

Restitution and Memory

RESTITUTION AND MEMORY



Material Restoration in Europe

Edited by

Dan Diner

and

Gotthart Wunberg



Berghahn Books
NEW YORK • OXFORD

Published in 2007 by

Berghahn Books

www.berghahnbooks.com

© 2007 Dan Diner and Gotthart Wunberg

All rights reserved. Except for the quotation of short passages for the purposes of criticism and review, no part of this book may be reproduced in any form or by any means, electronic or mechanical, including photocopying, recording, or any information storage and retrieval system now known or to be invented, without written permission of the publisher.

Library of Congress Cataloging-in-Publication Data

Restitution and memory: material restoration in Europe/edited by Dan Diner and Gotthart Wunberg.

p. cm.

Papers presented at an international conference held June 21–23, 2001 in Vienna.

Includes bibliographical references and index.

ISBN 1-84545-220-8 (alk. paper)

1. Holocaust, Jewish (1939–1945)—Reparations—Congresses.
2. Jews—Claims—Congresses. 3. Collective memory—Europe—
Congresses. I. Diner, Dan.- II. Wunberg, Gotthart.

D819.E85R47 2006

940.53'18144—dc22

2006013938

British Library Cataloguing in Publication Data

A catalogue record for this book is available from
the British Library.

Printed in the United States on acid-free paper.

ISBN 1-84545-220-8 hardback

CONTENTS



Introduction	1
<i>Dan Diner and Gotthart Wunberg</i>	

THE SETTING

Memory and Restitution: World War II as a Foundational Event in a Uniting Europe	9
<i>Dan Diner</i>	

ANTHROPOLOGIZING RESTITUTION

Money and Memory: Transvaluating the Redress of Loss	27
<i>John Borneman</i>	
Pecunifying Respectability? On the Impossibility of Honorable Restitution	51
<i>Natan Sznaider</i>	
Conversion, Exchange, and Replacement: Reflecting Cultural Legacies of Indemnity	65
<i>Sigrid Weigel</i>	

COMMISSIONS OF INQUIRY AND THE PRACTICE OF RESTITUTION

Converting Wrongs to Rights? Compensating Nazi Forced Labor as Paradigm	83
<i>Lutz Niethammer</i>	
Scholarly Investigation and Material Compensation: The Austrian Historical Commission at Work	105
<i>Clemens Jabloner</i>	

TESSELATED EUROPEAN HISTORIES OF MEMORY

The Object's Memory:	
Remembering Rural Jews in Southern Germany	117
<i>Ulrich Baumann</i>	
"These Are German Houses":	
Polish Memory Confronting Jedwabne	141
<i>François Guesnet</i>	
Looted Texts:	
Restituting Jewish Libraries	161
<i>Markus Kirchhoff</i>	
Restitution and Reconstructed Identity:	
Jewish Property and Collective Self-Awareness in Central Europe	189
<i>Catherine Horel</i>	
Eloquent Silence:	
Inscribing Hungarian Memories	217
<i>Béla Rásky</i>	
Recovering Austrian Memory:	
Stratifying Restitution Debates	233
<i>Heidemarie Uhl</i>	
Historical Injustices and International Morality:	
Eastern European and Swiss Cases	255
<i>Elazar Barkan</i>	
Recollecting Expulsion:	
Locating German Refugees in Polish and Czech Memories	273
<i>Claudia Kraft</i>	
Conflicting Memories, Unrestituted:	
Wadi Salib as an Israeli Political Metaphor	301
<i>Yfaat Weiss</i>	

RESOLUTIONS

<i>Wiedergutmachung</i> in Germany:	
Balancing Historical Accounts 1945–2000	323
<i>Hans Günter Hockerts</i>	
Selected Bibliography	383
Contributors	409
Index	413

INTRODUCTION



World War II never ended. It is still very much with us. At least that is how it may appear if one looks at the myriad debates on restitution and memory that have come to occupy discourse and debate within the national cultures of the old continent for more than a decade. Increasingly, a memory of World War II is emerging that remained hidden beneath the Cold War's taut surface. That memory is now resurgent, especially in the wake of the recent eastward expansion of the European Union. It is connected with the ever more intense transposing of constituents of the sovereignty of the nation-states onto the plane of European institutions. Paradoxically, this process is bolstered by a concomitant manifest rebounding of the nation-state in the very process of globalization. This pervasive tendency is bound up with complex and profound events basically flowing from the icon of 1989 and its watershed events. That led to a new phenomenon: with the reinstitution of *historical spaces* on the heels of the end of the Cold War, the *historical times* interwoven with these spaces were re-invoked once more in memory's chamber of consciousness. A concomitant phenomenon was that in the aftermath of communism's collapse in these areas, the changing collective order of economy went hand in hand specifically with an evocation of the complex of remembrance of World War II. Those were memories that appeared to have been under a lasting imposition of nonrecollection.

In particular, we can note that the mounting privatizations and reprivatizations in "Eastern Europe" are transporting something that might be called a *memory of materia*—an ensemble of remembrance that was long neutralized or silenced under the blanket of collectivization and nationalization of property after 1945. Private property redux

and rehabilitated, the so-called memory of things, is proving to be a lever for prying open a recrystallizing memory of the period that went before—the prewar era, as well as and most precisely the catastrophe of World War II, when along with staggering losses in human life, there were also immense intrusions into the existing reticulation of property relations. It is thus justified to presume that the foreseeable future of Europe will be accompanied by the rush of memory of that foundational event par excellence—World War II—which drew all European peoples into its vortex. This is how best to comprehend the paradoxical thesis that is our terminus a quo: in the history of memory, the period of the war is still very much present and accounted for.

The chapters in this volume attempt to arrive at a kind of interim assessment of the problematic of restitution, closely interconnected with the discourses of memory that have emerged in the last decade of the twentieth century. The authors proceed from a shared view that the massive remembrance of the Holocaust, in keeping with shifts and fault-lines in concomitant phenomena in the constitution of culture and political identity, has expanded into a discourse on questions of restitution that is universalizing, reaching far beyond the paradigm of Jewish experience of catastrophe. Indeed, it appears that the paradigm of the Holocaust is being generalized as an expression of the ultimate experience of catastrophe, augmented to the point that the concrete historical event and icon we call “Auschwitz” is making increased use of a discourse of human rights. Such a conversion of particularistic Jewish experience into a universal moral and morality is most manifest materially in the question of restitution.

Ultimately it was an ensemble of Jewish organizations, linked together in the Claims Conference against Germany established in 1951, which raised demands for compensation, reparation and restitution. It did so in a manner that must indeed be regarded as an innovative departure against the backdrop of the historical experience of interstate agreements on damages after an international conflict, where one state confronts another. Formative as a matrix here was in particular the fact that the reality of the genocide and the resultant phenomenon of heirless property brought about a kind of transformation in the web of claims in civil law, raising these to a public level of quasi-international law—in this way enabling the “Jewish people” to constitute itself as the claimant putting forward a collective demand.

With the reinstitution of private property in ex-socialist Eastern Europe, the watershed year 1989 led to new demands. That was also

bound up with a simultaneous opening of the archives long sealed there, and should be seen against the backdrop of the reconfiguring culture of memory that had already emerged earlier in the West. Initially these were largely Jewish demands, but soon, they extended to other groups of Nazi victims never before indemnified—including individuals, who as former citizens of the people's democracies and the Soviet Union, had previously been excluded from compensation. Interesting in this debate on restitution that began in the 1990s is likewise a new, more absolute attitude toward *private* property, driven by the modes of globalization and individualization: and this is in comparison with its understanding in the postwar period, when public claims had a more fundamental character. This debate also led to a readiness on the part of various German firms to try on their own to cast light into the dark recesses of their company histories during National Socialism through specially appointed commissions of historians, in certain circumstances also contributing materially to compensation for past injustices.

As a result of the deepening internationalization of law, juridical traditions that in the past were relatively separate strands are beginning to intertwine. Thus, the principles of American civil law differ from continental European usage in that they tend to privilege the restoration of previous titles of ownership even after a long period of lapse, while continental European law prefers to prioritize legal security and thus the concept of *Rechtsfriede*, "legal peace." Consequently, differing temporal conceptions of expectations of justice clash along with different traditions of law. In any event, such tensions were clearly operative in the 1990s in the clash between North American and European legal culture as debates raged regarding the restitution of former private property.

The strengthening of private property over the past decade springing both from the decline in collective forms of ownership in the former state-socialist societies and planetary tendencies toward globalization is one side in the bolstering of past claims to restitution that we can observe. The other side is rooted in an analogous tendency toward increased generalization of human rights and their scope, quite beyond the perimeter of all concrete historical circumstances and their circumscriptions. More and more, the resultant moral evaluation of suffering inflicted by human beings on their fellows transcends the confines of a historical assessment in the sense of the nexus between cause and effect, responsibility and guilt. Such an anthropologizing or universalizing of human suffering is ultimately situated in a realm beyond history. Increasingly, that is leading to a new evaluation of

relevant events in World War II. If all violence inflicted by man on man is infused with a drastic moral stigma beyond the envelope of all historical circumstances, then the expulsion of the Germans in the final phase of the war, for instance, and the strategic bombing campaign of the Allies, should be weighed and assessed in terms of that “anthropological” perception, not the historical one. And if the historical image of the war is shifted in the direction of a prism of evaluation in which human suffering *sui generis* is highlighted, beyond the reticulations of cause and effect, responsibility and guilt, then claims for restitution may arise that would have been inconceivable in this form and focus in earlier decades—especially if international agreements can be undercut and relativized by claims moored in civil law, buttressed by European integration and the concomitant strengthening of private property vis-à-vis activity by the national government. It is in any case by no means agreed whether this could become relevant in the German-Czech and German-Polish relation, viewed against the backdrop of events in the final phase of the war and its immediate aftermath.

The papers collected in this volume originated in the main from a joint initiative of the International Research Center for the Cultural Sciences (Internationales Forschungszentrum Kulturwissenschaften, IFK) in Vienna and the Simon Dubnow Institute for Jewish History and Culture at Leipzig University, supported by the Fritz Thyssen Foundation, Cologne. Sociologists, anthropologists, historians, legal experts and scholars in literary studies here look from differing vantages and platforms of expertise at the connection between memory and property in their importance for the question of restitution as a reinstatement of justice after the fact in collective conflicts. World War II in Europe is the historical ambient for the present collection of studies. The perspective here centers not only on the past. Rather, it is committed to examining that question and the associated complex of practice in their significance for a common European memory.

The introductory article (Dan Diner) illuminates this vantage point, which views World War II as the foundational act of shared European memory. The section “Anthropologizing Restitution” (John Borneman, Natan Sznaider and Sigrid Weigel) deals with the question of the convertibility of suffering into money. It thematizes the problematic of compensation within the irresolvable tension between loss and material restitution. The section “Commissions of Inquiry and the Practice of Restitution” contains papers by a historian and a legal expert with

hands-on experience in restitution practice, in which they became engaged in the 1990s beyond the perimeters of their own profession (Lutz Niethammer, Clemens Jabloner). A central section, entitled “Tessellated European Histories of Memory,” seeks to explore the diverse facets of the development of restitution in Europe. Special micrological studies deal with the restitution claims of rural Jews in southern Germany (Ulrich Baumann); the discussion on Jedwabne, so traumatic today for Poles (François Guesnet); and the importance of plundered Jewish libraries and book collections as arsenals of collective memory (Markus Kirchhoff). The Central European context after 1989 is the focus of a comparative study (Catherine Horel), while the quite differing circumstances of restitution and national memory for recipients of restitution in Hungary and Austria is examined in companion papers (Béla Rásky, Heidemarie Uhl). An investigation of the question of the role of the Swiss banks centers not only on the situation of a neutral country not militarily involved in the conflict but also spotlights a case which has increasingly become a kind of paradigm for the 1990s (Elazar Barkan). There is a significant shift in perspective in a chapter centering on the expulsion of the Germans, viewed from the topical vantage of Poles and Czechs (Claudia Kraft). The open questions of the relations between Jews and Arabs are investigated in a micro-study on a Haifa neighborhood. Here the memories of Arabs who were expelled or fled in 1948 are contrasted and compared with those of Oriental Jews who settled in Haifa after 1948, as one burden of suffering is weighed against another in the scales of memory and the urban environment (Yfaat Weiss). The volume closes with a comprehensive study on the German practices of compensation given to Jews after World War II (Hans Günter Hockerts)—that paradigmatic case of *Wiedergutmachung*, which preceded all other restitution efforts and initiatives.

We would like to express our gratitude for the support provided by Dr. Eva Cescutti, Internationales Forschungszentrum Kulturwissenschaften Wien (IFK), as well as Dirk Sadowski and Sebastian Voigt, Simon Dubnow Institute for Jewish History and Culture at Leipzig University. Without the outstanding intellectual and organized skills of Philipp Graf, Simon Dubnow Institute, his dedicated involvement in the material and formal supervision at all stages of the preparation of the texts gathered in this anthology, the task of completing this project possibly would not have been fulfilled. For this we are extremely thankful.

Dan Diner / Gotthart Wunberg

PART I:
THE SETTING



— One —

MEMORY AND RESTITUTION: WORLD WAR II AS A FOUNDATIONAL EVENT IN A UNITING EUROPE



Dan Diner

Europe, on the track to enlarged integration, seems to be successively constructing a common, unifying canon of binding values. That canon is based on human rights and a powerful repudiation of genocide. It is rooted historically in the memory of the events of World War II and what is increasingly emerging a posteriori as its core event—the Holocaust. Such a commonly shared European memory is not only assuming the salience of an arsenal of remembrance. It is also being transformed into a seminal event—a foundational act, so to speak. To a certain extent, this grounding event is quite comparable with the impact of the Reformation or the French Revolution—watersheds to which historical memory, as it thickens into a catalogue of narratives and values, seems to lead back.

The conception of World War II as an act of political foundation for a future and united Europe is not novel. Immediately after 1945, statesmen such as the Frenchman Robert Schuman, the German Konrad Adenauer, and the Italian Alcide de Gasperi, propagated in due time the idea of Europe as a project for defusing antagonistic historical nationalisms on the continent. All three personalities were more or less deeply rooted in the nineteenth century, by dint alone of their age; they were also deeply attached to the peripheries of their respective nation-states. Schuman was born in Luxembourg and educated in German-annexed Alsace; he fought in the Imperial German Army during World War I.¹ Adenauer, the former mayor of Cologne, always stressed his distance from the Protestant and Prussian dominated German nation-state; after

1919, he was even blamed for the emergence of something like a pro-French Rhenish swell of separatism.² De Gasperi stemmed from Trento, an irredenta area, and up until World War I served as a member of the imperial parliament in Vienna, the old-Austrian *Reichsrat*.³ All were conscious Catholics; their common language was German. As a former Central-European imperial language, German at the time functioned in Europe as a “universal” language of wider communication. The historical perceptions of these three figures were evidently molded by the strongly negative experience of World War I as a European civil war driven by excessive nationalism, while World War II was interpreted as its mere continuation. However, their intention to neutralize the historically established national antagonisms on the continent by creating a unified Europe—something we might term today (in the language of cultural studies) as “particular and solely collective memories institutionalized by territorialized state power”—was by and large the result of external circumstances. It was far less the making of the European statesmen themselves. Indeed, the Cold War’s chemistry acted as the great neutralizer of the substrate of nationalism and the particularistic memories bound up with it—nationalist particularities that had been central in European history for far more than a century.⁴

The pivotal category for the following inquiry into the fundamental changes that occurred during the Cold War and in the European domain (though not exclusively in Europe) is the notion of “neutralization.” The term encompasses a revocation of historically established national antagonisms as well the collective memories that go with them. The concept of neutralization is borrowed from a specific tradition in juridical and political thought that seeks to deal with the consequences of the New Order subsequent to the Peace of Westphalia and the nature of the absolutist state. This school of thought tended to neutralize, i.e. to internalize or privatize religious belonging as the dominant configuration of political partisanship and public truth. The tendency toward neutralizing religious partisanship in the public sphere—the obligation to pursue peace, not truth—was given its ultimate emblematic formula in Hobbes’ dictum: “*auctoritas, non veritas facit legem.*”⁵

In political and legal theory as well as in international law, this Hobbesian tradition of the neutralization of “truth” in politics was appropriated and elaborated later on, in the twentieth century, by Carl Schmitt. He dubbed the era after the Westphalian peace an “epoch of neutralization.” That would later be transformed by Reinhart Koselleck’s work on the late absolutist era. He developed a fundamental

historical paradigm of interpretation, especially in his path-breaking *Critique and Crisis*.⁶

In the beginning was the Cold War. It was formally launched by the Truman Doctrine in 1947. From that year on, the dominant academic and public discourse became one of ideological confrontation. This tendency contrasted with the formerly dominant layer upon layer of the various national interpretations of history in the European domain—interpretations bound up with past memories.⁷ From that point on, an opposition in societal inspirations and values came to hold sway: freedom and democracy as espoused by the Western alliance contra the Soviet Union and the so-called people's republics of the East, championing a distorted ideal of literal social equality. Such a global confrontation in values, extending far beyond the former leading concepts of nations and nationality, characterized the conflict between East and West as a kind of *international civil war*.⁸ Indeed—and this makes this phenomenon relevant for our focus here—this global dualism in values successively upstaged World War II and its prehistories, so to speak. Up until that point, these values had shaped all thought and action, ultimately seeking to master them judicially through the Nuremberg trials. From this juncture on, they receded ever more into the background, while the new context of international civil war—based on opposing albeit universal values—absorbed the seminal event of World War II, integrating it into its modes of interpretation, in the process distorting its very significance.⁹

These antagonisms in values were highly significant for the dualistic nature of the Cold War. But at the very core of the memory of World War II is the impact of the nuclear bomb and the universal threat of global destruction. And above all there is the arch-event in its shadow—Auschwitz, or more broadly what is called the Holocaust. Western consciousness was slow in comprehending its ontology as ultimate genocide, because the West had to confront the nuclear threat as well as the moral and the ethical questions it posed—most particularly the possibility of mutual annihilation, a kind of universal doom.¹⁰ In the 1950s and 1960s, Auschwitz and Hiroshima were referred to almost universally in one and the same breath. Often they were invoked simultaneously, to point up the means and feasibility of mass destruction inherent in Western civilization—or even in the diabolical potential of modernity as such.¹¹ It might well seem that the emerging universal menace of nuclear destruction at the high point of the Cold War suppressed the event of Auschwitz as an ultimate genocide before hu-

mankind had grasped its very meaning. In this context, it is interesting to note that during the late 1970s and early 1980s, when public fear peaked under the impact of political debate over removing American medium-range missiles in Western Europe in general and in the Federal Republic in particular, the angst of a potential nuclear destruction of Germany was palpably illustrated by a constant barrage of photos and metaphors specifically connected to the Holocaust. By expressing possible German victimization, the memory of the past was verbalized in a trope of massive destruction—although paradoxically in a reversed manner, contraphobically.¹²

So the Cold War cast a cloak of forgetting over the meaning as well as the remembrance of World War II. That result was compounded by the fact that the epistemic of interpretation in the age of the confrontation of values was primarily geared to the paradigm of *society*.¹³ The latter's power qua paradigm to neutralize memory, its unquestioned dominance, had become most evident where historiography shifted to focus on social history, increasingly oriented to a totally *societal* interpretation of past realities. That primacy of what was bound up with society in historical interpretation was evident particularly in states that were indeed by and large, by dint of division and the Cold War, simply "societies," like the Federal Republic of Germany. West Germany was an institutionalized society-based polity, not a nation-state. And simply by virtue of its class-oriented understanding of history, the German Democratic Republic—as the opposing polity of the Federal Republic in the antagonism of values in conflict—was, according to the principles of Marxism-Leninism, properly obliged to espouse hard-core materialist imaginaries of the social as its guiding *telos*. However, it was no surprise then that with the universal termination of the ideological validity of an all-embracing materialist perception of historical reality, the GDR, based so exclusively on social constructions, seemed to unravel and wither away.¹⁴

In respect to its political pedigree, Austria, the third successor state of the Nazi Reich, occupied a kind of middle position between the other two during the Cold War. Even at the time of the founding of the First Austrian Republic in 1918, it had been conceived as a republican nation-state that resembled Germany but was by no means identical to it. Austria's post-World War I leanings toward an enlarged German nation-state were propagated by its Vienna-centered Social Democracy, trying to attach itself to the more progressive developments in the Reich at the time. Ultimately, this objective was fulfilled negatively (when compared to the original demand) by National Socialism and the common Ger-

man experience of World War II. In 1943, the status of the Austrian nation was ironically elevated by the Allies by giving it the cachet of victimhood. This was a crass reversal of historical reality and Austrian popular consciousness; its upshot was long-term collective amnesia.¹⁵

In 1955, this amnesia in Austrian collective memory was augmented with the restoration of the country's sovereignty, grounded on so-called permanent neutrality. In this way, Austria's neutrality, anchored constitutionally and in international accords, served to institutionalize the memory of the immediate Nazi past, even to neutralize it. That was a tendency strengthened by the fact that most Austrian politicians of the immediate post-war era and shortly thereafter were either political victims of Nazism, incarcerated in concentration camps, or political émigrés—communicating their narratives as Nazi victims to the ensemble of the post-war Austrian nation.¹⁶

When society, the previously dominant paradigm of interpretation, was rudely surprised at the end of the Cold War by the wholesale return of historical memory, the impact of its global and especially European transformation was almost pre-programmed to have a drastic impact on the Republic of Austria. This watershed spelled a dramatic awakening for the Austrian polity; up to now, it had led a sleepy, if comfortable existence, wedged between the ideological blocks of freedom on the one hand and the distorted ideal of basic equality on the other. Now the new reality acted to banish it from that Eden of neutered memory. And to complicate matters: the country found itself on the doorstep of the Balkans, with its welter of ethnic turmoil in the wake of rekindled memory there.¹⁷

The case of Austria can exemplify the broader transformation across Europe over the past decade. Everywhere one can sense the epistemic metamorphosis of narratives based on *society* into those of *memory*—particularly in connection with that foundational event on which more and more eyes in Europe now find their attention riveted, World War II, with its emerging core, the Holocaust. Such a reemergence, however, is not free from ambiguities. When memory is invoked, it contains the experiences of the different powers, nations, and ethnicities involved in the previous struggle. Although European values rely fundamentally on the arsenal of memory of World War II, the memory as such is separated, sectioned off in accordance with the different particular differences of the nations involved. A built-in tension appears. And the result of this inherent tension of memory becomes ever more obvious—the creeping sense that World War II is still not over.

There has been much speculation about the strengthening impact of the memory of the Holocaust—about this seemingly paradoxical fast rewind of recollection as it recedes in time. The intention is not to interpret the time-retarding effect of traumatic historical experiences, or the influence that the process of coming to judicial terms with the event has had on the constitution of memory. Those were indeed trials which had some impact on the old Federal Republic of Germany, and to a certain extent—although quite differently—in Israel as well.¹⁸ Neither will this evaluation take a look at the debate that has recently flared regarding a real or imputed conscious cultivation of the Holocaust, especially in the United States, as an expression of the domestic discourses of ethnified identities. Those discourses were sparked in America in the late 1960s by an emerging rivalry in victimhood.¹⁹ Through its treatment in the media, especially in the film industry in the 1970s, that manifestation is believed to have resulted in a veritable globalized phenomenon of Holocaust-centred remembrance—and this extending over and beyond the specific elements of the European domain of experience.²⁰

As important as all these tendencies may have been for the enhancement of Holocaust memory, our interest here centers more on the specific conditions and factors in present-day Europe. Here lies the “old continent,” where the Holocaust was, after all, perpetrated, and where its remembrance impacts factually on political discourse and future political realities.²¹

The growing awareness about the Holocaust evident in Europe particularly since 1989 seems to be largely moored in a basic anthropological assumption—the obvious, indeed, organic interconnection between the restitution of private property rights and the evocation of past memories, or vice versa: *restitution of property as the result of recovered memory*.²² This intriguing conjunction between property and memory can help to explain why World War II and the Holocaust may well look forward to a long future in an emergent European common memory.²³

Let us look at most recent German history, the unification of the two German states in 1989–90. The unification was not just a national event, although the reestablishing of the unified German nation-state was its immediate implication. Rather, it should be understood as the outcome of a far more sweeping development, namely the collapse of communism and the associated retraction or revocation of the socializations and nationalizations of *property* instituted in the second half of the 1940s in the “people’s republics.”

As is well known, a treaty was concluded between the yet existing two German states to oversee the process of merger—the so-called Unification Agreement signed August 31, 1990. One of its important paragraphs, Article 41, stipulates that prior ownership rights from 1949 onward are to be reinstated—the principle of *Rückgabe vor Entschädigung*, or “restitution before compensation.”²⁴

This seemingly modest formulation is in fact quite loaded. Its practical (not just metaphorical) consequence is that restored private property tends to seek its former legal owner. By restoring former private ownership rights, the social substratum inherent to the institution of property—and by covering a period far beyond the biological life span of the individual owner, the practice takes on a trans-generational dimension. As a result, re-privatization—not just privatization—re-invokes the trans-generational dimension of memory. By its very nature, restitution of private property acts as a means of remembrance, while the post-war nationalizations and socializations carried out by the communists in Central and East Central Europe had had just the opposite effect: they functioned to neutralize memory. Not just memory about the legal rights of private property, bound to mere objects—no, this went far further, to encompass memory of times past, tethered to *longue-durée* prewar events as well as *court-durée* traumatic events during the war.

In the meantime, most especially after 1989, restored property titles have come to function as a kind of fulcrum for memory, geared to reappropriating the past. More and more, the land register becomes an arsenal of a memory complex extending further back, beyond the postwar socializations, as these layers are successively peeled off. They disclose so-called Aryanizations of property carried out but a few years earlier, lying right beneath. Such an archaeology of legal claims reflects the layer-by-layer succession of violence and political coercion in the past. Anthropologically, property and memory are interrelated epistemically.²⁵

This insight into the dynamic relation between memory and property strikes the mind as quite plausible. It is plausible in that it assists in better grasping why in the 1990s the question of restitution snowballed in Europe. Its point of departure was restored property in the East, formerly socialized and later restituted. Its momentum spread, soon pulling Aryanized possessions and hidden bank accounts into its dynamics. The property-memory nexus also helps to understand why it radiated out in a kind of universal wave, a surge from the former Eastern European people's democracies, sweeping over countries in the West. Its inundation reached countries that had been staunchly neutral

during the war, like Switzerland. Precisely by dint of their neutrality, countries like Switzerland were allowed to proceed with a certain kind of normality, with a seeming fabric of continuity from the prewar to the postwar area. That was a normalcy pretty much inconceivable in the rest of war-torn Europe.²⁶

Yet such restitution—and the concomitant reinstated validity of past times of memory—will obviously have a far-reaching, even universal, impact. And this beyond the extreme case, likewise so paradigmatic, of the Jewish experience in Europe. In principle, this subtends all unilateral changes by force in the sphere of property relations. In Europe, a line could be drawn from the Nazi Aryanizations and the exploitation of slave-labor to the later acts of expropriation and socialization by socialist regimes after 1945—actions of disowning and expropriation of previous nationalizations, precipitated by demographic expulsions after 1945 from the former German East, the Sudetenland, and the forced flight of ethnic Germans from other regions of eastern and southeastern Europe.²⁷ Moreover, some of these events fuse elements of politically oriented socialization and ethnic nationalization, a fact also true of conflicts elsewhere that were an immediate result of the European catastrophe of World War II and that likewise led to population movements.²⁸

Thus, for instance, the establishment of the Jewish state in 1948—obviously not *in* Europe but most certainly *of* Europe—stems directly from the temporal icon of 1945, just as the flight and expulsion of the Palestinian Arabs found a certain subjective justification in Israeli consciousness against the parallel violent backdrop of the events in Europe—especially in the formerly German provinces in the East, now under Polish rule, and the Sudetenland.

The Palestinian “right to return,” which ideally may involve restitution and monetary compensation rather than literal—that is physical—repatriation of refugees, becomes in this light an integral part of the discourse related to World War II and its aftermath.²⁹ Indeed, in terms of temporality—and in accord with the causal meaning of the time, the icons of 1945 and 1948—the demand for adjudication of past possessions in the Israeli-Palestinian case falls onto a distinctively *European* sounding-board that molds memory and restitution.

Although obviously to be settled by state action between the parties involved, the various claims and demands for restitution in Europe are such that one can somehow anticipate how they may will develop in the future, and how they will do so in the context of continuous restorations of private property rights across the continent—especially in

light of the expansion of the European Union eastward, to include the Czech Republic, Poland, Hungary, and other post-socialist states. It is likely, however, that there will be an increasing qualitative extension of memory arising from the growing incorporation of the events of World War II, while the Holocaust will continue to impact and color ever more powerfully the various European national memories. In such a possible process, where the different collective memories in Europe may undergo a kind of settling of accounts among themselves, a common European canon of remembrance will be established. The tendencies presently dominant indicate that this will perforce play itself out against the backdrop of the memory of the Holocaust as the constituting—indeed inaugural—event of a commonly shared European memory. In such a process of equalizing and bottom-lining the various European memories of World War II, the differing experiences and histories of the various nations during the war and its aftermath will make themselves felt. Here, after all, were countries allied with the German Reich, some that collaborated, others that were overrun or conquered, and still others that concealed themselves behind a hedge of neutrality.

The specific image of that time cherished by each individual memory collective will contribute to the composite aggregate of European self-identity. There can be little doubt that in a reversal as well as elongation of its historical role as the ultimate perpetrator, Germany will likely become the center and focus of this negatively shared European memory. In respect to monuments, memorial sites and memory culture, the German initiatives are distinctly paradigmatic. Berlin, for example, is becoming both a German and a universal site of remembrance. By contrast, certain European states that suffered enormously under Nazi occupation—but which, like Poland, have developed their distinctive memory of victimhood, ultimately resulting in a dynamic rivalry with Jewish memory—may find it difficult to come to terms with accepting the Jewish Holocaust as a prime, all-embracing, foundational event. However, the recently evoked mass murder of the Jews of Jedwabne by their Polish neighbors in 1941 may painfully revise the Polish self-perception as a significantly victimized nation, and will allow for a more differentiated picture to crystallize.³⁰

Up until now, there was a more martyrological self-representation. Just think of the notorious example of the 1940 Katyn massacre in the woods near Smolensk, where some 15,000 Polish officers were slaughtered by the Soviet NKVD. For the Poles, this slaughter is not some mere event that transpired during the war—it is infused with an almost

iconic quality. Why? Because the liquidation of the Polish officers, as it filters through deep layers of Polish tradition and self-awareness, is wrapped around a sacred core: *corpus Christi* and the image of the crucifixion. In the Polish imaginary, those officers symbolically represent the corps of the Polish nobility as the living incarnation of the Polish nation. According to modes of interpretation of medieval political iconography, the Poles see themselves in the context of their tradition as “Christ among the nations.”³¹

Strung between Nazi Germany and Soviet Russia, the ethnic component of the long-duration Polish memory is modulated into an ideological interpretation: the Polish nation’s self-perception is infused with a unique kind of antitotalitarian identity. The elemental substance of such an identity, however, is less universal than it might seem, by virtue of the *national* equidistance the Poles as victims seek to establish in regard to the crimes of both of the perpetrators—those of Auschwitz and those of Katyn.

Yet the tensions of diametrically opposed perception within the national memories in Europe are not generated solely by the differing experiences that Jews and others went through during the Holocaust. World War II ultimately constituted the broader frame or drama within which highly diverse events unfolded. That includes the various stages of the war itself, fundamentally determined by the relation between the warring parties: Germany and its Axis partners and collaborators contra their adversaries. Within that seemingly clear reticulation of relations, differences and distinctions arise, including open and concealed civil wars. In addition, during the war’s final stage and thereafter, circumstances arose that turned Germans ever more into victims.³² These events of the war and immediate postwar period, penetrating public consciousness, have generated a discourse that seeks to revise the constellations in memory shaped by the war. It presses in a direction where it is not the constellation and circumstances of the war that determine judgment—but rather a heavily abstract morality of human rights. In Germany, part of this complex is the emergent memory of the Germans themselves as victims. This victim discourse, which was quite in evidence especially in the 1950s, is increasingly oriented today toward a critique of the conduct of the war by the Anglo-American forces and the strategic air war, such as the bombing of major cities like Dresden, along with the violence perpetrated against Germans in connection with mass expulsions. Indeed, that critique views these acts as incompatible with ethical principles and human rights.³³ The reinvigoration of nation-

states and the transfer of sovereignty to European institutions, bound up with a pervasive tendency to (re)privatize property in the former people's democracies, has led to a powerful resurgence of World War II. So powerful indeed that it is conceivable that Germans may well sooner or later raise claims for restitution to Poles and Czechs. Such demands are no longer unimaginable. Although the will to forge a European union and a European basic agreement appear unshakable, the order of memory established after the war certainly is not vouchsafed unto all eternity—not even when Europe's memory of that war continues to be indelibly stamped by the destruction of European Jewry.

The Holocaust assumes an increasing importance as a foundational event for European collective memory; and as the historical foundation of a canon of human rights and powerful convictions against genocide. That perception cannot be taken for granted. After all, over many decades, and in view of the enormous military confrontation World War II entailed, the mass murder of the Jews tended to be treated more as peripheral, an *epi-event* of the broader cataclysm, so to speak.³⁴ Today a quite different view has emerged. The Holocaust has been shifted to the conflagration's center stage: it is now regarded as the *negative core event* of the twentieth century. It may rightfully be doubted whether such a view might have corresponded with the contemporaries' historical perspectives and perception. But the vantage of a mere historical reconstruction alone is hardly appropriate for a phenomenon like the Nazi Holocaust—whose real magnitude, paradoxically, seems to unfold only from a widening temporal distance.

The Holocaust is an event of *compressed time*. This metaphor of temporal condensation means that the Holocaust, as an ultimately radical happening of short duration, packs all preceding and subsequent time layers into its vortex. In length it embraced a compacted span of time: from the summer of 1941 to the end of the war in 1945, or more precisely and radically, from the summer 1942 to autumn 1944. That maelstrom of negative *telos* sucks not only the European and most especially the German past and pre-past into its whirl—rather, even the future appears contaminated by the event.

From this vantage, the Holocaust looms as epochal, especially since over and beyond its primarily but not exclusively Jewish victims it entailed a massive rupture with fundamental anthropological assumptions about what guides human action. From the perspective of the victims, the Nazis broke with the basic tenet of self-preservation that otherwise subtends all conflict, even the most radical. Ultimately, the entire body

of modern political philosophy is founded on this guiding principle of self-preservation. Because Auschwitz lies beyond Machiavelli's *Principe* and Hobbes' *Leviathan*, and thus beyond the perimeters of all conceptions of conflict possible, no matter how radical, it seizes posterity's consciousness as a universal and negative elemental event. The artefacts of property, although seemingly trivial in their material meaning, function in daily life as signs and symbols of this event.

If the proper consequences are to be drawn from this radical finding, the Holocaust would be given, as suggested at the very beginning, the analogous weight of the Reformation or the French Revolution in periodizing European, Western history. There is, of course, the difference that Auschwitz was not a tangible watershed: it did not usher in any visible epochal change in life-worlds, any transformation in civilization. Auschwitz, like a kind of temporal black hole, is inscribed only with negativity. Because of that negativity, its victims, in the main the Jews, appear as the bearers of negative emblems of a universal denial of meaning. Such a negative semiotic conflates with the traditional discourses of Western (i.e., Christian secular) civilization, in which the Jews or their imagery have a substantial importance, even if today that role is increasingly dropping from awareness.

Today, more and more discourses of collective victimhood in history are being adapted in contemporary reconstruction to the paradigmatic narrative of the Holocaust. The ongoing assimilation of the Holocaust narrative gives rise to an unfortunate kind of rivalry—a contest unable to properly evaluate either the universal elemental character of Auschwitz, or the always legitimate ultimate quality of one's own suffering. Instead of accepting the consequences of such insight, a tournament of contending suffering begins, assuming features reminiscent of traditional and religiously anchored patterns of dispute about Jewish "election" and Christian universality.

Notes

1. Gilbert Trausch, *Robert Schuman, Les racines et l'oeuvre d'un grand Européen* (Luxembourg, 1986).
2. Hans-Peter Schwarz, *Konrad Adenauer. A German Politician and Statesman in an Age of War, Revolution, and Reconstruction* (Providence, R.I., 1995).
3. Elisa A. Carrillo, *Alcide de Gasperi: The Long Apprenticeship* (Notre Dame, 1965).
4. Wilfried Loth, *The Division of the World: 1941–1955* (London, 1988); John L. Gaddis, *We Now Know: Rethinking Cold War History* (Oxford, 1997).
5. Thomas Hobbes, *Leviathan* [1651], chapter 26.
6. Carl Schmitt, “Das Zeitalter der Neutralisierung und Entpolitisierungen,” in *ibid.*, *Der Begriff des Politischen* (orig. 1932; Berlin, 1987), 79–95; Reinhart Koselleck, *Critique and Crisis. Enlightenment and the Pathogenesis of Modern Society* (Oxford, 1988).
7. John L. Gaddis, “Was the Truman Doctrine a Real Turning Point?,” *Foreign Affairs* 52 (1974): 346–402; Howard Jones, *A New Kind of War: America's Global Strategy and the Truman Doctrine in Greece* (New York, 1989).
8. Dan Diner, *Das Jahrhundert verstehen. Eine universalhistorische Deutung* (Frankfurt a.M., 1999), esp. chap. 5, “Dualisms: Decolonization and Cold War,” 251–315.
9. Hanno Kesting, *Geschichtsphilosophie und Weltbürgerkrieg* (Heidelberg, 1959). For a detailed depiction, see Gerhard L. Weinberg, *A World at Arms. A Global History of World War II* (New York, 1994).
10. Dan Diner, *Der Krieg der Erinnerungen und die Ordnung der Welt* (Berlin, 1991), 11–12.
11. Günther Anders, *Die Antiquiertheit des Menschen*, 2 vols. (Munich, 2002).
12. Dan Diner, “Kontraphobisch. Über Engführungen des Politischen,” in *ibid.*, *Kreisläufe. Nationalsozialismus und Gedächtnis* (Berlin, 1995), 95–111.
13. Gerhard Schulz, *Das Zeitalter der Gesellschaft. Aufsätze zur politischen Sozialgeschichte der Neuzeit* (Munich, 1969).
14. *Geschichte und Gesellschaft. Zeitschrift für Historische Sozialwissenschaft* 22, no. 2 (1996). Erweiterung der Sozialgeschichte; Jürgen Kocka, “Eine durchherrschte Gesellschaft,” in *Sozialgeschichte der DDR*, ed. Hartmut Kaelble, et. al. (Stuttgart, 1994); Hartmut Zwahr, “Kontinuitätsbruch und mangelnde Lebensfähigkeit. Das Scheitern der DDR,” in: *ibid.*
15. Heidemarie Uhl, *Zwischen Versöhnung und Verstörung. Eine Kontroverse um Österreichs historische Identität fünfzig Jahre nach dem “Anschluss”* (Cologne, Weimar, 1992).
16. “Ich bin dafür, die Sache in die Länge zu ziehen:” *Die Wortprotokolle der österreichischen Bundesregierung von 1945 bis 1952 über die Entschädigung der Juden*, ed. Robert Knight (Cologne, Weimar, 2000); *ibid.*, “Restitution and Legitimacy in Post-war Austria: 1945–1953,” *Leo Baeck Institute Yearbook* 36 (1991): 413–441.
17. Susan Woodward, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Washington, D.C., 1995).
18. Norbert Frei, *Adenauer's Germany and the Nazi Past. The Politics of Amnesty and Integration* (New York, 2002).
19. Peter Novick, *The Holocaust in American Life* (Boston, New York, 1999).
20. Daniel Levy and Natan Sznaider, *Erinnerung im globalen Zeitalter. Der Holocaust* (Frankfurt a.M., 2001).

21. *The Stockholm International Forum on the Holocaust. A Conference on Education, Remembrance and Research, Stockholm, Sweden, 26–28 January 2000: Proceedings* (Stockholm, 2000).
22. Martin Dean, “The Plundering of Jewish Property in Europe. Five Recent Publications Documenting Property Seizure and Restitution in Germany, Belgium Norway, and Belarus,” *Holocaust and Genocide Studies* 15 (2001): 86–97; Marilyn Henry, *The Restitution of Jewish Property in Central and Eastern Europe* (New York, 1997).
23. Franziska Becker, *Gewalt und Gedächtnis. Erinnerungen an die nationalsozialistische Verfolgung einer jüdischen Landgemeinde* (Göttingen, 1994). On the first and second stage of restitution, see “Arisierung” und Restitution. *Die Rückerstattung jüdischen Eigentums in Deutschland und Österreich nach 1945 und 1989*, ed. Constantin Goshler and Jürgen Lillteicher (Göttingen, 2002).
24. *Bundesgesetzblatt* 1990, II, 885. See *Einigungsvertrag mit amtlichen Erläuterungen*, 4th ed. (Baden-Baden, 1992), 33; John Torpey, “‘Making Whole What Has Been Smashed’. Reflections on Reparations,” *Journal of Modern History* 73, no. 2 (2001): 333–358. For a discussion on the meaning of property, see Hannes Siegrist and David Sugarman, “Geschichte als historisch-vergleichende Eigentumswissenschaft,” in *Eigentum im internationalen Vergleich, 18.–20. Jahrhundert*, ed. ibid. (Göttingen, 1999), 9–30. For the historical dimension of questions of property see André Gain, *La restauration et les biens des émigrés. La législation concernant les biens nationaux de seconde origine et son application dans l’Est de la France: 1814–1832* (Nancy, 1928).
25. Peter Burke, “Geschichte als soziales Gedächtnis,” in *Mnemosyne. Formen und Funktionen der kulturellen Erinnerung*, ed. Aleida Assmann and Dietrich Harth (Frankfurt a.M., 1991), 289–304.
26. John Authers and Richard Wolffe, *The Victim’s Fortune: Inside the Epic Battle Over the Debts of the Holocaust* (New York, 2002). For a first discussion on Jewish restitutional claims, see Nehemiah Robinson, *Indemnification and Reparations* (New York, 1944); Ronald W. Zweig, *German Reparations and the Jewish World: A History of the Claims Conference* (London, 2001).
27. Norman M. Naimark, *Fires of Hatred: Ethnic Cleansing in Twentieth Century Europe* (Cambridge, 2001).
28. Joseph B. Schechtman, *Postwar Population Transfers in Europe 1945–1955* (Philadelphia, 1962); Jan Gross, “War as Revolution,” in *The Establishment of Communist Regimes in Eastern Europe, 1944–1949*, ed. Leonid Gibianskii and Norman M. Naimark (Oxford, 1997), 17–42; *Bevölkerungstransfer und Systemwandel. Ostmittel-europäische Grenzen nach dem Zweiten Weltkrieg*, ed. Helga Schulz (Berlin, 1998).
29. Jean-Marie Henckaerts, *Mass Expulsions in Modern International Law and Practice* (The Hague, 1995).
30. *My Brother’s Keeper? Recent Polish Debates on the Holocaust*, ed. Antony Polonsky (London, 1990); Jan T. Gross, *Neighbors. The Destruction of the Jewish Community in Jedwabne* (Princeton, N.J., 2001); *Der Beginn der Vernichtung. Zum Mord an den Juden in Jedwabne und Umgebung im Sommer 1941. Neue Forschungsergebnisse polnischer Historiker*, ed. Edmund Dmitrow et al. (Osnabrück, 2004). See also the contribution by François Guesnet in this volume.
31. Magdalena Opalski and Israel Bartal, *Poles and Jews: A Failed Brotherhood* (Hanover, London, 1992).

32. *Redrawing Nations: Ethnic Cleansing in East-Central Europe, 1944–1948*, ed. Philip Ther and Ana Siljak (Lanham, M.D., 2001); *Documents on the Expulsion of the Germans from Eastern-Central-Europe. A Selection and Translation from Dokumentation der Vertreibung der Deutschen aus Ost-Mitteleuropa*, ed. Theodor Schieder (Bonn, 1960–1961) and Joachim Nolywaika, *Flucht und Vertreibung der Deutschen. Die Tragödie im Osten und im Sudetenland* (Kiel, 1996).
33. Jörg Friedrich, *Der Brand. Deutschland im Bombenkrieg 1940–1945* (Munich, 2002).
34. Gordon A. Craig, *Europe Since 1815* (New York, 1971).

PART II:
ANTHROPOLOGIZING RESTITUTION



MONEY AND MEMORY: TRANSVALUATING THE REDRESS OF LOSS



John Borneman

How do we explain the uncanny intransigence of our individual and collective ability to settle accounts following severe losses of life and property? Contrary to a popular wisdom, time does not heal all wounds. In fact, only with the passing of time is it possible to register some losses and to recognize the language of a wound. Healing the wound, the memory of loss, is a process about which we know little. Such memory appears to act like gravity, pulling us, indebted and guilty, toward an inescapable fault. We appear to have an obligation or duty to address the memory of loss and to seek redress. But while memory can often speak eloquently, it rarely listens well. Memory's instability and inflexibility makes it difficult to address directly. Hence we conjure up spirits, ghosts, djinns, therapists, even anthropologists—interlocutors who might provide access to memory's speech, a speech about our duty to address loss. We expect these mediators to talk with memory and absolve us of our individual and collective fault, debt, guilt—what is bundled together in the German concept *Schuld*. Even in those rare cases where legal remedy exists, where the apparatus of the state (or states) offers a fair legal accounting and an indemnity for the loss, the wound resists final “closure” and continues to speak from a seemingly inaccessible and secure position.

It is this insoluble problem, of addressing and redressing memory of loss, that I want to examine, specifically in its relation to money as a form of redress. Under what conditions does money contribute to the transvaluation of the memory of loss? My argument follows in three parts: a theoretical discussion checked against cases of acceptance and

rejection of monetary compensation for loss; a historical sketch at the collective level of fault, guilt, and debt as it relates to money in Germany; and a comparison of the relation of money and memory in the lives of two German individuals.

Memory, Money, and Compensation for Loss

The offer of money to compensate for a loss, wound, or injury is widely practiced, but it is not always accepted. Because of its liquidity, money distinguishes itself as a form of indemnification from restitution of material goods, such as land. Often property called “land” is given a special value. Land that is stolen or lost cannot be replaced by a substitute object; it cannot be transvalued. An eye for an eye, so to speak, only land can replace land. This form of restitution is similar to what in anthropology is called “restricted exchange,” a theory developed out of a consideration of wife exchange between two groups where only a woman can replace another woman. Valued goods of another order—such as pigs, or cowry shells, or even money—are never adequate recompense for giving up a “wife.”

Restricted exchange is in fact rare, as is actual restitution. The more common form of recompense is called “generalized exchange,” and the use of money as compensation or reparation, as a substitute for loss, is of this type. Most lost or stolen or confiscated objects change over time and therefore can never be returned in their original form; one must propose and accept a substitute, that is, compensation. Today, most transvaluation of loss involves the substitute of money. When is money an appropriate or adequate substitute for severe loss?

The possibility of restricted exchange was posed recently following the collapse of Communist governments in 1989–90. Should the successor states return property expropriated and redistributed after 1945, or should they compensate former owners? Only in Germany, with the policy of *Rückgabe vor Entschädigung* (return/restitution before monetary compensation), did the state make restricted exchange official policy in the former GDR. Other East-Central European states practiced generalized exchange: returning property only on a case-by-case basis, favoring compensation and taking into consideration the experiences and needs of present owners and users. In Germany, the guiding principle was that the original land and the original real estate should be returned to prior owners as if there had been no subsequent history of other occupations and ownerships since 1933. This did not of course prove workable, for practical and political reasons, and in most cases monetary compensa-

tion was instead paid as recompense in a generalized exchange. In what way here did “money talk” to this prior injury? Let us examine more closely exactly how and from where money speaks.

Two of the most recent highly public refusals to accept a monetary transvaluation of loss have been those of the “comfort girls,” who were coerced into working as sex slaves for the Japanese in World War II; and of Argentinian “Mothers of the Plaza de Mayo,” whose children and relatives were “disappeared” during the government’s “dirty war” against its civilians suspected of opposition between 1976 and 1983. In both cases, the wounded refuse to let go of their memories of having been harmed. And they refuse to accept the monetary (in legal jargon, “punitive”) damages from the perpetrators (represented by successor governments)—unless those damages are accompanied by other, qualitative forms of rectification, such as punishment, acts of atonement, apology, or memorialization. Sometimes victims may accept money only if it is camouflaged or hidden and not seen as a direct substitute for the loss. Other times victims desire to see the “punitive” aspect of damages, where the perpetrator is punished in some way, and where the source of the money is seen as coming directly from the perpetrator.

When money, as a substance, is offered to address the memory of injury, or when additional conditions are stipulated before agreeing to accept it as remedy for an injury, we often say that money “cheapens memory,” and we disparage money’s value even as we accept it by calling it “bitter money,” “poison money,” or “blood money.” In this sense, money never really compensates adequately for loss but may instead devalue or trivialize the harm and actually increase the sense of injury. When confronted with this situation, we often say, “It’s like adding insult to injury.” In both of the “refusals” to accept money, of Japanese sex slaves and Argentinian “mothers” of the approximately 30,000 “disappeared,” there is no possibility of restricted exchange or substitute redress. The losses are permanent and irrecoverable.¹ May it not be, then, that the money offered is not to compensate for the loss, but for the *memory* of the loss?

One of the major reasons why injured parties reject this monetary compensation is because they demand other, nonmaterial forms of redress of memory before accepting money. As the actual injured parties making demands for redress, memory of the loss seems to have a direct hold on them that money cannot address. Money appears inadequate to the task of absolution from guilt and release from debt. Memory’s grip

is too strong. Money cannot speak to this memory of loss directly or it would in fact “cheapen memory.”

Alternatively, money often seems to possess curative powers that enable it to act as compensation and to transform one’s past harm or loss into future opportunity. Here, it seems as if no demands are placed on the wrongdoer other than payment, and payment appears to substitute for the memory of the injury. There is the sense that loss can be adequately quantified and that memory itself can be redressed by money. Two of the most recent highly public “acceptances,” both still not fully completed, are the \$5 billion German reparations fund set up in 2001 to compensate the million or more people who were forced to work in concentration camps, ghettos, and German businesses in the Nazi era; the other a settlement reached on 12 April 2001 by New York Life, one of the largest life insurance companies in the United States, to pay up to \$10 million to heirs of the victims of the Armenian genocide in Ottoman Turkey. Both of the “acceptances,” of money for Nazi forced labor and of life insurance payments to Armenians, appear to be monetary substitutes for the injury or death. They appear to be examples of a monetization of the memory of loss. Let us examine this transvaluation more closely.

Many factors enter into explaining why the German government and industry settled the case of slave laborers under the Nazis now. Above all, the end of the Cold War made it possible to unify victims across borders, and in the face of reunification the German state had to re-legitimize itself internationally. Also, two recent precedents were decisive with regard to government restitution, leading also to a change in the private sector’s sense of responsibility for past human rights violations: the Swiss government initiative establishing a \$5 billion Holocaust fund,² and the willing and continuous intervention of U.S. American courts in hearing restitution claims against foreign governments and companies.³

Here I want to focus theoretically rather than historically on three factors that make a monetary substitute for loss acceptable, the conditions under which money can speak to memory. There were many previous efforts by the German state to rectify losses inflicted under the Nazi regime. These include historiographical work and apologies and memorials and commemorative events and treaties and, most prominently, the policy of *Wiedergutmachung* (a direct exchange of money for loss), which initially addressed Jews and the state of Israel but later was extended to other victim groups.⁴ In short, more than a half-century after the war, most of the Nazi-era claims had already in fact been addressed if not adequately settled. Money, then, has not been asked to

speak alone, but always as a supplement to other means of addressing memory of injury or loss. And this is the first factor: Money is acceptable as a supplement to other remedies.

For slave laborers, the critical element missing in the initial constitution of loss was in fact money; if the workers had been paid at the time of their labor, there would be at most a demand for nonmaterial indemnification for coerced labor as a foreign national under the conditions of war (a demand unlikely to be heard on a world stage). A second factor is temporal: the advanced age of those injured: the surviving forced laborers were nearing the end of their lives, meaning they had little to gain from holding out, and the delay in compensation has made the payments more affordable for German industry and government. A third factor is the growth and prominence of a primarily American legal industry, itself driven by profits, active in a type of indemnification called “class action” lawsuits where the remedy is money for loss.

In other words, the first factor is that of money as supplement: Other nonquantifiable measures were already taken to address the memory of injury or loss, which allows the payment of money to appear as a direct and restricted exchange, not as a substitute for memory; money is owed for past labor and money is paid.⁵ The second factor is a temporal delay that makes the monetization of loss more acceptable. The third factor is the contemporary proliferation and power of institutions, like legal firms, that use the “cash nexus” and the idea of “more money,” as well as the form of the class action lawsuit, as a logic and mode of response to problems generally. Some U.S. American law firms, for example, have created entire departments solely to investigate “war crimes practices,” involving primarily restitution claims in countries wealthy enough to present the possibility of a monetization of loss.⁶ I’ll return to these factors later.

My second example, of life insurance to be paid to Armenian survivors of the Ottoman genocide, is an extreme case of the association of money with the ultimate loss, death. Life insurance establishes an equivalence between death and its monetary value. The insurance payment is a reimbursement to pre-specified survivors, which, according to the insurance industry’s “indemnity principle,” is “limited to losses actually sustained by the policyholder.” The benefits must be “no larger than the loss sustained (though it may be smaller).”⁷ Here, there is not a restricted but a generalized exchange, involving a substitution and transvaluation, of money for death. Like the Nazi slave laborers, there is a temporal delay and reliance on an institutional mediator, life insurance, that is premised on the monetization of loss.⁸ This settlement comes eighty-five years after

the events, between 1915 and 1922, in which Turks slaughtered up to 1.5 million people. According to *New York Life*, 8,000 policies, including 3,600 by Armenians, had been sold in Turkey before the outbreak of World War I, when sales were stopped. *New York Life* settled 300 policies before the massacres, and another 1,100 after, leaving 2,200 unresolved. Integral to this deal was *New York Life's* agreement to a nonquantifiable form of rectification: to publish the names of the policyholders in major American as well as ethnic newspapers.⁹

On the surface, this case appears to be about money substituting for the memory of loss. A life insurance company agrees to pay monetary compensation for deaths that occurred in a genocide. The company pays designated heirs of the victims, most likely of a third generation removed. But given the rather large amount of money and time required to pursue the claims over eighty-five years, and the rather paltry sum in dispute (approximately \$10,000 per person), the pursuit of money or profit cannot be the primary drive behind the desire for rectification. Rather, it appears that the primary reason for the persistence of the memory of death would be the desire for historical recognition, a fuller account and an accounting, of the injury—the massacre, the genocide—by others, any others, Americans, Europeans, or Turks. This was indeed part of the settlement, in the agreement to publish names of the victims in newspapers.

Here, as with Nazi slave labor, money is supplementary though also necessary to complete the indemnification of the memory of loss. The unwillingness of Turkey and the rest of the international community to recognize Armenian deaths is most probably the primary reason why several generations of survivors have vigorously held onto their memory of loss, or, put another way, why memory's obligation to the dead—the *Schuld* (debt and guilt)—seems to speak without listening.¹⁰ Yet the monetary compensation promised in the life insurance contract also speaks in some way to this memory of loss.

How and from where does money speak to loss? Pierre Nora comments in his ambitious project on "Realms of Memory" that gold is the memory of money.¹¹ If that is so, and we have now eliminated the gold standard, then what is money the memory of? Now, we do attribute to money many social meanings—calling it old money, new money, allowance, wage, salary, and dole, for example—all suggesting the social origin of the initial transaction that created value, which creates a possible memory stored in specific "special monies."¹² But there is a way in which money can become cleansed of memory of its origin over

time, as expressed in the distinction between “old money” and “new money.” Old money is what the Fords and Rockefellers and Mellons give to us in grants, we no longer inquire into its origin; new money is what media moguls like Silvio Berlusconi or junk bond kings like Michael Milken or computer innovators like Bill Gates accumulate. Old money is more proper and acceptable than new money largely because we have “forgotten” its origin.

In the case of money as remedy for the memory of loss, I want to turn to the utilitarian argument of Marx and Simmel, and suggest that *money cannot transvalue memory but it can transvalue loss*. That is because money is the memory of nothing, it is an empty signifier free to be filled however one pleases. It is the means for a generalized exchange par excellence. No women for women, or land for land. Anything can substitute for money. Even a “savings account” made by accumulating some “special monies” secured through a specific sort of past labor or inheritance, is freed over time from its past and becomes open to any imagined future. As can be seen from the way in which fortunes are legitimated over time, the longer one has a savings account, the more divorced it becomes from any specific memory of accumulation, the more released it is from the actual moment of original deposit and accumulation. Money derives its link to freedom not as a negation, for with money one can, if one wishes, afford to cultivate or indulge in memory. Rather, by not being tied to the memory of anything, by being the memory of nothing, money can speak a language without specific content or relation to the past, one of virtuality and freedom.

It is well known that money offers the promise of universal exchangeability and translatability. I trust my contribution here is an explication of the connection of money to memory, specifically to contemporary memory. Not only did we just live through a decade, following the collapse of the Cold War, of a discourse on money and wealth that seemed to dominate if not colonize most other value domains, and not only in Europe and the U.S., but worldwide. But also, we are living through an explosion of interest in memory: Frederic Jameson decries the “colonization of the present by the nostalgic mode” leading to a new depthlessness, a “historicism that effaces history”;¹³ Pierre Nora talks of a “crisis of social memory” and the replacement of the memory-nation with “*lieux de memoire*”;¹⁴ Ian Hacking talks of a new “memoro-politics,” where “the sciences of memory have become surrogates for the soul” and provide access to our most essential truths.¹⁵

Why, at this time, this parallel embrace of memory and money? My argument is that memory and money rely upon but have inverse relations to the same issue: accountability. Memory of loss is an account obtained through recall of something learned, experienced, or imagined in the past. Money is what Webster's defines as an "archaic" form of accounting: "to give or receive a financial account," involving "counting, remuneration, computation." Both speak the language of accounting, but while memory over time seeks accountability, money over time evades accountability. And since money is the memory of nothing, it speaks "orthogonally" to or *around* memory as does nothing else. Other symbolic means to address loss—rituals of mourning, commemoration, therapy, and legal justice—can, in fact, with proper mediation and under certain circumstances, affect memory by enabling a social displacement of the loss. But they are all themselves caught up within memory, establishing a relationship of accountability to it, trying to access and speak to something that rarely and only under the most unusual circumstance listens. Money, by contrast, does not rely on access to memory in order to relate to loss. It speaks to loss directly. But as to the memory of loss, money always enters into a relationship with this memory as supplementary, perhaps necessary for a full accounting as part of a generalized exchange, but secondary to the mediation of retribution and commemoration as forms of restricted exchange.

In the next part, I pursue the relationship between the modes of redress to loss (what I am calling "modes of accountability"): restitution and monetary compensation, legal retribution and restorative justice, and commemoration.¹⁶ What is the specific way in which money speaks to loss but around memory of loss in Germany over the last half-century?

Relating the Collective to Money and Memory

First, one should note that Germany and the people who live in that country have been positioned not primarily to receive money as compensation for injuries suffered or for death, but to pay money to compensate for injuries inflicted. Internationally—and a nation make sense only as part of a community of nations—Germany and Germans have been on the perpetrator, not the victim, side of the question of Schuld. They are collectively positioned as guilty and in debt to the memory of loss.

One should undoubtedly begin not with 1945 but 1918 and the "war guilt clause" of the Versailles Treaty that Germans were forced to sign, and with the crippling reparations—calculated at \$33 billion in gold-based exchange in 1921—that they were obligated to pay for losing the war.

Even though Germans were, arguably, the aggressors in World War I, the reason they had to pay reparations was merely because they had lost. My interest is precisely in how this “loss” has become a “memory of loss,” a German memory of the issue of World War I reparations. Germans did collectively pay money to indemnify other nations, primarily the French, for losses they inflicted. It was not the French losses, however, that were assigned weight in memory, but the German losses during the war and the postwar reparations were locally emplotted as memory of loss. Immediately after the war, the issue of *Vergeltung* (revenge/retribution) for this unjust settlement was employed to identify internal traitors—Jews, Jewish capitalists, communists and the like—and by the Nazi era it contributed to a discourse of German innocence, or blamelessness, with respect to others as Germany pursued victory in World War II.

This narrative of national *ressentiment* following World War I contrasts starkly with the narrative of coming-to-terms with defeat following World War II. Two difficult-to-translate and awkward concepts were even coined for this new kind of reflexivity: *Aufarbeitung der Geschichte* (“working-off of history”) and *Bewältigung der Vergangenheit* (“reckoning with history”). Within two decades of World War II, Germans had largely internalized the narrative of the victors (which also became a global narrative): that Germans collectively were responsible for the harm they had inflicted, which required active redress, and that Germany itself required an external remedy (the presence of Western Allies). Germany’s brutal “war crimes” against its neighbors were the legal basis for initial retribution by the Allies, specifically in the Nuremberg trials, but later responsibility was extended to “human rights violations,” specifically the Nazi crime of the “Final Solution” and the annihilation of European Jewry, including its own citizenry.¹⁷

Already in 1944, the Allied military authorities in Germany passed laws allowing them to seize and control property and assets of the Nazis, including that acquired wrongfully; and in 1947, they passed a law mandating restitution or compensation of property acquired under duress.¹⁸ In 1952, the West German state, in an attempt to redress these wrongs, and in its search for international recognition and legitimation, signed an agreement with the state of Israel regarding the return of Jewish property and reparations, called *Wiedergutmachung*. This “making-good-again” was a reiteration of the assumption of collective responsibility and it functioned primarily by transforming claims of symbolic debt into *Entschädigung* (monetary compensation), *Schuld* (guilt/fault) into *Schulden* (monetary debt). Many Jewish groups in Israel vehemently op-

posed the transvaluation of loss into a numerical figure, calling it “blood money,” “sacrilege,” and “betrayal [of] the memory of six million Jews who had perished in the Holocaust by negotiating the forgiveness of their blood.”¹⁹ This payment from national collective to national collective was followed by other forms of redress (e.g., from state to harmed individuals or state to harmed groups such as Jewish organizations), most of which similarly turned moral rectification into monetary remuneration.²⁰

Restitution and compensation did not, however, alleviate Germans from what they refer to as the *Last der Vergangenheit* (burden of history) or the *Last der Verantwortung* (burden of responsibility), for there is in fact no way to calculate the costs of a genocide. If we agree with Saul Friedländer, in a position first suggested by Hannah Arendt, that the Jewish Holocaust is an ungraspable event, an event that continually points to all limits of possibility, then any proposed understanding or remedy, for that matter, is always too little.²¹ No restricted exchange of redress for memory of loss is possible, as there is always symbolic excess from the Holocaust, something that escapes all accounting, all calculations of injury and remedy. This symbolic excess complicates what Karl Jaspers in 1946 appropriately called the “*Schuldfrage*.”²²

Over the course of the last fifty-five years, this *Schuldfrage*—the question of fault, guilt, and debt—has been addressed in all of the ways Jaspers defined guilt: criminal, political, moral, and metaphysical. The country was divided into two states. Fault was addressed in many non-material ways, particularly through legal rites of retribution. Initially in the Nuremberg Trials, but followed by a series of trials of concentration camp administrators between 1963–65, many individuals were tried and executed or sentenced to long prison terms.²³ And the Allies, in their de-nazification efforts, disqualified large numbers of civil servants from working for the government, using a controversial index of individual fault: Nazi Party affiliation.²⁴ That is, they used a *sign of collective liability* to assess individual fault independent of the individual’s actions vis-à-vis the crime.²⁵ Admittedly, all of this collective compensation, restitution, and retribution was *Schuld* not only for the Holocaust but for the war generally. Yet without the Holocaust as exceptional and unique crime, it is doubtful that the claims would have been so extensive and enduring.

Even after the fault and debt aspects of the *Schuldfrage* of individual Germans were addressed through monetary compensation and through the military and criminal courts, the question of guilt remains. To what extent were Germans individually responsible—guilty—for wrongdoing done in the name of the collective that was not or could not be ad-

dressed in criminal courts or through reparations? Since the 1960s, this dimension of guilt has been addressed in the civil or cultural domain, by public apologies, the setting aside of days of mourning, investigatory commissions, support for historiography, and constructing memorials (*Denkmäler* and *Mahnmal*) and museums—sites of memory intended primarily as provocations to further thought or as admonitions.²⁶ Most of these cultural responses are what we call “rites of commemoration.” Commemorations are public and they are collective. And unlike monetary compensation and legal trials, rites of commemoration are to operate *ad infinitum*, after the perpetrators are dead and the question of individual fault and debt are no longer relevant.

Commemorative acts initiate a repetition, they institutionalize the memory of loss by making visible and permanent a representation of that loss. Most of the commemorative sites in Germany are part of a memoro-politics that deal with the excess of the Holocaust. Many attempt a figurative representation of the horror, but others, perhaps the most disturbing, insist on the presence of the real thing—actual suitcases or cable cars used in transport, actual cannisters of cyclon B, actual clothing or shoes or hair of death camp victims. What was lost permits no substitution. Such commemorations attempt to speak directly to the memory of loss, to bring into the symbolic order that resists symbolization through a confrontation with the materiality of loss. They intend to go beyond rational understanding, to enter into the emotion, and they tend to provoke questions of collective guilt.

These commemorative sites are always conflictual, as the state and other social groups never fully agree on how to appropriate losses and the dead; each actor tends to have a different purpose in mind. The effect of commemorative sites is not to restrict the damage of loss, however, but to generalize its memory and make it permanent. And since no particular cultural form can enclose or contain or perfectly represent memory of loss, there is a dynamic of proliferating memorials and commemorative events, each intended to give expression to those inassimilable memory traces that speak the language of the memory of loss. This dynamic coincides with and is inseparable from a social process of generational differentiation and the transmission of generational accounting.

A first postwar generation addressed collective liability through restitution, monetary compensation, and, later, legal retribution. Or to be more specific, this address was done for them, with taxpayer's money, in the name of Germany. The generation presently in positions of power in Germany, a postwar generation called the “68ers” (*Achtundsechziger*),