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Who Is a Nazi Victim? Constructing Victimhood through Post-War Reparations in France, Germany and Switzerland¹

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My presentation today deals with the question of how post-war victim reparations have transformed the fact of victimization into normative ideas of victimhood and how these ideas have contributed to a particular understanding of Nazi persecution. I use the term “constructing victimhood” to characterize this specific relation, an expression that might sound awkward in the context of Nazi victimization since terms like ‘construction’ or ‘production,’ when used to describe social, cultural and political phenomena, tend to convey the notion that something is invented or even fabricated, therefore not a given reality. It is of course not my intention to leave this impression since there is no doubt about the true nature of Nazi persecution. But instead, I use the term in an attempt at capturing developments and phenomena of the immediate post-war era that testify to grappling with the extraordinary character of Nazi crimes.

When we look at the treatment of Nazi victims over time, public sympathy and respect for the survivors of Nazi abuses are fairly recent historical phenomena. Immediately following the Second World War, the fact of victimization was instead highly confusing and for the victims often associated with blame and shame. Individual victims encountered ambiguous reactions that oscillated between contempt, the demeaning result of Nazi propaganda, and glorification of the victims’ sacrifices. Under the conditions of war and military rhetoric, undeserved suffering was furthermore associated with weakness and passivity. Even the pervasive use in the immediate postwar years of a discourse instilled with religious terms, such as ‘sacrifice’ and ‘martyrdom’, was ambivalent in its impact. Such rhetoric transfigured victimization and even insinuated that the victims had visited the

affliction upon themselves with their behavior and conduct, however noble their motives had been.

Victimhood, as an officially recognized legal status that entailed particular rights and entitlements to financial benefits, thus became a much desired good. For the survivors of state sponsored violence it represented more than the mere vindication of their undeserved affliction. To a great extent it came to stand for moral authority as the trademark of innocence and a highly valued form of symbolic capital, to use the terminology of the French sociologist Pierre Bourdieu. It is my intention in this presentation to examine the role of post-war reparation practices in producing these normative and transfigured ideas of the Nazi victim. But let me first say a few brief words about the general history of victim reparations in the post-war era.

What is victim reparations all about? Distinct from war reparations, the demand to make redress to individual victims of human rights violations was a legal innovation, a novel concept that appeared at the end of the Second World War. Prior to this, there existed no direct precedents in international law, neither in the design of the Versailles treaty for war reparations nor in the mechanisms of the interwar minority regime. Victim reparations were part of the responses to the unprecedented nature of Nazi crimes, embedded in a wider range of transitional justice measures aimed at overcoming the legacies of systematic violence, state organized mass murder and genocide.

The first post-war decade was the period when decisions were taken and the mechanisms evolved that have determined reparation politics ever since. In the late 1940s, for instance, the German legislation introduced a canonical definition of Nazi persecution. It centered on the perpetrators' ideological motives. In other words, an individual was entitled to redress when the Nazis had violated his or her rights for racial, political, religious or ideological reasons. In the early 1950s, the Federal Republic of Germany assumed state responsibility for Nazi crimes and acknowledged in principle its obligations toward the

survivors of Nazi persecution. The Luxemburg agreement of 1952 with the state of Israel and the Claims Conference is considered in the literature as the milestone in the history of reparation politics.²

The 1940s and early 1950s also saw the implementation of legal mechanisms and the creation of special bureaucracies to handle compensation claims. Most countries in Western Europe introduced some kind of special welfare benefits for the survivors of Nazi atrocities. Their general purpose was to alleviate the aftereffects and consequences of the persecution. An industry of legal and medical expertise grew as a result, not always to the benefit of the claimants.

The mid 1960s, eventually, seemed to be the moment when victim reparations came to a closure. At least German lawmakers saw it that way. In 1965 they voted a compensation bill that was supposed to be the last in a series of similar legislation. It was deemed the *Schlussgesetz*, which can be translated as the final or concluding piece of legislation. With the benefit of hindsight, we know today that they were wrong. The subject of victim reparations would re-emerge with a degree of intensity only a few insiders would ever have predicted. The link between the financial benefits of compensation payments and the moral rehabilitation intrinsic in recognition procedures would make it a particularly thorny issue, tending to arouse high emotions on the part of the claimants as well as the defendants. There are many reasons which I cannot discuss here in their entirety. One crucial aspect, however, are the processes of exclusion that victim reparations necessarily entail.

It is essential to all compensation procedures that they identify the circle of individuals who are eligible for special benefits. This requires definitions and interpretations. What is to be considered an unjustifiable violation of basic rights? And who deserves to be morally vindicated and socially rehabilitated. In other words, reparations necessitate a concept of the victim. Their realization, furthermore, engenders mechanisms of integration and exclusion. Even today, neither a comprehensive legal concept of victim reparations nor a mechanism for

the recognition of reparation claims exist. This has given rise to diverging, if not conflicting, expectations as to the purpose of reparatory measures. The emergence of national compensation procedures has furthermore proliferated distinctive representations and interpretations of Nazi persecution and its victims as can be shown with a transnational approach to this subject.

Let me illustrate that with an example that highlights the practice in the three case studies of my examination: France, Germany and Switzerland. Let's take the case of Sophie B. She was born to Swiss parents in the French city of Lyon thus giving her dual citizenship.

Notwithstanding the close family ties to her parents' country of origin, her unambiguous allegiance went with the French patriots after the débâcle of June 1940. Like many of her fellow students, she was deeply appalled by the Vichy regime's collaboration policy. In the fall of 1943, probably upon a denouncement, the French police arrested Sophie in her hometown Lyon. She was immediately handed over to the Gestapo who accused her of underground activity. Production and diffusion of illegal literature and complicity in sabotage acts ranged among the charges she was confronted with. Although severely beaten during the Gestapo interrogations, Sophie succeeded in withstanding torture and denying most of the allegations. This was of little help however. The Germans were well informed about her political underground activity, and in the spring of 1944, the German court-martial sentenced her to death in a summary trial. Probably due to a tardy intervention by the Swiss ambassador to Vichy, the execution was put on hold, and Sophie was instead deported to the women's concentration camp in Ravensbrück on one of the last transports to leave France while many of her fellow prisoners were put to death.

Sophie was lucky to survive the concentration camp. However, upon liberation, she was severely ill with tuberculosis. She never fully recovered and in the following years increasingly suffered from various mental conditions. Depression, insomnia and anxieties

impeded her from resuming her studies and rendered a regular professional occupation impossible. But Sophie stayed politically alert and was active in the *Amicale de Ravensbruck*, the association of the former concentration camp inmates. At an international gathering of former political prisoners she met the German concentration camp survivor Karl M. whom she married soon after.

Theoretically, Sophie fulfilled the citizenship requirements to file compensation claims in Germany, France and Switzerland. She first submitted her claim in Germany. But the Germans turned her down. They argued that the French resistance defied the legal authority that was established by the armistice of 1940. Moreover, they claimed that resistance fighters were not persecuted for political motives which would have entitled them to compensation payments according to the canonical formula. Instead the German compensation bureaucracy argued that resistance movements were driven by national rationales. Thus military authorities were allegedly justified to treat opponents as insurgents and subject them to martial law. Sophie B. did not appeal against this decision, in spite of its contentious line of argument. The notorious slowness of the German compensation bureaucracy left little hope for a final decision within the foreseeable future.

Confiding in the country's reputation as the beacon of humanitarianism and political virtue, Sophie B. next filed her claim in Switzerland. The Swiss authorities admitted that the torture, the unfair trial and the concentration camp detention qualified as condemnable acts of Nazi persecution. Yet they also held that her resistance activity was an illegal act under occupation law and the punishment therefore partly self-inflicted. This justified a 50 percent reduction of the compensation payment. But in the end they decided to reject her claim on the grounds of citizenship. Although Sophie had been a Swiss citizen at the time of the persecution (and was only obligated to waive her Swiss nationality upon marriage with a German citizen), the Swiss authorities considered her allegiance to Switzerland too feeble to justify a claim to compensation from that country.

This decision finally left Sophie with the French procedure as her last resort. In Lyon her case was examined by a mixed commission of officials and representatives of veterans' and victims' organizations. It did not take them long to come to a positive decision. Sophie B. was recognized as a *Déportée et internée de la Résistance*, the highest rank in the French victim hierarchy. This entitled her to the same welfare benefits and entitlements as war veterans, and the mayor of Lyon specially honored her sacrifice for the sake of the nation in his speech on veteran's day where she was awarded a special medal for her merits.

On her journey through the three compensation systems, Sophie B. was confronted with three different assessments of her affliction. Two countries penalized her for the resistance activity. This conveyed the confusing message that the abuses she had suffered were partly justified as she was blamed with provoking the persecution with her imprudent behavior. In France, on the other hand, Sophie was celebrated as a hero. Her tortured body became a symbol for the humiliation of the nation and at the same time, her sacrifice and survival stood for national redemption.

As you may be suspecting, Sophie B. does not really exist. I have constructed her case, as an *Idealtypus* in the sense of Max Weber, by using the material of numerous individual cases and stressing their typical characteristics. I did this for methodological reasons. In the course of my research, it has struck me how claimants were often treated completely differently in France, Germany and Switzerland for one and the same rights' violation. This was particularly striking in the cases where people had been engaged in Resistance activity. When caught by the German occupiers, Swiss citizens in France, for instance, faced the same fate as their fellow Frenchmen: incarceration, torture, deportation to concentration camps and in some cases execution. But the results of their compensation procedures in different countries were quite the opposite: while being rewarded for patriotic acts and sacrifices in France, they were penalized for their behavior by the Swiss compensation agency. On the grounds that their arrest and imprisonment were allegedly self-inflicted, the Swiss severely

cut their benefits. The German bureaucracy, in contrast, defended military justice, despite its unlawful interpretation of military law, by drawing an artificial line between ‘nationally’ and ‘politically’ motivated opposition to Nazi occupation. The official interpretations, however, revealed that victim reparations also were a function of national memory politics, invested with moral values and norms about the appropriate behavior in the face of Nazism—in France this was seemingly in line with a glorification of *Résistance* and *Déportation*. In Switzerland, on the other hand, it was obviously linked to an encompassing and morally imbued idea of neutrality, whereas the German compensation bureaucracy was inclined to narrow down the definition of Nazi persecution, not least for financial reasons.

These peculiarities suggest that an act of Nazi persecution could have quite a different meaning depending on the context, an individual’s behavior, social status or gender. This is not as surprising, as it might first appear. We know, for instance, from critical criminology, that the identification of a specific act or behavior as a crime largely depends on such vectors of context: persons involved, situation, time of the day, and so on and so forth. Welfare bureaucracies tend to follow a similar rationale. These findings, nevertheless, point at idiosyncrasies as well as similarities in each of the three case studies. Compensation procedures produce normative ideas of victimhood linking the instance of victimization by the Nazis to expectations of conduct and behavior that in turn also testify to the three societies’ grappling with their roles and responsibilities in the Nazi era.

Yet my transnational approach also raises some methodological questions: Are the three case studies with their completely different wartime history at all comparable? Is it at all possible to talk of victim reparations in France and Switzerland, given that Germany as the main aggressor was legally responsible for the abuses and, subsequently, their redress?

In the first place, some reservations are necessary for the understanding of a complicated legal situation: International law protected the fundamental rights of aliens as well as civilians in occupied territories. The failure to fulfill these obligations entailed for the

perpetrator state an international liability. In principle, the Paris Reparation Agreement of 1946 covered these obligations with regard to the occupied territories and delegated the allocation of individual compensation payments to the recipient states' domestic legislation. However, most governments considered German war reparations an insufficient compensation for the immense human suffering left by Nazi crimes. Moreover, citizens from neutral countries were excluded from war reparations and, therefore, could not expect redress.

Germany, on the other hand, although endorsing its obligation toward Nazi victims in principle, often eschewed their fulfillment. It found a ready excuse in the international community's attitude. More interested in a prompt repayment of pre- and post-war debts, Germany's western creditors agreed at the London Debt Conference of 1952/53 to postpone all German obligations resulting from the war until a future peace conference. In other words, they tacitly sanctioned the exclusion of their own nationals from German victim reparations. Only in the late 1950s and early 1960s, upon pressure by West-European governments, did the Federal Republic accept to pay lump sum compensations to formerly occupied and neutral countries on behalf of their Nazi victims. Before that, it had persistently refused to shoulder any responsibility with regard to aliens who were not residents in West-Germany or former German nationals.

So, to alleviate the suffering of their citizens, France in the late 1940s and Switzerland in 1957 introduced special legislation. These compensation mechanisms can be deemed victim reparations because they were directed at Nazi victims as a clearly defined group, involved a procedure to establish Nazi persecution and linked to such recognition of victimhood the allocation of special benefits. In both countries the legislation conveyed a clear sense of state responsibility, in so far as it held the Third Reich (and its successor state) alone accountable. This entailed that any notion of a shared responsibility or even complicity of the French state and the Swiss government respectively be discarded. Given these common features with regard to their purpose, procedures and basic understanding of past injustice, the

three national mechanisms of victim reparations actually lend themselves to a transnational comparison of their outcome.

In each of the three cases, legislation responded to transitional constellations and needs of post-war reconstructions and, in turn, informed ideas of victimhood. Let me begin with France.³ The transitional government of de Gaulle faced upon liberation in the summer of 1944 the daunting task of reintegrating more than two million displaced persons, amounting to 5 per cent of the French population. The overwhelming majority were labor conscripts and POWs. From the very beginning, the new authorities embarked on a strategy of equal treatment and deliberately blurred the lines between different categories, hence addressing all returnees as members of the same community of suffering and displacement. They had well-founded reasons to do so. As a consequence of the Vichy policies with regard to labor conscripts and POWs, these groups' reputation was ambiguous. Returnees were often suspected of treason and collaboration with their German captors. Their smooth integration, therefore, required oblivion to some extent. In addition, the new authorities strove to win over the loyalty of circles that had been subject to intensive Vichy propaganda during their captivity.

At the same time the Gaullists adopted a rhetoric of heroism and resistance. Drawing on the memory of the First World War and the interwar activism of veterans' movements, the *combatant* served as the revered icon and model. This helped invigorate the idea of a fighting France, as opposed to the France that had collaborated with the occupier and needed to be liberated by Allied troops. Special legislation soon assimilated various resistance groups to regular troops and assigned to their members the desired combatant ID which also made them eligible for veteran pensions. But this did not necessarily include resistance members who had been arrested, deported and incarcerated in concentration camps. Obviously, this situation

bore a vexing discrepancy between official propaganda and the actual treatment of former political prisoners.

Meanwhile the communists had paralleled the aforementioned inflation by the Gaullists of the armed struggle with their own attempt to mobilize returnees. Dwelling on the government's initially indiscriminate treatment of different DP-groups, they appealed with an inclusive term of *Déportation* to the mass of labor conscripts, political prisoners and persecution victims. As a consequence, two different paradigms evolved at an early stage of memory construction through which the experience of Nazi abuses was framed: one being the manly struggle, the active resistance in conjunction with the willingness to sacrifice one's life, which was increasingly becoming abstract and detached from the actual victims. The other conception was that of mass victimization which potentially embraced the whole nation and made little distinction between different reasons of victimization.

Two bills in 1948 proposed different compensation models for Nazi victims: an exclusive one centered on resistance fighters and an inclusive one focused on a far larger concept of victimization without making any distinctions. The first bill passed, but given the highly politicized context, it was soon followed by additional legislation to rehabilitate the so-called political deportees: in concrete terms the victims of racial and political persecution. Labor conscripts were explicitly left out and had to wait until 1950 to get their own compensation legislation. The 1948 legislation introduced a recognition procedure that allocated special IDs and created, for each group, distinctive commissions where victims' associations together with veterans' organizations were granted representation.

Two points are striking about this legislation: First it modeled the benefits on the existing welfare system for veterans, war widows, orphans and other war victims. This suggested an assimilation of Nazi persecution to the experience of the Great War. Such assimilation was additionally emphasized by the fact that the new legislation extended the benefits to victims of World War I atrocities. Secondly, the legislation produced a victim

hierarchy that was based on an active-passive dichotomy and centered on voluntary sacrifices. Having provoked the persecution with acts of resistance and opposition, established for the victim a right to special honors and benefits. Seemingly, the gravity of rights' abuses differed according to individual behavior. In turn, the political and racial deportees received reduced benefits that matched those of war widows and other war victims. This implicit gendering emphasized the hierarchy of relevance that was embodied by the two different laws. Such differentiation underlined the implicit message of victim reparations in France, which was to convey a sense of national honor and thus reward those who had defied occupation. The other side of the coin was that victims who could not provide evidence of special merit were downgraded and their rehabilitation remained in a limbo.

We see in the French context, furthermore, the dialectic of assimilation and dissimilation at work. Initially, it was the combatant who served as the model. The welfare system for veterans framed the perception of persecution and suffering which were assimilated into the experience of armed conflicts. This was also expressed through a prevailing rhetoric of martyrdom suggesting that all victims of Nazi persecution had suffered for the sake of the nation. This was gradually to be replaced by deportation as the overarching concept. It captured for most victims the affliction in more adequate terms as it shifted the focus from active struggle to more passive endurance, and it dignified their ordeals by identifying deportation with unprovoked persecution, thus turning it into the touchstone of the victims' innocence and virtue. Deportation, therefore, became the term everybody was striving for, and in particular groups like the labor conscripts who could never completely shed the suspicion of collaboration and moral ambiguity. Over the symbolic capital embodied by the term a bitter struggle flared up, a conflict finally settled with a court decision that banned the use of the term *déporté* for labor conscripts. But these memory wars, by shifting boundaries, redrawing lines and redefining the dignity of victims, also blurred distinctions and

often conflated different forms and motives of Nazi persecution. And they had an intrinsic tendency to exaggeration with often unpleasant verbal excesses.

Returning to victim reparations: What role did compensation procedures play in this process? By producing legal definitions and distinctions and establishing an official recognition procedure, they validated particular conceptions of victimhood and invested them with official approval. In doing so, they gave momentum to the process of dissimulation and assimilation, especially by declaring individual behavior the decisive criteria for rewards and benefits, instead of the fact and extent of abuse.

The question of who was involved in the decision-making process was relevant for the outcome of compensation procedures. In the case of France we can identify a fairly strong involvement of different victims' associations. Their conflicts were not only the fault-lines of the legislation process; they also influenced the recognition procedures through their presence in the respective agencies. In Germany, in turn, a special compensation bureaucracy emerged that excluded victims from the decision making process. In the literature, the most criticized deficits and blind-spots of German victim reparations have often been attributed to this fact. Many authors maintain that the administrative personnel, many of whom had begun their career under the Nazi regime, and a thriving industry of legal and medical expertise, served as conveyer belt for Nazi ideology and stereotypes.⁴

Still, the early German legislation and practice shows some surprising parallels to the French reparation policy, as well as similarities in the resulting conceptions of victimhood.⁵ The occupying powers left the design and provision of welfare assistance for the survivors of Nazi persecution to local German authorities. But no specific reparation plans originated from the circles of the German opposition to the Nazi regime, apart from very general declarations. Therefore, much of the early programs were makeshift and largely depended on the dedication of local law-makers and officials. Often their architects were former political prisoners who operated under the strong impression of their concentration camp experience,

characterized by the conflicts among different inmate groups resulting from the SS-system of terror that had deliberately set inmate categories against each other. These tensions did not end upon liberation, and their reverberations often impacted compensation programs. Victim reparations, therefore, often mirrored the concentration camp hierarchy, with the political prisoners ranking at the top and claiming the prestigious title of fighters against fascism. Other categories, in particular victims of racial persecution, ranged in lower, less prestigious classes, and at least in the immediate postwar years, had a difficult position.

Local German legislation predating the Federal Republic thus showed a clear preference for the former political prisoners. The often exhaustive enumeration of politically motivated forms of persecution reduced other victim groups, in particular the victims of racial persecution, almost to insignificance. This order was not accidental, but clearly an expression of value-based decisions. At their heart was a discourse of anti-fascism, and it became the main objective of reparations to honor and reward individual merits in resisting the Nazi regime. Many of these early laws thus distinguished between *fighters against fascism* and *victims of fascism*, with a clear preference for the first group. Some laws added *victims of the Nuremberg laws* as a third category to denote the Jews. In the same breath, they explicitly made anti-fascist behavior the condition for victims of racial persecution to be eligible. The 1948 guidelines of Bremen specified what this implied for the Jews: In order to be recognized as a Nazi victim they were required to embrace the racial identity which was forced upon them by their perpetrators and gradually turned into a death sentence. This, in other words, penalized the survivors since those who identified themselves as Jews met their certain death.

Surprisingly, these victim hierarchies also show a striking resemblance to the French model. In the 1940s we find them all over occupied Germany, in decrees, laws and court decisions, proliferating an idea and ideal of victimhood that was rooted in a highly moralized notion of political virtue. Victimhood thus appeared the expression of an individual's character, rather than being the result of brutal abuses. It does not come as a surprise,

therefore, that early practice also showed a downright obsession with moral issues. Not only the behavior during captivity, but also the victims' post-war conduct, including their sexual behavior, were crucial for the approval or denial of their claims. This, on the one hand, mirrored the difficult post war situation that got many survivors in trouble with the law for minor offenses linked to economic survival. On the other hand, it also testified to struggles over scarce financial resources and political power. In these conflicts, recognized victimhood became a good that was in great demand. It validated a solid anti-fascist past and thus served as a source of moral authority. This engendered in victims the desire to keep their reputation spotless and prompted frequent purges which led to the denial of victim status for individuals who could not prove the impeccable conduct expected from anti-fascists.

The driving force behind these purges were mostly victim associations themselves. Dominated by the political prisoners, these organizations in the early days wielded considerable influence over the official recognition procedures. But unlike in France, where victims' association continued to play a key role in reparations policy, they soon became insignificant in Germany. With the beginning of the Cold War, the largest association, the *Vereinigung der Verfolgten des Nationalsozialismus*, was increasingly discredited in the western part of Germany for being under communist influence. Political parties founded their own victim groups while threatening party members with exclusion if they were not willing to give up participation in the victims' associations. Such fragmentation broke the back of the anti fascist movement in the West. In the Soviet occupation zone, in contrast, victims' associations were quickly absorbed in the communist party. For many survivors in East Germany the purges of the early 1950s resulted in the loss of their legal victim status. This reinforced and confirmed the link between recognized victimhood and a sound anti fascist stance, the latter being rapidly narrowed down to blind political loyalty.

In West Germany, on the other hand, we can observe in the 1950s a gradual reversal of the victim hierarchy as had been established immediately after the war. The anti-fascist

fighters and political prisoners fell into disgrace, while those who had not actively provoked the persecution, but instead become victims of racial policy, came to epitomize the typical Nazi victim. As a tendency this shift in the conception of victimhood began in the 1950s. It was prompted for a number of reasons. The denigration of the anti-fascist movement as communist subversion and the accelerated re-integration of former members of the Nazi party contributed to bringing the resistance cult into disrepute. As anti-fascism was no longer a political virtue, opposition to the Nazi regime also lost its validity as a reason for victimization. With the ban of the communist party in the Federal Republic, its former members were stripped of their victim status and, for a sudden, stigmatized as promoters of totalitarian ideologies not unlike the one they had fought at the risk of their lives. The touchstone of their political virtue almost from one day to the next lost its intrinsic worth. Beyond the decreasing circle of like-minded people, their alleged sacrifices appeared futile, their martyrdom meaningless. On the other hand, the Jewish victims of racial persecution increasingly came to embody a new concept of victimhood, one that stressed innocence instead of political virtue. Without yet anticipating the shifting interpretation of Nazism, reparation procedures promoted the emergence of a new ideal victim—the individual who had been subjected to undeserved affliction for reasons he or she had no means to influence.

The shift in victimhood conception was also linked to a national adjustment of reparation policy in West Germany. Under considerable international pressure, the German government in 1953 eventually passed federal legislation to harmonize the disparate practice of the Länder. It adopted the aforementioned canonical formula that entitled victims of racial, religious, political and ideological persecution to reparations. From the viewpoint of practice, this definition was limiting as well as undefined and thus requiring specification.

In the first place, it excluded numerous victim categories, for example, labor conscripts, on the grounds that their forced recruitment had not been motivated by racial,

religious or political reasons and despite the abuses they had been exposed to. Based on a similar rationale, victims of Nazi criminal policy and eugenics were also denied reparation.

But apart from that, the canonical formula also required interpretation: What, for instance, constituted an act of racial persecution? With regard to Jewish victims, this did not raise too many difficulties—the anti-Semitic laws were quite explicit and their enforcement systematic. In the case of the Roma and Sinti, however, compensation agencies were less inclined to recognize racial persecution, although Gypsies had been subject to the Nuremberg race laws and much of the anti-Semitic legislation. But many acts of persecution were based on arguments of criminal anthropology and eugenics rather than racial theories. Unlike scientific racism these academic disciplines were not entirely discredited after 1945 and still considered useful for fighting crime and profiling groups with allegedly innate criminal predispositions. This tended to eclipse the racial nature of the persecution of Roma and Sinti before the Himmler deportation-order of 1943.

Another problem associated with the canonical formula was its reliance on the perpetrators' motives. In other words, whether someone was entitled to compensation payments depended on the Nazis' reasons for having abused her. So if Nazi documents, for instance, gave evidence that a forced sterilization was based on racial grounds, the affected individual was entitled to a compensation payment for bodily injury. If not, she would receive nothing.

Finally, the legal definition of Nazi persecution also allowed the German authorities to carve out persecution acts in occupied territories. German compensation agencies and courts generally rejected claims of foreign nationals who argued that they had been persecuted for their political opposition to the occupying power. They held instead that such resistance had been based on national feelings rather than political motives. This artificial differentiation seemed to justify, in their eyes, the reprisals as legitimate acts of martial law, as opposed to ideologically motivated persecution, and thereby drew an artificial line between the

Wehrmacht and the party. Members of resistance movements as well as the political underground, on the other hand, were stigmatized by such decisions as insurgents who had defied the legitimate power and therefore deserved retaliation. (Although this distinction between political and national motives for political opposition affected only a small number of claimants because foreign nationals had to be German residents to fulfill the formal requirements of eligibility, it is nevertheless telling with regard to legal culture and memory politics.)

At this point, it is enlightening to take a glance at the Swiss compensation practice.⁶ In 1957, without a guarantee yet to receive a global compensation from Germany, the Swiss government rushed a compensation bill through parliament. Its primary purpose was the containment of an escalating crisis in memory politics.

The Swiss procedure, though adopting the principles of the German practice, produced its own idea of victimhood, to some extent, a reversal of the French model. The Swiss compensation agency rewarded what was considered innocence in the face of Nazism. Those who had endured their fate passively and without provocation were most likely to get the highest compensation payments. The model victim was the defenseless widow who had only indirectly, through the loss of her husband and breadwinner, become a victim of persecution and, like the orphan, most visibly represented innocence and undeserved affliction. On the other hand, the reparation agency penalized all those whom they blamed for having provoked the persecution with their own acts, for instance, resistance fighters, members of the political opposition or even individuals who showed courage in the face of the Nazi threat and helped those in distress. They all faced severe cuts in their benefits for allegedly self-inflicted victimization. Instead of vindication, the compensation procedure, by partly shifting the blame from the perpetrators to the victims, reproduced and confirmed the prejudices these individuals had suffered.

This tendency seems an obvious strategy of exonerating the diplomats who had come under fire for neglecting their fellow citizens in the Nazi era. But it was also symptomatic for the official idea of neutrality, which was no longer seen as a pure instrument of foreign policy, but more and more as a political virtue and obligation of the individual citizen who was expected to abstain from meddling in political affairs abroad as if acting in an official function. And of course it can also be understood as a reflection of the Swiss government's ambiguous stance toward Nazi Germany. It is finally an irony of history, that of all things the country that had the luck of preserving its democratic constitution in the Nazi era was most inclined to penalize, through its compensation procedure, bravery and courage in the face of Nazi oppression.

In its basic structures, however, the Swiss compensation practice did not differ distinctly from the French or the German one. It equally tied the idea of victimhood down to the presumption of political virtue, although with a different content and outcome which echoed the official response to the rather uncomfortable situation of being surrounded by the Axis powers for most of the war. Accordingly, political virtue in the face of Nazism signified passivity, silence and keeping a low profile. In a nutshell, a behavior prone to spare Swiss authorities further trouble with the potential aggressor.

In short, as a common denominator we can observe in all three cases that the concept of victimhood resulted from a recognition procedure that was imbued with normative assumptions about individual behavior and characteristics. Or to put it in Foucauldian terms, victim reparations can be deciphered as a normalizing discourse and practice with the disciplinary effect of transforming, through the recognition procedure, the fact of victimization into victimhood as the quality mark of someone's behavior, character and intrinsic worth. By defining the true, i.e. deserving victim, such procedure validated suffering and transformed it into a source of moral authority, whereas the mere fact of victimization

remained ambiguous for the affected individuals, always leaving the door open for doubts and suspicions that any given persecution victim had called for what she received.

Let me come to a conclusion: There are four points that I would like to highlight.

First, compensation procedures are a relationship and interaction between state authorities and the individual. This distinguishes them from property restitution which is basically an interaction between private parties, with the courts acting as arbitrators. While property restitution, not unlike the preceding expropriation act, involves disruptive interventions in the social fabric and are thus fraught with an explosive potential, compensation procedures circumvent these conflicts. Instead they are characterized by an obvious imbalance of power. Structurally, they resemble the act of persecution in many respects: as an official act and demonstration of state power; by using the same or a similar set of evidence and records (police reports, court records, medical reports); by setting the seal on individuals' fate.

Second, victim reparations are a mechanism of integration and exclusion. They constitute a ritual that either results in the vindication of the victims or in its denial, thereby, also delineating unlawful and condemnable abuse from justifiable acts of state power. Such distinctions entail a moral and political assessment of past events that is being transformed into the legal act of allocating benefits. The denial to recognize victimhood, on the other hand, tends to shift the blame onto the individual and is often experienced by the claimants as a second persecution or even justification of the Nazi abuses which as a result appear self-inflicted and thus deserved.

Third, given its vindicating potential, recognized victimhood can be understood as symbolic capital invested with moral authority. The battles of various victim groups over terms and titles testify to this symbolic dimension. The aforementioned dynamic of integration and exclusion is partly driven by these conflicting interests of different victim groups. Its outcome depends on the leverage these groups can mobilize, and this again is a

function of their ability to blend their demands with the larger political agenda of dealing with the past. This ties victim reparations to the wars over memory constructions

Fourth, in all three countries under examination we can observe the emergence of victim hierarchies that are informed by the symbolic dimensions of recognized victimhood. Yet these hierarchies are not stable but in flux, corresponding to shifts in victimhood conceptions. Immediately after the Second World War, undeserved affliction was not coupled with innocence or moral integrity, but instead often associated with shame and seen as the consequence of an individual's or a group's inherent flaws, weakness or alleged passivity. Over time, however, this assessment has been reversed, with a paradoxical outcome, as illustrated by the events and developments that followed. On the one hand, such transformation facilitated the long overdue recognition of previously excluded victim groups, at the high price though of repeatedly stirring up highly emotional controversies over interpretations of the Nazi era past. On the other hand, we can observe a devaluation of victimhood. Resulting from its conversion into symbolic capital and a source of moral authority, victimhood has become the subject of inflationary use in political discourse. In order to find a receptive audience for their political desires, individuals and social groups attempt to invoke empathy and find justification for their claims in framing their identity through narratives of past injustice and victimization. Such proliferation of victim talk, apart from its, at best, ambiguous impact on political rhetoric, is voiding the very concept of victimhood, the more so as recent exposures of fabricated accounts are again raising suspicions and casting doubt on the bearers of recognized victim status.

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² The most profound study of the early On German victim reparations policy is the book by: Constantin Goschler, *Wiedergutmachung. Westdeutschland und die Verfolgten des Nationalsozialismus (1945–1954)* (Munich, 1992). Detailed accounts, though mostly from the government's perspective, can be found in the 6 volumes of *Die Wiedergutmachung nationalsozialistischen Unrechts durch die Bundesrepublik Deutschland*, edited by Bundesministerium der Finanzen (1974–1987). For a general survey see also Hans Günther Hockerts, "Wiedergutmachung in Deutschland 1945–2000. Eine historische Bilanz," *Vierteljahresschrift für Zeitgeschichte* 49, no. 2 (2001), 167–214. Focusing on the diplomatic aspects: Ronald W. Zweig, *German Reparations and the Jewish World. A History of the Claims Conference*, 2nd revised edition (London, 2001); Nana Sagi, *German Reparations. A History of the Negotiations* (Jerusalem 1980); Rolf Theis, *Wiedergutmachung zwischen Moral und Interesse. Eine kritische Bestandesaufnahme der deutsch-israelischen Regierungsverhandlungen* (Frankfurt, 1989).

³ The following is based on my examination of parliamentary debates and official documents in France. See also Pieter Lagrou, *The Legacy of Nazi Occupation. Patriotic Memory and National Recovery in Western Europe, 1945–1965* (Cambridge, U.K., 2000); Annette Wieviorka, *Déportation et génocide. Entre la mémoire et l'oubli* (Paris, 1992); François Cochet, *Les exclus de la victoire. Histoire des prisonniers de guerre, déportés et S.T.O (1945–1985)*, (Paris, 1992); Olivier Lalieu, *La déportation fragmentée. Les Anciens déportés parlent de politique* (Paris, 1994); Christophe Lewin, *Le retour des prisonniers de guerre français. Naissance et développement de la FNPG* (Paris, 1986).

⁴ Most explicitly Christian Pross, *Paying for the Past: The Struggle over Reparations for Surviving Victims of the Nazi Terror* (Baltimore, 1998), one of the few studies to look at compensation practice from the victims' point of view.

⁵ The following is based on the literature as well as my own examination of published documents and individual case files. See also Hans Günther Hockerts and Christiane Kuller (ed.), *Nach der Verfolgung. Wiedergutmachung nationalsozialistischen Unrechts in Deutschland?* (Göttingen, 2003); Susanne zur Nieden, *Unwürdige Opfer: die Aberkennung von NS-Verfolgten in Berlin 1945 bis 1948* (Berlin, 2003). Elke Reuter and Detlef Hansel, *Das kurze Leben der VVN von 1947 bis 1953* (Berlin, 1997); *Wiedergutmachung in der Bundesrepublik Deutschland*, ed. Ludolf Herbst and Constantin Goschler (Munich, 1989); also focusing on East Germany: Jeffrey Herf, *Divided Memory: The Nazi Past in the Two Germanys* (Cambridge, 1997). Christoph Hölscher, *NS-Verfolgte im "antifaschistischen Staat." Vereinnahmung und Ausgrenzung in der ostdeutschen Wiedergutmachung (1945–1989)* (Berlin, 2002) and Ralf Kessler and Hartmut Rüdiger Peter, *Wiedergutmachung im Osten Deutschlands 1945–1953: grundsätzliche Diskussionen und die Praxis in Sachsen-Anhalt* (Frankfurt, 1996).

⁶ In a nutshell, these are the results of my research on the Swiss compensation policy, including the diplomatic negotiations with Germany and the allocation of compensation payments to individual victims. See also Regula Ludi, "Die Parzellierung der Vergangenheit: Schweizer NS-Opfer und die Grenzen der Wiedergutmachung," *Studien und Quellen* 29 (2003): 101–128; Regula Ludi and Anton Andreas Speck, "Swiss Victims of National Socialism: An Example of how Switzerland Came to Terms with the Past," in *Remembering for the Future: The Holocaust in an Age of Genocide*, vol. 2, ed. John K. Roth and Elisabeth Maxwell (London: Palgrave, 2001), 907–922, Anton-Andreas Speck, *Der Fall Rothschild: NS-Judenpolitik, Opferschutz und "Wiedergutmachung" in der Schweiz 1942–1962* (Zurich, 2003).