

## Collecting on Moral Debts: Reparations for the Holocaust and Pořajmos

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In the early 1980s, Sebba (1980) explored the victimological and criminological dimensions of German Holocaust reparations, utilizing a broad definition of *victimization* similar to Mendelsohn's (1976) earlier framing of this notion, which included victims of genocide and mass violence. Since this time, scant attention has been paid to the victimology of state crime, and even less to the victimological implications of genocide and mass violence. This is unfortunate since critical victimological lessons can be drawn from the study of the victims of genocide and mass violence. In this article, we focus on the post-World War II monetary reparations, or "compensation," demands made against the West German state by Jewish and "Gypsy" survivors of Nazi state-sponsored violence. Through a comparative analysis of these two cases, we seek to illustrate the organizational, social, and discursive conditions that either enabled or obstructed victim mobilization and, in so doing, to develop critical tools for better understanding "victim movements" and the trauma narratives they construct.

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violence. In this article, we focus on the post-World War II monetary reparations, or “compensation,” demands made against the West German state by Jewish and “Gypsy” (referred to henceforth as “Roma and Sinti”<sup>1</sup>) survivors of Nazi state-sponsored violence. While one must not overlook the specificity of collective tragedies such as the Jewish Holocaust and Roma and Sinti Pořajmos,<sup>2</sup> it is useful to compare the various victim movements that emerged around these tragedies in the shadow of World War II since both targeted the West German state with justice demands based on a similar set of genocidal experiences. Through a comparative analysis of these two cases, we seek to illustrate how organizational and institutional support structures, social and political opportunities, and discursive openings for trauma narrative articulation and resonance contributed to the successes and/or failures of their reparations claims. In so doing, we seek to portray the changing face of reparations politics; in particular, we suggest that the relative success of Jewish reparations claims<sup>3</sup> has shifted the terrain on which contemporary victim justice demands are made.

The paucity of critical attention to the victimology of state crime is surprising, since Jewish groups seeking reparations for the crimes of the Holocaust can be viewed as primogenitors of a historical “cycle of protest” (Tarrow 1994) that culminated in an array of modern victim movements.<sup>4</sup> In the midst of the Holocaust, Jewish organizations began a cautious effort to foreground victims’ justice demands ahead of those made by the soon-to-be-victorious Allies. In the course of this effort, they convinced public figures that postwar denazification and reparation should be central components of Allied policy in a defeated Germany. In the end, they not only achieved recognition of Jewish suffering, but also helped elevate the Holocaust to the status of the most sacred tragedy in the pantheon of world-historic tragic events.

For all of the success of Jewish Holocaust survivors and their supporters, however, other groups victimized by the Nazis have been

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<sup>1</sup> The terminology used to refer to Roma and Sinti peoples is often contested. The earlier terms *Gypsy* and, in German, *Tsigane*, have been largely disposed of since both are considered to be stigmatizing. Some have advocated for the sole use of the term *Roma* to refer collectively to the Roma and Sinti peoples, but many “Sinti,” who reside in Germany and are more assimilated into German society than other Rom peoples, resist this broad label.

<sup>2</sup> The “Pořajmos” is a Romani word that means the “devouring” and is often used to refer to the genocide of Roma and Sinti persons committed by the Nazis.

<sup>3</sup> We use the terms *reparations demands* and *reparations claims* to refer to all post-genocide justice demands made by victim groups, including calls for tribunals, truth commissions, commemoration, restitution, lustration, and symbolic and material compensation.

<sup>4</sup> Early women’s rights activists must also be included as part of this initial stage of activity, since they brought attention to the specific victimization experienced by women and their subsequent neglect in the processes of justice.

less able to achieve similar acknowledgment of their victimization. Although there are questions as to whether, like the Jews, the Roma and Sinti were targets for a "Final Solution," they were certainly subjected to concerted elimination efforts by the Nazis (see Margalit 2002). They were hunted, despised, imprisoned in concentration and death camps, forced into slave labor and, ultimately, exterminated. However, they have not achieved the same level of redress for the wrongs done to them. In this article, we suggest that, whereas Jewish survivors and their supporters were able to use diasporic networks for purposes of effective social and discursive mobilization, the Roma and Sinti lacked the political resources and the intercultural networks needed to generate wider resonance for their cause.

It should be noted that several dangers potentially arise from this line of argument. First, it could be suggested that this reasoning blames the victim for failing to press hard enough to achieve redress. However, this is not our suggestion since victim agency is not by itself a sufficient explanation for reparations success. Instead, we propose that victim agency interacts with organizational, social, political, and discursive factors that allow victim group grievances to be translated into policies of redress. Second, there is a concern that emphasizing the role played by the Jewish Diaspora could play into stereotypes about the power and "cosmopolitanism" of so-called world Jewry. In contrast, we hope to demonstrate that such conceptions are clearly mistaken and that the collective solidarity that exists between diverse Jewish organizations and people is a negotiated accomplishment and not a predetermined consequence of some imagined essential identity.

Finally, it is important to recognize that the reparational "field" (Torpey 2003) features a variety of responses to past injustices, including tribunals, truth commissions, commemoration, restitution, lustration, and symbolic and material compensation. Our primary focus will be on material compensation because this was the main demand voiced by victims in the aftermath of the Second World War and is the point around which victim movements first formed. Material compensation may be distributed to individuals in exchange for, among other things, lost labor potential, personal injuries, or the death of a loved one. It may also be distributed to groups to acknowledge their collective suffering and hardship. However, material compensation is often intertwined with symbolic reparation. For example, monetary payments that seem large in sum may amount to only minimal disbursements when distributed amongst individual survivors, thus constituting little more than a symbolic acknowledgment of harm done. Therefore, we separate material from symbolic reparations only in an ideal typical sense, all the while recognizing that material distribution has great symbolic import. Moreover, it is necessary that we touch briefly on

other processes, such as restitution and commemoration, in order to illustrate the full complexity of post-genocide redress.

## **Genocide and Critical Victimology**

In the 1980s, victimology increasingly became a narrow science for the ideological advancement of anti-offender rhetoric and retribution, despite its sociological and inclusive beginnings in the work of Mendelsohn (1976). For this reason, several scholars felt it necessary to establish a “critical victimology” (Elias 1986; Fattah 1992; Kauzlarich et al. 2002; Mawby & Walkate 1994; Miers 1989; Walkate 1989, 1990). Although differing in their approaches, most of these scholars sought a victimology less beholden to the promotion of punishment and a naïve acceptance of state-definitions of law, crime, and victimhood. More specifically, critical victimology examines: (1) the role of power in defining both victims and victimization and draws attention to “forgotten” or unrecognized victims and crimes, particularly those victimized by state or corporate actors and organizations (see Kauzlarich et al. 2002); (2) the material conditions under which some victim movements successfully gain acknowledgment of their suffering while others are ignored (see Mawby & Walkate 1994); and (3) the ideological appropriation and mobilization of victim narratives for promotion of “law-and-order” policies (see Fattah 1992).

In this sense, critical victimology has served to foster awareness of the role of power and, in particular the power of the state, in both processes of victimization and societal responses to those designated “victims.” However, in accentuating the power of the state, critical victimologists often overstate their case and pay too little attention to the agency of victims. For example, Kauzlarich et alia describe the powerlessness of victims echoing the language of Turk: “The claims-making and legitimation exercises of the authority . . . are seldom met with organized opposition by subjects” (2002:184). Victim powerlessness is indeed an important enabling condition for state crime, but we argue that victims can amass various resources and turn them toward the pursuit of justice both in the period in which state crime is taking place as well as in its aftermath. In times of intense oppression, these resources of resistance may exist only in embryonic or latent form, but one must be careful not to mistake the absence of exhibited agency for the absence of agency.<sup>5</sup> Kauzlarich et alia (2002) acknowledge this

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<sup>5</sup> As Melucci (1994) reminds us, grievances may remain submerged in the everyday lives of groups before they are articulated; therefore, one should not assume that there exists no common grievance simply because no movement has formed to articulate it. Moreover, implicit resistances employed at the local level to combat perceived injustices often demarcate a submerged justice frame.

latter point in a limited fashion, noting that victim groups are typically restricted to working under the auspices of an international agency such as the United Nations, through domestic civil courts, or through the efforts of a civil social movement. But this is an overly synchronic view of victim group organization that does not fully capture how victim group identity and agency develop in a dynamic and ongoing fashion across complex historical trajectories.

Victim groups, and the social movements that form around them, can on occasion opportunistically use political and discursive openings to forward their justice demands, to obtain political and moral support, and to force government reparative action. For this reason, we supplement our critical victimological approach with concepts borrowed from the social movements literature. In particular, resource mobilization theory (see Zald & McCarthy 1979) provides insight into the resources available to and mobilized by victim movements, as well as into the manner in which these resources allow them to publicize their victimization narratives and demands. In addition, the literatures on frame analysis (see Snow et al. 1986; Snow & Benford 1992) and collective identity (see Eyerman & Jamison 1991; Johnston et al. 1994) offer tools for understanding processes of collective identity formation within victim movements and for examining the influence of actors outside the movement in shaping the movement's collective identity. This literature also reminds us that movements are themselves sites of struggle and contest in which actors compete with one another to define group identity and objectives.<sup>6</sup> Together, these perspectives provide tools for understanding the everyday and ground-level operations of victim movements as they challenge state actors and strategize their reparations demands. In contrast, a critical victimological approach that is overly top-down in its examination of power is likely to miss the activity and creativity of victim groups in pursuing their goals.

Yet we cannot simply reverse this emphasis on the state and concentrate solely on victim agency. Instead, we still need to examine social conditions (that are themselves produced and reproduced through human agency, and of which state power is only one, albeit very important, condition) to assess how they facilitate or exclude certain forms of reparative claim. We approach this larger question by asking more specifically what allows one group victimized by state crime to achieve some form of redress while another is ignored. Roma/Sinti and Jewish claims to genocide-

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<sup>6</sup> Like criminology, victimology is a discipline often in danger of essentializing its research object. The very term *victimology* can be taken to suggest a coherent actor called the "victim" who is presumed to exist after a criminal event. For this reason, we find the social movements literature very useful for examining the social and discursive conditions in which the identity of the victim, and the collective identity of victim groups, is formed.

based reparations provide contrasting examples that allow us to bring to light some of the important agentic and structural factors affecting the success of victim reparations movements.

Much depends on the ability of victim groups to articulate and gain public and political acceptance for the trauma narratives they use to describe their suffering and to communicate the necessity of reparative action. With respect to this issue, two key themes organize our examination of the reparations claims of European Jews and the Roma. The first is that, ontologically speaking, the “victim” is a difficult subject with whom we are often only tenuously connected (Agamban 1999). This is a point Holocaust memoirs have reinforced; the scope of the suffering is often said to be incommunicable and indescribable. Thus, we “understand” the victim, the harm she or he suffered, and the trauma he or she experienced, only through the forms it takes when this harm is articulated and conceptualized publicly. A narrative, what Alexander (2004) refers to as a “trauma drama,” is constructed to encapsulate this experience for public consumption so that the suffering of the victim can achieve broader resonance. As Alexander writes, “Whether or not the structures of meaning are destabilized and shocked is not the result of an event but the effect of a sociocultural process. It is the result of an exercise of human agency, of the successful imposition of a new system of cultural classification. This cultural process is deeply affected by power structures and the contingent skills of reflexive social agents” (2004:10). We propose to address these matters of power structures and agency through an examination of the organizational efforts made by victim groups to achieve recognition of a response to their victimization claims in combination with an analysis of broader sociopolitical and discursive conditions that facilitate or obstruct the efficacy of these efforts.

Second, once a group has successfully mobilized and achieved resonance (and even repair) through its trauma narrative, it is often the case that this narrative itself becomes an object or resource for personal and political application and manipulation. That is, the stories of suffering employed by the victims to forward their cause also become resources for other claims-makers (both powerful and powerless) to use, and potentially misuse, for their own purposes.

This is a key point for understanding the reservations expressed by critical victimologists toward “conservative” or “positivist” victimology (see Miers 1989). Despite claims to value neutrality, this brand of victimological research has taken for granted state-defined notions of crime and victimhood, and state-sponsored means of criminal punishment, and this allows for the co-optation of victim narratives by conservative political actors to promote retributivist ends since the trauma narrative becomes neatly embedded within the common sense of criminal justice and control

(Garland 2001). This is not to deny that some victims may demand punitive and vengeful responses to their trauma, and their trauma narrative may be designed to elicit these sorts of responses. But victim movements are not unified and do not speak with one, always coherent voice. For each victim group, in fact, there are multiple and competing trauma narratives that articulate their suffering; however, certain narratives achieve broader resonance because they are consistent with or complementary to existing social and discursive conditions and therefore receive broader support. Thus a neoconservative discursive context may provide greater resonance for those trauma narratives that fit the overarching themes of neoconservative morality—e.g., vengeance and individual responsibility. Along similar lines, Alcoff and Gray (1993) note how survivor narratives can be subsumed by dominant discourses and redeployed in a manner nonthreatening to the status quo, thus demonstrating that suffering is negotiated between actors and in relation to dominant social conditions. They cite examples in which rape victims who make their stories public often face questions or statements (whether in a family, legal, or therapeutic context) that direct these narratives away from male responsibility for the acts toward gendered assumptions reflective of the patriarchal social order (e.g., through emphasis on the “emotional” or “hysterical” nature of the survivor or by highlighting her passivity). Simply put, the problem is one whereby trauma narratives can be used to empower the state or other already powerful actors and to reinforce structures of inequality rather than to empower victims. In response to the potential for conservative political use of victim trauma narratives, critical criminologists have too often opted simply to ignore or minimize victim justice demands.

In the final sections of the article, we examine how the success of Jewish trauma narratives has proved to be both a help and hindrance to Roma and Sinti reparations claims. In addition, we briefly explore the surge in justice claims-making that references the Holocaust in attempts to profit off the moral capital associated with this world-historic traumatic event. With respect to these comparative claims, we argue that the historical efforts of Jewish groups to achieve recognition for the suffering of the Holocaust have transformed the playing field on which subsequent justice claims are made. Holocaust narratives have become part of a symbolic economy of trauma—a store of cultural symbols and narrative resources that can be drawn upon by victim groups to put forward their own grievances and reparations demands. This leaves us in a different realm than the one in which Jewish organizations first achieved redress for some of the harms of the Holocaust, and it demands increased critical victimological attention to the changing structural and ideational conditions in which justice

claims are made. No longer do groups solely face public indifference to trauma against which campaigns of public and political awareness can be organized. Instead, trauma narratives are set within a field of competing victimization claims and in larger context of global unease and insecurity, where these narratives are applied to forward a broad array of causes and interests.

## **Reparations Following World War II**

Even before the defeat of the Nazis, plans were in motion to claim reparations and restitution on behalf of Jewish victims. These plans, in various forms, are evident in several publications, including Robinson's (1944) *Indemnification and Reparations*, Moses's (1944) *Jewish Post-War Claims*, and Goldschmidt's (1945) *Legal Claims Against Germany*. Jewish leaders, such as Nahum Goldmann of the World Jewish Congress, also voiced them as early as 1941 (Goschler 2004). However, Jewish reparations and restitution claims were not universally embraced by all of the Allied nations. The United States, which found itself in a stronger economic position than its European allies after the war ended and which held an ideological commitment to the sanctity of private property, proved early on to be the nation most supportive of reparations and restitution (see Goschler 1991). This is reflected in the development of American Military Law No. 59 in 1947, which responded to Jewish demands by setting up a process for the restitution of Jewish property and was adapted to the French and British military zones in subsequent years before it was developed into a common law for all of West Germany in 1949 (Military Government of Germany 1948). Military Law No. 59 and its later incarnations were, however, imperfect since they were unevenly applied across the American zone and often relied on arbitrary local interpretations of the law's requirements. They also provided only a partial response to the harms of Nazism since they failed to take into account the broader costs of the Holocaust, aside from those resulting from the theft of Jewish property.

Thus Western Jewish organizations continued to press for a reparations agreement that would provide compensation for general harms, such as those to health and well-being, as well as to cover the growing expenses incurred from the resettlement of the "displaced persons" who had fled Nazi Europe. The first sign of success arrived in December 1951, when West German Chancellor Konrad Adenauer proclaimed to Parliament that the now sovereign West German state must seek a path to resolve the material compensation question. Soon thereafter, in part through the negotiation activities of Goldmann, Adenauer agreed to negotiations



with the state of Israel and the newly formed Conference on Jewish Claims Against Germany (or “Claims Conference”), an umbrella body that represented various Western Jewish organizations. Meetings began in March 1952, in the Dutch town of Wassenaar, and culminated on September 10, 1952, in the Luxembourg Agreement. This agreement featured a lump sum payment of DM 3 billion to Israel (much of this in the form of goods) and also contained two protocols with respect to the Claims Conference: the first required West Germany to improve existing compensation and restitution legislation,<sup>7</sup> and the second provided a payment of DM 450 million to the Claims Conference (Goschler 2004).

This agreement signaled a start rather than an end to the West German reparations project. In 1956, the Federal Compensation Law was revised.<sup>8</sup> This produced a more thorough and complicated legal document, but one that also still contained limitations. First, it restricted claimants to those who suffered racial, religious, or political persecutions, which, as we will see, raised challenges for Roma and Sinti claimants. Second, only those who lived within the German borders as of December 1, 1937, or who moved to the Federal Republic within certain time limits, were permitted to apply, thus restricting reparations largely to those “who currently were German nationals or who had been German nationals at the time of their persecution by the Nazis” (Goschler 2004:391). Finally, it was only available to claimants living in countries that held diplomatic relations with West Germany, thus excluding those victims from or who had fled to Eastern European nations (Goschler 2004; Schrafstetter 2003). The Claims Conference found these limitations to be extremely problematic, particularly the latter two, and participants made their displeasure known through public protests and lobbying efforts. These efforts contributed to legal change when in 1965, the West German government implemented the Final Law intended to settle the matter of compensation once and for all.<sup>9</sup> The Final Law added amendments rather than distinct changes to the Federal Compensation Law. The purpose of these amendments was to provide funds for previously excluded groups without the necessity of opening the compensation law to them and thus fully acknowledging the legitimacy of their claims. The Final Law also extended the deadline for claims application to 1969, but this did not, in the end, truly mean “finality” for Holocaust-related

<sup>7</sup> One requested change, for example, was that a federal compensation law be established to override the state-based and occasionally arbitrary-seeming applications of compensation policy.

<sup>8</sup> Bundesgesetz zur Entschädigung der Opfer der nationalsozialistischen Verfolgung (Bundesentschädigungsgesetz), Bundesgesetzblatt I (1956).

<sup>9</sup> Zweites Gesetz zur Änderung des Bundesentschädigungsgesetzes: BEG-Schlußgesetz, Bundesgesetzblatt I (1965).

claims. Indeed, in the years to come claims were made against both the West German government and several German corporations seeking recompense for those persons and harms omitted from previous processes, such as slave laborers and Soviet Jews. The desire for finality thus re-emerged in 2000, with the establishment of the German “Remembrance, Responsibility and Future” foundation, which was said to be a vehicle for creating a “legal peace” in Germany and, in particular, for bringing an end to U.S.-based lawsuits.

Given that none of these processes specified that claimants were to be Jewish, one could rightfully ask why Roma and Sinti have been largely excluded from compensation. The rest of this article seeks to clarify this issue, but for now a few points should be noted. First, the early compensation policy was open only to those persecuted on racial, religious, or political grounds, which would seem to apply to Roma and Sinti, especially given recent efforts by Roma and Sinti organizations to further establish and confirm Roma and Sinti ethnic identities (Matras 1998). However, the West German administrators of the compensation programs often argued that “Gypsies” were ineligible for indemnification because they were persecuted for criminal rather than racial reasons. Indeed, they would often rely on research conducted during the Nazi period to illustrate Roma and Sinti “asociality” and thus to deny them compensation. Second, the compensation process, even for Jewish claimants, was exceedingly complex and required a wealth of documentation. Claimants were expected to have identification, medical reports, and other information pertaining to their claims. For many Sinti and Roma, the Nazis took these documents during their time of persecution. Moreover, they did not have access to as many facilitative agencies such as the Claims Conference and the other Jewish organizations as were available to Jewish claimants (Margalit 2002).<sup>10</sup> Finally, it is important to remember that it is only the individual compensation programs to which Roma and Sinti arguably could have had access. Global payments, such as those made to Israel and the Claims Conference, were not even considered for the other victims.

## **Genocide and Reparations**

Before examining how the specific characteristics of victim group mobilization and social conditions influenced the differential response to victim claims, a broad issue for consideration is whether or not the scope of the crimes committed has any bearing

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<sup>10</sup> The political group, the Organization of Victims of Nazism, did assist some Sinti in pursuing claims.

on the likelihood of reparations; that is, is there a quantitative or qualitative difference between Jewish and Gypsy suffering that would account for their different postwar treatment? In other words, one might consider whether because of the scale of its horror a genocidal event translates automatically into a communicable trauma narrative that elicits reparative action. One way to assess this question is to examine the extent to which the cases under comparison exhibit characteristics of genocide. Despite criticisms of the 1948 United Nations Genocide Convention that suggest it arbitrarily overlooks certain categories of genocide victims (e.g., class-based and political groups; for general criticisms see Fein 2002; Chalk & Jonassohn 1990; Churchill 1997; Kuper 1981; Legters 1984), we employ this definition in this instance because it is the measuring stick currently in use by the international community. Article 2 of the Convention reads:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such:

- (a) Killing members of the group;
  - (b) Causing serious bodily or mental harm to members of the group;
  - (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
  - (d) Imposing measures intended to prevent births within the group;
  - (e) Forcibly transferring children of the group to another group
- (United Nations 1948).

This definition, and much of the subsequent debate that surrounds it, is tied to our historical understanding of the Holocaust. Indeed, Raphael Lemkin (1944), the originator of the term *genocide*, actively pressed for international recognition of this crime because he foresaw the German plans for the Jews.<sup>11</sup> For this reason, it has been noted that the Holocaust is often viewed as the “prototypical” genocide (Moshman 2001) and serves as the model by which all other genocides are assessed. This point is illustrated by the “uniqueness debate,” in which scholars dispute whether or not it is even possible to compare the Jewish Holocaust with other genocides (Bauer 1984, 2001; Katz 1996).

This raises the question as to whether or not the Roma genocide has received less attention in the way of reparations because it is somehow a “lesser” genocide. We prefer to avoid the morbid game of counting death tolls and percentages of the population killed, yet some would claim that the wider resonance of the Holocaust in the public imaginary is the result of the much higher death toll experienced by Jews at the hands of the Nazis. Others would

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<sup>11</sup> Although, at the time, Lemkin used Cold War discourses to advance his definition, appealing to the emerging anti-Soviet rhetoric.

counter that a greater proportion of the world Roma population was killed in the Holocaust, making the Roma claims for reparations more pressing. These arguments, however, are unsatisfactory since other large death tolls and near-catastrophic extermination policies, whether in Rwanda, Cambodia, or the former Soviet Union, have failed to garner or provoke adequate public support for post-genocide justice processes (see Power 2002; Cohen 2001). Thus, although these quantitative and qualitative arguments may be important issues for victim groups to negotiate in the development of their trauma narratives, in and of themselves they do not allow us to explain the success or failure of reparations claims.

The question of whether or not the severity of the genocide has an impact on the reparative response is also problematic because the notion of “genocide” has only recently become prominent in reparations debates. In the years immediately following World War II, genocide was largely absent from discussion. Indeed, those seeking reparations were often careful to state that compensatory payments were sought for specific harms—e.g., personal injury, unpaid labor, lost laboring capacity, lost property, etc.—and not for the irreparable harm of the killings. One of the rare occasions when the Holocaust was referenced to supplement a reparations claim was on March 14, 1951, when Israeli Foreign Minister Moshe Sharett stated to the Knesset,

Before the whole world, this document Government of Israel 1951: Note of 12 March 1951 to the Four Powers<sup>12</sup>] presents the Great Powers with a claim that has not yet been placed on the international agenda. In it, the government of Israel demands the imposition on Germany of reparation payments to a total of a millard [*sic*] and a half dollars, a sum representing no more than a quarter of the property that was seized. We bring forward this demand in the consciousness that the German people in its entirety is responsible for the killing and plunder inflicted by the former regime on the House of Israel in Europe and that this responsibility falls on both sectors of Germany. The government of Israel, viewing as it does the state of Israel as the bearer of the rights of the slaughtered millions and as entitled and bound to demand satisfaction in their name, being the sole sovereign embodiment of a people that was condemned to death because of its nationality, claims for itself this sum of reparation payment. The demand for reparation has been calculated according to the burden that the people of Israel and Jewish organizations throughout the world have taken upon themselves in financing the rehabilitation and the absorption of a half a million survivors of

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<sup>12</sup> This Note was of crucial importance and laid some of the groundwork for the later agreement between Israel and West Germany. The Note also went even further in detailing the horrors of the Nazi slaughter of 6 million Jews.

the Holocaust who have settled or will settle in Israel (quoted in Sagi 1980:55–6).

In addition to associating the reparations demand with the nation-making process in Israel, this statement draws upon the Holocaust, including its genocidal components, in making a claim for collective reparations. Although Sharett did not suggest that Germany could be absolved for its past crimes, he did argue that the moral weight of these crimes requires reparative action. But for the most part, political actors avoided drawing too close a connection between the Holocaust and the reparations process for fear of giving the reparations the taint of commodifying the deaths of millions of Jews.

Indeed, as knowledge of the crimes of the Holocaust became more widespread, the moral dimensions of reparations became more complicated, since some viewed accepting reparations from the Germans as equivalent to a normalization of relations with West Germany. To counter this view, and to avoid the charge of accepting “blood money,” advocates of reparations such as Goldmann made a distinction between these moral questions and the legal and material rights possessed by Jews and the state of Israel for the loss of property and wealth that accompanied the Holocaust. In this sense, the moral element of the reparations demand was replaced with a practical element intended to staunch these complex moral issues.

The eventual success of Jewish reparations claims did, however, eventually help to give the term *genocide* greater political currency, transforming it into a powerful framing device for groups claiming redress. But this framing device was not without its attendant costs, as the scale and severity of the Holocaust, and the emotional power of its trauma narratives, became the measure for other collective tragedies, making it more difficult for other victims of genocide and mass violence to achieve the same level of enshrined victimhood.

Given that Roma and Sinti reparations demands were not fully articulated until after the Jewish reparations process had already begun, the Roma and Sinti demands typically reference the Holocaust in seeking to establish legitimacy by claiming moral equivalency with Jewish victims of the Holocaust, or, in Margalit’s (2002) terms, by constructing “Jewish-like” narratives. For example, in the words of one survivor, “[o]ur ashes mingled in the ovens—why should that be remembered separately today?” (Hancock 1987:65). Unfortunately for the Roma and Sinti, this comparison, regardless of its accuracy or inaccuracy, failed until recently to gain broader currency within German public consciousness, and even still they struggle for full recognition of their victimization at the hands of the Nazis.

In sum, neither the extent of the suffering experienced by a group, nor the moral force of the application of the term *genocide* to its hardship, provides an adequate explanation of a group’s success or

lack of success in making reparations claims. This leads us to rework a truism of the social movements' literature: grievances, injustices, and tragedies are ubiquitous; it is only when they are mobilized and articulated socially that they become politically effective.

### **Victim Group Organization**

As mentioned above, Jewish organizations began to document Nazi crimes even while the Holocaust was in full force (Zweig 1987). In part, a prescient understanding of the political and symbolic importance of documentation and commemoration inspired this work. Jewish leaders realized at an early stage that their calls for reparations were likely to be only of secondary concern to the Allies, who, once the war ended, would busy themselves with their own claims against Germany. Historically, reparations had been paid to the victors, not the victims of war and mass violence; therefore, the Jewish leadership recognized that it would be necessary to muster sufficient support for Holocaust reparations. Moreover, all of this had to be carried out while contending with a lack of information regarding the true scope of the Holocaust and with an influx of war refugees from Europe who required assistance.

During World War II, Jewish organizations in Allied Europe, Palestine, and the United States established committees and held conferences to examine the question of reparations. In the United States, for example, the World Jewish Congress, the American Joint Distribution Committee, and the American Jewish Conference each began to work on issues of postwar rehabilitation and compensation as early as 1941 (Sagi 1980). In Palestine, the Nir Company, which prior to World War II had handled the transfer of German Jewish-owned capital to Palestine, raised the issue of reparations as early as 1943—a call that was subsequently taken up by Dr. Siegfried Moses of the Association of Central European Immigrants in Palestine. Collectively, these organizations and others understood that they would need to build support among the Allies to achieve recognition of their claims. These organizations also thought through several of the political challenges they would face at war's end: should they emphasize the legal or moral basis of their claims? Would the focus be on German Jews or Jews in all occupied areas? Should the reparations be made in individual or collective form, or both? Would German commodities be an acceptable form of reparations for Palestinian Jews even if this might mean commercial relations with Germany (Sagi 1980)?

Moreover, early proponents of Jewish reparations such as George Lander and Moses began to articulate Jewish claims as “national” claims, helping to construct the notion of a Jewish

nation deserving of reparations for crimes suffered during World War II. This idea meshed with Zionist calls for the re-establishment of the state of Israel, thus entwining reparations for the Holocaust with the Israeli state-building project (Barkan 2000). It also helped create a modern Jewish national identity and to include all Jews, no matter how diverse, within this community. Thus, a political constituency on whose behalf reparations claims would be made was established, and it was framed within the geopolitically accepted terms of nationhood. However, this constituency was by no means unified on the question of Holocaust reparations, as many felt that accepting compensation from Germany was akin to accepting a bribe to appease the German conscience (Barkan 2000). But despite differences existing both within and between Jewish organizations, these organizations together with the emerging state of Israel were able to act in unison and to forge a collective identity (Barzel 1994).<sup>13</sup> The formation of the Claims Conference as an umbrella body to speak on behalf of several Jewish organizations is a testament to the ability of these groups to forge a practical solidarity amidst emotionally charged debates. In addition, the Claims Conference managed to work, for the most part, in concert with Israel to coordinate negotiations with West Germany and the administration of reparations monies.

Another important element that helps explain the efficacy of Jewish reparations claims is the global distribution and communication networks existing amongst various Jewish groups. With significant populations of victims and their relatives in major urban centers (e.g., New York, London), and an already existing network of Jewish nationalist and religious organizations in these centers, victim groups were able to mobilize rapidly and to articulate their demands amongst themselves and to individuals in positions of power, namely, leaders of the Allied nations. In addition, these organizations had at their disposal a class of individuals who were highly educated and possessed a great deal of professional experience that would prove useful to claims-making efforts. Moreover, as the negotiations for reparations to Jewish victims of Nazism began, these Jewish organizations were able to offset some of the bureaucratic complexity of the reparations process by agreeing to act as corporate bodies to which payments and restitution would be made, with these bodies redistributing the funds to those in need. These Jewish organizations also acted to facilitate the reparations process by assisting individual claimants with required medical examinations and other administrative tasks.

<sup>13</sup> It should be noted that collective identity formation is never a finished project and that there will always be disputes about specific attempts to frame collective identity. See, for example, Takei's 2002 discussion of the "Gemeinde problem," whereby Jewish communities within Germany after World War II contested the Jewish Restitution Successor Organization's claim to speak, act, and accept reparations on their behalf.

The Roma and Sinti were not so fortunate. Indeed, it was not until the late 1970s and early 1980s, when a new discussion of the “forgotten victims” emerged (Peukert 1987; Matras 1998; Tyrnauer 1998), that they were able to mobilize sufficient public support to challenge public representations of themselves as “criminal” and deserving of concentration camp internment. Reparations provided through mechanisms such as the 1956 Federal Compensation Law were largely denied to Roma and Sinti because it was argued that anti-Gypsy measures were taken “in the interests of state security” (quoted in Puxon 1981:22). In contrast to Jews, who were able to re-represent themselves as a “victimized” rather than a “criminalized” population, particularly through the activities of organizational networks spread throughout the Western world, the criminal label continued to stigmatize the Roma and Sinti, and they continued to be subject to discriminatory treatment similar to what they had faced throughout much of their European history (Martins-Heuß 1989; Margalit 2002).

It was not only a criminalized identity that prevented Roma and Sinti political mobilization for reparations, however. The fact that the Roma and Sinti lacked a strong sense of collective identity also stood as a barrier to collective action, to the extent even that some of the more assimilated among the German Sinti sought to distance themselves from Eastern European Roma because of criminal stigma attached to the latter group. In part, this fragmentation of the Roma was likely a result of their ethnic heterogeneity and their lack of a common language or religion. However, the same was also largely true for European Jewry, and the Roma’s collective experiences at the hands of the Nazis exterminatory policies provided the same fertile grounds for collective identity construction as it did for the Jews. The problem for the Roma and Sinti, then, has been largely one of political organization (Vermeersch 2003).

Whereas Jewish survivors had the population of the Diaspora available as support during and after World War II, most of the Roma and Sinti population was concentrated in Europe. The political consequence of this demographic situation was that the Roma and Sinti were too immersed in the challenge of survival within Nazi-occupied Europe to begin the preparatory work required to launch postwar reparations claims or to take advantage of those initiated by Jewish organizations. It is also the case that among the less-assimilated Roma, collective life tended toward an inward-looking worldview (Martins-Heuß 1989), and this often deterred them from seeking the assistance of supportive third parties. This tendency also led to feelings of shame and dishonor among the Roma as their imprisonment in the concentration camps immersed them in the external world of the *Gadje*, or non-Roma, whom they viewed to be impure (Martins-Heuß 1989), and this resulted in a



desire amongst the Roma to suppress the Nazi's pollution of their cultural life. Moreover, following the initial rejection and recriminalization they experienced under reparations policies such as the Federal Compensation Law, the Roma were often reluctant to engage in subsequent reparations policies for which they were eligible, such as the Final Law of 1965 (Pross 1998).

Roma organization in Europe officially began in 1962, with the Comité International Rom [CIR]. The CIR attempted to assist Roma persons in taking advantage of the West German indemnification process initiated by the Jewish organizations and Israel, but it lacked the resources needed to navigate the difficult legal process and all its requirements for individual documentation (e.g., medical records, proof of citizenship). West German courts and gatekeepers continually denied individual Roma claims, or offered paltry sums. In addition, little thought was given to providing collective claims to the Roma.

The first World Romani Congress took place in London in 1971, and represents an early attempt to organize the European Roma. Here, a trend begun in the late 1960s was solidified with the general acceptance of the term *Roma* to identify the peoples theretofore referred to as Gypsies or Tsiganes, both terms that were perceived to have pejorative connotations. Still, even today there is reluctance amongst the Roma to identify with the "Roma" label (Vermeersch 2003), perhaps as a result of the negative consequences ethnic identification has had for their people under National Socialism and Communism. The World Romani Congress also created a mandate for the CIR to press for reparations from the two German states and Austria.

German government officials agreed to meet with World Romani Congress representatives in 1978 in order to hear reparations demands:

The congress took the view that rather than approach the issue from the legalistic standpoint, the German Government should consider making a generous gesture by way of an act of atonement for what had been done. Specifically [congress representatives] proposed that a special fund be set up under the control and administration of UNESCO, and used to improve the education and opportunities of the present generation of Romani children in Europe. [The congress] was able to inform them that at a meeting in Paris only a week before, UNESCO officials had assured us such a fund could be deposited with this agency and held in trust for these purposes (Puxon 1981:22–3).

However, Roma and Sinti would need to take a more activist approach to reparations before their goals would be even partially achieved. In 1979, Roma and Sinti held a ceremony at the Bergen-Belsen concentration camp to commemorate Gypsy victims of the

Pořajmos (Tyrnauer 1998). Later, and perhaps more effectively, a hunger strike by 13 Roma and Sinti protesters at Dachau in April 1980 garnered a great deal of West German and international media attention. The hunger strikers called not only for recognition and compensation for the Pořajmos, but they also demanded that post-war anti-Roma and anti-Sinti policy be removed (Margalit 2002).

These moments of consolidation and trauma narrative frame articulation and amplification (see Snow et al. 1986; Snow & Benford 1992) led to a more developed Roma and Sinti reparations movement. In 1982, charismatic Roma leader Romani Rose established the Central Council of German Sinti and Roma, which sought to achieve the same results as the central and international Jewish organizations, namely global compensation payments. By 1985, the Roma and Sinti had achieved official recognition as victims of Nazism, and in public discourse they came to be treated as groups victimized in a similar manner to the Jews. Later, in 1990, the German government at last provided some global compensation to the Roma and Sinti, with the establishment of a Sinti and Roma culture and documentation center in Heidelberg. Nonetheless, at this late stage, many Roma and Sinti victims of the Pořajmos had died before they could receive compensation, had suffered through postwar discrimination, and had not experienced the collective benefits of global compensation. For many, these efforts were truly too little, too late.

## **Political Openings and Social Conditions**

For a reparations claim to succeed, a political opening must appear or be forged by the victim group and their supporters. Tilly (1978) notes that collective action requires groups to acquire collective “control” of valuable resources (e.g., supporters and money) and that the environment in which these groups act must offer the opportunity for collective action (e.g., if the group possesses enough power in relation to its opponents, government repression is minimal and there is a lack of competing groups contending for the same resources, reforms, or interests). The previous section details some of the resources at the disposal of both Jewish groups and the Roma as they sought genocide reparations from West Germany, but the question of the social conditions that create political opportunities for groups to pursue reparations must still be addressed.<sup>14</sup>

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<sup>14</sup> By *social conditions* we refer to the manner in which material and political aspects of the social environment enable the formation of political openings. As we will see, social conditions such as geopolitical relations, the recovery of the West German economy, and the unpopularity of trials within West Germany, to name just a few factors, have served as a basis for the opening of discussions about reparations.

Following on Tilly, Tarrow (1994) asserts the importance of the “political opportunity structure” of a particular historical period for permitting the rise of certain social movements. The “political opportunity structure” comprises “consistent . . . dimensions of the political environment which either encourage or discourage people from using collective action” (Tarrow 1994:18). This notion speaks to the political opportunities available or unavailable to wronged parties to communicate their trauma narratives and demands to power holders and the general public. For example, in post-genocide circumstances, a political opening may come with the establishment of a new or reformed regime that seeks to deal with the past as a means for establishing greater social stability. It may also be achieved through foreign pressure on the regime, such as through the threat of international sanctions. However, what may serve as a political opening for one group may not for another with a similar grievance. The experiences of Jewish and Roma organizations after World War II illustrate this point.

With the partitioning of Germany after World War II, the Federal Republic assumed the role of successor to the Third Reich and therefore inherited its financial and moral debts. By contrast, the East German government did not view itself as an heir to Nazi crime; rather, this government painted itself as previously part of the anti-Nazi resistance and therefore free of moral guilt (Herf 1997). Although East Germany provided a form of war reparations to the Soviet Union by serving as a satellite state from which wealth could be extracted, its government showed little interest in discussing Jewish reparations and actively intimidated those Communist leaders who suggested this line of action (Herf 1997). Thus, the connection between the Western world and West Germany, as well as the latter’s fledgling signs of contrition and desire for reintegration into the Western economy, made it the more promising axis for reparations demands.

Cultural conditions in West Germany in the late 1940s and 1950s could hardly be described as favorable to reparations (Pross 1998). For the most part, the general public felt victimized by the war and was not yet ready to examine its own complicity in and moral debt deriving from the crimes of the Nazi regime. However, this reluctance to consider reparations was not true of certain West German political leaders. As noted previously, a key figure in the West German political opening for reparations demands was Chancellor Adenauer, who played a leading role in undertaking the negotiations for indemnification payments with both Israel and the Claims Conference. Jelinek (1990) notes that historians have typically offered one or more of the following reasons to explain Adenauer’s support for reparations: political acumen, altruism, foreign pressure, and a sense of moral debt. Indeed, Adenauer was

a complex figure, exhibiting characteristics of both moral dedication to the cause of reparations and a strategic sensibility geared toward reintegrating Germany in the world community and improving its economic and political clout.

But Adenauer was not alone amongst the West German leadership in promoting reparations, as opposition figures such as Social Democrat leader Kurt Schumacher pressed Adenauer's government to move faster and further in making redress (Herf 1997). Adenauer was also not without opposition to the reparations process, even within his own party, where his finance minister, Fritz Schäffer, often represented the reparations claims as unaffordable for postwar West Germany (Pross 1998). Thus Adenauer had to carefully balance his commitment to reparations with the often hesitant and sometimes hostile public sentiment toward dealing with the Nazi past. In this sense, Adenauer typically acknowledged the Holocaust in carefully chosen terms that avoided admitting any sense of "collective guilt" on the part of the German people. He also opposed trials of individual perpetrators, which in West Germany only the Social Democrats supported, and which were even more politically unpopular than reparations (Herf 1997). In sum, aside from whatever moral commitment Adenauer felt personally toward reparations, he also saw it as a sensible strategy for demonstrating German contrition on the world stage while avoiding the political pitfalls of a more aggressive formal justice campaign. Adenauer's compromise approach to dealing with West Germany's Nazi past thus provided a receptive political audience for Jewish reparations claims.

Political openings, such as those provided by the postwar West German government, arise within specific social conditions. Adenauer was able to take the line that he did not because he had the general backing of the West German people but rather because certain international conditions fell into place that made reparations a viable political strategy. The initial division of West Germany into three Allied zones gave the opportunity for the Allies to impose restitution policies on the West Germans. This, along with the International Criminal Tribunal at Nuremberg, helped establish a narrative of German guilt amidst the death and destruction caused by Allied firebombings. However, German feelings of victimization would likely be exacerbated if the Allies imposed severe reparations upon Germany, as they were perceived to have done following World War I through the Treaty of Versailles. This course of action was rejected as it was felt that West Germany needed to be revived and established as a bulwark against a new threat, the Soviet Union, and its puppet states in Eastern Europe. Severe reparations, it was feared, would create an obstacle to peace with West Germany and would also inspire the re-establishment of German heavy industry and thus the German capacity for arms production

that the Allies hoped to prevent (Sagi 1980). Moreover, the Jewish demands for monetary reparations and the Allies' demands for war reparations came to be intertwined. In London, on February 28, 1952, a West German negotiation team met with the Allies in an attempt to reduce the proposed war debt of DM 13.5 billion. In this regard, West Germany sought to tie its negotiations with Israel to the results of the London debt conference, claiming an inability to make payments to Israel if the Allies proved to be too demanding.

But the room for maneuver for the West German state was limited since it was still something of an international pariah in the years following World War II. A familiar refrain in the German discussions leading up to Holocaust reparations was the need to "return to the family of nations" (Jelinek 1990). Reparations were viewed as an important symbolic step toward reclaiming West Germany's rightful place within the international economy, showing that this nation had truly left behind its warmaking ways. However, some have suggested that the Cold War would have brought Germany back into this "family of nations" regardless of whether or not it paid reparations. Jelinek (1990), in contrast, assumes that the German appeal to Jewish public opinion helped facilitate its re-entry into the world community, as the issue of Jewish goodwill was of some importance in various spheres of influence such as the U.S. Senate and the U.S. media. American opinion mattered in postwar West Germany, as well as in Europe, as it is important to keep in mind that U.S. capital made important inroads into Europe after World War II destroyed significant parts of the European infrastructure and opened a window to wider American influence.

The fact that Jewish reparations claims had the backing of the state of Israel also should not be underestimated. Victims' group-based reparations claims challenged Westphalian notions that held nations to be the only parties able to demand recompense in the aftermath of war and mass violence. Thus Israel's participation within the reparations process brought the process a semblance of legitimacy in the broader geopolitical order, even if the claimed statehood of Israel was hotly contested by some of its opponents (e.g., the Arab League, which argued that the reparations payments violated German neutrality and gave advantage to Israel in its ongoing conflict with the Arab states). Although neither the Federal Republic nor Israel existed when the Holocaust took place, the reparations agreement between West Germany and Israel allowed for a reframing of the Holocaust as a conflict between these two "nations." Thus, the reparations process was fitted more securely within the dominant political framework of the nation-state, and two new nations found immediate legitimacy within the post-war order. This said, the Luxembourg Agreement also stretched the boundaries of Westphalian politics by allowing stateless persons

and political refugees to make claims for compensation and restitution. Nonetheless, since the West German negotiations with the Claims Conference were tied to those simultaneously occurring with Israel, the non-national character of this organization was removed as a major obstacle to negotiations.

These negotiations were also facilitated by the recovery of the West German economy in the early 1950s. Allied rehabilitation policies and the lack of punitive war reparations made possible the “German Miracle.” As Sagi notes, “The first signs of economic recovery in Germany could already be discerned in 1952. The Government’s economic policy had been directed at maintaining the stability of the currency and focused on the balance sheet of payments. At the end of 1951 a favorable balance of payments was finally achieved” (1980:96).

One might assume that this same political opening should have been available to the Roma and Sinti. But the Roma and Sinti, in addition to their aforementioned organizational obstacles, were not viewed to be a politically significant population, and therefore less attention was given to their demands for redress (Margalit 2002). No benefit was likely to come to West Germany from negotiating with the Roma and Sinti, and dealings with this group would have operated solely upon a moral level since the strategic gain accruable from such negotiations was minimal. Reparations, it must be remembered, are political processes and are thus susceptible to rationalities of political instrumentality. Add to this the facts that the Roma and Sinti continued to be criminalized in West Germany and that the West German public was unlikely to support too wide an opening for reparations demands, and one can begin to understand why this political opening did not extend to Roma and Sinti claims.

The Sinti and Roma also lacked the backing of state authority in making their reparations demands. As of 1948, Israel played this role for Jewish reparations demands, providing them with a degree of legitimacy unavailable to the Roma and Sinti. For example, in 1980, the German government responded to a Roma memorandum calling for global reparations by arguing that global reparations to Israel had served to cover the costs of resettlement—costs that could not be claimed by the Roma since they lacked statehood (see Puxon 1981). Such logic ignored that global reparations had also been directed to the Claims Conference for purposes other than resettlement, for example in acknowledgment of heirless property.

Nonetheless, the political opening made available for Jewish reparations claims did allow for the development of a broader discursive opening through which other claimants, and victims more broadly, could articulate their grievances and make demands on various perpetrators and perpetrator states. This opening would eventually provide the Roma and Sinti with greater opportunity to

seek equivalency between the trauma narrative of the Pořajms and the trauma narrative of the Holocaust.

## Discursive and Ideational Context

Laclau and Mouffe (1985) write of “nodal points” that appear and allow for the temporary emergence of new discursive formations, which in turn enable collective actors to articulate and extend their narratives of justice to a broader audience of potential adherents. In other words, these nodal points serve as “discursive openings” that permit new forms of frame articulation, amplification, and extension (Snow et al. 1986; Snow & Benford 1992); that is, as moments when the interpretive frameworks and trauma narratives developed by collective actors can gain wider support and are applied to a wider range of harms, including harms separate from the initial traumatic experience. In the post–World War II world, new framing tools were made available to genocide victim groups to better spread their trauma narratives to larger audiences. This discursive opening was most noticeable following the political opening that allowed Jewish groups to successfully seek the initiation of material reparations.

The Keynesian welfarist project that had swept many liberal-democracies at this time presented a discursive opening that was important for Jewish reparations claims. The West German political leadership that emerged after the war wanted to emulate the principles of modern liberal democracies. They sought to move West Germany from isolation within Europe to membership within the broader family of liberal democratic nations. To adhere to the liberal-democratic ideals of this conclave, it was necessary for them to symbolically demonstrate their separation from the Nazi past, and reparations provided a means to publicly illustrate German moral reform, as well as to provide an individualized mode of redress consistent with liberal notions of compensatory justice and insurance. Those who favored reparations were also able to appeal to opponents by articulating reparations within the governing Keynesian framework of rationality. For example, they emphasized how reparations coincide with notions of remedy. According to Pross, “[t]he state again and again attempted to declare reparations payments the equivalent of public benefits or assistance to the disadvantaged, part of a broad-based social safety net” (1998:41). While this logic clashed with victims’ moral claims for rightful recompense for harms done to them, it did provide the West German state with a discursive means by which to think through the reparations process in terms compatible with a political rationality that was taking hold. Reparations, under this logic, were like any other form of

state-sponsored welfare directed toward improving the collective health of the social body. But as mentioned in the previous section, these views were held primarily among the political leadership and were not widespread throughout West German society. Thus the political opening that permitted Jewish reparations brought with it only a limited discursive opening.

There is some debate as to whether early trials of the Nazi leadership, such as those that took place through the International Military Tribunal at Nuremberg, succeeded in educating the German populace about Nazi crimes and initiating a slow-developing discursive opening. Herf (1997) suggests that they achieved this goal and did much to discredit Nazism and fascism, as well as to construct public memories of the Nazi past framed around issues of atrocities and crimes against humanity. In contrast, Bloxham (2001) suggests that they served as much to misinform the German public and downplayed Jewish victimization. Either way, the West German leadership did begin to discuss the past. For the most part, they rejected notions of “collective guilt,” some going so far as to attribute the crime of the past to an inner circle of committed Nazis (most often the SS). But some, such as Bundespräsident (president of the federal republic) Theodor Heuss, were willing to speak of “collective shame.” In a 1952 speech made in Bergen-Belsen that was also broadcast on German radio, Heuss stated, “[n]o one will lift this shame from us” (quoted in Herf 1997:321). On this and other occasions, Heuss used his role as Bundespräsident to encourage West Germans to reflect on their past.

This was a slow process, and it did not culminate in a major discursive opening for reparations claims until the 1960s and 1970s, when a more widespread and honest conversation about the German past would occur. This later discursive opening was also marked by greater cultural engagement with the subject of the Holocaust, with events such as the release of the *Diary of Anne Frank*, the screening of the American-made miniseries *Holocaust* on West German television, and the televised trial of Adolph Eichmann in Jerusalem, often credited with sparking greater West German Holocaust awareness (Cole 1999; Novick 1999; Herf 1997). In contrast, the Pořajmos remained largely absent from West German culture and collective consciousness, although the West German screening of *Holocaust* is credited with raising interest in the “other” or “forgotten” victims of the Nazis amongst second-generation Germans (Margalit 2002).

Despite coming after the establishment of Holocaust reparations, this wider discursive opening is still significant since the newfound German willingness to discuss Nazi atrocities made possible an extension of the proposed end date for reparations claims and for claims to be made on behalf of heretofore uncompensated



Jewish victims. It is also with this widened discursive opening that the Jewish trauma narrative took on more a life of its own, when it became a resource not solely to be employed by survivors in seeking acknowledgment and recompense, but by a wide variety of political actors seeking to harness the power of this trauma drama.

This wider discursive opening stems in part from a shift in the social conditions of late modernity, which contributed to a new valuation of victim narratives (Garland 2001). A qualitative change in public perceptions toward victims occurred in many Western nations, inspired by growing ontological insecurity and feelings of risk that embraced a wider swath of the general public, as they came to see themselves as victims or potential victims of multiple threats, ranging from increasing crime to nuclear war. This development removed the glow of innocence and optimism from liberal reforms that promised to do away with social harms, and it also allowed more individuals to identify and find resonance with victim narratives. But with this newfound reach of victim narratives came a greater degree of transference and extension of these narratives from their generative conditions to other instances of social harm. The Holocaust, in particular, came increasingly to serve as a metaphor and measure of victimhood (Torpey 2001).

The emergence of “identity politics” can also be credited with playing a role in this discursive opening. As groups began to coalesce around cultural identities, they began to demand greater recognition for these identity positions, including acknowledgment of and recompense for past injustices. For these groups, the Jewish narrative of suffering and justice became a useful tool for articulating modern justice demands.

Unable to access the same political opening or to amass the same organizational resources as Jewish survivors, the Roma and Sinti were left as two of the groups seeking to use Jewish trauma narratives to advance their reparations claims. By the mid-1980s, there was a growing literature testifying to the similarities between the Pořajmos and the Holocaust. The Jewish successes in reparation, commemoration, and global acknowledgment became the gold standards for Roma and Sinti justice. And more generally, the Roma and Sinti sought a similarly privileged place amongst those groups brutalized by the Nazis.

However, this discursive opening with its revalorization of the Holocaust trauma drama was not without its costs for the Roma and Sinti and other groups seeking recognition of and recompense for their suffering. First, the moral and political force of Holocaust narratives proved difficult to match. No matter how accurate the comparison between a group’s suffering and that experienced by the Jews, it was likely to appear pale in comparison to the sacred

status accorded to the Holocaust.<sup>15</sup> Second, an explosion of equivalences eventually appeared on the political scene, with a multitude of groups claiming to have experienced a “holocaust” and a variety of leaders branded as the new Hitler. Too often, collectivities with legitimate genocide claims would find themselves grouped with claimants comparing their pet causes to the Holocaust. The broad desire for comparison also led Jewish scholars and spokespersons to argue more vigorously for the “uniqueness” of the Holocaust, discrediting en masse all attempts at equivalency. Under these circumstances, Roma and Sinti claimants often felt the sting of rejection from their co-sufferers under the Nazis. Rather than banding together with Roma and Sinti organizations, Jewish groups working toward compensation, or on commemorative projects, often attempted to distance themselves from Roma survivors. For example, when the U.S. Holocaust Memorial Council was established in 1980, no Roma were among the 65 appointed council members. The chairman of this council called Roma demands for representation “cockamamie” and questioned whether the Roma constitute a distinct ethnic identity (Hancock 1991).

Today, the Roma still seek wider acknowledgment of the Pořajmos. While the discursive opening of the last 30 years has provided them a degree of recognition, they still compete within a new economy of suffering for fair recompense.

## **Conclusion**

In the wake of World War II, we have witnessed two groups in similar circumstances receiving different responses with respect to their claims of victimization. An argument has been presented here that this differential response results largely from the disparity of organizational and institutional resources existing between the Roma and the Jews and the uneven manner in which political opportunities came to be available to each group, and subsequently from the differential opening of discursive space in which to articulate resonant trauma narratives to capture public attention. While structural and discursive conditions were assessed as making circumstances favorable or unfavorable to reparations claims, we

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<sup>15</sup> By contrast, Margalit (2002) argues that a West German willingness to accept Roma and Sinti usage of a Jewish-like victimization stemmed from a subconscious desire amongst Germans to mitigate their guilt toward Jews by paying attention to other victims who had been ignored by all, including the Jewish organizations (thus making Jews co-conspirators in the injustice). This argument is one of the least convincing in what is otherwise an impressively researched and well-thought-out book. Margalit reduces to the “emotional” and the “collective unconsciousness” what are also political processes influenced by broader forces, including the agency of Roma and Sinti victims and their ability to make use of Jewish trauma narratives.

were careful not to exclude the role played by victim agency in taking advantage of, or even in helping to forge, the political and discursive openings in which their claims might be pursued. In this sense, we have attempted to establish the importance of considerations of victim agency in critical victimological studies of redress and repair without discarding attention to the roles of sociopolitical and discursive conditions.

We have also noted how a successfully articulated trauma narrative can become a symbolic resource that takes on a life that is divorced from the subjects who have brought it into the public limelight. This is particularly evident as the social and political environment shifts under conditions of late modernity toward cultural dispositions that provide discourses of victimization with a new political currency. Thus we see an explosion of the use of Holocaust and genocide trauma narratives to articulate a wide range of causes—from abortion to animal rights—that seek a similar resonance within the public imaginary. Moreover, we see the use of these trauma narratives by political leaders to legitimize issues of national and regional interest, such as through comparisons of today's despised rulers to Adolf Hitler. Some have also criticized Israel for using the trauma drama of the Holocaust to justify its treatment of Palestinians. In the words of Bartov: "[i]tself the product of the idea of elusive enemies, the Holocaust has by now been repeatedly mobilized to perpetuate victimhood" (1998:809). In sum, we have sought to problematize victim trauma narratives and to illustrate that they are more than the emotive expressions of actors within victim movements—they also come to be politicized within specific social situations and can thereby come to serve any number of purposes.

One of the ironies of the political appropriation of trauma narratives is the manner in which the state and other powerful actors use these narratives as a means to bolster and legitimate their power. In this sense, trauma narratives that are themselves the product of the misuse of power can be misused to reflect and reproduce patterns of domination. Thus while victim agency may help achieve redress in the form of monetary compensation and acknowledgment, victims may also find their trauma narratives reconfigured within a symbolic economy where their grievances come to represent issues and projects quite different from their initial justice concerns. Victim group agency, therefore, does not necessarily end when policies of redress are established to respond to a specific reparations claim; instead, victim groups often must continue to struggle in the discursive arena to challenge political appropriations of their trauma narratives, as is evident in Jewish reactions to contemporary references to the Holocaust (see Novick 1999).

Because trauma narratives become part of a political and discursive field of contest and competition, we suggest that critical

victimologists carefully consider the generative conditions under which victim reparations demands and trauma narratives arise. This permits a clearer understanding of victim claims as historical and social products subject to political, economic, cultural, and other forces that influence their likelihood of success, as well as their resonance with the larger, nonvictim population. In addition, this allows one to better understand shifts in the global context in which reparations claims are made.<sup>16</sup>

An implication of this shift is that today's claimants cannot simply follow the Jewish model, or claim equivalence with Jewish suffering, and hope for success. Jewish reparations claims were achieved in a period of new organizational and political opportunities, and Jewish victim groups made skillful use of the resources at their disposal to take advantage of these opportunities. However, Jewish reparations successes have contributed to a change in the field of repair. In particular, a new discursive terrain of repair has emerged on which resonant Jewish trauma narratives that were articulated and dispersed through organizational agency and political acumen have themselves become symbolic resources both for other victim groups seeking redress, such as the Roma, and for powerful actors eager to reference tragedy for political or material gain.

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<sup>16</sup> Given this shift in the terrain of reparations claimsmaking, in addition to the uneven distribution of victim group resources, emerging international institutions of justice may need to create opportunities for groups to voice their redress demands and to have a meaningful say in the project of justice. It is not enough that such institutions simply react to publicized cases of genocide and mass violence, but that they also work to level the playing field on which such claims are made, since the ability of groups to stand up and claim themselves the victim of genocide is itself determined by the unevenly distributed organizational, sociopolitical, and discursive conditions cited above. Thus international bodies such as the International Criminal Court (ICC), which is itself novel in the extent it goes to recognize victims, must nonetheless strive to provide marginalized victims greater access to justice. However, as Henham (2004) has suggested, the role of victims at the ICC remains largely symbolic, in the sense that victims largely play a role of witnesses for the prosecution, and we are not yet at a point where we can view this as "victim-centered" justice. This means the court still operates as a vehicle for state and international organization agency—that is, for the management of international risk and the maintenance of the appearance of international social control (Shearing 2001)—and not as a forum for victims to pursue their justice demands. It is crucial that such international institutions consider more seriously the role to be played by victims in shaping judicial preparations, trial procedures, and reparative outcomes (see Henham 2004 and Findlay 2002), rather than leaving victims to fend for themselves in mobilizing reparations claims. Otherwise only those victim groups possessing sufficient resources will realize the status of "official" victims, while others are left competing for acknowledgment.

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