, restitution and democracy even conflicted: Since the greatest part of Nazi victims did not live in Germany any longer, and since they were not voters, their interests had to be pushed forward against those of the majority of constituents: In general, the German taxpayer did not have much interest in restitution for Nazi victims. Therefore, one might be sceptical about the potential of a liberal civil society to deal with past injustices, as far as it has to do with people who are no longer considered members of that civil society. To strengthen that point, one might also stress the attempts of several other European states after 1945 and 1990 to deal only with restitution claims from people who actually held their citizenship – thus ignoring the fate of many Nazi victims who had not only been dispossessed of their property but also of their citizenship.<sup>8</sup>

How did restitution come about in a socialist system where *per definitionem* there was no civil society? In the GDR, decisions on how to proceed with the claims of former Nazi victims were made by party officials. While Jewish Nazi victims and notably the Claims Conference played no role within this process, communist resistance fighters had quite some influence. The Committee of Antifascist Fighters in the GDR acted as a powerful lobby for improvements for Nazi victims in the realm of social policy. At the same time, this committee was personally involved in many ways both with governmental and party institutions. As a result, it could not only promote the interests of Nazi victims, but was also subject to party discipline. To put it in a Weberian manner: The policy of restitution in the GDR was a strong example of the dialectics of participation in power under the circumstances of party rule which removed the modern separation of value spheres.

Furthermore, since the late 1940s, benefits for Nazi victims in the GDR conflicted with the approach of the SED – the ruling party – to former members of the Nazi party. This is paralleled by developments in the Federal Republic. There were many attempts to combine restitution for Nazi victims with support for German war victims: expellees, victims of air warfare, POWs, which were sometimes successful,

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AJC, Jacob Blaustein Oral History Project, Center for Jewish History, New York.

<sup>8</sup> Rudi van Doorslaer, Raub und Rückerstattung jüdischen Eigentums in Belgien. In: Constantin Goschler, Philipp Ther (eds.), Raub und Restitution. „Arisierung“ und Rückerstattung des jüdischen Eigentums in Europa (Frankfurt/M: Fischer, 2003), pp. 134–153; Dariusz Stola, Die polnische Debatte um den Holocaust und die Rückerstattung von Eigentum. In: *ibid.*, pp. 205–224.

sometimes not. The integration of the members of the former German *Volksgemeinschaft* in post war German society in both cases was a fundamental challenge<sup>9</sup> which had a high impact on the claims of Nazi victims.

## *2. Legal principles of restitution: “Liberal” versus “socialist” restitution*

Which legal principles were developed in both Germanies regarding the restitution and compensation of Nazi victims? The West German idea of restitution – which to a very high degree was actually an American idea – was closely related to liberal principles of property and law. There were three main elements: Firstly, restitution of property removed under duress, and, secondly, indemnification of personal injuries. While the former was basically the result of Allied efforts, having even enacted some restitution laws themselves, indemnification was originally very much inspired by the Allied occupation forces, but became more “German” over time. A third element, finally, was global settlements with foreign governments, which started in the 1950s. The most famous one is the 1952 Wassenaar agreement with Israel and the Claims Conference. In the late fifties and early sixties, there were also global settlements with twelve governments of the Western political hemisphere. This was due to the fact that the German government was not prepared to compensate Nazi victims who lived behind the Iron Curtain. As a result, until recently, there was almost no chance for Nazi victims from Eastern Europe to get restitution from Germany.

From a financial point of view, the Federal Indemnification Law became the most important aspect of the whole restitution program. It was first enacted in 1953 and revised several times – until the BEG-Final Law in 1965. Basically it offered indemnification for actual or former Germans who had suffered persecution between 1933 and 1945 due to reasons of racial discrimination or political and religious beliefs. Additionally, they had to live in the Federal Republic or another Western foreign country (which also included Israel). On the one hand, this law was made in the spirit of liberal legal traditions: It offered compensation which aimed at a restoration of the social status which the respective Nazi victims had had before their

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<sup>9</sup> Cf. Robert G. Moeller, War Stories. The Search for a Usable Past in the Federal Republic of

persecution. Thus, the BEG rejected the principle “same compensation for same suffering”. On the other hand, it did not strictly follow the idea of compensation for injuries according to traditional German civil law. (Which, by the way, grants much less for personal injuries than American civil law!) Instead of this, the BEG reduced the claims of Nazi victims for financial reasons, claiming the German Reich had been insolvent. At the same time, the BEG changed civil law claims into public law claims.<sup>10</sup> The effect was that no individual Nazi victim could press personal charges for indemnification against individual perpetrators.

Restrictions to restitution claims in the GDR were even more severe: There was almost no restitution of personal property which was clearly a result of the socialist transformation of property rights. There were no global payments to foreign states for the benefit of foreign Nazi victims. This was especially relevant with respect to Jewish claims. However, the GDR paid substantial war reparations to the Soviet Union and Poland, while the Federal Republic got much more favourable treatment regarding reparations from the Western states. This is important to understand both the official reluctance in the GDR to Jewish restitution claims from abroad and the attitude of the East German population: as far as they were concerned, they had paid the bill for the war. The popular view was that East Germany had been stripped by the Russians while West Germany had enjoyed substantial Marshall-Plan aid.

In East Germany, there was no personal indemnification for Nazi victims. However, a paternalistic mode of restitution emerged, offering primarily social privileges to former communist resistance fighters. Due to the close links to social security, only Nazi victims living on GDR territory were eligible. Since 1949, a law existed in the GDR which provided ample support in the fields of health, housing, pensions for the elderly etc. The model for the law was accident insurance. As a consequence, pensions for Nazi victims in the GDR were initially also graded according to their former social status. For more than a decade, former communist resistance fighters, mostly with working class backgrounds, fought against this law. They felt

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Germany (Berkeley: University of California Press, 2001).

<sup>10</sup> Franz Böhm, in: Proceedings of the Deutscher Bundestag, 4. Wahlperiode, 96. Meeting of Nov. 11, 1963, p. 4415; Martin Hirsch, *ibid.*, pp. 4418 f.; Martin Hirsch, in: Minutes of the 2. Meeting of the Sub-Committee BRüG of the Committee for Wiedergutmachung, Nov. 28, 1963, pp. 11 f., Bundesarchiv (Koblenz), B 141/14432.

discriminated against by middle class, bourgeois Nazi victims, in other words: Jews.<sup>11</sup> In this situation, communist resistance fighters claimed their extra bonus for the establishment of a socialist system which they considered to be the result of their struggles.

In 1965, the same year that the Federal Republic passed the BEG-Final Law, the communist resistance fighters were finally successful: The government of the GDR passed the so-called “Honorary Pension Law”. This law granted support for former Nazi victims no longer within the context of social security but as state pensions. Since then, there were only two financial levels: First class pensions for former “fighters” and second class pensions for former “victims”. In such a way, a symbolic and material difference between mostly communist resistance fighters and mostly Jewish victims was established, and a greater emphasis was put on the political element of the pensions. So, in 1965, the GDR concluded their distancing from liberal legal principles in the field of restitution for Nazi victims and linked the amount of payments closer to the prevailing political system: From now on, the decisive question was not what an individual had suffered during the Nazi era, but what he had done to fight the Nazi regime.

From a Western perspective, however, the aim of restitution was not to reward resistance fighters, but to compensate victims. This involved different ideas about the role of Nazi victims in the respective societies: the Federal Government wanted to prevent the crystallisation of Nazi victims as a group and encourage their assimilation into German society. In the GDR, however, group cohesion was promoted at least with respect to communist resistance fighters. The main reason was that the GDR legitimized itself much more strongly than the Federal Republic by referring to the heritage of Nazi victims. Hence, until the end, the GDR fostered a universalistic ideology with the “fighter” at the centre, while the Federal Republic participated in the Western rise of identity politics with the main emphasis on the “victim”.

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<sup>11</sup> Siehe etwa „Rat der Stadt Weimar – VdN -Sozialkommission – an das Komitee der Antifaschistischen Widerstandskämpfer in der DDR und an das Ministerium für Gesundheitswesen

### *3. Practises of restitution: Bureaucracy versus Paternalism*

Similar structural differences between the two German states could also be found regarding the practice of restitution. In short: It was the difference between a bureaucratic system on the one hand and a deeply politicized paternalistic procedure on the other hand, the former prevailing in the Federal Republic. All in all, about 1,5 million people claimed compensation, and about one million of them received some.<sup>12</sup> Payments ranged from very modest to very high, reflecting to a lesser degree the severity of persecution, and to a greater degree the capability of respective groups to mobilize political pressure. Until now, about 50 billion USD have been spent for that purpose, the greatest part going to Jewish Nazi victims living in Israel and the United States.

There has been much criticism of the bureaucratic procedure in the Federal Republic, especially of its slowness and complexity. Another criticism is that the procedure revived the traumatic experiences of individual Nazi victims. Most of the complaints referred to medical examinations: They were necessary because pensions were dependant on the claimants' degree of unfitness for work. As a consequence, doctors had to provide medical proof that certain afflictions were the causal result of persecution. However, it was only after a change in medical paradigm in the early 1960s that German doctors accepted the view that severe psychological suffering sometimes appears only years after persecution.<sup>13</sup>

Statistics, however, do not offer any indication of what the procedure meant to individuals. What we do know is that the bureaucratic restitution procedure very often resulted in a critical encounter between Nazi victims and German indemnification administrations and law courts. Individual Nazi victims normally put their restitution claims in the context of their upset biographies, thus following a “holistic approach”. The bureaucratic logic of restitution, however, cut these individual experiences into pieces: Nazi victims had to bring forward separate claims for different types of damages. The result was a tendency toward abstraction from individual experience,

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und Sozialwesen – VdN – der DDR vom 30.9.1961“, SAPMO-Bundesarchiv (Berlin-Lichterfelde), DQ 1, Nr. 1929, Bl. 4.

<sup>12</sup> Karl Heßdörfer, Die finanzielle Dimension, in: Herbst/Goschler, *Wiedergutmachung*, pp. 55–59.

and, at worst, even a kind of “legal surrealism” produced by bureaucracy and the law courts.<sup>14</sup> Another aspect of the procedure was the emergence of a discourse of restitution claims: In their applications, Nazi victims sometimes did not write down what actually had happened to them but what they believed would make them eligible for payments.<sup>15</sup> This makes the application files a critical source regarding the history of Nazi persecution.

Historical research on the practice of restitution is still at an early stage. The actual picture is probably too much influenced by extreme cases. But we may assume that the often described conflicts between Nazi victims and the German administration and law courts can not exclusively be explained as a result of the tension between individual holistic approaches and bureaucratic -legalistic rationality. Since the quotas of successful applications for indemnification vary very much between different offices – which were regionally organized, at the level of the German Laender – it seems that extra-bureaucratic elements also had a significant impact. These could have been traditional prejudices against particular groups of Nazi victims or fiscal considerations. Hence, the question is whether problems of the practice are the result of too much “matter-of-factness” and “coldness” or rather a deficit of both.

As I said earlier, the GDR offers a counter-example. However, the dimensions were quite different: While the Federal Republic had to handle millions of claims, in the GDR the maximum number of Nazi victims eligible for benefits of one sort or other was about 50.000. This number steadily decreased up to the collapse of the GDR, when there were still about 10.000 Nazi victims receiving state pensions. There were two main reasons for that steady decline: First, there was “political cleansing”, especially in the early, Stalinist period of the GDR. As a result, in the early 1950s, all groups which did not fit into the official party line were excluded. Even more important, however, was the high mortality of former Nazi victims. Among those who

<sup>13</sup> See Pross, Paying for the Past.

<sup>14</sup> Jürgen Lillteicher, Rechtsstaatlichkeit und Verfolgungserfahrung. „Arisierung“ und fiskalische Ausplünderung vor Gericht. In: Constantin Goschler, Jürgen Lillteicher (eds.), „Arisierung“ und Restitution. Die Rückerstattung jüdischen Eigentums in Deutschland und Österreich nach 1945 und 1989 (Göttingen: Wallstein, 2002), pp. 127–159, here: p. 150. See also *idem*, Die Rückerstattung jüdischen Eigentums in Westdeutschland nach dem Zweiten Weltkrieg. Eine Studie über Verfolgungserfahrung, Rechtsstaatlichkeit und Vergangenheitspolitik (1945–1971) (Ph.D. Diss., Freiburg/Br., 2002).

<sup>15</sup> I am very much indebted to Norbert Frei (Bochum) for this observation.

were formally accepted as beneficiaries of support for Nazi victims, former communists dominated while Jewish Nazi victims made up only about 10% of this group.<sup>16</sup> This was mostly due to the fact that after the Jewish exodus from the GDR, resulting from the wave of anti-Semitism in Iron Curtain countries in the early 1950s, only a very small group of Jews remained in that country.

In the GDR, Nazi persecution was interpreted from the perspective of fascism theory. As a result, there were some groups of recipients of state pensions for Nazi victims which would not have been eligible in the Federal Republic: for example, there were about 300 former members of the International Brigades which had fought against Franco in Spain. And there were about 1.000 Greek communist guerrilla fighters which had fled to the GDR. In the late 1950s, even some Germans who had survived Stalinist terror in the Soviet Union and who had returned to the GDR, were given the official status of Nazi victims. Their part of the bargain was that they had to promise to tell nobody what had happened to them in the Soviet Union.<sup>17</sup> With regard to some groups, German-German parallels also existed: Gypsies, homosexuals, victims of forced sterilization, foreign forced workers etc. were in a bad position on both sides of the wall. Still there was a difference: While in the GDR there was no public discussion of these problems, in the late 1970s an intense debate on the so-called “forgotten victims” emerged in the Federal Republic.

In the GDR, former antifascist fighters played an important role in the recognition procedure. The result was a high degree of politicization. Very often conflicts resulted from non-conformist political behaviour in the GDR. In this respect, Jews were in a more comfortable situation, since they were not required to show such signs of political conformity to be accepted as beneficiaries of support for Nazi victims. All in all, Jewish Nazi victims had less problems than communist “fighters” who had to fulfil high expectations regarding their political conduct before and after 1945.

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<sup>16</sup> Olaf Groehler: Integration und Ausgrenzung von NS-Opfern: Zur Anerkennungs- und Entschädigungsdebatte in der Sowjetischen Besatzungszone Deutschlands 1945 bis 1949. In: Jürgen Kocka (ed.), *Historische DDR-Forschung: Aufsätze und Studien* (Berlin: Akademie, 1993), pp. 105–127, hier: S. 127; Hölscher, *NS-Verfolgte*, pp. 114–121.

<sup>17</sup> Hölscher, *NS-Verfolgte*, pp. 216–219.

The effects of the GDR's less bureaucratic system regarding the procedure of recognition were double-sided: where former resistance fighters played a prominent role, the commissions in charge made their decisions to a great extent dependent on their personal life experience and not on formal legal principles. Sometimes these principles were not even made public, so that Nazi victims could not refer to them. Furthermore, there was always the possibility of appealing to the leaders of government, which in many cases proved to be helpful. Hence, "popular sentiment" from below and "charitable gestures" from above were both important and in a way, typical, elements of the recognition procedure in the GDR.

In the GDR, recognized Nazi victims enjoyed an extremely high degree of social and medical care, especially from the 1970s when many of them were very elderly. Yet there was a price to pay for the enormous privileges enjoyed by approved Nazi victims in the GDR compared to the average population. For them, health was not only a right, it was a duty. Communist resistance fighters were considered to be a major political resource: They helped to stabilize the GDR's self-image as the result of communist resistance against the Nazi regime, put up by both the Red Army and the German Communist Party. To that end, approved "fighters" had to make endless trips to schools and public rallies, where they had to recount their fighting experience under the Nazi regime, again and again. And they also helped to improve the international image of the GDR as the home of the anti-fascists. So, for both German states, winning recognition was an important element of restitution.

#### *4. Summary and Outlook: Restitution after Reunification*

Let me conclude my presentation with a brief summary and an even briefer outlook on the developments after 1990, which probably will be much more familiar to you: As we have seen, different perspectives on the Nazi past prevailed in the two German states: In the Federal Republic, the Nazi regime was mainly considered to be an attack on the state under the rule of law. In the GDR, the Nazi regime was considered a last battle of capitalism in the face of an approaching crisis. Consequently, from the Western perspective the main enemies of the Nazi regime had been Jews, while from

the Eastern perspective they had been communists and the Soviet Union. This was, by turn, responsible for the two states' different focus in the realm of restitution.

Furthermore, there were differing ideas of justice: In the Federal Republic, which claimed to be the successor state of the German *Reich*, a desire for the restoration of a liberal system of law prevailed, and therefore the concept of individual indemnification was pivotal. This was also the motivation for the decision to strive for justice in each individual case – which made tremendous bureaucratic efforts necessary. But in the anti-communist mood which prevailed in the Federal Republic of the 1950s, the refusal to make collective payments was probably also considered an important element of the restitution of a liberal society. On the other hand, in the GDR, which regarded itself as an antifascist phoenix risen from the ashes of the Third Reich, the choice for social security was made over indemnification. The procedures were less bureaucratic, but more arbitrary: Political considerations mattered much more, mostly to the disadvantage of political victims.

In both German states, the structure of those groups, who were eligible for benefits for Nazi victims, was not simply a clear-cut reflection of Nazi persecution. Rather, it was refracted by the respective ideological perspectives. The inclusion or exclusion of Nazi victims was not only dependant on fiscal considerations, but also on prejudices which played an important role in both societies – and sometimes were surprisingly similar in West and East Germany. However, in the Federal Republic public discourse could promote gradual changes.

Not only regarding material but also symbolic aspects, the two Germanies went different ways. At this point I'd like to come back to my initial discussion: To what extent did restitution for Nazi victims in the two Germanies help to develop a common narrative between “victims” and “perpetrators” which was able to overcome schisms resulting from Nazi persecution? My first answer would be that the heterogeneity of Nazi victims posed a fundamental obstacle to any such attempt. Until now it hasn't even been possible to develop a common narrative for all of the victims. How then should it be possible to find a common narrative which also includes “perpetrators” respectively the society of the perpetrators? What actually happened was that in the Federal Republic two competing narratives emerged: On the one hand,

an integrationist model existed, which tried to link Nazi victims and German war victims. This was especially strong in the 1950s – but continued to some degree until today. On the other hand, a model chiefly emphasizing Jewish memory emerged. The Holocaust respectively the Shoa are at the centre of this model. In both cases, however, there is no common perspective of victims and perpetrators. If we look at the GDR, we find that this state was more successful in creating a shared narrative: This was the narrative of the common legacy of antifascist resistance which invited not only victims of political persecution but also the whole population to identify with it. However, part of the price for this fictional national heroic history was the exclusion of many other victims from the collective memory.

After German reunification, the legacy of the GDR regarding their treatment of Nazi victims was discredited – especially as the GDR had created its own victims of political persecution, who also claimed restitution. As a result, reunification resulted more or less in the adoption of Western standards of restitution for Nazi victims in the East. This was especially important with respect to the restitution of property which had been taken away in the Nazi era. In the 1990s, property rights became a big issue, with a new property revolution taking place in the former Iron Curtain-countries. As in many Eastern European countries, the East German population did not react overwhelmingly enthusiastically to the revival of former Jewish property rights. While this did not greatly affect the practical outcome of restitution, it contributed to the cultural clashes which still play a certain role between West and East Germans.

When in the mid-nineties the issue of restitution for Nazi victims appeared on the global political agenda, it was often combined with a feeling that so far not much had been done in this field. Probably we are dealing with a turning point in the field of restitution politics: Restitution has become a universal principle which can be adopted for a multitude of historical injustices. And restitution claims concerning Nazi victims have been extended to the whole of Europe. Any explanation for this phenomenon has to take several elements into account: One might mention the role of economic globalization, and some also highlight the emergence of a moral cosmopolitanism. But there are some more concrete aspects to this story: One is that restitution has become an element of American history policy, especially since the Clinton era. This has provoked counter protests in Europe. Some French opinion, for example,

considers the American pressure for further Holocaust restitution to be just another step toward the cultural Americanization of Europe.<sup>18</sup> Hence they also prefer to speak of the “Shoa” rather than the “Holocaust”: It’s Claude Lanzmann versus Stephen Spielberg. Some other important aspects have to do with the changed role of Nazi victims. As already mentioned, “victim” and “victimhood” have achieved a much more positive meaning than before. And finally, the imminent physical disappearance of Nazi victims also implies a transformation of the politics of restitution.

So what will happen in a not too distant future when the last survivors have died? Let me conclude my talk with a quote from the French historian Henry Rousso: “What shall we do after reparations? How to deal with a collective suffering which will be handed on from generation to generation? How is a guilt to be paid off which can neither be eradicated by collective consciousness (...) nor by the after all considerable progress of historical knowledge nor by the symbolic, juridical and financial acceptance of these crimes? Maybe the only acceptable answer will be to keep the question itself alive without trying to answer it.”<sup>19</sup>

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<sup>18</sup> Such tendencies can be found for example in Claire Andrieu, *Zweierlei Entschädigungspolitik in Frankreich. Restitution und Reparation*. In: Goschler/Ther (eds.), *Raub und Restitution*, pp. 108–133.

<sup>19</sup> Henry Rousso, *Frankreich*, in: *Verbrechen erinnern. Die Auseinandersetzung mit Holocaust und Völkermord*, ed. by Volkhard Knigge, Norbert Frei (Munich: C.H. Beck, 2002), pp. 253–261, here: p. 261.