The post-Holocaust Development of Legal Remedies as a Learning Process

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Underrepresented Victim Groups and their Stories in Holocaust Compensation Narratives

"The Voices of the Voiceless"

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This brief paper is intended to give a voice to underrepresented victim groups, such as Roma, disabled people, LGBTQ+ people, political dissidents and even Jewish survivors from North Africa, whose stories tend to disappear in narratives about Holocaust remedies.

JUSTUS-LIEBIG-UNIVERSITÄT GIESSEN

HOLOCAUST REMEDIES

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Remark

This paper was written by Coral Bariach, a student of the project-related international Summer School organized by the Chair of Public Law and International Law (Prof. Dr. Thilo Marauhn) in 2023 as part of the project funded by the Foundation Remembrance, Responsibility and Future (EVZ) and the Federal Ministry of Finance (BMF) on “The post-Holocaust Development of Legal Remedies as a Learning Process” (“post-Holocaust Remedies” project). The work and results of the Summer School participant are reproduced here almost unedited, which is why there may be deviations in the citation style, for example.

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A. Introduction

The Holocaust, occurring during the Second World War, was the systematic genocide orchestrated by Adolf Hitler's Nazi regime and collaborators. It led to the mass murder of approximately six million Jews, along with millions of others, including Romani people, disabled individuals, LGBTQ+ individuals, and political dissidents.[1] Nowadays, Germany provides financial compensation and other forms of restitution to survivors, their families, and Jewish communities affected by the Holocaust.[2] While Jewish survivors have been a focal point of Holocaust narratives, other victim groups have often been overlooked in discussions related to compensation.[3]

This paper aims to shed light on the underrepresented victim groups, such as the Romani people, disabled individuals, LGBTQ+ individuals, political dissidents, and even Jewish survivors from North Africa who were only recognized and compensated as such recently. Their stories disappear in the narratives about Holocaust remedies, which underlines the importance of making their voices – the "Voice of the Voiceless" – be heard.

B. Background on Holocaust Compensation

The process of Holocaust compensation began after the Second World War when the world realized the extent of the suffering endured by the victims. Various programmes and funds were established to provide restitution and compensation to survivors and their families. These initiatives aimed to acknowledge the horrors faced by Holocaust victims, to offer some form of justice, and to ensure that such atrocities would never be forgotten.[4] The 1952 Luxembourg Reparations Agreement marked a significant milestone in postwar Germany's initiatives to compensate victims of Nazi crimes. This agreement involved West Germany, Israel, and the Conference on Jewish Material Claims against Germany (Claims Conference) and resulted in substantial financial payments. In terms of compensation, Germany has paid a total of almost 82 billion euros by 31 December 2022.[5] While it is widely recognized that no compensation can fully mitigate the profound injustice that the Holocaust brought, many scholars and advocates have praised the efforts of the various German governments.[6]

C. Underrepresented Victim Groups

When discussing Holocaust compensation, the primary victim groups that come to mind are Jewish survivors and their families. While the Jewish population was the largest target of Nazi persecution, it is crucial to remember that the Holocaust was not confined to them alone, as there were several other groups that suffered immensely but have often been overlooked in Holocaust compensation

[1] Stone, 2023.
[2] Bazyler, 2006.
[3] Horowitz, 1997.
[4] Henry, 2002.
[5] Federal Ministry of Finance, 2023.
[6] CRS Report, 2019.

narratives.

I. Sinti and Romani People

The Sinti and Romani people, also known as the Sinti and Roma, were one of the most heavily persecuted groups during the Holocaust. Estimates suggest that up to 500,000 Romani individuals were murdered by the Nazis.[7] Despite this devastating loss, their stories and experiences have been largely left out of discussions about compensation for the Holocaust. The systematic discrimination and violence against the Romani people, including forced labor, medical experiments, and mass killings, deserve recognition.[8] In 2021, the Independent Commission on Antiziganism released a report advocating for proper compensation for the few remaining survivors of detention within the Sinti and Roma communities. The Central Council of German Sinti and Roma continues to fight for this matter, although time has sadly diminished the number of survivors.[9]

II. Disabled Individuals

Another group that was severely persecuted during the Holocaust were individuals with disabilities, encompassing both physical and intellectual conditions.[10] The so-called “T4” programme, named after the central office at Tiergartenstrasse 4 in Berlin, which organized the entire process, carried out the mass murder of disabled people.[11] The programme focused on disabled people living in state-run nursing homes or hospitals. Doctors and nurses in these institutions were instructed to complete a questionnaire on each individual patient for statistical reasons, although this data was used to determine whether the patient was considered healthy enough according to Nazi standards. When this was not the case, the victims were transported on buses to one of the six killing centres: Brandenburg, Grafeneck, Bernburg, Pirna-Sonnenstein, Hartheim or Hadamar. Initially, they were murdered via lethal injection. In 1940, this was replaced by gassing with carbon monoxide gas, as it was a cheaper and more effective means of killing groups of people. The victims were then cremated, and their families were informed that they had died of natural causes. Unfortunately, discussions about Holocaust compensation often marginalize this group of victims despite the immense suffering they experienced. Compensating disabled survivors has additionally been complicated by other challenges, such as the lack of proper documentation of disabilities during the Holocaust and lasting societal prejudices.[12]

III. LGBTQ+ Individuals

Homosexuals were another persecuted group during the Holocaust. Nazi authorities arrested and imprisoned thousands of LGBTQ+ individuals, subjecting them to inhumane conditions and brutality. In this Nazi crusade, homosexual prisoners were imprisoned in death camps where they were forced to wear pink triangles and formed the lowest level of the camp hierarchy.[13] The lack of comprehensive data, coupled with societal biases, has posed challenges in properly identifying and compensating LGBTQ+ survivors and their families. In recent years, efforts have been made to also acknowledge and include LGBTQ+ survivors in Holocaust

[7] Milton, 1998.
[8] Weiss-Wendt, 2013.
[9] Michollek, 2022.
[10] Muller-Hill, 1988.
[11] Holocaust Encyclopedia.
[12] Miller, 2006.
[13] Plant, 1986.

compensation narratives, but progress has been slow, as their experiences only recently started to gain more recognition in this context.[14]

IV. Political Dissidents

Political dissidents, including communists, socialists, and those who resisted the Nazi regime, also faced brutal repression and often ended up in concentration camps.[15] These individuals displayed remarkable bravery and resistance, often losing their lives in the fight against fascism and tyranny.[16] Their stories and the sacrifices they made deserve acknowledgment in Holocaust compensation discussions. However, their compensation remains a less discussed aspect of Holocaust narratives.[17]

D. The Challenges Faced by Underrepresented Victim Groups

One of the primary challenges faced by underrepresented victim groups is the lack of historical documentation and acknowledgment of their suffering, making it difficult to present their cases for compensation. Many underrepresented victim groups have received inadequate compensation compared to others, reflecting a disparity that highlights the need for greater equality and inclusivity in compensation programmes. Limited public awareness about the specific experiences and sufferings of these underrepresented groups has resulted in a lack of advocacy and support for their compensation claims.[18]

E. The Efforts to Amplify Underrepresented Voices

Legal advocates have been instrumental in pushing for policy changes to ensure equitable compensation and acknowledgment for all Holocaust survivors, irrespective of the group they belong to. On the one hand, oral history projects play a crucial role in preserving and sharing the stories of these victim groups to ensure that their voices are not lost over time.[19] In addition, educational initiatives that integrate the narratives of underrepresented groups into the curriculum contribute to a broader understanding of the Holocaust and its diverse impact.[20] Lastly, museums and exhibitions focusing on the Holocaust increasingly include stories and artifacts stemming from underrepresented victim groups, enhancing the comprehensiveness of historical accounts.[21]

[14] Jensen, 2002.
[15] Frei, 1993.
[16] Drapac/Pritchard, 2015.
[17] Rvans, 2005.
[18] Hirsch, 2012.
[19] Horowitz, 1997.
[20] Limore, 2004.
[21] Barnouw, 2001.

F. The Importance of Inclusivity

The need to include the narratives of underrepresented victim groups in Holocaust compensation initiatives goes beyond historical accuracy; it embodies a pursuit of justice and empathy. Recognizing and compensating for the suffering endured by these marginalized groups is a testament to the diverse spectrum of experiences during the Holocaust. By encompassing these underrepresented victim groups, we take substantial steps towards addressing historical injustices and fostering a society that values fairness and equality.[22] Moreover, an inclusive approach to Holocaust narratives preserves historical accuracy and completeness. The nuanced and comprehensive portrayal of the Holocaust sheds light on the manifold ways it impacted diverse victim groups.[23] Additionally, an all-encompassing narrative nurtures empathy and understanding on an individual and societal level. By documenting the experiences of all victim groups in detail, we equip future generations with a deep understanding of the Holocaust's intricate impact. This understanding further strengthens our commitment to preventing future atrocities, emphasizing the vital role of tolerance, empathy, and human rights in shaping a more compassionate world.[24]

G. Legal Endeavors and Equitable Compensation

In the legal realm, the Holocaust stands as an unparalleled example of mass atrocities and a grave violation of human rights. The recognition of these crimes and the subsequent compensation efforts form a critical part of acknowledging the historical injustices and attempting to restore a semblance of justice. Germany, as the responsible party, has taken significant steps to compensate the victims and their families. The 1952 Luxembourg Reparations Agreement marked a significant milestone, reflecting the acknowledgment of the need to compensate those who suffered during the Holocaust.[25] However, despite these efforts, the legal aspect of compensation has faced complexities concerning documentation and societal biases. Legal advocates and initiatives play a vital role in advocating for equitable compensation and acknowledgment, striving to bridge the gaps and ensure that all victim groups are fairly represented in the pursuit of justice.[26] It remains crucial to continue to address the challenges faced by underrepresented victim groups and to advocate for a more just and inclusive compensation process. Only through collective acknowledgment and legal action can we endeavor to rectify the injustices of the Holocaust and work towards a more equitable world.

[22] Henry, 2002.
[23] Lipari, 2009.
[24] Altman, 2003.
[25] CRS Report, 2019.
[26] Horowitz, 1997.

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H. Conclusion

In conclusion, this exploration into underrepresented victim groups within Holocaust compensation narratives underscores the imperative of inclusivity in our historical accounts. The Holocaust, an unprecedented atrocity, affected a diverse range of individuals, and their stories deserve recognition and compensation. While the compensation process has made significant progress, it has been disproportionately centered on some victim groups, unintentionally leaving others marginalized. By highlighting the experiences of Romani people, disabled individuals, LGBTQ+ individuals, political dissidents, and previously overlooked Jewish survivors, we affirm the commitment to justice and empathy. Inclusivity not only ensures historical accuracy but also fosters a deeper understanding of the Holocaust's multifaceted impact, encouraging a society rooted in tolerance and human rights. As we amplify the "Voice of the Voiceless", we not only honor the memory of those who suffered but also reaffirm our collective dedication to preventing such atrocities from recurring in the future.

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Project “The post-Holocaust Development of Legal Remedies as a Learning Process (Post-Holocaust Remedies)”

The research project “The post-Holocaust Development of Legal Remedies as a Learning Process (Post-Holocaust Remedies)” is carried out by the Chair for Public Law and International Law, Justus Liebig University (JLU) Giessen in cooperation with scholars from Reichmann University in Herzliya/Israel and the Instituto Colombo-Alemán para la Paz (CAPAZ) in Bogotá/Colombia. The project, conducted by Prof. Dr. Thilo Marauhn and Dr. Ayşe-Martina Böhringer, began in late summer 2022 and is dedicated to the in-depth analysis of compensation law in connection with the Holocaust and the legal framework that has been developed since 1945 for dealing with the consequences of Nazi crimes.

The project, funded by the Foundation Remembrance, Responsibility and Future (EVZ) and the Federal Ministry of Finance (BMF) from August 2022 until June 2024 as part of the Education Agenda NS-Injustice, focuses on the critical analysis of the development of political and legal instruments in dealing with the consequences of the Nazi atrocities. The following questions, among others, are addressed: After the atrocities of the Holocaust, what lessons can be learned from the compensation law measures taken to date? Which instruments are suitable for legal remedies? An important main feature of this project is the international summer school, which offered students from Israel, Colombia and Germany the opportunity to take an in-depth look at the legal process of addressing Nazi crimes. The program covered two weeks each at Reichmann University in Herzliya, Israel and JLU Giessen and included a variety of courses and excursions to relevant institutions to ensure a practice-oriented perspective. The summer school took place from 18.08.2023 to 14.09.2023. This unique way of teaching the subject of this project should also inspire future generations to engage in research-based learning, practice-oriented knowledge transfer and academic responsibility.

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