The Historian and Holocaust Restitution: Personal Experiences and Reflections

By

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Before turning to the subject at hand, I would like to express my appreciation to the Alexander von Humboldt Foundation for making this wonderful year possible, for organizing this symposium, and for inviting me to speak to so distinguished an audience. I find myself in the odd situation of being the only humanist-social scientist among the four speakers and the only person who is working on Germany and Central Europe. As is so often the case, historians feel themselves a bit like impostors when they are referred to as “scientists.” And while for good historical reasons that can be explained—both natural scientists and scholars of the humanities and social sciences are all referred to as Wissenschafter in German—some find what we have to offer more akin to “unorganized soft matter” than to “real science.” Nevertheless, historians often do deal with problems of very contemporary relevance that affect us all and become involved in political issues and debates, and this has been the case with myself during the past decade. I have a special interest in German business history, a field that has been at the center of recent efforts to deal with the problems of the role of business in the National Socialist dictatorship between 1933 and 1945 and with the questions of restitution and compensation for Jews—but not only Jews—for property and various assets stolen by the Nazi regime and for forced labor. Historians do not normally become involved in such “hot” issues directly—the Owl of Minerva, in Hegel’s famous phrase, normally being heard at sunset—and I thought it might be of interest to discuss some of my experiences in the “real world” of a historian suddenly caught up in these emotionally charged and highly political issues.

As some of you may know, the issue of Holocaust assets came to the fore in 1996-1997 thanks to charges emanating from Jewish groups angry about unpaid Swiss bank accounts, the mobilization of the U.S. government to put pressure on the Swiss to open their banking files, and the mobilization of various American legislative and regulatory authorities to put the heat on the Swiss. The

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issue rapidly exploded beyond Switzerland and beyond banks to include practically all of Europe and, of course, Germany in the effort to investigate, locate, and restitute stolen Jewish assets, an effort now made possible by the availability of the archival materials previously behind the Iron Curtain but also the demand that private companies open up their archives as well. One government after the other set up commissions of historians to investigate these issues and individual firms felt impelled to make their documents available to historical researchers. Deutsche Bank, Dresdner Bank, and Commerzbank, for example, have set up such commissions, and Krupp, Degussa, Bertelsmann, and many other companies have commissioned historians to look into their past during the National Socialist period. It has been an unparalleled work creation program for historians, and it has led to an explosion of new knowledge and a transformation of our understanding of how the Nazi economy functioned and how Jews were robbed in the Nazi period throughout Europe. While the public interest in this subject has now probably peaked thanks to the settlements with the victims and the reports of some of the larger national commissions that have been completed, a great deal of new information and important new insights are going to be made available in the next couple of years and new problems are going to arise in connection with restitution.

My major involvement with the historical investigation of business in the Third Reich has been the production of a book on the Allianz Insurance Company in the Nazi period that was published in 2001 and had been commissioned by Allianz.¹ In this instance, I was a commission of one, although I did benefit greatly from the help of a team of young historians in the research and in the organization of research materials. This was a commissioned history rather than the work of a historical commission. Nevertheless, I have also been involved directly and indirectly with more collective efforts and commissions, since I am the Chairman of the Bank Austria/Creditanstalt Independent Historical Commission to write the history of the big Austrian banks in the National Socialist period, a member of the Deutsche Bank Historical Commission, a member of the Advisory Council of the Dresdner Bank Historical Commission, have served as an advisor to the Presidential Commission on Holocaust Assets in the United States, and have served or will serve as a reviewer of the commissioned histories of a number of companies. I have also reviewed manuscripts for the Swiss Bergier Commission and have worked with members of the Austrian Commission. I am also on the advisory council of the history of the Deutsche Forschungsgemeinschaft. I am not presenting this list for the purposes of bragging, or advertising my services, or demonstrating my inability to say “no,” but rather to set the background for my discussion of the things that can happen to a historian who becomes involved in a hot political issue to the extent that I have.

But let me now go back to the beginning and recount some of the more

relevant of my experiences, beginning with Allianz. I was asked to consider writing this history of Allianz in the National Socialist period in the spring of 1997. Allianz had done very little about its history prior to that time, even though it is Germany's largest and most important insurance company. In 1990, it commissioned a history to celebrate its centenary filled—as is so often the case with such productions—with self-praise, numerous pictures, and a presentation of its role in the Nazi period as an organization that did the best it could to resist the Nazis. While it is necessary to note that the leadership of Allianz in 1997 was unhappy about this history and thought that more should have been done to deal with the National Socialist period, there was no intimation that there was any intention to do anything about the matter until the spring of 1997, when one of the directors called me and asked if I would be interested in doing such a history, either as the leader of a team of historians or by myself. The reasons for wanting to commission such a work were quite straightforward. On the one hand, Allianz, which has important holdings in the United States, was being sued for allegedly failing to fulfill its obligations to its Jewish customers or their heirs. On the other hand, documents were found showing that Allianz had insured the facilities of SS-owned factories in the concentration camps and this had been reported in the Spiegel. Obviously the concern was that Allianz had been more involved with the Third Reich than previously realized. Furthermore, its general director from 1921 to 1933, Kurt Schmitt, was Hitler's Second Reich Economics Minister from June 1933 to June 1934 and made a practice of wearing his honorary SS uniform, while another of its directors, Eduard Hilgard, was head of the Reich Group Insurance, which acted as the link between the insurance industry and the regime. In any case, it now appeared not only historically desirable but also politically important for the management of Allianz to have as full and accurate an account as possible of its role in the National Socialist period.

The reasons why Allianz asked me to do the job were fairly obvious. My scholarly work was well known in Germany and the United States, and I was experienced in business history. Certainly the fact that I am an American was important since much of the "inspiration" for the historical work being done on German enterprises was emanating from the U.S. Finally, the fact that I am Jewish undoubtedly played a role and would presumably add to the credibility of whatever I produced.

In the course of my negotiations, I was very insistent that my task be viewed as that of an independent historian of the company during the period in question and not as someone engaged in actual restitution work, be it the discovery of uncompensated insurance policies or investigating individual cases of current concern. I was willing and, indeed, considered it important to describe and analyze the ways in which Jewish insurance assets were confiscated and to provide a description and analysis of the restitution after 1945, insofar as it took place, but I did not want to become involved in current cases and debates. Allianz accepted this approach and indeed accepted all the conditions I laid down. Since the situation seemed right—Allianz offered me as much assistance as I
needed in finding materials, collecting them, and organizing them and complete independence in the presentation of my findings—I decided to take on the task.

Let me just conclude this part of my remarks by saying that Allianz has indeed done everything possible to help me and actually supported the building-up of an archive to compensate for the materials lost in Allied bombing raids and they also provided me with a first-rate research team. At no time did they ever interfere negatively in any aspect of my work or try to influence my findings.

This is not to say that I enjoyed anything like undisturbed scholarly seclusion in my work. The fact that I had undertaken this project hit the press almost immediately because Allianz publicized the fact. It was perfectly proper for it to do so, but it meant that while the company left me in peace, others did not. To begin with, people began contacting me, and they continue to contact me about insurance policies or the insurance policies of their relations, so that I was regularly called upon to refer them to where they might get some help. Far more important, however, was that I simply could not be oblivious to public priorities in defining my research agenda. In December 1997, for example, I was invited as an “expert” attached to the U.S. delegation at the London Gold Conference. Since insurance was not an issue at the conference but the entire event looked very interesting, I decided to go. What I discovered, however, was that insurance was on the agenda for the next international conference in Washington, scheduled for December 1998, and on the last morning about 45 minutes before the last plenary session, I was suddenly asked by U.S. Undersecretary of State Stuart Eizenstat to make a brief statement on insurance as a Holocaust assets issue. Since I had not even begun my research in any serious way at this point, I was in an extraordinarily difficult position and produced a “statement” that was as general and uninformative as possible but was nevertheless somewhat misleading because it suggested that insurance assets were far more significant as a restitution problem than they really were.

In any case, while the normal way to research and write a company history is to begin with the company structure and its leadership, my initial research focused almost entirely on the problems of the confiscation of Jewish insurance assets and on the insurance implications of the Pogrom of November 1938. Thus, by November 1998, I was in a position to write an article on the insurance issue for the F.A.Z. (Frankfurter Allgemeine Zeitung Daily) and then to make presentations at the Holocaust Assets Conference in Washington, D.C. the following month, on which occasions I actually knew what I was talking about. I had willy-nilly become the world’s expert on these matters, which was not very difficult since I had no competition at the time.

Whether my historical findings and analysis were terribly welcome to claimants and their lawyers, above all in the case of German claimants, is another question. What I discovered was that the confiscation of insurance assets was embedded in the expropriation of a host of other assets, from real property to pots and pans. In general, the Reich could do nothing with life insurance policies per se since a life insurance policy is an asset only to the holder and his or her beneficiaries and its value depends on the continued payment of premi-
uran and the appreciation of the policy’s value. Both policyholders and insurance companies had an interest in keeping policies in force so as to maximize their returns, while the Nazis were anxious to force Jews to repurchase their policies so that they could steal their money. The problem for Jews in Nazi Germany during the 1930s was that they found it harder and harder to hold on to their insurance investments because of loss of income, the costs of emigrating, and the various taxes and impositions they confronted. The problem became extreme after the November 1938 Pogrom against the Jews, when huge tax burdens were placed upon them and the combination of increased disabilities and terror made them seek to leave Germany as soon as they could. As a result, there was a huge effort to monetize their insurance assets. Insurance companies had no choice but to pay out, which was precisely what the regime wanted them to do so that the authorities could expropriate the money by one means or another. What this meant, in effect, however, was that the insurance companies had discharged their obligation to their Jewish customers. What was subsequently done with the money was of no account to the insurers. In short, in this situation, the confiscation of insurance assets, insofar as it occurred, was indirect. The insured person received his money, and the State then robbed him of his money from this and any other source it could. The record shows that most Jewish insurance assets were lost in this manner and especially between 1937 and 1939. A substantial number were later lost by the 11th decree to the Reich Citizenship Law of November 1941, which required the insurers to turn over the repurchase value of Jewish policies to the Reich. This was a direct confiscation of Jewish assets, although its implementation was difficult because it was hard to identify who was Jewish and who was not and both the insurance companies and the Gestapo lacked the manpower to do the job under wartime conditions.

Let me now say something about what I learned about restitution. The insurance companies were technically bankrupt after the war, having been forced to invest in Reich war bonds, so that the German government had ultimately to guarantee their obligations by compensating a large percentage of their payouts. Naturally, the life insurance companies paid out claims made by persons whose policies were still active. They took a very hard line, however, when it came to claimants wanting the insurance assets that they had repurchased or that had been seized under the 11th Implementation Decree. The argument simply was that they had paid off the policies, either to the policyholder or to the government, and thus had no further obligation. This position was formally correct, although the style in which customers were so informed often left much to be desired. Ultimately, restitution was regulated under the German Federal Compensation legislation of 1956-1957. The German government, in its legislation, recognized that Jews who ceased paying premiums and who bought back their policies were doing so under duress and deserved compensation just as did those, the value of whose policies were taken by government order under the 11th Implementation Decree. It was the government that took over the task of compensating such policyholders, although the insurance companies were assigned the task of calculating exactly what the entitlement was. Whatever was
then owed in Reichsmark was reduced to ten percent of the amount by being converted into Deutschmark under the 1948 currency reform. Obviously, getting restitution for lost insurance assets was not the road to wealth.

This account, which I gave at the Washington conference, marked the beginning and, by and large, the end of my involvement in the restitution question. I learned from one lawyer that the concepts of indirect and direct confiscation were helpful in their understanding of what had happened but that there was considerable irritation at the implications of my work, namely, that most of the policies were repurchased by their owners in the late 1930s and that the restitution of the late 1950s, whatever one might think, probably left few unpaid German policies that could be easily found or documented. A commission of claimant lawyers and organizations and insurance companies, headed by Lawrence Eagleburger, was launched just around the time of the Washington Conference, and although I was told they would consult with me, I have not had contact, either official or unofficial, with that Commission and have basically followed its history in the press or through personal contacts. As is clear from recent reports, it has been a very troubled effort with a good deal of unreasonableness on all sides, and while I have been overjoyed not to be directly involved, I have not held back in expressing some of my views as a citizen as well as historian in public debates.

I have been very critical, for example, of the demand made especially by the State of California and its courts against the wishes of the U.S. State Department, that Allianz be forced to computerize and list the 1.3 million old policies in its possession to enable survivors or their families to discover themselves as insurance policy holders in these files. Quite aside from the fact that this would be a violation of German privacy laws, it also strikes me as an immense amount of time and money-wasting and that the money would be better spent on worthier Jewish causes. A compromise has now been reached on this issue, but what I think underlies the entire effort is what the Israeli historian Ronald Zweig has called the fantasy of Jewish wealth and the failure to realize that Jewish wealth depended to a great extent on Jewish life and activity. Much of what was Jewish wealth, therefore, was destroyed with the expulsion and extermination of European Jewry and can never be restituted.

There has, in my view, been a fantasy about the amount of insurance held by Jews and the value of their policies, and this has been terribly disappointed. Rather than accept this reality, there has been a strong tendency to seek unrealistic solutions. One of these is the aforementioned computerization program. Another is the notion that one might be able to do something about the disappointing findings of historical research. I first became aware of this last year when a prominent Jewish leader suggested to me at a conference in Vienna that Allianz and the other insurance companies were rich enough to afford to re-do the post-war restitutions under the German compensation legislation in a fairer manner. In response, I simply pointed out that this was really unimaginable, which it is. This past November, at another conference, however, the same person, whom I deeply respect and admire, responded to my talk on the indirect
confiscation of Jewish insurance assets by suggesting that the companies might be liable to lawsuits because they often put the money involved into blocked accounts and thus allegedly violated their fiduciary responsibility to their policyholders. At this point, I must confess I began to wonder whether any of the historical work I had done mattered at all. It is well known that Jews intending to leave Germany had to put all their money in a blocked account and that it was unhappily a very good idea for Jews to leave Germany. If an insurance company refused to put money in such a blocked account, the officials involved were likely to end up in a concentration camp but, most importantly, they would have been depriving the Jewish policyholder of the money desperately needed to get out of Germany alive and violating their legal obligation to the policyholder. I received no response to this point, but to me this was a clear signal that while historical investigation and open archives were always demanded, the results were not always welcome.

My own work on Allianz, however, concentrated elsewhere, and my book's contribution, I believe, has had very little to do with restitution per se and much more to do with the deterioration of business ethics and the increasing implication of Allianz—and other firms and concerns—in the crimes of the Nazi regime as well as their efforts to deny or rationalize away that implication after the war.

What, then, is the relationship between historical narration of the type found in my book and the political issues involved in restitution? In turning to this question, I would like to broaden the discussion to include my work in other areas of this problem as well as that of other professional historians who have produced or are doing work in this area. I think at the very beginning of the study of assets questions in the Holocaust there was a genuine belief that the opening of archives and historical investigation and analysis would provide a basis for judging the responsibility and liability of the firms and concerns involved in what might loosely be called a scientific manner. This was simply naive, and for three reasons. First, it operated under the assumption that serious historical work could be done to order and be produced in something of the style of a report to the Chief Executive Officer of a company or a lawyer's brief. Historians simply do not work that way, at least not good and responsible ones. Second, it operated under the assumption that the political and human realities of the restitution issue and the forced labor question could and would wait upon the completion of historical research and writing. In reality, it was impossible to allow the political issues to fester without causing considerable political rage on the part of all parties, unpleasant surprises and, most important of all, the passing away of those who were supposed to benefit from restitution in the first place. As is now clear, the settlements that have been made have by and large been based on global sums and direct payments to persons and organizations through the German Industry “Remembrance, Responsibility, and Future” Foundation and similar arrangements. While historians have helped in defining some of the issues and categories for restitution and compensation, Allianz, the Deutsche Bank, and other companies have joined the Foundation without waiting for the historical works about themselves to be published. Third, the histori-
cal examination of a company in the Nazi period cannot really have as its sole or central focus issues of restitution because concerns and firms and banks have to be considered in their totality. When this is done in the case of Allianz, for example, the central issues involve the political behavior and role of its leaders, their treatment of their Jewish employees, the actions of its leaders during the November 1938 Pogrom, the role of Allianz in Germany's expansion, and its involvement in insuring the facilities and production of places like the Lodz Ghetto and the SS factories in the concentration camps.

One can certainly make the argument that the revelation of these activities can serve to justify a moral obligation for joining the fund and making restitution. While it surely is welcome when historical investigation makes a case for the restitution of stolen assets and the compensation of victims, the implications of historical investigation should also in certain cases be decoupled from specific issues of restitution per se. Indeed, I would make, and have made, the argument that the commissioning of independent historical studies itself forms a form of restitution, an owning up to a company's implication in the misdeeds of the National Socialist regime.

Is it, however, legitimate to go so far? A case certainly can be made from the perspective of past practice by German industry and banking. Not only did German business make a concerted public relations effort after 1945 to paint itself as a victim of National Socialism, but it also closed its archives to independent scholars and produced jubilee volumes and other works that presented the history of German business in very rosy colors. The clash of Marxist and capitalist ideologies prior to 1989 certainly played some role in this along with the Marxist-left liberal assumption that the capitalists brought Hitler to power and that the regime was an instrument of capital. This is hardly the whole explanation, however, and there is plenty of evidence that the post-war generations of business leaders were anxious to cover up their engagement with National Socialism, even after serious research in the West demonstrated that the Nazis had not brought Hitler to power. Indeed, the archives were simply closed until a few years ago, some firms even denying that they had the materials in which we are now swimming. I think it would be unfair to attribute the new openness solely to the lawsuits I have mentioned. It also reflects a massive change from one generation to another in German business and the greater historical understanding and sophistication of today's businessmen. Nevertheless, it is difficult to imagine that these archives would have been opened this quickly in this manner were it not for the lawsuits and the public pressure on the business world and, one should add, on governments, to open their files and to produce uncensored histories.

One can, of course, make the argument that it is too late for these recovered histories to matter very much. One historian has gone so far as to argue that the attitude of business until now constituted a "productive silence" that enabled German industry to rebuild without having to confront the past, an extension of
the philosopher Hermann Lübbe’s argument that the Federal Republic’s repression of the past enabled it to create a stable democracy. I detested this argument when I heard Lübbe make it back in 1983, but I must confess that I now have a more differentiated view, knowing as much as I have learned about the implication of nearly every group in German society. A genuine purge would have been tantamount to a civil war. Nevertheless, I am not prepared to go so far as to say that the economic miracle would have not been what it was if Friedrich Flick and many others like him in many professions would have sat in prison for somewhat longer while the miracle was taking place. It is also possible to argue that the new policy of openness is simply the other side of the coin of the “productive silence” of the past, namely, a “productive openness” in which the story is told by professional historians who contextualize historical events in a very professional, sometimes passionless manner and thus enable the present-day German business community to open but also to close the books on a chapter in its past with which it had to deal with for political reasons. It is all, thus, part and parcel of the belated confrontation with the past—at best, a somewhat costly catharsis, at worst, a new triumph of public relations efforts to deal with this history.

The author of a commissioned history of an enterprise is in a very difficult position when confronted with such an argument and, while I have no cause to complain about the reviews of my Allianz book, I have not been spared, and some of my colleagues have not been spared, criticisms arising from such claims that we are ultimately serving the interests of big business. Some journalists and muckrakers have accused us of being paid “spin doctors” for the banks and companies, although in most cases they have seldom done any historical research themselves or seriously read our books. It is hard to take such people seriously, but the fact is that they gain access to respectable journals like the Times Literary Supplement and that there are people who are quite prepared to believe everything they say, especially on the political left, and they are allied to other tabloid historians of the same type who have no interest whatever in historical evidence but who do have a market for their work. They are, of course, always demanding that the archives be opened to them, but they do not visit them when they are open or spend a minimal amount of time in them.

I do take more seriously the criticisms of other journalists and more serious persons. Thus, one critic, in an otherwise very favorable review of my book, nevertheless concluded that “Feldman does not shy away from calling the crime by its name, but he finds it hard to call the originators of the crime criminals, especially when those involved are the heads of Allianz.” She then went on to ruminate whether the authors of commissioned historians do not compromise
their independence by taking such commissions. In another instance, a major historian suggested that historians who are paid for such studies must inevitably be influenced by the fact, even if they are not fully aware of it, and that it would be best if the government would subsidize such studies.

My own response to such arguments is twofold. First, I do not think that historians are, or should pretend they are, state prosecutors. Certainly, the two chief protagonists of my study, Kurt Schmitt and Eduard Hilgard, do not come off well by any standard in my book. I think no purpose is served, however, by calling them criminals and dumping them in the same category as the radical Nazis who also appear in the book. Second, historians have a responsibility to differentiate and to explain in a historical context, not to act like the investigators who were assigned the task of making a case for the Nürnberg trials.

Insofar as the question of being commissioned is concerned, there is of course no answer to the charge since the judgment must ultimately be left up to the reader. Such criticisms are an illustration of the old practice of asking when did you stop beating your wife and, as I have argued on numerous occasions, I see no reason why historians should not be paid for their work like other professional people. My experience has been that I was able to work in complete freedom and without the feeling that I have made any compromises, a feeling I have very often not had in my role as a university administrator and professor, where I have been subjected to all kinds of pressures, especially those of political correctness, and have had to make all kinds of compromises. Also, why is no one disturbed that Edwin Black's bizarre study of IBM should become something of a best-seller in the United States and Germany, thanks to a well-organized publisher campaign despite the fact that his work does not meet elementary historical standards? I would like, however, to go a step further with respect to the commissioning of independent studies by business enterprises. It certainly is true that enterprises covered-up their past for a long time and that they have been compelled to change this attitude. Having done so in important cases, however, it seems to me to be unfair to place them in a no-win situation and treat positive actions as something other than what they are.

Finally, let me conclude with some general remarks about historians and political debates, since the subject is an important one and is likely to become more perplexing in the coming years. In Germany, of course, history plays a very important role in political debates because of National Socialism. We have had a variety of examples of late, all of them quite absurd, in which politicians at home and abroad have been compared to Hitler or Göring, and where the current situation in Germany has been compared to that of the late Weimar Republic. To make matters worse, at least some of those making these comparisons have been trained as historians. All this is extremely unfortunate because, at least to my mind, it reflects an increasing detachment from the persons and things one is actually talking about. This is not to be confused with "historicization" but rather with what might be called "dehistoricization," that is, the loss of both the context in which persons lived and of the events that took place and with their concrete reality. It is not only absurd to compare Bush to Hitler, but it
also reflects a profound ignorance of Hitler's ideology and foreign policy goals to suggest that the likeness can be made because of Bush's alleged efforts to deflect attention from domestic politics by concentrating on Saddam Hussein. Similarly, whatever one thinks of the Schroeder government and the contemporary situation, present-day Germany has nothing remotely resembling a presidential government and the condition of the unemployed in contemporary Germany is totally different from that of the Weimar Republic. In any case, the abuse of historical analogy is likely to get worse rather than better and historians should take some responsibility, first, for not contributing to such practices and, second, for publicly and forcefully criticizing them.

As I have indicated, historians are often part of the problem rather than the solution, and there have been notorious examples of historians turning their work into political issues in ways that, at least to my mind, have not been productive and have often been destructive. The case of Ernst Nolte obviously comes to mind, but so does that of Daniel Goldhagen, both of whom present radical theses with inadequate historical evidence and create discussions that are not very fruitful from the perspective of advancing historical knowledge and end up in scholarly dead-ends but nevertheless stir up political emotions and debates. If political problems can be created by unsubstantiated theories, problems can also be created by the tendentiously presented, even if undeniable, facts. Some of the current literature on the bombing of Germany during the Second World War and the expulsion of the ethnic German population from the Sudetenland and Poland falls into this category. Certainly, these are important historical phenomena that deserve investigation, discussion, and reflection. At present, many of those involved claim that they are not relativizing the Holocaust and not overlooking those responsible for the war, but the end result is often precisely that. What else can be the effect of using the language of the Holocaust to describe what was done to Germans and to suggest that Churchill and other Allied leaders were war criminals because they gave the orders to bomb German cities and planned the expulsions. Furthermore, at this time of considerable anti-Americanism in Europe, or anti-Anglo-Americanism, some of the interviews given by Jörg Friedrich are obviously designed to relate his book to current American-European conflicts. In any case, these examples demonstrate that historians do contribute to political debates and even help to create them in ways that are sometimes very problematic. Certainly, historians have a responsibility to recognize the political implications of what they are writing and the positions they are taking, to be careful with analogies, to strive for objectivity, which of course can never be perfect, and to resist the temptations to act as advocates, state prosecutors, or as tabloid historians.