

## COMMISSIONING HISTORY IN THE UNITED STATES, GERMANY, AND AUSTRIA: HISTORICAL COMMISSIONS, VICTIMS, AND WORLD WAR II RESTITUTION

Conference at the National D-Day Museum, New Orleans, November 21–23, 2002. Co-organized by the GHI, the Center Austria of the University of New Orleans, the National D-Day Museum, and Claremont McKenna College. Conveners: Günter Bischof (University of New Orleans), Kenneth Hoffman (D-Day Museum), Jonathan Petropoulos (Claremont McKenna College), Bernd Schäfer (GHI), Richard F. Wetzell (GHI). Participants: Konstantin Akinsha (Washington, DC), Elazar Barkan (Claremont Graduate University), Peter Berger (University of New Orleans/Vienna University for Economics and Business Administration), James D. Bindenagel (U.S. Department of State), Martin Eichtinger (Federation of Austrian Industry, Vienna), Gerald Feldman (University of California, Berkeley), David Goldfield (University of North Carolina, Charlotte), Constantin Goschler (Humboldt University, Berlin), Peter Hayes (Northwestern University), Clemens Jabloner (High Court of Administration, Vienna), Helen Junz (London), Saul Kagan (Jewish Claims Conference), Kenneth Klothen (The Susquehanna Group, LLC), Martin Morgan (National D-Day Museum), Gordon Mueller (National D-Day Museum), Jonathan Petropoulos (Claremont McKenna College), Lawrence Powell (Tulane University), Oliver Rathkolb (University of Vienna), William Slany (Historians' Office, U.S. Department of State), Dieter Stiefel (University of Vienna), Ernst Sucharipa (Austrian Diplomatic Academy, Vienna), Henry Turner (Yale University), Jeffrey K. Wilson (University of New Orleans), Hans Winkler (Austrian Foreign Ministry, Vienna), Daqing Yang (George Washington University), Dieter Ziegler (Ruhr University, Bochum).

Since the mid-1990s, a series of high-profile class-action lawsuits has brought the issue of incomplete compensation and restitution for victims of the Nazi regime to the public's attention. As a result of such lawsuits, international pressure, and a new public awareness of these unresolved issues, new compensation and restitution settlements were reached in Germany, Austria, and other countries. Often these settlements took place in conjunction with the establishment of commissions of historical experts, whose reports have increased our knowledge of various aspects of the Nazi period. This conference brought together German, Austrian, and American historians—and a few officials who participated in the recent settlements and commissions—in order to discuss in a compara-

tive perspective: the postwar history of compensation and restitution for victims of Nazism; the most recent compensation and restitution settlements, particularly compensation for forced labor and restitution of stolen property, especially works of art; the methods and findings of official government commissions of historical experts, including the U.S. Presidential Commission on Holocaust Assets in the United States and the Austrian *Historikerkommission*; and the methods and findings of individual historians or teams of historians who have been commissioned to write the history of particular companies during the Nazi era.

The first panel examined the historical background and larger context of the most recent round of commissioned historical research and compensation settlements. The panel opened with a paper by Elazar Barkan, professor of history at the Claremont Graduate University, on "The Guilt of Nations: A Theory of Restitution in Modern International Affairs." Since the end of the Cold War there has been a sudden rush of restitution cases all over the world. The paper presented a brief overview of restitution and explored how victims and perpetrators have negotiated restitution and historical injustices, attempting to present a general "Calculus of Restitution." Barkan argued that the pattern formed by these recent cases of restitution has become a central component of a new international morality and testifies to a new globalism that pays greater attention to human rights. Critics of this trend often refer to the spread of a "victims culture." Barkan, by contrast, underscored the increasing way in which "our histories" shape "our identities." In this sense, he concluded, the new "we" of history comprises both winners and losers, and history changes who we were, not only who we are.

In his paper "*Wiedergutmachung*: Restitution in Germany after World War II," Constantin Goshler, *Privatdozent* in history at the Humboldt University in Berlin, provided a historical overview of German restitution and indemnification policies for Nazi victims after 1945. After summarizing the basic structure and the results of these efforts, he examined the dynamics of inclusion and exclusion with respect to different groups of Nazi victims. He also inquired into the political driving forces in the field of restitution and indemnification, distinguishing several historical phases. Finally, Goshler commented on the symbolic aspects of restitution policy, partially contesting Barkan's more optimistic assessment of these policies.

In his paper on the "Conference on Jewish Material Claims Against Germany," Saul Kagan, a longtime official of the Claims Conference, presented an overview of the organization's efforts, over more than 50 years, to secure indemnification for injuries inflicted on individual victims of Nazi persecution and restitution for properties confiscated by the Nazis. He discussed the Luxembourg Agreements between the Claims

Conference and West Germany, which lead to the enactment of significant compensation and restitution legislation in the Federal Republic. He also examined the negotiations with the Austrian governments starting in 1953 for compensation and restitution on behalf of Jews in and from Austria.

The second panel examined the issue of Nazi gold and the role of banks in the crimes of the Nazi regime. Dieter Ziegler, *Privatdozent* at the University of Bochum, who is part of a German research team that is writing a history of the Dresdner Bank during the Nazi regime, examined three key aspects of the Dresdner Bank's participation in the process of the economic persecution of German Jews: the exclusion of self-employed and wage-earning persons of Jewish origin from their occupations, which affected both the banks' employees and also the banks' debtors; the transfer of business property from private "Jewish" to private "Aryan" possession; and, finally, the confiscation of private property by state authorities. Ziegler's preliminary conclusion from his research was that the Dresdner Bank acted rationally – in an economic sense – in an irrational environment. Anti-Semitism as a motive was of minor importance. The Dresdner Bank was probably closer to the regime than the other great banks and seized the opportunities that this position provided. At times, the bank clearly violated the standards of moral behavior that are said to be common in the civilized world. This was true not only for the bank's involvement in the economic persecution of German Jews, but probably even more so for the bank's activities in the occupied areas during the war.

Hans Winkler, head of the Legal Office of Austria's Foreign Ministry, examined Austria's role in the Gold Settlement. Immediately after the *Anschluss* in March of 1938, Germany confiscated the roughly 79 metric tons of Austrian monetary gold and transferred it to Berlin. After the war, a total of 50 metric tons of fine gold were returned to Austria. In 1997, Austria's remaining share of gold in the Tripartite Gold Commission's (TGC) gold pool was 834 kg of fine gold. After the 1997 report on "U.S. and Allied Efforts to Recover and Restore Gold and Other Assets Stolen and Hidden by Germany During World War II" proposed making the value of the remaining gold (estimated at about US\$70 million) available to Holocaust survivors, Austria was, according to Winkler, the first country to support the creation of a "Nazi Persecutee Relief Fund" by renouncing its claim to its remaining share in the Tripartite Gold Commission's pool. Since then, the Austrian contribution to the Fund (valued at Euro 7.45 million) has funded some 180 projects through the Austrian National Fund for Victims of National Socialism.

In his paper on "The United States and Nazi Gold," William Slany, who directed the U.S. State Department's Historical Office until 2000,

argued that the 1997 and 1998 U.S. government reports on gold and other assets stolen or looted by Nazi Germany, which U.S. diplomatic negotiators used to spur a growing movement to compensate Holocaust victims, were carried forward quite accidentally and from an unlikely source. The initiative for the reports came from the State Department's own official historians rather than being commissioned by government leaders. The State Department, which had such a deplorable record of failing to recognize and resist the Holocaust and to rescue its victims, accepted the challenge of its own official historians to support full historical disclosure of its own record and those of other U.S. agencies. The turnabout at the State Department, several generations and half a century later, reflected the mounting importance of the concept of human rights to State Department officials since the Vietnam War and the American civil rights movement. U.S. diplomacy soon outdistanced the State Department's official historians, and the commissioning of history in the U.S. soon followed a pattern that had already emerged in various European governments.

The third panel focused on the role of insurance companies in the Nazi regime and in the recent restitution efforts. Gerald Feldman, professor of history at the University of California at Berkeley, who was commissioned by the Allianz insurance company to write the company's history during the Third Reich, spoke about "Historical Narration and Problems of Restitution: Allianz AG." Feldman discussed the circumstances of his taking on the Allianz project and then provided a summary of his findings regarding the problem of the confiscation of Jewish insurance assets, showing that most Jewish life insurance assets were subject to indirect confiscation, meaning that, under intense financial pressure, Jewish insured persons cashed in their policies and received their payout from the insurer and the German state then robbed them of it. In addition, a 1941 decree made possible the direct confiscation of life insurance assets of German citizens who had been deported to concentration camps abroad, which led to Gestapo and Finance Ministry demands for searching out Jewish policies in the insurance companies' files. After discussing post-1945 restitution policies regarding insurance, Feldman concluded with reflections on the relationship of issues of restitution and the historical narration of the type found in his Allianz book, noting that the main contribution of his book had more to do with the deterioration of business ethics and the increasing implication of Allianz in the crimes of the regime than with restitution issues.

Dieter Stiefel, professor of history at the University of Vienna, who was commissioned by the Austrian insurance industry to write a history of the insurance business during the Nazi period, spoke on "The Life Insurance Sector in 'Austria' During World War II and the Postwar Settlements." Stiefel discussed the circumstances of his taking on the commis-

sion, the source base for his study, and his main findings. Stiefel's findings paralleled Feldman's: most Jewish life insurance policies were cashed in at their repurchase value by the Jewish policy holders, so that the insurance companies discharged their obligations to their Jewish customers, even as the state then proceeded to rob Jews of the proceeds. Stiefel noted that there were two major waves of insurance policy repurchases—right after the Anschluss in March 1938 and after the November pogrom in late 1938.

Helen B. Junz, an independent consultant who worked on many of the commissions related to World War II restitution issues, spoke on "The United States and Holocaust Era Financial Assets." She explained that assets that belonged to victims of the Nazi regime came under U.S. government management in two different ways: outside the United States as U.S. military forces swept up a vast amount of Nazi loot, and within the United States as the authorities sought to prevent the Axis from using foreign-owned assets in the U.S. in aid of their war effort. Her presentation focused on the latter case. To guard against the Axis powers gaining access to the wealth that was migrating from Europe to the United States, the U.S. took measures that covered assets belonging both to friend and foe, including Nazi persecutees. Though some accommodation was made during the war to ease the effects of these control measures on Nazi victims, the postwar decontrol process gave little or no consideration to the needs of Nazi victims. Although regulations, in the end, were amended to provide necessary accommodation, such amendments tended to be made only after unintended deleterious effects had become apparent. The paper detailed some of the arduous efforts to turn the widespread support for a return of victims' assets to their heirs or to successor organizations into practical acceptance and implementation.

The fourth panel focused on the role of private businesses in the Nazi regime and the recent restitution efforts. Oliver Rathkolb, professor of history at the University of Vienna, presented the results of a research project that he directed on forced and slave labor in the Hermann Göring Werke in Linz (founded in 1938), which was based on more than 30,000 employment records. Through detailed studies and psychological interviews, this research project analyzed both the framework for the traumatization of individuals and the functioning of the Nazi system of force, suppression, and privilege. Regarding the origins of the recent Austrian compensation settlement, Rathkolb voiced disagreement with other Austrian participants by insisting that this settlement was not freely embarked on by the FPÖ-ÖVP government under Chancellor Schüssel, but had already been decided on by the last coalition government of Social Democratic Chancellor Klima and had simply been postponed until after the 1999 elections. Rathkolb also argued that, despite a more effective

execution and interpretation of the Austrian compensation settlement, there was no reason to present Austria today as a model case compared to Germany.

Peter Hayes, professor of history at Northwestern University, who has been commissioned to write a history of the Degussa AG during the Nazi years, presented an overview of the company's history from 1933 to 1945 and its implication in the crimes of the Nazi state, and then turned to a discussion of how he has handled the problems that inevitably arise in connection with preparing a "commissioned history." He outlined the terms on which he agreed to undertake the assignment, the company's supportive but non-interfering stance toward his work, the state of the surviving internal records, and the countervailing forces that a historian must contend with in interpreting what he finds—most notably, the "seductions of proximity" that may lure a writer into seeing problems only as the company involved does or did, and the human burden of doing justice to the ordeals of the former victims one comes to know.

Henry Turner, professor of history at Yale University, who headed the General Motors documentation project on GM's relations with Nazi Germany, spoke on "General Motors and Ford Subsidiaries in the Nazi War Economy." Turner reported that in 1998, in response to class-action suits on behalf of victims of forced and slave labor, both Ford and General Motors commissioned the assembly of documents relevant to the roles of their German subsidiaries during the Third Reich and have since made the resulting documentation available to scholars. Ford assigned both collection and analysis of the documents to commercial research firms, then issued an anonymous annotated report as a company publication in 2001. The GM documentation project did not provide for a published report, but an independent study is in preparation. Turner summarized the findings as follows: Ford and GM both became, in effect, hostages of the Nazis as a result of currency controls that made it impossible for them to withdraw their large investments in their German subsidiaries; under pressure from the regime, both subsidiaries became involved in war production after the war began in Europe; both American firms lost control over their subsidiaries before Hitler's declaration of war on the United States; although placed under German custodianship, neither subsidiary was ever confiscated, so that both remained the property of the American firms throughout the war; in neither case did the American firms have any voice in the wartime use of forced and slave labor by their subsidiaries; but after resuming control following the war, the American firms both laid claim to wartime dividends from their subsidiaries that had been generated by the manufacture of war materials for Germany with the use of forced and slave labor. Both firms have made sizeable contri-

butions to the fund recently established to provide compensation to victims of forced and slave labor.

The fifth panel dealt with the issue of compensation for forced and slave labor. Martin Eichtinger, former chief of staff of the Special Representative of the Austrian Government for the Settlement of Slave and Forced Labor-Related Issues, discussed the Austrian forced labor settlement. Eichtinger reported on the origins of the settlement in lawsuits against Austrian companies, the Austrian government's initial position that compensation for forced labor was the responsibility of Austrian companies, and its eventual decision to take government action on the forced labor issue by establishing the Austrian "Reconciliation Fund" with voluntary contributions from Austrian companies.

In his paper "The American View of Nazi Forced Labor," James D. Bindenagel, former U.S. Special Envoy for Holocaust Issues, discussed the twin goals of American foreign policy with regard to the forced labor issue: to seek a measure of justice for victims of the National Socialist regime and to help achieve "legal peace" for German companies in the United States. In the 1990s, the U.S. government seized on the opportunity to reach survivors of slave and forced labor through dignified payments and recognition, accompanied by apology, for the suffering they endured. The U.S. government, working with the German government, helped to create the German "Remembrance, Responsibility, Future" Foundation. The Foundation has distributed payments to more than a million survivors and is dedicated to continued research and education to foster reconciliation in memory of the victims. American lawsuits against German companies were dismissed through the foreign policy intervention of the U.S. government.

The sixth panel was dedicated to the topic of Aryanized property and looted art. Ernst Sucharipa, director of the Austrian Diplomatic Academy and Special Envoy for Restitution Issues of the Austrian Foreign Ministry, spoke on "Jewish Property and Austrian Restitution Efforts." Sucharipa argued that Austria's efforts to pay compensation for deprivation and loss of property due to the crimes of the Nazi era started right after World War II, but that these efforts were completely inadequate at first and drawn out over decades. For this situation to change, two things had to occur: first, a thorough rethinking of Austria's past, namely the recognition that the "victim theory" based on the Allies' Moscow Declaration of 1943 represented only half of the truth; second, U.S. insistence that Austria shoulder its responsibility in a more adequate fashion. While individual Austrian writers and historians had prepared the ground earlier, the rethinking on the official level started in 1988—fifty years after the *Anschluss*—and was expedited by important declarations first by Prime Minister Vranitzky and then by the Federal President in the course of

historic visits to Israel. This rethinking culminated in the Washington agreements concluded in January 2001 between the Austrian and the U.S. governments, class-action lawyers, and victim's associations. While full restitution in this and similar cases appears out of reach, it is important that measures provide both "a measure of justice" and essential elements of history.

Konstantin Akinsha, Senior Research Director of the Commission for Art Recovery in Washington, DC, and a former researcher for the Presidential Commission on Holocaust Assets in the United States, spoke on "Nazi Art Theft in Occupied Territories and Soviet Looting in Postwar Germany." Akinsha explained that the Russian government initially tried to make a list of cultural property stolen by the Germans, but had to abandon this effort because their records for the Baltic States, the Ukraine, and Belorussia—from which most art works were taken—were not good enough. Instead, the Russians drew up a list of artworks held by the Germans that they wanted to bring to Russia as compensation for the art that the Germans had stolen from Russia. After the Russians occupied Germany, they removed numerous works of art to the Soviet Union without any regard to provenance, that is, including artworks that the Germans had stolen from Jews or other owners in occupied countries. Therefore, today the issue of the restitution of cultural property removed to Russia at the end of the war is not just a matter between Russia and Germany, but involves other European countries as well as Jewish Holocaust survivors.

Jonathan Petropoulos, professor of history at Claremont McKenna College and former Research Director for Art and Cultural Property of the Presidential Commission on Holocaust Assets in the United States (PCHA), offered an assessment of the PCHA's work with regard to cultural property. He first noted areas where the commission made contributions. This included assessing millions of pages of documents in the National Archives, among other repositories; helping to accelerate the declassification of documents; inducing museums to conduct self-studies of their collections to identify unrestituted victims' assets; and encouraging U.S. government institutions and agencies, such as the Army and the Library of Congress, to examine their role in handling victims' assets. Petropoulos also identified limitations of the PCHA's work, including: the mandate of the commission, which restricted research efforts to Holocaust victims' property; the inability to induce the art trade to be more forthcoming; and the difficulties of including all the research findings in the final report. Petropoulos concluded by noting areas where the PCHA's work remained unfinished. Here, he focused on a database of artworks lost by victims but never recovered (now on the PCHA's website), and identified topics where the findings were too sketchy to permit

solid conclusions (for instance, the smuggling of looted artworks through Switzerland and Latin America). He noted that there is still a great deal to be done and that cooperation with other commissions and organizations will be crucial to future work.

The Evening Roundtable explored comparative dimensions of the conference topic. Clemens Jabloner, president of Austria's High Court of Administration and chairman of the Austrian Historical Commission, spoke about the background, framework, and methods of the commission's work. Since the final report was expected in a few weeks' time, he declined to report on the commission's findings, but mentioned that substantial parts of the commission's work have been published in several interim reports and are available on the commission's homepage [www.historikerkommission.gv.at](http://www.historikerkommission.gv.at). Jabloner noted that as a consequence of the theory that saw Austria as a victim of Nazism, for the longest time Austria did not regard restitution as an important public matter, but "privatized" this field. Generally speaking, the legal system offered victims of Nazism opportunities to get their property back, but the system had gaps and took a long time to get results.

Daqing Yang, associate professor of history at George Washington University, spoke on the topic "Yen for the Past? Japan and World War II Reparations." If the Cold War was a blessing for Japan as far as the war settlements were concerned, the end of the Cold War brought about a flood of law suits against the Japanese government and companies for war crimes against Asians and Americans during World War II. Few of them have succeeded, however. Geopolitical realities in Pacific Asia, Yang argued, make it difficult to repeat European-style restitution. To finally heal the scars of war in East Asia, he concluded, political will on all sides as well as regional economic integration will be needed.

David Goldfield, professor of history at the University of North Carolina at Charlotte, gave a paper on the topic "Slave Reparations: An Idea Whose Time Has Come or Gone?" After a brief discussion of recent calls for slave reparations in the United States, Goldfield carefully reviewed and assessed the merits of six arguments that have been advanced against reparations: that no particular group can be held responsible today; that only a minority of whites were slaveowners; that America today is a multi-ethnic nation; that reparations claims turn African-Americans into victims; that reparations have already been paid in the form of welfare payments and affirmative action benefits; that slavery existed for thousands of years until abolitionism finally came about.

The public lecture concluding the conference was delivered by Ken Klothen, the former executive director of the U.S. Presidential Commission on Holocaust Assets in the United States (PCHA), who spoke on "The PCHA: Assets, History, Process, Results, Future Agenda." If one

wants to determine whether and how “politics” influence the work of historical commissions, Klothen suggested, one must first ask what definition of politics one is applying. In the case of the Presidential Advisory Commission on Holocaust Assets, he argued, there was no experience of politics in the sense of partisan attempts to shade results or determine historical findings based on a result-oriented desire to protect the reputation of the United States government. There were, however, principled disagreements about historical conclusions voiced by political appointees based on their personal review of the evidence.

*Richard F. Wetzell*