



PROJECT MUSE®

---

## Reparations for Nazi Victims in Postwar Europe by Regula Ludi (review)

Lora Wildenthal

Human Rights Quarterly, Volume 35, Number 3, August 2013, pp. 799-804  
(Article)

Published by The Johns Hopkins University Press  
DOI: 10.1353/hrq.2013.0050



➔ For additional information about this article  
<http://muse.jhu.edu/journals/hrq/summary/v035/35.3.wildenthal.html>

to certain rights. *Internal Affairs* will be a useful and essential book for anyone who cares about human rights and making human rights campaigns work. For NGO practitioners, the formula of a successful rights campaign outlined in this book may be worth trying to replicate. For social scientists examining human rights efforts in the world, the book is a welcome reminder to consider the structure of institutional efforts and not be blinded by the heat of moral claims.

**Erica Bornstein\***  
**University of Wisconsin-Milwaukee**

\* Erica Bornstein is Associate Professor of Anthropology and Coordinator of the International Studies Program at University of Wisconsin-Milwaukee.

**Regula Ludi, *Reparations for Nazi Victims in Postwar Europe* (Cambridge University Press 2012), 270 pages, ISBN No. 978 1 1070 2397 0.**

Regula Ludi's new book is a historical contribution to the literature on restitution and reparations. That literature is substantial, as the topic is important not only for the human rights field (especially transitional justice), but also for historians of twentieth-century Central Europe. Ludi adds a clear, careful conceptual analysis woven into the very history she is tracing and a valuable comparison of reparations rhetoric and practice in three countries: France, an occupied collaborator country; Germany, the perpetrator country; and Switzerland, a non-occupied neutral country.

The comparison shows us surprising similarities among these countries. Each displayed a public rhetoric that served

to insulate it from painful discussions of how its citizens had participated in victimization on such an unprecedented scale. For France, it was the rhetoric of the Resistance; for Germany it was the rhetoric of suffering borne by Germans not targeted by the Nazis due to bombing and expulsions; and for Switzerland it was its treasured neutrality. Demands for individual or collective redress from Jewish victims' organizations drove innovation by insistently showing that such redress could not be defined by nation-state categories. Ludi documents some shocking examples of official actors in each of these countries who neglected and doubted victims of the Nazis, but her main focus is elsewhere: she shows how the very practice of granting reparations, in however flawed forms, altered the definition of reparations over time, the perception of past wrongs, and the understanding of what a victim was.

The policy and practice of granting reparations to individuals was truly innovative. However, both were also startlingly narrow in the 1940s and 1950s, with years passing between initial claims and paltry payouts for those claims that were approved. The campaigns for the "forgotten victims"—e.g. homosexuals, Roma, Sinti, the forcibly sterilized, and forced laborers—in the 1980s and 1990s have highlighted that stinginess. Ludi makes a counterintuitive argument here. Speaking of the German case, she writes: "As paradoxical as this might sound, initial limitation of redress to a core group of victims permitted the Germans to develop a sense of wrongdoing that might have been impossible if all victims—including those stigmatized by lasting cultural prejudice—had been eligible from the start."<sup>1</sup> Her material suggests that this pattern was

---

1. REGULA LUDI, REPARATIONS FOR NAZI VICTIMS IN POSTWAR EUROPE 143–44 (2012).

true of the other two countries as well. In general, “reparations were expected to meet various objectives—satisfaction of individual claims, alleviation of victims’ economic misery, the broader political goal of correcting legal culture, and illuminating the general public about the nature of past wrongs—objectives that in reality were difficult to harmonize, if compatible at all.”<sup>2</sup>

The book opens with an introduction and first chapter on reparations concepts and the legal and political context up to 1945. Before the Nazi years, “reparations” referred to what a defeated aggressor state owed to a victorious enemy state after a war. Today, the term almost always means some kind of compensation and recognition, usually money, given to individuals, not states, who suffered harm. These individuals may be of various citizenships or no citizenship (such as displaced persons, “DPs”). In the current understanding of reparations, these individuals comprise a group on the basis of their experience of injustice, not their citizenship. This innovation in international law did not happen overnight. The reality that Nazi harms were spread across so many countries in so many forms and the statelessness of many DPs were stubborn facts that promoted a new understanding of the victim deserving of reparations outside of a state context.<sup>3</sup> This, in turn, led to a new role for victims’ transnational organizations and for collective and individual reparations legislation that took account of the complex situation. The United States (with its high numbers of Jewish and other DPs in its zone of occupation) and France were the

most receptive to the arguments of these victims’ organizations. The existence of heirless assets, created on a mass scale by Nazi genocide, also helped bring about the notion of reparations for individual victims. Heirless assets, which were to be prominent in the Swiss Nazi gold scandal of the 1990s, were under discussion in victims’ organizations and among governments already in 1944. The victims’ organizations called for the heirless assets to be channeled to surviving victims as reparations—not only for the victims’ sake, but also for the sake of preventing states from being, in effect, materially rewarded for participating in or standing by during mass murder.<sup>4</sup> The baseline agreement confirming this approach to heirless assets was the 1946 Paris Reparations Conference.<sup>5</sup>

Chapters two, three, and four are on France (chronologically the first to develop reparations mechanisms), Germany (which did so after 1949), and Switzerland (only in 1957), respectively. In each of these chapters, Ludi discusses the fate of some actual claims to show how policy was translated into practice. She argues that the bureaucratization of reparations led to ever more restrictive and slow patterns of recognition and payment, as abstract criteria led to ever more documentation requirements for victims. The “Bermuda formula” established during the war, which anticipated reparations for those victimized on “racial, religious, or political” grounds,<sup>6</sup> meant that in practice other kinds of harms (such as medical abuse or forced labor) were excluded, and meant that examiners considered such elusive matters as perpetrators’

---

2. *Id.* at 144.

3. *Id.* at 26.

4. *Id.* at 21–22.

5. *Id.* at 26–29.

6. *Id.* at 18.

motives.<sup>7</sup> Examiners tended to take Nazi documents at face value, even though they were often intentionally misleading. On occasion, Ludi can also show through individual cases how victims themselves explicitly sought to redefine the meaning of reparations, from money payments to markers of the recognition of past wrongs and of an “adequate representation of the past.”<sup>8</sup>

Ludi finds that “restitution in France was a success story”<sup>9</sup> relative to West Germany and Switzerland. Even so, the French story shows a steep hierarchy of recognition for victims that was pegged to a national narrative of suffering. Such a national narrative tended to downplay the Vichy past<sup>10</sup> and to exclude those who were not citizens, especially Jews who were trapped as resident aliens in France at the time of the German invasion. At the top of the hierarchy were *les déportés*, those who had been deported by the Nazis and survived to return. Numbering some 160,000, they appeared in public rhetoric as French citizens,<sup>11</sup> Jewish or not, and politically active members of the Resistance, but were in fact a diverse group.<sup>12</sup> Long overshadowed by *les déportés* were *les internés*, those imprisoned in the network of French camps that Ludi calls “the specifically French contribution to the history of [Nazi] persecution.”<sup>13</sup> This group was much larger (up to 600,000), included a lower percentage of French citizens, and was relatively

neglected by French public attention. Some Roma and Sinti were still interned in camps in 1946!<sup>14</sup> This hierarchy first emerged in 1945, with a “premium” for deportation being paid to some victims, and was sustained by legislation in 1948 and 1951 that distinguished between victims who were members of the Resistance and those who were political victims of lesser status.<sup>15</sup> French policymakers built the first reparations measures on the foundation of First World War pension procedures, which prized voluntary acts of courage and self-sacrifice over passive suffering.<sup>16</sup> It is fascinating that over the Cold War years this hierarchy came to be overturned at the expense of communists, who were excluded from the status of genuine members of the Resistance.<sup>17</sup> Greater knowledge of the gamut of violence under the Nazis showed that one’s daring acts and one’s sufferings were not necessarily proportional to each other, and this fact, along with the Cold War exclusion of communists, led toward an emerging concept of the most genuine victim being innocent, passive, and apolitical. Victims pushed back, seeking to establish their historical legacies through their struggles with the reparations bureaucracy.<sup>18</sup>

The practice of recognizing victims as eligible for reparations was a fairly generous one, although recognition for the highest category, the *déporté ou interné résistant*, was restrictive.<sup>19</sup> Oddly enough,

7. *Id.* at 132, 138.

8. *Id.* at 129, 147.

9. *Id.* at 47.

10. *Id.* at 73.

11. *Id.* at 37.

12. *Id.*

13. *Id.* at 38.

14. *Id.*

15. *Id.* at 49–50, 57.

16. *Id.* at 59–61.

17. *Id.* at 40.

18. *Id.* at 43.

19. *Id.* at 67.

Jews were not recognized categorically as victims.<sup>20</sup> About 430,000 persons were recognized in France as victims of some type. Putting that figure into the larger context of the various kinds of victims revealed by research up to the present day, Ludi estimates that “[s]lightly more than 55 percent of the deportation victims, about one-third of the labor conscripts, and less than 10 percent of the internees received compensation payments.”<sup>21</sup> And this was a success story.

Before the creation of the Federal Republic of Germany in 1949, there was no common approach to reparations across the four zones of occupation. While the British and Soviets each for their own reasons, refused to proceed with reparations, the US and France forged ahead in 1947 and 1949.<sup>22</sup> After 1949, there unfolded in the Federal Republic a German national narrative of suffering that encompassed reparations for victims of Nazism, but diluted their meaning by offering much more generous support for Germans who were neither targeted by nor resisters against the Nazis—and even for the reintegration of former Nazis.<sup>23</sup> It should also be noted that the book mentions policy in the German Democratic Republic only in passing.

Here again, diverse and conflicting meanings of redress emerged. West Germany’s willingness to pay reparations came to be seen as an index of the quality of its new democracy, and the Luxemburg Agreement of 1952 arranging reparations to Israel (specifically, to compensate Is-

rael for its expenses resettling Jews) was first greeted as a landmark.<sup>24</sup> In the early years, security concerns were a motivation to develop reparations policies, as destitute, mobile survivors worried officials. Redress could slide into a kind of welfare payment.<sup>25</sup> And as in France, the Cold War had a powerful effect on the treatment of communist victims of Nazism.<sup>26</sup>

Philipp Auerbach, a camp survivor who was the official in charge of allocating support for victims of Nazism in Bavaria, argued for a distinction between the “injustice” that racial, religious, and political victims had suffered, and the “misfortune” that expellees and those who lost their homes to aerial bombardment had suffered.<sup>27</sup> Ludi gives extended attention to Auerbach. He serves as a rare example of someone with a more expansive understanding of Nazi victims (he included Roma and Sinti) and of how restitution could be tailored to individual needs, which according to Ludi could avoid the restrictive practice that emerged where consistent, technical bureaucratic criteria were applied. Auerbach was also the object of a scandal that serves as an example of Ludi’s argument about the unintended effects of actual practice on the development of new thinking about reparations. Working in a domestic atmosphere that was at best indifferent, at worst outright hostile to the notion of reparations especially to Jews,<sup>28</sup> Auerbach was arrested in 1951 for corrupt practices that had been accepted in the first years

---

20. *Id.* at 70.

21. *Id.* at 69.

22. *Id.* at 87, 93.

23. *Id.* at 78, 104.

24. *Id.* at 77, 112–13.

25. *Id.* at 83.

26. *Id.* at 84, 137.

27. *Id.* at 101.

28. *Id.* at 96, 116.

of his office. Given a harsh sentence, he committed suicide after protesting his innocence.<sup>29</sup> The anti-Semitic rants that ensued after his arrest and even after his death led indirectly to confrontation with widespread anti-Semitism and “paved the way for a new understanding of redress.”<sup>30</sup> Ludi likewise argues, “restrictions imposed on claims of foreign nationals stimulated the emergence of victim reparations as a distinctive legal concept.”<sup>31</sup>

Turning finally to Switzerland, Ludi singles out two main threads to its story. First, the Swiss state, specifically the Foreign Office, failed to act promptly to protect the few thousand Jewish Swiss citizens who were caught up by Nazis in France or elsewhere.<sup>32</sup> When a reparations policy was established, the practice of granting them was restrictive—only 390 of 1,100 cases were approved by 1963.<sup>33</sup> Examiners even used a criterion of “self-inflicted” harm to blame those who aided Jews or otherwise flouted the Nazis for their own suffering—imposing on individuals the neutrality of the Swiss state.<sup>34</sup> Second, because of the nature of Switzerland’s banking system and neutrality, in the wake of the war the country had a great deal of heirless assets (a fact known to victims’ organizations by 1949 at the latest), as well as a great deal of goods looted by the Nazis,<sup>35</sup> all of which needed to be restored to rightful owners. These issues showed what neutrality really meant in the context of Nazi Europe.

By clinging to an abstract definition of neutrality, the Swiss managed to obscure to themselves their country’s actual “economic interdependency and ensuing involvement in foreign abuses.”<sup>36</sup> Neutrality was all too often simply collusion with the Nazi regime. For example, demands for reparations for refugees who had been turned back at the Swiss border led to public discussion that revealed in 1954 that the Nazis had instituted the notorious “J” (for Jude, Jew) stamp in German passports in 1938 at the request of the Swiss government, to help the latter sift through travelers and reject possible asylum seekers.<sup>37</sup>

The Swiss story displays Ludi’s analysis of unintended consequences very well, leading to the emergence of an image of the most genuine victims as being passive, apolitical (certainly not communist!), and “innocent.” Jewishness, for our own sense today so oddly obscured in early reparations rhetoric, eventually came to the fore as just such an apolitical personal attribute: “By the 1960s, the juxtaposition of victims’ defenselessness as the prime indicator of their innocence and the increasing acknowledgement of the Final Solution as the core of Nazi evil had become mutually supportive.”<sup>38</sup>

Ludi makes clear that the path from reparations when they first emerged in the late 1940s up through the 1990s took many twists and turns, and must be traced at the level of bureaucratic practice and victims’ responses, as well

---

29. *Id.* at 107.

30. *Id.* at 109.

31. *Id.* at 114.

32. *Id.* at 146, 148, 156.

33. *Id.* at 169.

34. *Id.* at 176.

35. *Id.* at 151.

36. *Id.* at 159.

37. *Id.* at 150.

38. *Id.* at 200.

as at the level of legal ideas and politics. Reparations have been intended to serve as memorialization and recognition, as welfare-style aid to passive victims, as national integration, and to avoid accountability.

**Lora Wildenthal\***  
Rice University

\* Lora Wildenthal is Professor of History and Department Chair at Rice University in Houston, Texas. She is the author of *German Women for Empire, 1884–1945* (Duke University Press 2001) and *The Language of Human Rights in West Germany* (University of Pennsylvania Press 2012).

**Aryeh Neier, *The International Human Rights Movement: A History* (Princeton University Press 2012), 379 pages, ISBN No. 978-0-6911-3515-1.**

A number of important books in the field of human rights have attempted to trace the long history of the phenomenon (and importance) of rights in the political and social history of human civilizations.<sup>1</sup> Aryeh Neier's *The International Human Rights Movement: A History* fundamentally shifts the focus of such discussions, electing instead to focus mostly on post-World War II developments and the global shift towards a human rights oriented

world. The book takes its place in the burgeoning bibliography of books that offers a history of human rights, which speaks in itself to the rising importance of the topic across a variety of academic fields. It makes two contributions. First, it adds to the understanding that human rights as we know them today have unfurled most dramatically and most relevantly since the end of World War II.<sup>2</sup> Second, Neier's emphasis on non-state actors and, in particular, the nongovernmental organizations (NGOs) that helped reify the human rights project from aspirational international law to practical policies places it among the few sweeping histories of the work, highlighting the role of an international movement in disseminating the human rights regime.<sup>3</sup> In these two senses, Neier's version of how we should understand where human rights come from and where they are going should be a primer for anyone starting the study of human rights. Given the growing interest of recent publications in the role that non-state actors play in the construction of human rights, Neier's book is a classic statement of a growing theme in both public and scholarly imaginations.<sup>4</sup>

Neier's basic thesis is that the international human rights movement has been the most important catalyst in securing human rights throughout the world in the past thirty-five years. He proceeds in the book to provide ample

- 
1. JACK DONNELLY, *INTERNATIONAL HUMAN RIGHTS* (3d ed. 2007); MICHELINE R. ISHAY, *THE HISTORY OF HUMAN RIGHTS: FROM ANCIENT TIMES TO THE GLOBALIZATION ERA* (2d ed. 2008); PAUL GORDON LAUREN, *THE EVOLUTION OF INTERNATIONAL HUMAN RIGHTS: VISIONS SEEN* (2d ed. 2003).
  2. DAVID P. FORSYTHE, *HUMAN RIGHTS IN INTERNATIONAL RELATIONS* (3d ed. 2012).
  3. WILLIAM KOREY, *NGOs AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: A CURIOUS GRAPEVINE* (1998).
  4. R. Charli Carpenter, *Vetting the Advocacy Agenda: Network Centrality and the Paradox of Weapons Norms*, 65 *INT'L ORG.* 69 (2011); Amanda M. Murdie & David R. Davis, *Shaming and Blaming: Using Events Data to Assess the Impact of Human Rights INGOs*, 56 *INT'L STUD. Q.* 1 (2012); SARAH S. STROUP, *BORDERS AMONG ACTIVISTS: INTERNATIONAL NGOs IN THE UNITED STATES, BRITAIN, AND FRANCE* (2012); WENDY H. WONG, *INTERNAL AFFAIRS: HOW THE STRUCTURE OF NGOs TRANSFORMS HUMAN RIGHTS* (2012).