

**Julia von dem Knesebeck**

**THE ROMA STRUGGLE  
FOR COMPENSATION  
in Post-War Germany**



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*Front cover image:* Dr Robert Ritter, Head of the Eugenic and Population Biological Research Station of the Reich Health Office, questions a woman who is believed to be a Rom, accompanied by a police officer (photo dated between 1936 and 1940, courtesy of the German *Bundesarchiv*).

*Back cover image:* A Roma family poses in front of their hillside dwelling in Germany (photo dated between 1933 and 1937, United States Holocaust Memorial Museum, courtesy of Stadtarchiv Ravensburg).

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*To my family*



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## Preface

In this book, Julia von dem Kneesebeck examines the history of persecution of Sinti and Roma under National Socialist rule and the struggle for compensation that followed. The focus is on post-war West Germany through the period of the 1970s, with special attention given to the Federal Compensation Laws. The selection of this particular timeframe is based on the fact that the deadline for filing claims under the Federal Compensation Law (BEG) expired shortly before that time, and thus officials in the compensation claims offices were forced to arrive at a final determination concerning that period of history.

The study shows unequivocally that the Sinti and Roma – referred to here under the term ‘Roma’ – had to fight for decades (and, initially, in vain) for recognition as *racially persecuted* victims of National Socialism and of a genocide that was analagous to the mass murder of the Jews. In post-war West Germany, they were subjected to further indignities when the injustices they had suffered in the years leading up to 1943 – their racially motivated persecution by the Nazi regime – were not recognised as such, but were instead largely misconstrued by post-war legal experts as ‘justifiable actions’ on the part of the National Socialist state.

Contemporary historian Julia von dem Kneesebeck outlines the manner in which discriminatory practices and prejudices already in place prior to the advent of the Nazi regime – the treatment of Sinti and Roma as ‘asocials’, ‘vagrants’ and ‘criminal elements’ – established the framework for presenting subsequent National Socialist injustices as a mere tightening of repressive social and preventative criminal measures brought on by the onset of war. In post-war Germany, compensation was denied to Sinti and Roma on the basis of the same specious arguments used to persecute them under National Socialism: they had allegedly committed crimes as ‘asocials’ and thus had no legitimate claim to compensation. This author’s far-reaching perspective is particularly significant because it identifies a widespread mechanism evident in the framing and re-framing of acts of injustice that ought to be taken into consideration with regard to contemporary political conflicts and government interventions, especially when minority populations are involved. To put it more bluntly: when dealing with social conflict situations, it is particularly imperative that we develop a prophylactic political consciousness of sensitivity in order to prevent disadvantages from degenerating into political and social discrimination and eventually into persecution – persecution which may in turn be re-framed as legitimate acts of state and society, and which may even be employed to perpetuate ongoing discrimination.

Today, we also take umbrage at the compensation authority's basic attitude at that time. The denial of the racial nature of the Roma and Sinti's persecution and its reframing as legitimate policing measures targeted at 'asocials' allowed concentration camp imprisonment to be portrayed as a constitutionally allowed restriction of freedom. It is true that post-war Germany suffered from a lack of awareness and political will to recognise the injustice of the incarceration of human individuals in concentration camps based on their ostracism as 'asocials' under National Socialism. In the law on the Foundation 'Remembrance, Responsibility and Future' (*Stiftung 'Erinnerung, Verantwortung und Zukunft'* – Foundation EVZ) this is however regulated in favour of the victims. At the same time – as the author illustrates and clarifies – it is remarkable to note how relatively successful the struggle to regain control of confiscated property was for Sinti and Roma.

What is more, the author sheds light on the struggle of Sinti and Roma for compensation as a process in which the self-organisation of the victims simultaneously served as a fundamental building block in the development of a paradigmatic shift in social consciousness. Unlike the Jews, whose compensation claims against Germany were supported by many governments, including that of the United States, and were turned into political capital with the aid of internationally recognised, competent organisations very early on, for decades the Sinti and Roma lacked any appreciable political lobby. This confirms yet again that it was ultimately the political process and public pressure that were responsible for the transformation of the Sinti and Roma's situation over the past thirty years in Germany. Still, it is safe to say that no amount of retrospective recognition and compensation will ever succeed in making up for past omissions. The descendants of those who were treated so poorly not only participated vicariously in the fate of the persecuted generation but were subject to tangible forms of discrimination themselves.

Julia von dem Knesebeck's work is captivating for the breadth of sources upon which it is based, some of which had not been examined previously. Her methodological approach is informed by an empathetic affinity for Sinti and Roma: by taking written testimony and interviews into account in her work, she also acknowledges the Sinti and Roma as subjects. Specifically, the author demonstrates, for example, just what it meant for Sinti and Roma to live with the consequences of compulsory sterilisation: the injustice of unfathomable personal suffering was amplified by the loss of status that accompanies childlessness and the attendant denial of social recognition. The type of representation the author provides here makes a valuable contribution to the elimination of widespread prejudices.

Compensation to Sinti and Roma in the GDR for suffering incurred as the result of National Socialist injustice lies beyond the thematic scope of this study. This is a subject that must be held in reserve for future research, along with the continued development of West German federal regulations concerning compensation for damages resulting from National Socialist injustice after 1980 in

general, as well as with specific regard to Sinti and Roma (both domestically and internationally).

Acknowledging the Sinti and Roma as victims of National Socialism, as well as fostering their empowerment as contemporary citizens, is a central concern for us at the Foundation ‘Remembrance, Responsibility and Future’ (Foundation EVZ). This is one primary reason why it decided to make an exception in supporting the publication of Julia von dem Knesebeck’s work. The Sinti and Roma – even those living abroad – have been given full consideration in the regulations and statutes governing the Foundation for victims of forced labour practices and other forms of National Socialist injustice.

At present, the Foundation EVZ is actively focused on improving educational opportunities for the Sinti and Roma in Central and Eastern Europe.

*Günter Saathoff*

*Board of Directors, Foundation ‘Remembrance, Responsibility and Future’*



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## List of Abbreviations and Recurring German Terms

<i>AKG: Allgemeines Kriegsfolgen-gesetz:</i>	General Law on Consequences Arising from the War
<i>Anerkennungsausschuss:</i>	Committee Responsible for the Recognition of Victims of National Socialist Persecution
<i>Aktion Arbeitsscheu Reich:</i>	Operation Reich Workshy
<i>ATO: Allgemeine Treuhandorganisation:</i>	General Trusteeship Organisation
<i>BEG: Bundesentschädigungsgesetz:</i>	Federal Compensation Law
<i>BEG-S: Bundesentschädigungs-Schlußgesetz:</i>	Final Federal Compensation Law
<i>BErgG: Bundesergänzungsgesetz:</i>	Supplemental Federal Compensation Law
<i>Betreuungsstelle für Opfer des Faschismus:</i>	Support Agency for Victims of Fascism
<i>Bezirksregierung:</i>	District Administration
<i>BGB: Bürgerliches Gesetzbuch:</i>	German Civil Code
<i>BGBL.: Bundesgesetzblatt:</i>	Federal Law Gazette
<i>BGH: Bundesgerichtshof:</i>	Federal Supreme Court
<i>BMF: Bundesministerium der Finanzen:</i>	Federal Finance Ministry
<i>BRD: Bundesrepublik Deutschland:</i>	Federal Republic of Germany
<i>BRüG: Bundesrückerstattungsgesetz:</i>	Federal Restitution Law
<i>BT-Drucksachen: Bundestag-Drucksachen:</i>	Printed Papers of the Lower House of Parliament
<i>Bund:</i>	German Federal State
<i>Bundeskabinett:</i>	Federal Cabinet
<i>Bundesrat:</i>	Upper House of German Parliament
<i>Bundestag:</i>	Lower House of German Parliament
<i>Bürgerliche Ehrenrechte:</i>	Civil Liberties
<i>BVFG: Bundesvertriebenengesetz:</i>	Federal Expellee Law
<i>CDU: Christlich Demokratische Union:</i>	Christian Democratic Union
<i>CSU: Christlich Soziale Union:</i>	Christian Social Union
<i>DDP: Deutsche Demokratische Partei:</i>	German Democratic Party
<i>DM: Deutsche Mark:</i>	German Mark



DNVP: <i>Deutschnationale Volkspartei</i> :	German Nationalist People's Party
<i>Einsatzgruppen</i> :	SS Task Forces
EK: <i>Entschädigungskammer</i> :	Compensation Chamber: body responsible for compensation cases at the District Courts
<i>Entschädigungsgesetz</i> :	Compensation Law
<i>Entschädigungssenat</i> :	Compensation Senate: Panel of five judges who oversaw compensation cases in the Higher District Courts
<i>Erbgesundheitsgericht</i> :	Hereditary Health Court
<i>Erlaß zur Bekämpfung der Zigeunerplage</i> :	Decree for Combating the Gypsy Plague
Fb: <i>Findbuch</i> :	Archival Finding Aid
<i>Festsetzungserlass</i> :	Compulsory Settlement Order
FDP: <i>Freie Demokratische Partei</i> :	Free Democratic Party
<i>Finanzamt</i> :	Revenue Office
FRG:	Federal Republic of Germany
GDR:	German Democratic Republic
<i>Generalstaatsanwalt</i> :	Attorney General
<i>Gesellschaft für bedrohte Völker</i> :	Society for Endangered Peoples
<i>Gesetz zur Regelung offener Vermögensfragen (VermG)</i> :	Law Regulating Open Asset Questions
<i>Gestapo: Geheime Staatspolizei</i> :	Secret State Police
<i>Gesundheitsamt</i> :	Health Authority
<i>Grundgesetz</i> :	Federal Basic Law
<i>Grundlegender Erlaß über die vorbeugende Verbrechensbekämpfung</i> :	Circular Decree Concerning the Preventative Fight against Crime
GVBl.: <i>Gesetzesverordnungsblatt</i> :	Official Law and Ordinance Gazette
<i>Haftentschädigung</i> :	compensation for wrongful imprisonment
<i>Härteausgleich</i> :	Hardship Allowance
<i>Härtefonds</i> :	Hardship Fund
HStA: <i>Hauptstaatsarchiv</i> :	Main State Archive
JCC:	Conference on Jewish Material Claims Against Germany ('Jewish Claims Conference' in the text)
JRSO:	Jewish Restitution Successor Organisation
JTC:	Jewish Trust Corporation
KdF: <i>Kraft durch Freude</i> :	Strength through Joy
KPD: <i>Kommunistische Partei Deutschlands</i> :	Communist Party of Germany
<i>Kreis</i> :	District

<i>Kreisausschuß:</i>	District Committee
<i>Kriegsopfer:</i>	Victim of War
<i>Kripo: Kriminalpolizei:</i>	Criminal Police
<i>KSHA: Kreissonderhilfsausschuß:</i>	District Special Relief Committee
<i>KZ-Ausschüsse:</i>	Concentration Camp Commissions
<i>LAG: Lastenausgleichsgesetz:</i>	Equalisation of Burdens Law
<i>Land / Länder:</i>	Federal state(s)
<i>Landeskriminalamt:</i>	State Office of Criminal Investigation
<i>Landesrentenbehörde:</i>	State Pension Authority
<i>Landfahrerverordnung:</i>	Decree on Vagrants
<i>Landfahrezentrale:</i>	Central Agency for Vagrants
<i>Landrat:</i>	District Administrator
<i>Landratsamt:</i>	Office of the District Administrator
<i>LG: Landesgericht:</i>	District Court
<i>LMU: Ludwig-Maximilians-Universität München:</i>	Ludwig-Maximilian University of Munich
<i>MdE: Minderung der Erwerbsfähigkeit:</i>	Reduction in Earning Capacity
<i>Mitläufer:</i>	Nominal Member of the NSDAP
<i>Nds: Niedersächsisch:</i>	relating to Lower Saxony
<i>NdsGVBl.: Niedersächsisches Gesetzesverordnungsblatt:</i>	Law and Ordinance Gazette of Lower Saxony
<i>NLA: Niedersächsisches Landesarchiv:</i>	State Archive of Lower Saxony
<i>NRW: Nordrhein-Westfalen:</i>	North Rhine-Westphalia
<i>NSDAP: Nationalsozialistische Deutsche Arbeiterpartei:</i>	National Socialist German Workers Party
<i>NS-Verfolgtenentschädigungsgesetz:</i>	Compensation Law for Persons Persecuted under National Socialism
<i>Oberbürgermeister:</i>	Lord Mayor
<i>OFD: Oberfinanzdirektion:</i>	Regional Fiscal Authority
<i>OKW: Oberkommando der Wehrmacht:</i>	Central Command of the German Army
<i>OLG: Oberlandesgericht:</i>	Higher District Court
<i>OMGUS:</i>	Office of the Military Government, United States
<i>PTSD:</i>	Post-traumatic stress disorder
<i>Regierungsbezirk:</i>	District
<i>Regierungspräsident:</i>	President of the Administrative Headquarters
<i>Regierungspräsidium:</i>	Administrative Headquarters

<i>Reichszentrale zur Bekämpfung der Zigeunerplage:</i>	Reich Central Agency for Combating the Gypsy Plague
<i>RGBl.: Reichsgesetzblatt:</i>	Law Gazette of the German Reich
<i>RKPA: Reichskriminalpolizeiamt:</i>	Reich Criminal Police Office
<i>RM: Reichsmark:</i>	German Reich Mark
<i>RMBlV: Ministerialblatt des Reichs- und preußischen Ministeriums des Innern:</i>	Ministerial Gazette of the German Reich and Prussian Ministry of Interior
<i>RSHA: Reichssicherheitshauptamt:</i>	Central Office of the Security Police
<i>RzW: Rechtsprechung zum Wiedergutmachungsrecht</i>	Journal of the Court of Restitution
<i>SA: Sturmabteilung:</i>	National Socialist Storm Division
<i>Schnellbrief:</i>	Edict
<i>Schutzhaft:</i>	Protective Custody
<i>SED: Sozialistische Einheitspartei Deutschlands:</i>	Socialist Unity Party of (East) Germany
<i>Sipo: Sicherheitspolizei:</i>	Security Police
<i>Sonderhilfsausschuss:</i>	Special Relief Committee
<i>Spätauswanderer:</i>	Late Emigree
<i>SPD: Sozialdemokratische Partei Deutschlands:</i>	Social Democratic Party of Germany
<i>SS: Schutzstaffel:</i>	National Socialist Paramilitary Force
<i>Staatsarchiv:</i>	State Archive
<i>Staatsministerium:</i>	State Ministry
<i>Stiftung ‘Erinnerung, Verantwortung und Zukunft’ (EVZ):</i>	German Foundation ‘Remembrance, Responsibility and Future’
<i>URO:</i>	United Restitution Organisation
<i>USEG: United States Entschädigungsgesetz:</i>	United States Compensation Law
<i>USHMM:</i>	United States Holocaust Memorial Museum
<i>Vorbeugehaft:</i>	Preventive Custody
<i>VVN: Vereinigung der Verfolgten des Naziregimes:</i>	Association of Persecutees of the Nazi Regime
<i>WG / WGM: Wiedergutmachung:</i>	Compensation and Restitution
<i>Wiedergutmachungsamt:</i>	Compensation Office
<i>Wiedergutmachungsausschuss:</i>	Compensation Committee
<i>Wiedergutmachungsdezernat:</i>	Compensation Department
<i>Wiedergutmachungsdispositionsfonds:</i>	Compensation Disposition Fund
<i>Zentralrat Deutscher Sinti und Roma:</i>	Central Council of German Sinti and Roma (‘Central Council’ in the text)
<i>ZPA: Zonen Politik Anweisung:</i>	Zonal Instruction

# Glossary

## *Currencies*

- Reichsmark (Deutsches Reich, until 1948)
- German Mark (West Germany)
- (East) Mark (East Germany)

## *Selected Laws Predating 1933*

- 1900 German Civil Code (*Bürgerliche Gesetzbuch* – BGB)
- 1926 Law for the Restriction (lit.: ‘combat’) of Gypsies, Travellers and the Workshy  
*Gesetz zur Bekämpfung von Zigeunern, Landfahrern und Arbeitsscheuen*

## *Selected National Socialist Laws and Decrees*

- 1933 Law Concerning the Confiscation of Assets from Enemies of the People and State (*Gesetz über die Einziehung volks- und staatsfeindlichen Vermögens*)
- 1933 Law for the Prevention of Offspring with Hereditary Diseases *Gesetz zur Verhütung erbkranken Nachwuchses (Erbgesundheitsgesetz)*
- 1935 Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre (*Blutschutzgesetz* – RGBL) [Nuremberg Law]
- 1935 Reich Citizenship Act *Reichsbürgergesetz* [Nuremberg Law]
- 1935 Law for the Protection of the Hereditary Health of the German People (Marital Health Law) *Gesetz zum Schutze der Erbgesundheit des deutschen Volkes (Ehegesundheitsgesetz)*
- 1937 Fundamental Decree Concerning the Preventative Combat of Crime by the Police *Grundlegender Erlaß über die vorbeugende Verbrechensbekämpfung durch die Polizei*
- 1938 Decree for Combating the Gypsy Plague *Erlaß zur Bekämpfung der Zigeunerplage*
- 1938 Operation Reich Workshy *Aktion Arbeitsscheu Reich*
- 1939 Compulsory Settlement Order *Festsetzungserlaß*
- 1943 Auschwitz Decree *Auschwitz Erlass*

## *Selected Post-War Laws*

- 1949 Federal Basic Law *Grundgesetz* – GG (‘Grundgesetz’ in the text)
- 1949 Law Concerning Compensation for Deprivation of Liberty for Political, Racial and Religious Reasons (*Gesetz über Entschädigung für Freiheitsentziehung*)

- aus politischen, rassischen und religiösen Gründen – Haftentschädigungsgesetz*) [Compensation for Wrongful Imprisonment Law]
- 1950 Federal War Victims Relief Act *Gesetz über die Versorgung der Opfer des Krieges (Bundesversorgungsgesetz – BVG)*
- 1952 Equalisation of Burdens Law *Lastenausgleichsgesetz – LAG*
- 1953 Supplemental Federal Compensation Law *Bundesergänzungsgesetz zur Entschädigung für Opfer der nationalsozialistischen Verfolgung (Bundesergänzungsgesetz – BErgG)*
- 1953 Federal Expellee Law *Gesetz über die Angelegenheiten der Vertriebenen und Flüchtlinge (Bundesvertriebenengesetz – BVFG)*
- 1956 Federal Compensation Law *Bundesgesetz zur Entschädigung für Opfer der nationalsozialistischen Verfolgung (Bundesentschädigungsgesetz – BEG)*
- 1957 Federal Restitution Law (*Bundesrückerstattungsgesetz – BRüG*)
- 1957 Law for the General Regulation of Damages created by the War and the Breakup of the German Reich [in the text: General War Consequences Law] *Gesetz zur allgemeinen Regelung durch den Krieg und den Zusammenbruch des Deutschen Reiches entstandener Schäden (Allgemeines Kriegsfolgegesetz – AKG)*
- 1965 Final Federal Compensation Law (*Bundesentschädigungsschlußgesetz – BEG-S*)
- 1994 Law for the Compensation of NS Persecutees (*NS-Verfolgtenentschädigungsgesetz – NS-VEntschG*)

#### *Selected National Socialist Organisations/Terms*

Central Command of the German Army	<i>Oberkommando der Wehrmacht – OKW</i>
Central Office of the Security Police <i>Generalgouvernement</i>	<i>Reichssicherheitshauptamt – RSHA</i> [occupied Poland]
<i>Gestapo</i>	Secret State Police ( <i>Geheime Staatspolizei</i> )
Operation Reich Workshy	<i>Aktion Arbeitsscheu Reich</i>
Reich Criminal Police Office	<i>Reichskriminalpolizeiamt – RKPA</i>

#### *Selected Post-War Organisations/Terms*

Central Council of German Sinti and Roma	<i>Zentralrat Deutscher Sinti und Roma</i> [also referred to as ‘Central Council’ in the text]
Compensation for Wrongful Imprisonment	<i>Haftentschädigung</i>
District Special Relief Committee District	<i>Kreissonderhilfssausschuß – KSHA</i> <i>Regierungsbezirk</i>

Federal Supreme Court of Germany	<i>(Bundesgerichtshof – BGH)</i>
Green Party	correctly: The Greens/ <i>Die Grünen</i> [since 1990: <i>Bündnis 90/Die Grünen</i> ]
<i>Grundgesetz</i>	Federal Basic Law of West/re-unified Germany
Jewish Claims Conference	(full title: Conference on Jewish Material Claims Against Germany) – JCC
Local District	<i>(Land)Kreis</i>
Nominal member [of the NSDAP]	<i>Mitläufer</i> (lit. someone who follows the crowd)
Social Democratic Party (correctly: Social Democratic Party of Germany)	<i>Sozialdemokratische Partei Deutschlands</i> – SPD
Society for Endangered Peoples	<i>Gesellschaft für bedrohte Völker</i>
Support Agency for Victims of Fascism	<i>Betreuungsstelle für Opfer des Faschismus</i>
<i>Wiedergutmachung</i>	lit. ‘making good again’ (see discussion in chapter one)



## Introduction

The Roma are the largest ethnic minority in Europe,<sup>1</sup> and yet their stories, customs, language and history have received relatively little attention. Everybody seems to know what and who ‘Gypsies’ are, yet few are acquainted with more than the standard myths and prejudices, ranging from the romantic view of the Roma as a free-spirited and musical people, to the old stereotypes of the Roma as vagabonds, thieves and child kidnappers. This book will use the word ‘Roma’ to describe this group as a whole.<sup>2</sup>

Academic interest in the Roma began in the late eighteenth century when they became a topic of philological interest, since they were believed to be of Indian origin and to speak a language descended from Sanskrit. They were also studied as curiosities and perceived as almost medieval cultural oddities.<sup>3</sup> During this time, contact with the Roma was largely limited to the police and welfare institutions, thus emphasising the stereotypes of Roma as socially irresponsible criminals.

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<sup>1</sup> The European Commission put the estimated number of Roma in Europe at about ten million in 2004. European Commission, *The Situation of Roma in an Enlarged European Union* (Office for Official Publications of the European Communities, Luxembourg, 2004), p. 9.

<sup>2</sup> There are many different names employed for describing parts of this minority group or their entirety. This book will use the word ‘Roma’ to describe this group as a whole. This is the plural of a Romani word for ‘person’, with ‘Rom’ being the singular. In Germany, the commonly used phrase is ‘Sinti and Roma’, which describes the two major sub-sections of this minority group in Germany. Sinti are the Roma who have lived in Germany for several centuries, i.e. the ‘German Roma’ (singular Sinto/Sintezza), while ‘Roma’ refers to the Roma from the East (comparable to the term ‘Ostjuden’, as employed in the late nineteenth and early twentieth centuries). Other groupings include Kále, Lalleri, Manusch and Kalderash. The term ‘Jenische’ in German-speaking countries refers to a group that has at times been called the ‘weiße Zigeuner’ because of their nomadic lifestyle. Their origin is uncertain, and although at times they describe themselves as being of Celtic origin, this has not been sufficiently established. Talking of ‘Gypsies’ or ‘Zigeuner’ has generally been discredited, and will only be used in inverted commas, in the context of the Third Reich, or with regard to measures against this minority group preceding the Third Reich. This use is necessary because at times the group targeted by these measures was larger than those who regarded themselves as ethnic Roma – the ‘Jenische’ were, for instance, also targeted by National Socialist racial policies. It was used as a catch-all phrase with a deliberately vague definition, so that it could be employed according to the lawmakers’ desires. The term ‘Gypsy’ or ‘Zigeuner’ very frequently included vagabonds, ‘vagrants’ and the ‘workshy’. Throughout the book, ‘Gypsy/Gypsies’ (in inverted commas) will be used as a translation for the National Socialist concept of ‘Zigeuner’.

<sup>3</sup> J. C. C. Rüdiger, *Von der Sprache und Herkunft der Zigeuner aus Indien* (Kummer, Leipzig, 1782); H. M. G. Grellmann, *Die Zigeuner. Ein historischer Versuch über die Lebensart und Verfassung, Sitten und Schicksale dieses Volkes in Europa, nebst ihrem Ursprung* (Dieterich, Dessau/Leipzig, 1783) (first English translation in 1787); A. F. Pott, *Zigeuner in Europa und Asien* (Heynemann, Halle, 1844/45).



It took a major catastrophe for the Roma – the Holocaust – for serious academic interest in them to be stirred, and even then there was a thirty-year delay.<sup>4</sup> This interest began with the belated acceptance, in Germany and elsewhere, that the Roma, too, had been victims of the Holocaust. However, a detailed study of the persecution of Roma during the Third Reich has only been undertaken for the German-speaking territories.<sup>5</sup> The increased attention paid to the persecution of Jews in the Eastern occupied territories in the late 1990s did not include any detailed study of the Roma's persecution in these areas. Ulrich Herbert's collection of essays, *Nationalsozialistische Vernichtungspolitik 1939–1945. Neue Forschungen und Kontroversen* (National Socialist Policy of Destruction 1939–1945. New Research and Controversies),<sup>6</sup> published in 1998, contained new research on areas such as Galicia, Serbia, Belarus, Lithuania and occupied Poland. However, the focus was on Jewish victims, and Roma were not mentioned in these studies, with the exception of Walter Manoschek's study of Serbia, where the murder of Roma is briefly mentioned in the context of the autumn 1941 *Wehrmacht* shootings of Jews, Communists and 'Gypsies' in Serbia.<sup>7</sup> After modern academics began to take an interest in the Roma, they were described as 'forgotten victims'. They were doubly forgotten: largely ignored by the authorities immediately after the war, and absent from the public and historical memory of the Holocaust in West Germany and elsewhere.<sup>8</sup> This book examines the period in West German history during which the Roma were not yet known as 'forgotten victims' – the time between the end of the war and

<sup>4</sup> Estimates of the numbers killed vary considerably between 90,000 and 500,000. Zimmermann puts the number of Roma killed in the territories controlled by the National Socialists at a minimum of around 90,000. Kenrick and Puxon estimated in their 1972 edition that about 219,000 out of a European pre-war population of one million Roma were killed. However, in 1989 Kenrick revised this figure to 196,000 deaths out of a pre-war population of 831,000. His 1995 edition cites 200,000 deaths, but suggests that if one added those Roma killed as soldiers, during bombardments and air raids, and examined more archival material, these numbers might well add up to 500,000 (this being the number commonly cited by the Roma representatives, such as Romani Rose, president of the *Zentralrat Deutscher Sinti und Roma*). See M. Zimmermann, *Rassenutopie und Genozid. Die nationalsozialistische 'Lösung der Zigeunerfrage'* (Christians, Hamburg, 1996), pp. 381–383; D. Kenrick, G. Puxon, *The Destiny of Europe's Gypsies* (Basic Books, N.Y., 1972), pp. 83–94; D. Kenrick, G. Puxon, *Gypsies under the Swastika* (University of Hertfordshire Press, Hatfield, 1995), p. 150; R. Rose, W. Weiss, *Sinti und Roma im 'Dritten Reich'. Das Programm der Vernichtung durch Arbeit* (Lamuv, Göttingen, 1991), p. 176; W. Wippermann, 'Wie die Zigeuner' *Antisemitismus und Antiziganismus im Vergleich* (Elefanten, Berlin, 1997), p. 167; G. Lewy, *The Nazi Persecution of the Gypsies* (Oxford University Press, Oxford, 2000), pp. 221–222.

<sup>5</sup> Zimmermann, *Rassenutopie und Genozid*.

<sup>6</sup> U. Herbert, (ed.), *Nationalsozialistische Vernichtungspolitik 1939–1945. Neue Forschungen und Kontroversen* (Fischer, Frankfurt am Main, 1998).

<sup>7</sup> W. Manoschek, 'Die Vernichtung der Juden in Serbien', in Herbert, *Nationalsozialistische Vernichtungspolitik*, pp. 209–234, here pp. 223–228; Michael Zimmermann's contribution to this collection gives a very broad overview of the National Socialist persecution of Roma, with only about four pages on the mass shootings in the Soviet Union, occupied Poland and Serbia. M. Zimmermann, 'Die nationalsozialistische "Lösung der Zigeunerfrage"', Herbert, *Nationalsozialistische Vernichtungspolitik*, pp. 235–262.

<sup>8</sup> This book concentrates on West Germany and later re-unified Germany, but leaves out the German Democratic Republic and Austria.

the beginning of a Roma civil rights movement in West Germany, formalised in February 1982 with the creation of the Central Council of German Sinti and Roma (*Zentralrat Deutscher Sinti und Roma*, henceforth referred to as ‘Central Council’) under the chairmanship of the Sinto Romani Rose, which went hand in hand with increasing attention being paid to ‘forgotten victims’ within West Germany. By looking at how the West German *Wiedergutmachung*<sup>9</sup> – i.e. the state compensation of individual Holocaust victims, along with the restitution of properties and possessions to victims of racial, religious and political persecution – affected Roma, this book uncovers not only how Roma were treated within the *Wiedergutmachungs*-apparatus, but also how these compensatory measures have been perceived by German Roma since the war. Through this we can understand how West Germany administered the attempt to compensate for the victims’ suffering. The case of the Roma shows in particular how the West German administration, officials, and legal apparatus defined and classified National Socialist injustice, and unveils where injustices and pejorative attitudes were allowed to continue.

The term ‘*Wiedergutmachung*’ is in itself problematic. It is argued that crimes such as the extermination of an entire family can never be ‘made good again’, and that thus the term ‘*Wiedergutmachung*’ is a misnomer. Most works on *Wiedergutmachung* begin with a statement on this term’s moral inappropriateness, and the Hebrew expression for the West German compensation payments, *Shilumim*,<sup>10</sup> carries with it no sense of exculpation.<sup>11</sup> As Constantin Goschler has pointed out, the definition of ‘wiedergutmachen’ in the *Grimmsche Wörterbuch* shows that the word can mean much the same as ‘ersetzen, bezahlen, sühnen’ (replace, repay, atone) – which are words that do not necessarily imply ‘forgiveness’.<sup>12</sup> The German term was suggested by German-Jewish emigrants, and was first used by Siegfried Moses in 1943 in Tel Aviv, in an article entitled *Die Wiedergutmachungsforderungen der Juden* (Compensation Demands by the Jews).<sup>13</sup> It is important to acknowledge that *Wiedergutmachung* has been used as a technical term by all sides involved in the process since the war, and has by now become an historical idiom in itself: a collective noun describing all payments made by West (and later re-unified) Germany. It is in this manner that *Wiedergutmachung* will be used throughout this work, without implying that the German state can, in reality, seek a historical redemption. The term

<sup>9</sup> *Wiedergutmachung* is a noun literally meaning ‘making good again’.

<sup>10</sup> The term derives from *shalem*, meaning ‘to pay’; it is used in this conjugation only in the context of German payments to Israel.

<sup>11</sup> D. Forster, ‘*Wiedergutmachung*’, in *Österreich und der BRD im Vergleich* (Studien, Innsbruck / Wien / München, 2001), p. 27.

<sup>12</sup> The *Grimmsche Wörterbuch* is the most comprehensive German dictionary, started by the brothers Grimm in 1838, and taking over 120 years to be completed. See C. Goschler, *Wiedergutmachung. Westdeutschland und die Verfolgten des Nationalsozialismus (1945–1954)* (Oldenburg, München, 1992), p. 25.

<sup>13</sup> H. G. Hockerts, ‘Wiedergutmachung. Ein umstrittener Begriff und ein weites Feld’, in H. G. Hockerts, C. Kuller, (eds), *Nach der Verfolgung. Wiedergutmachung nationalsozialistischen Unrechts in Deutschland?* (Wallstein, Göttingen, 2003), pp. 7–34, here p. 10.

*Wiedergutmachung* encompasses all payments made by the West German government: to individuals, to other countries and to organisations representing victim groups. Thus, the term includes the restitution payments in relation to assets, compensation payments to German victims of National Socialism, global agreements with other countries (Israel and Western European countries in the 1950s and 1960s and Eastern European countries from the 1970s onwards), which intended to compensate non-German victims of National Socialism, and settlements specifically concerning social security payments. In a non-monetary sense, *Wiedergutmachung* also encompasses legal rehabilitation (i.e. the rectification of unlawful court decisions) particularly in the field of penal justice, but also, for example, the restoration of citizenships or academic titles.<sup>14</sup> The overall financial implications of *Wiedergutmachung* for Germany were initially substantial. Until the early 1960s, the burden on the national economy was significant, with between 2.4 and 5.5 percent of the annual fiscal budget of the German Federal State (*Bund*) and the German federal states (*Länder*) being reserved for compensation payments between 1955 and 1959. From the mid-1960s this percentage decreased due to Germany's successful economic growth and, since 1980, compensation payments have made up only about 0.5 percent of federal expenditure (a similar downward trend can be found at state level).<sup>15</sup> The former President of the Lower House of the German Parliament (*Bundestag*), Wolfgang Thierse, proclaimed in December 1998 that in the currency value of that day (i.e. taking inflation into account), a total of circa 108.5 billion Euros had been spent by West and later re-unified Germany on *Wiedergutmachung*.<sup>16</sup> As compensation pensions are still being paid to victims of National Socialism, the exact cost to date of *Wiedergutmachung* cannot be established.

The latest available figures come from an August 2006 Federal Finance Ministry report, which puts the overall figure for compensation paid at 63.22 billion Euros by the end of 2005 (not taking inflation into account).<sup>17</sup> Of this sum, 44.54 billion Euros were paid under the three Compensation Laws of 1953, 1956 and 1965 (each being an improvement/extension of the previous: the 1953 Supplemental Federal Compensation Law (*Bundesergänzungsgesetz* – BErgG), the 1956 Federal Compensation Law (*Bundesentschädigungsgesetz* – BEG) and the 1965 Final Federal Compensation Law (*Bundesentschädigungs-Schlußgesetz* – BEG-S)).<sup>18</sup> A further 2.02 billion Euros were paid under the 1957 Federal Restitution

<sup>14</sup> Hockerts, 'Wiedergutmachung. Ein umstrittener Begriff und ein weites Feld', p. 11.

<sup>15</sup> K. Heßdörfer, 'Die finanzielle Dimension', in L. Herbst, C. Goschler, (eds), *Wiedergutmachung in der Bundesrepublik Deutschland* (Oldenburg, München, 1989), p. 59.

<sup>16</sup> H. G. Hockerts, 'Wiedergutmachung in Deutschland. Eine historische Bilanz 1945–2000', in K. Doering, B. Fehn, H. G. Hockerts, *Jahrhundertschuld, Jahrhundertühme: Reparationen, Wiedergutmachung, Entschädigung für nationalsozialistisches Kriegs- und Verfolgungsunrecht* (Olzog, München, 2001), p. 142.

<sup>17</sup> Bundesministerium der Finanzen, *Entschädigung von NS-Unrecht. Regelungen zur Wiedergutmachung* (Berlin, August 2006), p. 37.

<sup>18</sup> 18.9.1953: Bundesergänzungsgesetz zur Entschädigung für Opfer der nationalsozialistischen Verfolgung (BErgG) (Supplementary Law for the Compensation of the Victims of National Socialist Persecution), in *Bundesgesetzblatt* 1953, Teil I, Band 2, pp. 1387–1408; 29.6.1956: Bundesgesetz zur

Law (*Bundesrückerstattungsgesetz* – BRüG). The post-re-unification Law for the Compensation of NS Persecutees (*NS-Verfolgtenentschädigungsgesetz*) amounted to 1.22 billion Euros, the 1952 Luxembourg Agreement with Israel was worth 1.76 billion Euros,<sup>19</sup> other global agreements amounted to 1.46 billion Euros, and the Foundation ‘Remembrance, Responsibility and Future’ created by the re-unified German government and German industry in 2000<sup>20</sup> amounted to 2.56 billion Euros. Other compensation-related payments made up for the remainder.<sup>21</sup> For the sake of comparison, a total of 130 billion German Marks (c. 65 billion Euros) were paid in connection with the Equalisation of Burdens Law (*Lastenausgleichsgesetz*). This law paid compensation to Germans who suffered financial damage as a result of the war (e.g. bomb victims, Germans fleeing former German territories in Eastern Europe) or as a result of the 1948 Currency Reform.<sup>22</sup> Whilst this figure is comparable to that of the *Wiedergutmachungs*-payments,<sup>23</sup> the number of recipients – 20 million people – was much larger (1.5 million victims received compensation under the Federal Compensation Law), and thus the sums individuals received under the Equalisation of Burdens Law were smaller.<sup>24</sup>

The West German laws concerning compensation and restitution were passed in the 1950s (the Federal Compensation Law and the Federal Restitution Law), and the relevant details of these laws will be discussed in chapters four and seven. The justification for creating separate laws for compensation and restitution, as well as the categorisation of victims and the language that were to be used in these laws, were established within a few months of the defeat of Germany by the Western Allies. As this book will show, much of the Roma’s case for compensation, and to a lesser degree for restitution, was governed by these categories,

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Entschädigung für Opfer der nationalsozialistischen Verfolgung (Bundesentschädigungsgesetz – BEG) (Federal Law for the Compensation of the Victims of National Socialist Persecution), in *Bundesgesetzblatt* 1956, Teil I, pp. 562–596 (retrospectively active from 1.10.1953); 14.9.1965: Zweites Gesetz zur Änderung des Bundesentschädigungsgesetzes (BEG-Schlussgesetz) (Final Federal Compensation Law), in *Bundesgesetzblatt* 1965, Teil I, Band 2, pp. 1316–1340.

<sup>19</sup> The Luxembourg Agreement obliged Germany to pay three billion German Marks to the state of Israel over twelve years, as well as 450 million German Marks to the Conference on Jewish Material Claims against Germany (Jewish Claims Conference) which represented the compensation claims of Jews living outside Israel and Germany.

<sup>20</sup> The Foundation ‘Remembrance, Responsibility and Future’ which dealt with the compensation of forced and slave labour defined slave labourers as persons who were forced to perform work in a concentration camp (as defined by previous German compensation legislation), a ghetto or a similar place of incarceration under comparable conditions (victims of slave labour were eligible for up to 7,669 Euros). In contrast, forced labourers were persons who had been deported from their homeland to the territory of the German Reich or to a German occupied area and forced to perform work (victims of forced labour were eligible for up to 2,556 Euros). G. Saathoff, ‘Entschädigung für Zwangsarbeiter?’, in H. G. Hockerts, C. Kuller, (eds), *Nach der Verfolgung. Wiedergutmachung nationalsozialistischen Unrechts in Deutschland?* (Wallstein, Göttingen, 2003), pp. 241–273, here p. 251.

<sup>21</sup> Bundesministerium der Finanzen, *Entschädigung von NS-Unrecht* (August 2006), p. 37.

<sup>22</sup> LAG: Lastenausgleichsgesetz: ‘Gesetz über den Lastenausgleich’, effective from 1 September 1952, in *BGBI. I*, p. 446.

<sup>23</sup> Hockerts, ‘Wiedergutmachung in Deutschland. Eine historische Bilanz 1945–2000’, p. 108.

<sup>24</sup> K. Heßdörfer, ‘Die finanzielle Dimension’, in Herbst, Goschler, *Wiedergutmachung*, p. 55.

and particularly the question of whether the Roma fell within them. Therefore the genesis of these categories and the language employed is examined in greater detail in this introduction.

In principle, victims of National Socialist persecution could have made claims for crimes against persons and property under the pre-existing laws of the German state, such as the German Civil Code (*Bürgerliche Gesetzbuch*, BGB),<sup>25</sup> as well as under individual laws such as the Law regulating Compensation for False Imprisonment (*Gesetz über die Entschädigung für unschuldig erlittene Untersuchungshaft*) or the Riot Damages Law (*Gesetz über die Haftung bei Tumultschäden*).<sup>26</sup> The German Civil Code, which came into effect in 1900, stipulated that citizens were entitled to compensation for injustices done to them. According to the German Civil Code, the victim's original situation had to be restored and if that was no longer possible, compensation had to be paid. It also acknowledged that immaterial damages, and particularly death, could not be reversed and thus created the principle of compensation (*Schadensersatz*). Paragraphs 823 to 853 of the German Civil Code regulate illicit actions (*unerlaubte Handlungen*), and the first paragraph of that section very clearly states that action can be taken against unlawful deeds: 'Any person who has intentionally or negligently unlawfully violated the life, body, health, liberty, property or any other rights of a third person is obliged to compensate the resulting damage.'<sup>27</sup> These categories were to form the basis for the damage categories of Compensation Laws, discussed in chapter four. The actions of civil servants or other state servants are regulated by paragraphs 839 and 841.

The application of these existing laws in the post-war period would have created problems; although the victims had a right to compensation under said laws, the majority of claims would have failed under these laws because of the conditions that had to be established for a successful claim. In contrast to other nations, claims for repairing damage (*Schadensersatz*) could not be made against state institutions (for instance the *Schutzstaffel* (SS) – Protection Squadron) or the *Sturmabteilung* (SA – Storm Division), but had to be directed against a specific individual.<sup>28</sup> The state would then pay compensation on behalf of the civil servant except when the civil servant had acted with gross negligence (*grob fahrlässig*), in which case he was held responsible. Claimants would have needed to identify the individual who had committed the crime (*Schädiger*), discover his whereabouts, supply evidence and documents, and present witnesses; all of which was often near-impossible. In general, the burden of proof remained upon the claimant, rather than the person against whom the claim was directed. Another complicating factor was that a legal successor (*Rechtsnachfolger*) of

<sup>25</sup> Bürgerliches Gesetzbuch, 1.1.1900, in *Reichsgesetzblatt*, p. 195.

<sup>26</sup> G. Blessin, 'Wiedergutmachung' (Hohwacht, Bad Godesberg, 1960), p. 16.

<sup>27</sup> *Bürgerliches Gesetzbuch vom 18. August 1896. Faksimileausgabe anlässlich der Verkündung des BGB vor 100 Jahren* (C. H. Beck, München, 1996), pp. 194–195: 'Wer vorsätzlich oder fahrlässig das Leben, den Körper, die Gesundheit, die Freiheit, das Eigentum oder ein sonstiges Recht eines Anderen widerrechtlich verletzt, ist dem Anderen zum Ersatze des daraus entstehenden Schadens verpflichtet.'

<sup>28</sup> The German language and law differentiates between 'Entschädigung' and 'Schadensersatz', the former replacing what has been lost and the latter making up for the long-term damage done by a certain action.

the German Reich or the National Socialist organisations did not exist until the creation of the *Grundgesetz* (Federal Basic Law) in May 1949, when the Federal Republic of Germany agreed to solve the issue of legal succession (GG, §§ 134 (4), 135 (5)) and took on parts of this legal succession.<sup>29</sup>

International law appeared to some to be an avenue for pursuing claims. However, compensation and restitution claims by German citizens could not have been made under international law (nor under reparation payments, which are made between nations) because German citizens fell under German jurisdiction. In contrast, compensation or restitution claims by non-German citizens could, in theory, have been part of reparation payments or dealt with by inter-state agreements. In addition, there was the problem that the National Socialist state had legalised many of its persecution measures, particularly the expropriation of property, so that the victims had no right to a claim under the civil code. Therefore, it was difficult to find an existing legal basis to demand restitution for expropriation that had taken place within existing German laws.

In the end, the legal structures to handle compensation were largely established by the authorities in the American Occupied Zone, by the creation of a Federal Compensation Law. On orders of the Supreme Commander of the American Occupied Zone, the state presidents (*Ministerpräsidenten*) in the south of the Western Occupied Zones created a Council of States (*Länderrat*) in October 1945, which in the same year started to discuss the issue of *Wiedergutmachung*. Initially this was part of the responsibility of the Legal Committee (*Rechtsausschuß*), but the magnitude of the issue was rapidly recognised and soon a specific committee, the Select Committee on Property Control (*Sonderausschuß Eigentumskontrolle*), was created to deal with this issue. The committee very quickly decided that claims could not remain the responsibility of the individual victims, since the burden on them to provide the necessary proof, combined with the sheer number of potential claims, would lead to a chaos the post-war judicial system was ill-equipped to deal with. One alternative would have been to deal with this issue as part of a central solution to all consequences of the war and the National Socialist system, including the payment of reparations. Since this would have to be directed through a central agency, the Select Committee was concerned that the process would be delayed by several years at least.

Accordingly, the Select Committee decided to separate restitution and compensation as two different spheres of responsibility. Restitution could be dealt with more swiftly because it was not linked to a monetary reform or governmental budgetary questions. With regard to compensation, the initial focus was to provide immediate aid in compensation for damage to health and liberty, with an agreement to eventually provide a more long-term solution for compensation as a whole.<sup>30</sup> The Select Committee drafted a first compensation law by July 1946,

<sup>29</sup> Blessin, 'Wiedergutmachung', p. 17.

<sup>30</sup> E. Féaux de la Croix, 'Vom Unrecht zur Entschädigung: Der Weg des Entschädigungsrechts', in Bundesministerium der Finanzen, W. Schwarz, (eds), *Die Wiedergutmachung nationalsozialistischen Unrechts durch die Bundesrepublik Deutschland* (C. H. Beck, München), vol. 3, pp. 1–118, here pp. 37–39.

which was the first systematic attempt to coordinate compensation. However, further work was stalled because the creation of a zonal restitution law was regarded as a priority, and so it took more than another year for the creation of a proposal for a compensation law that was accepted by the Allied Military Government in August 1948 and put into effect as of January 1949.<sup>31</sup> This US Compensation Law (USEG) was the first cornerstone of the development of what was to become the Federal Compensation Law, as the other Western zones modelled their laws after the US Compensation Law, and the Federal Compensation Law was based on the same principles in turn. The USEG also importantly established that victims of National Socialist persecution had a legal right to compensation.<sup>32</sup>

The American-devised law was the first to set out all the aspects of compensation. It also established the terminology, and thus the categories, that would define future lawmaking and debate. The core of the debate was separating the victims of specific National Socialist crimes from the general misery caused by war and defeat.<sup>33</sup> By using the term 'National Socialist injustice' (*nationalsozialistisches Unrecht*) the lawmakers demarcated the victims of National Socialism from the 'ordinary' victims of the war. The key to this demarcation was whether the measures taken were ones generally not found in other Western countries at the time. For instance, forced sterilisations justified by a court decision were not regarded as National Socialist injustices, as this practice had also occurred in other Western nations, such as Sweden and the USA.<sup>34</sup>

The group of victims was further limited to those who were, at the time, seen as having suffered racial, political or religious persecution. This excluded some groups, such as homosexuals, who would later be recognised as having suffered persecution but who were not recognised as legitimate claimants in the immediate post-war period. By the time the legislation was passed, these three categories of persecution – race, politics and religion – were already well established, going back to meetings held by the international community to discuss the fate of refugees from the Third Reich. A conference organised in Evian in July 1938, attended by 33 countries, created a London-based 'International Committee for Refugees', which set itself the task of taking care of those people who wanted to emigrate from the Third Reich for reasons connected to their political views, their 'racial origins' or their religious convictions, thereby identifying these three victim groups.<sup>35</sup> At the Anglo-American refugee conference in the Bermudas in April 1943 the expression 'victims of racial, political or religious persecution' was coined by the US Secretary of State Cordell Hull, thereby creating the fundamental basis and categories for later compensation and restitution regulations and laws.<sup>36</sup>

<sup>31</sup> Féaux de la Croix, 'Vom Unrecht zur Entschädigung: Der Weg des Entschädigungsrechts', pp. 39–40.

<sup>32</sup> Féaux de la Croix, 'Vom Unrecht zur Entschädigung: Der Weg des Entschädigungsrechts', p. 41.

<sup>33</sup> Goschler, *Wiedergutmachung*, p. 13.

<sup>34</sup> See p. 36.

<sup>35</sup> Goschler, *Wiedergutmachung*, p. 50.

<sup>36</sup> Goschler, *Wiedergutmachung*, p. 52.

The terminology used to describe these victims is a reflection of the creation of these three categories, distinguishing those persecuted from other German victims. Both the terms ‘victim’ (*Opfer*) and ‘persecutee’ (*Verfolgter*) are used throughout the debates surrounding victims of National Socialism and their compensation or restitution. In theory, these are two distinct categories, with ‘victim’ being used to refer to all victims of the Third Reich period and ‘persecutee’ being used specifically to refer to those who suffered state persecution. In practice, the terms are often confused, especially since ‘the persecuted’ were by definition also ‘victims’. The use of ‘victim’ to refer to an entire spectrum of wartime agony, from ‘victims of bombings’ to ‘victims of expulsion’ to ‘victims of National Socialist oppression’ also makes it a problematic term, as it diminishes the distinctions between these groups. Zimmermann points out that because of the linguistic similarities of the German words ‘victim’ (*Opfer*) and ‘to sacrifice’ (*opfern*), the German term ‘victim’ is also associated with ‘innocence’ (*Unschuld*) and ‘purity’ (*Reinheit*); the innocence and purity of the sacrificial victim, bestowing a sanctity upon all ‘victims’ of the war in Germany without heed of the moral or historical distinctions involved in their suffering.<sup>37</sup>

Both terms were used from the very beginning, and it seems that the choice of word was linked to the way in which these groups wanted to represent themselves or be represented. For instance, the organisations taking care of victims of National Socialism immediately after the war were called Support Agencies for Victims of Fascism (*Betreuungsstellen für Opfer des Faschismus*), indicating a status of need and the right to special assistance. In contrast, the political organisation that was formed in June 1946 to represent victims of National Socialism, particularly victims of political persecution, was entitled Association of Persecutees of the Nazi Regime (*Vereinigung der Verfolgten des Naziregimes*). It is plausible that this group did not wish to portray itself as a group of helpless victims, but rather as a group of people persecuted for their political convictions and therefore chose the term ‘persecutee’ over ‘victim’.<sup>38</sup>

The Federal Compensation Laws, however, used the term ‘persecutee’ throughout, setting a precedent for later legal usage, except in the first paragraph of the law where it defines the victim of National Socialism as a persecutee:

Any person who, for reasons of political opposition to National Socialism or for reasons of race, religious faith or ideology was persecuted by NS terror acts and who, in consequence thereof, has suffered loss of life, bodily injury or injury to health, loss of liberty, loss of or damage to property, loss of capital resources, damage to his career or his “economic advancement” shall be deemed to be a victim of NS persecution (persecutee).<sup>39</sup>

<sup>37</sup> M. Zimmermann, “‘Jetzt’ und ‘Damals’ als imaginäre Einheit. Erfahrungen in einem lebensgeschichtlichen Projekt über die nationalsozialistische Verfolgung von Sinti und Roma”, in *BIOS, Zeitschrift für Biographieforschung und Oral History*, 2. Heft, 1991, pp. 225–242, here p. 238.

<sup>38</sup> G. Jasper, ‘Die disqualifizierten Opfer’, in Herbst, Goschler, *Wiedergutmachung*, p. 371.

<sup>39</sup> BEG, § 1 (1): ‘Opfer der nationalsozialistischen Verfolgung ist, wer aus Gründen politischer Gegnerschaft gegen den Nationalsozialismus oder aus Gründen der Rasse, des Glaubens oder der



Specific National Socialist injustice is thus defined by its motivation (i.e. racial, political or religious grounds) and victims thereof as ‘persecutees’. This terminology and distinction was the outcome of the very early debates about how to deal with the issue of compensation and restitution, and the fact that these were treated independently from other war consequences (e.g. reparations) is the result of the view that the victims of NS persecution were in fact quite separate from other ‘ordinary’ war victims.<sup>40</sup> In this sense these are a different kind of ‘victims’ than those addressed in the Federal War Victims Relief Act (*Bundesversorgungsgesetz*), which included victims of war (*Kriegsopfer*) and victims of expulsion (*Opfer der Vertreibung*), however much, linguistically, the common term tends to bundle them together.

In 1953, Roma were not expressly excluded from the Supplemental Compensation Law, but they were not specifically included either. Left in this legislative limbo, the decisions concerning individual compensation were in the first few years based on the personal judgement of the responsible authority or bureaucrat dealing with the claim. Initially, in cases where the National Socialist justification for imprisoning Roma had been their criminality or ‘asociality’, claims by Roma for compensation were rejected on the grounds that they had not been victims of racial persecution. In most instances, Roma appealed against rejections of their claims, and so the debate was continued via the local, state and eventually federal courts. The courts attempted to judge whether specific measures, such as the deportation of Roma to Poland in 1940, had been racially motivated, and it is very apparent that, at first, the reasons given by the National Socialists for these actions were taken at face value. That indiscriminate ascription of characteristics such as criminality and ‘asociality’ to an ethnic group was a form of racial persecution in itself was not considered, since the legal personnel involved themselves appear to have unthinkingly accepted anti-Roma stereotypes. It took years of legal battles by Roma to rectify the opinion that before the official Auschwitz Decree of 1943, in which Himmler ordered the deportation of all German Roma to Auschwitz, Roma as a group had not necessarily been discriminated against on racial grounds. This opinion led to absurd cases, such as where a Rom who had been interned in Buchenwald from 1941 until 1945 would only receive compensation for the period between 1943 and 1945, even though his situation did not change in January 1943.

It took continual appeals by Roma, and the insistence of a few courts that there had, in fact, been racial motivations behind the National Socialist measures, for the Federal Supreme Court of Germany (*Bundesgerichtshof* – BGH) to revise its opinion that racial persecution had not begun until 1943. This decision took

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Weltanschauung durch nationalsozialistische Gewaltmaßnahmen verfolgt worden ist und hierdurch Schaden an Leben, Körper, Gesundheit, Freiheit, Eigentum, Vermögen, in seinem beruflichen oder in seinem wirtschaftlichen Fortkommen erlitten hat (Verfolgter).’ Translated into English by the Institute of Jewish Affairs (N.Y.), 1956, p. 9; USHMM, Benjamin B. Ferencz collection (D 819 G3 G425 1956).

<sup>40</sup> Goschler, *Wiedergutmachung*, p. 13.

place in 1963. When the Final Federal Compensation Law was passed in 1965, the implementation of this revised position meant that Roma who had received compensation only for the post-1943 period could renew their claims, and in almost all cases this led to belated compensation payments for the period preceding 1943. However, it took two decades of legal battles by Roma to achieve what had been granted to Jews from the beginning: the explicit assumption that they had been victims of racial persecution.

Yet this book also shows that the story is not entirely one of refusal and prejudice. Archives and biographical material from the immediate post-war period show that attitudes – and to some degree actions – during the immediate post-war period were more favourable, and that Roma did receive some direct aid, compensation and restitution. Rather it was the legalisation of these measures, enshrining certain categorisations, which restricted the Roma's access to compensation: the initial benefits had not led to an explicit recognition of Roma being victims of racial persecutions.

The belated recognition of Roma as victims of National Socialist persecution goes hand in hand with the comparative tardiness in studying their persecution. Similarly, the initial focus of historical studies of *Wiedergutmachung* was on the legal framework and Jews as the main victim group. The academic study of *Wiedergutmachung* was neglected until the late 1980s but has since received significant coverage. The multi-volume work *Die Wiedergutmachung nationalsozialistischen Unrechts durch die Bundesrepublik Deutschland*, edited by Walter Schwarz together with the Finance Ministry, encompassed six volumes published between 1974 and 1987 and opened up the topic of *Wiedergutmachung* as a historical field. This work was not a historical study but rather a collection of reports written by specialists such as judges, heads of ministry departments and presidents of compensation authorities, all of whom had been directly involved in the shaping and implementing of compensation and restitution.<sup>41</sup> This presentation of the view of the state and those involved in *Wiedergutmachung*, which largely described it as a successful venture, led to a number of the medical professionals and academics concerned with non-legal aspects of *Wiedergutmachung* to explore its negative sides.<sup>42</sup> Whereas Schwarz judged the success of *Wiedergutmachung* within the limited means of the Federal Republic of Germany, the authors of the studies that followed, such as Christian Pross,

<sup>41</sup> Bundesministerium der Finanzen, W. Schwarz, (eds), *Die Wiedergutmachung nationalsozialistischen Unrechts*; vol. 1: W. Schwarz, *Rückerstattung nach den Gesetzen der Alliierten Mächte* (1974); vol. 2: F. Biella, H. Buschbom, B. Karlsberg, A. Lauterbach, E. Marsden, W. Meineke, H. Romberg, N. Schmidt, W. Schmidt, F. Schmilinsky, W. Schwarz, E. Weismann, W. Wirth, *Das Bundesrückerstattungsgesetz* (1981); vol. 3: E. Féaux de la Croix, H. Rumpf, *Der Werdegang des Entschädigungsrechts unter national- und völkerrechtlichem und politologischem Aspekt* (1985); vol. 4: W. Brunn, H. Giessler, H., Klee, W. Maier, K. Weiss, *Das Bundesentschädigungsgesetz, Erster Teil (§§ 1 bis 50 BEG)* (1981); vol. 5: H. Giessler, O. Gnirs, R. Hebenstreit, D. Kaulbach, H. Klee, H. Zorn, *Das Bundesentschädigungsgesetz, Zweiter Teil (§§ 51 bis 171 BEG)* (1983); vol. 6: H. Finke, O. Gnirs, G. Kraus, A. Pentz, *Entschädigungsverfahren und sondergesetzliche Entschädigungsregelungen* (1987).

<sup>42</sup> H. Fischer-Hübner, H. Fischer-Hübner, (eds), *Die Kehrseite der 'Wiedergutmachung'. Das Leiden von NS-Verfolgten in den Entschädigungsverfahren* (Bleicher Verlag, Gerlingen, 1990).

examined compensation from the claimants' view, putting their needs at the centre of the debate, and thereby revealing the shortcomings of the system and attacking both the politics of *Wiedergutmachung* and the work of the Finance Ministry in charge of it. Pross, a medical doctor, argued in *Wiedergutmachung. Der Kleinkrieg gegen die Opfer*<sup>43</sup> (Compensation. Small Wars against the Victims) that the methods employed to examine and then judge health damages, together with the cumbersome and lengthy procedures of the German courts, were effective in denying compensation. He accused the bureaucratic apparatus of waging a 'war against the victims'<sup>44</sup> and places this struggle for compensation in a post-war environment where, according to Pross, formerly high-ranking civil servants of the National Socialist state regained their positions and became part of the prospering post-war society, whereas the victims of this regime were exposed to taxing and harsh examinations, which often proved futile in terms of obtaining compensation and recognition. In contrast to the initial works on *Wiedergutmachung*, which focused on the compensation procedures and administration, the new studies highlighted the claimants' experiences, pointing towards systemic injustices.

Broader historical studies of *Wiedergutmachung* began to emerge in the late 1980s in the form of various collections of articles on a variety of aspects of *Wiedergutmachung*. The historical discussion was initiated by a collection of essays, *Wiedergutmachung in der Bundesrepublik Deutschland* (Compensation in the Federal Republic of Germany), published in 1989.<sup>45</sup>

Edited by Ludolf Herbst and Constantin Goschler in 1989, this book contained articles such as on the origin of the compensation law in the American Occupied Zone (by Hans-Dieter Kreikamp), the role of Jewish organisations in the US, and the Conference on Jewish Material Claims Against Germany (JCC, henceforth Jewish Claims Conference) with regard to *Wiedergutmachung* (by Nana Sagi), and the compensation of Roma (by Arnold Spitta). One of the editors, Constantin Goschler, wrote a dissertation on the early phase of *Wiedergutmachung* which was published as a book in 1992.<sup>46</sup> He followed this up with the major work *Schuld und Schulden* (Guilt and Debts), published in 2005, which is considered one of the seminal works on *Wiedergutmachung*.<sup>47</sup> In this book, Goschler gives an overview of the history of compensation, portraying the balance of power of the different actors as well as their mindsets, both of which changed over time. Goschler portrays how both East and West Germany have dealt with their National Socialist past within a changing domestic and international political scene. He traces the origin of *Wiedergutmachung* to 1936,

<sup>43</sup> C. Pross, *Wiedergutmachung. Der Kleinkrieg gegen die Opfer* (Philo, Berlin, 2001) (First published by Athenäum, Frankfurt am Main, 1988.)

<sup>44</sup> Pross, *Wiedergutmachung*, p. 297.

<sup>45</sup> L. Herbst, C. Goschler, (ed.) *Wiedergutmachung in der Bundesrepublik Deutschland* (Oldenburg, München, 1989).

<sup>46</sup> The dissertation was submitted during the winter semester 1990/91 at the Ludwig-Maximilians Universität (München); Goschler, *Wiedergutmachung*.

<sup>47</sup> C. Goschler, *Schuld und Schulden. Die Politik der Wiedergutmachung für NS-Verfolgte seit 1945* (Wallstein, Göttingen, 2005).

when the German Resistance was already discussing the return of possessions and the punishment of wrongdoers. Goschler argues that *Wiedergutmachung* was far from popular with the West German public, as evidenced by Konrad Adenauer having to resort to the support of the opposition party, the Social Democratic Party (SPD), to gain parliamentary enforcement of the Luxembourg Agreement with Israel in 1953, against opposition in his own cabinet. The most frequently cited factor at the time to explain the delay in the creation of the Compensation Laws was the allegedly unpredictable financial burden *Wiedergutmachung* would have on the German economy. Goschler discusses the three Federal Compensation Laws, as well as restitution, and explains the creation of additional funds in the 1980s, and later the Foundation ‘Remembrance, Responsibility and Future’, as a response to demands and problems that had been deferred for decades.

Whereas Goschler’s work concentrates on Israel and Jewish-related aspects of *Wiedergutmachung*, Hans Günter Hockerts’s research opened up wider debates.<sup>48</sup> He was the editor of *Nach der Verfolgung. Wiedergutmachung nationalsozialistischen Unrechts in Deutschland* (After Persecution. Compensation of National Socialist Injustice) which addresses more varied aspects of *Wiedergutmachung* – such as the involvement of the Protestant and Catholic Churches.<sup>49</sup> The broadest project to date started in January 2004, funded by the German-Israeli Foundation for Scientific Research and Development. It examined a wide range of aspects in connection to compensation efforts made by West and re-unified Germany. The involvement of not only historians but lawyers, psychologists, members of the medical profession and political scientists shows that there is a new interest in a much broader examination of the process of *Wiedergutmachung* and its effects. The principal investigators were José Brunner in Tel Aviv (Israel) and Norbert Frei in Jena (Germany) together with Constantin Goschler in Bochum (Germany); each had a research team examining the impact of *Wiedergutmachung* in their countries from different angles, concentrating on the practical sides of compensation and thus on various aspects of the social history of the groups involved (*soziale Erfahrungsgeschichte*).<sup>50</sup> At the centre is the question as to whether the expectations of individuals in regard to compensation and restitution corresponded

<sup>48</sup> Hockerts, Kuller, *Nach der Verfolgung*; see also H. G. Hockerts, ‘Wiedergutmachung in Deutschland. Eine historische Bilanz 1945–2000’, in K. Doehring, B. Fehn, H. G. Hockerts, *Jahrhundertsschuld, Jahrhundertssühne. Reparationen, Wiedergutmachung, Entschädigung für nationalsozialistisches Kriegs- und Verfolgungsunrecht* (Olzog, München, 2001), pp. 91–142. First published as: H. G. Hockerts, ‘Nach der Verfolgung. Wiedergutmachung in Deutschland. Eine historische Bilanz 1945–2000’, in *Jahrbuch des Historischen Kollegs* (Historisches Kolleg, München, 2001), pp. 85–122.

<sup>49</sup> D. Süß, ‘Wiedergutmachung von unten? Katholische Vergangenheitsbewältigung und die Entstehung des Maximilian-Kolbe-Werkes’, in Hockerts, Kuller, *Nach der Verfolgung*, pp. 157–176; C. Staffa, ‘Die “Aktion Sühnezeichen”. Eine protestantische Initiative zu einer besonderen Art der Wiedergutmachung’, in Hockerts, Kuller, *Nach der Verfolgung*, pp. 139–156.

<sup>50</sup> J. Brunner, N. Frei, C. Goschler, ‘Komplizierte Lernprozesse. Zur Geschichte und Aktualität der Wiedergutmachung’, in N. Frei, J. Brunner, C. Goschler, (eds), *Die Praxis der Wiedergutmachung. Geschichte, Erfahrung und Wirkung in Deutschland und Israel* (Wallstein, Göttingen, 2009), pp. 9–47, here p. 22.

(or clashed) with those of the German society.<sup>51</sup> Constantin Goschler explains the purpose of the project as being ‘to analyse the ways in which Nazi victims – Jewish and non-Jewish – were dealt with in Germany and Israel and how this affected their life and their societies.’<sup>52</sup> Goschler’s words reflect the angle that sets his study apart from previous research: instead of focusing on the bureaucratic apparatus that has grown around *Wiedergutmachung*, the project concentrates on its social impact. The editors bring out very clearly how, very much like the writing of the history of *Wiedergutmachung*, the compensation process at the time was very much a ‘work in progress’, meaning that with the continuously changing perception of the crimes of National Socialist Germany, the perception of who was to be regarded as a victim of National Socialism also changed, which is eventually mirrored both in the legislation regulating compensation payments, and in the attitudes of bureaucrats and Germans in general towards these victims.<sup>53</sup>

This research group included a doctoral student, Martin Feyen, working on the compensation of Roma, who has contributed a chapter examining the compensation of Sinti and Roma to the book published by this research team (which will be discussed later in this chapter).<sup>54</sup> The fact that there was a need for such a basic and broad project sixty years after the war shows how little research had been done on this topic to that day, and that in particular the non-legal aspects of this topic had been ignored.

Within the literature on *Wiedergutmachung*, there has been no single published work focusing on the fate of Roma. Michael Zimmermann edited the most recent work on Roma in twentieth-century Europe, published in 2007, entitled *Zwischen Erziehung und Vernichtung. Zigeunerpolitik und Zigeunerforschung im Europa des 20. Jahrhunderts* (Between Education and Destruction. Gypsy Politics and Gypsy Research in 20th Century Europe).<sup>55</sup> This is a very valuable collection studying the place of Roma in Europe, focusing on issues such as the involvement of the police and scientists in the discrimination against Roma throughout the century.<sup>56</sup> In addition to the inclusion of much-needed studies of persecution in Eastern European countries (Bulgaria, Romania, Hungary), one of the book’s most noticeable features is that these studies are not limited to the Third Reich,

<sup>51</sup> Frei, Brunner, Goschler, *Die Praxis der Wiedergutmachung*, p. 23.

<sup>52</sup> C. Goschler, ‘The practice of Wiedergutmachung – introduction’, in *The Practice of Wiedergutmachung: Papers and Minutes*, workshop organised by Norbert Frei, 24–27 June 2004, pp. 4–13, here p. 4.

<sup>53</sup> Frei, Brunner, Goschler, *Die Praxis der Wiedergutmachung*, p. 21.

<sup>54</sup> M. Feyen, ‘“Wie die Juden?” Verfolgte “Zigeuner” zwischen Bürokratie und Symbolpolitik’, in Frei, Brunner, Goschler, *Die Praxis der Wiedergutmachung*, pp. 323–355.

<sup>55</sup> M. Zimmermann, (ed.), *Zwischen Erziehung und Vernichtung. Zigeunerpolitik und Zigeunerforschung im Europa des 20. Jahrhunderts* (Franz Steiner, Stuttgart, 2007).

<sup>56</sup> E. Rosenhaft, ‘Wissenschaft als Herrschaftsakt: Die Forschungspraxis der Ritterschen Forschungsstelle und das Wissen über Zigeuner’, in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 329–353; P. Wagner, ‘Kriminalprävention qua Massenmord. Die gesellschaftsbiologische Konzeption der NS-Kriminalpolizei und ihre Bedeutung für die Zigeunerverfolgung’, in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 379–391; I. Baumann, ‘Kriminalwissenschaft zwischen Aussonderung und Resozialisierung’, in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 463–482.

but emphasise the continuities before and after National Socialism.<sup>57</sup> With the exception of a couple of pages in the articles of Gerhard Baumgartner, Florian Freund and Gilad Margalit, no mention is made of the compensation of Roma, even though the volume thoroughly covers the post-war period.<sup>58</sup>

The fact that the most recent work on Roma does not include a study of their role within *Wiedergutmachung* exemplifies the unexplored nature of this topic. Only a few small-scale attempts have been made to elucidate the topic of Roma and compensation. One of the earliest works on this is a brief article by Arnold Spitta, which forms part of Ludolf Herbst and Constantin Goschler's *Wiedergutmachung in der Bundesrepublik Deutschland* (Compensation in the Federal Republic of Germany).<sup>59</sup> Spitta argues that prejudice is the principal reason why Roma received inadequate compensation, but does not discuss restitution. In his view the main difference between the experience of Jews and Roma as minorities in Germany was that many Jews were relatively assimilated, whilst Roma kept separate from the rest of society. He links this to prejudices before and after the Third Reich, pointing out that these remained intact after the war. Spitta gives an overview of the persecution of Roma during the Third Reich from 1933 onwards and argues that, even if there were fewer edicts against Roma than against Jews, and although there was no Wannsee Conference to decide the 'final solution' of the Roma (although this remains disputed even in the case of the Jewish genocide), their persecution ended in genocide. He acknowledges that Roma were, in the immediate post-war period, often recognised as victims of National Socialist persecution, and received aid available for returning victims. He sees the problem originating in the Federal Compensation Laws, as these restricted the victim group, and thus Roma who had been nominally persecuted for their 'asocial' or criminal traits were excluded under those laws. Spitta explains that the negative rulings by courts and compensation authorities were a result of long-standing prejudices against Roma, and their continued classification as 'asocial' and criminals – thus emphasising the persistence of National Socialist attitudes after the end of the Third Reich. Spitta argues that the employment of former racial scientists and other officials (e.g. police) responsible for the persecution of Roma in the compensation processes – again, a sign of continuity, and the absence of an awareness that injustice had been done – had been a major hindrance to those compensation claims. Spitta contends that, from the 1960s onwards, one could see a change in rulings and attitudes, but that victims

<sup>57</sup> E. Marushiakova, V. Popov, 'Zigeunerpolitik und Zigeunerforschung in Bulgarien (1919–1989)', in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 125–156; V. Achim, 'Gypsy Research and Gypsy Policy in Romania, 1920–1950', in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 157–174; M. Stewart, 'Die Roma und der ungarische Kommunismus 1945–1989. Eine Fallstudie', in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 175–225.

<sup>58</sup> G. Baumgartner, F. Freund, 'Der Holocaust an den österreichischen Roma und Sinti', in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 203–225, here, pp. 220–221; G. Margalit, 'Zigeunerpolitik und Zigeunerdiskurs im Deutschland der Nachkriegszeit', in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 483–509, here, pp. 501–503.

<sup>59</sup> Spitta, 'Entschädigung für Zigeuner? Geschichte eines Vorurteils', in Herbst, Goschler, *Wiedergutmachung*, pp. 385–402.

had been damaged by twenty years of denying their fate, and that by the 1960s, many victims had already died and thus could not benefit from these changing attitudes. He concludes that a lack of public support, press coverage and international pressure on behalf of the Roma meant that they could not rely on the same victim status leverage as Jews. His study offers a good initial overview and some insights into the potential problems, but it remains a sketch, lacking a critical source analysis of compensation files, and thus does not give an impression of actual compensation payments. It also excludes the examination of restitution with the comment that, since Roma tended not to own possessions, the Restitution Law was not relevant to them.<sup>60</sup>

The Israeli historian Gilad Margalit contributed to the post-war study of the German Roma with a book published in 2002, focusing on West Germany. Margalit demonstrates how West Germany continued its discrimination against the Roma, citing examples such as a Bavarian law of 1953 which forced 'vagrants' (which in Germany ordinarily included and often focused on Roma, even if it was not limited to Roma) to carry special passes and to report regularly to the authorities. He regards the attempt by North Rhine-Westphalia in the 1950s to strip the Roma of their German nationality as another effort to restrict the Roma's basic civil rights. Because Roma were not a target group protected by the Allies, Margalit believes that it was unproblematic to continue the fight against Roma using the same methods that had been employed during the early National Socialist period and before. According to Margalit, these post-war methods were founded on the same stereotypes of Roma being criminals and 'asocial' and employed the same terminology. Margalit uses a wide range of official records, from military government documents to state committee meetings, to describe the policies against Roma from the late 1940s to the early 1960s. Because of the archival restrictions (with certain private records not having been opened to the public yet), he based his analysis of the subsequent period on public opinion reports, press reports, fiction and academic literature, as well as films and speeches. This will have invariably made it more difficult to construct a well-balanced story. Margalit argues that, because of the Roma's separateness from the majority population, an image of the Roma clouded by racism, 'asociality' and romanticism had been created long before the Third Reich. This perspective was not abandoned after the war.<sup>61</sup> Margalit makes the point that the persecution of Roma was classified as a 'social policy' against 'asocials', whilst the victimisation of the Jews was seen as being racially motivated. This discrepancy was partly the result of the persecution of Jews being implemented at a time when Jews in Germany had enjoyed equal rights, and lived the lives of normal citizens – neither of which was the case for Roma. He thus describes the 'recognition policy toward Gypsies from 1945 to 1965' as 'one of discrimination and denial'.<sup>62</sup> Margalit devotes one chapter to the issue of compensation in the immediate post-war period. He focuses on the

<sup>60</sup> Spitta, 'Entschädigung für Zigeuner', pp. 385–402.

<sup>61</sup> G. Margalit, *Germany and its Gypsies: a Post-Auschwitz Ordeal* (The University of Wisconsin Press, Wisconsin, 2002), pp. 83–122.

<sup>62</sup> Margalit, *Germany and its Gypsies*, p. 84.

period preceding the federal compensation structure, i.e. pre-1953, which was the time when the welfare and compensation authorities and their policies were created. Margalit contends that, during this time, Roma were treated abrasively, with the result that they did not receive due recognition and compensation. He explains the fact that only limited aid was given to Roma as a result of the prejudiced attitudes of the welfare and early compensation authorities. Margalit further argues that the assistance organisations for victims of National Socialism regarded the Roma's persecution as 'asocials' as legal; this was coupled with a prejudice-induced fear that Roma might make fraudulent claims. From the official documents Margalit consulted he concludes that Roma were discriminated against from May 1945 onwards, as were other victim groups (such as homosexuals or Communists) who were not regarded as typical victims of National Socialism. Placing special demands on Roma in order to qualify was one of many forms of discrimination. With regard to the Compensation Law period, Margalit merely summarises how the German courts dealt with compensation appeals made by Roma, showing that they eventually came to the consensus that the Roma had, in fact, been racially persecuted.<sup>63</sup> What he fails to undertake is an analysis of the actual compensation claim files; as a result he cannot give any detail or opinion beyond the legal debates, which also means that the more personal and more micro-historical side of this story is left untouched.

A more narrowly focused study is *Tradierte Feindbilder. Die Entschädigung der Sinti und Roma in den fünfziger und sechziger Jahren* (Inherited Enemies. The Compensation of Sinti and Roma in the Fifties and Sixties) by Katharina Stengel.<sup>64</sup> Stengel, presuming that Roma received less than Jewish victims, focuses on how it came about that Roma were excluded from the compensation process and what justification lay behind their exclusion. She believes that explaining their exclusion by referring to traditional societal prejudices is too simplistic and thus discusses the genesis of *Wiedergutmachung* at length in order to see whether the Roma's exclusion from the process was created during the immediate post-war period. She also shows that the limited compensation paid to Roma was linked to factors such as the German public's lack of interest in the compensation process, and to budget limitations which led to preferred treatments of those victims who had the support of national or international pressure groups. Stengel's introduction mentions that an examination of the compensation files was not within the scope of her work, although she does include some witness reports. Instead, her work is based on the legal decisions accompanying claims made under the Compensation Laws. These she found in the law journal *Rechtsprechung zum Wiedergutmachungsrecht* (i.e. Case Law regarding the Compensation Law), in which major decisions were recorded, and which was used by compensation authorities to justify their decisions.<sup>65</sup>

<sup>63</sup> Margalit, *Germany and its Gypsies*, pp. 123–142.

<sup>64</sup> K. Stengel, *Tradierte Feindbilder. Die Entschädigung der Sinti und Roma in den fünfziger und sechziger Jahren* (Fritz Bauer Institut, Frankfurt am Main, 2004).

<sup>65</sup> W. Schwarz, (ed.), *Rechtsprechung zum Wiedergutmachungsrecht* (C. H. Beck, München, 1949–1981).



Only chapters four and five of her book focus on compensation (restitution receives only a brief, general mention), and cover only the period between 1953 and 1965, the dates of the first and last Compensation Laws. Stengel's main finding is that, until the Final Federal Compensation Law in 1965, Roma were largely denied compensation. As in the case of Margalit, this view is exclusively based on the decisions made by German courts in response to Roma appeals against compensation authority decisions. Stengel argues that in theory the nature of the laws was such that Roma could have been included and that Roma claims were boycotted by the administrators and judiciaries, who chose not to classify their persecution as racially motivated, but rather as part of the fight against 'asociality'. This claim, however, is in no way substantiated by actually looking at the material which is the legacy of the compensation authorities. Stengel's argument is therefore rather circular; she assumes that the bureaucracy was un-cooperative because of inherent German prejudices against Roma, and then uses this assumed un-cooperativeness to demonstrate the existence of these prejudices.

Spitta, Margalit and Stengel all spend considerable time on the study of general trends and the pre-*Wiedergutmachung* period, but fail to examine the core material generated during the compensation phase: the Roma compensation claim files themselves.<sup>66</sup> This means that their focus is on the theoretical framework, rather than an examination of the actual situation. By looking only at the legal framework, half of the story is ignored. Similarly, one has to look beyond the last Compensation Law to see the effects of the re-adjusted legal viewpoints. One exception to this restricted analysis is a brief local study by Raimond Reiter, which does refer to actual compensation files.<sup>67</sup> A sub-section of one of his chapters, entitled *Biografische Dokumente aus Akten der 'Wiedergutmachungsverfahren'* (Biographical Documents from the Compensation Claim Files), uses material from compensation claim files to give biographical insights into the lives of Roma from Braunschweig during and after the war, many of whom had lived in the 'Gypsy Camp' Braunschweig-Veltenhof,<sup>68</sup> but it does not go beyond giving a glimpse at a few individuals' experiences. Instead, the material is used to reconstruct the Roma's lives after the war, rather than to gain an understanding of the Roma's place in *Wiedergutmachung*. The fact that Reiter investigated compensation files prior to the publication of his book in 2002 suggests that by the time Stengel and Margalit published their books (2004 and 2007) the material used for this book was already available to historians, but, since

<sup>66</sup> In contrast, there are two studies of compensation material for Austria. The first, considerably more extensive work is F. Freund, G. Baumgartner, H. Greifeneder, *Vermögensentzug, Restitution und Entschädigung* (Historikerkommission, Wien, 2002), and a more recent, though much briefer study is the last chapter, 'Ende des Nationalsozialismus – Ende der Diskriminierung?', in O. Seifert, *Roma und Sinti im Gau Tirol-Vorarlberg. Die 'Zigeunerpolitik' von 1938–1945* (Studienverlag, Innsbruck, 2005), pp. 167–180.

<sup>67</sup> R. Reiter, *Sinti und Roma im 'Dritten Reich' und die Geschichte der Sinti in Braunschweig* (Tectum, Marburg, 2002).

<sup>68</sup> Reiter, *Sinti und Roma*, pp. 139–164.

they failed to use the source material directly, their arguments remain, in effect, untested hypotheses.

Martin Feyen, a doctoral student of Norbert Frei, has used some of the files generated by Roma compensation cases; he published his findings in an article in 2009, though his thesis on the compensation of Sinti and Roma in Germany is as yet unpublished.<sup>69</sup> The bigger part of the article gives a summary of first the persecution history of Roma and then the legal post-war developments that led to Roma being granted victimhood status – a story that has been told before while the actual compensation material generated by the bureaucratic apparatus is dealt with in much less depth.<sup>70</sup> Using the example of just a handful of cases, Feyen examines the legal argument behind the refusal to grant compensation to those claimants. This is neither a comprehensive study of the source material, nor does it look at the broader picture, as the Roma's side of the story remains untold. Feyen does have some interesting views on the debate in the 1980s and the growing involvement of the various Sinti and Roma organisations in Germany; for instance on how certain actions or behaviour (such as the dispute between the Central Council of German Sinti and Roma and the historian Michael Zimmermann about the number of Roma murdered by the National Socialists) might have complicated the Roma's position and their fight for recognition.<sup>71</sup>

In contrast to the hitherto published works on compensation, this book offers a new approach. It provides a systematic analysis of the mechanics of compensation and restitution, based on primary sources that have previously not been sufficiently examined. It also places these sources within the context of the legal framework of the process of *Wiedergutmachung*, and combines them with the victims' personal perspectives.

Two studies in particular have analysed the lives and voices of Roma in post-war Germany, based on material from the 1990s and 2000s: Heike Krokowski's *Die Last der Vergangenheit. Auswirkungen National-Sozialistischer Verfolgung auf Deutsche Sinti* (The Burden of History. Consequences of the National Socialist Persecution for German Sinti) and Toby Sonneman's *Shared Sorrows: a Gypsy Family Remembers the Holocaust*.<sup>72</sup> However, these are isolated portrayals of what Roma chose to say about their lives in Germany many years after the process, with references to compensation, but without exploring its actual dynamics. No historian has combined an analysis of this more recent material with a study of the Roma's compensation files. Such a combination of materials from different periods is valuable as the compensation material contains personal letters from the victims, which give an insight into what Roma felt at the time, allowing the historian to examine which views Roma chose to air about the same topic at different periods of time and in different contexts.

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<sup>69</sup> Feyen, "Wie die Juden"?, pp. 323–355.

<sup>70</sup> Feyen, "Wie die Juden"?, pp. 343–347.

<sup>71</sup> Feyen, "Wie die Juden"?, pp. 348–350.

<sup>72</sup> H. Krokowski, *Die Last der Vergangenheit. Auswirkungen National-Sozialistischer Verfolgung auf Deutsche Sinti* (Campus, Frankfurt am Main / N.Y., 2001); T. Sonneman, *Shared Sorrows: a Gypsy Family Remembers the Holocaust* (University of Hertfordshire Press, Hatfield, 2002).

All of these studies, including Feyen's recent article, ignore restitution: Spitta bases his neglect of this topic on the standard argument that Roma rarely had possessions that could be restituted.<sup>73</sup> The restitution files examined for this book show, however, that this is too narrow a view, and perhaps stems from cultural stereotypes. References to restitution concerns can be found across the Roma compensation claim files so that one can assume that restitution has been overlooked, rather than the restitution material used for this book being exceptional. All of the authors presume that Roma were excluded from the restitution process without investigating the actual claims made by Roma. Whilst discrimination in restitution and compensation files might be expected, and whilst Roma received comparatively little, both the files and personal testimony deserve to be examined.

This book is divided into two main parts: the first part deals with the question of the Roma's persecution, the immediate post-war period and autobiographical material, while the second part is an examination of material relating to the restitution and compensation claims made by Roma under the various federal laws. As the issue under discussion in the Roma's compensation files was the question of whether they had been racially persecuted, the first chapter examines the nature of the persecution of the Roma, both in the Third Reich and further back in German history in an attempt to understand why, after the war, certain aspects of persecution were not classified as having been racially motivated. Chapter two analyses the autobiographical material of and interviews with Roma to gain an understanding of which issues surrounding *Wiedergutmachung* were important to them. Although some of the interview material is threaded through the book, the bulk of this material is analysed in a chapter of its own because many of the issues important to Roma were not addressed in the Compensation Laws and were thus not aired in the legal process. This chapter serves to emphasise which parts of the experience of persecution were most important to Roma, such as the damages done by sterilisation, rather than limiting the discussion to issues directly linked to compensation law procedures and thus the content of the compensation claim files.

Chapter three concentrates on the immediate post-war period, i.e. the period before the Federal Compensation Laws were created, to show that much of the groundwork which would make it more difficult for Roma to receive compensation on the same scale as other victim groups was laid long before the federal regulations. It looks at whether obstacles were deliberately created for Roma victims, or whether their problems were the result of official neglect and indifference. The conclusion is that, in many cases, Roma were active in making claims, but that it often took the support of educated non-Roma for a claim to succeed. The road to compensation in the immediate post-war years was marked by the need to prove that Roma were deserving victims, and so special requirements proving their 'worthiness' were requested from Roma claimants, which shows that officials dealing with compensation clearly held traditional views about the Roma. This chapter also shows that the view expressed by many Roma that the

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<sup>73</sup> Spitta, 'Entschädigung für Zigeuner?', p. 392.

immediate post-war period was a comparatively good period is reflected in these early compensation files, as many of those claims did receive positive responses.

The second part of the book examines the period of the three Federal Compensation Laws (1950s–1970s) through the analysis of Roma compensation claim files in the states of Lower Saxony and North Rhine-Westphalia, as well as the restitution of property to Roma claimants. It portrays the laws and procedures, but focuses on the distinctive features of claims made by Roma under these laws. Chapters four through six seek to distinguish between the problems exclusive to Roma, the problems encountered by Roma which were common to other neglected or excluded groups, and the troubles and difficulties as perceived by the claimants at the time. These chapters demonstrate how the compensation process and ensuing legal debates played an essential part in officially establishing that Roma had been racially persecuted as a group, rather than having merely been caught up in the National Socialist policing efforts and their fight against so-called ‘asociality’.

A so far completely unresearched aspect of *Wiedergutmachung* with respect to Roma is presented in chapter seven, which investigates a sample of Roma restitution files. These files reveal that Roma made restitution claims for houses and possessions such as caravans, musical instruments and jewellery, and thereby refute the common belief that all Roma were vagrants and poor. The files further show that the restitution process was more straightforward than the compensation process because expropriation was commonly connected to the moment of deportation, and thus the argument that expropriation was the result of racial persecution was evident and therefore no further proof linking this injustice to racial persecution was needed.

In the conclusion the common threads of the material and the main arguments are brought together, showing that the process by which the Roma came to receive compensation, rather than being a linear progression from refusal to recognition, had several distinct stages. Nevertheless, it was the compensation process which established the Roma as a racially persecuted victim group, and the compensation claims all helped the history of the Roma’s persecution to be unravelled. Underlying all this is the paradoxical necessity of the Roma having to prove that they had been a ‘race’ subjected to National Socialist persecution, which stands in contrast with the views expressed in the Roma autobiographical material where they invariably depict themselves as German. The creation of the Central Council and its civil rights campaign are beyond the scope of this book, but its influence can be seen in some of the material (both compensation claims and autobiographical). The Central Council’s creation of a Roma identity founded on a particular claim to victimhood based on their ‘race’ somewhat contradicted the premise of the Compensation Laws that victims had to be German to qualify, yet it was necessary to advance the Roma’s claim to compensation. The epilogue touches on how the story of the ‘forgotten victims’ continued and on some of the late efforts on behalf of the German government and industry.



## Chapter 1: The Nature of Persecution

The central problem for Roma in post-war Germany was that, unlike other victim groups, they were not regarded a priori as victims of National Socialist persecution – except in the immediate post-war period, when their emaciated bodies marked them as former concentration camp inmates and they generally received care similar to other victims. One of the main reasons for this lack of recognition was the absence of a clear break in attitudes towards, and perceptions of, Roma in the aftermath of the Third Reich. The Allies' post-war compensation regulations classified those who had been racially, politically or religiously persecuted by the National Socialists as victims eligible for compensation, a definition incorporated into the Federal Compensation Law. The general population in West Germany, however, remained ignorant of the genocidal policies towards the Roma. In the decades immediately following the war, the racial nature of the Roma's persecution was not acknowledged by the Allies, German politicians and historians, or by the German public as a whole.

It was common in the legal and official sector to diminish the atrocity of the National Socialist treatment of Roma by describing it as a mere continuation of Weimar policies. This lack of recognition of Roma as victims of racial persecution can be seen most blatantly in the various local, state and federal court decisions concerning Roma compensation claims. Most courts categorised National Socialist persecution as police measures, which led to the Federal Supreme Court's ruling in 1956, and again in 1959, that the persecution of the Roma had not been wholly racial. The courts failed to examine the persecution of Roma within the National Socialist framework of social and racial policies. Instead, the regional and state courts examined each measure taken by the National Socialists individually, scrutinising whether it had been racially motivated. Problematically, most courts took the reasons given by the National Socialists at face value, without questioning their validity. One such measure examined by the courts was the resettlement of German and Austrian 'Gypsies' to Poland from May 1940 onwards, as decreed by Himmler on 27 April 1940.<sup>1</sup> The Reich Criminal Police Office (*Reichskriminalpolizei*amt – RKPA), in its 1939/1940 yearbook, justified the deportation of 2,500 'Gypsies' from the border territories to occupied Poland as a response to a request by the Central Command of the German Army (*Oberkommando der Wehrmacht* – OKW) on 31 January 1940. The OKW had demanded the removal of all 'Gypsies' (even those in possession of

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<sup>1</sup> 'Richtlinien für die Umsiedlung von Zigeunern', Zimmermann, *Rassenutopie und Genozid*, p. 172.

German passports) from the border territory on the grounds that their criminal and inferior character made them untrustworthy and, given the war background, potential spies.<sup>2</sup> In 1956 the Federal Supreme Court decided that these deportations had been a military act which had, even though unlawful, not been racially motivated.<sup>3</sup> In its verdict it declared that:

The resettlement of Gypsies from the border zone and surrounding territory to the *Generalgouvernement* [occupied Poland] that occurred in April 1940 was not an act of National Socialist oppression based on race or ethnicity as defined by paragraph 1 of the Federal Compensation Law (BEG).<sup>4</sup>

What the Supreme Court failed to take into account was that the head of the *Gestapo* and *Reichsführer SS*, Heinrich Himmler, and the head of the Central Office of the Security Police (*Reichssicherheitshauptamt* – RSHA), Reinhard Heydrich, had been taking concrete steps towards the deportation of Roma months before the Central Command of the German Army demand, and thus might have merely used this request as a retrospective justification. In a meeting on 21 September 1939 at the RSHA, which Arthur Nebe attended as the head of the Reich Criminal Police Office (*Reichskriminalpolizei*amt – RKPA), Heydrich ordered the removal of 30,000 ‘Gypsies’, along with Jews, from the *Reich* to Poland.<sup>5</sup> Himmler had prepared this imminent deportation with the Compulsory Settlement Order on 17 October 1939 (the *Festsetzungserlaß*), which restricted ‘Gypsies’ to their place of residence.<sup>6</sup>

Similarly, the courts regarded the confinement of Roma in concentration camps such as Dachau and Sachsenhausen, which increased steeply after the Reich Criminal Police Office edict on 1 June 1938 initiating the Operation Reich Workshy (*Aktion Arbeitsscheu Reich*) as a justifiable policing measure.<sup>7</sup> Even if a Rom, confined as a result of this edict, had been working and sedentary, the Federal Supreme Court argued that one could not presume that his confinement had been racially motivated, and that he was still likely to have been confined because he had been ‘asocial’.<sup>8</sup> These court cases did not discuss the legality of this action but merely decided that it had not been racially motivated, and thus debarred those affected by this edict from the circle of victims entitled to

<sup>2</sup> Zimmermann, *Rassenutopie und Genozid*, pp. 167–175.

<sup>3</sup> BGH, 7.1.1956, RzW 1956, Heft 4, p. 113.

<sup>4</sup> BGH, 7.1.1956, RzW 1956, Heft 4, p. 113: ‘Die im April 1940 durchgeführte Umsiedlung von Zigeunern aus der Grenzzone und den angrenzenden Gebieten nach dem Generalgouvernement ist keine nationalsozialistische Gewaltmaßnahme aus Gründen der Rasse im Sinne des § 1 BEG.’

<sup>5</sup> Zimmermann, *Rassenutopie und Genozid*, p. 167.

<sup>6</sup> Zimmermann, *Rassenutopie und Genozid*, p. 169.

<sup>7</sup> Zimmermann, *Rassenutopie und Genozid*, p. 115. For more information on the Operation Reich Workshy see W. Ayass, *‘Asoziale’ im Nationalsozialismus* (Klett-Cotta, Stuttgart, 1995), pp. 139–165. See also W. Ayass, “‘Ein Gebot der nationalen Arbeitsdisziplin’”. Die Aktion “Arbeitsscheu Reich” 1938, in W. Ayass, R. Gilsenbach, U. Körber, K. Scherer, P. Wagner, M. Winter, (eds), *Feinderklärung und Prävention. Kriminalbiologie, Zigeunerforschung und Asozialenpolitik* (Rotbuch, Berlin, 1988), pp. 43–74.

<sup>8</sup> BGH, 5.2.1958, RzW 1958, Heft 5, p. 194.

compensation. It is difficult to check the motivations behind these decisions, but a conscious effort to minimise the range of eligible victims could be one explanation. The decisions might also be a reflection of how restricted the view of Hitler's racial war was at the time.

In general, most courts regarded the persecution of Roma before Himmler's directive of December 1942 – which demanded that all 'Gypsies' were to be sent to Auschwitz – as having been part of the policing efforts. They argued that Roma had been regarded as 'asocial' and thus police measures dealing with them had been justified.<sup>9</sup> The judges rarely questioned whether Roma had indeed been 'asocial', or whether ascribing such qualities indiscriminately to entire groups was a racial categorisation in itself. They thereby indirectly accepted (or at least did not question) the National Socialists' racial line of argument. A 1959 Federal Supreme Court decision expressed this very clearly: 'It is held that it was not until Himmler's so-called Auschwitz Edict of 16.12.1942 / 29.1.1943 that the policy of the National Socialists was directed at the annihilation of the Gypsies'.<sup>10</sup> The decision further stated that:

Aside from the fact that Jews were the only ones specifically named in the NSDAP party manifesto, the comparison with measures taken against the Jews cannot be drawn, because Jews do not possess the characteristics that had turned the Gypsy living a 'Gypsy lifestyle' into a national plague long before the advent of National Socialism.<sup>11</sup>

The above makes three things clear: first, the courts did not question the line of reasoning behind the National Socialist persecution of the Roma, nor did they attempt to find out whether the so-called 'policing' efforts might have been racially motivated. Secondly, they did not question whether the characteristics ascribed to Roma (such as hereditary criminality, 'asociality' or feeble-mindedness) were racially pejorative. And thirdly, it was not questioned whether the methods employed by the National Socialists in restraining (or detaining) people alleged to possess these characteristics were justified or lawful. These points reflect a continuity in attitude and thought with regard to Roma, which had existed long before Hitler's seizure of power. In particular, the sweeping statement that 'Gypsies' had always been a 'plague' supports the theory that the judges who rejected Roma compensation appeals in the 1950s had been part of the machinery which had persecuted 'Gypsies' during the Third Reich and had not changed their attitudes.

<sup>9</sup> The so-called *Auschwitz-Erlass*, 16.12.1942, effective as of 29.1.1943.

<sup>10</sup> BGH, 30.10.1959, RzW 1960, Heft 4, pp. 162–163: 'Es wird daran festgehalten, daß erst seit dem sog. Auschwitz-Erlass Himmlers v. 16.12.1942 / 29.1.1943 die Politik des NS darauf gerichtet war, die Zigeuner auszurotten.'

<sup>11</sup> BGH, 30.10.1959, RzW 1960, Heft 4, pp. 162–163: 'Ein Vergleich mit den gegen Juden gerichteten Maßnahmen ist, abgesehen davon, daß nur diese im Parteiprogramm der NSDAP aufgeführt waren, schon deshalb nicht möglich, weil diese nicht die Eigenschaften besitzen, die den nach "Zigeunerart" lebenden Zigeuner schon lange vor dem NS zu einer Landplage gemacht haben.'



The continuity of certain viewpoints was linked to the continuity of certain personnel post-1945; this becomes very clear if one looks at how the Allies failed to create a new judicial caste after the war. After liberation, the Allies had withdrawn jurisdiction from all special courts (such as the People's Court, the Special Courts and the SS Police Courts). Initially, there had been a possible plan to suspend German courts for ten years, replacing them with some sort of 'colonial' court system in order to train a new generation of judges.<sup>12</sup> However, as no Allied agreement could be reached, the District Courts (*Landesgerichte*) and Higher District Courts (*Oberlandesgerichte*) returned to operation by June 1945, and in the autumn the first presiding judges were appointed to the Courts of Appeal. The Control Commission Law No. Four, on 30 November 1945, dismissed all those judges who had been more than merely nominal NSDAP members, though even this measure proved to be untenable. In North Rhine-Westphalia, for instance, ninety-three percent of court personnel had been either members of the NSDAP or of one of its subsidiary groupings.<sup>13</sup> The idea to reinstate all pre-1933 judges was, due to most judges' age, not a workable option either, which led to the British decision to treat all members of the judicial profession who had joined the NSDAP after 1937 as nominal members. When this still failed to lead to a sufficient number of German jurists to run the judicial system, the British Military Government employed a 'piggy-back-method', which meant that for every 'clean' judge, one with a bad record could be installed. Even this restriction was dropped in June 1946, from which date any de-nazified judicial professionals could be employed. As de-nazification was beginning to slacken at this stage, most judges were categorised as either 'followers' or 'exonerated', so that soon former Special Court judges and SA members replaced Weimar judges. This is exemplified by the fact that, by 1948, about thirty percent of the presiding judges and eighty to ninety percent of the assisting judges at the Higher District Courts in the British Zone were former NSDAP members. A similar trend could be found in the other Allied Zones.<sup>14</sup>

The question that needs to be asked at this point is whether the persecution of the 'Gypsies' during the Third Reich had been racially motivated and whether this group's persecution should have been categorised similarly to the persecution of Jews, i.e. as racially motivated, and whether the Roma should thus have categorically qualified for compensation from the outset. The persecution of 'Gypsies' and its place in the National Socialist racial war is a comparatively recent field of study. Amongst the main contributors to this field – Gilad Margalit, Guenter Lewy, Michael Zimmermann and Henry Friedlander – opinions vary with regard to the nature of this persecution and its wider significance.<sup>15</sup> This difference of opinion is in part linked to the issue of intention.

<sup>12</sup> R. Wenzlau, *Der Wiederaufbau der Justiz in Nordwestdeutschland* (Athenäum, Königstein, 1979), p. 98.

<sup>13</sup> Wenzlau, *Der Wiederaufbau der Justiz in Nordwestdeutschland*, p. 103.

<sup>14</sup> I. Müller, *Hitler's Justice: the Courts of the Third Reich* (I.B. Tauris, London, 1991), pp. 201–202.

<sup>15</sup> Margalit, *Germany and its Gypsies*; Lewy, *The Nazi Persecution of the Gypsies*; Zimmermann, *Rassenutopie und Genozid*; H. Friedlander, *The Origins of Nazi Genocide: from Euthanasia to the Final Solution* (University of North Carolina Press, Chapel Hill N.C. / London, 1995).

Some historians, including Lewy, claim that the premise for classifying the persecution of a group as genocide (i.e. the destruction of a racial group) is the intention and explicit plan for the extermination of this specific group. Lewy argues that because an a priori plan for the murder of the Roma by the National Socialists cannot be proven, this murder does not classify as genocide.<sup>16</sup> In contrast, whilst Zimmermann acknowledges that the extent of the persecution of the Roma varied greatly depending on the geographic area (with more Roma being killed in the Eastern occupied countries than in occupied Western Europe, excluding Germany, Austria, Bohemia and Moravia), he argues that the mass executions in Serbia by the police, the army and the Task Forces (*Einsatzgruppen*), the murder of the Roma in Auschwitz-Birkenau and Lodz, and their forced sterilisation constituted genocide. What is behind this discussion of genocide is whether the persecution of the 'Gypsies' classifies as racial persecution or whether the measures taken against 'Gypsies' were merely increasingly harsh policing measures to control their alleged 'asociality' and criminality.

Margalit portrays the persecution of the Roma as secondary to the extermination of Jews on the National Socialist agenda, which, in his opinion, is why there was no detailed plan for the physical extermination of Roma as there was for Jews. Here he follows the line of Lewy, who, in his book *The Nazi Persecution of the Gypsies*, claims that while the Roma were persecuted by the National Socialists, they were not victims of racial persecution as had been the case with the Jews.<sup>17</sup> In his work, Margalit compares the persecution of the 'Gypsies' (the term he prefers to employ throughout) to that of the Jews, and disagrees with Detlev Peukert, who places the fate of the Roma in a broader context of racially motivated policies.<sup>18</sup> Margalit goes so far as to accuse Peukert of instrumentalising the persecution of the Roma to downplay the fate of the Jews.<sup>19</sup>

An important 'adversary' of Margalit and Lewy is Henry Friedlander who links together the killing of the handicapped, Jews and 'Gypsies'.<sup>20</sup> Friedlander argues that the National Socialist ideology and race science targeted the 'inferior' members of the German *Volk* and at the same time the alien and 'inferior' races, namely the Jews and 'Gypsies', from the onset of the Third Reich.<sup>21</sup> With regard to 'Gypsies', he contends that while the National Socialists initially merely intensified already existing anti-'Gypsy' regulations, they moved beyond the previous practice of policing behaviour (which distinguished between migrant and domiciled 'Gypsies') towards describing this behaviour, particularly criminality, as

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<sup>16</sup> M. Zimmermann, 'Die nationalsozialistische Verfolgung der Zigeuner', in Y. Matras, H. Winterberg, M. Zimmermann, (eds), *Sinti, Roma, Gypsies. Sprache – Geschichte – Gegenwart* (Metropol, Berlin, 2003), pp. 136–140.

<sup>17</sup> Lewy, *The Nazi Persecution of the Gypsies*.

<sup>18</sup> D. Peukert, *Inside Nazi Germany: Conformity, Opposition and Racism in Everyday Life* (Yale University Press, New Haven, 1987), particularly chapter twelve on 'Racialism and Social Policy'.

<sup>19</sup> 'In the writings of the late Detlev Peukert (1950–1990), too, the Gypsy victim served as a device for deemphasizing and downplaying the Jewish victim.' See Margalit, *Germany and its Gypsies*, p. 189.

<sup>20</sup> See in particular chapter twelve, 'Excluding Gypsies', in Friedlander, *The Origins of Nazi Genocide*, pp. 246–262.

<sup>21</sup> Friedlander, *The Origins of Nazi Genocide*, p. 246.

hereditary, using the works of so-called ‘race scientists’ as substantiating proof.<sup>22</sup> Friedlander describes the initial exclusion of ‘Gypsies’ from society as being a first step to the final solution, which he argues applied to ‘Gypsies’ as well as Jews, given that they too were deported, incarcerated, shot by the SS Task Forces, killed by local German allies, and deported to concentration camps.<sup>23</sup> Friedlander demonstrates that the National Socialists radically broadened the category of ‘race’ and consequently the groups targeted by their racial policies. This means that the failure to include the Roma in the category of ‘racial persecution’ in the Federal Compensation Laws was the result of a failure to understand the way in which the National Socialist regime had come to define the category of ‘race’ to include many more groups than just the Jews, who under the practice of the Compensation Laws were the only group where racial persecution was categorically assumed. This meant that a Jewish claimant did not have to prove that deportation had been racially motivated, whereas Roma deported in the 1930s had to supply such proof. Similarly to Friedlander, Zimmermann places the persecution of the ‘Gypsies’ in the larger picture of National Socialist racial policies, clearly showing that Roma were a target in the National Socialist racial war.<sup>24</sup> Zimmermann offers the first detailed analysis of the Roma’s persecution during the Third Reich. He also includes a section on the treatment of the Roma in Germany before the Third Reich. By doing so he shows that the discrimination against Roma had been well established before 1933. However, he makes the case for the racial persecution of Roma during the Third Reich by describing the policies preceding the Third Reich as an oscillation between the desire to drive ‘Gypsies’ out and to settle them, based on the conviction that the alleged negative characteristics of ‘Gypsies’ were the result of their social environment, and thus could be changed. In contrast, the National Socialists linked the Roma’s behaviour to a hereditary predisposition, making the key switch to racial persecution. Zimmermann describes Himmler’s December 1938 directive to fight the ‘Gypsy Plague’ – which used Robert Ritter’s pseudo-scientific research as justification – as a clear sign of the onset of racial persecution. He emphasises the importance of executive agencies such as the Criminal Police Office (which had been involved in instigating local initiatives against Roma) adopting these pseudo-scientific racial theories as a basis for their radicalising actions against Roma.<sup>25</sup> He counters the argument used by historians like Lewy and Margalit that because Hitler played no direct role in the persecution of the Roma their persecution cannot be regarded as having had the same importance or motivations as the persecution of Jews by stressing that Hitler’s approval of the Roma’s treatment was consistent, even if his involvement was not as marked. He points out that even if the Roma were not as central to the National Socialists as the Jews, their treatment as ‘community aliens’ (*Gemeinschaftsfremde*) was all-encompassing

<sup>22</sup> Friedlander, *The Origins of Nazi Genocide*, p. 249.

<sup>23</sup> Friedlander, *The Origins of Nazi Genocide*, pp. 259, 290–291.

<sup>24</sup> Zimmermann, *Rassenutopie und Genozid*.

<sup>25</sup> M. Zimmermann, ‘Zigeunerbilder und Zigeunerpolitik in Deutschland. Eine Übersicht über neuere historische Studien’, in *Werkstatt Geschichte*, 25, 2000, pp. 35–58, here pp. 36, 39–40.

and that local initiatives and resentments radicalised their persecution, which was backed and approved by official policies giving the general direction.

Following on from these studies, we can see how the persecution of 'Gypsies' during the Third Reich both built upon and radicalised previous systems of thought, creating continuities which were partially responsible for the post-war failure to recognise the distinct nature of the Roma's persecution. Further confusion was added by the involvement of the police apparatus and the centrality of local initiatives, which were to some extent peculiar to the persecution of the Roma and responsible for the post-war misrepresentation of their persecution as 'policing measures' rather than racial persecution. While there were continuities of thought, attitude and language, this section also demonstrates which National Socialist measures were distinct, where they went well beyond previous policy, and how racial persecution was developed both in argument and in practice. It presents the conclusion that the persecution of Roma had been racially motivated and that Roma should have been classified as victims of racial persecution from the beginning. The following section serves to show the centrality of both the police apparatus and local initiatives to the persecution of the Roma; this specific nature of the Roma's persecution was one factor in the failure of post-war West Germany to recognise the Roma's persecution for what it had been.

Almost immediately after coming to power, the National Socialists embarked upon an intense campaign against the 'socially unworthy', including petty criminals and the mentally ill. Both criminality and mental illness were described as hereditary, which was why Hitler suggested harsh measures, such as indefinite confinement, to prevent these traits from being passed on to the next generation. One of the first laws passed by the National Socialists to reduce the burden of the 'socially unworthy' affecting the 'Gypsies' was the Law for the Prevention of Offspring with Hereditary Diseases (*Gesetz zur Verhütung erbkranken Nachwuchses – Erbgesundheitsgesetz*, also known as Hereditary Health or Sterilisation Law), effective from 1 January 1934, which decreed and thus legalised forced sterilisation of the socially 'undesirable'.<sup>26</sup> The crucial distinction to previous law proposals was the disregard of the affected person's consent. However, many of the ideas behind this law can be traced to the emerging eugenics and racial hygiene movements, loosely derived from Darwin and other evolutionary theorists of the nineteenth century. Whilst Richard Evans rightly stresses that the mere fact that certain ideas were taken up by the National Socialists does not imply that these ideas would have necessarily led to these National Socialist policies, an overview of the developments in eugenics helps explain the continuities that were partly responsible for the failure of the Allies to recognise the distinctly National Socialist features of this law, which in

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<sup>26</sup> *Gesetz zur Verhütung erbkranken Nachwuchses*, in *Reichsgesetzblatt* 1933 I, pp. 529–531 § 12. (1) 'If the court has made a final decision in favour of sterilisation, it is to be enforced even against the person's wish ... If other measures are not sufficient, the application of force is permitted.' 'Hat das Gericht die Unfruchtbarmachung endgültig beschlossen, so ist sie auch gegen den Willen des Unfruchtbarmachenden auszuführen ... Soweit andere Maßnahmen nicht ausreichen, ist die Anwendung unmittelbaren Zwanges zulässig.'

turn led to a failure to annul the Sterilisation Law along with other National Socialist racial laws after the war.<sup>27</sup>

Since the early 1840s there had been an increasing fear of ‘degeneration’. This term became part of the rhetoric of nineteenth-century science and consequently moved into the popular sphere.<sup>28</sup> The decline of the individual, group or race from ‘better’ conditions captured the popular opinion so profoundly that it became implicitly accepted by most Western societies, legitimised by its supposed scientific explanation; it appears in the works of writers as diverse as the French Émile Zola (1840–1902) and the American H. P. Lovecraft (1890–1937). Bénédict-Augustin Morel, a pious French psychiatrist (1809–1873), played a part in spreading this degeneracy theory: he reinvented the Christian fall from grace and presented it ‘scientifically’, showing that most of the physical and social malaise of the day was the result of hereditary degeneration.<sup>29</sup> In addition to this fear of ‘degeneracy’, there had been an increased anxiety about over-population during the nineteenth century. This fear was heightened by the proportionally higher birth rates of the lower classes, compared to a gradual decline of the birth rate amongst the middle and upper classes. Furthermore, there was a concern that modern improvements in social welfare provisions, along with advances in modern medicine, would encourage reproduction of the socially ‘unfit’ and act in a counter-selective manner, interfering with nature’s exclusion of the ‘unfit’. By the end of the nineteenth century, birth rates began to decline (steadily until the 1930s), so that a fear of falling fertility set in across Europe. In Germany there was a particular concern regarding this declining birth rate, because of a belief that the socio-economic advancements (and the ensuing political power on the international scene) that had taken place since the 1870s were directly linked to Germany’s strong population numbers.<sup>30</sup> This fear of declining birth rates was enforced after the First World War, which was regarded as having led to a ‘negative selection’, where healthy young soldiers were killed at the front whilst those not fit to fight remained at home and survived. This not only led to a fear of these people fathering the next generation, but also a fear of Germany being unable to field armies in the next war. How to increase the birth rates of ‘valuable’ members of society therefore became a question of great concern to many.<sup>31</sup>

<sup>27</sup> ‘Just because we can identify some ideas current at the turn of the century which were subsequently to be taken up by the Nazis does not mean that those ideas were necessarily “Nazi” in themselves, or that they would inevitably lead to the kind of murderous eugenic selectionism practised by the Third Reich’. R. J. Evans, *Rereading German History: from Unification to Reunification, 1800–1996* (Routledge, London / N.Y., 1997), p. 112.

<sup>28</sup> For more detail on the ideas of ‘progress and degeneration’, see D. Pick, *Faces of Degeneration: a European Disorder, c. 1848 – 1918* (Cambridge University Press, Cambridge, 1989), pp. 11–27.

<sup>29</sup> S. C. Gilman, ‘Political theory and degeneration: from left to right, from up to down’, in J. E. Chamberlin, S. L. Gilman, (eds), *Degeneration: the Dark Side of Progress* (Columbia University Press, N.Y., 1985), pp. 165–198, here pp. 165–173; see also P. Weindling, *Health, Race and German Politics between National Unification and Nazism, 1870–1945* (Cambridge University Press, Cambridge, 1989), pp. 125–141; Pick, *Faces of Degeneration*, pp. 97–106, 316–317.

<sup>30</sup> C. Osborne, *The Politics of the Body in Weimar Germany: Women’s Reproductive Rights and Duties* (Macmillan, London, 1992), pp. 1–4.

<sup>31</sup> J. Noakes, ‘Nazism and eugenics: the background to the Nazi Sterilisation Law of 14 July 1933’,

These fears were supported by ‘scientific reasoning’ and the emergence of the Social Darwinist movement in the aftermath of the 1859 publication of Darwin’s theory of natural selection.<sup>32</sup> Taking Darwin’s suggestion that natural selection continued to contribute to human evolution, and mixing it with a broader and cruder notion of evolution found in popular philosophers such as the influential Herbert Spencer (1820–1903), future eugenicists and racial hygienists advocated human intervention in this selection process.<sup>33</sup> Peter Dickens stresses that early schools of social thought often rested on themes such as ‘progress’, ‘teleology’ and ‘direction’ and that they used evolutionary ideas to justify their theories, even if this was not a link natural scientists had made when developing those ideas.<sup>34</sup> At the same time one can witness a new popularity of other scientific theories, which the Social Darwinists employed to support their claim that direct intervention was the only course of action. Among the most prominent was the theory of the French biologist Jean Baptiste Lamarck, which suggested that environmental or learned characteristics were passed on genetically.<sup>35</sup> Together with the zoologist August Weismann’s claim that hereditary material, for which he coined the term ‘germplasm’, was immutable,<sup>36</sup> the idea of eugenics gained increasing popularity.<sup>37</sup>

Eugenicists tended to agree on the idea that ‘inferiority’ and ‘superiority’ within human nature could be subjectively established, and that the factors determining a person’s ‘inferiority’ or ‘superiority’ were hereditary, rather than being the result of social conditions. Referring to Darwin, eugenicists suggested that the benefits of natural selection as found in the animal world had been undermined by social mechanisms such as welfare benefits and the support of the poorer and weaker sections of society.<sup>38</sup> Before the First World War, various institutions across

in R. Bullen, H. Pogge von Strandmann, H. Polonsky, (eds), *Ideas into Politics: Aspects of European History 1880–1950* (Croom Helm, London, 1984), p. 77.

<sup>32</sup> There is some debate whether the Social Darwinist movement is rightly linked to Darwin. Gisela Bock sees Social Darwinism as a socio-political movement, having little to do with Darwin himself or his ideas, interested in practical social intervention, and addressing the future, rather than the past, as Darwin had done. She uses this as an argument to disassociate Social Darwinists from Darwin. Evans disagrees with this by saying that Darwin himself took current social thought (primarily the competitiveness of early industrial capitalism) and applied it to nature. So, if, after his death, Darwin was read in various ways, leading to new interpretations, generating some avenues of thought Darwin had not taken, the principal ideas were nevertheless Darwinian. Thus, Evans argues, the forced sterilisation of the ‘unfit’, the topic of Bock’s book, remains Social Darwinism, even if Bock rejected the term in the context of her book. See Evans, *Rereading German History*, pp. 127–128; and G. Bock, *Zwangsterilisation im Nationalsozialismus. Studien zur Rassenpolitik und Frauenpolitik* (Westdeutscher Verlag, Opladen, 1986), pp. 28–30, 33–36.

<sup>33</sup> On the different versions of Social Darwinism across Europe and America, see M. Hawkins, *Social Darwinism in European and American Thought, 1860–1945* (Cambridge University Press, Cambridge, 1997), particularly pp. 21–38, and pp. 132–148 for a study of Social Darwinism in Germany.

<sup>34</sup> On the origin of Social Darwinism and the contrast between it and Darwin’s scientific thought, see the first chapter (“Social Darwinism: Problems of Direction, Purpose and Progress”) in P. Dickens, *Social Darwinism* (Open University Press, Buckingham / Philadelphia, 2000), pp. 7–30.

<sup>35</sup> P. Corsi, *The Age of Lamarck* (University of California Press, London, 1988).

<sup>36</sup> Weismann, *Das Keimplasma* (Fischer, Jena, 1892).

<sup>37</sup> Noakes, ‘Nazism and eugenics’, p. 77.

<sup>38</sup> Hawkins, *Social Darwinism*, p. 217.

Europe demanded government action to reverse the decline of the supposedly 'superior' parts of society. For instance, the German Race Hygiene Society was founded in 1905, the Eugenics Education Society in England followed in 1907, and the French Eugenics Society was established in 1912.<sup>39</sup> Within these debates there were two distinct eugenic movements: the 'positive' and the 'negative'.<sup>40</sup> The British author and naturalist Francis Galton can be described as the founder of hereditary health care and 'positive' eugenics. In his book *Inquiries into Human Faculty and its Development*, published in 1883, Galton portrays eugenics as a new science designed to improve the racial quality of future generations.<sup>41</sup> He hoped to transform all levels of the population gradually rather than radically reversing the 'degeneration process'.<sup>42</sup> Galton believed that middle-class birth rates should be actively increased and that only people with certificates proving their hereditary health should be allowed to marry. In stark contrast to Galton, supporters of 'negative' eugenics, such as Wilhelm Schallmayer, suggested radical intervention and intrusion into people's lives to improve the nation's 'pedigree', predominantly through the use of sterilisation. Schallmayer essentially regarded eugenics as part of medicine, which in turn he saw as the starting point from which one could halt and ideally reverse the 'degeneration process'. Winning the 1900 Krupp competition for his essay on the topic of, 'What can we learn from the principles of the theory of evolution in regard to domestic political development and State legislation?'<sup>43</sup>, Schallmayer advocated that the state had a duty to secure the biological capacity of its people by enforcing both negative and positive reproduction measures.<sup>44</sup> Such findings seemed to suggest that there was finally a solution to the 'social question'. It was believed that an alliance of science and interventionist social engineering could put an end to social unease; just as architects could solve housing problems and psychologists and social workers could abolish 'anti-social' behaviour, so eugenicists could 'eradicate' the genetic causes of 'abnormality'.<sup>45</sup>

Even if the radical racial hygiene policies were eventually implemented by a right-wing government, the early scientific eugenics movement was not limited to the right. Hans-Günter Zmarzlik stresses that Social Darwinism had many variants, from the left-wing evolutionary version to the right-wing version focusing on selection, and that the National Socialists appropriated certain ideas from Social Darwinism, amalgamating them with other racial ideas – a combination

<sup>39</sup> Hawkins, *Social Darwinism*, p. 218.

<sup>40</sup> 'Negative' implying the prevention of 'poor genetic traits' being passed on (sterilisation, abortion), as opposed to 'positive' eugenics promoting the birth of healthy children (marriage laws, specific tax incentives).

<sup>41</sup> F. Galton, *Inquiries into Human Faculty and its Development* (Macmillan, London, 1883).

<sup>42</sup> A. Bäumer, *NS-Biologie* (Hirzel, Stuttgart, 1990), pp. 73–74.

<sup>43</sup> 'Was lernen wir aus den Prinzipien der Deszendenztheorie in Beziehung auf die innenpolitische Entwicklung und Gesetzgebung des Staates?'

<sup>44</sup> M. Burleigh, W. Wipperman, *The Racial State* (Cambridge University Press, Cambridge, 1993), p. 31.

<sup>45</sup> D. Peukert, *The Weimar Republic: the Crisis of Classical Modernity* (Noonday Press, London, 1993), p. 135.

which had not existed in previous political movements or ideologies.<sup>46</sup> This serves to stress the danger of portraying National Socialist eugenics purely as a later development and as a direct result of nineteenth-century eugenics. In fact, many of these Social Darwinist ideas were integral to the debates surrounding the creation of welfare states across Europe in the early twentieth century. They influenced the formation of policies in these emerging European welfare states, where criminals and the mentally ill were increasingly seen as a burden. The desire for intervention in Germany was spurred by the consequences of the First World War, the death of many young men, military defeat, and a new and unstable democracy. Despite this, there was insufficient popular support for these ideas to be implemented until the political crises and economic depression in the late 1920s and early 1930s. The concerns about the social implications of the economic crisis after 1929, and the fear of the financial cost of an increasing number of mental patients at a time when public expenditure was being reduced unsettled the German population as well as health and welfare professionals to such a degree that policies proposed by eugenics advocates which suggested intervention as a way of limiting the burden of the mentally ill and criminals on society were increasingly regarded as necessary by large sections of the German electorate.<sup>47</sup> This was also the period when research undertaken by the German Society for Racial Hygiene (*Deutsche Gesellschaft für Rassenhygiene*) intensified significantly, reflected in the increase of research branches from eight in 1929 to fourteen in 1931, with membership having doubled to 1,085 over the same period.<sup>48</sup> The eminent German sociologist Theodor Geiger (1891–1952) reported in 1933 that eugenics had become so ‘fashionable’ and that politicians had become sufficiently convinced that certain bio-political measures had become necessary, that legislative measures would soon be taken.<sup>49</sup> The framework for the racial policies which were to be turned into government policies was provided by Social Darwinism.<sup>50</sup>

The sterilisation of the ‘Gypsies’ by the National Socialists was thus an offshoot of the idea that less valuable members of society should not further burden it by procreating. The belief that the Roma were hereditary criminals provided further motivation for their sterilisation. The National Socialists took up this idea and made it their own, endorsing the most radical of the existing proposals. The debate concerning the sterilisation of criminals dates to the late nineteenth century when a desire to reform the penal code emerged along with the theories of the anthropologist Cesare Lombroso (1836–1909), who

<sup>46</sup> H.-G. Zmarzlik, ‘Der Sozialdarwinismus in Deutschland als geschichtliches Problem’, in *Vierteljahreshefte für Zeitgeschichte*, 11. Heft, 1963, pp. 246–273.

<sup>47</sup> Noakes, ‘Nazism and eugenics’, p. 84.

<sup>48</sup> Noakes, ‘Nazism and eugenics’, p. 83.

<sup>49</sup> ‘Eugenics has become fashionable. Public opinion has now become so familiar with a set of minimum eugenic demands, politicians in parliaments and governments have been convinced of the necessity of bio-political measures by such important rational considerations and such effective pressure from public opinion that the first legislative steps cannot be long delayed.’, Noakes, ‘Nazism and eugenics’, p. 75.

<sup>50</sup> Hawkins, *Social Darwinism*, pp. 232–237.



suggested that criminality was innate in *L'Uomo Delinquente* (The Criminal Man) in 1876.<sup>51</sup> Many people perceived the Roma as belonging to this category of 'innate criminals'. Lombroso described these criminals as an 'atavism' – a throwback to the very beginnings of humanity. He argued that the physiognomy of these criminals was comparable to prehistoric man, or even animals, and from this concluded that they had similar behavioural patterns – behaviours which, in a modern society, were described as 'asocial'.<sup>52</sup> Enrico Ferri, a student of Lombroso, coined the term 'born criminal', and his and Lombroso's ideas spread to Germany, receiving popular support from local prison officials. Prison doctors were to play a key role in the sterilisation of prisoners during the Third Reich.<sup>53</sup> By the end of 1939, a total of 5,397 prisoners would be sterilised within German prisons.<sup>54</sup> While criminal psychologists soon disproved Lombroso's claim that criminals had distinct anthropological features, Lombroso's creation of the field of criminology had a lasting impact, and the idea that criminals had certain distinguishing hereditary moral defects was taken up by numerous criminal psychologists.<sup>55</sup>

In Wilhelmine Germany the work on criminals and their classifications by the liberal law professor Franz von Liszt (1851–1919) had considerable impact well beyond the First World War.<sup>56</sup> His theories became the foundation for much of the later criminological thought. Von Liszt divided criminals into three categories: the 'reformable habitual criminal'; the 'incurable habitual criminal'; and the 'occasional criminal'. He believed that the 'occasional criminal' did not need profound improvement and that a suspended prison sentence would deter him from perpetrating further crimes, and that the 'reformable habitual criminal' had to be actively taught how to live differently. In contrast, attempts to reform the 'incurable habitual criminal' were futile. Instead, society should be protected from him by institutionalising him for unlimited periods of time. Sterilisation law advocates proposed the inclusion of these 'incurable habitual' or dangerous criminals in such legislation.

During the Weimar Republic, criminology continued to expand as an academic discipline, exploring the physical and psychological as well as environmental factors that were interpreted as driving criminal behaviour. With regard to sterilisation, the Saxon doctor Gustav Boeters played a prominent role. He proposed the law known as *Lex Zwickau* in October 1925, which reflected his

<sup>51</sup> C. Lombroso, *Ursachen und Bekämpfung des Verbrechens* (Bermühler, Berlin, 1902); see also Pick, *Faces of Degeneration*, pp. 109–152.

<sup>52</sup> P. Becker, *Verderbnis und Entartung. Eine Geschichte der Kriminologie des 19. Jahrhunderts als Diskurs und Praxis* (Vandenhoeck & Ruprecht, Göttingen, 2002), pp. 293–294.

<sup>53</sup> Wachsmann, *Hitler's Prisoners: Legal Terror in Nazi Germany* (Yale University Press, New Haven / London, 2004) pp. 149–156.

<sup>54</sup> Wachsmann, *Hitler's Prisoners*, p. 154; Lombroso, *Ursachen und Bekämpfung des Verbrechens*; see also Pick, *Faces of Degeneration*, p. 311.

<sup>55</sup> R. Wetzell, *Inventing the Criminal: a History of German Criminology, 1880–1945* (University of North Carolina Press, Chapel Hill N.C. / London, 2000), p. 297; Becker, *Verderbnis und Entartung*, p. 290.

<sup>56</sup> Wachsmann, *Hitler's Prisoners*, pp. 21–22.

strong conviction about the benefits of forced sterilisation.<sup>57</sup> Boeters suggested the sterilisation of hereditarily inferior social outsiders, which, in his opinion, included Roma, alcoholics, drug addicts, the ‘workshy’ and vagabonds, as well as certain criminal offenders. These last, he argued, should be forcibly sterilised, or, at least, be institutionalised until their ability to bear children had lapsed.<sup>58</sup> The scientists Erwin Baur, Eugen Fischer and Fritz Lenz took up this thought in their widely read textbook of 1931, stating that a good method of decreasing the number of future criminals would be to reduce the reproduction of criminals and other morally inferior people.<sup>59</sup> The *Reichstag* committee on legal reform had already considered the compulsory sterilisation of criminals in 1928. The background was an international mental hygiene movement which suggested that eugenics was a solution to psychiatric and social problems. International solidarity was, for instance, expressed at the 1930 World Mental Hygiene Conference in Washington D.C., which advocated sterilisation as a solution to expensive welfare expenditure.<sup>60</sup>

The debate surrounding the sterilisation of criminals and other ‘socially unworthy’ people was not confined to academic circles and those concerned with the penal system. It was widely discussed among Weimar political parties and in parliament; the Socialists, for instance, regarded sterilisation as a technique for solving the problems of mass poverty and unemployment, by reducing the burden of unwanted and congenitally ill children on society.<sup>61</sup> Similarly, the Communist Party of Germany (KPD) accepted sterilisation on medical and social grounds if consent was given.<sup>62</sup> Between 1918 and 1930, the sterilisation debate was, according to Gisela Bock, increasingly dominated by men who propagated discriminating demographic policies, focusing on ‘pro-natalism’ for ‘valuable’ members of society and ‘anti-natalism’ (i.e. sterilisation) for those they classified as ‘inferior’. Whilst spokesmen for these policies could be found across the political spectrum in the Weimar Republic, no one party would wholly adopt these policies.<sup>63</sup> The main problem for supporters of sterilisation was how to combine forced sterilisation with the principles of a democratic society which protect the freedom of the individual. In order to gain the support of the public and the state, eugenicists had to accept the principle of voluntary sterilisation. However, they were fully aware of the powers that lay with the medical and legal profession to impose forced

<sup>57</sup> H. Riechert, *Im Schatten von Auschwitz. Die nationalsozialistische Sterilisationspolitik gegenüber Sinti und Roma* (Waxmann, Münster / N.Y., 1995), p. 24.

<sup>58</sup> J. Blasbalg, ‘Ausländische und deutsche Gesetze und Gesetzentwürfe über Unfruchtbarmachung’, *Zeitschriften für die gesamte Strafrechtswissenschaft* (1932), pp. 490–492; see also Wachsmann, *Hitler’s Prisoners*, p. 151: ‘bis zum Erlöschen der Befruchtungsfähigkeit’.

<sup>59</sup> E. Baur, E. Fischer, F. Lenz, *Grundrisse der menschlichen Erblchkeitslehre und Rassenhygiene* (Lehmann, München, 1931), p. 304.

<sup>60</sup> Weindling, *Health, Race and German Politics*, pp. 450–452.

<sup>61</sup> M. Schwartz, *Sozialistische Eugenik. Eugenische Sozialtechnologien in Debatten und Politik der deutschen Sozialdemokratie 1890–1933* (J. H. W. Dietz, Bonn, 1995), pp. 162–166, 293–311.

<sup>62</sup> Weindling, *Health, Race and German Politics*, p. 454.

<sup>63</sup> Bock, *Zwangssterilisation im Nationalsozialismus*, p. 10.

sterilisations by persuasion or even by coercion through withdrawing welfare benefits or even threatening imprisonment.<sup>64</sup> The demands of the various parties, the medical and legal professions, and eugenicists culminated in the meeting of the Prussian Health Council in 1932, which, after a discussion of sterilisation and welfare services, suggested that a national sterilisation law was indeed necessary.<sup>65</sup>

The widespread belief in this kind of social engineering can be seen from the fact that several other countries followed a similar direction. By 1935, twenty-seven American states, Denmark, Sweden and Finland all had sterilisation laws on record. In Sweden there was a strong desire to sterilise the ‘travellers’, (referred to as ‘Tattare’), because of their alleged criminal and ‘asocial’ character traits.<sup>66</sup> Whereas the 1935 Finnish Law made sterilisation voluntary, exceptions were made for ‘idiots’, ‘imbeciles’ and the ‘insane’ (including manic-depressives and schizophrenics).<sup>67</sup> However, the scale of the enforcement of these laws was much smaller than it would be under National Socialism. As of 1930, only about 11,000 Americans in twenty-three states had actually been sterilised.<sup>68</sup> Roughly the same number of people were sterilised in Denmark between 1929 and 1960 (out of a total population of 4,281,000).<sup>69</sup> The German case was unique because of the radical enforcement of the law (with approximately 400,000 people being sterilised during the Third Reich), and the inordinate pressure that was placed on doctors, prison and asylum officials to report all cases that might fall under the Sterilisation Law.<sup>70</sup> The Swedish law was not initially tainted by its association with Third Reich policies, and remained on the books until 1977.<sup>71</sup> Thus when the Hereditary Health Law<sup>72</sup> was passed by the National Socialists within months of coming to power, there was no uproar, because it was an issue that had been discussed and, in certain circles, advocated for a few decades by that time. It was implemented through ‘ordinary’ GPs and social services, and the court proceedings were not public, thus further reducing the chance of public protest.

The fact that Roma were not explicitly mentioned in this law does not mean that they remained unaffected. According to Bock, Roma were sterilised under this law from its inception, as part of a ‘racial war’.<sup>73</sup> Various amendments were made to the Hereditary Health Law, the most radical being the inclusion

<sup>64</sup> Weindling, *Health, Race and German Politics*, p. 450.

<sup>65</sup> Schwartz, *Sozialistische Eugenik*, pp. 311–327.

<sup>66</sup> G. Broberg, N. Roll-Hansen, *Eugenics and the Welfare State: Sterilization Policy in Denmark, Sweden, Norway and Finland* (Michigan University Press, Michigan, 1996), pp. 195, 124–130.

<sup>67</sup> Broberg, Roll-Hansen, *Eugenics and the Welfare State*, p. 232.

<sup>68</sup> T. Childers, J. Caplan, (eds), *Re-evaluating the Third Reich*, (Holmes & Meier, New York / London, 1993), p. 81.

<sup>69</sup> Broberg, Roll-Hansen, *Eugenics and the Welfare State*, p. 263.

<sup>70</sup> Bock, *Zwangsterilisation im Nationalsozialismus*, p. 8.

<sup>71</sup> Childers, Caplan, *Re-evaluating the Third Reich*, p. 81.

<sup>72</sup> *Gesetz zur Verhütung erbkranken Nachwuchses (Ehegesundheitsgesetz)* – Law for the Prevention of Offspring with Hereditary Diseases (Hereditary Health Law).

<sup>73</sup> Bock, *Zwangsterilisation im Nationalsozialismus*, p. 362.

of ‘asocials’ as an official category for sterilisation. This enabled doctors to justify the sterilisation of Roma much more readily.<sup>74</sup> Previously, only those affected by certain specific hereditary diseases – such as schizophrenia and manic depression – were included, although the category of ‘congenital feeble-mindedness’ could be, and was, interpreted quite widely.<sup>75</sup> Whilst the onset of the war meant a decrease in the numbers of sterilisations carried out under the Hereditary Health Law, sterilisation of Roma increased sharply. Initially Roma were pressured into giving their consent to sterilisation by promising that this would exempt them from deportation. Ultimately this proved untrue. Once in the concentration camps, sterilisations continued – particularly in the form of sterilisation experiments.<sup>76</sup>

The ambition to prevent the continuation of ‘unworthy character traits’ was emphasised and further enforced by the 1935 Nuremberg Laws (and the commentary), in which Roma, analogously to Jews, were classified as racially foreign. These laws included the Law for the Protection of German Ethnicity (Marital Purity Law: *Gesetz zum Schutze der Erbgesundheit des deutschen Volkes*) and the Law for the Protection of German Blood and German Honour (Genetic Purity Law: *Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre*, the so-called *Blutschutzgesetz*), both passed in the autumn of 1935. The first of these laws forbade marriage between so-called ‘inferior people’ (*Angehörige minderwertiger Rassen*), whereas the second forbade unions between Germans and ‘members of alien races’ (*Personen artfremden Blutes*); Roma fell into both categories.<sup>77</sup> In their commentaries on the Nuremberg Laws, Wilhelm Stuckart and Hans Globke explicitly make the latter point:

The only people in Europe who have consistently been considered racial aliens are the Jews and the Gypsies ... The same principles that apply to the racial categorisation of Jews of mixed blood must also apply to the categorisation of other aliens of mixed blood.<sup>78</sup>

The National Socialists took up and emphasised the link between deviant social behaviour and criminality that had been increasingly made since the end of the previous century. As a consequence, they reinforced and increased the measures

<sup>74</sup> G. Leuthold, ‘Veröffentlichungen des medizinischen Schrifttums in den Jahren 1933–1945 zum Thema “Gesetz zur Verhütung erbkranken Nachwuchses vom 14. Juli 1933”’ (Nürnberg, 1975, unpublished thesis), p. 2.

<sup>75</sup> These categories were: congenital feeble-mindedness, schizophrenia, manic depression, hereditary epilepsy, Huntington’s disease, hereditary blindness, hereditary deafness, substantial physical deformities and severe alcoholism. See ‘Gesetz zur Verhütung erbkranken Nachwuchses vom 14.7.1933’, in *Reichsgesetzblatt* 1933, I, p. 529.

<sup>76</sup> For a more detailed account of the sterilisation of Roma during the Third Reich see Riechert, *Im Schatten von Auschwitz*.

<sup>77</sup> Bock, *Zwangsterilisation im Nationalsozialismus*, pp. 94–103.

<sup>78</sup> W. Stuckart, H. Globke, *Kommentare zur deutschen Rassengesetzgebung* (C. H. Beck, München, 1936), pp. 55–56: ‘Artfremden Blutes sind in Europa regelmäßig nur die Juden und die Z[igeuner] ... Die gleichen Grundsätze, die für die rassische Einordnung als jüdischer Mischling gelten, müssen auch für die Einordnung sonst artfremder Mischlinge zugrunde gelegt werden.’

taken by the police apparatus to control the Roma and curtail their freedom. The process of keeping under surveillance, registering and controlling the Roma had begun in the previous century, though in a less radical fashion. The police had played a marked role in the process even then. The registration of Roma started at the end of the nineteenth century, with Bavaria employing the most systematic and extensive approach. Alfred Dillmann was one of the leading members of staff at the Bavarian Gypsy Information Service (*Bayerischer Zigeunernachrichtendienst*), founded in 1899. He set up the Gypsy Information Service for the Security Police (*Nachrichtendienst für die Sicherheitspolizei in Bezug auf Zigeuner*) at the Munich Police Head Office in the same year, which registered the presence and activities of every Roma in each district. A result of this was Dillmann's 1905 'Gypsy Book' (*Zigeuner-Buch*) in which he published detailed data about more than 3,000 travellers.<sup>79</sup> The Prussian Ministry of the Interior, together with nine neighbouring states, issued a directive on the Combat of the Gypsy Plague (*Bekämpfung der Zigeunerplage*) in 1906, which restricted trading, prevented Roma from residing in towns and expelled foreign Roma. The title of this law shows that the term used by the National Socialists to describe the Roma situation, the 'Gypsy Plague', was not their invention. By 1911, Prussia had introduced fingerprinting of Roma.<sup>80</sup> In 1922, Baden also started using fingerprinting, and by 1927 Prussia had fingerprinted and registered 8,000 Roma.<sup>81</sup> The National Socialists later used much of the material collected during this time for the further cataloguing and persecution of the Roma. It was Bavaria, once again, which took the lead in passing laws further curtailing the rights of Roma. Its 1926 Law for the Restriction (lit.: 'combat') of Gypsies, Travellers and the Workshy (*Gesetz zur Bekämpfung von Zigeunern, Landfahrern und Arbeitsscheuen*) made trading difficult by forbidding them to travel in groups or with school-aged children.<sup>82</sup> This was soon followed by various other German states, such as Hesse in 1929.<sup>83</sup> With the onset of the Third Reich, these Bavarian laws were adopted by other German states, systematising and centralising the persecution of the Roma.

Whereas in the early 1930s the Roma were discriminated against as part of the campaign to improve the gene pool of the German nation under the Sterilisation Law, in the later 1930s they were caught up in the fight against criminality and 'asociality', at which point their situation markedly worsened. Until 1937 the *Gestapo* had been solely responsible for the arrest of most of those sent to concentration camps, employing so-called protective custody (*Schutzhaft*). At the end of 1937, the Criminal Police also gained the power to send people to concentration camps via preventive custody (*Vorbeugehaft*), which could be

<sup>79</sup> Dillmann, *Zigeuner-Buch* (Dr Wild'sche Buchdruckerei, München, 1905).

<sup>80</sup> S. Tebbutt, 'Piecing together the jigsaw', in S. Tebbutt, (ed.) *Sinti and Roma: Gypsies in German-Speaking Society and Literature* (Berghahn Books, Oxford / N.Y., 1998), pp. 1–16, here p. 4.

<sup>81</sup> Kenrick, Puxon, *The Destiny of Europe's Gypsies*, p. 56.

<sup>82</sup> Zimmermann, *Rassenutopie und Genozid*, p. 81.

<sup>83</sup> K. Reemtsma, *Sinti und Roma. Geschichte, Kultur, Gegenwart* (C. H. Beck, München, 1996), p. 96.

enforced without trial. Roma were implicated in this fight against criminals and those disturbing the order of the Third Reich, primarily the so-called ‘workshy’ and ‘asocials’. The basis for sending these people to concentration camps was the Fundamental Decree Concerning the Preventative Combat of Crime by the Police (*Grundlegender Erlaß über die vorbeugende Verbrechensbekämpfung durch die Polizei*) of 14 December 1937, which ordered that those who in a minor but repeated fashion violated the law and who did not adhere to the National Socialist order were to be regarded as ‘asocial’ and could thus be taken into preventive custody.<sup>84</sup> This was to include alcoholics, prostitutes, beggars and petty criminals along with ‘Gypsies’. There were arrests – after a push from Heydrich and the SS/*Gestapo* in Berlin to get local authorities to act – from 21–30 April 1938 and 13–18 June 1938 (*Aktion Arbeitsscheu Reich*), sending these people to the concentration camps of Buchenwald, Dachau and Sachsenhausen.<sup>85</sup>

Part of this fight against the ‘workshy’ and specifically against Roma was their internment in ‘Gypsy Camps’, mostly on the outskirts of the cities. The Berlin Protective Police (*Schutzpolizei*) sent Roma living in Berlin to the Marzahn camp on the eastern outskirts in July 1936, initially to improve the appearance of the city in the run up to the Olympics. By 1938 about 800 Roma lived there in very poor conditions and with severely restricted freedom. Similar camps were created across Germany and the occupied territories.<sup>86</sup> The camps established in Austria after the *Anschluß* were more coercive from the beginning, resembling the forced labour camps established during the war in the East, rather than ghettos.<sup>87</sup> The creation of these ‘Gypsy Camps’ by municipal authorities – rather than by state governments or the central government in Berlin – is important evidence both for the existence of local initiatives and for the early onset of the gradual registration, physical control and elimination of ‘Gypsies’.<sup>88</sup> These camps were not only the result of local initiatives but also paid for by municipal governments and welfare offices.<sup>89</sup> Initially the camps were used as a means to rid the cities of unwanted ‘Gypsies’ – harassing and controlling them – whereas the onset of the war led to a change in character of these camps where freedom of movement was eventually completely eliminated and camp inhabitants were subjected to forced labour.<sup>90</sup> It was once again Himmler who was responsible for the creation and development of these ‘Gypsy Camps’. Since his appointment as the head

<sup>84</sup> G. Werle, *Justiz-Strafrecht und polizeiliche Verbrechensbekämpfung im Dritten Reich* (Walter de Gruyter, Berlin, 1989), pp. 489–492.

<sup>85</sup> W. Wippermann, *Auserwählte Opfer? Shoah und Porrajmos im Vergleich. Eine Kontroverse* (Frank & Timme, Berlin, 2005), pp. 33–34; see also Zimmermann, *Rassenutopie und Genozid*, pp. 112–117.

<sup>86</sup> For more information on these ‘Gypsy Camps’ see Zimmermann, *Rassenutopie und Genozid*, pp. 93–100.

<sup>87</sup> Friedlander, *The Origins of Nazi Genocide*, p. 255.

<sup>88</sup> Lewy, *The Nazi Persecution of the Gypsies*, pp. 20–23; Friedlander, *The Origins of Nazi Genocide*, pp. 254–256.

<sup>89</sup> Friedlander, *The Origins of Nazi Genocide*, p. 254.

<sup>90</sup> Lewy, *The Nazi Persecution of the Gypsies*, p. 23.

of the German Police on 17 June 1936, he had held the sole responsibility for the 'Gypsy Question' – an authority he did not have over the 'Jewish Question' at that stage.<sup>91</sup>

Camps for Roma were not entirely new; they had been proposed or had existed before the Third Reich. During the Weimar Republic there was a debate about the creation of concentration camps (even then called concentration camps) for foreigners and criminals. In April 1920 the Bavarian government had expelled the so-called Eastern Jews (*Ostjuden*), an act imitated by Prussia shortly thereafter. The Prussian Interior Minister Alexander Dominicus from the German Democratic Party (DDP) proposed in January 1921 to intern unwanted foreigners (e.g. Eastern Jews) in so-called concentration camps. Shortly thereafter such concentration camps were built – one in Stargard (Pomerania) and one in Cottbus (Brandenburg). Barracks, in which Russian prisoners of war had been imprisoned until 1921, were re-used for these camps. They were guarded by the *Reichswehr* (National Defence Army), which was said to have employed brutal methods. Because of protests by Jewish organisations these two concentration camps were closed in December 1923, but other, similar camps where criminals and often Roma were imprisoned remained in use.<sup>92</sup> For instance, the National Socialist creation of the Gypsy Camp in Cologne in 1935 can be traced back to the Weimar Republic. In 1929 the police administration had advocated a Roma collection camp. The Roma were regarded as a threat to the general population because, as a result of the world economic crisis, they tended to live in unregulated settlements (*wilde Siedlungen*). The National Socialist regime regarded these settlements as difficult to control and thus it was proposed to move all Roma to an area on the outskirts of the city in the Venloer Straße. This camp was completed in April 1935, surrounded by a two-metre-high barbed-wire fence, and had very poor sanitary provisions. Roma living in caravans were redirected here, as were Roma in rented accommodation. Information at the welfare offices was used to identify these sedentary Roma, so that by 1937 between 500 and 600 Roma lived in this camp. An SS officer was placed in charge; Roma were not allowed to leave the camp at night, and non-Roma were not allowed to enter at all.<sup>93</sup>

The emerging racial discrimination was the result of social and ethnic prejudices, justified by pseudo-scientific arguments and directed and implemented by the police apparatus. This collaboration between the scientists and the police apparatus was the quintessence of the persecution of the Roma. The so-called racial scientists provided the 'research' that was later used as proof that the alleged negative character traits of Roma were racial traits, thus justifying the measures against them. The leading and most prominent scientist in this area was Dr Robert Ritter,<sup>94</sup> and his example serves to show how intertwined the German police under Himmler and this research institute came to be. In 1935 Ritter re-orientated his research from proving that delinquency was the

<sup>91</sup> Wippermann, *Wie die Zigeuner*, pp. 152–153.

<sup>92</sup> Wippermann, *Wie die Zigeuner*, pp. 130–131.

<sup>93</sup> Zimmermann, *Rassenutopie und Genozid*, p. 94.

<sup>94</sup> For a more detailed Ritter biography, see Zimmermann, *Rassenutopie und Genozid*, pp. 127–131.

result of hereditary ‘feeble-mindedness’ to research on Roma,<sup>95</sup> submitting his doctoral thesis – a psychiatric, hereditary and socio-biological study of ‘the descendants of established tribes of swindlers and thieves’ in Swabia<sup>96</sup> – in 1936, when he was asked to continue his ‘Gypsy and persons of mixed blood’ research within the Reich Health Authority.<sup>97</sup> Ritter moved to Berlin and created the Research Institute for Racial Hygiene and Demographic Biology (*Rassenhygienische und Bevölkerungsbiologische Forschungsstelle*), which would catalogue 30,000 German Roma by spring 1942.<sup>98</sup> Ritter’s work became ever more intertwined with the police apparatus after Himmler had been appointed head of the German Police on 17 June 1936, increasingly using this apparatus to enforce his ‘Gypsy’ policies.<sup>99</sup> The centralisation of the police system, which included the appointment of Arthur Nebe in July 1937 to direct the Reich Criminal Police Office (RKPA), allowed Himmler to increase his influence further. The RKPA passed on rules for the implementation of anti-‘Gypsy’ policy to local agencies, which were based on decrees by the Interior Ministry, Himmler or the RKPA itself.<sup>100</sup> The situation of the Roma worsened when Heinrich Himmler took charge of the ‘Gypsy Question’ (*Zigeunerfrage*) in 1938 with the Decree for Combating the Gypsy Plague (*Erlaß zur Bekämpfung der Zigeunerplage*).<sup>101</sup> There was a further centralisation in that the Gypsy Police (*Zigeunerpolizeistelle*) in Munich, which had had the most radical anti-‘Gypsy’ measures, was turned into the Central Agency for Combating the Gypsy Plague (*Reichszentrale zur Bekämpfung der Zigeunerplage*) and moved to Berlin, thereby institutionalising the persecution of the Roma on a national level.<sup>102</sup> Martin Luchterhand argues that the need to be politically useful led to an increasing subordination of the workings of the race scientists to the police apparatus.<sup>103</sup> From late 1941 onwards Ritter was in charge of the newly founded Criminal-Biological Institute of the Security Police (*Kriminalbiologische Institut der Sicherheitspolizei*), which was part of the RKPA.<sup>104</sup> The incorporation of the race scientists’ institutes into the structures of persecution also suggests that they were being instrumentalised to provide ‘scientific’ legitimation for measures that had an independent and anterior logic and dynamic. At the same time, Ritter’s research provided material which Himmler and the *SS-Ahnenerbe*<sup>105</sup> employed to argue that there

<sup>95</sup> Burleigh, Wiperman, *The Racial State*, p. 118.

<sup>96</sup> His thesis was entitled: ‘Ein Menschenschlag – Psychiatrische, erbgeschichtliche und sozialbiologische Untersuchungen über die Nachkommen alter Gaunergeschlechter in Schwaben’.

<sup>97</sup> Burleigh, Wiperman, *The Racial State*, p. 118.

<sup>98</sup> Kenrick, Puxon, *The Destiny of Europe’s Gypsies*, p. 61.

<sup>99</sup> Zimmermann, *Rassenutopie und Genozid*, pp. 107–109.

<sup>100</sup> Friedlander, *The Origins of Nazi Genocide*, p. 258.

<sup>101</sup> RMBliV. 1938, p. 2106.

<sup>102</sup> L. Tcherenkov, S. Laederich, *The Roma*, vol I (Schwabe, Basel, 2004), pp. 156–160.

<sup>103</sup> M. Luchterhand, ‘Robert Ritter und sein Institut. Vom Nutzen und Benutzen der “Forschung”’, in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 321–328, here p. 325.

<sup>104</sup> M. Zimmermann, ‘Zigeunerpolitik und Zigeunerdiskurse im Europa des 20. Jahrhunderts’, in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 13–70, here p. 17.

<sup>105</sup> The Ahnenerbe Forschungs- und Lehrgemeinschaft (Ancestral Heritage Research and Teaching



were ‘racial distinctions’ between ‘pure Gypsies’, which he believed had an Indian and therefore Aryan background, and ‘mixed Gypsies’, which did not have these Aryan traits.<sup>106</sup> This belief led to an attempt to exempt some of these ‘racially pure Gypsies’ from the National Socialist persecution measures in 1942.<sup>107</sup>

Recent studies have emphasised the extent to which, from 1939 onwards, practical moves were driven by police agencies subordinated to the RKPA. In a recent article, Zimmermann shows how initially the responsibilities of the RKPA had been first to control and then to fight the ‘Gypsy Plague’ internally (via the 1937 Fundamental Decree Concerning the Preventative Combat of Crime by the Police and the 1938 Decree for Combating the Gypsy Plague respectively), whereas with the onset of the war, the Reich Criminal Police Office was also involved in the deportation of ‘Gypsies’ to camps outside Germany.<sup>108</sup> However, the first attempt at deportation – to send the Berlin ‘Gypsies’ to occupied Poland in the autumn of 1939 – failed.<sup>109</sup> The RKPA desired to deport as many ‘Gypsies’ as quickly as possible, but was unable to do so because the direction from the centre was to prioritise the deportation of Jews. Nevertheless, the RKPA managed to instigate local initiatives to deport ‘Gypsies’; local Criminal Police forces (*Kriminalpolizei*) issued exit permits for ‘Gypsies’ to leave for occupied Poland and the RKPA extradited 42 ‘Gypsy’ families to Vichy France by October 1942, even though Himmler had explicitly ordered in August 1942 that no ‘asocial’ and ‘racially inferior’ ‘elements’ were to be deported to Vichy France as that might damage relations. At the same time the measures employed by the RKPA to ‘control’ ‘Gypsies’ within Germany grew ever harsher, which meant that ‘Gypsies’ were sent to camps for negligible, or even unproven, offences.<sup>110</sup> The rigour with which the RKPA pursued the persecution of ‘Gypsies’ can be seen from the (covert) refusal to grant certain ‘racially pure’ Roma more freedom of movement than other Roma, as demanded by Himmler in the autumn of 1942.<sup>111</sup> Similarly, the Auschwitz Decree had included the exemption of certain ‘racially pure’ Sinti and Lalleri ‘Gypsies’. A list of individual ‘Gypsies’ to be exempted had been provided by the designated spokesman of these groups. It was often ignored by the local police forces who usually made the deportation selections.<sup>112</sup>

More systematic and large-scale deportations of Roma increased with the onset of the war. Roma were deported to the newly occupied territories, to ghettos such as Lodz, to so-termed ‘Gypsy Holding Camps’ (*Zigeunerhaltelager*) and

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Society) was founded in July 1935 by Heinrich Himmler, Hermann Wirth and Richard Walter Darée. It was incorporated into the SS in April 1940.

<sup>106</sup> Zimmermann, ‘Zigeunerbilder und Zigeunerpolitik in Deutschland’, p. 47.

<sup>107</sup> M. Zimmermann, ‘Die Entscheidung für ein Zigeunerlager in Auschwitz-Birkenau’, in Zimmermann, *Zwischen Erziehung und Vernichtung*, pp. 392–424, here pp. 395, 400; Friedlander, *The Origins of Nazi Genocide*, p. 293.

<sup>108</sup> Zimmermann, ‘Die Entscheidung für ein Zigeunerlager in Auschwitz-Birkenau’, pp. 398–399.

<sup>109</sup> Zimmermann, ‘Zigeunerpolitik und Zigeunerdiskurse im Europa des 20. Jahrhunderts’, p. 14.

<sup>110</sup> Zimmermann, ‘Die Entscheidung für ein Zigeunerlager in Auschwitz-Birkenau’, p. 399.

<sup>111</sup> Zimmermann, ‘Die Entscheidung für ein Zigeunerlager in Auschwitz-Birkenau’, p. 400.

<sup>112</sup> Friedlander, *The Origins of Nazi Genocide*, p. 293.

to camps such as Neuengamme, Sachsenhausen, Ravensbrück and Mauthausen.<sup>113</sup> Preparatory measures for extensive deportations had been taken since the Compulsory Settlement Order of October 1939, which forbade Roma to leave the places where they currently resided, a measure that greatly simplified their registration. Ever more restrictive actions were taken, which included banning Roma children from schools in March 1942 and discharging Roma soldiers in July 1942.<sup>114</sup> The deportation of 2,500 Roma in April 1940 from Hamburg, Cologne and Hohenasperg (near Stuttgart) to Poland, described by the Reich Criminal Police as a precautionary military measure in response to the aforementioned Central Command of the German Army demand, was followed by deportations to concentration camps. For example, in November 1941, 5,000 Roma (mainly from Germany and Austria) were deported to the Lodz ghetto, where a separate ‘Gypsy Camp’ was established. This ‘Gypsy Camp’ existed from November 1941 until early 1942. There were five arrivals of trains between 5 and 9 November 1941, with every transport consisting of about 1,000 ‘Gypsies’. By 1 January 1942, 613 inmates of the ‘Gypsy Camp’ had died. The remaining ‘Gypsies’ were deported to Chelmno/Kulmhof by 12 January 1942.<sup>115</sup> They had all been gassed by April 1942.<sup>116</sup> The Lodz Ghetto Chronicle makes clear that conditions were often worse in this ‘Gypsy Camp’ than in the main ghetto, with frequent typhoid epidemics and deaths.<sup>117</sup>

The beginning of the Roma’s ‘final solution’ was Himmler’s Auschwitz Decree of 16 December 1942, which ordered the deportation to Auschwitz of the approximately 10,000 Roma remaining in Germany. The Roma had also been victims of the murders committed by the SS Task Forces, which followed the advancing *Wehrmacht* eastwards. In Poland, for instance, the majority of Roma did not die in camps, but were shot by these Task Forces. Similarly, in Serbia, German occupation on 9 October 1941 began with the shooting of Jews and ‘Gypsies’. In Russia, Zimmermann points out, the *Wehrmacht* handed over ‘Gypsies’ to the Task Forces to be shot, but the Task Forces did not ‘hunt down’ ‘Gypsies’ themselves.<sup>118</sup> In contrast, in Serbia it was the Task Forces which singled out the targets, and the *Wehrmacht* who shot them.<sup>119</sup> In the occupied territories, the SS treated Roma like Jews, although the intensity of persecution varied.<sup>120</sup> Whereas

<sup>113</sup> Zimmermann, *Rassenutopie und Genozid*, p. 169.

<sup>114</sup> Reemtsma, *Sinti und Roma*, pp. 106–107.

<sup>115</sup> E. Thurner, *Nationalsozialismus und Zigeuner in Österreich* (Greyer, Wien, 1983), pp. 174–179.

<sup>116</sup> J. Ficowski, ‘Zigeunerlager im Getto Lodz’, in A. Geiges, B. W. Wette, (eds), *Zigeuner heute. Verfolgung und Diskriminierung in der BRD. Eine Anklageschrift* (Lamuv, Bornheim-Merten, 1979), pp. 262–268, here pp. 264–265.

<sup>117</sup> L. Dobroszycki, (ed.), *Chronicle of the Lodz Ghetto, 1941–44* (Yale University Press, New Haven, 1984), pp. 85–86, 96; see also Ficowski, ‘Zigeunerlager im Getto Lodz’, pp. 262–268.

<sup>118</sup> Zimmermann, ‘Zigeunerbilder und Zigeunerpolitik in Deutschland’, p. 45.

<sup>119</sup> M. Zimmermann, (ed.) *Das Schicksal der Sinti und Roma im KL Auschwitz-Birkenau* (Museum Auschwitz, Auschwitz, 1994), p. 45.

<sup>120</sup> For the co-operation between the SS, the police and the *Wehrmacht* see the contributions of D. Pohl and A. Angrick, in C. Hartmann, J. Hürter, U. Jureit, (eds), *Verbrechen der Wehrmacht. Bilanz einer Debatte* (C. H. Beck, München, 2005), pp. 107–116, 117–124 (D. Pohl, ‘Die Kooperation zwischen Heer, SS und Polizei in den besetzten sowjetischen Gebieten’, pp. 107–116, and A. Angrick,

in the East Roma were shot and deported, no systematic mass shootings of Roma can be confirmed in Greece, Italy, Luxembourg, Denmark and Norway, Bulgaria or Romania. In contrast, large-scale massacres of Jews occurred in all of these territories.<sup>121</sup> Roma in the East were the victims of mass reprisals, as a note from the head of the Security Police and the *Sicherheitsdienst* in Serbia clearly expressed: 'As retribution for the shooting of the 21 German soldiers a few days ago, 2,100 Jews and Gypsies were executed. The execution was carried out by the *Wehrmacht*.'<sup>122</sup> The construction of the 'Gypsy Camp' in Auschwitz-Birkenau had started in 1941, and the camp's records include the death of 20,943 Roma.<sup>123</sup> The 'Gypsy Camp' in Auschwitz-Birkenau was dissolved in August 1944 when, probably on an order from Berlin, those 'Gypsies' who could still work were sent to Buchenwald, and the remaining 2,897 'Gypsies' were killed by gas.<sup>124</sup>

The persecution of the Roma in Germany clearly developed from various beliefs declaring the Roma as inferior, a result of which was an ever-increasing harshness of persecution. In contrast to the 'Jewish Question', the 'Gypsy Question' was centrally driven (i.e. directed by the police authorities in the capital rather than run as provincial initiatives) from a much earlier date. The movement restrictions placed on Roma from 1935 onwards were, at that time, not yet applied to Jews. One of the reasons for the lack of awareness of Roma persecution in the German public consciousness after the war was, perhaps, that Hitler did not use the 'Gypsies' as a political instrument in the way he used the Jews. He barely ever mentioned 'Gypsies' himself, and they were largely absent from National Socialist propaganda. Whilst Roma were alluded to in decrees, such as the Nuremberg Laws (and the commentary), verbally the emphasis was on Jews. However, whereas large-scale, centralised propaganda did not portray the Roma as an existential threat to the German people, in sharp contrast to the claims made about the Jews, local initiatives clearly emphasised that Roma were not part of the German body of the people (*Volkskörper*). Importantly, the emphasis in these local initiatives was usually on the criminal and 'asocial' characteristics of 'Gypsies' which made the fact that this was in fact racial persecution less obvious. The local initiatives, and coverage in local press, characterised Roma as 'asocials' and 'workshy', meaning that both could be instrumentalised as propaganda against Roma, even if this sort of propaganda played on pre-existing expectations of

<sup>121</sup> 'Das Beispiel Charkow. Massenmord unter deutscher Besatzung', pp. 117–124).

<sup>122</sup> Zimmermann, *Das Schicksal der Sinti und Roma im KL Auschwitz-Birkenau*, p. 48.

<sup>123</sup> Reemtsma, *Sinti und Roma*, p. 119: 'Als Vergeltung für die vor einigen Tagen erschossenen 21 deutschen Soldaten werden 2100 Juden und Zigeuner exekutiert. Die Exekution wurde von der Wehrmacht durchgeführt.'

<sup>124</sup> Tcherenkov, Laederich, *The Roma*, p. 162.

<sup>125</sup> Zimmermann, *Das Schicksal der Sinti und Roma im KL Auschwitz-Birkenau*, pp. 167–171; the deportation of the 'Gypsies' from Auschwitz coincided with the general move of prisoners from Auschwitz to the *Reich* where they were used as forced labour. Speer's Jägerplan had demanded the deportation of 100,000 Hungarian Jews to aircraft factories in Germany, and deportations of such workforce from Auschwitz began in mid-1944. See F. Piper, *Auschwitz Prisoner Labor: the Organization and Exploitation of Auschwitz Concentration Camp Prisoners as Laborers* (Auschwitz-Birkenau State Museum, Auschwitz, 2002), pp. 70–72.

'Gypsy' criminality and 'asociality' and thus might not have been perceived as propaganda comparable to the propaganda against Jews. For instance, the widespread adjustments of welfare payments made to Roma – reducing the amounts paid, giving welfare in the form of clothing or food instead of money, or making payments conditional on the recipient performing work for the community – in themselves had the effect of stigmatising the recipient, which again served as negative propaganda against this group.<sup>125</sup> Other behaviour, such as Roma musicians being physically removed from pubs and restaurants by members of the SS or the NSDAP gave a clear indication of what the National Socialists thought about Roma from very early on.<sup>126</sup> Local initiatives ranging from reducing welfare payments to interning Roma in 'Gypsy Camps' went hand in hand with general denunciations in the local press, which increasingly emphasised that regarding the Roma as romantic was a misconception, and demanded that their vagabond lifestyle be controlled. Together, all these actions added to the creation of the 'Gypsy' as a perceived enemy.<sup>127</sup> But the image of the perceived enemy (*Feindbild*) was manifold. Zimmermann points out that in contrast to the one image of the perceived enemy of the Jew, the National Socialists had in fact created several, distinct images of the 'Gypsies' as a perceived enemy, which meant that the German Reich saw itself as threatened, and attacked this group on various grounds, but always with the aim of keeping them apart from the Germans.<sup>128</sup>

The question this survey of National Socialist policy raises is whether one can speak of a racial persecution – should the Roma have been recognised as victims of National Socialist persecution as outlined in the first paragraph of the Compensation Law? A suggested answer to the question of whether the Roma were persecuted as a race or as a social group is to be found in Hitler's interpretation of the term 'race'. In a talk with Austrian Chancellor Kurt von Schuschnigg, Hitler pointed out that he did not wish to confine the term 'race' to its scientific meaning, which suggests that Hitler employed a deliberately vague definition in order to use it widely.<sup>129</sup> Race meant much more to Hitler and his followers than 'a group of persons ... connected by common descent or origin'.<sup>130</sup> It was a term used in a fight against anybody who was 'different', whether because of ethnicity or illness. The sick, mentally ill and physically handicapped were, in Hitler's mind, as equally unwelcome as Jews, Roma or Slavs. Alongside his specific definition of race, Hitler devoted his regime to the creation of a new people, aiming to 'better' both individuals and the *Volk*, resulting in not only a fight directed against other ethnic groups, but also a struggle to 'improve' the master race via breeding institutions such as the SS-institution *Lebensborn*, a Himmler initiative.<sup>131</sup> Similarly, the SS under Himmler was not merely a political

<sup>125</sup> Zimmermann, *Rassenutopie und Genozid*, p. 82.

<sup>126</sup> Zimmermann, *Rassenutopie und Genozid*, p. 84.

<sup>127</sup> Zimmermann, *Rassenutopie und Genozid*, p. 85.

<sup>128</sup> Zimmermann, *Das Schicksal der Sinti und Roma im KL Auschwitz-Birkenau*, p. 47.

<sup>129</sup> C. Gansmüller, *Die Erbgesundheitspolitik des Dritten Reiches* (Böhlau, Köln, 1987), p. 4.

<sup>130</sup> *Oxford English Dictionary*, vol. 8 (Oxford University Press, Oxford, 1933), p. 87.

<sup>131</sup> G. Lilienthal, *Der 'Lebensborn e.V.'. Ein Instrument nationalsozialistischer Rassenpolitik*

organisation, but also an institution that united men who, according to National Socialist ideology, were regarded as 'ideal men'. This suggests that, during the Third Reich, negative and positive eugenics were two sides of the same coin. Wolfgang Wippermann supports the idea that the definition of racism is important by arguing that there were two variants of racism in National Socialist Germany – and that the Roma fell foul of both of them. Wippermann explains that the first form of racism was ethnic (racial-anthropological) and the second was social (racial-hygienic).<sup>132</sup> The first variant targeted Roma as a foreign race and the second variant discriminated against Roma based on their alleged 'asocial', criminal traits. Science was mixed with everyday 'knowledge' and eventually the two began to merge. The traits ascribed to the Roma as a social group were turned into traits attributed to them as a race. Their alleged criminality and 'asociality' were transformed into hereditary traits. Social discrimination was turned into racial discrimination, but the justifications and motivations remained essentially the same, although the machinery and language of persecution increasingly moved towards persecuting the Roma as a 'race'. Social prejudices became racial pseudo-science. The foundations for the merging of social and racial prejudices were laid long before Hitler came to power, even if the National Socialists created the environment that led to the escalation of these prejudices.

But even if the language, such as regarding the Roma as a 'national plague' (*Landplage*) remained the same, the measures implemented by the National Socialists went far beyond those used in the past. The National Socialists built on existing sentiment and attitudes, using similar language, yet clearly radicalised implementation or allowed and encouraged local radicalisation. As a result, local initiatives, both police and civil for exclusion and internment (such as the local 'Gypsy Camps') became a key feature in the persecution of the Roma. These measures had begun in the late 1920s but were increasingly enabled by the National Socialist apparatus leading up to the war.<sup>133</sup> Therefore, the continuity between the periods is within the attitudes and language, which after the war meant that there was a failure to see that there was a problem with the practice of the National Socialists, which had been much more radical than anything before. Similarly, post-war practice and policies changed in scale, but the tone and language remained the same, which gives a sense of continuity, even if the meaning and thus the implementations changed.

The lack of a clear break in attitude or language after 1945, along with a clear continuity of administrative and judicial personnel after 1945, is one of the main reasons why it took the West German government so long to acknowledge the persecution of the Roma; this, in turn, explains the delayed government efforts to improve the compensation payments to Roma. Because there had been a very clear, straightforward policy and implementation apparatus for the persecution of

(Fischer, Stuttgart, 1985).

<sup>132</sup> Wippermann, 'Auserwählte Opfer?', p. 28.

<sup>133</sup> Zimmermann, *Rassenutopie und Genozid*, pp. 79–85, 93–100; Zimmermann, 'Zigeunerpolitik und Zigeunerdiskurse im Europa des 20. Jahrhunderts', p. 51; Lewy, *The Nazi Persecution of the Gypsies*, pp. 20–23.

the Jews, because National Socialist rhetoric and propaganda so clearly targeted the Jews for persecution, and because anti-Semitism had not been enshrined in Weimar laws and police regulations, it was fairly straightforward to identify and annul all those laws and regulations discriminating against them after the war. As a result of this action on behalf of the Allies, Germans were sensitised with respect to the appropriateness of statements regarding Jews. However, this was not the case with the policies or language concerning Roma. Because in many cases the laws that had dealt with Roma predated the National Socialist period and did not always have an overtly racial tone, they were not abolished after the war and did not fall into the group of laws that had been annulled by the Allies. In Hesse, for example, the 1929 Law for Combating the Gypsy Menace (*Gesetz zur Bekämpfung des Zigeunerunwesens*) was not abolished until 1957.<sup>134</sup> But even decrees and laws from the National Socialist period which specifically targeted Roma were kept. Whilst the Allies repealed 'laws of a political or discriminatory nature upon which the Nazi regime rested' with the Control Council Law Number One, many laws specifically aimed at Roma were left unnoticed and thus untouched, as they were not regarded as having a racial character.<sup>135</sup> In 1949, Cologne specifically confirmed the validity of Himmler's 1938 decree, with the police issuing a decree (12 March 1949) entitled Combating the Gypsy Menace (*Bekämpfung des Zigeunerunwesens*), thus revealing the continuity of thought, language and treatment of Roma in at least one German city.

In post-war Germany, the police remained in charge of the 'Gypsy problem' and continued their surveillance and expulsion, based to a large extent on the material collected during the Weimar Republic and the Third Reich. This structural continuity shows how, because the anti-Roma measures had been conducted under the aegis of the police, anti-Roma measures were not recognised as discriminatory persecution. In fact, the National Socialists' fight against criminality was one of the things that was openly described by many Germans as one of the 'good' or 'effective' sides of National Socialism.<sup>136</sup> Consequently, many Germans accepted the fight against a group widely perceived to be essentially 'criminal', and some might have even applauded rather than condemned measures undertaken against Roma.

There was a clear continuity both of the responsibility of institutions dealing with Roma and of personnel within them. In Bavaria the Central Agency for Vagrants (*Landfahrerzentrale*) continued the work of the former Gypsy Police (*Zigeunerpolizei*), using much of the material that had been compiled by the National Socialists.<sup>137</sup> Data from Roma, such as fingerprints and photographs were still collected. The 1953 Bavarian Decree on Vagrants (*Bayerische*

<sup>134</sup> Reemtsma, *Sinti und Roma*, p.127.

<sup>135</sup> Control Council Law No. 1 (29 October 1945), in *Control Council for Germany* (the official publication of the Control Council for Germany), pp. 3–4.

<sup>136</sup> A. Merritt, R. Merritt, *Public Opinion in Semisovereign Germany: the HICOG Surveys, 1949–1955* (University of Illinois Press, Urbana / Chicago / London, 1980), p. 8.

<sup>137</sup> Ä. Winckel, *Antiziganismus. Rassismus gegen Roma und Sinti im vereinten Deutschland* (Unrast, Münster, 2002), p. 34.

*Landfahrerverordnung*) considerably restricted freedom of movement. It was no longer sufficient to provide a passport; 'vagrants' had to have a so-called Vagrants' Book (*Landfabrerbuch*), containing amongst other things the fingerprints of all family members travelling together. This decree was in existence until 1970.<sup>138</sup> The term 'vagrant' merely paraphrased the term 'Gypsy', without changing the actual target group.

A chief example of the continuity of personnel is Josef Eichberger, who had been in charge of the transportation of Roma to Auschwitz at the Central Office of the Security Police (RSHA), holding a position similar to that of Adolf Eichmann for Jews. After the war he was a British prisoner of war (September 1945–March 1947), but was classified as a nominal member (*Mitläufer*) during his de-nazification process, so that after his release nothing prevented him from being appointed as the head of the 'Gypsy Department' at the Bavarian police (*Landeskriminalamt*) in Munich, where he was in charge of the 'Gypsy files'.<sup>139</sup> Because racial arguments were frowned upon after the war, the German authorities, especially the police, returned to justifying their methods against the Roma with social arguments, but whether this really represented a change in thought is questionable.

The social policies towards Roma in post-war Germany, as well as the stance of the press towards Roma, show this continuity very clearly. Franz Hamburger examined twelve daily newspapers published between 1979 and 1991 and noted that Roma were almost exclusively mentioned in the context of criminality and social conflicts.<sup>140</sup> In these papers, Roma were presented as a threat to public order and appear as a collective group, united by their biological similarities; there was an undertone that 'Gypsy' equalled criminal. Local press articles relied heavily on police reports, showing how dealing with 'Gypsies' remained, in the eyes of most, a matter for the police. These police reports often spoke of 'vagrants', but the descriptions leave no doubt that these people were what the police regarded as 'Gypsies'.<sup>141</sup> That fixed viewpoints, perpetuated by the media, rather than the actual behaviour of Roma, determined public opinion and policies is confirmed by Peter Widmann's study of the municipal policies towards Roma in Freiburg (Baden) and Straubing (Bavaria). In this study, Widmann shows that the post-war developments in policy were not really developments, but rather a repetition of previous ways of 'dealing' with the Roma. He describes the 1950s as a period where deterrence and eviction were the prime municipal policies, followed by a decade during which state institutions tried to impose control and probation.

<sup>138</sup> C. Schmalz-Jacobsen, G. Hansen (eds), *Ethnische Minderheiten in der Bundesrepublik Deutschland. Ein Lexikon* (C. H. Beck, München, 1995), p. 448.

<sup>139</sup> L. Eiber, 'Ich wußte es wird schlimm.' *Die Verfolgung der Sinti und Roma in München 1933–1945* (Buchendorfer, München, 1993), p. 132.

<sup>140</sup> I. Bohn, F. Hamburger, K. Rock, 'Polizei und Presse. Eine Untersuchung zum "staatlich genährten Rassismus" am Beispiel der Berichterstattung über Sinti und Roma', in W. Benz, (ed.), *Jahrbuch für Antisemitismusforschung*, vol. 4 (Campus, Frankfurt am Main / N.Y., 1995), pp. 165–183.

<sup>141</sup> F. Hamburger, 'Antiziganismus in den Medien heute', in J. Giere, W. Heil, R. Lagrene, E. Schweiger, D. Strauß, (eds), *Zwischen Romantisierung und Rassismus. Sinti und Roma – 600 Jahre in Deutschland* (Landeszentrale für politische Bildung Baden-Württemberg, Stuttgart, 1998), pp. 47–49.

The more liberal 1970s and 1980s saw an emergence of attempts at integration (or rehabilitation) and education. However, these attempts were swiftly replaced by a return to a policy of indifference, when socio-political euphoria towards integration was subsiding and the limits of integration manifested themselves.<sup>142</sup> The fact that fifty-two percent of the West German population admitted in a 1987 opinion poll to being prejudiced towards Roma (this number rose to sixty-eight according to an Emnid report in the re-unified Germany of 1994) – in contrast to an estimated twelve to sixteen percent of West Germans having anti-Semitic tendencies<sup>143</sup> – is a reflection of all these continuities across social services, police, press and public opinion.<sup>144</sup>

These strong continuities were not necessarily inevitable. Chapters three and four will point out that not only should the nature of the Roma's persecution have been recognised as having been racially motivated, but that the possibility of this existed, given that there had been voices from early on pointing out the racial nature of the National Socialists' persecution of the Roma. Individual supporters of Roma, some few academics and members of the legal profession, argued for the Roma's persecution having been racially motivated from early on, which serves to show that even by the standards of the day, which were dominated by negative stereotyping and reinforced by the aforementioned linguistic, attitudinal and institutional continuities, the nature of the persecution could have been fully recognised much earlier.

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<sup>142</sup> P. Widmann, *An den Rändern der Städte. Sinti und Jenische in der deutschen Kommunalpolitik* (Metropol, Berlin, 2001).

<sup>143</sup> W. Bergmann, R. Erb, 'Wie antisemitisch sind die Deutschen? Meinungsumfragen 1945–1994', in W. Benz, (ed.), *Antisemitismus in Deutschland. Zur Aktualität eines Vorurteils* (DTV, München, 1995), pp. 47–63, here pp. 58–59.

<sup>144</sup> Wippermann, 'Wie die Zigeuner', p. 174.





## Chapter 2: Victims' Stories

Post-war interviews with and autobiographies by Roma not only give an insight into their lives, but also reveal where they place themselves within the history of persecution and *Wiedergutmachung*. This material throws light onto the issues Roma had to face after the war, and how Roma perceived their quest for compensation, their dealings with authorities and their success in gaining compensation. Analysing this material in addition to the compensation claims is important for two very distinct reasons. The delayed establishment of a sustained Roma civil rights movement in Germany meant that there was an absence of collective agency during the compensation period covered by this book. As a result, the success in each compensation case was linked to individual actions. Every claimant experienced the process differently, and the very different outcomes of forced sterilisation cases filed with the same authorities, are proof of just how individual these cases could be. (See chapter five for a more detailed discussion.) This chapter follows the individual stories as told by the Roma, whereas the chapters examining the compensation claims try to show the common thread within the stories told by the compensation claim files; thus the material presented in this chapter adds another dimension to the story of the Roma's compensation and gives a voice to the individual agents. The second reason why this biographical material is important – and which justifies presenting this material in a chapter of its own – is that the interview and biographic material tells us much about the Roma's own hierarchy of values and what mattered most to them in the aftermath of persecution. This material portrays the discrepancy of the value systems within which Roma lived after persecution: their own, that shared by all victims of persecution, and that incorporated by the West German government into the Compensation Laws. Because of the framework created by the Compensation Laws, personal comments found in the claim files are generally limited to issues directly relevant to the Compensation Laws. The material presented in this chapter shows that the issues which are deemed important in the Compensation Laws and by the agents of the state implementing these laws, which consequently are judged to deserve compensation, are not necessarily the issues which were most important to the Roma community and individual Roma after the war. The most striking example was forced sterilisation and the loss of the ability to have children, which Roma repeatedly described as one of the hardest burdens to bear, but which was not compensated under the Compensation Laws unless the victim's ability to work had been affected. To Roma, though, it was not the

physical pain that often resulted from sterilisation that was paramount, but rather the life-changing inability to have children and to create a family, along with the effect this had on their position and prospects within their community. Physical pain (if it prevented the victim from working) was compensated, but the emptiness left by the absent family or the social consequences of childlessness were not deemed worthy of compensation.

This chapter draws on video testimonies of Roma Holocaust survivors in the United States, as well as published memoirs and autobiographical collections in Germany.<sup>1</sup> The videotapes analysed are of German-speaking Roma, although a few are in English, their adopted language after immigration to the United States. All the interviews were conducted in the 1990s, with the Fortunoff and the United States Holocaust Memorial Museum interviews dating from 1990 to 1992, and the SHOAH Video Archive interviews ranging from 1990 to 1999.<sup>2</sup> This interview material has to be interpreted very carefully not only because in this case the interviews took place almost five decades after the time of persecution, but also because consecutive experiences can change the way the original events are retold, as suggested by Eve Rosenhaft who has argued that the Roma's Holocaust narrative is to a large extent shaped by their post-war experiences in Germany.<sup>3</sup> Similarly, the material shows that the Roma's narrative of the pre-persecution period is shaped by the persecution that followed. Roma often depict their life predating persecution by the National Socialists as idyllic, even though there had been repressive policies long before the onset of the National Socialist persecution of the Roma. This contrasting of periods seems to have become part of the collective memory, as even survivors who were born around the time Hitler came to power – and thus could not have remembered much of the pre-persecution period – talk of the pre-persecution period in idealised terms.<sup>4</sup>

Because memories can change over time, interview accounts should not primarily be used to reconstruct the past, especially in relation to events that are particularly painful or shameful such as forced sterilisations, which may not have been discussed for decades after the event. Other memories seem to be the result of hindsight or a shared memory which was created in the aftermath of persecution in an attempt to explain what happened. Therefore, testimonies recorded many decades after the event can be more reflective of a collective 'remembered past', rather than factual accounts of the actual events.<sup>5</sup> Dominik

<sup>1</sup> United States Holocaust Memorial Museum (Washington D.C., USA), Fortunoff Video Archive and the SHOAH Video Testimony Collection at Yale University (New Haven, USA).

<sup>2</sup> Throughout this book the anonymity of victims is preserved by abbreviating the surnames of those victims whose testimonies are taken from unpublished archival material. The full surname is cited only if the material comes from a published source.

<sup>3</sup> E. Rosenhaft, 'A photographer and his "victims" 1934–1964: reconstructing a shared experience of the Romani Holocaust', in N. Saul, S. Tebbutt, (eds), *The Role of the Romanies: Images and Counter-Images of 'Gypsies'/Romanies in European Cultures* (Liverpool University Press, Liverpool, 2004), pp. 178–207, here p. 180.

<sup>4</sup> Harry F., Fortunoff Video Archive, T-2768 (1991).

<sup>5</sup> On the topic of history and memory, see D. LaCapra, *History and Memory after Auschwitz* (Cornell University Press, Ithaca/London, 1998), particularly pp. 8–42.

LaCapra emphasises that no memory is purely constituted out of what happened, but that it is influenced and thus altered by the life after the event and, especially in the case of trauma, coming to terms with what happened has an influence on the remembered event.<sup>6</sup> Nevertheless, these at times adapted memories are important, as they act as symbolic memory (which at times can be factually false), with this symbolic memory being employed to explain why certain things happened. Therefore, the way in which the past is recounted tells the historian on the one hand what mattered most to the victims, while on the other hand it shows how memory is not only at times re-shaped but also adopted by the whole victim group in order to understand their past. Such collective memories show that what matters to victims is a sense of understanding why certain things happened, and thereby is an example of an important post-war development which the Compensation Laws in no way initiated or supported. The Compensation Laws were not designed to unravel the National Socialist persecution machinery (even if, in the case of the Roma, compensation procedures did cumulatively play a role in partly revealing the nature of the National Socialist persecution of 'Gypsies'), but this is one of the aspects desperately desired by survivors, maybe even more so in the case of the Roma than in the case of other victim groups, given that their persecution had for such a long time been described as harsh, but essentially legal, measures against 'asociality' and criminality, so that Roma survivors continued to feel stigmatised after the war.

One of the prime examples of how a 'remembered past' can become a 'collective past' which shapes understanding of why something happened, is the often-told story of how the SS guards attempted to kill Bergen-Belsen inmates with poisoned bread when they learnt about the imminent arrival of the British troops.

The details of this particular story vary, emphasising that it is not the precise details that matter but the underlying belief: that the SS were responsible for the death of the Roma. Anna W., for example, reported how a train-load of poisoned bread was sent to Bergen-Belsen; each inmate was to receive half a loaf. In her version of the story, the inmates were saved by the camp cook, who warned the British troops about the poison. Anna W. told her account as fact, but later admitted that she only learned about this story after the war.<sup>7</sup> Marta E. told how one block was poisoned by the bread while the remaining inmates were saved by the British.<sup>8</sup> And Hugo H. described how the British troops, upon their arrival, announced via the loudspeakers that everyone was now free and warned them not to eat the bread as it was poisoned.<sup>9</sup> The versions differ, but all offer an explanation as to why people continued to die even after liberation.

The story helps to demonstrate the potentially differing viewpoints of historians and victims: when victims continue to die, even after liberation, it is reasonable for them to assume, on the basis of previous experience, that it is as a result of a deliberate plot by the SS. A historian, on the other hand, may not

<sup>6</sup> LaCapra, *History and Memory after Auschwitz*, p. 21.

<sup>7</sup> Anna W., Fortunoff Video Archive, T-2804 (1991).

<sup>8</sup> Marta E., Fortunoff Video Archive, T-2769 (1991).

<sup>9</sup> Hugo H., SHOAH, 50119 (1999).

see evidence of a plot. To an outsider, this distinction may seem significant; to those who witnessed the events (or heard the stories), however, it is the outcome, death, that matters and not the immediate reason behind it. The framework for the victim is that the National Socialists wanted to kill them, and in fact death resulting from murderous neglect is not that different from death at the hands of the National Socialists.

Heike Krokowski in her book, *Die Last der Vergangenheit. Auswirkungen National-Sozialistischer Verfolgung auf Deutsche Sinti* (The Burden of History. Consequences of the National Socialist Persecution for German Sinti), which is based on interviews with German Roma, also notes the repeated telling of the story that the SS-leadership tried to poison the inmates just before the arrival of the British army.<sup>10</sup> Again, the stories vary, with some claiming that the British gave the bread they found to a dog which instantly perished, while others suggest that, because the English arrived two hours earlier than expected, the SS plan failed.<sup>11</sup> Krokowski notes that this story is often repeated in conversations amongst Roma, which suggests that it is a common memory, and that its re-telling helps to create a sense of shared identity. Such constructed stories are frequently accepted and retold by the next generation as historical fact. There is no historical evidence to support the story of the poisoned bread, and the existence of a plan to poison the remaining inmates with bread is, according to Krokowski, unlikely.<sup>12</sup> The handover of the concentration camp in April 1945 had already been arranged between *Wehrmacht* officials and British officers a few days before the arrival of the British troops, and the concentration camp command had been informed of this. Most SS officers were withdrawn two days before the camp was handed over to the British.<sup>13</sup> Thus, there would have been too few SS officers to carry through such a plan; additionally, they were probably more concerned with escaping before the arrival of the British. The origin of this story probably lies in a desire to explain the many deaths that occurred after the camp's liberation which seemed inexplicable and perhaps avoidable.

In his book *After Daybreak: the Liberation of Belsen, 1945*, Ben Shephard describes the chaotic situation that developed after British troops liberated the camp on 15 April 1945.<sup>14</sup> The death rate remained very high even after liberation, reaching a thousand deaths per day by the end of April, with a total of about 14,000 deaths of camp inmates after 15 April 1945.<sup>15</sup> This was due to two factors: raging disease in the camp which took time to bring under control, and the fact that prisoners, deprived of food for such a long time, could not stomach the nutritious food distributed by the British, which initially were 'compo rations'

<sup>10</sup> Krokowski, *Die Last der Vergangenheit*, pp. 115–127.

<sup>11</sup> Krokowski, *Die Last der Vergangenheit*, p. 115.

<sup>12</sup> Krokowski, *Die Last der Vergangenheit*, p. 19.

<sup>13</sup> E. Kolb, *Bergen-Belsen. Geschichte des 'Aufenthaltslagers' 1943–1945* (Verlag für Literatur und Zeitgeschehen, Hannover, 1962), pp. 162–163.

<sup>14</sup> B. Shephard, *After Daybreak: the Liberation of Belsen, 1945* (Pimlico, London, 2006).

<sup>15</sup> There were 8,992 deaths between 19 and 30 April, a further 4,531 in May and 421 between 1 and 20 June. Shephard, *After Daybreak*, pp. 201–202.

– British soldiers' main source of food when in the field. Both British troops and survivors reported that former inmates died en masse from diarrhoea because they could not digest the food.<sup>16</sup> As soon as the liberators arrived, the food stores were raided and the pigs the SS had kept in barns were slaughtered and eaten, all of which is likely to have overstrained the inmates' starved stomachs.<sup>17</sup> Further, the medical situation was dire. Brigadier Hugh Llewellyn Glyn Hughes, a London GP, arrived at Bergen-Belsen on 15 April 1945. He estimated that of the 23,000 inmates of the Number One women's compound, 17,000 needed immediate hospitalisation in order to be saved, but that even if this were possible a large number were too ill to recover. He estimated that 10,000 would die of typhus, starvation or tuberculosis before they could be hospitalised.<sup>18</sup>

In light of the inhumane treatment meted out by the SS, a story about poisoning the surviving prisoners sounded plausible to Roma, as it might, in fact, to most people. The degree to which such accounts are accepted as the truth shows how important such constructs are in helping people come to terms with the concentration camp time and to explain what happened – they help people to survive and to explain to themselves what has happened to them.

Debórah Dwork analysed the idea of 'false memory' in her book *Children With A Star: Jewish Youth in Nazi Europe*.<sup>19</sup> She differentiates between the 'objective' historical past (i.e. what really happened) and the 'subjective' psychological experience, the latter including fictional elements, which are part of the way in which human beings construct stories when they recount any event.<sup>20</sup> As an example of this 'subjective' truth, Dwork recounts how many women who had been in concentration camps tell the story that chemicals were added to the food, which stopped them from menstruating, because the Germans wanted to prevent them from procreating in case Germany lost the war.<sup>21</sup> Again, there is no historical evidence that such an operation was undertaken, and it was certainly the difficult camp life, together with sickness and a poor diet, which led to this well-documented bodily change. Just as with the poisoned bread, this construct rationalises these survivors' experiences (within the framework of their persecutors' imputed intentions). The construction of this rationalisation starts with the knowledge that the National Socialists wanted to kill the Jewish people, and thus did whatever they could to that end. If a woman ceased to menstruate, she would seek to understand this phenomenon within the context of persecution, and, to her, it became a true explanation. These stories teach us not only about the workings of life in concentration camps, but, much more interestingly, they tell us a fragment of the psychological state of the survivors and how remembering and, more importantly, 'understanding' the past as individuals or as a group

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<sup>16</sup> Shephard, *After Daybreak*, pp. 41–42.

<sup>17</sup> Kolb, *Bergen-Belsen*, p. 166.

<sup>18</sup> Shephard, *After Daybreak*, pp. 44–47.

<sup>19</sup> D. Dwork, *Children With A Star: Jewish Youth in Nazi Europe* (Yale University Press, New Haven/London, 1991).

<sup>20</sup> Dwork, *Children With A Star*, p. xxxv.

<sup>21</sup> Dwork, *Children With A Star*, pp. xxxvi–xxxvii.

helps with coming to terms with it. If one were to look at these stories in the hope of recounting what actually happened in the camps, one would encounter the methodological problem of needing to verify these accounts. It thus seems more useful to use this material as a way to better understand how past events have been selected, structured, internalised and passed on as a way of creating a meaning or explanation for the tragedy that happened. Thus, the 'narrative truth' – as Dwork termed it – to be found in these interviews and biographical materials adds another dimension to the 'historical truth'.<sup>22</sup>

Many of the early written memoirs and biographical writings were co-authored, and most testimony collections were assembled by non-Roma. One of the earliest accounts of the suffering of Roma is the story of four Roma generations 'We wanted to be free! A Sinti-family tells their story', edited by Michail Krausnick and published as a children's book in 1983, which was short-listed for the German Youth Literature Prize.<sup>23</sup> In the 1990s, a series of local studies of the persecution of Roma followed, including material on the post-war period and testimonies by Roma.<sup>24</sup> Most of these early works were co-published or edited by various local or state-level Roma organisations. Whilst these works from the 1990s included testimonial material, they were not written by Roma Holocaust survivors. Very few autobiographies can be found from the late 1980s and early 1990s. One example is the memoir by the Austrian Rom Ceija Stojka, *Wir leben im Verborgenen. Erinnerungen einer Rom-Zigeunerin* (1988) (We live in hiding. Memories of a Rom-Gypsy),<sup>25</sup> and *Reisende auf dieser Welt. Aus dem Leben einer Rom-Zigeunerin* (1992) (Travellers on this World. Stories from the Life of a Rom-Gypsy).<sup>26</sup> Ceija Stojka (born in 1933 in Styria) is an important figure within the Roma community, as she was one of the first Roma to draw attention to the Roma's fate in the concentration camps with her memoir *Wir leben im Verborgenen*. This memoir depicts her experience during the Third Reich, her survival in Auschwitz-Birkenau, Ravensbrück and Bergen-Belsen, as well as the culture of Roma, making this material accessible to a wider readership.<sup>27</sup>

The end of the century brought a series of memoirs and autobiographies, rather than collections or biographies, by Roma Holocaust survivors. Many of these include accounts of the pre- and post-National Socialist period, including their

<sup>22</sup> Dwork, *Children With A Star*, p. xxxix.

<sup>23</sup> M. Krausnick, *Da wollten wir frei sein! Eine Sinti-Familie erzählt* (Beltz & Gelberg, Weinheim/Basel, 1993).

<sup>24</sup> D. Strauß, *...weggekommen. Berichte und Zeugnisse von Sinti, die NS-Verfolgung überlebt haben* (Philo, Hamburg, 2000, © Verband Deutscher Sinti und Roma Baden-Württemberg); C. Hein, H. Krokowski, 'Es war unmenschenmöglich'. *Sinti aus Niedersachsen erzählen* (Niedersächsischer Verband Deutscher Sinti e.V., Hannover, 1995); W. Günther, *Ach Schwester, ich kann nicht mehr tanzen...* *Sinti und Roma im KZ Bergen-Belsen* (Niedersächsischer Verband deutscher Sinti e.V., Hannover, 1990); M. Krausnick, *Abfahrt Karlsruhe. Die Deportation in den Völkermord* (Verband der Sinti und Roma Karlsruhe e.V., Neckargemünd, 1990).

<sup>25</sup> C. Stojka, *Wir leben im Verborgenen. Erinnerungen einer Rom-Zigeunerin* (Picus, Wien, 1988).

<sup>26</sup> C. Stojka, *Reisende auf dieser Welt. Aus dem Leben einer Rom-Zigeunerin* (Picus, Wien, 1992).

<sup>27</sup> Stojka, *Wir leben im Verborgenen*; see also the memoirs of her brother: M. Stojka, *Papierene Kinder. Glück, Zerstörung und Neubeginn einer Roma-Familie in Österreich* (Molden, Wien, 2000).

fight for compensation.<sup>28</sup> In these accounts it is frequently lamented that Roma were not justly compensated. Increasing debates about the Roma as victims of National Socialism in political circles and amongst historians, along with the civil rights work initiated and led by Romani Rose, encouraged these authors to voice their views on compensation. So the genesis of Roma autobiographical and biographical material coincides with and was generated by the growing Roma civil rights movement. According to Rosenhaft, the relatively late recovery and recording of Holocaust memory was part of a political project of identity construction, which developed together with the campaign for civil rights.<sup>29</sup> The focus on the official discrimination encountered in the process of compensation and on the identification as Holocaust survivors forms part of this recent construction of Roma identity, which can be clearly seen in the material presented in this chapter.

The destruction of values and culture is reflected upon in almost all of this literature, and is a prime example of damage wrought by National Socialist persecution, but is a topic which remains undiscussed in the compensation claim files, as it had no place in the compensation framework. Yet, from reading these memoirs and hearing the interviews, it becomes very clear that the destruction of these cultural values shaped post-war Roma life even if it remained unacknowledged by the system that was supposed to 'make good again' (*wiedergutmachen*) the effects of National Socialist persecution. It is often not the physical pain or injuries and deaths of family members for which some compensation was received after the war, that is the primary focus of recollection, but the shaming and humiliation which took place upon arrival at Auschwitz. Certain forms of humiliation were felt particularly strongly, as Roma life is closely intertwined with certain customs governing daily and family life. For instance, there is a strong separation between the male and the female spheres. At certain moments in life this separation of spheres is increased; for instance, a menstruating or highly pregnant woman is considered unclean, which leads to her being apart from the rest of the group during these times. Similarly, the occasion of birth and thus the person helping with it, the midwife, are considered unclean.<sup>30</sup> Dishes used by women in these conditions or by midwives need to be washed before they can be used by another Rom. In addition, there is a particular shameful-ness about the naked body so that nudity, particularly between the sexes, is an absolute taboo.<sup>31</sup> The reverence of the elders and the strong authority structure depends on these taboos being adhered to, so when these customs were undermined in the concentration camps, the established family structures were deeply

<sup>28</sup> O. Rosenberg, *Das Brennglas* (Eichborn, Frankfurt am Main, 1998); A. Metzbach, J. Behringer, 'Wer wird die nächste sein?' *Die Leidensgeschichte einer Sinteza, die Auschwitz überlebte* (Brandes & Apsel, Frankfurt am Main, 1999); M. Stojka, *Papierene Kinder*; P. Franz, *Zwischen Liebe und Hass. Ein Zigeunerleben* (Books on Demand, Norderstedt, 2001).

<sup>29</sup> E. Rosenhaft, 'A photographer and his "victims"', p. 180.

<sup>30</sup> See, for instance, the experience of Pastor Althaus, who in the 1950s was involved with Roma in Hildesheim but was shunned by the group after having introduced his daughter, who was a midwife, to this Roma group. Reiter, *Sinti und Roma*, pp. 172–173.

<sup>31</sup> Zimmermann, *Rassenutopie und Genozid*, p. 334; Krokowski, *Die Last der Vergangenheit*, p. 53.



disturbed.<sup>32</sup> Lilly L. believed that the National Socialists knew that Roma saw a greater shame in nudity, and thus made men and women undress in front of each other to humiliate them.<sup>33</sup> Harry F. took this comment further in an interview by suggesting that when they had to undress before delousing – men in front of women, grandfathers in the presence of grandchildren – it was not just against Roma etiquette, but an ‘*Entehrung der Menschlichkeit*’ (dishonouring of humanity), a moment when those involved lost their dignity.<sup>34</sup>

Along with the nakedness upon arrival at the concentration camp came the shaving of all bodily hair, an intrusion on privacy worsened by the fact that it, too, was done publicly.<sup>35</sup> Anna W. described the shaving of her hair in front of her parents as the worst possible humiliation.<sup>36</sup> According to Hugo H., both men and women wept when their hair fell to the ground – women lost their long black hair, the sign of femininity, and men lost their beards, the sign of masculinity.<sup>37</sup> Agnes B. told how the transformation of their sixty-three-year-old mother was so complete, all her hair having been shaved off and wearing men’s clothes, that the children no longer recognised her.<sup>38</sup> The loss of hair naturally would be degrading to all victims, even if maybe more so to people from a culture (such as Roma) or religion (such as orthodox Judaism) where hair has an important symbolic value. However, Roma frequently cite the fact that they had to continue living together in the ‘Gypsy family camp’ as a deliberate attempt by the National Socialists to further degrade the Roma, describing communal life at a time of humiliation as the ultimate degradation. The Sinto Hans Braun argued that the ‘Gypsy family camp’ at Auschwitz-Birkenau had been the result of the research previously undertaken by agents of the National Socialist regime into their family structures and cultural values and that forcing Roma to continue living together as families was a deliberate move to ‘break’ the interned Roma.<sup>39</sup>

Ceija Stojka summarises these feelings about the shame and the breakdown of cultural norms brought on by nakedness and loss of hair:

Old men, old women, ashamed before their children because they were forced to stand naked in front of them. Those people had no scruples! Then male prisoners shaved the women. Once a month, the women were shaved. How often did it happen that a son or a father stood there with a razor in front of his own mother or grandmother, his own father, uncle or nephew. They were embarrassed to death by it, but they had no choice but to endure it. Who can understand this?<sup>40</sup>

<sup>32</sup> Krokowski, *Die Last der Vergangenheit*, pp. 54–56.

<sup>33</sup> Lilly L., Fortunoff Video Archive, T-2767 (1991).

<sup>34</sup> Harry F., Fortunoff Video Archive, T-2768 (1991).

<sup>35</sup> Zimmermann, *Rassenutopie und Genozid*, p. 334; Krokowski, *Die Last der Vergangenheit*, p. 54.

<sup>36</sup> Anna W., Fortunoff Video Archive, T-2804 (1991).

<sup>37</sup> Hugo H., SHOAH, 50119 (1999).

<sup>38</sup> Agnes B., Fortunoff Video Archive, T-2810 (1991).

<sup>39</sup> M. Zimmermann, ‘Nach dem Genozid. Zigeunerpolitik in der Bundesrepublik Deutschland’, in *Jahrbuch des Vereins ‘Gegen Vergessen – Für Demokratie’*, vol. 2, 1998, pp. 152–169, here p. 152.

<sup>40</sup> L. Walz, *Und dann kommst du dahin an einem schönen Sommertag* (Kunstmann, München,

The shame about the loss of hair continued even after liberation. Sophie Wittich remained in the wooden barracks in Bergen-Belsen with her children for some time after liberation before she was moved to Celle (North Rhine-Westphalia). From there she fled with other Roma women, in search of her siblings, but could not face her brother when she finally found him:

We were able to ride with the Americans to Heidelberg, where I had a brother and a sister. But I couldn't possibly join them, I was ashamed. I had this shaved head, and nothing decent to wear. My brother was a janitor for a hall of residence, and I thought to myself: Great! You were so haughty and proud, now you come traipsing back with this bald head and the kids! I stood outside the door downstairs and couldn't bring myself to ring the bell. Then we just left. For the Gypsies, if you've got a shaved head, you're a whore.<sup>41</sup>

The irrevocable destruction of parts of the Roma culture is one of the most recurrent themes in these survivor testimonies. Because the Roma had always been a minority group in Germany, these customs had been used to preserve their identity and to distinguish them from the majority. As the culture of the Roma is a highly traditional one, with comparatively strict rules and customs, the violation of these customs had a particularly severe and lasting effect on this group.<sup>42</sup> Preserving traditions not shared by the majority population was of fundamental importance, and therefore the passing on of traditions had to happen within the larger family, between parent or grandparent and child or grandchild. National Socialist persecution prevented the passing on of culture and customs in three ways. The above-mentioned treatment of Roma in the concentration camps destroyed the fundamental structures of authority and respect, which form the basis of Roma family life, which made it difficult to pick them up after the war. In addition, the death of many of the elders meant that fewer people remained to pass on the culture and tradition. A study from the 1960s established the age structure of a group of 183 Roma in Hildesheim in 1960, showing that half of the group were children under the age of 14, with only about five Roma being over the age of 60, illustrating the impact of

2005), p. 327: 'Alte Männer, alte Frauen, die sich geschämt haben vor ihren Kindern, weil sie nackt vor ihnen gestanden sind. Die haben keine Rücksicht genommen! Dann haben Männerhäftlinge die Frauen rasiert. Einmal im Monat wurden die Frauen rasiert. Wie oft ist es vorgekommen, dass Sohn oder Vater mit einem Rasiermesser dort gestanden sind, vor der Mutter oder Grossmutter, vor dem Vater, dem Onkel oder dem Neffen. Die haben sich zu Tode geschämt, aber sie mussten es über sich ergehen lassen. Wer will das verstehen?'

<sup>41</sup> Walz, *Und dann kommst du dahin an einem schönen Sommertag*, p. 345: 'Bis Heidelberg hatten wir mit den Amerikanern fahren können. Dort hatte ich einen Bruder und eine Schwester. Aber dann konnte ich doch nicht zu ihnen, ich hab mich geschämt. Ich hatte doch diesen Glatzkopf und nichts Richtiges zum Anziehen. Mein Bruder war Hausmeister im Studentenwohnheim, und ich hab gedacht: Ja, so stolz bist du gewesen, und dann kommst du mit einem Glatzkopf und den Kindern! Ich bin unten an der Tür gestanden und konnte nicht klingeln. Da sind wir wieder gegangen. Bei den Zigeunern ist es doch so, wenn das Haar abgeschnitten ist, bist du eine Hure.'

<sup>42</sup> See chapter 'Die Sitten und Tabus' in U. Völklein, *Zigeuner. Das verachtete Volk* (Stalling, Oldenburg / Hamburg / München, 1981), pp. 146–152.

persecution.<sup>43</sup> This, of course, affected all victim groups, but was felt particularly strongly because the German Roma community was comparatively small and tightly knit. And thirdly, the sterilisation campaign, which affected a large number of the surviving German Roma, prevented the formation of families. The compensation files do not show the extent of the impact sterilisation had on the Roma community and on individual Roma who as a result of sterilisation could not find their place in the Roma community. Discussion around sterilisation in the compensation context was limited to the physical damages it had led to, and it was only compensated if these physical damages hindered the victim from working.

The biographical material shows that the inability to find a place within the community and the inability to play a role in the passing on of culture and traditions mattered much more than any physical pain caused by sterilisation. In the Roma community, women are not really considered full members until they have become mothers and created their own families. Fertility is a major asset, as it guarantees the continuity of the group and its traditions. Ceija Stojka used the example of music to illustrate the importance of children and how traditions are passed on to the next generation through the mothers, the elders. She explained her fear that her grandmother's tunes would be lost one day, because there were so few Roma in contemporary Austria. She has taught her children traditional music, but fears that there are too few Roma to pass on this cultural custom, thus, in her view a child is the decisive factor,<sup>44</sup> because they will have more children and in this way traditions are passed on.<sup>45</sup> Since the traditions and, very importantly, the language are passed on verbally and are not taught at German schools, it is imperative that the various generations live together and the younger learn from the older. With almost an entire generation wiped out and a second generation immensely damaged, this system had been fundamentally disrupted. Considering this fracturing of cultural continuity it is understandable that, in this community in particular, loss of fertility is more than just a personal tragedy. Over and over one can read how forced sterilisation ruined the victim's life far beyond the impact of the actual, often very inhumane and painful, operation. The topic was frequently not broached within the family or partnership, out of a fear of not being chosen as a partner, and partnerships often failed because of this inability to bear or produce children. It is noticeable that men and women both voice this fear equally and these fears show how Roma cultural traditions served to deepen the sense of personal loss and failure at being infertile, which added to the very personal sadness about having been deprived of the opportunity to have children.

<sup>43</sup> L. Jochimsen, 'Zigeuner heute'. *Untersuchung einer Außenseitergruppe in einer deutschen Mittelstadt* (Ferdinand Enke, Stuttgart, 1963).

<sup>44</sup> Stojka, *Reisende auf dieser Welt*, p. 175: 'ausschlaggebend ist immer ein Kind'.

<sup>45</sup> '... because that one will have children and that one will have children, and they will pass on our tradition'; '... weil die bringt Kinder und die bringt Kinder und sie geben unsere Tradition weiter', Stojka, *Reisende auf dieser Welt*, p. 174.

In *Das Brennglas* the Sinto Otto Rosenberg talks about his experiences during the war and how his first long relationship failed because he and his wife were unable to have children. He was born in 1927 and lived in Berlin until 1936, when, as a result of preparations for the Olympics, he was moved with his family to the Berlin-Marzahn 'Gypsy Camp'. Having survived forced labour in the armament industry aged thirteen – and later Auschwitz, Buchenwald and Bergen-Belsen – he was left behind by his first wife who moved to Hungary soon after the war, because she could not bear the living conditions in Germany. During the post-war period, Otto Rosenberg met a Sinteza, who had been in Birkenau and Ravensbrück, with whom he stayed in a relationship for seven years. However, their partnership failed because she had been sterilised in the concentration camp. He explained that: 'But then there was a break-up between myself and my wife. She couldn't have children. They messed her up in the concentration camp. Since we weren't a family, there was nothing holding us together, really.'<sup>46</sup> With his new wife, Otto Rosenberg eventually had seven children and many grandchildren, which he described as 'what keeps his life in balance'.<sup>47</sup> In his biography, Otto Rosenberg does not mention the fate of his first wife. From other sources one can assume that it would have been very difficult for her to re-marry, as this desire to have one's own children is such a pervasive one in the Roma community. Memoirs often attest that the worst crime the National Socialists had committed was to deprive the Roma of being able to form a family. This was perceived as much worse than being imprisoned in a camp, yet the German government did not acknowledge this by compensating victims of forced sterilisation for the crime per se. Not having children, of course, also meant that the traditional family support system was severely disturbed, since elderly Roma had neither a pension nor children to support them.

There was a further stigma attached to forced sterilisation, as, both during and after the Third Reich, it was associated with criminals and the mentally ill. The 1933 Sterilisation Law targeted those conceived as hereditarily ill and the so-called 'asocials', whose traits, especially criminality, the National Socialist *Weltanschauung* described as hereditary. In contrast to other sterilisation victims, most Roma were not sterilised under the Sterilisation Law but after the onset of the war up until 1945. However, all sterilisation victims were generally perceived as having been part of the group targeted by the Sterilisation Law and thus were associated with either hereditary illness or criminality and 'asociality'. After the war, the law was commonly regarded as legal, because the Allies had not repealed it, given that similar laws had existed in other countries at that time, and the debate around eugenics had not been limited to National Socialist Germany.<sup>48</sup> This stigma stuck even if compensation was paid for the inability to work resulting from the sterilisation procedure and the compensation files

<sup>46</sup> Rosenberg, *Das Brennglas*, p. 142: 'Aber da kam dann auch der Bruch zwischen mir und meiner Frau. Sie konnte keine Kinder bekommen. Man hatte ihr im KZ übel mitgespielt. Da wir keine Familie waren, war kein rechter Zusammenhalt da.'

<sup>47</sup> Rosenberg, *Das Brennglas*, p. 144: 'ausgleichende Pol'.

<sup>48</sup> Childers, Caplan, *Re-evaluating the Third Reich*, p. 81.

fail to show the pervasive and long-lasting impact forced sterilisation had on the victims' lives.

The topic of compensation is mentioned, or at least referred to in almost all the autobiographical material, be it books or interviews. The compensation procedure, the problems encountered by Roma claiming compensation, and the actual payments made, are discussed in the second section of this book. This chapter aims to analyse how Roma expressed their feelings about the Compensation Laws, whether indeed they were aware of them and, if so, how they went about claiming compensation and whether they were satisfied with what they received. This is a very personal, one-sided story, showing the individual responses to the system, which gives an insight into the emotions surrounding these claims, and the way in which a major state undertaking was perceived by those for whom it was supposedly created.

One of the hurdles to receiving compensation was that the claimant had to be registered with a permanent residence after the war, and that the claimant had to apply for compensation in that place itself. However, most Roma were on the road for a few years after the war, either looking for relatives, or simply enjoying travelling after years of detention in camps. Otto R. stated in his interview that the reason why the Berlin compensation authority refused his claim was because he was a 'Gypsy', and that he did not have a permanent residence and was deemed to have insufficient ties to the city of Berlin. The irony was, he said, that after the war he had wanted to register, but could not do so because he did not have the necessary papers proving his German nationality. When Otto R. attempted to claim compensation for his dead mother, it was again the strict regulations that ultimately forced him to renounce his claims. The German bureaucracy demanded proof that he was the son of the woman for whom he claimed compensation (as she had a different surname), and when he could not offer any written proof, the official in charge told him that he would have to have his mother exhumed to check the veracity of his claim. Enraged, he attacked this official, never returning to claim the compensation for his deceased mother.<sup>49</sup>

Clashes with compensation officials over the validity of statements and demands were not uncommon. Rita J. related that when an employee at the compensation authority insulted the entire Roma population she lost her temper, physically attacking him behind his desk until other employees came to his aid.<sup>50</sup> Agnes B. was similarly insulted when a compensation authority official suggested that the Germans had lost many people in the war, too, thus equating the experience of the German people with that of the Holocaust victims.<sup>51</sup> Such clashes often

<sup>49</sup> Otto R., SHOAH, 49841 (1999).

<sup>50</sup> Rita J., USHMM, RG-50.566 (1990).

<sup>51</sup> Agnes B., Fortunoff Video Archive, T-2810 (1991). In as early as 1946 the German philosopher and psychiatrist Karl Jaspers explained that pointing to one's own hardship (e.g. as victims of bombing) was a process of avoiding the question of guilt. Whilst Jaspers described this as a psychologically understandable process, he argued that this guilt had to be dealt with: 'the first step towards purification is in the act of making good again' ('Reinigen bedeutet im Handeln zunächst Wiedergutmachung'), thus employing a term which came to mean much more than it did at the time of this statement. K. Jaspers, *Die Schuldfrage. Ein Beitrag zur deutschen Frage* (Artemis, Zürich, 1946), pp. 87, 92. Robert

reinforced the already strong feeling that the Roma are not tolerated or trusted by Germans. In the testimonies, victims frequently make affirmations such as 'everything I am telling you is true'<sup>52</sup> or 'Our word was worth nothing, you know ... and the same is true to this day,'<sup>53</sup> as if to convince the interviewer that what was said, even if it sounded unbelievable, was true. Conflicts with compensation authorities were probably experienced by many victims, but they seem to have been exacerbated by the Roma's mistrust of German officials, which was a result of the involvement of 'racial scientists', the police, local officials and local authorities in their persecution. Because of their experiences during the Third Reich, Roma seem to have lost their trust indefinitely in German bureaucracy and its officials.

The race scientist Robert Ritter, along with his assistant Eva Justin had spent years gaining the trust of the Roma – successfully so – only to betray them a few years later. Ritter and Justin were ultimately responsible for collecting the material with which the deportations to the concentration camps were organised. Harry F. tells how Justin, who had even been given the Roma name of 'Lolitschai', posed as an official from the welfare office in order to extract information on the genealogy of the Roma.<sup>54</sup> Similarly, Gerhard B. talked about how 'Lolitschai' had perfectly mastered Romani, passing on all the information she collected to the director of the Office of Gypsy Affairs (*Dienststelle für Zigeunerfragen*) at the Criminal Police in Berlin, Leo Karsten, who had been responsible for organising the deportations of Roma to concentration camps.<sup>55</sup> Maybe that is why Gerhard B. stressed in his account that he was only willing to give his interview to an American institution, so that the material could not be used by German authorities.<sup>56</sup> This desire not to give an interview in Germany is not an isolated one. Lilly L. specifically asked during the interview where the tape of her interview would be located, because she would not want it to be in Germany. She expressed her fear that Germans would get angry if they were to see the material on television, and felt there was a danger that this would lead to further prejudices.<sup>57</sup> This deep-seated fear of answers to apparently innocuous questions being put on record and subsequently used against them is one of the reasons why Roma are so reluctant to be registered or engage with local

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Moeller argues that by relating their own survivor stories and losses, Germans extracted themselves from collective guilt and elevated themselves to survivor and victim status, especially in the case of expellees and of prisoners of war in the Soviet Union. German losses were acknowledged with the passing of legislation to compensate these German victims. R. Moeller, *War Stories: the Search for a Usable Past in the Federal Republic of Germany* (University of California Press, Berkeley / Los Angeles / London, 2001), pp. 3–5, pp. 39–44.

<sup>52</sup> Rita J., USHMM, RG-50.566 (1990): 'alles was ich sage beruht auf Wahrheit'.

<sup>53</sup> Anna Mettbach's father talking about a confrontation with the police (during the Third Reich), who believed that the family had stolen geese even though they had legally purchased them. In Mettbach, Behringer, 'Wer wird die nächste sein?', p. 26: 'Unser Wort hatte doch keinen Wert. ... Dies ist auch heute noch so'.

<sup>54</sup> Harry F., Fortunoff Video Archive, T-2768 (1991).

<sup>55</sup> R. Gilsenbach, 'Wie Lolitschai zur Doktorwürde kam', in Ayass, Gilsenbach, Körber, Scherer, Wagner, Winter, *Feinderklärung und Prävention*, p. 107.

<sup>56</sup> Gerhard B., Fortunoff Video Archive, T-2813 (1991).

<sup>57</sup> Lilly L., Fortunoff Video Archive, T-2767 (1991).

authorities such as welfare offices.<sup>58</sup> The fear of information being kept on file, even if it is potentially beneficial – e.g. for compensation purposes – means that it became very difficult for Roma to make claims to which they were entitled due to a lack of written evidence and proof.

While Jewish victims also encountered bureaucratic hurdles, they were generally, unlike Roma, regarded as Germans. It is possible that because German Roma were less assimilated and articulate in German than Jewish victims, bureaucrats (just like much of the German population) regarded them as foreign, and thus distinguished them from German ‘victims’. There are even cases in which individual Roma are described by German officials as having been ‘better off’ than Germans. Selma M., for example, was told by the official responsible for checking the basic facts of her compensation case that her husband, Willi M., should be glad that he had been discharged from the *Wehrmacht* in 1942, even if on racial grounds. The official suggested that even though what followed was a highly restricted life in the ‘Gypsy Camp’ at Höherweg in Düsseldorf accompanied by repeated beatings, at least it saved him from having to fight for Hitler, and maybe even being killed whilst doing so.<sup>59</sup>

Roma survivors also report that they had to face uncomfortable confrontations with the doctors who had to assess persecution-related health damages for the awarding of pensions. Many Roma victims had also been subject to medical experiments or forced sterilisation, so that they felt a strong antipathy towards doctors in general and German doctors in particular. Otilie Reinhardt reported how her mother was so terrified by the medical examinations that she did not want to undergo a second examination, even though this meant that she would not receive compensation:

Ever since then, our mother was always sick, suffering from rheumatism and edema. Her hands were crippled. In order to get the compensation, my mother had to go through a series of medical examinations, and it was agonising for her ... At the time, she was declared 100% disabled, but one of the doctors contested the finding, so my mother had to go through yet another medical examination. After that, my mother simply refused to let the doctors examine her anymore. She didn’t want to be tortured again. My mother was always afraid, she said she didn’t want to repeat her experience of the war. And she had the same kind of fear of doctors. My mother did not receive any compensation.<sup>60</sup>

<sup>58</sup> L. Laher, *Uns hat es nicht geben sollen. Rosa Winter, Gitta und Nicole Martl. Drei Generationen Sinti-Frauen erzählen* (Franz Steinmaßl, Grünbach, 2004), p. 51: ‘Urangst, daß man uns aushorcht’.

<sup>59</sup> Letter from Saalwächter on behalf of the Association of Persecutees of the Nazi Regime Düsseldorf to Otto Pankok on 24 June 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>60</sup> Strauß, *...weggekommen*, p. 141: ‘Unsere Mutter war seitdem immer krank, sie hatte Rheuma und Wasser. Ihre Hände waren verkrüppelt. Wegen der Entschädigung wurde meine Mutter oft untersucht, es war für sie eine Qual. ... Sie wurde damals 100% schwerbehindert eingestuft, aber einer der Ärzte war damit nicht einverstanden, deshalb sollte meine Mutter noch einmal untersucht werden. Danach hat meine Mutter sich nicht mehr von den Ärzten untersuchen lassen. Sie wollte sich nicht mehr quälen lassen. Meine Mutter hatte immer Angst, sie sagte, sie wolle nicht noch einmal den Krieg erleben. Und genau solche Angst hatte sie auch vor den Ärzten. Meine Mutter hat keine

A distrust of doctors manifested not only during the examinations that were a part of the compensation process. Rita J. said that she had a general fear of doctors, because she and her sister (mistaken for twins) had been victims of Mengele's medical experiments. In Auschwitz, at the age of seven and eight respectively, they had to endure injections, which she believed to have been malaria, tuberculosis and typhus. Thus, whenever she had to see a doctor, even for the births of her children, she was petrified. As simple a procedure as having her children vaccinated terrified her – a fear that she reports to have passed on to her children.<sup>61</sup>

When Roma did manage to receive compensation, a major complaint was that the social welfare offices took large chunks of the compensation sum as repayment for monies they had given to the victims as support after the war. Dronja Peter, who was born after the war, described how, in 1958, his parents received compensation payments, which he called 'concentration camp money' – a total of 30,000 German Marks. However, the welfare office reclaimed the money they had given them since the war in the form of welfare payments, and the lawyer took his share so that, in the end, the parents were left with a mere 6,000 German Marks, which they invested in a caravan.<sup>62</sup> The welfare office taking its share was not just an immediately post-war phenomenon. Philomena Franz renewed her fight for compensation after the screening of *Holocaust* in Germany, and received an additional lump sum payment of 15,000 German Marks (as her inability to work was deemed to have increased to fifty percent) and a pension. However, because her husband had been unable to work due to a period of illness, Philomena Franz had needed to go onto welfare benefits, which were deducted from the 15,000 German Marks she was awarded.<sup>63</sup>

There is a general feeling among Roma victims that they received ungenerous compensation payments because they were uninformed, uncertain of the procedures or illiterate. There is not only a feeling that they were in principle discriminated against but also that in those categories where they were eligible to receive money, they were cheated or fobbed off with minimal payments. In order to receive compensation payments for health damages, the claimant had to be able to prove that the damages were directly related to National Socialist persecution. Hildegard F. said that her biggest mistake was not to register all her health problems after the war, because she had not realised that this would be the decisive factor one day.<sup>64</sup> Many Roma did not have their illnesses treated after the war, and if they did, did not keep any documents. This meant that, when asked, they could not provide proof that the illnesses for which compensation was claimed were linked to the persecution. Even when Roma relied on lawyers to deal with the compensation, they sometimes failed to file claims for health damages; for example, Konrad S.'s lawyer did not file a health damage claim for his parents so that, later on, when the application

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Entschädigung bekommen.'

<sup>61</sup> Rita J., USHMM, RG-50.566 (1990).

<sup>62</sup> Krausnick, *Da wollten wir frei sein!*, p. 126: 'KZ-Geld'.

<sup>63</sup> Franz, *Zwischen Liebe und Hass*, p. 102.

<sup>64</sup> Hildegard F., SHOAH, 48452 (1998).



deadlines had gone by, his parents could not receive any money even when their health deteriorated.<sup>65</sup>

The other major and very widespread action that Roma came to regard as a mistake was that they frequently had signed settlements – usually for one-off payments rather than pension payments – which in most cases included disclaimers, prohibiting the victim from making compensation claims ever again. Rita J. reported how people after the war often accepted relatively small compensation sums, not only because they desperately needed money, but also because they were not able to read or understand the documents they were signing.<sup>66</sup> Agreeing to lump sums usually meant that victims did not receive a pension, and thus, when their health deteriorated during the following decades, they could not apply for their pension to be raised accordingly and there was no way of reopening their case. These settlements were, in fact, frequently agreed upon, as it accelerated the compensation procedure and led to instant, comparatively large, one-off payments. The compensation authorities wanted to process the claims rapidly and avoid litigation, and settlements offered the elimination of legal and factual uncertainties by agreeing upon a common position. These settlements could be agreed upon both at the level of the compensation authorities and in court. Cases which had ended in settlements could only be reopened if there was a change in the legal situation, i.e. not if the condition of the victim worsened.

One surprising comment that is made over and over again in the interviews is that victims received no ‘*Wiedergutmachung*’, but only compensation for wrongful imprisonment (the so-called ‘*Haftentschädigung*’). Theoretically, *Wiedergutmachung* is a term describing all different kinds of compensation payments, as well as restitution, with compensation for wrongful imprisonment being one form of *Wiedergutmachung*. Hildegard Lagrenne declared: ‘We never received any restitution; we were powerless, after all. The only thing we got was two thousand marks paid out as compensation for wrongful imprisonment ... Oh yeah, and then there was the emergency relief, six thousand marks.’<sup>67</sup> From this statement one has to assume that what she regards as compensation payment is the disability pension, i.e. an on-going payment, because she said in the same sentence where she claimed that they received no *Wiedergutmachung* that she had been given 8,000 German Marks for various damages. Thus, she classified these lump sum compensation payments for time spent in a concentration camp and immediate aid for repatriates as not part of *Wiedergutmachung*. It seems that these one-off payments were regarded as compensation for the lost time (in the case of imprisonment) or costs (in the case of repatriation), i.e. specific payments for what has been lost (money or time). In contrast, pensions were regarded as the real compensation, as they had a continuing influence on the victim’s life, and acted as a constant reminder that the German government

<sup>65</sup> Konrad S., Fortunoff Video Archive, T-2814 (1991).

<sup>66</sup> Rita J., USHMM, RG-50.566 (1990).

<sup>67</sup> Krausnick, *Da wollten wir frei sein!*, pp. 43–44: ‘Wir haben keine Wiedergutmachung gekriegt, wir hatten ja keine Macht. Das einzige, was wir noch gekriegt haben, war eine Haftentschädigung von zweitausend Mark. ... Ja, und dann gab’s noch die Soforthilfe, sechstausend Mark ...’

was attempting to rectify its mistakes. In German, this would be the difference between 'Entschädigung' and 'Schadensersatz', the former replacing what has been lost and the latter making up for the long-term damage done by a certain action. But what, in effect, was done with compensation was *Entschädigung* rather than paying *Schadensersatz*.

It is in the context of compensation that the Central Council of German Sinti and Roma is frequently mentioned. Whilst some, like Paul W., regret that the Central Council seems to be powerless in many spheres, most Roma see the organisation as a step forward because it seemed to create a unity as a victim group and created a sense of hope that belated compensation and thus recognition would be paid.<sup>68</sup> Ewald Hanstein, who from the beginning belonged to the Central Council's executive committee, believes that it is important to have such an organisation to represent Roma concerns to the government: 'And with that, we finally had a central organisation to represent our interests in dealing with the federal government, just like the Jews ...'<sup>69</sup> Roma consider it as important to have similar representation and recognition as German Jews. While Jews are regarded as fellow sufferers they are also seen as 'rivals', because they are perceived to have received full recognition and compensation. By demanding to be regarded in the same light as Jewish victims, Roma victims hope to finally gain similar recognition. The name of the institution representing German Roma is, probably not coincidentally, analogous to that of the organisation representing German Jews. Since the Central Council helped many Roma with their compensation claims, often very successfully, many Roma regard its work highly. Romani Rose, the Central Council's founder and president, is respected not least because of his personal involvement in dealing with many compensation cases. Magarete S. gave an account of how her family's applications for compensation for health damages had been repeatedly rejected. She had been to numerous doctors, but the Munich compensation authority rejected each claim. In her and her husband's case, Romani Rose was the man who facilitated an eventual payment:

It wasn't until the civil rights efforts of the Central Council began addressing the issue of compensation that we were awarded our pensions, including my husband's. I'm extremely grateful to Romani Rose for that – he personally accompanied my husband to the claims office in Munich.<sup>70</sup>

The Central Council is regarded as an organisation which the German government and institutions such as the compensation authorities accept, as Lore Georg exemplifies:

<sup>68</sup> Paul W., Fortunoff Video Archive, T-2811 (1991).

<sup>69</sup> E. Hanstein, *Meine hundert Leben* (Donat, Bremen, 2005) p. 153: 'Damit hatten wir endlich wie die Juden in Deutschland auch eine zentrale Interessenvertretung gegenüber der Bundesregierung.'

<sup>70</sup> Strauß, *...weggekommen*, p. 198: 'Erst als die Bürgerrechtsarbeit des Zentralrats sich um die Entschädigung gekümmert hat, da konnten unsere Renten durchgesetzt werden, auch die von meinem Mann. Dafür bin ich dem Romani Rose sehr dankbar, er ist mit meinem Mann direkt nach München zum Entschädigungsamt gefahren.'

If it hadn't been for the Central Council, then I, along with many others who were deported, who lived in the ghettos, the concentration and extermination camps, would not have received anything. It wasn't until the Central Council came along that the claims offices began accepting our claims.<sup>71</sup>

There is a somewhat strange paradox in the accounts of Roma regarding their position within Germany and their position as a victim group. On the one hand, they welcome the work of the Central Council, who base the Roma's claim for compensation on them being an ethnic minority. The collective voice of the Roma in Germany was not heard until this strategy was taken on by the Central Council in the 1980s. However, the Roma stress throughout the interviews (and also in the compensation files, as will be shown in chapter six) that they perceive themselves as German and want to be regarded as German victims. So, whereas the 1980s and 1990s were a time when a collective identity was formed along the lines of being an ethnically distinct group, at the same time it is perceived as a time where the Roma were, in their view falsely, placed in the category of a 'foreigner' (*Ausländer/Fremde*). Roma voice this most clearly in their discussion of the perceived rise of neo-Nazis since the fall of the Berlin Wall.<sup>72</sup> The Fortunoff interviews show this in particular. The hatred against foreigners – all foreigners, not only Roma – is said to be the worst in East Germany, and with the opening of the border this is regarded as having spilt over into West Germany. Konrad S. expressed unhappiness about Roma being placed in the 'foreigner category' against which the hatred of East German youths is directed. In an interview he said that he was German by birth, that he had been given back his German citizenship after the war, that his great-grandparents had been German and, maybe as an ultimate proof of his Germanness, he claimed that he 'felt' German.<sup>73</sup> Karl W. had a similar opinion, saying that Roma were seen as Turks, and thus discriminated against, because of their brown complexion.<sup>74</sup> Gerhard B. went as far as to say that the East Germans, who, according to his father, had always been the most

<sup>71</sup> Strauß, *...weggekommen*, p. 77: 'Wenn der Zentralrat nicht gewesen wäre, dann hätte ich und viele andere, die deportiert waren, die in den Ghettos, in den Konzentrations- und Vernichtungslagern waren, nichts bekommen. Erst als der Zentralrat kam, haben die Entschädigungsämter das akzeptiert.'

<sup>72</sup> The interviews were conducted by a variety of people (almost all of the Roma Fortunoff interviews were conducted by the anthropologist Gabrielle Tyrnauer, whereas there was a variety of interviewers conducting the USHMM and the SHOAH interviews, including Barbara Spengler-Axiopoulos), none of whom are oral history experts, which is (to varying degrees) noticeable from the way in which the interviews are conducted. This frequently included prompting questions, which encouraged the interviewees not only to present themselves as victims, but also to make a link between the perceived contemporary discrimination and the persecution experienced during the Third Reich. However, similar references (e.g. to the perceived danger of neo-Nazis) are made across the collections, by Roma interviewed by different people. Zimmermann, who had himself been involved in a Roma oral history project, reported how consciously or subconsciously there is always a danger that the interviewer poses questions in such a way that certain hypotheses of the interviewer are confirmed, or certain topics of interest to the interviewer are probed. Zimmermann, "Jetzt" und "Damals", pp. 225–242.

<sup>73</sup> Konrad S., Fortunoff Video Archive, T-2814 (1991).

<sup>74</sup> Karl W., Fortunoff Video Archive, T-2805 (1991).

ardent National Socialists, only 'behaved' because of the Wall. He reported that he and his family would not go on trips to East Germany, for fear that the East Germans would burn their cars and strike dead (*totschlagen*) their children.<sup>75</sup>

The presence of neo-Nazis in West Germany is also mentioned. Stanoski W. talks about how he witnessed an increase of racism in Hamburg, especially in young people. He described young men with short hair and big boots – neo-Nazis – whom he would avoid for fear of being attacked. He implies a link between these neo-Nazis and National Socialists as he describes how he would no longer tell people that he had been in a concentration camp. He even purchased a gun, after having been attacked with teargas in the entrance hall of his apartment house. If attacked again, he said, he would kill the attacker.<sup>76</sup> August D.'s son Janko was present when his father was interviewed and gave his view of the treatment of Roma in Germany by saying 'We are Europe's negroes'. Janko has encountered the hatred of neo-Nazis, the result of which is a large scar on his head. This happened three years before the interview and even though the family reported the attack to the police and engaged a lawyer, no arrest was made. Both father and son expressed a feeling that this was because the German state does not regard the Roma as German and only protects its own people. In their opinion, the fact that Germany did not regard Roma as Germans is reflected in the pension payments: his father received a very small pension of 600 German Marks and those who were members of the SS receive, according to him, 2,000 to 3,000 German Marks.<sup>77</sup> The link Roma made between the persecution they have experienced and the neo-Nazi threat is clearly expressed in statements such as the one made by Karl W. that he would rather poison himself and his children than once again live through persecution.<sup>78</sup>

Maybe the ultimate testimony for feeling German is the express rejection of emigration. Hugo H.'s children once suggested leaving Germany to settle in Italy, but he decided that the family should stay in Germany, as he was and felt German. He argues that not until the National Socialist racial policies was he made to feel separate, a Sinto rather than a German.<sup>79</sup> This suggests that most German Roma came back to Germany after the war not only because of the lack of alternative options (such as emigration) and the desire to search for surviving relatives, but also that it was regarded as the natural choice to return home, to the *Heimat* Germany. And yet, the success of the Central Council was in a large part the result of establishing and emphasising the fact that Roma were an ethnic minority, demanding the status of an ethnic minority similar to the Danes and the Sorbs.

These personal accounts have shown that compensation is not necessarily the most important aspect of the Roma's post-war history, but nevertheless

<sup>75</sup> Gerhard B., Fortunoff Video Archive, T-2813 (1991).

<sup>76</sup> Stanoski W., SHOAH, 16486 (1996).

<sup>77</sup> August D., Fortunoff Video Archive, T-2802 (1991); quote by son Janko at 27.00 minutes: 'Wir sind die Neger Europas'.

<sup>78</sup> Karl W., Fortunoff Video Archive, T-2805 (1991).

<sup>79</sup> Hugo H., SHOAH, 50119 (1999).

it influences everything they do, because compensation is the sole framework given to Roma to deal with their experience and to express their anger and concerns. For this reason, these personal accounts are treated separately from the analysis within the chapters on the Compensation Laws, because the issues raised are quite independent from the discussions in those chapters. The issues that have come up in this analysis as being the most troubling to the Roma community in post-war Germany – the inability to form families because of forced sterilisation, the destruction of cultural norms and values brought on by the humiliations endured, in particular, but not exclusively, in the ‘family camp’ at Auschwitz – were not those with which most German citizens were primarily concerned, and thus found no place in the compensation framework. This is exactly why it is so important to hear their voices beyond the compensation claims, as the compensation claim files are limited by the framework given by the Federal Compensation Law and thus the personal comments in these files do not address many of the issues raised during the interviews and in the biographic material.

This interview and biographical material also shows that the feelings and accounts are very individual, even if there are common threads. They are important voices to be heard. Decisions about when and where to talk about the experiences of persecution are, in themselves, part of the individual process of dealing with these experiences. In his autobiography, Ewald Hanstein explained that he now talked about his past to the post-war generation by going to schools or taking young adults to Dora Mittelbau and was pleased that the younger generation listened carefully and wanted to know every detail. He noted that talking about these traumatic events has helped him come to terms with his own suffering. In addition, talking about the Holocaust and passing on his story has helped to reduce his feeling of guilt for leaving his mother and sister behind in Auschwitz-Birkenau on 2 August 1944, when those still able to work were transferred to other camps and the remaining Roma were ‘eliminated’.<sup>80</sup> Similarly, Anna W. tells of how both she and her husband never talked about his past until the 1980s, because they had been emotionally unable to do so earlier. Since they started talking about it, her husband, according to Anna W., has become ‘obsessed’ with discussing his persecution. She herself has spoken to German politicians in Auschwitz, showing them around after the Roma hunger strike in Dachau at Easter 1980 (in which Romani Rose participated),<sup>81</sup> and generally raising awareness of Roma issues.<sup>82</sup> These examples show that if one wants to hear the voice of the affected Roma one has to search for it in later source material; given that many Roma did not start expressing their views or sharing their histories until the 1990s, these reflections cannot be found in the body of sources from the 1950s and 1960s.

<sup>80</sup> Hanstein, *Meine hundert Leben*, p. 159.

<sup>81</sup> This was a hunger strike by twelve Roma in the former concentration camp Dachau to draw attention to the perceived racist modes of the Bavarian Central Agency for Vagrants (*Landfabrikerzentrale*) and to put pressure upon the Bavarian Minister of Interior to have the whereabouts of the National Socialist racial material from the Institute for Racial Hygiene established.

<sup>82</sup> Anna W., Fortunoff Video Archive, T-2804 (1991).

It seems that the acquisition of collective agency for the first time gave many Roma the platform (and maybe the strength) to speak about what they experienced. This was not only the first time that the past was retold in public, but also for many families the first time they openly spoke about it to their children. Some victims chose never to speak about their past with their children, such as Sophie R. who feared that if she responded to her children's questions that would only lead to them hating Germans.<sup>83</sup> In contrast, other victims found it important to share their experiences with younger members of their family, but, again, this happened rather late. Ceija Stojka, for example, took her grandchild and daughter-in-law to see the concentration camp Bergen-Belsen in April 1990. She used this trip to search for a tree whose leaves her mother and she had eaten in order to survive. She found the tree, but its leaves were dry and it seemed to have died years ago. She used the tree to find her bearings and the place where the barracks used to stand in which she and her mother had lived. In their place were two mass graves. Ceija Stojka believes that the tree died because of the mass graves around it, when its roots could no longer withstand the fermenting of the dead bodies.<sup>84</sup> This late flourishing of personal stories, of personal activism and of communication within and outside the family, shows that both the persecution and the experiences of Roma since the end of National Socialism continue to influence the victims' lives and, by passing on the stories, the lives of their children and grandchildren.

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<sup>83</sup> Sophie R., Fortunoff Video Archive, T-2796 (1991).

<sup>84</sup> Stojka, *Reisende auf dieser Welt*, pp.107–109.



## Chapter 3: The Early Post-War Years (1945–1953)

The examination of Roma compensation claims can be divided into two distinctive parts: the immediate post-war period, characterised first by local and later state initiatives, and the Federal Compensation Laws that arose from them. The interview and biographical material shows that Roma often regarded the attitudes and measures taken in the immediate post-war period as more favourable than their treatment under the Federal Compensation Laws. After liberation, most German Roma went back to where their families had lived before deportation. Roma tended to leave the camps even before they had recovered, out of fear that the Allied soldiers might lock them up again. Marta E. tells how she left Bergen-Belsen because of this concern and went via Celle to Bremen, where she received a flat from the British consulate.<sup>1</sup> Directly after the war, according to the sources, the returning victims were able to lead a relatively unhindered, good life, and were treated with respect, particularly by the Allies. They received food and clothing from the Allies, were able to move around freely, and earned money by trading with the Allies, or playing music for and with them.<sup>2</sup> The year 1948 is frequently cited as the point when their quality of life began to deteriorate. This coincides with the Currency Reform, which is often referred to, though it is never made explicit why the Currency Reform is thought to have had any effect on the life of Roma, which suggests that it is a memorable date, rather than there being a link between the Currency Reform and the Roma's life taking a turn for the worse. Philomena Franz, who had been part of a Sinti music ensemble – playing for General Eisenhower in Ansbach and General de Gaulle in Tübingen – believes that the Currency Reform brought with it certain new forms of power within society, which was accompanied by new forms of discrimination.<sup>3</sup> The general feeling amongst Roma seems to be that during the first few years after the war, the Allies controlled the defeated National Socialists, and victims received housing which had previously been inhabited by National Socialists. However, with de-nazification and the acquittal of many National Socialists, the former homeowners returned to reclaim their houses and the victims lost their homes. This resulted in a return to the way things had been before liberation, which left many Roma demoralised. Sophie Wittich describes:

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<sup>1</sup> Marta E., Fortunoff Video Archive, T-2769 (1991).

<sup>2</sup> Reinhold R., Fortunoff Video Archive, T-2806 (1991).

<sup>3</sup> Franz, *Zwischen Liebe und Hass*, p. 96.



But this happiness, this sense of well-being that comes from a warm room and a bed, didn't last very long. Because they were quickly de-nazified and they all came back. Yup, the baker was the same, and so was the milk man. And we Gypsies, of course, were also the same. The house had been torn down, all our belongings had been gotten rid off. Once again, we had no rights and were back out on the street. There was no place for us.<sup>4</sup>

This chapter contrasts the perception of the 'good time' of the immediate post-war period with the evidence captured in contemporary compensation files. It will examine the potential disadvantages of Roma in comparison to other victim groups by examining the early development of the compensation structures in the British Zone. Through this it can be understood how, long before the first Federal Compensation Law of 1953, the Roma were marginalised as a victim group. A prominent issue is the deliberate marginalisation of 'Gypsies' as a victim group by other, more dominant, victim groups in an attempt to preserve their own status. In addition, much of the early compensation structure was organised and staffed by the Jewish and political victim groups, where Roma had no influence. The continued use of discriminatory policies by government institutions reflects the lack of rethinking of official attitudes towards Roma, and was another complicating factor for Roma making claims. For the following chapter, the compensation claims made in North Rhine-Westphalia between 1945 and 1953 were examined to ask whether Roma were successful in their initial claims for recognition as victims of National Socialist persecution and later on in their claims for compensation under federal laws, or whether the above-mentioned hindrances led to a denial of compensation.

Initially, only provisional measures could be provided for concentration camp victims. The main aim was to alleviate illness, malnutrition and housing problems, but the Allies were faced with serious difficulties on all three fronts.<sup>5</sup> International humanitarian agencies took care of foreign and stateless victims, while German victims received assistance from German welfare institutions, which were under Allied supervision.<sup>6</sup> Discussions about how to treat victims of National Socialist persecution began at those levels and institutions where people were directly confronted with these victims, i.e. in the cities and local municipalities. In local initiatives, the inhabitants of these cities were asked to alleviate the suffering of victims, via donations of money or goods. A good example is the following appeal, issued in the name of the Lord Mayor of the

<sup>4</sup> Walz, *Und dann kommst du dahin an einem schönen Sommertag*, p. 346: 'Aber dieses Glück, dieses Wohlbefinden von einem warmen Zimmer und einem Bett, dauerte nicht sehr lange. Denn die sind rasch entnazifiziert worden und kamen alle wieder zurück. Ja, der Bäcker war der gleiche, der Milchmann war auch der gleiche. Und wir Zigeuner waren natürlich auch die gleichen. Das Haus wurde abgerissen, unser ganzes Zeug wurde irgendwohin gebracht. Wieder hatten wir keine Rechte, standen wieder auf der Straße. Es gab keinen Ort für uns.'

<sup>5</sup> See B. von Miquel, M. von Miquel, *Wiedergutmachung in Nordrhein-Westfalen. Archivstudie zum Aktenbestand der Bezirksregierung Düsseldorf* (Ruhr-Universität Bochum, 2001) (unpublished), pp. 12–15.

<sup>6</sup> See Goschler, *Wiedergutmachung*, pp. 186 et seq.

city of Hanover, encouraging its citizens to donate whatever they could to the former inmates of Bergen-Belsen:

In the camp at Belsen there are about 20,000 former prisoners of the Nazi regime who have been weakened by deprivation, torture and disease to such a degree that they won't even be fit for transport for another 6 months. In the hope of making life in the camp a little easier and more pleasant for these hapless victims of criminal activity, I'm calling on the citizens of Hanover to donate books in any language other than German, as well as gramophones, records, and other musical instruments – from stringed instruments to pianos – as well as board games (checkers, chess, etc.) ... I'm convinced that the citizens of Hanover – specifically those whose possessions were spared the ravages of war – will prove with their gifts that they have absolutely nothing in common with the now defeated Nazi regime and that they are prepared to come to the aid of these unfortunate victims of that regime in any way they possibly can.  
Hanover, 23 May 1945<sup>7</sup>

Local initiatives were soon formalised, as the example of Braunschweig shows. After the dissolution of the concentration camps in 1945, the question arose of how to take care of former concentration camp inmates. In Lower Saxony, local Concentration Camp Commissions (*KZ-Ausschüsse*) were privately organised, which were soon given quasi-formal authority.<sup>8</sup> The city of Braunschweig, for instance, created a Support Agency for Victims of Fascism on 15 July 1945, which adjudicated applications for recognition as victims of National Socialist persecution, and gave special assistance to these according to Allied instructions.<sup>9</sup> On 19 September 1945, the Braunschweig State Ministry ordered that all Lord Mayors and District Administrators set up Official Support Agencies for Victims of Nazi Terror (*Amtliche Betreuungsstellen für die Opfer des Naziterrors*).<sup>10</sup> By November 1945 the State Ministry of Braunschweig had such a department,

<sup>7</sup> R. Hennig, *Entschädigung und Interessenvertretung der NS-Verfolgten in Niedersachsen. 1945–1949* (Verlag für Regionalforschung, Bielefeld, 1991), p. 22: 'Im Lager Belsen befinden sich etwa 20 000 ehemalige Häftlinge der Nazi-Regierung, die durch Entbehrung, Quälereien und Krankheiten so geschwächt sind, daß sie vor Ablauf von 6 Monaten nicht abbefördert werden können. Um diesen unglücklichen Opfern verbrecherischer Betätigung das Leben im Lager zu erleichtern und angenehmer zu machen, rufe ich die Einwohner Hannovers auf, für sie Bücher in allen Sprachen, mit Ausnahme der deutschen Sprache, ferner Grammophone, Schallplatten und andere Musikinstrumente – vom Saiteninstrument bis zum Klavier – sowie Unterhaltungsspiele (Mühle-Dame, Schach usw.) zu spenden. ... Ich bin überzeugt, daß die Einwohner Hannovers – namentlich die, deren Hab und Gut von den Einwirkungen des Krieges verschont geblieben ist – durch ihre Spenden den Beweis dafür erbringen werden, daß sie mit dem jetzt überwundenen Nazi-Regime nichts gemein haben und daß sie bereit sind, den bedauernswerten Opfern dieses Regimes zu helfen, wie es nur irgend in ihren Kräften steht. Hannover, den 23. Mai 1945'.

<sup>8</sup> See the preface of the 4 Nds Findbuch Wiedergutmachung, NLA-Staatsarchiv Wolfenbüttel, pp. 1–3.

<sup>9</sup> Verwaltungsbericht der Stadt Braunschweig 1945–46 (Braunschweig, 1948), pp. 130–131, NLA-Staatsarchiv Wolfenbüttel, Q 877.

<sup>10</sup> 4 Nds Wiedergutmachung, Band 1, 12 Neu 13 Nr. 8332, NLA-Staatsarchiv Wolfenbüttel.

which, from 1947 onwards, was administered by the Office of the Administrative President (*Verwaltungspräsidium*).<sup>11</sup>

The first legal measure taken by the British Military Government (which controlled both Lower Saxony and North Rhine-Westphalia) was Zonal Instruction Number Twenty on 4 December 1945, which ordered special treatment – in the form of welfare assistance – for victims of racial, political or religious persecution.<sup>12</sup> In the British Zone, in contrast to the US Zone, there was not to be one compensation law, but instead various regulations dealing with the victims' rehabilitation and compensation; therefore, responsibility lay with the individual states. Amongst the British occupied states, it was North Rhine-Westphalia which tended to be the first in passing laws, and these laws were largely imitated by the other states.<sup>13</sup> Another British decree on 11 December 1945 declared that victims of political, racial or religious persecution were entitled to compensation, a designation of victim categories later continued in the West German Compensation Laws.<sup>14</sup>

In response to this, the Braunschweig State Ministry issued a decree on 27 December 1945 ordering the creation of District Special Relief Committees (*Kreissonderhilfsausschüsse*) for former concentration camp inmates, to be created at the levels of the Lord Mayors and the District Administrators.<sup>15</sup> These District Special Relief Committees distributed welfare benefits along with passes that documented victim recognition and recorded the distributed benefits. The committees consisted of three persons: a lawyer, a member of the general public and a former concentration camp inmate. Former concentration camp inmates had to register their claims for compensation within two months.<sup>16</sup> The Support Agency for Victims of Fascism of the city of Braunschweig had received 1,173 applications for recognition as victims of Fascism by 30 September 1946, of which the responsible District Special Relief Committee validated 542.

Similarly, in December 1945, North Rhine-Westphalia created District Special Relief Committees. They, too, supervised the distribution of the assistance to former concentration camp prisoners in the form of accommodation and food, and administered preferential job distribution, as well as financial and medical aid. As in Lower Saxony, these various district offices began to co-ordinate

<sup>11</sup> Braunschweig had initially been a state of its own until the British occupying power incorporated it into the state of Lower Saxony on 1 November 1946 with the decree number fifty-five, which created the state of Lower Saxony. See D. Lent, Braunschweigisches Staatsministerium / Nieders. Verwaltungs-, Regierungspräsident (Bestand 12 Neu / 4 Nds.). Entwurf einer Behördengeschichte, Masch. Schr. Stand: 20.01.2001, NLA-Staatsarchiv Wolfenbüttel, 2 ° Zg. 195 / 2001, p. 83.

<sup>12</sup> Zonenpolitische Anweisung Nr. 20 (4.12.1945) – Hilfsleistungen für frühere Häftlinge der Konzentrationslager – Relief for Ex-Inmates of Concentration Camps (revoked on 17.11.1950).

<sup>13</sup> For example the *Gesetz über die Gewährung von Unfall- und Hinterbliebenenrenten an die Opfer der Nazi-Unterdrückung* (5 March 1947) and the NRW Haftentschädigungsgesetz (11 February 1949).

<sup>14</sup> Goschler, *Wiedergutmachung*, pp. 73 ff.

<sup>15</sup> NLA-Staatsarchiv Wolfenbüttel, 4 Nds Wiedergutmachung, Band 1, 12 Neu 13 Nr. 8352.

<sup>16</sup> The records of these District Special Relief Committees (Kreis-Sonderhilfs-Ausschüsse) have been partly preserved in the State Archive in Wolfenbüttel: 12 Neu 17 V Nr. 1–27 (1945–1952); 12 Neu 13 e (Nr. 8332–8348); 12 Neu 13 f (Nr. 8349–8440). These files contain both general administrative files and files from individuals making claims.

both their welfare services and the committees responsible for validating individuals' status as victims of Fascism (*Kreisenerkennungsausschüsse*). Special compensation departments were created as higher administrative bodies under the Presidents of the Administrative Headquarters (*Regierungspräsidenten*). They examined the decisions made by these committees, made fundamental compensation judgements and were in constant contact with the higher state ministries. Initially, the Welfare Ministry was in charge of compensation, but in 1949 this was handed over to the Interior Ministry, under the responsibility of Dr Marcel Frenkel, who himself had been politically persecuted as a Communist during the National Socialism regime.<sup>17</sup> After the war he acted as a lawyer on behalf of Jewish and political victims of National Socialism before joining the bureaucratic *Wiedergutmachungs*-apparatus, only to be eventually dismissed and discredited as a Communist, which ended in his marginalisation from the compensation bureaucracy (and public consciousness).<sup>18</sup>

The Braunschweig State Parliament drafted a Decree Concerning Preliminary Compensation to the Victims of National Socialism in the State of Braunschweig (*Verordnung über die vorläufige Entschädigung der Opfer des Nationalsozialismus im Lande Braunschweig*) on 17 June 1946, which, due to the lack of support of the British Military Government, remained a mere draft.<sup>19</sup> The 250 Reichsmark pension was to be linked to both the economic situation of the claimant and a working capability reduced by persecution.<sup>20</sup> The Lower Saxon Special Relief Law (*Niedersächsische Sonderhilfegesetz*) of 22 September 1948<sup>21</sup> and the Compensation for Wrongful Imprisonment Law (*Haftentschädigungsgesetz*) of 31 July 1949<sup>22</sup> formalised the workings of the District Special Relief Committees, and awarded 150 German Marks for each month of imprisonment. A revised version of the Lower Saxony Compensation for Wrongful Imprisonment Law (*Niedersächsisches Haftentschädigungsgesetz*) of 16 May 1952 replaced the District Special Relief Committees with Special Relief Committees at the level of the President of the Administrative Headquarters, thereby further centralising the committee structure.<sup>23</sup>

In North Rhine-Westphalia, three laws laid the legislative foundation for compensation: first, the March 1947 Law Concerning the Extension of Accident and Survivors' Annuities to Victims of National Socialist Oppression (*Gesetz*

<sup>17</sup> Hennig, *Entschädigung und Interessenvertretung der NS-Verfolgten in Niedersachsen*, p. 25; for a more detailed analysis of Frenkel and his work, see B. Spornol, 'Im Kreuzfeuer des Kalten Krieges. Der Fall Marcel Frenkel und die Verdrängung der Kommunisten', in Frei, Brunner, Goschler, *Die Praxis der Wiedergutmachung*, pp. 203–238.

<sup>18</sup> Spornol, 'Im Kreuzfeuer des Kalten Krieges. Der Fall Marcel Frenkel und die Verdrängung der Kommunisten', p. 233.

<sup>19</sup> 4 Nds Wiedergutmachung, Band 1, 12 Neu 13 Nr. 8332, NLA-Staatsarchiv Wolfenbüttel.

<sup>20</sup> For the full text of the draft see K. Pollmann, (ed.), *Anfang und Ende zugleich. Der Braunschweigische Landtag 1946* (Selbstverlag des Braunschweigischen Geschichtsvereins, Braunschweig, 1999), pp. 247–259.

<sup>21</sup> Gesetz über Gewährung von Sonderhilfe für Verfolgte der nationalsozialistischen Gewaltherrschaft (Personenschaden) vom 22.9.1948, in *NdsGVBl.* 1948, p. 77; 1952 Fassung, *NdsGVBl.* 1952, p. 25.

<sup>22</sup> *NdsGVBl.* 1949, pp. 185, 203.

<sup>23</sup> *NdsGVBl.* 1952, p. 30.

über die Gewährung von Unfall- und Hinterbliebenenrenten an die Opfer der Naziunterdrückung),<sup>24</sup> secondly, the February 1949 Law Concerning Compensation for Deprivation of Liberty based on Political, Racial or Religious Considerations (*Gesetz über Entschädigung für Freiheitsentziehung aus politischen, rassistischen und religiösen Gründen – Haftentschädigungsgesetz*),<sup>25</sup> and thirdly the March 1952 Law Regulating Recognition of Persecutees and those Damaged by National Socialist Tyranny and Regulating Support Services for Persecutees (*Gesetz über die Anerkennung der Verfolgten und Geschädigten der nationalsozialistischen Gewaltherrschaft und über die Betreuung der Verfolgten*).<sup>26</sup> The Compensation for Wrongful Imprisonment Law paid 150 German Marks per month of imprisonment, but only to victims who had been imprisoned for a minimum of six months.<sup>27</sup> North Rhine-Westphalia limited compensation to bodily damages and imprisonment. In contrast, the 1953 Compensation Law would also compensate damages to the victim's education or career.

A decree from the Military Government institutionalised Compensation Offices (*Ämter für Wiedergutmachung*) in October 1947, marking a move from merely supporting victims to compensating them. These offices were also in charge of registering property and assets which had been taken from people between 30 January 1933 and 8 May 1945 on political, racial or religious grounds.<sup>28</sup> All the above-mentioned laws were unified in the so-called Supplemental Federal Compensation Law (*Bundesergänzungsgesetz – BErgG*), passed on 18 September 1953. As a result of this law the Special Relief Committees in Lower Saxony were dissolved and replaced with the compensation authorities, supervised by the Interior Ministry, which was now the highest compensation authority within the state. In North Rhine-Westphalia there were to be compensation authorities at the local district levels investigating the claims, and a higher instance at the Administrative Headquarters, where the cases were to be decided. The 1952 North Rhine-Westphalia Law on Legal Recognition of Victims of National Socialist Oppression (*Anerkennungsgesetz*),<sup>29</sup> regulating the recognition of victims of National Socialism, lost its validity once the Supplemental Federal Compensation Law had come into effect. Official recognition as a victim of Fascism was no longer necessary under the federal law. Instead, claimants had to make their persecution plausible in their compensation applications.<sup>30</sup> Claimants who had

<sup>24</sup> Gesetz über die Gewährung von Unfall- und Hinterbliebenenrenten an die Opfer der Naziunterdrückung vom 5.3.1947, in *GVBl. NRW* 1947, p. 225.

<sup>25</sup> *GVBl. NRW* 1949, p. 63 (11.2.1949).

<sup>26</sup> *GVBl. NRW* 1952, p. 39 (4.3.1952).

<sup>27</sup> Verwaltungsbericht der Kreisverwaltung Brilon für das Rechnungsjahr 1951, KrBRI-All.1.1951, Kreisarchiv Meschede, p. 79.

<sup>28</sup> Decree of the Military Government No. 10 (20.10.1947) in Verwaltungsbericht der Kreisverwaltung Arnsberg für die Jahre 1945–1949, KrAr-Allg.1.1945–49, Kreisarchiv Meschede, p. 70; on 12 May 1949, about one and a half years after the Americans and the French, the *Militärgesetz Nr. 59* was passed, regulating restitution uniformly in the British Zone. It basically was a simplified version of the US Restitution Law.

<sup>29</sup> *Anerkennungsgesetz*, 4.3.1952, in *GVBl. NRW* Nr. 12/52.

<sup>30</sup> Verwaltungsbericht des Landkreises Meschede für das Jahr 1953, KrMES-Allg.1.1953, Kreisarchiv Meschede, p. 69.

previously received recognition would enclose such documents as supporting material in their Supplemental Federal Compensation Law claim.

There were various reasons why the position of the Roma was so weak after the war, but a major factor was the fact that other victim groups very rapidly started to organise themselves politically and socially. These groups generally seem to have been motivated by a desire to dissociate themselves from other groups in order to gain greater prominence. One can see that the National Socialist persecution methods had an influence on how Roma victims were perceived after the war. Because the incarceration of Roma had frequently been justified by the National Socialists with their being 'asocials' or criminals, their persecution was rationalised as harsh but warranted. Thus, Roma did not have the same status as the political or Jewish victim groups. As outlined in the introduction, the victim categories (racial, political, religious) had been established very early on, but because the persecution of the Roma was initially not identified as racial they did not fit into any of these categories.

Studies have shown that, even in the concentration camps, prisoners sought to distance themselves from other prisoner groups which they regarded as more justifiably imprisoned than themselves. Because the National Socialists had portrayed all people imprisoned in concentration camps as criminals, the political victims in particular tried to disassociate themselves from the stigma of criminality both during and after the war. Bruno Bettelheim, himself a prisoner in Dachau and Buchenwald, started to write about the psychological effects of confinement in a concentration camp during the war. One of the consequences he mentions is that prisoners adopted some of the attitudes and behaviour of their persecutors.<sup>31</sup> Various studies have shown that antagonism was strongest between political prisoners on the one side and alleged criminal prisoners on the other. In fact, many camps saw a power struggle between the two. For political prisoners it was essential that they were not mistaken for criminals, but rather seen as resistance fighters.<sup>32</sup> Similarly, almost all prisoners sought to distance themselves from the so-called 'asocials'. The paradox is that those prisoners who had fought against the regime – the political victims – were often in danger of adopting the system of thought of the regime they opposed, in addition to perhaps already having the traditional social prejudices against those labelled as 'asocials'.<sup>33</sup> In Auschwitz-Birkenau the Roma were clearly demarcated as a separate group, in the 'Gypsy Camp', but in most other camps (such as Ravensbrück) they were mixed with – and often categorised as – 'asocials', so that old prejudices were reinforced and adopted by other prisoners. The complexity of the National Socialists' persecution of

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<sup>31</sup> B. Bettelheim, *Survivre* (Laffont, Paris, 1979).

<sup>32</sup> F. Pingel, *Häftlinge unter SS-Herrschaft. Widerstand, Selbstbehauptung und Vernichtung im Konzentrationslager* (Hoffmann & Campe, Hamburg, 1978).

<sup>33</sup> For a study of the persecution of 'asocials' during the Third Reich, see Ayass, 'Asoziale'; N. Wachsmann, "Annihilation through labor": the killing of state prisoners in the Third Reich, in *The Journal of Modern History* (The University of Chicago Press, Chicago, 1999), vol. 71, no. 3, pp. 624–659; as well as Wachsmann, *Hitler's Prisoners*, pp. 48, 156, 210, 226, 284–296, 300–308, 378.

the Roma had a direct influence on how they were regarded by others and thus treated after the war, if not before. This shows that 1945 was not a 'year zero' (*Stunde Null*) for Roma, as attitudes towards them remained unchanged. The characteristics which came to be subsumed under the term 'asocial' had been ascribed to Roma for centuries before the Third Reich, which was why the National Socialist categorisation of them remained unchallenged both before and after the war. It was not a continuity of National Socialist thought which marginalised the Roma after the war, but a continuity of prejudice that long predated National Socialism. The efforts made on behalf of the Roma by Dr Marcel Frenkel, the official responsible for compensation at the North Rhine-Westphalia Ministry of Interior, substantiate the claim that Roma often did not receive the same support or understanding as other victims. In a letter on 21 May 1948 to all the Presidents of the Administrative Headquarters in North Rhine-Westphalia, he clarified that:

Gypsies and Gypsies of mixed blood fall under the category of racially persecuted and are to be treated according to those guidelines. The same rules apply to them as apply to Jews and half-Jews and I request that you process all the applications currently pending accordingly.<sup>34</sup>

The fact that Frenkel needed to advise the authorities explicitly to include Roma suggests that they had previously not been regarded as equal to Jewish victims.

It is unsurprising that, after the war, prisoners who had been disdained in the concentration camps continued to be marginalised. Both the compensation functionaries and the major victim groups attempted to marginalise 'asocials' as a victim group, because it was feared that their inclusion would bring the 'true' victim groups into disrepute. A report from mid-1945 by the Committee for Victims of Fascism (*Ausschuß für Opfer des Faschismus*) exemplifies the bias against those who had been labelled as 'asocials' during the Third Reich, stating that one of the main duties of this committee was to clearly differentiate between the various victim groups. It created three victim categories which are very close to the categorisations employed by the SS in the concentration camps (political, racial, criminal and 'asocial'):

1. Political Prisoners of Conscience
2. Political Prisoners in the wider sense (radio listeners, saboteurs etc.)
3. Criminals and Asocials<sup>35</sup>

<sup>34</sup> Letter from Dr Frenkel (on behalf of the North Rhine-Westphalian Interior Ministry) to the Presidents of the Administrative Headquarters in North Rhine-Westphalia demanding the equal treatment of Roma on 21 May 1948. *Anerkennung politisch, rassisch und religiös Verfolgter u.a. Zigeuner, Zwangssterilisierter, Ausländer etc. (1946–49)*, Bestand NW 114, WGM allgemein, HStA Düsseldorf: 'Zigeuner und Zigeunermischlinge fallen unter die Gruppe der rassisch Verfolgten und sind gemäss den Richtlinien als solche zu behandeln. Für sie gelten die gleichen Bedingungen wie für Juden und Halbjuden und ich bitte, alle vorliegenden Anträge nach diesem Gesichtspunkt zu bearbeiten.'

<sup>35</sup> 4 Nds Wiedergutmachung, *Betreuung der Opfer des Naziterrors: Allgemeines* (1945), 12 Neu

The second group also included the so-called passive political victims, i.e. the racially persecuted. Whilst the first two groups received clothing and furniture along with a monthly payment of 200 and 100 Reichsmark respectively, the third group merely received 'Clothing and support towards the normalisation of life together with the fastest possible integration into work life'.<sup>36</sup> This reflects a belief that they needed to be 'normalised' and maybe even prevented from resuming 'asocial' behaviour, and shows that there was a great reluctance to grant those who had been persecuted as 'asocials' full victim status. The tendency to regard 'Gypsies' as 'asocials' was continued after the Third Reich, which meant that they were, if they were regarded as victims at all, placed in this third category. This is clearly reflected in local attitudes, such as that of the mayor of Gräfenhausen (Rheinland-Palatinate), who had been actively involved in the deportation of 'Gypsies' from Gräfenhausen in 1940, and stated in a 1952 correspondence with the District Official of the district of Bad Bergzabern:

I'm strictly opposed to allowing the Gypsies to resettle anywhere near the village limits; it would lead to the same circumstances that prevailed before 1939. The citizens of this community must fight hard for their daily bread and those Gypsies just want to feed themselves at the expense of others. ... In conclusion, allow me to stress once more that I will not tolerate the settlement of Gypsies ... and will seek to prevent it with every means at my disposal.<sup>37</sup>

This statement is a clear example of how the period of persecution was overlooked and how post-war policies were seen as needing to protect the German population from the unrestricted return of the Roma.

However, Roma were not always regarded as a sub-category of the 'asocials'. In Württemberg-Hohenzollern, for instance, the compensation guidelines of April 1946 expressly excluded criminals and 'asocials', but explicitly included

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13 Nr. 83504, NLA-Staatsarchiv Wolfenbüttel; a similar categorisation was created by the Ausschuss für ehemalige politische Gefangene in October 1945; they had a fourth category for victims who had abused other concentration camp inmates, who were to receive a persecutee's identification pass but nothing else; 4 Nds Wiedergutmachung, Band 1, Nr. 25, *Opfer des Naziterrors: Rechtsfragen*, 12 Neu 13 Nr. 8349 (1945), NLA-Staatsarchiv Wolfenbüttel:

1. Politische Überzeugungstäter.

2. Politische im weiteren Sinne (Rundfunkhörer, Wehrkraftzersetzung etc.).

3. Kriminelle und Asoziale'.

<sup>36</sup> 4 Nds Wiedergutmachung, *Betreuung der Opfer des Naziterrors: Allgemeines* (1945), 12 Neu 13 Nr. 83504, NLA-Staatsarchiv Wolfenbüttel: 'Bekleidung und Unterstützung zur Normalisierung des Lebens verbunden mit schnellster Einreihung in den Arbeitsprozess'.

<sup>37</sup> R. Rose, *Bürgerrechte für Sinti und Roma. Das Buch zum Rassismus in Deutschland* (Zentralrat Deutscher Sinti und Roma, Heidelberg, 1987), p. 79: 'Ich bin strikt dagegen, daß die Zigeuner wieder in Dorfesnähe angesiedelt werden, es würden wieder die gleichen Zustände wie vor 1939 entstehen. Die Bürger meiner Gemeinde müssen hart um ihr tägliches Brot kämpfen und die Zigeuner wollen sich auf Kosten anderer ernähren. ... Abschließend möchte ich nochmals betonen, daß ich eine Niederlassung der Zigeuner ... nicht dulde und dies mit allen Mitteln, die mir zur Verfügung stehen, zu verhindern suche.'



Roma, and in their 'ranking' of victims even placed them above the resistance fighters of 20 July. In contrast to this, the first tri-zonal conference on compensation in December 1946 extended compensation to criminals and 'asocials' if they had a clean record, i.e. had not behaved as criminals or 'asocials' during their internment or afterwards.<sup>38</sup> This shows that, from the very beginning of the post-war period, it was established that victims had to 'deserve' compensation. This idea was later reflected in the Compensation Law: if a claimant was imprisoned for over three years or lost his civil liberties after the war, he lost his right to compensation. These guidelines divided the victims into those worthy and unworthy of compensation.

The early influence of those victim groups large and strong enough to create post-war pressure groups and have a presence in organisations dealing with compensation is another reason for the Roma's early marginalisation. The associations and committees formed by victims of persecution (especially political) after the war had a significant influence on the developments of compensation structures and procedures. The Prisoners' Committees, which were at first local organisations, very soon turned into a supra-regional network attempting to coordinate aid and formulate strategies. Ernst Féaux de la Croix, a high-ranking civil servant responsible for compensation matters at the Ministry of Finance, regarded these voluntary committees as a key step towards coordination and unification of compensation efforts across Western Germany, especially because, in his view, too little effort was made by officials.<sup>39</sup> In the British Zone, for instance, the Advisory Board to the Military Government (*Zonenbeirat*) came up with only one draft for a compensation law (in early 1946), which was met with no response by the Military Government and German authorities in the Western zones.<sup>40</sup>

Not much research has been undertaken on the local Prisoners' Committees,<sup>41</sup> but one can assume that their composition and political orientation varied across the nation. What was uniform were the duties these committees took on – working together with the German authorities responsible for registering victims and supplying them with clothing, food, work and accommodation. It seems plausible that the groups forming these committees were similar to the groupings that had already been formed in the concentration camps amongst the victim groups. Political victims seem to have had a significant influence, as the official appointment of the Hanover Concentration Camp Committee (*KZ Ausschuss*) in November

<sup>38</sup> R. Hudemann, 'Sinti und Roma in der deutschen Wiedergutmachung. Fragen zu den Fernwirkungen der Verfolgung', in W. Długoborski, (ed.), *Sinti und Roma im KL Auschwitz-Birkenau, 1943–44* (Verlag staatliches Museum Auschwitz-Birkenau, Oswiecim, 1998), pp. 345–355, here p. 349.

<sup>39</sup> E. Féaux de la Croix, H. Rumpf, 'Vom Unrecht zur Entschädigung. Der Weg des Entschädigungsrechts', in Bundesministerium der Finanzen, Schwarz, *Die Wiedergutmachung nationalsozialistischen Unrechts*, vol. 3, pp. 1–118, here p. 25.

<sup>40</sup> Hennig, *Entschädigung und Interessenvertretung der NS-Verfolgten in Niedersachsen*, p. 26.

<sup>41</sup> With the exception of the *KZ Ausschuss* Hanover; discussed in R. Fröbe, *Konzentrationslager in Hannover. KZ-Arbeit und Rüstungsindustrie in der Spätphase des zweiten Weltkriegs* (Lax, Hildesheim, 1985); for a summary of the *KZ Ausschuss* Hanover, see Hennig, *Entschädigung und Interessenvertretung der NS-Verfolgten in Niedersachsen*, pp. 27–54.

1945 as the Main Committee of Former Political Prisoners (*Hauptausschuss ehemaliger politischer Häftlinge*) in Lower Saxony exemplifies.<sup>42</sup> This Main Committee stated that one of the reasons why these committees were created was to prevent criminals and ‘asocials’ from gaining influence.<sup>43</sup> Once established, the Hanover Concentration Camp Committee decreed that excluding criminals from the group of entitled victims was one of the committee’s most important functions, and that criminals were not entitled to assistance from this committee.<sup>44</sup> This exclusion of criminals had far-reaching consequences, as the German authorities that began to deal with and help victims of persecution relied very much on the work done by the Concentration Camp Committees. Recognition of their status as a victim by the Concentration Camp Committee could be the decisive factor as to whether a victim was to receive aid or not.

Because this specific form of compensation was a novel concept in Germany, the machinery dealing with this issue had to be created from scratch. In contrast, compensation for war damages was not a new concept in Germany. The 1950 Federal War Victims Relief Act (*Bundesversorgungsgesetz*), which was to pay compensation (pensions, equalisation payments) to over four million Germans, was a modernised version of the 1920 Law Concerning Benefits to Military Personnel and their Survivors for Service-Related Damages (*Gesetz über die Versorgung der Militärpersonen und ihrer Hinterbliebenen bei Dienstbeschädigung*).<sup>45</sup> However, in 1945 the idea of compensating victims other than victims of war (*Kriegsopfer*) (such as injured soldiers and bombing victims) was conceived for the first time in German history. For instance, there was never any discussion of compensating the victims of the slaughter of the Hereros in Namibia as ordered by Lieutenant General Lothar von Trotha in 1904, which led to the extermination of about two thirds of the Herero people (incidentally this was also when the German term ‘concentration camp’ (*Konzentrationslager*) was for the first time officially employed by the then Chancellor Bernhard von Bülow in reference to the camps in which Herero prisoners were interned).<sup>46</sup> Because the compensation of people other than victims of war had no precedent, there were no structures within the German administrative sector to deal with such a form of compensation, nor trained personnel or lawyers to take on the responsibilities connected with compensation. This lack of previously existing structures meant that there was a chance for victims of National Socialist persecution to fill these posts. Former victims soon headed both representative organisations and also administrative

<sup>42</sup> Hennig, *Entschädigung und Interessenvertretung der NS-Verfolgten in Niedersachsen*, p. 28.

<sup>43</sup> Hennig, *Entschädigung und Interessenvertretung der NS-Verfolgten in Niedersachsen*, p. 30.

<sup>44</sup> Hennig, *Entschädigung und Interessenvertretung der NS-Verfolgten in Niedersachsen*, p. 36.

<sup>45</sup> Gesetz über die Versorgung der Kriegsopfer (Bundesversorgungsgesetz – BVG) vom 20.12.1950, in *BGBI.* I, p. 791; Gesetz über die Versorgung der Militärpersonen und ihrer Hinterbliebenen bei Dienstbeschädigung (Reichsversorgungsgesetz) vom 12.5.1920, in *RGBl.* I, p. 989; see. V. Neumann, ‘Kampf um Anerkennung. Die westdeutsche Kriegsfolgengesellschaft im Spiegel der Versorgungssämter’, in K. Naumann, (ed.), *Nachkrieg in Deutschland* (Hamburger Edition, Hamburg, 2001), pp. 364–383, here pp. 364–365.

<sup>46</sup> J.-B. Gewald, *Herero Heros: a Socio-Political History of the Herero of Namibia, 1890–1923* (James Currey, Oxford, 1999), pp. 169–175, 185–186.

offices. Employing former victims in these roles was a safe approach for the German administration, which wanted to avoid any conflict with the Allies. In addition, because much of the compensation structure was newly constructed, victims installed in these positions did not need to fear that returning de-nazified Germans might take over their positions. With regard to the major victim groups, i.e. those regarded as racially, politically or religiously persecuted, this was a positive step. A majority of the positions were taken over by victims of political persecution, as they tended to remain in Germany, in contrast to many Jewish victims. In Hamburg, for instance, the president of the Committee of Former Political Prisoners was put in charge of the Office of Restitution and Refugee Affairs (*Amt für Wiedergutmachungs- und Flüchtlingsfragen*), created in early 1946.<sup>47</sup>

The less-noticed victim groups, especially those with a generally lower level of education, were not well represented.<sup>48</sup> A note from Frenkel to the Association of Persecutees of the Nazi Regime (VVN, *Vereinigung der Verfolgten des Naziregimes*) in Düsseldorf from January 1948 shows that he believed that the lack of due attention to the Roma was a result of their lack of education and involvement:

I read in an article in “*Freiheit*” from 23 January 1948 that there are several Gypsies in Düsseldorf which have yet to be recognised; the reason for this being that they were not sufficiently informed of their rights. The overall social and economic circumstances of these people are said to be particularly miserable. I implore you to assist these people, some of whom cannot even read and write, and to help them in filling out the applications for recognition if they indeed meet the requirements.<sup>49</sup>

While the Allies did annul all racist legislation, and objected to outspoken racist anti-Roma measures, little was done to curtail traditional measures taken by the police against Roma. The Allies did sympathise with the Roma as victims of persecution, but did not protect the Roma as a minority group. For instance,

<sup>47</sup> Hennig, *Entschädigung und Interessenvertretung der NS-Verfolgten in Niedersachsen*, p. 26.

<sup>48</sup> Another reason why Roma survivors were not well represented (and for the lack of Allied interest) was that the Roma survivor group in Germany was very small. There are no exact numbers, but it is estimated that there were around 5,000 Roma in Germany after 1945, of which about 2,000 had been in concentration camps; this represents a sharp decrease from the estimated 18,330 Roma who had lived in the German *Reich* in May 1940 before the deportations to Poland. Margalit, *Germany and its Gypsies*, p. 56.

<sup>49</sup> Letter from Dr Frenkel (on behalf of the North Rhine-Westphalian Ministry of Interior) to Mr Fahrion (Association of Persecutees of the Nazi Regime Düsseldorf) on 24 January 1948, *Anerkennung politisch, rassisch und religiös Verfolgter u.a. Zigeuner, Zwangssterilisierter, Ausländer etc. (1946–49)*, Bestand NW 114, WGM allgemein, HStA Düsseldorf: ‘Ich entnehme einem Artikel der ‘*Freiheit*’, vom 23.1.1948, dass in Düsseldorf eine Reihe von Zigeunern wohnen, die bisher nicht anerkannt worden sind und zwar deswegen, weil sie nicht genügend über ihre Rechte orientiert waren. Auch sonst sollen die sozialen und wirtschaftlichen Verhältnisse bei diesen Menschen besonders schlecht sein. Ich bitte Sie, sich dieser zum Teil des Lesens und Schreibens unkundigen Menschen anzunehmen und ihnen soweit die Voraussetzungen hierfür vorliegen, bei der Einreichung der Anträge zwecks Anerkennung behilflich sein zu wollen.’

in 1947 the public security department of the Ministry of the Interior in Hesse demanded that all German Roma should be under the jurisdiction of German courts, and thus the Hessian Military Government had requested that any German Roma who had broken the law should be dealt with according to German rules and instructions. However, the American Allies objected to this in those instances where the relevant Rom could prove that he was a victim of National Socialist persecution. In those cases the Rom was to be taken either to the closest American Military Government or to a military police station.<sup>50</sup> This shows that when Roma appeared as persecution victims, the Allies (or at least some of their personnel) did pay special attention to ensure they were treated fairly. Despite this, the Allies did not seem to have any interest in general policy issues concerning Roma and thus did not check or influence the measures taken against Roma by local authorities, welfare offices or the police.

The above makes clear that non-Roma victim groups and lower-echelon officials, particularly from the police forces, regarded Roma as a threat to the German community, and one best dealt with by the police. Consequently harsh measures seemed justifiable, as had been the case during the Third Reich. This tradition of thought was far from exclusively National Socialist, and maybe that is partly why it was not curtailed after the war. During the West German Conference of Cities (*Deutscher Städtetag*) in 1954 this point was made very clear. The committee responsible for welfare issues discussed various questions concerning Roma, such as the widespread refusal of the population to let flats to Roma, whether Roma should be allowed to move to residential areas and whether it might be a good idea to create special Roma villages. This committee, however, soon came to the conclusion that the matter of the Roma was not so much a welfare issue but rather a police issue, and that the Expellees (*Heimatvertriebene*, Germans who had to leave their homes behind, in territories that Germany lost in post-war settlements) should be given priority in their search for accommodation. So this issue was passed on to the security committee, which recommended that the state representatives of the West German Conference of Cities consider the possibility of adopting a law dealing with 'vagrants' similar to the one found in Bavaria.<sup>51</sup>

There were a few officials who did not dismiss the Roma as a group, such as the Jewish director of the compensation department at the Hesse Ministry for Political Liberation – a ministry that had been created by the Military Governments – Dr Kurt Epstein. He accused the authorities of being responsible for the many Roma living on the streets and supporting their families by illegal means, as it was the authorities who refused them any sort of help and thus drove them into illegality. In his view distress was the main factor for crime, not biology. He insisted that Roma needed the support of the state, rather than restrictions. He categorised Weimar legislation as similar to National Socialist regulations and insisted that Roma should never again be subjected to special laws.<sup>52</sup>

<sup>50</sup> Margalit, *Germany and its Gypsies*, p. 61.

<sup>51</sup> Widmann, *An den Rändern der Städte*, pp. 21–22.

<sup>52</sup> Margalit, *Germany and its Gypsies*, pp. 67–68.

That the Roma were still regarded as criminals and not as victims can be very clearly seen in a revised version of the criminological textbook, *Kriminologie* (Criminology), published in 1949 and used across West Germany.<sup>53</sup> This textbook on criminal biology had first been published by Franz Exner in 1939, then entitled *Kriminalbiologie* (Criminal Biology), but the changing of the book's title suggests that using the original title no longer seemed appropriate.<sup>54</sup> It becomes evident in this work that the author was aware that certain racial statements were no longer acceptable, and thus he took out the incriminating passages on Jews and Roma in the chapter entitled 'Volkscharakter und Verbrechen' (Peoples' Characters and Crimes). In the 1939 version, the criminality of Jews was explained in terms of their unchangeable nature, and attempts at explaining the alleged frequent waywardness of the Roma were made. None of these sections appeared in the post-war edition. The author's many references to Robert Ritter's 'research', on the other hand, remained unchanged, without criticism or mention of its consequences. Various passages in Exner's book demonstrate that he still believed in the accuracy and legitimacy of criminal biology. For instance, he used the word 'race' frequently and adhered to his 1939 assumption that there was a connection between the low criminality of the Nordic people and their racial characteristics.<sup>55</sup> This shows that stereotypical criminal biological beliefs regarding Roma outlived the Third Reich and were still being propagated after the war.

There were, however, some cases when the liberty of the Roma was defended. This was most often the case when it was believed that, by infringing the rights of the Roma, the principles of the *Grundgesetz* were violated. One example is the debate in Hesse about whether to re-enact a Weimar law curtailing the rights of Roma. The Hessian Ministry of the Interior, which was responsible for social order in Hesse, was in favour of this and interpreted the 1929 law for combating the 'Gypsy Plague' as still being valid, as it was not directed against Roma as a race but rather against all 'vagrants', and thus did not contravene the Hessian constitution. However, the Hessian Ministry of Justice ruled in 1950 that this reasoning was not valid. It described the 1929 law as directed against Roma as a race, even if this was implicit, rather than explicitly stated, and thus contravened the principles of equality before the law as laid out in the *Grundgesetz*.<sup>56</sup> This view, however, did not have an influence on the classification of Roma as victims of racial persecution, as it was a legal debate concerned with the validity of a specific law rather than an issue that came up in the context of compensation claims. Particularly as the Justice Ministry in Hesse was not responsible for the pre-Federal Compensation Laws, this relatively minor issue had no influence

<sup>53</sup> F. Exner, *Kriminologie* (Springer, Berlin, 1949).

<sup>54</sup> F. Exner, *Kriminalbiologie in ihren Grundzügen* (Hanseatische Verlagsanstalt, Hamburg, 1939, second edition 1944).

<sup>55</sup> For more detail on post-war criminology see V. Berbüsse, 'Das Bild "der Zigeuner" in deutschsprachigen kriminologischen Lehrbüchern seit 1949. Eine erste Bestandaufnahme', in W. Benz, (ed.), *Jahrbuch für Antisemitismusforschung* (Campus, Frankfurt am Main / N.Y., 1992), vol. 1, pp. 117–151.

<sup>56</sup> Margalit, *Germany and its Gypsies*, pp. 66–70.

on compensation procedures, which were still very much in the hands of the compensation officials.

As shown above, there had been directives and efforts by the Western Allies and certain West German institutions such as State Justice Ministries both to rescind racial legislation and not to adopt racial categories into new legislation. However, in the lower echelons of the West German administration, the traditional anti-Roma stance remained unchanged. On a day-to-day basis this was very noticeable to Roma, especially when confronted with police or welfare agencies. The most significant stumbling block for Roma must have been that they were still regarded and treated as a 'police issue', a perception which had significant influence when it came to seeking recognition as victims of persecution. Instead of being seen as victims, they were regarded as rightfully punished criminals or 'asocials'. Because they were marginalised within society, they were also marginalised as victims of persecution.

The above has shown that the starting position in post-war Germany was not favourable to the Roma, at least not once things developed beyond assisting those who had recently returned from the concentration camps. Once authorities and citizens began distinguishing between victim groups, the chances that the Roma would be overlooked grew. An examination of the letters Roma wrote to District Special Relief Committees, letters written by people supporting Roma to various agencies, as well as early compensation material, shows how the Roma fared during the pre-Federal Compensation Law post-war period.

In North Rhine-Westphalia there was one person who took on the cause of the Roma and supported them in their quest to gain recognition as victims of racial persecution. This was Otto Pankok (1893–1966), a painter who had received a painting prohibition (*Malverbot*) in 1936. Fifty-six of his paintings in German museums were confiscated, and these later formed part of the *Degenerate Art* exhibition which was shown across Germany between July 1937 and April 1941. Pankok had always been interested in Roma, and painted them before and after the war, in some cases showing the effects of persecution in these portraits. In the decade after the war, he helped many Roma with their compensation applications. His daughter, Eva Pankok, has turned all of Pankok's correspondence and notes into a private archive in Hünxe-Drevenack, near Wesel. The material gives an insight into the post-war situation of Roma and includes some of the very first written accounts of their persecution. Pankok's papers show that, in the Düsseldorf area, many Roma applied to the Düsseldorf District Special Relief Committee for recognition as persecution victims.<sup>57</sup> A large number of local Roma had been interned in the camp at Höherweg, from where some were sent to concentration camps, and thus survivors returned to this area after liberation in search of surviving relatives.<sup>58</sup> Most of the letters written by Roma gave

<sup>57</sup> All of Otto Pankok's material is to be found in the archive led by his daughter Eva Pankok in Hünxe-Drevenack, Germany. At this date they are in various folders but not yet catalogued. All the material referred to comes from these folders.

<sup>58</sup> For more information on the 'Gypsy Camp' Höherweg, see K. Fings, F. Sparing, 'z. Zt. Zigeunerlager'. *Die Verfolgung der Düsseldorfer Sinti und Roma im Nationalsozialismus* (Kölner Volksblatt,

Höherweg as their postal address. In many cases the corresponding replies do not exist, as the documents collected by Pankok mainly portray the victim's point of view, but sometimes it was marked on the letters written to the District Special Relief Committee whether the application was successful or not.<sup>59</sup> In those cases where the outcome was recorded, the number of people who received positive replies was twice as high as those who received rejections. In some cases letters were written back and forth before the application was accepted, but sometimes efforts and further explanations had no further influence on the outcome.<sup>60</sup>

The available documents show that Roma clearly regarded themselves as victims of racial persecution and demanded recognition from the very beginning of the post-war period. Selma M., resident at Höherweg, applied to the District Special Relief Committee Düsseldorf in March 1948 for recognition as a victim of political and racial persecution, asking to be issued with a victim's identity card.<sup>61</sup> Selma M., born in 1905 to German parents in Brussels, was half-Roma and half-Jewish, but presented herself as a Rom. Her Jewish mother, her son Artur, and eight of her sisters died in Auschwitz. An application for a pass for the journey from Auschwitz via Weimar to Düsseldorf after liberation, in addition to her Auschwitz number (worn on her shirt), served as proof of her concentration camp confinement. Selma M. did not receive a response from the District Special Relief Committee, but rather from the Association of Persecutees of the Nazi Regime Düsseldorf (June 1948). The Association of Persecutees of the Nazi Regime was the organisation that dealt with applications first, checking and verifying the attached documents before passing them on to the District Special Relief Committee. In the case of Selma M., the Association of Persecutees of the Nazi Regime expressed doubt that she was incarcerated on racial grounds. In response, she explained that she was in the part of the camp where 'Aryans' had been imprisoned (political persecutees, 'asocials' etc.) and that 'Aryans' had to wear the concentration camp numbers on their shirts and were not tattooed. She restated that she still had this number at home and asked them to at least interview the witnesses

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Köln, 1992), pp. 25–45. A handwritten note by Pankok from 5 August 1948 lists 38 Roma who had lived at Höherweg in Düsseldorf, all of whom had died at the hands of the National Socialists. Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>59</sup> The following are examples of successful applications: letter from the family M. to the District Special Relief Committee Düsseldorf on 20 May 1948; letter from Selma M. to the District Special Relief Committee Düsseldorf on 15 March 1948; letter from Otto Pankok on behalf of Wilhelmine L. and Hermann K. to the District Special Relief Committee Düsseldorf on 18 November 1947. In contrast, the following application was not successful: letter from Anna W. to the District Special Relief Committee Düsseldorf on 8 June 1948; Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>60</sup> For an example of an unsuccessful correspondence, see the rejection letter from the District Special Relief Committee Düsseldorf to Blondine M. on 21 September 1948; a response to this rejection drafted on behalf of Blondine M. (it is uncertain as to who drafted this letter, as it is not Pankok's handwriting, but it starts off in the third person, suggesting that it was not Blondine M. herself) on 21 September 1948; a further letter from Otto Pankok regarding Blondine M.'s situation on 8 December 1948; Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>61</sup> Letter from Selma M. to the District Special Relief Committee Düsseldorf on 15 March 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive).

she had named.<sup>62</sup> It seems that after this letter Otto Pankok took an active part in Selma M.'s quest for recognition, as the next letter was written to Pankok from the Association of Persecutees of the Nazi Regime headquarters in North Rhine-Westphalia, in June 1948.<sup>63</sup> This letter was written by an official named Saalwächter, who argued that they were suspicious of Selma M.'s claim because of the absence of a tattooed number, which all other interned Roma had, and thus they were still investigating the claim. Pankok wrote a well-drafted response to Saalwächter in July 1948, emphasising that Roma were victims just like Jews. He pointed out the main problem Roma seem to have had in the compensation debates:

The fact is that a Jew is considered a priori a victim of racial persecution simply by virtue of the fact that he is a Jew, unless he has taken the side of the persecutors and violated his fellow sufferers. Up until now, this principle has not been applied to the Gypsies.<sup>64</sup>

It is unclear how the Association of Persecutees of the Nazi Regime responded to this letter, but eventually Selma M. was recognised as a victim of racial persecution.<sup>65</sup>

This suspiciousness on the part of the Association of Persecutees of the Nazi Regime towards Roma claimants is very clear in the case of Blondine M. (née W.). In a session of the District Special Relief Committee Düsseldorf on 21 September 1948 it was decided that she did not qualify because she had not been sent to Ravensbrück in February 1940 (and later to Bergen-Belsen) on racial grounds, but rather because she (along with her mother) had committed various criminal offences.<sup>66</sup> This was based on information given by the Criminal Police in Dortmund, further supported, according to the District Special Relief Committee Düsseldorf, by Blondine M.'s statement that she had to wear the black triangle given to 'asocials'. Once again, Pankok supported her case and explained to the District Special Relief Committee Düsseldorf in December 1948 that, as the offence she had committed had been mere begging,

<sup>62</sup> Letter from Selma M. to the Association of Persecutees of the Nazi Regime Düsseldorf on 14 June 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>63</sup> Letter from Saalwächter on behalf of the Association of Persecutees of the Nazi Regime Düsseldorf to Otto Pankok on 24 June 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>64</sup> Letter from Otto Pankok to Saalwächter at the Association of Persecutees of the Nazi Regime Düsseldorf on 1 July 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive): 'Tatsache ist, daß ein Jude a priori als rassisch Verfolgter gilt, allein durch die Tatsache, daß er Jude ist, es sei denn er habe die Partei der Verfolger ergriffen und gegen seine Leidensgenossen gefrevelt. In Bezug auf die Zigeuner wurde dieser Grundsatz bisher nicht angewandt.'

<sup>65</sup> This becomes apparent from a note on an application letter sent by Selma M. to the District Special Relief Committee Düsseldorf on 15 March 1948 indicating that the application was accepted. Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>66</sup> District Special Relief Committee decision of 21 September 1948 concerning the application of Blondine M. for recognition as a victim of National Socialist persecution, Otto Pankok Archiv, Hünxe-Drevenack (private archive).



sending her to a concentration camp must have been racially motivated.<sup>67</sup> It is not documented whether Pankok's letter achieved any results, but it seems that, had Blondine M. been imprisoned as a Rom, she might have received recognition by the District Special Relief Committee Düsseldorf, especially since her Rom husband Friedrich M. and his five children (Blondine was his second wife) were recognised as victims of racial persecution.<sup>68</sup> This discrepancy between claims suggests that there was no general guideline against recognising Roma as victims within this authority.

This exchange of letters contains many of the issues to be found in the other letters or applications to the District Special Relief Committee in Düsseldorf by Roma. Firstly, it shows that the Association of Persecutees of the Nazi Regime was quite suspicious of Roma claims, put a lot of effort into investigating claims, and was determined to keep out fraudsters in order to guard the reputation of other victims. This close inspection of claimants could have been the result of a desire to demonstrate that the Association of Persecutees of the Nazi Regime was a useful partner in this work with West German officialdom. The above correspondence also shows that the various dimensions of Hitler's racial war were still unclear after the war, that Roma were not automatically regarded as victims of racial persecution precisely because of the manifold nature of the National Socialist system of persecution, and the readiness to accept National Socialist patterns of justification. Those involved in compensation might also have truly believed that Roma were, indeed, 'asocial'. These documents also show that Roma did take initiatives in seeking compensation, sometimes supported by sympathetic individuals like Pankok. The records portray a clear willingness on behalf of the Roma to describe their experiences, to name witnesses (often family members), and to mention abuses such as sterilisation, even though it broke a Romani taboo.<sup>69</sup> A reaction of Selma M. to what she regarded as an unfriendly response by Saalwächter shows that she did not fear confronting German officials. This runs contrary to the frequently stated fear of German officials expressed by Roma in interviews, suggesting that the desire for respect and equal treatment overrode dislike or fear. Selma M.'s tone in her response to Saalwächter's letter doubting her victim status is one of disappointment and anger at the unwillingness of the Association of Persecutees of the Nazi Regime to help her and at the way they dealt with her request. In this letter, the German Communist Party functionary Saalwächter had declared:

<sup>67</sup> Letter from Otto Pankok to the District Special Relief Committee Düsseldorf on 8 December 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>68</sup> Letter from Saalwächter to Otto Pankok on 24 June 1948 informing him that Friedrich M. and his five children had been recognised as victims of National Socialist persecution, Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>69</sup> The following letters all contain personal reports of forced sterilisation, deportation to concentration camps and forced labour: letter from Anna W. to the District Special Relief Committee Düsseldorf on 2 June 1949; letter from Anton M. to the District Special Relief Committee Düsseldorf on 25 June 1948; letter from Magdalena M. to the District Special Relief Committee Düsseldorf on 15 June 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive).

In your application for recognition [as a victim of Nazi persecution], you say that you were in Auschwitz. You explain the fact that you don't have a number tattooed on your forearm by saying that Gypsies who were persecuted as Gypsies weren't given tattoos. But we know from other Gypsy comrades who were in the camps that they were indeed tattooed. You must provide us with proof of your incarceration within one week.<sup>70</sup>

Selma M.'s response, written three days later, was full of outrage at the tone and content of the Association of Persecutees of the Nazi Regime's writing. She found the last sentence utterly inappropriate, and admonished the official for the lack of a formal greeting, emphasising that she was a fellow sufferer and not a judicial adversary.<sup>71</sup>

This supposedly negative attitude was also questioned by Pankok, who enquired in a very polite manner whether the reason for Saalwächter's attitude might be prejudice: 'The reason for this can perhaps be seen in the fact that this ethnic group evokes very little sympathy and lives in perpetual poverty, ostracised and despised. It is a group of people that is lacking any position of power anywhere.'<sup>72</sup> Oddly, he went on to express some stereotypes himself, albeit romantic ones: 'But the brown fellow [i.e. the Rom] is better than we are in a lot of ways, not least of all in his fantastic love of freedom and unbridled disdain for every form of worldly possession.'<sup>73</sup> It is not quite clear whether Pankok expressed this sentiment just to win over Saalwächter – paying deliberate attention to the leftist stance of the Association of Persecutees of the Nazi Regime in his choice of language, as he did in other correspondence, where he both addressed Saalwächter as 'comrade' (*Kamerad*) and signed with 'comradely greetings' (*kameradschaftlichen Gruss*)<sup>74</sup> – or whether these truly were his beliefs, but, based on his other material, it is likely that he personally held a highly romanticised view of Roma, which he at times expressed in a somewhat patronising tone.<sup>75</sup>

<sup>70</sup> Letter from Saalwächter on behalf of the Association of Persecutees of the Nazi Regime Düsseldorf to Selma M. on 11 June 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive): 'Bei Ihrem Antrag auf Anerkennung gaben Sie an, in Auschwitz gewesen zu sein. Das Fehlen Ihrer Lager-Nr. auf dem Unterarm begründen Sie damit, daß rassisch verfolgte Zigeuner die Tätowierung nicht gegeben worden sei. Wir haben durch andere Zigeuner-Kameradinnen festgestellt, daß sie wohl tätowiert waren. Sie müssen uns innerhalb 8 Tagen den Beweis Ihrer wirklichen Inhaftierung erbringen.'

<sup>71</sup> Letter from Selma M. to Saalwächter at the Association of Persecutees of the Nazi Regime Düsseldorf on 14 June 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>72</sup> Letter from Otto Pankok to Saalwächter at the Association of Persecutees of the Nazi Regime Düsseldorf on 1 July 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive): 'Der Grund hierfür ist vielleicht darin zu suchen, daß dieses Volk nur geringe Sympathien buchen kann und daß es in ewiger Armut lebt, ausgestoßen und verachtet. Ein Volk ohne jegliche Machtposition auf irgendeinem Gebiet.'

<sup>73</sup> Letter from Otto Pankok to Saalwächter at the Association of Persecutees of the Nazi Regime Düsseldorf on 1 July 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive): 'Aber in vielem ist uns der braune Bursche [i.e. the Rom] überlegen, es ist die phantastische Liebe zur Freiheit und die grenzenlose Verachtung jeglichen Besitzes.'

<sup>74</sup> Letter from Otto Pankok to Saalwächter at the Association of Persecutees of the Nazi Regime Düsseldorf on 1 July 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>75</sup> This can be seen in a letter which Pankok wrote to the District Special Relief Committee

Saalwächter defended his curt tone in a later letter to Selma M., explaining that it was due to the large number of cases they had to deal with. He proclaimed that the Association of Persecutees of the Nazi Regime treated all applicants equally:

whether Gypsies or whoever. Everyone is equal here, as long as we haven't seen that they've deliberately tried to deceive us from the outset. Personally, since I spent twelve years in the concentration camp and, from 1938 on, was with Gypsies all the time, I think I can lay claim to having intimate knowledge of these people's mentality – both the bad sides and the good – and I treat everyone as an individual on a case by case basis.<sup>76</sup>

Despite the encountered difficulties, the Pankok material shows that there had been some willingness to recognise Roma as victims of racial persecution, even if the path to recognition was not straightforward. This willingness is not exclusively found in the Pankok material: two reports from the district of Euskirchen from 1948 and 1950 show that, at that time, Roma per se were often regarded as racially persecuted. In 1948 the Euskirchen District Special Relief Committee ruled that Jenny B. and her daughter Hannelore B. were deprived of their status as recognised victims of racial persecution because they could not prove that they had Roma parentage. This implies that previously this parentage had been assumed and thus mother and daughter had been recognised as victims of racial persecution because they were Roma.<sup>77</sup> The same District Special Relief Committee recognised Florian E. as a victim of racial persecution in 1950, because of his sterilisation, which was regarded as having been racially motivated. Florian E. had come to the district of Euskirchen in August 1950 from the Soviet Occupied Zone – where he had been recognised as a victim – joining his family, members of which had already been recognised as victims of racial persecution. The District Special Relief Committee regarded him as a Rom and his statement that he was sterilised was accepted as trustworthy, 'since Gypsies were sterilised as a matter of course under the Hitler regime.'<sup>78</sup>

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Düsseldorf on 18 November 1947, which he begins as follows: 'I'd like to draw your attention to two families that are urgently in need of your support. I have taken on the responsibility of assisting these people because they are barely even in a position to navigate the channels that will get them the help they are due.' 'Ich möchte Sie auf zwei Familien aufmerksam machen, die Ihre Betreuung dringend bedürfen. Ich habe es unternommen diesen Menschen beizustehen, da sie selbst kaum in der Lage sind, den Weg zu einer ihnen zustehenden Hilfe zu finden.' Otto Pankok Archiv, Hünxe-Drevenack (private archive).

<sup>76</sup> Letter from Saalwächter on behalf of the Association of Persecutees of the Nazi Regime Düsseldorf to Otto Pankok on 24 June 1948, Otto Pankok Archiv, Hünxe-Drevenack (private archive): 'ob das Zigeuner sind oder wer sonst. Bei uns ist jeder gleich, soweit wir nicht von vorne herein feststellen, dass man uns bewusst belügen will. Ich, der 12 Jahre im K.Z. war und seit 1938 ständig auch mit Zigeunern zusammen war, darf für mich in Anspruch nehmen, die Mentalität dieser Menschen, sowohl nach der schlechten wie guten Seite hin zu kennen und ich behandle jeden einzelnen Fall individuell.'

<sup>77</sup> *Chroniken: Verfolgte des Nationalsozialismus, Sonderhilfsausschuß-Niederschriften, 1948–1950*, Kreis Euskirchen II. 1074 Nr. 33 / 331–01, p. 24, Kreisarchiv Meschede.

<sup>78</sup> *Chroniken: Verfolgte des Nationalsozialismus, Sonderhilfsausschuß-Niederschriften, 1948–1950*, Kreis Euskirchen II. 1074 Nr. 33 / 331–01, Kreisarchiv Meschede: 'da Zigeuner grundsätzlich bei dem Hitler-Regime sterilisiert wurden.'

Information from the compensation claim files in Münster supports the finding that a good percentage of Roma who actively sought recognition and support did receive assistance. Again, the material in these files is far from complete, as the files mainly concern applications and communications in relation to the Federal Compensation Law. But the applicants were asked whether they had applied for or received help before and, in the majority of cases where answers were given or material was supplied, it showed that Roma had previously received help or compensation. Out of the fifty-one compensation files in Münster, thirteen files contain information on applications or requests from the pre-Federal Compensation Law period. Because of the scattered nature of this material it is impossible to state exactly how many Roma claims were made before 1953, or what their outcomes were. Although the application form specifically asked about any prior payments received, claimants may not have given all the required information, fearing that they might receive less if they admitted to having previously received monies. Claimants also often did not make a connection between immediate help they had received after the war (such as housing and employment benefits) and compensation payments, and thus did not declare the former. Similarly, if the claimants had moved, they might not have given information about benefits received in other West German states, not regarding this information as relevant given that the administration of compensation was a state matter. But even if quantitatively the results might not be exact, qualitatively these sources reveal the kind of initiatives Roma took after the war and the kinds of responses they received.

In nine cases, claimants did receive assistance or were recognised as victims of persecution, and included positive responses such as an advance of 400 German Marks from the Bavarian compensation authority.<sup>79</sup> Albrecht J. was recognised as a victim of racial persecution in the district of Wittgenstein by the District Special Relief Committee Berleburg in 1949, and from then onwards he received a pension, as well as compensation for wrongful imprisonment (*Haftentschädigung*) of 3,900 German Marks and a one-off economic assistance (*wirtschaftliche Beihilfe*) worth 250 German Marks.<sup>80</sup> This shows that he used the possibilities offered by the North Rhine-Westphalia laws: first the March 1947 Law Concerning the Extension of Accident and Survivors' Annuities to Victims of National Socialist Oppression (*Gesetz über die Gewährung von Unfall- und Hinterbliebenenrenten an die Opfer der Naziunterdrückung*),<sup>81</sup> and secondly, the February 1949 Law Concerning Compensation for Deprivation of Liberty for Political, Racial and Religious Reasons – the Compensation for Wrongful Imprisonment Law (*Gesetz über Entschädigung für Freiheitsentziehung aus politischen, rassistischen und religiösen Gründen – Haftentschädigungsgesetz*).<sup>82</sup>

<sup>79</sup> Maria F. (for Emil F.), ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>80</sup> Albrecht J., ZK 24918, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>81</sup> Gesetz über die Gewährung von Unfall- und Hinterbliebenenrenten an die Opfer der Naziunterdrückung vom 5.3.1947, in *GVBl. NRW* 1947, p. 225.

<sup>82</sup> *GVBl. NRW* 1949, p. 63 (11.2.1949).

Similarly, Eduard L. received a pension from 1950 onwards, back-dated to 1946, as well as 3,900 German Marks compensation for wrongful imprisonment (1950), all based on a recognition by the Dortmund District Special Relief Committee of his status as a victim of persecution.<sup>83</sup>

In two cases the outcome of previous applications is unknown. Only in one case was there a definite negative answer.<sup>84</sup> In one other case a person was recognised as a victim, but still did not receive a pension because she did not fulfil the requirements, given that her working capability was not damaged. This was Lina K., who seems to have been recognised as a victim of persecution by the Berleburg District Special Relief Committee some time before July 1949, based on her forced sterilisation. On 29 July 1949 her previous recognition was revoked by the District Special Relief Committee Berleburg, because further investigations had shown that she had been sterilised according to the Hereditary Health Law (the diagnosis having been 'feeble-mindedness') and thus the sterilisation had been lawful. However, in 1951 the North Rhine-Westphalian Interior Ministry decided that her race must have been the determining factor behind the court decision. An intelligence test showed that the claimant was not in fact feeble-minded, and thus the Hereditary Health Court decision was revoked. Nevertheless, her claim was rejected in December 1951 on the grounds that psychological damage did not qualify a victim for pension payments. She did, however, receive a payment of 260 German Marks from the president of the administrative headquarters in March 1952 to alleviate her destitution.<sup>85</sup> This case shows that sometimes racial persecution was acknowledged even if the financial benefit to the victim was negligible and the desired pension refused, since the compensation guidelines restricted the categories of suffering which merited pension payments.

Udo Engbring-Romang, who has examined the situation of returning Roma in the city of Marburg (Hesse), argues that returning Roma who had previously lived in Marburg did at first receive help in the form of clothing and food, especially in the cases where they had attestations from the concentration camps, issued by the liberating armies, stating where and how long they had been incarcerated. Some attestations demanded that these former prisoners were to receive preferential treatment, although the nature of this was not specified.<sup>86</sup> Engbring-Romang bases his analysis on archival material as well as interviews,

<sup>83</sup> Eduard L., ZK 24252, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>84</sup> This was the case of Julian S., where the District Special Relief Committee Lüdenscheid decided in February 1949 that it had been his 'asocial' lifestyle, rather than his race, that had led to his arrest in June 1938, followed by an imprisonment first in the Steinwache (Dortmund) then in Sachsenhausen, where he remained until March 1939. The District Special Relief Committee based this on information from the Criminal Police who had arrested him in 1938, and on the fact that he could not prove that he was a Rom. This view was, however, revoked in 1957 when he received 1,200 German Marks for his time in the concentration camp followed by a pension in 1960. Julian S., ZK 54946, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>85</sup> Lina K., ZK 30286, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>86</sup> U. Engbring-Romang, 'Sinti in Marburg. Zwischen Betreuung als Verfolgte des Nationalsozialismus und fortgesetzter Diskriminierung', in B. Hafenecker, W. Schäfer, (eds), *Marburg in den Nachkriegsjahren* (Rathaus, Marburg, 1998), pp. 139–160.

and both show that Roma were not treated differently during the period when aid consisted of distributing material goods such as clothing and pots and pans. However, he believes that after the initial phase, Roma who were not originally from Marburg were discriminated against, including being made unwelcome in the city or even being expelled, at times based on laws dating from the National Socialist period. He further claims that the guidelines of the aid organisations made it difficult for Roma to receive their support, as Roma had to fulfil special requirements. The Guidelines for Support Agencies in Hesse (*Richtlinien der Betreuungsstellen in Hessen*) stated that Roma were entitled to compensation insofar as they pursued regular work and had a fixed residence.<sup>87</sup> These additional requirements of a permanent residence and occupation can be interpreted as a desired proof that Roma claimants were not ‘asocial’, as they did not apply to other victim groups.

Engbring-Romang’s findings show the same basic patterns as the Münster files and the Pankok material. In the early stages after the war it seems to have been accepted that Roma had been racially persecuted. However, arguments from National Socialist-era institutions, such as the police, were taken at face value, so that somebody who had been imprisoned as an ‘asocial’ rather than a ‘Gypsy’ was regarded as not having been racially persecuted, even if the victim claimed that his race had been the real motivation. The fact that the National Socialists’ justifications for imprisoning Communists were not sanctioned after the war suggests that there were more deep-rooted prejudices at play with regard to Roma, which still seemed acceptable after the war. Although they were initially recognised as victims of racial persecution, they were not treated on a par with Jewish or political victims, and in many cases had to provide extra proof, for instance of their Roma parentage, and fulfil extra criteria. The point of these criteria, such as a permanent residence and regular work, seems to have been to check whether they were now ‘good’ German citizens who deserved compensation.

The correspondence between Pankok and the Association of Persecutees of the Nazi Regime on behalf of Roma seeking compensation shows that, because of centuries-old and unchanged prejudices, Roma were in many cases perceived as de facto suspects whose applications had to be examined particularly meticulously. Nonetheless, Pankok seems to have been quite successful in obtaining both recognition as victims and actual compensation payments, which suggests that it was of great benefit to have the help of an articulate intermediary who believed in the rights of the Roma as victims and could argue within the legal framework, as he was informed both about the Roma’s persecution and about what was possible within the compensation framework at the time. The success of Pankok’s rational argumentation shows that the stigma of ‘asociality’ was often a very shallow prejudice, and thus a barrier that could be removed as easily as it was applied. However, in those cases where this was done, it took the voice

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<sup>87</sup> Engbring-Romang, ‘Sinti in Marburg. Zwischen Betreuung als Verfolgte des Nationalsozialismus und fortgesetzter Diskriminierung’, p. 143.

of an educated German and non-Roma to convince the officials that the Roma cases were legitimate. This did not change until the 1980s and 1990s when the Central Council of German Sinti and Roma (*Zentralrat Deutscher Sinti und Roma*) took charge of a number of compensation cases, successfully acting as an articulate and persevering collective representative.<sup>88</sup>

There were three phases between liberation and the first West Germany-wide Compensation Law in 1953. At the very beginning of the post-war period the Allies and some other organisations aimed to help all victims of National Socialism by giving material aid, securing their immediate post-liberation survival by providing them with food, medical care, shelter, and – where possible – work. This was not regarded as any sort of compensation for sufferings endured under the National Socialist regime, but as simple humanitarian aid. Roma received this help, with little or no distinction being made by the Allies between victim groups.

The second phase was that of the consolidation and coordination of the work done by both victims' organisations and local German and Allied administrative offices. During this phase compensation began to be paid to the victims on a regional level. During this time other victim groups involved in the organisations regarded Roma as either criminal or 'asocial' (or both) and thus did not want to see them included in the compensation processes. From early on one can see the desire – both on the part of many of the victims and on the part of the German and military administration – to give compensation only to those who were worthy of compensation. It was also during this time that the influence of victim group organisations was more and more noticeable, both in the sphere of emerging policy makers and in the staffing of the organisations dealing with compensation. Here it becomes clear how the lack of a Roma organisation and the strength of the political and Jewish organisations further caused the marginalisation of Roma as a victim group. The short-lived existence of the Munich Committee of German Gypsies (*Komitee Deutscher Zigeuner München*), created in 1946, shows how, initially, Roma organisations could not gain a foothold. This was a small organisation, founded by Karl Jochheim-Armin and Georg Tauber, and they published a bulletin entitled *Wahrheit und Recht. 'Schwarz-Grün'. Internes Informationsblatt der Konzentrationäre Deutschlands, der Schwarzen und Grünen*.<sup>89</sup> There were only three issues of this bi-monthly bulletin. The title 'Black-Green' reflected the fact that Roma were identified with both those who wore the black and those who wore the green triangles in camps, who were the so-called 'asocials' and the so-called 'professional criminals' respectively. The founders of this organisation believed that the political prisoners, especially those who had been imprisoned because of their resistance (predominantly Communists), fought for their rehabilitation after the war, and did so by dissociating themselves from these 'green' and 'black' inmates. This was further

<sup>88</sup> This will be portrayed in more detail in chapter six.

<sup>89</sup> This can be roughly translated as 'Truth and Justice: Black-Green. Internal bulletin of the German former concentration camp inmates, the blacks and the greens.'

complicated by the fact that the SS tended to appoint prisoners wearing the green triangle as *Funktionshäftlinge* ('Kapos'<sup>90</sup>) or appointed those prisoners who had been accused by other inmates of having committed crimes against their fellow inmates to those positions. This short-lived organisation demanded that the Military Government in Nuremberg treat the persecution of Roma as racial persecution, provide better treatment in post-war Germany and treat them in the same way as political prisoners. Due to a lack of support and internal disagreements, this organisation did not even survive past 1946.<sup>91</sup> A decade after the war, Oskar Rose, the late father of Romani Rose, president of the Central Council of German Sinti and Roma, undertook another attempt at organising the German Roma, but, again, with little success. He founded the Association of Racially Persecuted People of Non-Jewish Faith (*Verband rassisch Verfolgter nichtjüdischen Glaubens*) in 1956, hoping to further the cause of compensation for Roma. However, Rose did not find any support outside his community, and this organisation was soon dissolved. Rose died in 1968 and not until the 1970s would his son Romani, together with his uncle Vincenz Rose, set up the Association of German Roma (*Verband deutscher Sinti*), which, with actions such as a hunger strike in Dachau in 1980, would finally gain public attention.<sup>92</sup> One of the reasons why these actions would receive more sympathy than they had in the immediate post-war period would be the fact that a new generation of Germans (born after 1945) would be in charge of politics, journalism and other organisations, which would lead to a new interest in the National Socialist past, for the first time encouraging discussions beyond the hitherto rather restricted view of National Socialist crimes. But, interestingly, this new Roma movement was also led by the post-war generation (Rose was born after the war). According to the Dachau hunger strike participant Dronja Peter (b. 1946) the explanation for this was that the survivor generation was too scared to voice their concerns:

The old people were afraid to fight for their rights, for compensation. They were all completely intimidated, completely broken by the concentration camp experience. The old people have no faith in this government. "You don't know how evil people can be!" – that's what our elders told us. They were all way too scared.<sup>93</sup>

The final phase before the Federal Compensation Law of 1953 was that of the federal state regulations, when specific laws were passed for various aspects of compensation. These laws went well beyond the supply of humanitarian needs

<sup>90</sup> A 'Kapo' was a prisoner who worked inside German concentration camps, usually in a lower administrative position. The official description was 'Funktionshäftling', but they were commonly referred to as 'Kapos'.

<sup>91</sup> Eiber, *Ich wußte es wird schlimmer*, pp. 128–129.

<sup>92</sup> Völklein, *Zigeuner*, p. 195.

<sup>93</sup> Krausnick, *Da wollten wir frei sein!*, p. 122: 'Die Alten haben sich ja nicht getraut, um ihre Rechte, um eine Wiedergutmachung zu kämpfen. Die waren alle viel zu ängstlich, die hat man im KZ kaputt gemacht. Die Alten haben kein Vertrauen in den Staat hier. "Ihr wißt nicht, wie schlecht die Menschen sind!" haben die Alten zu uns gesagt. Die waren alle zu verängstigt.'



and established, in legal terms, a right to compensation for victims of National Socialism. During this phase many Roma did try to gain recognition as victims of racial persecution as well as compensation for their suffering. In the majority of cases they were successful, but only after encountering more problems than other victims, fulfilling additional criteria, battling against prejudices, and putting more effort into their claims. Most unsuccessful cases rested on the interpretation that the Roma concerned had not been racially persecuted, something that would take decades to rectify.

## Chapter 4: The Machinery of Compensation

### *The Compensation Laws*

One of the motivating factors for the German government to pass an independent compensation law was that under the German Civil Code any victim, not only Germans, could have gone to court – as the German Civil Code covered all those areas where the German state, or its subsidiaries, exercised power, and was not limited to the geographical area of Germany<sup>1</sup> – with compensation sums set individually each time, which would have heavily burdened the German financial and judicial systems. By creating a new law, the German government not only limited the group of recipients to within Germany's borders, but also limited compensation to three specific victim categories: racial, political and religious. This meant that rather than compensating any unjust National Socialist treatment (which would have been the case under the German Civil Code), the number of potential recipients was limited. This is particularly significant in the case of the Roma as, officially, the National Socialists did not racially persecute them, and thus they did not automatically fall into the Federal Compensation Law groupings, creating a problem of recognition that would not have occurred had National Socialist injustice been compensated under the German Civil Code. Under the new system, not every victim was compensated, nor every damage repaired, but only those that fell within the framework of the new laws.

Whilst this framework limited the recipient groups, there were some benefits to victims. Compensation claims could not have been dealt with efficiently or conclusively via the normal civil proceedings because in so many instances the individual wrongdoer could not be specified and would have been difficult or impossible to locate in the post-war chaos. Under normal civil proceedings the burden of proof was on the claimant, but because of the general havoc in Germany, and the deliberate destruction of papers, a successful argument would have been both difficult to establish and highly time-consuming. Under the German Civil Code certain assumptions – such as the persecution of Jews having been racial – could not have been made so that the victim would have to prove this anew in every case. Additionally, in cases where a National Socialist institution or state body was the culpable wrongdoer, these parties no longer existed, making

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<sup>1</sup> A. Schmeling, (ed.), *Nicht Wieder Gut zu Machen. Die bundesdeutsche Entschädigung psychischer Folgeschäden von NS-Verfolgten* (Centaurus, Herbolzheim, 2000), pp. 71–73.

it impossible to approach them for compensation. With the Federal Compensation Laws (the 1953 Supplemental Federal Compensation Law, the 1956 Federal Compensation Law and 1965 Final Federal Compensation Law), the claims were directed against the Federal Republic of Germany as the successor state, and not individuals or organisations.<sup>2</sup> Via the Federal Compensation Law, the West German state was also liable for damages done by non-state organisations, such as the SA. And, finally, the statute of limitation (*Verjährung*) would not apply to crimes compensated under the Federal Compensation Law.<sup>3</sup> Despite these benefits, the downside was that the Federal Compensation Law restricted both the groups and damages eligible for compensation and the amounts of compensation paid.

The above-mentioned laws endeavoured to compensate individuals persecuted for political, racial or religious reasons, who suffered long-term damage to their health, or who suffered imprisonment, death of family members, loss of property, reduced income, or reduced professional advancement.<sup>4</sup> The Supplemental Federal Compensation Law was the first nation-wide, unifying compensation law – much more detailed than the US Compensation Law – which attempted to rectify inequalities that had existed between the state laws. It confirmed the move away from providing welfare provisions and towards paying actual compensation for the effects of persecution. However, it was still full of flaws and injustices, so a completely revised and edited version in the form of the Federal Compensation Law was passed on 29 July 1956 (retrospectively valid from 1 October 1953). As a result of repeated complaints by victims about the unfairness inherent in the law and the narrow reading of the law text by German civil servants, a delegation of the Jewish Claims Conference (JCC) met in Bonn in early 1957, and as a consequence it demanded changes in the legal text of the Compensation Law and in its implementation thereby increasing the pressure on the government to adjust these inadequacies.<sup>5</sup> The many complaints about the Federal Compensation Law and the realisation that there might be endless incremental revisions, together with the impossibility of re-evaluating every case after each revision, led the West German government to draft a final version of the law, which would deal with everything conclusively. After four years of debate within the Upper and the Lower Houses of the German Parliament

<sup>2</sup> K. Weiss, 'Schaden an Körper oder Gesundheit aus rechtlicher Sicht', in Bundesministerium der Finanzen, Schwarz, *Die Wiedergutmachung nationalsozialistischen Unrechts*, vol. 4, pp. 185–358, here p. 191.

<sup>3</sup> R. Mayntz, E. Scheuch, *Leistungsverwaltung und Verwaltungsleistung. Analyse von Vollzugsproblemen am Beispiel der Entschädigung für Opfer der nationalsozialistischen Verfolgung* (Universität zu Köln, Institut für Angewandte Sozialforschung, 1983) (unpublished), p. 26–29.

<sup>4</sup> 18.9.1953: Bundesergänzungsgesetz zur Entschädigung für Opfer der nationalsozialistischen Verfolgung (BErgG) (Supplementary Law for the Compensation of the Victims of National Socialist Persecution), in *Bundesgesetzblatt* 1953, Teil I, Band 2, pp. 1387–1408; 29.6.1956: Bundesgesetz zur Entschädigung für Opfer der nationalsozialistischen Verfolgung (*Bundesentschädigungsgesetz* – BEG) (Federal Law for the Compensation of the Victims of National Socialist Persecution), in *Bundesgesetzblatt* 1956, Teil I, pp. 562–596 (retrospectively active from 1.10.1953); 14.9.1965: Zweites Gesetz zur Änderung des Bundesentschädigungsgesetzes (BEG-Schlussgesetz) (Final Federal Compensation Law), in *Bundesgesetzblatt* 1965, Teil I, Band 2, pp. 1316–1340.

<sup>5</sup> Forster, 'Wiedergutmachung', p. 90.

(*Bundesrat, Bundestag*), the Final Federal Compensation Law was passed on 14 September 1965 with a clear emphasis, not merely semantically, on its final nature.<sup>6</sup> It brought with it over one hundred changes and a few additions such as the so-called ‘post-53’ fund.<sup>7</sup> One of the important changes was the extension of the application deadline. It was, however, also decided that 31 December 1969 should be a cut-off date after which no case would be re-opened. Because of this final deadline it is no longer possible to make any new claims based on the Final Federal Compensation Law. As a result of this law, over one million new claims were made (though this didn’t mean one million new claimants), and by the end of 1969 approximately ninety-five percent of all claims hitherto made (around 4.4 million) had been dealt with. By the end of 1972, only 1.7 percent of the claims were still pending. In total, about 1.5 million victims made claims under the Federal Compensation Law (as about 3.4 million claims were filed before the Final Federal Compensation Law, each claimant made on average 2.3 claims under the Federal Compensation Law). Of these claimants, two thirds had been imprisoned in camps or ghettos – the remainder had managed to emigrate before their detention. Around eighty percent of compensation payments went to people living outside Germany, with about fifty percent of these monies going to Israel.<sup>8</sup> Approximately 360,000 victims of persecution received Federal Compensation Law pensions, and roughly 650,000 claimants received one-off payments.<sup>9</sup> Of all Federal Compensation Law pension payments made, about fifteen percent of the monies remained in West Germany whilst the rest went abroad. A total of 4,383,138 claims (as opposed to claimants) were filed under the various laws between 1 October 1953 and 31 December 1987; of these 2,041,142 received compensation of some sort, 1,246,571 were rejected, and 1,123,425 were dealt with in a different way (e.g. were withdrawn).<sup>10</sup>

The Lower House of the German Parliament explained the importance of the Compensation Law in its preamble as follows:

IN RECOGNITION OF THE FACT

that a wrong has been committed against persons who, under the NS terror regime, were persecuted for reasons of their political opposition to National Socialism or their race, religious faith or ideology, that the resistance offered to the NS terror regime from conviction, for the sake of faith or for reasons of conscience was a service rendered to the welfare of the German people and nation, and that democratic, religious and economic organizations, too, have been injured by the NS terror regime in contravention of the law, the Bundestag by and with the consent of the Bundesrat has enacted the following law:-<sup>11</sup>

<sup>6</sup> BEG-Schlußgesetz, 14.9.1965, in *Bundesgesetzblatt* I, p. 1315.

<sup>7</sup> This was a special fund for victims who had left East Germany after 1953 and did thus not fulfil the residency requirements set out in the BEG. See Forster, ‘*Wiedergutmachung*’, p. 93.

<sup>8</sup> Hockerts, ‘*Wiedergutmachung in Deutschland. Eine historische Bilanz 1945–2000*’, p. 108.

<sup>9</sup> Heßdörfer, ‘*Die finanzielle Dimension*’, in Herbst, Goschler, *Wiedergutmachung*, pp. 55–6.

<sup>10</sup> Bundesministerium der Finanzen, *Entschädigung von NS-Unrecht* (August 2006), p. 38.

<sup>11</sup> BEG preamble: ‘In Anerkennung der Tatsache, daß Personen, die aus Gründen politischer

The first paragraph defines a victim of National Socialist persecution as a person who ‘for reasons of political opposition to National Socialism or for reasons of race, religious faith or ideology was persecuted by NS terror acts’ and explains that, if this victim ‘in consequence thereof, has suffered loss of life, bodily injury or injury to health, loss of liberty, loss of or damage to property, loss of capital resources, damage to his career or economic advancement’, he or she was entitled to compensation.<sup>12</sup> Article 2 of the Federal Compensation Law defines violent National Socialist measures (*Gewaltmaßnahmen*) as follows:

NS terror acts are measures directed against the persecutee for the reasons of persecution specified in sec. 1 on the initiative or with the approval of an agency or official of the Reich, a Land or some other public law corporation, institution or foundation of the National Socialist German Workers’ Party (NSDAP), its formations or its affiliated associations.<sup>13</sup>

It further clarifies that ‘the presumption of NS terror acts shall not be affected by their having been based on provisions of law or directed against the persecutee by the misapplication of such provisions.’<sup>14</sup> Because the Federal Compensation Law did not provide a list of what was to be considered an oppressive measure, anybody who was affected by an unlawful action that had been racially, religiously or ideologically motivated and which could be traced to an agent of the National Socialist regime could apply for compensation.<sup>15</sup>

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Gegnerschaft gegen den Nationalsozialismus oder aus Gründen der Rasse, des Glaubens oder der Weltanschauung unter der nationalsozialistischen Gewaltherrschaft verfolgt worden sind, Unrecht geschehen ist, daß der aus Überzeugung oder um des Glaubens oder des Gewissens willen gegen die nationalsozialistische Gewaltherrschaft geleistete Widerstand ein Verdienst um das Wohl des Deutschen Volkes und Staates war und daß auch demokratische, religiöse und wirtschaftliche Organisationen durch die nationalsozialistische Gewaltherrschaft rechtswidrig geschädigt worden sind, hat der Bundestag mit Zustimmung des Bundesrates das nachstehende Gesetz beschlossen.’ Translated into English by the Institute of Jewish Affairs (N.Y.), 1956, p. 9; USHMM, Ferencz collection (D819 G3 G425 1956).

<sup>12</sup> BEG § 1: ‘aus Gründen politischer Gegnerschaft gegen den Nationalsozialismus oder aus Gründen der Rasse, des Glaubens oder der Weltanschauung durch nationalsozialistische Gewaltmaßnahmen verfolgt worden ist’; ‘hierdurch Schaden an Leben, Körper, Gesundheit, Freiheit, Eigentum, Vermögen, in seinem beruflichen oder in seinem wirtschaftlichen Fortkommen erlitten hat’; translated into English by the Institute of Jewish Affairs (N.Y.), 1956, p. 9; USHMM, Ferencz collection (D819 G3 G425 1956).

<sup>13</sup> BEG § 2: ‘solche Maßnahmen, die aus den Verfolgungsgründen des § 1 auf Veranlassung oder mit Billigung einer Dienststelle oder eines Amtsträgers des Reiches, eines Landes, einer sonstigen Körperschaft, Anstalt oder Stiftung des öffentlichen Rechts, der NSDAP, ihrer Gliederungen oder ihrer angeschlossenen Verbände gegen den Verfolgten gerichtet worden sind.’ Translated into English by the Institute of Jewish Affairs (N.Y.), 1956, p. 10; USHMM, Ferencz collection (D819 G3 G425 1956).

<sup>14</sup> BEG § 2: ‘Der Annahme nationalsozialistischer Gewaltmaßnahme steht nicht entgegen, daß sie auf gesetzlichen Vorschriften beruht haben oder in mißbräuchlicher Anwendung gesetzlicher Vorschriften gegen den Verfolgten gerichtet worden sind.’ Translated into English by the Institute of Jewish Affairs (N.Y.), 1956, p. 10; USHMM, Ferencz collection (D819 G3 G425 1956).

<sup>15</sup> See, for example, BEG § 56, part 4: ‘Should the persecutee belong to a group of persons whom the NS German Government or the NSDAP intended to exclude in its entirety from the cultural or economic life of Germany, it shall be presumed that the loss of capital resources was occasioned

The remainder of Part One of the Federal Compensation Law details the conditions for qualification, and under which circumstances a victim was disqualified. The former includes very clear residence requirements, and in paragraph 4 of the Federal Compensation Law the so-called ‘subjective and personal territoriality principle’ (*‘subjektiv-persönliche Territorialitätsprinzip’*) was created, which demanded a direct geographic link to either the new West Germany or the former territory of Germany from claimants. Only those victims who were resident in West Germany or West Berlin on 31 December 1952 – or who had lived within the borders of 1937 Germany at the time of persecution and had emigrated to a Western country or Israel by 1952 – were entitled to compensation payments.<sup>16</sup> Thus, persecution in the occupied territories was not compensated under the Federal Compensation Law, which explains why the number of those who received compensation under the Federal Compensation Law is a fraction of the number of persecution victims as a whole.

The Federal Compensation Law incorporated the notion of the claimant having to be worthy of compensation, which can be found from the very beginning in compensation discussions and regional and state laws.<sup>17</sup> Grounds for exclusion were: membership of the NSDAP or involvement in National Socialist persecution; having contravened the democratic order (*demokratische Grundordnung*) of the 1949 *Grundgesetz* (an exclusion aimed at Communists); having been deprived by an irrevocable sentence of one’s civil liberties; or having been condemned by an irrevocable sentence to penal servitude for a term exceeding three years after 8 May 1945 (but before the compensation claim decision; i.e. any such convictions after the compensation claim decision would not lead to a withdrawal of the compensation paid).<sup>18</sup> This last point is particularly unusual since, according to civil law, a person does not lose his civil liberties after having been condemned to such a sentence, which once again shows how committed the West German government was to refusing compensation to ‘undeserving’ people. All this meant that the mere fact of having suffered was not enough to qualify. Instead the victim had to continue to prove that he was a commendable citizen. These conditions were most likely to affect members of the lower social and economic classes, especially during the time of economic hardship after the war, when many people tried to survive through petty crime.

Part Two of the Compensation Law gives a detailed account of the following eight categories of damage for which a victim could receive compensation: loss of life; damage to body and health; damage to liberty; damage to property; damage to possessions; losses incurred through payment of discriminatory

by NS terror acts.’ ‘Gehörte der Verfolgte zu einem Personenkreis, den in seiner Gesamtheit die nationalsozialistische deutsche Regierung oder die NSDAP vom kulturellen oder wirtschaftlichen Leben Deutschlands auszuschließen beabsichtigte, so wird vermutet, daß der Schaden an Vermögen durch nationalsozialistische Gewaltmaßnahmen verursacht worden ist.’ Translated into English by the Institute of Jewish Affairs (N.Y.), 1956, p. 26; USHMM, Ferencz collection (D819 G3 G425 1956).

<sup>16</sup> BEG, § 4.

<sup>17</sup> For the justification of giving compensation only to people who accepted the values of the *Grundgesetz*, see *BT-Drucksachen 2/1949*, p. 93.

<sup>18</sup> BEG § 6.

levies, fines, penalties and costs; damage to vocational and economic pursuits; and immediate aid to repatriates. In this section it is decreed that only those health damages that were the direct result of National Socialist repression were to be compensated. The category of ‘loss of life’ (§§ 15–27) was directed at surviving family members, who were entitled to pensions in the name of the lost family member, if the deceased had contributed to the family income. If the person had died during imprisonment or within eight months of liberation, it was assumed that the death was related to the confinement. In contrast, compensation for damage to body and health (§§ 28–42) went directly to survivors who had suffered substantial health damage as the result of National Socialist persecution. This compensation could be paid in the form of a pension, therapy, one-off payments, or financial aid towards re-education or re-training. If the survivor died after the war as a result of these health damages, dependent relatives could receive widows’ or orphans’ pensions. However, direct pension payments were made only in the case of a reduction in earning capacity (*Erwerbsminderung*) of at least twenty-five percent (this was one of the improvements to the Supplemental Federal Compensation Law, where the threshold had been thirty percent). Paragraph 31 of the Final Federal Compensation Law was a particularly important amendment as it provided the so-called ‘Assumption Clause’ (*Vermutungsklausel*), which established that if a victim had been in a concentration camp for at least one year, and if he suffered from a reduction in earning capacity of at least twenty-five percent, one was to assume that the persecution-related reduction in earning capacity was twenty-five percent. This assumption did not go beyond twenty-five percent, so victims who had an overall reduction in earning capacity of seventy-five percent had to prove that the remaining fifty percent was also persecution-related. If a victim was awarded a pension in 1960, but could show that his reduction in earning capacity had existed since 1950, he would receive a pension from 1960 onwards, and a one-off payment for the unpaid pension since 1950.<sup>19</sup> In contrast to these ongoing payments, most forms of confinement were compensated with a blanket payment of 150 German Marks per month of imprisonment, as outlined in paragraphs 43–50 (damage to liberty). This included time spent in concentration camps, ghettos, life in inhuman conditions (*‘menschenunwürdige Bedingungen’*), in illegality (e.g. the Final Federal Compensation Law included living under a false name as such an inhuman condition), and having been forced to wear the Star of David. Whereas the Restitution Law regulated expropriation, the Compensation Laws covered financial losses due to levies and lost possessions (e.g. possessions that were left behind, but not confiscated, upon deportation). Paragraphs 52–55 outlined compensation for damaged property, which covered

<sup>19</sup> BEG-S § 31: ‘If a persecutee spent at least one year in a concentration camp and if his earning capacity is reduced by at least 25%, then the assumption is that the 25% reduced earning capacity is the result of his persecution.’ ‘War ein Verfolgter mindestens ein Jahr in einem KZ und ist er mindestens 25% in seiner Erwerbsfähigkeit gemindert, so wird vermutet, daß die verfolgungsbedingte MdE 25% beträgt’ (14.9.1965).

possessions such as furniture, in contrast to damage to assets (*Vermögen*, §§ 56–58), which covered financial losses due to boycotts or liquidation of one's business, and costs accrued in connection with one's emigration. The Federal Compensation Law increased the maximum payments for damages to property and possessions from 25,000 German Marks to 75,000 German Marks per category. In addition, compensation was paid for losses incurred through payment of discriminatory levies, fines, penalties and costs (§§ 59–63), such as discriminatory taxes and extra duties, and the so-called 'atonement levies' (*Sühneleistungen*).

In line with the desire to compensate actual losses, large sums were paid for damage to vocational and economic pursuits (§§ 64–112). Any losses in earnings, forced premature ends of careers or training and dismissals based on racial, political or religious grounds were compensated in this category. The Federal Compensation Law increased the maximum amount paid for these kind of damages to 40,000 German Marks (25,000 German Marks under the Supplemental Federal Compensation Law, § 25 (3)). The Final Federal Compensation Law (§ 116) increased the maximum payment for damage to education from 5,000 German Marks to 10,000 German Marks.

The final damage category was that of 'immediate aid to repatriates' (§ 141), which can be described as an aid for victims returning to West Germany, similar to the Equalisation of Burdens payments, the compensation paid to other German citizens for damages and losses during and immediately after the Second World War. A person who left Germany (voluntarily or forcibly) during the Third Reich because of actual or threatened racial, religious or political persecution, and permanently returned to the Western zones and later West Germany after 8 May 1945, was entitled to a one-off payment of 6,000 German Marks. Half of this payment was to be set against the payments made for damages done to property and possessions.

All victims of persecution had to actively make a claim by filling out a compensation claim application form, which had to be handed in at the appropriate compensation authority.<sup>20</sup> One of the major changes enforced by the Supplemental Federal Compensation Law in comparison to most previous state laws was the reversal of the burden of proof. The compensation authority now had to investigate all claims, and if nothing contrary to what was claimed could be established, the statements could be regarded as true, as expressed in paragraph 83 of the Supplemental Federal Compensation Law:

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<sup>20</sup> From the very beginning, there were clear cut-off periods, after which no new claims could be filed. The Supplemental Federal Compensation Law had set a one-year application deadline for applications filed from within Germany and a two-year deadline for applications coming from abroad. The deadline was later extended to 1 October 1955 for all claimants. Under the BEG the original application deadline was 1 April 1957, but this was extended to 1 April 1958. The BEG-S extended the deadline only in those cases for which changes in the law necessitated this (in those cases, the new deadline was 30 September 1966). BErgG-Änderungsgesetz, 24.11.1954, in *Bundesgesetzblatt I*, 1954, p. 356; BEG-Änderungsgesetz, 1.7.1957, in *Bundesgesetzblatt I*, 1957, p. 663.



(1) The Compensation Authorities shall *ex officio* investigate all facts material to their decision and seek to obtain all the necessary evidence.

(2) If proof of a fact cannot be completely furnished because of the situation in which the beneficiary finds himself as a result of National Socialist persecutory measures, the Compensation Authorities, taking into consideration all circumstances, may regard such fact as established in favour of the claimant. This shall have particular application if documents have been lost, witnesses have died or cannot be traced, or if the interrogation of the beneficiary or of a witness is subject to difficulties which are out of proportion to the importance of the evidence.<sup>21</sup>

This application form consisted of five sections. The first concerned details of the claimant (name, age, address, occupation, whether persecution was suffered, whether the claim was made on behalf of another person). The second part asked for similar details regarding the victim of persecution for whom compensation was claimed, including persecution details. In part three the claimant had to declare whether the persecution victim had been a member of the NSDAP, or had been previously convicted of a crime; the claimant also needed to provide residence information, and details on the deportation, return etc. Section 5 lists the eight damage categories and asks for which of these the claimant intended to register. The last section demanded details concerning other application claims filed and benefits received. In addition to filling out this four-sided application form, the claimant was asked to attach a description of his persecution, an explanatory note on the nature and amount of each damage incurred and a statement concerning the type of compensation claimed, and documentary evidence. There were no specific requirements for documents such as previous income statements, proof of possessions, birth, marriage and death certificates etc., as in many cases these kinds of documents had been lost or destroyed. Instead, it was at the discretion of the applicant to supply documentary evidence. The more detail that could be provided, the more convincing the claim would be, and thus the faster the claim would be processed. The claim was completed with a signature confirming that all statements were made to the best of the claimant's knowledge and awareness of the fact that wrong statements would lead to disqualification from compensation payments.<sup>22</sup>

<sup>21</sup> BErgG, in *Bundesgesetzblatt* 1953, Teil I, Band 2, pp. 1387–1408, here § 83; BErgG, translated into English by the Institute of Jewish Affairs (N.Y.), 1954, p. 32; USHMM, Ferencz collection (D819 G3 G434 1954): '(1) Die Entschädigungsorgane haben von Amts wegen alle für die Entscheidung erheblichen Tatsachen zu ermitteln und alle erforderlichen Beweise zu erheben. (2) Kann der Beweis für eine Tatsache infolge der Lage, in die der Antragsteller durch nationalsozialistische Gewaltmaßnahme geraten ist, nicht vollständig erbracht werden, so können die Entschädigungsorgane diese Tatsache unter Würdigung aller Umstände zugunsten des Antragstellers für festgestellt erachten. Ebenso ist zu verfahren, wenn Urkunden verlorengegangen, Zeugen verstorben oder unauffindbar sind oder wenn die Vernehmung des Antragstellers oder eines Zeugen mit Schwierigkeiten verbunden ist, die in keinem Verhältnis zu der Bedeutung der Aussage stehen.'

<sup>22</sup> BEG application form, translated into English by the URO; USHMM, Ferencz collection (D819 G3 G425 1956).

Once this application form was filed, a correspondence between the compensation authority and the claimant would begin. In most cases, the authorities asked for clarifications or further documents. Frequently the claimants sent in notes, phoned or personally went to the offices to enquire about the status of their application. If a payment was agreed upon, the last part of the file was a document detailing when the awarded compensation was transferred. In the case of pensions, the payments were recorded over the years, as well as their changing amounts. The actual volume of these compensation files varies greatly, depending on the nature of the claim. Compensation payments made for time spent in a concentration camp were usually unproblematic and swift, as the veracity of these claims could in most cases be checked via the concentration camp books (which were held at the International Tracing Service in Bad Arolsen, a subsidiary of the Red Cross that was established for a faster reunification of families separated by the war), and payments were fixed and not linked to health damages. In contrast, pension payments tended to take much longer, as they involved medical checks, and the assessment of health damages were much more involved and thus the process was lengthier.

#### *Background to the Compensation Files*

As compensation was administered on the federal state level, the compensation files were collected, archived and located in each state. The sheer abundance of these files makes a comprehensive examination almost impossible. In Hesse, the state archive holds 120,000 compensation files, in Lower Saxony the number amounts to 110,000 individual files, Münster has between 30,000 and 40,000 such files, and similar quantities can be found across the West German states. One of the main obstacles to a comprehensive analysis of a specific victim group is that, in most archives, these files are catalogued alphabetically by name. This means that, without a name list, it is impossible to single out all Roma cases. Not only are a few names shared by many Roma families (such as Rosenberg, Diesenberg and Weiss), but names such as Rosenberg are also both German and German-Jewish names.

So far only a few projects have been financed to create databases for these files, of which only two have been completed. One such database exists for the administrative district of Braunschweig (in the *Niedersächsische Landesarchiv-Staatsarchiv Wolfenbüttel*, Lower Saxony) and another for the administrative district of Arnsberg (in the *Staatsarchiv Münster*, North Rhine-Westphalia). This means that in these two archives, historians can search for specific victim groups. There are 503 Roma compensation files in Münster and 161 in Wolfenbüttel. Matthias Langrock, who forms part of Norbert Frei's research team who examined various aspects of *Wiedergutmachung*, analysed the social composition of the Cologne claimants. His sample consisted of 25,100 claims, of which he investigated every one hundredth file. Of these 251 claim files, four concerned

the claims of Roma.<sup>23</sup> Thus, in this Cologne sample, 1.6 percent of the claimants were Roma. This roughly corresponds with the number in the Münster archive (between 1.3 percent and 1.7 percent),<sup>24</sup> which suggests that the number of Roma claimants as a percentage of the total claimants in North Rhine-Westphalia was comparable in the different districts. In the case of Wolfenbüttel, the percentage of Roma claimants was almost twice as large, at 3.2 percent.<sup>25</sup> This figure might be connected to the fact that there had been a 'Gypsy Camp' in Braunschweig-Veltenhof during the Third Reich, to which many surviving Roma returned after the war in search of surviving relatives, which led to a higher concentration of claimants in this district.

The following portrayal of the compensation process in North Rhine-Westphalia, along with general background information to the examined files, provides the setting necessary for an understanding of the compensation files. The system in the state of Lower Saxony was comparable; their differences will be illuminated, where necessary, during the discussion of the two sets of compensation claim files. In contrast to other states, North Rhine-Westphalia organised the compensation process on two levels; first at the local district level (*Kreisebene*), which was where the investigations took place, and the second level was that of the President of the Administrative Headquarters who examined the information provided by the district level authorities and made the decisions. (In contrast to this two-tier structure in North Rhine-Westphalia, the compensation authorities in Lower Saxony were responsible both for checking the claims by using documentary evidence and witnesses, and for making the decision and communicating it to the claimant.) In order to receive compensation, victims resident in North Rhine-Westphalia had to file a claim at the compensation offices. Every district, and most larger cities, had such an office. The administrative headquarters made its decision based on the information supplied by the compensation office. In those cases where the claimants did not agree with the decisions, they could file suits at the District Court (*Landgericht*, LG), the Higher District Court (*Oberlandesgericht*, OLG) and as a last resort at the Federal Supreme Court, all of which had Compensation Chambers and Compensation Senates (*Entschädigungskammer*, *Entschädigungssenat*) dealing exclusively with compensation cases. Once a claimant decided to appeal against a decision made by the compensation authority, all decisions made by the compensation authority lost their validity and the court had to decide anew. Thus it was not the responsibility of the courts to decide whether decisions had been correct or not, but rather they had to make their own interpretation of the Compensation Law.

A doctoral thesis by Julia Volmer-Naumann on compensation under the Federal Compensation Law in the 1950s and 1960s in the region of Münster gives a detailed account of how the compensation department (*Wiedergutmachungsdezernat*)

<sup>23</sup> M. Langrock, 'The Social Composition of the Cologne claimants', in *The Practice of Wiedergutmachung: Papers and Minutes*, workshop organised by Norbert Frei, 24–27 June 2004, pp. 20–27, here p. 23.

<sup>24</sup> 503 Roma claimants – total of 30,000–40,000 claimants.

<sup>25</sup> 161 Roma claimants – total of 5,000 claimants.

in Münster operated.<sup>26</sup> There has been no such study for the administrative district of Arnsberg, but its operations were comparable to those of Münster, given that they were in the same state and subject to the same laws. Compensation under the Federal Compensation Law in North Rhine-Westphalia was controlled by the Interior Ministry and administered separately in each of the six administrative districts (*Regierungsbezirke*).<sup>27</sup> The compensation department in Münster was established in 1947 and was responsible for the administration and implementation of the Compensation Laws in its district between 1953 and 1968 (these dates correspond with the first Compensation Law and the application deadline of the Final Federal Compensation Law). The department was at its largest in the late 1950s.<sup>28</sup> This trend is mirrored across the states of North Rhine-Westphalia and Lower Saxony, where a total of 778 (North Rhine-Westphalia) and 514 (Lower Saxony) people worked for the compensation authorities in 1960.<sup>29</sup> This compares to 4,534 employees in compensation authorities across West Germany in 1960.<sup>30</sup> The numbers in North Rhine-Westphalia and Lower Saxony fell to 503 and 262 respectively in 1967; and 288 (North Rhine-Westphalia) and 89 (Lower Saxony) by 1975.<sup>31</sup> In 1968 the Münster compensation department, with all its files, was transferred from Münster to the administrative district of Cologne. Between 1968 and 1970, when most of the cases had been decided, all the workings of the other administrative districts were also taken on by the administrative district of Cologne. Only pending cases remained at the departments where the claims had originally been made. In 1979 the local compensation offices were closed. The compensation authority at the administrative district of Cologne was dissolved in 1985, and the State Pension Authority (*Landesrentenbehörde*) Düsseldorf was given sole responsibility for compensation.<sup>32</sup> This office in turn was dissolved in 1994, when the newly created compensation department at the District Administration (*Bezirksregierung*) in Düsseldorf took on all remaining compensation matters in North Rhine-Westphalia.<sup>33</sup>

<sup>26</sup> First results published in: J. Volmer, 'Verwaltete Wiedergutmachung. Entschädigung für nationalsozialistische Verfolgung im Regierungsbezirk Münster', in *Geschichte im Westen*, vol. 17, issue 2 (2002), pp. 150–164. For a more recent article by Volmer see J. Volmer-Naumann, 'Vor und hinter dem Schreibtisch. Wiedergutmachungsbürokratie in Münster', in Frei, Brunner, Goschler, *Die Praxis der Wiedergutmachung*, pp. 554–571.

<sup>27</sup> The six administrative districts were: Arnsberg, Detmold, Düsseldorf, Aachen, Münster and Cologne.

<sup>28</sup> J. Volmer, 'The Civil Servants of the Wiedergutmachungsdezernat Münster', in *The Practice of Wiedergutmachung: Papers and Minutes*, workshop organised by Norbert Frei, 24–27 June 2004), pp. 52–59, here p. 56.

<sup>29</sup> O. Gnirs, 'Die Entschädigungsbehörden', in Bundesministerium der Finanzen, Schwarz, *Die Wiedergutmachung nationalsozialistischen Unrechts*, vol. 6, pp. 3–18, here p. 7.

<sup>30</sup> K. Heßdörfer, 'Die Entschädigungspraxis im Spannungsfeld von Gesetz, Justiz und NS-Opfern', in Herbst, Goschler, *Wiedergutmachung*, p. 234.

<sup>31</sup> Gnirs, 'Die Entschädigungsbehörden', p. 7.

<sup>32</sup> For more detail on the compensation authorities in the *Länder* between 1960 and 1975, and the number of employees, see Gnirs, 'Die Entschädigungsbehörden', pp. 6–7.

<sup>33</sup> F. M. Bischoff, H.-J. Höötman, 'Wiedergutmachung – Erschließung von Entschädigungsakten im Staatsarchiv Münster', in *Der Archivar*, Jahrgang 51, Heft 3, pp. 425–440, here p. 427.

About 12,000 victims of National Socialism submitted a total of 30,000 to 40,000 single compensation claims in the district of Münster; thus each claimant filed an average of two and a half to three and a half claims. Pension payments excluded, about 100 million German Marks were granted to victims by the Münster compensation department. Between thirty and forty percent of the claimants were denied compensation, either because they did not substantiate their claims, or because they did not meet some other Federal Compensation Law/Final Federal Compensation Law criteria.<sup>34</sup> In the fifteen-year-long existence of the Münster compensation department, which had its seat in the Villa ten Hompel (formerly the National Socialist headquarters for the police of Rhineland and Westphalia), over one hundred civil servants dealt with the incoming compensation claims. According to Volmer-Naumann, former membership in the NSDAP did not prevent civil servants from being employed, so that amongst the first six employees working on compensation, three had been members of the NSDAP. The District Administration did not, however, employ radical National Socialists or members of the SS or SA. The head of the compensation department, Dr Hans Kluge, had himself suffered (professional) persecution as a supporter of the Catholic opposition.<sup>35</sup> Between 1956 and 1960, according to a statistic from the Interior Ministry in North Rhine-Westphalia, the six District Administrations and the State Pension Authority dealt with over 360,000 compensation applications.<sup>36</sup> Processing a claim could take up to ten years. An estimate by Beate and Marc von Miquel, based on the compensation files in Münster, shows that on average decisions on claims concerning damage done to freedom, professional career or economic situation took two and a half years while decisions concerning claims regarding property, wealth, health or life took three and a half years.<sup>37</sup>

Frank Bischoff and Hans-Jürgen Höötman published a report in January 1998 on the files of the administrative district of Arnsberg after the analysis of 7,954 claim files.<sup>38</sup> The bulk of these files contained documents from the period before the Compensation Laws, i.e. pre-1953, including documents from the special relief committees and the committees responsible for the recognition of victims of National Socialist persecution (*Sonderhilfs- und Anerkennungsausschüsse*). They also included post-1953 material such as the claimant's application for compensation under the Federal Compensation Law, the correspondence between the different departments responsible for compensation; the correspondence between the claimants (or their legal representative) and the compensation authorities; the various documents used as proof (such as witness accounts, testimonies under

<sup>34</sup> Volmer-Naumann, 'Vor und hinter dem Schreibtisch', p. 555.

<sup>35</sup> Volmer, 'The Civil Servants of the Wiedergutmachungsdezernat Münster', pp. 52–59; Volmer-Naumann, 'Vor und hinter dem Schreibtisch', p. 569.

<sup>36</sup> Miquel, *Wiedergutmachung in Nordrhein-Westfalen*, p. 19.

<sup>37</sup> Miquel, *Wiedergutmachung in Nordrhein-Westfalen*, p. 20.

<sup>38</sup> For a detailed analysis of the following and the work undertaken by the state archive in Münster with regard to these compensation files, see Bischoff, Höötman, 'Wiedergutmachung – Erschließung von Entschädigungsakten im Staatsarchiv Münster', pp. 425–440.

oath, and various documents from the time of persecution), instructions, directions and decisions given by the compensation authorities; and, in cases where the claimant disagreed with the decision, the documents relating to the court proceedings at the compensation law chamber of the District Court of Arnberg. An analysis of this material allows the historian not only to reconstruct the individual compensation stories but also to draw wider conclusions with regard to the attitudes of officials, claimants and all others involved in the process. Material such as witness accounts and testimonies further offer an insight into the personal persecution stories.

According to Bischoff and Höötmann, the chances of receiving compensation were relatively high in Arnberg. They established that nine out of ten claimants received some kind of compensation. If claims were rejected, this rejection was in most cases due to a lack of proof with regard to the damage done, because the damage done was not sufficient to qualify for compensation or because the claimant demanded compensation for something that was not covered under the Federal Compensation Law. The courts did have the liberty to reject claims if, in their eyes, the claimant had fought against the democratic order (*demokratische Grundordnung*) either during or after the Third Reich, had lost his civil liberties (*Bürgerrechte*), had deliberately misguided the authorities, or if the claimant had aided and abetted the National Socialists. Only 325 cases were rejected due to this last clause. Bischoff and Höötmann acknowledge that Communists were disadvantaged in the 1950s and 1960s, especially after the German Communist Party had been banned in 1956 because of its allegedly anti-democratic nature. However, they do not think that this general trend is reflected in the Arnberg collection. Similarly, they acknowledge that there were fundamental problems with regard to the treatment of Roma. Again, however, they argue that this is not supported by the Arnberg Roma files, as the granting of claims made by Roma lay only slightly below the general average.<sup>39</sup> Bischoff and Höötmann examined eighty-seven claims made by Roma, which consist of 111 decisions, of which seventy-nine percent were positive, seven percent partly positive (*Teilbewilligung*) and fifteen percent rejections of claims.<sup>40</sup> This translates as 81.9 percent positive decisions, 7.4 percent partly positive decisions, and 10.7 percent claim rejections across the batch examined (7,954).<sup>41</sup> However, one cannot base one's analysis of the treatment of Roma claimants purely on the percentage outcome of these claims. It is also important to examine whether it took Roma longer to receive their compensation and what kind of hurdles they had to overcome, which is why these Roma files are studied in greater detail.

When examining these files, one has to keep in mind that they are frequently incomplete. On a very basic level, these files often leave out some procedural

<sup>39</sup> Bischoff, Höötmann, 'Wiedergutmachung – Erschließung von Entschädigungsakten im Staatsarchiv Münster', pp. 436–438.

<sup>40</sup> F. M. Bischoff, H.-J. Höötmann, *Wiedergutmachung. Erschließung der Entschädigungsakten der Bezirksregierung Arnberg im Staatsarchiv Münster. Zwischenbericht* (Münster, January 1998), p. 30 (Staatsarchiv Münster).

<sup>41</sup> Bischoff, Höötmann, *Wiedergutmachung*, p. 29.

facts; phone calls and personal visits by victims remain unrecorded, which makes their reading difficult at times and hides important parts of the story. In a sense these are ‘files of the persecutors’ (*Täterakten*) and thus the damages, and the events which led to these damages, play a larger role than the victim’s subjective witness accounts. In theory these files ought to include a myriad of documents, but in practice this is not always the case, which complicates comparisons between the individual cases.<sup>42</sup> Furthermore, impressions might be skewed as complaints and negative sentiments on the part of the victims are more likely to be recorded than positive responses to the workings of the authorities, or the compensation paid. Similarly, the impact that compensation payments had on the claimant’s life cannot be ascertained, as the last document in the files is usually the payment order. Thus, the quality of each file depends on how meticulously it was kept, and how much of its material was passed on to other authorities. And, very importantly, the files show the fates only of those who actually filed claims. Amongst Roma, as the interviews and biographies show, claims were often not filed, either out of fear of the consequences (registration and medical examinations) or lack of knowledge of the procedures and payments available.

### *The Issue of Racial Persecution*

The main obstacle for Roma seeking compensation was the question, which remained unresolved for many years, of whether National Socialist policies against Roma had been racially motivated as opposed to having been mere policing measures. There was a clear lack of scrutiny concerning the justifications given by the National Socialists for the persecution of the Roma. The National Socialists’ view that Roma were essentially ‘asocial’, ‘workshy’ and criminal was shared by many Germans after the war, including some of those responsible for compensation. Otto Küster, who from March 1947 was the State Commissioner for Compensation in the State of Württemberg-Baden (*Staatsbeauftragter des Landes Württemberg-Baden für Wiedergutmachung*) and later a Federal Supreme Court judge and a leading compensation representative in Baden-Württemberg, respected by many of the persecution victims’ lawyers, complied with the general anti-Roma view by advising the compensation authorities in 1950 that:

[an] investigation into the validity of restitution claims made by Gypsies and Gypsies of mixed blood ... concluded that, for the most part, the group in question was not persecuted and interned on racial grounds, but rather due to its asocial and criminal behaviour.<sup>43</sup>

<sup>42</sup> Compensation claim files should (but often do not) include the following: witness accounts, statements made under oath, historical documentation, the lawyers’ letters and notes of communications, correspondence with the organisations representing the victims, copies of all the decisions made by the various authorities involved, any suits, court decisions and their explanations, and medical reports.

<sup>43</sup> Spitta, ‘Entschädigung für Zigeuner?’, pp. 392–393: ‘[die] Prüfung der Wiedergutmachungsberechtigung der Zigeuner und Zigeunermischlinge ... zu dem Ergebnis geführt [habe], daß der

There is a strikingly clear continuity in the attribution of negative social and cultural qualities to Roma; prejudices which long preceded the Third Reich. The stereotypes of Roma used to justify National Socialist persecution were regarded as distinct from the National Socialist ideology, and so were not examined by the individuals employing them as validations for the Roma's exclusion from compensation payments.<sup>44</sup> The case of Robert S. shows that the compensation authorities at times used the victim's post-war behaviour to justify their view that the reason for imprisonment had been criminal or 'asocial' behaviour, rather than his or her racial background. Robert S. had been arrested near Prague by the SS in June 1941 and was eventually deported to Auschwitz, having performed forced labour in a quarry near the Lethie camp. The decision denying Robert S. classification as a persecution victim in March 1956 was argued as follows:

According to information supplied by the International Tracing Service in Arolsen, the applicant was apprehended by the Criminal Police Department in Prague on an indeterminate date and incarcerated in the concentration camp at Auschwitz. The reason given for the arrest was 'workshy, Gypsy, and asocial'. However, a determination that the applicant was incarcerated based on racial reasons cannot be made. According to his criminal record, in the period immediately following the war, from 1948 to 1951, he was convicted of grand theft, grand theft committed jointly with others and aggravated theft committed jointly with others, and was sentenced to extended prison terms, a total of 4 years and 9 months. Furthermore, according to information supplied by the unemployment office in Salzgitter, for the entire period in which he was not incarcerated – with few exceptions – he burdened the state with unemployment relief payments. So the applicant has led an unequivocally criminal and workshy lifestyle since his release from the concentration camp. Based on these criminal convictions and asocial behaviour, the Advisory Committee is of the opinion that the applicant did not conduct himself any differently before the war, that is, at the time of his incarceration and that therefore, it is fair to assume that in this case, the information provided by the International Tracing Service about the reason for his incarceration is accurate.<sup>45</sup>

genannte Personenkreis überwiegend nicht aus rassischen Gründen, sondern wegen seiner asozialen und kriminellen Haltung verfolgt und inhaftiert worden ist.'

<sup>44</sup> See the following cases: Maria D., Zg. 22/2003 Nr. 2218, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Fritz K., Zg. 22/2003 Nr. 1022, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Robert S., Zg. 22/2003 Nr. 591, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Heinrich S., Zg. 22/2003 Nr. 2621, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Auguste V., Zg. 22/2003 Nr. 2135, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Wilhelmine L., Zg. 22/2003 Nr. 2210, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Janusch A., ZK 50179, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Johann D., ZK 30332, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Anna F., ZK 52521, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Maria F., ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Julian S., ZK 54946, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>45</sup> Robert S., Zg. 22/2003 Nr. 591, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds



The ambivalence of the compensation authorities about how to categorise the Roma's persecution is mirrored in the many conflicting legal decisions from the local courts to the Supreme Court. Such court cases are the result of Roma appealing against negative compensation decisions. In lieu of academic research on the fate of the Roma during the Third Reich, these court decisions were the first step towards an examination of the Roma's persecution under Hitler. It took almost twenty years to establish that Roma had been racially persecuted since the Third Reich's early days. These court decisions reflect the contemporary opinions and the lack of adequate research, and give an indication of the commonly perceived assumptions on which compensation authorities rested their cases. At the core of the debates surrounding the Roma's treatment was the question of whether the motivating factor for their persecution had been racial as opposed to a policing need or a desire to secure internal order. Eventually, the compensation cases made it to the Supreme Court, which then made a leading decision, which had to be followed.

The only point upon which all levels of jurisdiction (i.e. District Court, Higher District Court and Federal Supreme Court) initially seemed to have agreed was the assumption that Roma who had been sent to concentration camps after Himmler's so-called Auschwitz Decree of December 1942 (with deportations beginning in early 1943) could be regarded as victims of racial persecution. There are very few cases where Roma imprisoned after this date did not receive compensation for wrongful imprisonment (*Haftentschädigung*). The Frankfurt Higher District Court was one of the few courts that, from very early on, regarded racial persecution as having taken place from the beginning of the Third Reich.<sup>46</sup> In March 1952, it declared that Roma belonged to the group of victims of racial persecution.<sup>47</sup> In its decision, the Higher District Court acknowledged

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WGM: 'Nach der Auskunft des Internationalen Suchdienstes in Arolsen ist der Antragsteller durch die Kriminalpolizei in Prag an einem nicht näher bezeichneten Tage inhaftiert worden und im Konzentrationslager Auschwitz inhaftiert gewesen. Als Grund seiner Verhaftung ist 'Arbeitscheu, Zigeuner und asozial' angegeben. Es kann jedoch nicht festgestellt werden, daß der Antragsteller aus rassistischen Gründen inhaftiert worden ist. Nach seinem Strafregister aus der Zeit nach dem Kriege ist er von 1948 bis 1951 wegen schweren Diebstahls, gemeinschaftlichen schweren Diebstahls und gemeinschaftlichen räuberischen Diebstahls mit längeren Freiheitsstrafen von insgesamt 4 Jahren und 9 Monaten Gefängnis verurteilt worden. Außerdem ist er nach der Auskunft des Arbeitsamtes Salzgitter in der Zeit, in der er nicht inhaftiert war, mit geringen Ausnahmen der Arbeitslosenfürsorge zur Last gefallen. Der Antragsteller hat also seit seiner Entlassung aus dem Konzentrationslager einen ausgesprochenen kriminellen und arbeitscheuen Lebenswandel geführt. Aus diesen Strafen und asozialen Verhalten rückschließend, ist der Beratende Ausschuss der Ansicht, daß sich der Antragsteller vor dem Kriege, d.h. im Zeitpunkt seiner Verhaftung, nicht anders geführt hat, so daß angenommen werden kann, daß in diesem Falle der in der Auskunft des Internationalen Suchdienstes angegebene Haftgrund zutrifft.'

<sup>46</sup> All important decisions regarding compensation in West Germany were collected in a journal entitled *Rechtsprechung zum Wiedergutmachungsrecht*, which was published monthly between 1949 and 1981. It started out as a collection of judgements in the form of a supplement of the *Neue Juristische Wochenschrift*. From 1957 onwards it included essays on various legal aspects of compensation, and was turned into an independent journal in 1961. Schwarz, *Rechtsprechung zum Wiedergutmachungsrecht*.

<sup>47</sup> OLG Frankfurt, 18.3.1952, RzW 1953, Heft 5, p. 139.

that the National Socialists did not make it clear that they regarded the Roma as a race and persecuted them as such. However, it ascertained that, with regard to their legal situation and their treatment by government authorities, Roma had been treated as a lesser race ever since the 1935 Nuremberg Race Laws, when they were stripped of their rights as German citizens and were forbidden to marry Germans and, along with Jews, were classified as a foreign race. The court decision went on to cite various policing measures from the 1930s, which demonstrate that racial motivations were increasingly the decisive factor for the treatment of Roma.<sup>48</sup> The position of the Frankfurt Higher District Court was, however, uncommon. The Neustadt Higher District Court regarded deportations to concentration camps before the Auschwitz Decree as policing measures legalised by the 1937 decree ‘for the preventative fight against professional and habitual criminals along with other asocial persons amongst them the workshy and indolent.’<sup>49</sup> The Neustadt decision shows that the justifications given by the National Socialists were taken at face value, rather than scrutinised for their hidden racial agenda. A very clear example of the unwillingness to scrutinise National Socialist reasoning is the case of Maria D. from Minden (Westphalia).<sup>50</sup> The verdict in March 1955 was that Maria D. was not entitled to compensation as, according to the International Tracing Service in Bad Arolsen (2 April 1954), she had been legally arrested on 3 March 1942 in Braunschweig (where she had lived in the ‘Gypsy Camp’ *Veltenhof*) by the Braunschweig Security Police (*Sipo*)/Criminal Police. The decision explained that:

However, according to the concentration camp records still in existence, she was not arrested on racial grounds, but rather determined by the police to be an ‘asocial, workshy Gypsy’ and held in concentration camps for security reasons. This state of affairs does not merit that the applicant be entitled to a claim under the Federal Compensation Law.<sup>51</sup>

In this case the compensation authority did not question whether the justification given by the National Socialists for imprisoning Maria D. was in fact only a pretext, covering up racial motivations. As a result, her persecution was not

<sup>48</sup> Rderl. RuPr. Mdl v. 5.6.1936 über nachdrückliche Unterstützung der internationalen Bekämpfung des Zigeunertums; Rderl. RuPr. Mdl v. 6.6.1936 über energische Verfolgung der Zigeunerplage; Rderl. RuPr. Mdl v. 14.12.1937 über vorbeugende Verbrechensbekämpfung, der auch die Bekämpfung der Asozialen überhaupt zum Ziele gesetzt hatte; Registrierverordnung des RuPr. Mdl v. 8.12.1938; Festsetzungserlass v. 17.10.1939.

<sup>49</sup> OLG Neustadt, 1.4.1953, RzW 1953, Heft 6, pp. 187–188 (Erl. D. RuPrMdl v. 14.12.1937): ‘zur vorbeugenden Bekämpfung der Berufs- und Gewohnheitsverbrecher sowie anderer asozialer Personen, darunter Arbeitsscheue und Arbeitsverweigerer.’

<sup>50</sup> Maria D., Zg. 22/2003 Nr. 2218, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>51</sup> Maria D., Zg. 22/2003 Nr. 2218, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: ‘Sie ist jedoch nach den noch vorhandenen KZ-Unterlagen nicht aus Gründen der Rasse, sondern aus sicherheitspolizeilichen Gründen als ‘asoziale, arbeitsscheue Zigeunerin’ verhaftet und in KZ-Lägern festgehalten worden. Bei dieser Sachlage kann der Antragstellerin ein Anspruch nach dem BEG nicht zuerkannt werden.’

classified as racial persecution and she was thus not eligible for compensation. This unquestioned acceptance of the perpetrator's justification shows a lack of awareness of the workings of the National Socialist racial war and a lack of awareness that this might need to be scrutinised.

In addition to the failure to look at the persecution of the Roma from an angle different to that of the National Socialists, a lack of cultural sensitivity is often noticeable, as in the case of Janusch A., whom the compensation authority described as essentially 'asocial'.<sup>52</sup> The official dealing with his case summarised the background by describing Janusch A. as a 'Gypsy of mixed blood' who early on came into contact with the police because of his criminal behaviour. In 1941, he was sent to the work camp in Essen-Mühlheim (where he remained until December 1941) because of absenteeism (*Arbeitsbummelei*). In early 1942 he contravened the Compulsory Settlement Order by leaving his residence in Wanne-Eickel to visit relatives in Duisburg. This resulted in his arrest and deportation to Dachau, where he was placed in the punishment battalion. His journey continued in the autumn of 1943 via Neuengamme to the Herman-Göring-Werke in Braunschweig. He was liberated whilst being transported from Braunschweig back to Neuengamme, upon Germany's capitulation. In the immediate post-liberation period, Janusch A. received recognition as a victim of National Socialist persecution, along with a 730 Reichsmark donation. In May 1947, the compensation authority in Bochum ordered that his victim identification pass, along with the financial donation, be returned. Because of the file's fragmentary nature, it is not entirely certain who initiated this, but a letter from the police constable (Bochum, 12 April 1947) gave the reason for this decision: 'As A. was sent to a work camp in 1941 for absenteeism, his deportation to a concentration camp must have been based on his categorisation as asocial, and not on political grounds.'<sup>53</sup> Along with the contention that the persecution had been a policing measure and not racially motivated, came the argument that other nations had treated Roma similarly and were still doing so, which was used as proof that the treatment was not a typical National Socialist injustice. A decision in 1957 rejecting the claim of Wilhelm L. argued exactly along those lines:

As is clear from the time of arrest and the way it was carried out, it was based on the decree issued on 1 June 1938 by the Reich Criminal Police Department (RKPA). Whatever measures were taken under the auspices of this decree were preventative law enforcement measures. As such, they were directed at workshy or delinquent Gypsies. Measures of this nature have always been necessary elements in every cultural state in the world, and in the interest of securing public safety, not by any means as a result of racial persecution.<sup>54</sup>

<sup>52</sup> Janusch A., ZK 50179, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>53</sup> Janusch A., ZK 50179, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg: 'Da A. bereits wegen Arbeitsbummelei im Jahre 1941 in ein Arbeitslager eingeliefert worden ist, so kann seine Unterbringung in ein K. Z.-Lager nur aus asozialen, nicht aber aus politischen Gründen geschehen sein.'

<sup>54</sup> Wilhelm L., 58 Nds Fb 4, Zg. 62/1985, Teil 1 Nr. 617, Entschädigungsakten, 4 Nds WGM,

This is not only a concession that these kinds of measures had existed and continued to exist, but also an explicit sanctioning of them.

The deportation of Roma to Poland in 1940 was at the centre of the racial persecution debate. This deportation was enacted by the Central Office of the Security Police (RSHA) and the Criminal Police, and led to about 2,500 Roma being deported to occupied Poland, officially a resettlement. Those Roma deported to Poland were confined to specific areas where they lived under particularly harsh conditions, pending a definite ‘solution to the Gypsy question’.<sup>55</sup> The Munich Higher District Court held the very common view that this deportation had not been a form of racial persecution, as stated in its 1953 decision: ‘the resettlement of the Gypsies mandated in a memorandum issued by the Supreme Commander of the SS on 27 April 1940 does not represent persecution on racial grounds.’<sup>56</sup> The court argued that the 1940 relocation was clearly a follow-up to the 1939 Compulsory Settlement Order, as sedentary Roma were not moved to Poland. As the court regarded this Compulsory Settlement Order as a definite military action – aimed at border protection and the removal of potential spies – it did not classify its sequel as differently motivated. In addition, the court did not regard the forced residence in Poland as a form of persecution severe enough to deserve compensation. A move forward was the 1955 decision by the Higher District Court Koblenz, which suggested that racial motivation need not have been the sole ground for a measure to be classified as racial persecution. It argued that:

As a result of National Socialist ideology, the Gypsy question took on a distinctly racial political tenor that had superseded the previous military or national security considerations by the time of the resettlements in the year 1940 at the latest. So from that point on, the Gypsies must be considered racially persecuted people in accordance with paragraph 1 of the Federal Compensation Law. (These resettlements can no longer be deemed to be rational military or national security measures. This does not change the fact that those who were persecuted – in this case, the Gypsies – demonstrate race-related characteristics that are to be judged in a negative light.)<sup>57</sup>

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NLA-Staatsarchiv Wolfenbüttel: ‘Wie der Zeitpunkt der Festnahme und die Art ihrer Durchführung erkennen lassen, erfolgte sie seinerzeit auf Grund des Erlasses des Reichskriminalpolizeiamts vom 1.6.1938. Maßnahmen auf Grund dieses Erlasses waren polizeiliche Vorbeugemaßnahmen. Sie richteten sich als solche gegen arbeitsscheue oder straffällige Zigeuner. Maßnahmen dieser Art waren in allen Kulturstaaten seit jeher notwendig gewesen, und zwar im Interesse der öffentlichen Sicherheit, keineswegs aus Gründen rassischer Verfolgung.’

<sup>55</sup> Zimmermann, *Rassenutopie und Genozid*, pp. 165–175.

<sup>56</sup> OLG München, 19.5.1953, RzW 1953, Heft 10, p. 286: ‘die durch den Schnellbrief des Reichsführers SS v. 27.4.1940 angeordnete Umsiedlung der Zigeuner stellt keine Verfolgung aus Gründen der Rasse dar.’

<sup>57</sup> OLG Koblenz, 17.5.1955, RzW 1955, Heft 8/9, pp. 247–248: ‘Die Zigeunerfrage hat durch die NS-Ideologie eine ausgeprägte rassenpolitische Tendenz erhalten, die spätestens bei der Umsiedlungsaktion im Jahre 1940 gegenüber den früheren militärischen oder sicherheitspolizeilichen Gesichtspunkten in den Vordergrund trat. Von diesem Zeitpunkt an sind die Zigeuner daher als rassisch Verfolgte i.S. des § 1 BEG anzusehen. (Diese Umsiedlungsaktion kann nicht mehr als eine vernünftige militärische oder sicherheitspolizeiliche Maßnahme gewertet werden. Hieran ändert

The court repudiated the argument that the 1940 deportation to Poland had not been racial persecution because sedentary Roma had been exempted from it. It described the National Socialist persecution as having taken place incrementally yet systematically, which, in its opinion, explained why ‘vagrant’ Roma were targeted first. The last sentence of this quote shows that, whilst attitudes towards Roma had not changed, it was nevertheless regarded necessary to judge the National Socialist actions within the parameters of the legal standards of Germany.

The first Federal Supreme Court landmark decision came in 1956.<sup>58</sup> It was a setback for Roma, as it argued against the racial motivation of their deportation to Poland, thus overruling the arguments of the Frankfurt and Koblenz Higher District Courts.<sup>59</sup> It did, however, officially proclaim that deportations after the Auschwitz Decree had been clearly racially motivated. This meant that compensation authorities were now not only officially entitled but actually obliged to pay compensation for confinement for the period after the Auschwitz Decree. The case to which the Federal Supreme Court responded was that of a claimant who had been deported to Poland in 1940, where he was detained until the end of the war. The Higher District Court of Koblenz had advocated compensation payments as, in its view, racial persecution had taken place since Himmler’s decree of 8 December 1938, which demanded a ‘resolution of the Gypsy question based on the inner characteristics of that race.’<sup>60</sup> The compensation authority had, however, rejected the claim. In the Federal Supreme Court’s explanation, the various National Socialist decrees concerning ‘Gypsies’ were discussed, and it was argued that those measures preceding the Auschwitz Decree had indeed not been racially motivated. The overall argument was that the early measures very much resembled the policing measures of the Weimar Republic, and could thus not be regarded as part of the distinctly National Socialist racial ideology. The decision refers to Himmler’s 1938 decree, and claimed that, while the decree contained some terms referring to racial ideology, the overall target was the ‘asocial’ characteristics of ‘Gypsies’, with the main motivation having been of a social rather than racial nature. The Federal Supreme Court regarded the decree of 1 March 1939 that forbade ‘Gypsies’ to leave their places of residence in the same light. It was described as a policing measure, acceptable in light of the war. The Federal Supreme Court followed that the deportation of ‘Gypsies’ to Poland was a mere radicalisation of the previous measure, and thus, again, could not be seen as having been purely or even chiefly racially motivated. Only from December 1942 onwards, with the Auschwitz Decree, did the Federal Supreme Court grant that persecution had been racially motivated, and thus compensation had to be paid to Roma who had been detained after 1 March 1943. The main

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nichts die Tatsache, daß die Verfolgten, hier die Zigeuner, rassenbedingte, negativ zu beurteilende Eigenschaften haben.)’

<sup>58</sup> BGH, 7.1.1956, RzW 1956, Heft 4, pp. 113–115.

<sup>59</sup> BGH, 7.1.1956, RzW 1956, Heft 4, pp. 113–115; OLG Frankfurt, 18.3.1952, RzW 1953, Heft 5, p. 139.

<sup>60</sup> Erlaß zur Bekämpfung der Zigeunerplage, in *RMBliV* (Berlin, 1938), p. 2106: ‘Regelung der Zigeunerfrage aus dem Wesen dieser Rasse heraus.’

difference from Jewish victims remained that Roma were not per se categorised as a victim group. This was reinforced by a Federal Supreme Court judgement in 1958, which stated that not only were Roma not prima facie regarded as victims of racial persecution, but even if they could prove that they had not been 'asocial', this was not necessarily sufficient to prove that their persecution had a racial nature.<sup>61</sup> Even though at that time it was established and accepted that Roma had been racially persecuted during the war, the court did not question whether there was a connection between those whom the National Socialists saw as a 'plague' to its people (*Landplage*) and racial theories. This went against the decision made by the Kassel District Court in 1955 that the arrest of a Rom in 1938, who had been sedentary, had regular employment and had no criminal record, must have been racially motivated.<sup>62</sup>

Rejecting claims made by Roma based on the belief that their persecution had not been racially motivated was one thing. Quite a different matter was to accept part of the persecution as compensation-worthy but not another. There was an underlying acknowledgement that there was a change in National Socialist policy with regard to Roma, rather than a development based on basic racial-biological convictions. In the case of the Jewish victim groups, measures leading up to the 'final solution' were regarded as precursory and were compensated as such. The compensation files show that awarding compensation for only the post-1943 period had been common practice in Roma cases. This separation of periods is evident in the case of Ferdinand R. who filed a claim for his mother Hedwig E. His mother had been declared dead as of 31 December 1945 – a common practice with victims whose deaths had not been documented, and who failed to return by December 1945.<sup>63</sup> Hedwig E. had been imprisoned twice in Dortmund in late 1941 and early 1942 for a total of about two and a half months, before being sent to Ravensbrück in April 1942. A letter from the compensation authority in December 1961 clearly stated that the victim (or, in this case the son, as her heir) was only entitled to compensation between March 1943 and May 1945. A further letter a few weeks later from the Dortmund compensation authority portrayed the rigidity with which the belief that the Auschwitz Decree had been the starting date of racial persecution, was enforced: 'We are of the opinion that the internment occurring before 1 March 1943 was not racially motivated.'

<sup>61</sup> BGH, 5.2.1958, RzW 1958, Heft 5, p. 194, 'The very fact that the Gypsy who was apprehended based on the memorandum was not, in fact, asocial, still does not lead us to assume that he – unlike his asocial compatriots – was apprehended for racial reasons, and not, for example, because he was seen as part of a "national plague".' 'Die Tatsache allein, daß ein auf Grund des Schnellbriefs verhafteter Zigeuner in Wirklichkeit nicht asozial gewesen ist, zwingt noch nicht zur Annahme, daß er im Gegensatz zu seinem asozialen Leidensgefährten aus rassistischen Gründen inhaftiert wurde, und nicht etwa, weil man ihn als "Landplage" ansah.'

<sup>62</sup> EK Kassel, 28.5.1955, RzW 1955, Heft 12, pp. 360–361, 'If a Gypsy with a registered address, gainful employment and no criminal record was apprehended in 1938, this would tend to indicate that the internment was racially motivated.' 'Wurde ein Zigeuner, der einen festen Wohnsitz hatte, einer geregelten Beschäftigung nachging und nicht vorbestraft war, im Jahre 1938 verhaftet, so sprechen die Anzeichen dafür, daß die Inhaftierung auf rassische Gründe zurückzuführen ist.'

<sup>63</sup> Hedwig E., ZK 52934, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

It was only as a result of the Auschwitz Decree of 16 December 1942 that she was deprived of liberty based on racial grounds, from 1 March 1943 to 8 May 1945.<sup>64</sup> No attention was paid to the individual case, and it was not questioned why Hedwig E. had been sent to Ravensbrück in 1942, nor was it required of the compensation authority to prove that this treatment had been legitimate. It merely needed to establish that it had not been racially motivated. Even though for Hedwig E. nothing changed between February and March 1943, since she had been in the camp for almost a year at that time, the compensation authority imposed an artificial break with real financial consequences.

The matter of the starting date of racial persecution was, however, not resolved with the 1956 Federal Supreme Court decision, as the lower courts continued adjudicating out of line, i.e. were not following uniform legal arguments. These courts based their arguments to a large extent on sources provided by the United Restitution Organisation in Frankfurt am Main.<sup>65</sup> The Higher District Court Frankfurt adhered to its previous conviction that 1935 had been the starting date of the racial defamation of Roma.<sup>66</sup> In its argument it referred to the 1958 decisions by the Hamburg Higher District Court,<sup>67</sup> and the 1959 Köln Higher District Court decision,<sup>68</sup> both of which clearly stated that they regarded the 1940 deportations to Poland as racial persecution. But the Frankfurt Higher District Court went much further by claiming that, long before this deportation, there had been instances of racially motivated persecution of Roma. The court argued

<sup>64</sup> Hedwig E., ZK 52934, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg: 'Die Inhaftierung vor dem 1.3.1943 geschah u. E. nicht aus Gründen der Rasse. Erst in Auswirkung des Auschwitz-Erlasses vom 16.12.1942 war sie vom 1.3.1943 bis 8.5.1945 aus rassistischen Gründen (Zigeuner) der Freiheit beraubt.'

<sup>65</sup> For more information on the Jewish Restitution Successor Organisation and the United Restitution Organisation, see T. Winstel, 'Die Testamentvollstrecker. Zur Rolle von Anwälten und Rechtshilfeorganisationen', in Frei, Brunner, Goschler, *Die Praxis der Wiedergutmachung*, pp. 533–553, particularly pp. 535–543.

<sup>66</sup> OLG Frankfurt am Main, 2.5.1961, RzW 1961, Heft 12, pp. 544–546, 'The opinion of the Federal Supreme Court (BGH) that Gypsies were not persecuted on racial grounds until after the Auschwitz Decree is not tenable. The racial defamation of the Gypsies was already in evidence with the passage of the so-called "Nuremberg Laws".' 'Der Ansicht des BGH, Zigeuner seien erst nach dem sogenannten Auschwitz-Erlass aus Gründen der Rasse verfolgt worden, kann nicht gefolgt werden. Schon nach Erlass der sogenannten Nürnberger Gesetze zeichnet sich die rassistische Diffamierung der Zigeuner ab.'

<sup>67</sup> OLG Hamburg, 17.12.1958, RzW 1959, Heft 3, pp. 121–123, 'The deportations of Gypsies to Poland in May 1940 were racially motivated acts of persecution in the spirit of paragraph 1 of the BEG.' 'Expulsion from the territory of the Reich to the concentration camp at Mauthausen in Austria under conditions that prevailed on 31 December 1937 could be seen as deportations in the spirit of paragraph 141 of the BEG.' 'Die Zigeunerdeportationen nach Polen im Mai 1940 waren rassistische Verfolgungsmaßnahmen i.S. von § 1 BEG.'; 'Verschickung aus dem Reichsgebiet nach dem Stand vom 31.12.1937 in das KZ Mauthausen in Österreich können Deportationen i.S. von § 141 BEG gewesen sein.'

<sup>68</sup> OLG Köln, 16.3.1959, RzW 1959, Beiheft, pp. 11–12, 'The removal of Gypsies from West and Northwest Germany to the *Generalgouvernement* [occupied Poland] in May 1940 was driven not by issues of national security or military reasons, but rather on racial-political grounds.' 'Für die Verbringung von Zigeunern aus West- und Nordwest-Deutschland ins "Generalgouvernement" im Mai 1940 waren nicht sicherheitspolizeiliche oder militärische, sondern rassenpolitische Gründe maßgebend.'

that the lack of concrete racial measures in the period directly after the race laws was not a sign of there having been no racial policies with regard to Roma, but rather that the racial war against Roma had been given a lower priority than that against Jews. The court showed the intentions to have been the same by citing various SS and preparatory decrees from the 1930s, as well as a memorandum by the Assistant District Director (*Gauleiter*) of Styria, Tobias Portschy, in August 1938, demanding the sterilisation of Roma and an equal categorisation with the Jews. The Frankfurt Higher District Court argued that, because this memorandum was accessible to the various party bureaus, it was a clear expression of the party line towards Roma. An early expression of a new clarity in understanding the history of persecution was expressed in the Higher District Court's conviction that the National Socialists' justifications could not be taken at face value, as the true motivations were often camouflaged by the expressions employed by the National Socialists. The court did agree that initially not only racial motivations had driven the control of Roma and that security and policing aspects had played a role, but it emphasised that rather than merely continuing Weimar policies, the National Socialists had clearly prepared the Roma's racial persecution from early on, just as had been the case with the Jews:

The measures against Gypsies were by no means undertaken *solely* for reasons of national security. The so-called Auschwitz Decree initiated the "final solution" – that is, the annihilation of the Gypsies. The directives, decrees, and such that preceded this decree served as preparation for this final solution. Even the so-called final solution to the Jewish question wasn't actually set in motion until the war was already underway. In the years prior, the NS rulers simply maintained the illusion that the Jews would merely be removed from all high-ranking positions and be segregated from blood-Germans as so-called racial aliens.<sup>69</sup>

The court thus demanded that, first, the National Socialists' justifications be scrutinised and challenged and, secondly, that the persecution of the Roma be regarded in a similar vein to that of the Jews.

There were some finer points to the larger dispute about racial persecution, the accumulation of which enabled further steps towards the recognition of Roma as victims of racial persecution, such as the preparatory actions undertaken by the police and the so-called racial scientists. These measures were increasingly scrutinised and seen for what they were – preliminary measures for the eventual assembling and deportation of the Roma. In May 1962, the Federal Supreme Court

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<sup>69</sup> OLG Frankfurt am Main, 2.5.1961, RzW 1961, Heft 12, pp. 544–546, here p. 545: 'Die gegen Zigeuner ergriffenen Maßnahmen erfolgten aber keineswegs *nur* aus sicherheitspolizeilichen Gründen. Der sogenannte Auschwitz-Erlass leitete bereits die 'Endlösung', das heißt die Vernichtung der Zigeuner, ein. Die diesem Erlass vorangegangenen Anordnungen, Erlasse und so weiter dienten aber schon der Vorbereitung dieser Endlösung. Auch die sogenannte Endlösung der Judenfrage wurde erst während des Krieges in die Wege geleitet. In den Jahren zuvor gaben sich die NS-Machthaber lediglich den Anschein, daß die Juden aus allen höheren Stellungen entfernt und als sogenannte Artfremde von den Deutschblütigen abgesondert werden sollten.'



confirmed this view by ruling that the registration and examination of Roma qualified as racial persecution, administered by a National Socialist organisation at the instigation of the state.<sup>70</sup> The Federal Supreme Court responded to the case of a Rom who, after a racial examination by Robert Ritter, had decided to leave Germany, returning after the war and making a claim for the 6,000 German Marks immediate assistance for returnees. The Federal Supreme Court granted this demand. This new view represents a massive shift in perception, as it shows an understanding that the material collected by Ritter had been used as the basis for later deportations and should thus be classified as centralised preparatory work. This for the first time broadened the discussion of what should be classified as an oppressive National Socialist measure. In the same year, the Federal Supreme Court went even further by deciding that racial persecution did not need to consist of a forceful action against a Rom, but could also be the neglect of a specific group of people because of their race. The basis for this decision was a case in which a Rom did not accept the rejection by the compensation authority of his claim for Damage to Professional Advancement (*Schaden im beruflichen Fortkommen*), based on the neglect of the National Socialist authorities enforcing his compulsory schooling. He claimed that because he was a Rom, the school did not enforce his school attendance, which was otherwise standard practice with German citizens. The Federal Supreme Court decided in his favour, ruling that:

A National Socialist oppressive measure can also be present when an official agency, based on grounds cited in paragraph 1 of the Federal Compensation Law, fails to take action required by the statute (here: failure to initiate compulsory measures to fulfil the obligation to provide schooling to a Gypsy minor).<sup>71</sup>

The general starting date for the racial persecution of Roma was brought forward in 1963, when the Federal Supreme Court conceded that the 1940 deportations to Poland had been partly racially motivated, even if racial motivations had not been the sole or decisive factors behind the deportations.<sup>72</sup> Whilst the Federal Supreme Court did not go further than saying that racial motivations had been one, if not the decisive, factor in the Roma's persecution, from a legal perspective, this court decision was sufficient to entitle the Roma to compensation under

<sup>70</sup> BGH, 23.5.1962, RzW 1962, Heft 9, pp. 396–398; 'The questioning and registration of Gypsies and Gypsies of mixed blood conducted by the "Research Agency for Racial Hygiene and Biological Demography of the Reich Health Authority" under the National Socialist regime are to be seen as National Socialist oppressive measures as defined by paragraph 2 of the BEG.' 'Die während der Herrschaft des NS von der "Rassenhygienischen und bevölkerungsbiologischen Forschungsstelle des Gesundheitsamtes" durchgeführten Befragungen und Registrierungen von Zigeunern und Zigeunermischlingen sind als ns. Gewaltmaßnahme aus Gründen der Rasse i.S. des § 2 BEG anzusehen.'

<sup>71</sup> BGH, 14.2.1962, RzW 1962, Heft 8, p. 353; see also OLG Köln, 15.11.1962, RzW 1963, Heft 6, pp. 265–266: 'Eine ns. Gewaltmaßnahme kann auch darin bestehen, daß eine Behörde aus einem der in § 1 BEG genannten Gründe davon absieht, eine Maßnahme zu treffen, die sie nach dem Gesetz zu treffen hatte (hier Unterlassung von Zwangsmaßnahmen zur Erfüllung von Schulpflicht gegenüber einem Zigeunerkind).'

<sup>72</sup> BGH, 18.12.1963, RzW 1964, Heft 5, pp. 209–211.

the Federal Compensation Law. The Federal Supreme Court specifically referred to the arguments made by the Frankfurt Higher District Court in 1961 and agreed that, possibly from 1935, but definitely from Himmler's 1938 *Erlaß zur Bekämpfung der Zigeunerplage* onwards, the measures taken had been partially racially motivated.<sup>73</sup> The Federal Supreme Court based its changed assessment on material that had not been widely available to them in 1956, but had been used by the Frankfurt Higher District Court and the Cologne Higher District Court, such as the memorandum by Dr Portschy, as well as the 1939 memorandum by the Racial-Political Department (*Rassenpolitische Amt*) of the NSDAP, which threatened the deported Roma with forced sterilisation and deportation to a concentration camp, if they returned to Germany. The Federal Supreme Court agreed with the Frankfurt Higher District Court that the 8 December 1938 decree should be regarded as a preparatory measure for the 'final solution' of the 'Gypsy Question'. With increasing attention being drawn to documents that had not actually been secret to begin with, it seems to have been impossible for the Federal Supreme Court to deny their existence, which forced the court to adapt its rulings. Rather than deliberately hiding or ignoring such documents, the Federal Supreme Court had simply failed to search for them. Consequently, the lower authorities and courts did all the background work and came up with the proof, which the Federal Supreme Court then considered and, in this case, accepted. This new view was reflected in the 1965 Final Federal Compensation Law, which offered Roma victims who had received compensation for post-1943 imprisonment, but not before, the chance to re-open their cases.<sup>74</sup> These changes came at a time when aspects of the Third Reich gained more prominence in the press and the public sphere, creating a more favourable environment for its victims. An enhanced awareness of the crimes of the Holocaust had been generated with the 1961 Eichmann trial in Jerusalem and the 1963–1965 Frankfurt Auschwitz Trials, which were extensively covered by the media both in West Germany and internationally – as in the case of Eichmann by Hannah Arendt for *The New Yorker* – and thus forced the past into the present memory.<sup>75</sup> These trials not only redirected the emphasis from Hitler and his main aides towards the 'desktop murderers', contributing to a further understanding of the Holocaust, but also demonstrated that Germany would continually be confronted with its past.<sup>76</sup> These trials and new legal decisions also were a reminder that the case could not be considered closed quite yet; this was important given that, according to Norbert Frei, prosecuting National Socialist perpetrators had – after the initial respectable attempts at requital by the West German legal system – come to a

<sup>73</sup> Erlaß zur Bekämpfung der Zigeunerplage, in *RMBliV* (Berlin, 1938), p. 2106.

<sup>74</sup> BEG-S § 43 et seq.

<sup>75</sup> J. Herf, 'Politics and memory in West and East Germany since 1961 and in unified Germany since 1990', in D. Cesarani, (ed.), *After Eichmann: Collective Memory and the Holocaust since 1961* (Routledge, London / N.Y., 2005), pp. 40–64; H. Arendt, *Eichmann in Jerusalem: a Report on the Banality of Evil* (The Viking Press, N.Y., 1963) (first published in Germany in 1964).

<sup>76</sup> R. Wittmann, *Beyond Justice: the Auschwitz Trial* (Harvard University Press, Cambridge, 2005), pp. 13–14, 271–274.

standstill soon after the founding of West Germany in 1949, when Allied pressures subsided.<sup>77</sup>

From the moment of this Federal Supreme Court verdict onwards, Roma who had hitherto received compensation for imprisonment for the time after 1943, but not before, could reopen their cases and demand supplementary compensation for the time predating the Auschwitz Decree.<sup>78</sup> However, it was the responsibility of the victims to make new claims, and not the role of the compensation authorities to find those victims affected by this new passage, so no efforts were made if the claimants did not take the initiative themselves. Most Roma made use of this new adjudication and, in the majority of cases, negative decisions concerning both the nature and the date of persecution were revised if the claimant appealed.<sup>79</sup> The previous rigidity of bureaucracy and a reluctance to evaluate each case individually is exemplified by the fact that almost all cases which were reopened on the basis of the date of persecution were swiftly resolved in favour of the claimant, mostly by the end of 1966. This shows that, before the Final Federal Compensation Law in 1965, the compensation officials simply adhered to the standard view and did not wish to take this question any further. For instance, in the case of the above-mentioned Hedwig E., the Dortmund compensation authority awarded a supplementary payment of 1,950 German Marks within a month of her son reopening the case in May 1966.<sup>80</sup> There was, however, still no *prima facie* recognition of the Roma having been collectively racially persecuted during the Third Reich, as the Federal Supreme Court judgement limited 'racial motivations' to having been 'concurrently causative' rather than the determining factor.

The Federal Supreme Court's key decision in 1963 was, to a large extent, a response to an article written by the president of the Senate in Frankfurt, Dr Franz Calvelli-Adorno, who had been working closely with the United Restitution Organisation, which was founded in 1948 as a legal aid society to help claimants of limited means living outside Germany to recover what was owed to them both in restitution and compensation payments. The United Restitution

<sup>77</sup> N. Frei, 'Der Frankfurter Auschwitz Prozess und die Deutsche Zeitgeschichtsforschung', in Fritz Bauer Institut (ed.), *Auschwitz. Geschichte, Rezeption und Wirkung* (Campus, Frankfurt am Main, 1997), pp. 123–138, here p. 124.

<sup>78</sup> This right was confirmed by a 1972 BGH decision. 'If a Gypsy's claim has been denied based on the grounds that the requirements in paragraphs 1 and 2 of the BEG were not met for the period from 8 December 1938 to 1 March 1943, then, in as much as this statement of grounds includes damages incurred after 2 March 1943, the entire claim must be subject to a new review.' 'Würde der Anspruch eines Zigeuners mit der Begründung abgelehnt, für die Zeit vom 8. Dezember 1938 bis zum 1. März 1943 seien die Voraussetzungen der §§ 1 und 2 BEG nicht gegeben, dann ist, wenn diese Begründung auch einen seit 2. März 1943 entstandenen Schaden erfasst, über den gesamten Anspruch erneut zu entscheiden.' BGH, 27.4.1972, RzW 1972, Heft 10, pp. 376–377.

<sup>79</sup> See, for example, Maria F., ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Emma K., Zg. 41/1992 Nr. 1371, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Brunhilde W., Zg. 22/2003 Nr. 2677, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Maria G., ZK 461655, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Maria W., ZK 167315, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Hedwig E., ZK 52934, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>80</sup> Hedwig E., ZK 52934, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

Organisation had an abundance of material about the National Socialists' racial war, on which Calvelli-Adorno largely based his article. He acted as a lobbyist for the Roma, as, in his opinion, 'the Gypsies "have no voice in the press and lack the support of public opinion"'.<sup>81</sup>

In this article, he argued that any victim of racial persecution should be compensated, and that asking about the recipient's worthiness was immoral. He was one of the first persons to explicitly make this point in a publication: 'Compensation is a fundamental pillar of justice. So, to ask whether Gypsies are "worthy" of receiving it would be a crass and collective wrong.'<sup>82</sup> This statement directly challenged the assumption that had been made by the compensation architects – that compensation in some way should be linked to the respectability of the receiver. This limitation, of course, applied to all potential claimants. For instance, the Cold War had allowed a rehabilitation and continuation of older Conservative anti-Communist sentiments and created new forces of anti-Communism, which led to the exclusion of 'unworthy' Communists. The demands placed on Roma victims to prove their 'worthiness' were exclusively based on previous systems of belief dominated by social prejudices, which only led to further stigmatisation. Calvelli-Adorno drew attention to the Roma's unfavourable situation with regard to compensation and criticised the lack of scrutiny of National Socialist documents which clearly equated Roma with Jews, most explicitly the commentary to the Nuremberg Race Laws. In the commentary, Wilhelm Stuckart and Hans Globke (the latter being a key figure in Adenauer's Chancellery after being appointed a Permanent Secretary – *Staatssekretär* – in 1953), clearly stated that: 'The only people in Europe who have consistently been considered racial aliens are the Jews and the Gypsies ...'<sup>83</sup> and that thus the same racial categorisation should apply to both groups. If that were not enough to show that there had been a clear path from these laws to the Auschwitz Decree, Calvelli-Adorno suggested that in Himmler's 1938 decree one could see a change in semantics, with the reason of 'asociality' giving way to racial reasoning.

Calvelli-Adorno's work reflects a careful examination of the sources, showing not only a willingness to interpret them without prejudice but also the simple recognition that they were a valuable source of direct evidence. His comprehensive reconstruction of the Roma's racial persecution on the basis of largely evident material unmasks the superficial reasoning previously found in judicial justifications. He argued that the National Socialists' equation of the term 'Gypsy' with 'asociality', and their argument that the latter was because of 'fixed and immutable racial attributes',<sup>84</sup> were proof that the National Socialist persecution

<sup>81</sup> F. Calvelli-Adorno, 'Die rassistische Verfolgung der Zigeuner vor dem 1. März 1943', in *RzW* 1961, Heft 12, pp. 529–537, here p. 537: 'die Z. "haben keine Presse und keine öffentliche Meinung"'.  
<sup>82</sup> Calvelli-Adorno, 'Die rassistische Verfolgung der Zigeuner vor dem 1. März 1943', p. 529: 'Wiedergutmachung [ist] ein Gebot elementarer Gerechtigkeit. Zu fragen, ob die Zigeuner als solche ihrer "würdig" sind, wäre krasses und wiederum kollektives Unrecht'.

<sup>83</sup> Stuckart, Globke, *Kommentare zur deutschen Rassengesetzgebung*, pp. 55–56: 'Artfremden Blutes sind in Europa regelmäßig nur die Juden und die Z[igeuner] ...'  
<sup>84</sup> Calvelli-Adorno, 'Die rassistische Verfolgung der Zigeuner vor dem 1. März 1943', p. 532: 'feststehenden und unveränderlichen Rasseneigenschaften'.

of Roma had been racially motivated.<sup>85</sup> His conclusion was that racial persecution of Roma could be traced back to the Nuremberg Race Laws of 1935, with an increase in harshness in 1938, when many Roma were taken into preventive custody, which was accompanied by a semantic shift from social to racial terminology as justifications for the treatment of Roma. He regarded the threat of sterilisation as yet further proof that the National Socialists had waged a racial war against Roma, as this measure showed that the long-term plan of the National Socialists had been the annihilation of Roma in Germany and beyond. Calvelli-Adorno countered the argument that because non-Roma who lived the 'Gypsy'-lifestyle were at times treated like Roma their persecution had not been truly racial by arguing that this lack of a narrow definition was deliberately employed by the National Socialists in order both to simplify procedures and to allow for broad interpretations of the term if that was desired. In effect the National Socialists had created their own enemy categories and, in the case of the Roma, they included those who were not sedentary and led an, in their eyes, 'asocial' life.<sup>86</sup> In his plea for acknowledgement of the treatment of the Roma during the Third Reich as racial persecution, Calvelli-Adorno referred to two reports from the late 1950s concerning the motives behind the deportation of Roma in 1940. The first was written by Hans Buchheim in May 1956, published by the *Institut für Zeitgeschichte*,<sup>87</sup> the other by Hans-Joachim Döring in 1959.<sup>88</sup> These two articles were the first academic studies on this topic. Buchheim, for instance, argued that the available material had not been sufficiently studied and that the official justifications of an unconstitutional state such as the Third Reich (where the term '*Sonderbehandlung*', literally meaning 'special treatment', in fact meant 'killing') should not be used as evidence against the Roma. Similarly

<sup>85</sup> 'Each individual Gypsy was treated like an asocial simply because and only because he belonged to the Gypsy race; this categorisation – without any further investigation of his individual circumstance – was enough to distinguish him from other human beings as "asocial" and indiscriminately subject him to unlawful and cruel treatment.' 'Der einzelne Z. wurde als Asozialer behandelt, allein schon und nur, weil er der Z.-Rasse angehörte; die Zuordnung zu ihr genügte, um ihn – ohne weitere individuelle Prüfung – als "Asozialen" von den anderen Menschen abzusondern und ihn unbesehen einer rechtswidrigen und grausamen Behandlung zu unterwerfen.' Calvelli-Adorno, 'Die rassische Verfolgung der Zigeuner vor dem 1. März 1943', p. 532.

<sup>86</sup> 'At issue here is something that is typical of NS measures, whereby a group of people targeted for persecution (the Gypsies) is loosely defined, so that as soon as regulations are tightened for an oppressive measure, undesirable members of the group to be persecuted can be absorbed into the group from the fringes (similar to the oft-repeated formulation "Jews and their associates" or with the widespread persecution of "Aryan" spouses of Jews).' 'Es handelt sich hier um eine bei NS-Maßnahmen typische lockere Abgrenzung eines zu verfolgenden Personenkreises (der Zigeuner) nach außen, die es ermöglicht, durch erweiternde Anwendung der Vorschriften in eine Verfolgungsmaßnahme Mißliebige einzubeziehen, die sich am Rande der zu verfolgenden Gruppe befinden (ähnlich wie bei der oft wiederholten Formulierung "Juden und Judengenossen" oder wie bei der weitgehenden Mitverfolgung "arischer" Ehegatten von Juden).' Calvelli-Adorno, 'Die rassische Verfolgung der Zigeuner vor dem 1. März 1943', p. 532.

<sup>87</sup> H. Buchheim, 'Die Zigeunerdeportation vom Mai 1940', in *Gutachten des Instituts für Zeitgeschichte* (Institut für Zeitgeschichte, München, 1958), pp. 51–60.

<sup>88</sup> H.-J. Döring, 'Die Motive der Zigeunerdeportation vom Mai 1940', in *Vierteljahreshefte für Zeitgeschichte*, 4. Heft, 10/1959, pp. 418–428.

to Calvelli-Adorno, Buchheim traced the radicalisation of anti-Roma policies, yet his article had little impact until its content was taken up by Calvelli-Adorno. The higher impact of Calvelli-Adorno's article is probably connected to the fact that it had been published both by the United Restitution Organisation, which had enormous international backing, and by the legal journal *Rechtsprechung zum Wiedergutmachungsrecht*, which reached the entire West German legal community and eventually the compensation authorities.

The result of acknowledging that racial persecution had started long before the Auschwitz Decree was that other actions taken by the National Socialists against Roma, which had up to that date been dismissed as policing or security measures, were now classified as preparatory steps towards a programme of racial persecution. This was expressed in a 1965 decision by the Federal Supreme Court, which ascertained that if a Rom had been stripped of his itinerant trade licence in 1938, it had to be established whether this had been racially motivated, granting that this might have been the case.<sup>89</sup> In cases like this, the claimant had to substantiate his claim, but if the authority disagreed with the claim, it had to prove the claimant wrong, rather than being able to merely dismiss actions by the National Socialists, such as a refusal to renew a trading licence, as not being a preparatory measure to racial persecution.

The debate of the legal issues concerning the persecution of the Roma has clearly shown that the main obstacle for Roma Holocaust victims was that their persecution had to be laboriously substantiated and documented during the implementation phase of the Compensation Laws.<sup>90</sup> The prima facie recognition of the racial persecution of Jewish victims was not applied to Roma because of long-standing prejudices that connected Roma with 'asociality' and criminality. Little effort was put into unearthing the real motivations behind their persecution by studying National Socialist documents – many of which were, in fact, freely available (including, for instance, the legal commentary by Globke and Stuckart), but which were simply not consulted. One could equally argue that Jews were the exception rather than the norm in being prima facie recognised as victims of racial persecution. By 1965, Roma were 'ahead' of other groups such as homosexuals, the 'feeble-minded' and other 'asocials' in being recognised as victims. Homosexuals, for instance, not only had to wait for historical research to shape a different awareness, but also for legal changes decriminalising homosexuality.<sup>91</sup>

Judges like Calvelli-Adorno can be credited with exposing the fallacies inherent in the various court decisions, which did not acknowledge the racial nature of

<sup>89</sup> BGH, 24.3.1965, RzW 1965, Heft 7, pp. 309–310; 'Wurde einem Zigeuner im Jahre 1938 der Wandergewerbeschein entzogen, so ist zu prüfen, ob hierfür rassische Gründe mitursächlich waren.'

<sup>90</sup> The issue of defining and dating persecution was, of course, not singular to the Roma. Lacking historical information meant that Jews in the Danzig area were, according to the 1956 Compensation Law, not entitled to compensation for the period preceding 1939. Only later was the influence of the National Socialists in the area, and the ensuing persecution, acknowledged and compensation paid for the pre-1939 period. See, for example, Mayntz, Scheuch, *Leistungsverwaltung und Verwaltungsleistung*, pp. 80–82.

<sup>91</sup> S. zur Nieden, 'Die Aberkanten. Der Berliner Hauptausschuß "Opfer des Faschismus" und die verfolgten Homosexuellen', in Frei, Brunner, Goschler, *Die Praxis der Wiedergutmachung*, pp. 264–289.

the National Socialist persecution of Roma. As the President of the Compensation Senate at the Frankfurt Higher District Court, Calvelli-Adorno could intervene directly in cases which came to this Higher District Court. Because the Compensation Senate at the Higher District Court level was made up of five judges, Calvelli-Adorno could not impose verdicts without the support of at least two other judges. However, because of the high position he held (it is comparable to the rank of a general in the military structure), he could assert certain pressures and give a general direction. One of the reasons why the Frankfurt courts took the most favourable view regarding Roma cases is the influence of people like Fritz Bauer, the Hessian Attorney General (*Generalstaatsanwalt*) (1956–1968), who played a key role in prosecuting National Socialist perpetrators (Bauer was responsible for the prosecution of the Auschwitz Trials which took place in Frankfurt and had demanded the commission of extensive expert opinions).<sup>92</sup> Whilst this position did not give Bauer any say in the judgements as such (his role was that of a state prosecutor, appointed by the State Minister of Justice), he could set the tone and an example by his actions. For instance, the prosecution of the racial scientist Eva Justin in 1958 fell into Bauer's term of office. Even if Justin's case ended with her acquittal, Bauer's direct involvement and the extensive efforts that went into her prosecution are noteworthy.<sup>93</sup> The tone set by people like Bauer and Calvelli-Adorno, and the absence of similar personalities in other areas, seems to be one explanation for why the court decisions varied so much between the federal states in West Germany. There is no direct evidence that the stance of these individuals immediately influenced court decisions in the state where they held positions, but it seems plausible that the behaviour of high-ranking individuals did matter, giving a general direction which the regional courts responded to with more progressive juridical decisions. In the end the varying court decisions had created enough discrepancies for the Federal Supreme Court to regard it as necessary to take a line by making a decision in principle (*Grundsatzentscheidung*) which courts across West Germany had to follow. The Federal Supreme Court decision which caused a shift in legal practice was not necessarily engendered by the interventions of individuals, but rather by the increasingly divergent court decisions which emerged as a result of certain courts adopting views such as Calvelli-Adorno's. This forced the Federal Supreme Court to give a direction taking into account the voices that had led District Courts and Higher District Courts to make decisions deviating from common legal practice.

It took almost two decades for the highest level of jurisdiction (the Federal Supreme Court) to decide that Roma had, in fact, been racially persecuted, and for this to trickle down to the compensation authorities. Once this had been established, though, the new guidelines were adopted and executed fairly

<sup>92</sup> Wojak, *Fritz Bauer und die Aufarbeitung der NS-Verbrechen nach 1945* (Hessische Landeszentrale für politische Bildung, Wiesbaden, 2003); for the role of Bauer in the Auschwitz Trials, see Wittmann, *Beyond Justice*, pp. 49–52, 62–67, 253–258.

<sup>93</sup> P. Sandner, *Frankfurt. Auschwitz. Die nationalsozialistische Verfolgung der Sinti und Roma in Frankfurt am Main* (Brandes & Apsel, Frankfurt am Main, 1998), pp. 302–305.

efficiently by the compensation authorities. Even if many officials still had the same prejudices and might not have regarded the Roma as credible victims, the Federal Supreme Court decision was implemented. However, this always required the Roma's initiative. Most often it was those Roma who employed lawyers that re-opened their cases; probably because these lawyers, many of whom specialised in compensation claims, were more aware of the adjusted legal situation. Those cases which were most successful were predominantly the result of a decades-long struggle, during which the prevailing prejudices often had to be endured.<sup>94</sup>

Some further conclusions can be drawn from the first part of this chapter and the nature of the compensation files. Studying the Compensation Law, one can see that the nature of compensation and the structure of this law was a further reason why Roma were disadvantaged with respect to other victims. Reinstating the victim in his former life meant placing the victim, according to his pre-war status, in a civil service category, in order to set a pension. Amongst Roma victims, it was perceived as a great injustice that a victim who, before the war, had been at the beginning of a law career would receive a much greater pension than a Rom who had been a travelling salesman. This was based on the assumption that the lawyer could have reached the highest civil servant category of the judge, and a pension would be awarded accordingly. Under the state laws in North Rhine-Westphalia the situation had been even less favourable, as victims had been categorised by taking both the previous employment and the social status into account, which hindered, rather than helped Roma. This was rectified under the Federal Compensation Law, which allowed social status to be taken into account only if it benefited the victim's categorisation. On top of this the amounts paid for the different kinds of pension varied; the relatively high 'pensions for professional damage' (*Berufsschadensrenten*) were often sufficient as a sole means of financial support, whereas the lower 'pensions for physical damage' (*Körperschadensrenten*) were only sufficient if a relatively high reduction in earning capacity had been attained, which meant that a healthy victim whose law career had been interrupted would receive a higher pension than a victim who was incapable of working after persecution, but who had had a menial job before the war. In contrast, in East Germany every claimant who had been recognised as a victim was entitled to an Honorary Pension (*Ehrenrente*), which was not linked to former earnings or status (and, in fact, nor to a reduction in earning capacity). The German Democratic Republic, on the other hand, paid different amounts depending on whether the claimant had been classified as a 'resistance fighter' or a 'mere' victim. In 1965 the former received 800 (East) Marks, and the latter 600 (East) Marks per month. This was a substantial amount, given that in 1966 the average monthly pension of a worker in East Germany was 164 (East) Marks.<sup>95</sup>

<sup>94</sup> A very telling case being that of Kurt A., Zg. 22/2003 Nr. 2350, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>95</sup> Goschler, *Schuld und Schulden*, p. 384.



Another important disadvantage was if the claimant had only a very basic educational level. The files show that most Roma claimants had received only a cursory education and that often the claimants were illiterate, though all seem to have spoken German. Letters were frequently written on behalf of the claimant by lawyers or acquaintances, and application claims were frequently signed with a cross. One can see how this illiteracy or general lack of education had consequences for the compensation process. If illiteracy prevented the claimant from refreshing his memory by looking at past correspondence or documents generated by the compensation process, he or she would have difficulties remembering the details of his case, and maybe also of the claims procedures which were rather complex. The statements of Roma were often regarded with disbelief, especially in cases where they contradicted earlier statements. In these cases it was usually assumed either that the Rom claimant had tried to deceive the compensation authority or that the contradictory statements were testimony to a misleading portrayal of their suffering under National Socialism.<sup>96</sup> In theory, similar 'emotional' arguments could have been made about Jewish victims, given that anti-Semitic stereotyping was prevalent throughout the centuries. In particular, prejudices concerning Jews and money could have influenced compensation officials against Jewish claimants, just as it was often assumed that Roma tried to cheat the system by making false claims or statements. The fact that this kind of stereotyping was not prevalent in the post-war material relating to compensation (be it law-making or claims distribution), and that, instead, Jews were categorically regarded as victims of racial persecution, shows just how sensitive West Germany and its officials must have been to pressure or reprimands on this issue (particularly from the US and Great Britain). However, even with this 'easier' starting point, Jewish victims were often caught up in a very involved, unclear and emotionally difficult compensation process – as Mark Roseman reports in his portrayal of Marianne Ellenbogen, who survived National Socialism by going underground.<sup>97</sup> Although Marianne Ellenbogen's case was eventually successful, the fact that she had to prove that she had worn the yellow star and also had to understand the legal complexities made her case a long and cumbersome process, lasting from 1950 to the mid-1960s.<sup>98</sup> A crucial difference from most Roma cases was that when her case was initially rejected, this had been based on her life during hiding not having been, as the Federal Compensation Law required, of or below the level of a prisoner, and not on a denial of her status as a victim of racial persecution.<sup>99</sup>

An unpublished study by the Institute for Applied Sociology (*Institut für Angewandte Sozialforschung*) (1983) at the University of Cologne analysed the link between the claimants' behaviour, their characteristics (age, education)

<sup>96</sup> On the issue of factual inaccuracies encountered in oral history, see, for example, U. Herbert, 'Good times, bad times: memories of the Third Reich', in R. Bessel, (ed.), *Life in the Third Reich* (Oxford University Press, Oxford, 1987), pp. 97–110.

<sup>97</sup> M. Roseman, *A Past in Hiding* (Penguin, London, 2000), pp. 466–472.

<sup>98</sup> Roseman, *A Past in Hiding*, pp. 468–469.

<sup>99</sup> Roseman, *A Past in Hiding*, p. 469.

and the proceedings' outcome.<sup>100</sup> This report established that it was not so much the age, sex or occupation (in the sense of respectability) of the claimant that had an impact on the process, but rather the claimant's socio-economic background, as this had an influence on the claimant's dealings with the authorities and officials.<sup>101</sup> The claimant's behaviour was shaped and influenced by his or her education, not only in terms of his or her communication with the officials and the bureaucratic system. It determined how many claims were filed, how systematically this was done, and how meticulously supporting documents were provided. Paragraph 190 of the Federal Compensation Law obliges the claimant to provide detailed information (and documents) in cooperation with the authority, even if the burden of proof had been shifted from the claimant to the compensation authority. The Düsseldorf compensation authority, for example, criticised a lack of substantiation in 19.3 percent of the claims and rejected claims on this basis in 17.2 percent of the cases.<sup>102</sup> The Roma compensation files are at times highly incoherent, and many documents demanded by the authorities (such as birth or marriage certificates and medical certificates) were never provided by the claimants. The study by the Institute for Applied Sociology suggests that this would have a highly negative impact on the compensation process, especially if the claimant in addition was not well practised in communications with authorities and bureaucracies. This was often the case with Roma, as a traditional distance from and rejection of anything official or institutional had only been reinforced by their experiences with the police and the racial hygienists during the Third Reich. Again, all of these problems would be aggravated by illiteracy or lack of education, leading to an inability to distinguish between documents and understand what was required of them.

This requirement to supply documents was coupled with priority being given to official proofs and documents over witness testimonies or affidavits. A series of inspections in 1949, amongst others of the authority Düren (North Rhine-Westphalia), had shown that witness testimonies and unofficial (medical) documents were frequently accepted at face value, and in fact the President of the Administrative Headquarters Aachen (North Rhine-Westphalia) reminded the authorities (including Düren) to pay special attention to official documents supplied by the claimants and to prioritise documents from institutions such as the Association of Persecutees of the Nazi Regime, Jewish parishes and lawyers, judges, priests and political parties. The primacy of official documents remained and was reinforced under the Federal Compensation Laws.<sup>103</sup> There were a few documents that were routinely retrieved (such as the criminal record, records from the local government office for registration of residents, material from the synagogues, and the International Tracing

<sup>100</sup> Mayntz, Scheuch, *Leistungsverwaltung und Verwaltungsleistung*, pp. 273–330.

<sup>101</sup> Bearing in mind, of course, that a decisive factor always was the straightforwardness or complexity of each individual case.

<sup>102</sup> Mayntz, Scheuch, *Leistungsverwaltung und Verwaltungsleistung*, pp. 175–176.

<sup>103</sup> Mayntz, Scheuch, *Leistungsverwaltung und Verwaltungsleistung*, pp. 165–169.

Service in Bad Arolsen), but with regard to supplementary material, it was very much down to the individual official as to how much effort was made. A prejudiced view of Roma claimants might well have led to fewer investigations, and the travelling lifestyle (even if only during part of the year), both before and after the war, made the collection of documents more cumbersome for the authority, especially if the claimant did not help to simplify this matter. The report of the Institute for Applied Sociology supports this view of the Roma's cases being potentially more involved, by establishing that files of Jewish victims and those with advanced education and professional developments contained more official documents than anybody else's.<sup>104</sup> For instance, only 13.3 percent of the files of claimants without any formal school education (less than primary school) contain more than nine official documents. In contrast, 29.8 percent of files from university-educated claimants contain over nine such documents.<sup>105</sup> The report further establishes a correlation between the documents supplied by the claimant and a positive outcome, with the latter being the more likely the more documents were supplied.<sup>106</sup> The following two chapters elaborate the above-mentioned problems – regarding both the nature of the law and the proceedings – by a detailed analysis of the individual compensation files, thereby discussing further deficits of the system such as the lack of compensation for forced sterilisation and psychological long-term damage.

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<sup>104</sup> Mayntz, Scheuch, *Leistungsverwaltung und Verwaltungsleistung*, p. 279.

<sup>105</sup> Mayntz, Scheuch, *Leistungsverwaltung und Verwaltungsleistung*, pp. 1284–1284a.

<sup>106</sup> Mayntz, Scheuch, *Leistungsverwaltung und Verwaltungsleistung*, p. 294.

## Chapter 5: How to Measure Disability

### *The Lack of Compensation for Forced Sterilisation*

Under the National Socialist Hereditary Health Law<sup>1</sup> about 400,000 people were sterilised in Germany.<sup>2</sup> While most of the sterilisation victims were sterilised during the first six years of the regime, the sterilisation of Roma peaked during the war. According to Hansjörg Riechert, around ten percent of German Roma were forcibly sterilised during the Third Reich.<sup>3</sup> However, for a long time the Hereditary Health Law was not classified as a ‘typical National Socialist injustice’, which led to the exclusion of victims of this law from the compensation process. By contrast, in the Soviet Occupied Zone, the Hereditary Health Law was described as a crime against humanity and accordingly abolished on 8 January 1946. The West German government justified its decision not to repeal this law during a parliamentary session on 7 February 1957 as follows:

The Law for the Prevention of Offspring with Hereditary Diseases from 14 July 1933 is not a typical National Socialist law because similar laws are in force in democratic countries, for instance Sweden, Denmark, Finland and in some states in the USA. But the Federal Compensation Law extends compensatory payments only to people persecuted by the National Socialist regime, and only in rare exceptions to people who suffered damages as a result of extremely grave violations to the principles of the rule of law.<sup>4,5</sup>

This assessment of the Sterilisation Law was not a uniquely German one. The American military tribunal declared in July 1947 that in general nothing

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<sup>1</sup> Gesetz zur Verhütung erbkranken Nachwuchses (Erbgesundheitsgesetz), passed on 14 July 1933 and promulgated on 1 January 1934, in *Reichsgesetzblatt* 1933 I, pp. 529–531.

<sup>2</sup> Bock, *Zwangssterilisation im Nationalsozialismus*, p. 8.

<sup>3</sup> Riechert, *Im Schatten von Auschwitz*, p. 135.

<sup>4</sup> S. Kramer, ‘Ein ehrenhafter Verzicht auf Nachkommenschaft’. *Theoretische Grundlagen und Praxis der Zwangssterilisation im Dritten Reich am Beispiel der Rechtsprechung des Erbgesundheitsobergerichts Celle* (Nomos, Baden-Baden, 1999), p. 210: ‘Das Gesetz zur Verhütung erbkranken Nachwuchses vom 14. Juli 1933 ist kein typisch nationalsozialistisches Gesetz, denn auch in demokratisch regierten Ländern – z.B. Schweden, Dänemark, Finnland und in einigen Staaten der USA – bestehen ähnliche Gesetze. Das Bundesentschädigungsgesetz gewährt aber grundsätzlich Entschädigungsleistungen nur an Verfolgte des NS-Regimes und in wenigen Ausnahmefällen an Geschädigte, die durch besonders schwere Vorstöße gegen rechtsstaatliche Grundsätze Schaden erlitten haben.’

<sup>5</sup> Plenarprotokoll 2/191, p. 10876 (A), see V. Hennig, *Zur Wiedergutmachung von Zwangssterilisation im Nationalsozialismus. Eine Dokumentation* (Frieling, Berlin, 1999), p. 36.

spoke against sensibly discussing the pros and cons of a sterilisation law.<sup>6</sup> The discussion or even the advocacy of such a law was thus not a crime with which the American military tribunal would deal as long as the individual was protected under such a law.<sup>7</sup> One of the reasons why the Americans did not want to take on the responsibility of judging this law was that there had been academic and scientific cooperation between Germany and America since the early twentieth century in the field of eugenics. Whereas other Western countries had not supported Germany's eugenic pursuits, America – both before and after Hitler's seizure of power – had supported these studies and American journals had discussed and praised the Hereditary Health Law.<sup>8</sup> From 1937 to 1938, the National Socialist film *Erbkrank* ('Hereditarily Ill') was even shown in American schools. Contact between German and American eugenicists did not end until America entered the war.<sup>9</sup> In addition, up until 1956, twenty-seven US states had sterilisation programmes (some including forced sterilisation); opposing the German Sterilisation Law would have put them in a self-contradictory position.<sup>10</sup>

The continued implementation of the Sterilisation Law was, however, de facto undermined by the Allies' decision not to re-open the Hereditary Health Courts after the war. Opinions of the Sterilisation Law varied greatly, as can be seen from the fact that a possible continuation of this law was discussed amongst the legal profession after the war. Lawyers acknowledged that in some instances interpretation of the law had been taken too far (as in the case of euthanasia), but this was ascribed to the typical National Socialist tendency of misappropriating otherwise respectable laws. Proponents of the Sterilisation Law argued that because the National Socialists had not initiated this law, but instead based it on proposals from the Weimar Republic, it could not be regarded as a typically National Socialist injustice.<sup>11</sup> In May 1946, the President of the Braunschweig Higher District Court, Wilhelm Mansfeld, wrote to the other presidents of the Higher District Courts in the British Zone that the ideas behind the Sterilisation Law were in fact valid and useful, and that even if at times the law had been interpreted too freely, nothing was wrong with it in principle, especially

<sup>6</sup> 'The Supreme Court is well aware of the widespread existence of sterilisation laws in many instances where they are applicable to the sterilisation of the mentally disturbed or carriers of hereditary diseases. We must conclude that the wisdom and applicability of these types of laws is subject to rational debate.' 'Der Gerichtshof ist sich der Verbreitung der Sterilisationsgesetze an vielen Stellen bewußt, wo sie hinsichtlich der Sterilisation geisteskranker Personen oder von Trägern von Erbkrankheiten anwendbar sind. Wir stellen fest, daß die Weisheit und Anwendbarkeit derartiger Gesetze vernünftigerweise diskutierbar ist.' See J. Simon, 'Die Erbgesundheitsgerichtsbarkeit im OLG-Bezirk Hamm', in Justizministerium des Landes NRW, (ed.), *Justiz und Nationalsozialismus* (Justizministerium des Landes NRW, Düsseldorf, 1993), pp. 131–168.

<sup>7</sup> Kramer, 'Ein ehrenhafter Verzicht auf Nachkommenschaft', p. 210.

<sup>8</sup> On the early racial hygienic discourses in America, see G. von Hoffmann, *Die Rassenhygiene in den Vereinigten Staaten von Nordamerika* (Lehmann, München, 1913).

<sup>9</sup> Kramer, 'Ein ehrenhafter Verzicht auf Nachkommenschaft', p. 211.

<sup>10</sup> D. J. Kevles, *In the Name of Eugenics: Genetics and the Uses of Human Heredity* (Penguin, London, 1986), pp. 104–107, 114–116, 120, 168.

<sup>11</sup> Kramer, 'Ein ehrenhafter Verzicht auf Nachkommenschaft', p. 212.

as other, non-National Socialist countries employed similar laws.<sup>12</sup> Mansfeld had been a judge during the Third Reich, but had not been a National Socialist. On the contrary, he was declared a half-Jew, but because of his high position was allowed to remain in the state service. However, in 1939, he asked to retire, as the political situation had become unbearable for him. The British Military Government made an effort to fill the top positions before re-opening the courts, and appointed the seventy-year-old Mansfeld in May 1945 as the President of the Braunschweig Higher District Court, where he remained until he retired for a second time in 1948.<sup>13</sup> The official re-opening of the Braunschweig Higher District Court followed in November 1945, which was one of the first Higher District Courts to be re-opened in the British Zone. Mansfeld's view on the Sterilisation Law was not peculiar to the immediate post-war period. Over a decade later a similar opinion of the Sterilisation Law can be found, when a judge at the lower district court in Bielefeld wrote a report in 1960 which had criticised the re-opening of hereditary health cases from the Third Reich:

Not a single decision of the Hereditary Health Court [Bielefeld] rests on an intentionally unlawful application of the Law for the Prevention of Offspring with Hereditary Diseases. The Hereditary Health Court never issued a decision which, though falling within the parameters of the letter of the Hereditary Health Law, extended beyond its purpose and was evidently dominated by a typically National Socialist mindset regarding racial hygiene.<sup>14</sup>

The fact that, in the British Zone, sterilisation victims could re-open their cases from July 1947 onwards shows that the discussion around this law was anything but clear.<sup>15</sup> A note from the Interior Minister of Lower Saxony to the president of the Oldenburg administrative district from 3 March 1949 regarding special aid to persecution victims demonstrates the caution with which sterilisation victims were treated within the compensation realm:

These directives [i.e. special assistance] are also to be applied to people who were sterilised during this period as a result of a decision of one of the Hereditary Health Courts, as long as it can be proven that political, ideological, racial and

<sup>12</sup> Simon, 'Die Erbgesundheitsgerichtbarkeit im OLG-Bezirk Hamm', p. 161.

<sup>13</sup> For more information on the history of the OLG Braunschweig see 'Geschichte – Die Entwicklung nach 1945 bis heute' on the official internet webpage: [www.oberlandesgericht-braunschweig.niedersachsen.de](http://www.oberlandesgericht-braunschweig.niedersachsen.de).

<sup>14</sup> Simon, 'Die Erbgesundheitsgerichtbarkeit im OLG-Bezirk Hamm', p. 161: 'Keine Entscheidung des Erbgesundheitsgerichts [Bielefeld] beruht auf einer vorsätzlich rechtswidrigen Anwendung des Gesetzes zur Verhütung erbkranken Nachwuchses. Das Erbgesundheitsgericht hat keine Entscheidung getroffen, die zwar noch von dem Wortlaut des Erbgesundheitsgesetzes gedeckt sind, aber über die Zwecksetzung des Gesetzes hinausgehen und offenbar von typisch nationalsozialistischem Gedankengut über Rassenpflege beherrscht sind.'

<sup>15</sup> *Verordnungsblatt für die Britische Zone 1947*, Nr. 14, p. 110 (amtliche Begründung in *Zentrales Justizblatt 1947*, p. 58). By 1960, a total of 3,494 cases had been re-opened in the British Zone, of which 1,146 in North Rhine-Westphalia. Of these, only 160 verdicts were revoked. Simon, 'Die Erbgesundheitsgerichtbarkeit im OLG-Bezirk Hamm', pp. 131–168, here p. 162.

religious grounds were altogether or predominantly decisive. However, strict standards are to be applied in determining cases of this nature.<sup>16</sup>

This quote shows that, as in many other aspects of the Compensation Laws, the foundation for the treatment of sterilisation victims within the Compensation Laws was already established long before the first Federal Compensation Law, and that the sterilisation of ‘asocials’ and so-called psychopaths was not regarded as having been illegal.

It took three decades for the West German state to admit that the sterilisation of Roma had been part of the ‘final solution’, and that the Hereditary Health Law had been a typical National Socialist injustice.<sup>17</sup> Compensation provisions, in the form of a Hardship Fund, were not made until 1980, when victims were offered the possibility of applying for a one-off compensation payment of 5,000 German Marks. Under the Federal Compensation Law, compensation for sterilisations had only been paid if the sterilisation had been undoubtedly racially motivated. By 1 October 1986 a total of 7,700 claims had been filed, of which 6,450 were decided positively.<sup>18</sup> Sterilisation victims were not eligible for monthly compensation pensions under the Hardship Fund of the 1957 General War Consequences Law (*Allgemeines Kriegsfolgensgesetz – AKG*) until 1988, when the Lower House of German Parliament declared the Hereditary Health Law a National Socialist injustice,<sup>19</sup> yet they only were eligible if a medical specialist certified long-term health damage; such a specialist was not involved in other compensation cases.<sup>20</sup> Some of the West German states created separate Hardship Funds for victims of forced sterilisation. In North Rhine-Westphalia, for example, these victims could receive another 2,000 German Marks if they were resident in that state and on low incomes.<sup>21</sup>

Nevertheless, applications for compensation for forced sterilisations were made by many victims under the Federal Compensation Law. Because the Hereditary

<sup>16</sup> 4 Nds Wiedergutmachung, Band 1, Nr. 39 Kreissonderhilfsausschüsse, Allgemeines, 12 Neu 13 Nr. 8396 (1948–50), NLA-Staatsarchiv Wolfenbüttel: ‘Diese Bestimmungen [i.e. Sonderhilfe] sind auch auf Personen anzuwenden, die in dieser Zeit auf Grund der Entscheidung eines Erbgesundheitsgerichtes sterilisiert worden sind, sofern hierbei nachweislich politische, weltanschauliche, rassische und religiöse Gründe ausschließlich oder überwiegend entscheidend waren. Bei der Überprüfung derartiger Fälle ist jedoch ein strenger Maßstab anzulegen.’

<sup>17</sup> Jasper, ‘Die disqualifizierten Opfer’, p. 361.

<sup>18</sup> Bericht der Bundesregierung über Wiedergutmachung und Entschädigung für nationalsozialistisches Unrecht sowie über die Lage der Sinti, Roma und verwandter Gruppen, 31.10.1985, in *BT-Drucksachen* 10. Wahlperiode, Nr. 6287, p. 37.

<sup>19</sup> The General War Consequences Law dealt with all non-National Socialist specific crimes and their compensation: Gesetz zur allgemeinen Regelung durch den Krieg und den Zusammenbruch des Deutschen Reiches entstandener Schäden, in *Bundesgesetzblatt* 1957, pp. 1747–1772.

<sup>20</sup> G. Link, *Eugenische Zwangssterilisationen und Schwangerschaftsabbrüche im Nationalsozialismus dargestellt am Beispiel der Universitätsfrauenklinik Freiburg* (Lang, Frankfurt am Main, 1999), pp. 480 et seq.

<sup>21</sup> This shows just how topical, political and important Gisela Bock’s groundbreaking work on forced sterilisation was when it was submitted as her *Habilitationsschrift* in 1984, with her research done at a time when victims of forced sterilisation were only just beginning to be acknowledged by the German state. Bock, *Zwangssterilisation im Nationalsozialismus*.

Health Law had not been annulled by the Allies after the war, every sterilisation victim (Roma or other) had to prove that the court decision that had led to the sterilisation had been based on false premises, so that the original court decision could be revoked. Yet even if the claimant could prove this, and received official recognition as a victim of National Socialist persecution, it was unlikely that this victim would receive compensation. The Compensation Laws stated firstly, that only exclusively National Socialist injustice would be compensated and secondly, that compensation would only be paid if this injustice had led to physical health damage, resulting in at least a twenty-five percent reduction in earning capacity. The psychological damage of sterilisation was, however, not regarded as having any significant effect on the victim's earning capacity.

The files show that psychological damage was not even regarded as an invariable consequence of forced sterilisation. Instead, such damage seems to have fallen under paragraph 28 (3) of the Federal Compensation Law, which stated that:

Any injury shall be deemed to be insignificant which neither has entailed nor probably will entail a lasting impairment of the persecutee's mental or physical faculties.<sup>22</sup>

In 1957 the Federal Supreme Court did concede that, in some cases, a reduction in earning capacity could have occurred, but makes knowledge of the victim's personality before and after the sterilisation a precondition for making such a decision.<sup>23</sup>

Paragraph 171 (3) of the Federal Compensation Law did give some provision to victims of forced sterilisation, but only if the sterilisation had not been based on a Hereditary Health Court decision, and if the person was classified as a victim according to paragraph 1 of the Federal Compensation Law. This section of the law dealt with the so-called Hardship Allowance (*Härteausgleich*) and provided aid for those victims who were not otherwise eligible. However, the Hardship Fund payments were limited to financial aid towards buying furniture, therapy, basic maintenance or professional training. These payments were not continuous pension payments but rather temporary rehabilitation funds for acknowledged victims of persecution. The Frankfurt Higher District Court in 1958 advocated that a Hardship Allowance should be paid in the case of a forced sterilisation, because this practice could lead to psychological damage, in the form of losing one's joie-de-vivre (*Verlust an Lebensfreude*), even if it had not led to physiological

<sup>22</sup> BEG § 28 (3): 'Als unerheblich gilt eine Schädigung, die weder die geistige noch die körperliche Leistungsfähigkeit des Verfolgten nachhaltig beeinträchtigt hat und voraussichtlich auch nicht beeinträchtigen wird.' Translated into English by the Institute of Jewish Affairs (N.Y.), 1956, p. 19; USHMM, Ferencz collection (D 819 G3 G425 1956).

<sup>23</sup> 'Whether or not a sterilisation that was completed on racial grounds but without complication resulted in a diminished capacity for employment can only be determined based on a consideration of the persecutee's personality before and after the procedure.' 'Ob eine aus Gründen der Rasse einwandfrei ausgeführte Sterilisation eine Minderung der Erwerbsfähigkeit zur Folge hat, kann nur unter Würdigung der Persönlichkeit des Verfolgten vor und nach dem Eingriff beurteilt werden.' BGH, 16.1.1957, RzW 1957, Heft 5, pp. 155–156.



damage. This loss of *joie-de-vivre* could, however, lead to a reduced working and thus earning capacity.<sup>24</sup>

Out of the Münster and Wolfenbüttel samples, Roma claimed compensation for sterilisation in five and eight cases respectively. One has to bear in mind, however, that this is not necessarily an indication of how many of the claimants had been sterilised, because most Roma regarded publicly talking about this cruel intrusion of their private lives as breaking a central Roma taboo. However, these thirteen cases show sufficient similarities to draw some general conclusions about how compensation demands for sterilisation were handled.

The case of Josef E. is exemplary for the treatment of claims made by victims of the Sterilisation Law. Josef E. had been forcibly sterilised in Kassel in 1937, for which he demanded compensation in 1955. His claim was rejected because he was not regarded as a persecution victim in the sense of paragraph 1 of the Federal Compensation Law. His appeal against the 1936 Hereditary Health Court decision (Kassel, 23 September 1936) ordering his sterilisation, was rejected with the argument that his sterilisation had been legally ordered because his cleft palate had been categorised as hereditary, with his brother's scar from a cleft palate operation being cited as proof of the hereditary nature of this deformity. The decision further stated that, apart from the cleft palate, the claimant showed mental and moral ('*charakterliche*') defects; this was supported by evidence of the various offences he had committed. The concluding opinion was that Josef E. suffered congenital and hereditary intellectual and moral inferiority:

This mental and moral inferiority, which – according to the results of investigations into his kinship group – is also hereditary, indicates the presence of

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<sup>24</sup> 'In the case of sterilisation, a hardship allowance in accordance with paragraph 171 can also be approved for psychological burdens resulting from the procedure – particularly for a loss of *joie-de-vivre*... Even though there are countless instances in which sterilisation did not result in any physical or material damages, legislators nevertheless explicitly treated them as hardship cases without reservations. Had they only been interested in considering those sterilisation cases that resulted in material damages, they would have expressed that. Moreover, in real life terms, the various damages that may accompany sterilisation are often indistinguishable: the potentially severe psychological burdens can lead to a substantial decrease in ability to work and to enjoy one's work in a way that cannot always be quantified. Finally, the whole purpose of a hardship provision is to afford the government agency the opportunity to provide compensatory relief when, according to generally accepted standards, any type of hardship is in evidence.' 'Im Falle einer Sterilisierung kann ein Härteausgleich gemäß § 171 auch für die durch den Eingriff verursachte seelische Belastung, insbes. auch für den Verlust an Lebensfreude, gewährt werden. ... Obwohl gerade die Sterilisierung in sehr zahlreichen Fällen nicht zu einem körperlichen oder sonstigen materiellen Schaden führt, hat der Gesetzgeber sie ohne Einschränkung als Härtefall ausdrücklich behandelt. Hätte er nur diejenigen Sterilisierungsfälle berücksichtigen wollen, die materielle Schäden nach sich gezogen haben, so hätte er dies zum Ausdruck gebracht. Überdies lassen sich lebensmäßig die verschiedenen Schädigungen, die eine Sterilisierung mit sich bringen kann, oft nicht trennen: Die mögliche schwere seelische Belastung kann zu einer erheblichen Herabminderung der Arbeitskraft und Arbeitsfreude führen, die nicht immer meßbar sein wird. Endlich entspricht es dem Sinn einer Härteklause, der Behörde eben in allen Fällen, in denen nach der Verkehrsanschauung eine Härte irgendwelcher Art vorliegt, die Möglichkeit einer Ausgleichsleistung zu geben.' OLG Frankfurt am Main, 18.11.1958, RzW 1959, Heft 12, pp. 564–565.

unspecified damage to the genetic mass and suggests that any further propagation [of this bloodline] is highly undesirable from a genetic standpoint. (23 September 1936)<sup>25</sup>

The verdict of the compensation authority on 7 September 1956 was that, because the sterilisation had been the result of a legally valid decision, Josef E. did not qualify as a victim of National Socialist persecution. The decision refers to sterilisation laws being in place in other Eastern and Western countries, in the 1930s and still in 1956, implying that the Hereditary Health Law could not be regarded as a typical National Socialist law.<sup>26</sup> The compensation authority accepted the verdict of the Hereditary Health Law as justified, putting an end to all compensation demands.

The case of Lina K. shows that opinions were all but unified on the matter of how to classify victims of forced sterilisation.<sup>27</sup> Lina K. was sterilised in January 1938, as ordered by the Hereditary Health Court in Siegen in October 1936, on the basis of her being feeble-minded. After the war, she was recognised as a victim of racial persecution, but this status was revoked in July 1949 by the District Special Relief Committee of the administrative district of Wittgenstein (North Rhine-Westphalia), presumably the same authority that had previously granted the recognition:

The previous determination recognising Lina K's status as a victim of racial persecution is hereby revoked because a reexamination of said recognition in accordance with the guidelines set forth by the Minister of Social Services in November 1947 reveals that the requirements needed for recognition as a person persecuted on racial grounds have not been fulfilled.<sup>28</sup>

It is not clear from the file why the original recognition was revoked. There could have been a change in personnel, but it is more likely that Lina K.'s first claim had initially not been questioned. There are some examples from the immediate post-war period to suggest that, initially, it was accepted by compensation officials that the forced sterilisation of Roma classified as racial persecution.<sup>29</sup> Lina K. seems to have protested against the reversal of the recognition of her

<sup>25</sup> Josef E., Zg. 22/2003 Nr. 1932, Entschädigungsakten, 4 Nds WGM, NLA-Staatsarchiv Wolfenbüttel: 'Diese geistige und moralische Minderwertigkeit, die nach dem Ergebnis der über die Sippe angestellten Ermittlungen ebenfalls anlagebedingt ist, deutet – wie der angefochtene Beschluß zutreffend hervorhebt – auf eine allgemein geschädigte Keimmasse hin und läßt eine weitere Fortpflanzung aus erbbiologischen Gründen als durchaus unerwünscht erscheinen. (23 September 1936).'

<sup>26</sup> See chapter 17, 'A New Eugenics', on the post-war eugenics debates and practices in Kevles, *In the Name of Eugenics*, pp. 251–268.

<sup>27</sup> Lina K., ZK 30286, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>28</sup> Lina K., ZK 30286, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg: 'Die früher ausgesprochene Anerkennung der Lina K., ... als rassistisch Verfolgte wird widerrufen, weil die Nachprüfung der Anerkennung nach den Richtlinien des Herrn Sozialminister vom November 1947 ergeben hat, daß die für eine Anerkennung als rassistisch Verfolgte erforderlichen Voraussetzungen nicht vorliegen.'

<sup>29</sup> See chapter three on the immediate post-war years.

forced sterilisation as a racial measure. Her file shows that in February 1950 the North Rhine-Westphalian Interior Ministry demanded that an intelligence test was done to find out whether feeble-mindedness really had been the motivating factor.<sup>30</sup> Based on this test, the North Rhine-Westphalian Interior Ministry declared on 15 February 1951:

The State Appeals Chamber, upon examination of the decision by the District Special Relief Committee of Wittgenstein from 29 July 1949, has overturned it and granted the claimant recognition according to guidelines outlined in Item B1. The intelligence tests undergone by the claimant during the proceedings leading to the sterilisation failed to convince the State Appeals Chamber that the procedure would have been performed if the claimant had not been a Gypsy. The State Appeals Chamber is more inclined to believe that the claimant's ethnic descent was the primary determining factor leading to her sterilisation during the Nazi era.<sup>31</sup>

Thus she was now re-recognised as a victim of National Socialist persecution. This recognition alone did not, however, entitle her to compensation. On 14 December 1951, the Executive Authority of the Accident Insurance Association North Rhine-Westphalia noted that the required reduction in earning capacity did not exist. It further added:

Whether or not, and to what extent immaterial damage ensued from the sterilisation procedure as performed cannot be determined by this Claims Department, nor can claims be filed on the basis of the 5 March 1947 law. For claims of this nature, you must address the appropriate Hereditary Health Court.<sup>32</sup>

Whilst the application which precipitated this response is not in the file, one can assume that Lina K. had filed a pension request under the Law Concerning the Extension of Accident and Survivors' Annuities to Victims of National Socialist Oppression (*Gesetz über die Gewährung von Unfall- und Hinterbliebenenrenten an die Opfer der Naziunterdrückung*, 5 March 1947),

<sup>30</sup> Neither of the intelligence tests is in the file, so that their natures cannot be compared.

<sup>31</sup> Lina K., ZK 30286, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg: 'Die Landesberufungskammer hat nach Prüfung den Beschluß des Kreissonderhilfsausschusses Wittgenstein vom 29.7.1949 aufgehoben und die Antragstellerin nach Ziffer B1 der Richtlinien anerkannt. Die in dem Verfahren zur Sterilisierung der Antragstellerin angestellten Intelligenzprüfungen konnten die Landesberufungskammer nicht davon überzeugen, daß der Eingriff auch dann vorgenommen worden wäre, wenn die Antragstellerin keine Zigeunerin gewesen wäre. Die Landesberufungskammer war vielmehr der Ansicht, daß für die während der Nazizeit erfolgte Sterilisierung der Antragstellerin überwiegend ihre Abstammung maßgebend gewesen ist.'

<sup>32</sup> Lina K., ZK 30286, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg: 'Ob und inwieweit ein ideeller Schaden durch die vorgenommene Sterilisation eingetreten ist, vermag die Sonderabteilung weder zu entscheiden, noch können auf Grund des Gesetzes vom 5.3.47 hierfür Ansprüche gestellt werden. Wegen dieser Ansprüche müssten Sie sich schon an das zuständige Erbgesundheitsgericht wenden.'

i.e. before the first Compensation Law.<sup>33</sup> Lina K. had asked for a 300 German Mark one-off assistance payment, and was granted 250 German Marks on 3 March 1952 by the city of Berleburg (district of Wittgenstein) because of her husband's dire situation – he was a refugee from the East (Ostflüchtling) and had to provide for both his wife and his mother. Lina K. filed her first claim under the Supplemental Federal Compensation Law on 5 December 1953 asking for compensation for damage to body and health. She had by 1953 moved to the district of Arnsberg, which is why this file ended up in the state archive in Münster. In an explanatory note of 17 May 1955, the local district administration (*Oberkreisverwaltung*) of Wittgenstein wrote to the President of the Administrative Headquarters of Arnsberg – who was now in charge of making a decision – that the sterilisation had been preceded by a proper legal process under the guidelines of the Hereditary Health Law and that, thus, ‘the applicant’s claim to have been subjected to sterilisation solely on the grounds that she was classified as a Gypsy of mixed blood is contradicted by the fact that there are countless Gypsies of mixed blood living here who were not sterilised.’<sup>34</sup> This is a clear reflection of the lack of knowledge in the 1950s of National Socialist racial policies against Roma. The final decision was made about three years later (30 April 1958), which stated that the sterilisation had been justly ordered in 1936, and that the intelligence test of 1950 clearly showed that this had rightly been because of the claimant’s feeble-mindedness. Whether the claimant was too demoralised to fight any longer for her rights, whether she could no longer afford the legal fees (she had been represented by Franz Huss, a lawyer from Berleburg), or whether she accepted the verdict is not clear from the file, which ends in 1958. It is, however, clear that the scope of interpretation was so wide that the same intelligence test was interpreted in two quite different ways in 1951 and 1955, costing the claimant her recognition as a victim of National Socialist persecution, not to mention compensation.

The case of the sterilised Roma differed significantly from other sterilisation victims; in the majority of cases, their sterilisations had not been the result of a decision by a Hereditary Health Court. The Roma were the only group targeted in their entirety for racial sterilisation.<sup>35</sup> With the onset of

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<sup>33</sup> Gesetz über die Gewährung von Unfall- und Hinterbliebenenrenten an die Opfer der Naziunterdrückung vom 5.3.1947, in *GVBl. NRW* 1947, p. 225.

<sup>34</sup> Lina K., ZK 30286, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg: ‘Die Behauptung der Antragstellerin, die Sterilisation sei nur deshalb vorgenommen worden, weil sie als Zigeunermischung gelte, muß entgegengehalten werden, dass zahlreiche hier lebende Zigeunermischlinge nicht sterilisiert worden sind.’

<sup>35</sup> The argument made by Gisela Bock that Roma were from the very beginning targeted in the form of a racial war under the Sterilisation Law seems to support this notion, as does Michael Zimmermann’s description of the demands by various state officials (e.g. in 1935 by the *Ministerialrat* Dr Bader in the state of Baden) to include Roma as a separate category in the Sterilisation Law or demands to indiscriminately sterilise all Roma (e.g. demanded by the Attorney General Meissner in the Burgenland in 1940). Bock, *Zwangssterilisation im Nationalsozialismus*, p. 362; Zimmermann, *Rassenutopie und Genozid*, pp. 88–89.

the war, the Hereditary Health Law was only enforced in cases that were regarded as an immediate danger to German society, but within this drive, Roma were increasingly targeted for sterilisation. These sterilisations took place without a previous Hereditary Health Court decision, and often Roma were presented with the alternative of giving consent to sterilisation or being sent to a concentration camp. Heinrich L., for instance, specified that he was forced to give his consent before he was sterilised in October 1943.<sup>36</sup> Roma sterilised after 1939 had no way of having their sterilisation decisions officially revoked. In the case of the Münster and Wolfenbüttel files, out of the thirteen victims claiming compensation for sterilisation, only three were sterilised under the Hereditary Health Law,<sup>37</sup> all three of them between 1937 and 1938. Of the remaining ten, two were sterilised in a concentration camp,<sup>38</sup> one being the victim of Carl Clauberg's sterilisation experiments in Ravensbrück.<sup>39</sup>

The next stumbling block was that, even if the Hereditary Health Court decision was successfully revoked, the victim had to prove that the sterilisation had led to at least a twenty-five percent reduction in earning capacity (thirty percent under the Supplemental Federal Compensation Law) in order to receive compensation for damage done to body and health. The fact that an individual was deprived of the chance of starting his or her own family was not compensated.

The four siblings Gerda, Heinz, Harry and Horst P. were sterilised in 1944 in the city hospital of Breslau (then Lower Silesia, now Poland) and registered claims at the compensation authority in the administrative district of Braunschweig.<sup>40</sup> The very different outcomes and reactions to these applications show that there was great scope for interpretation, even within the same authority, reacting to the same nature of claims. Gerda S. (née P.) was categorised as a 'Gypsy' in 1939 in line with the Nuremberg Race Laws, and was sterilised in March 1944. Her first application for a pension was made in June 1946. She applied under the Supplemental Federal Compensation Law in April 1954 for damage to body and health, and again under the Federal Compensation Law in June 1958. She had been asked to undergo an examination at the gynaecological hospital in Göttingen in July 1958; however, Gerda S. explained that she could

<sup>36</sup> Heinrich L., Zg. 22/2003 Nr. 1008, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; also mentioned by Olga K., ZK 52687, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>37</sup> Lina K., ZK 30286, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Ernestine N., ZK 29698, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Josef E., Zg. 22/2003 Nr. 1932, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>38</sup> Charlotte K., ZK 25959, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Karl S., Zg. 50/2004 Nr. 42, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>39</sup> Charlotte K., ZK 25959, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>40</sup> Gerda S., Zg. 22/2993 Nr. 604, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Harry P., Zg. 50/2004 Nr. 21, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Horst P., Zg. 22/2003 Nr. 605, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Heinz P., Zg. 22/2003 Nr. 603, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

not attend this appointment as she worked in Altena and had neither time nor money for such a trip. She added that she did not want to undergo an operation reversing the sterilisation, as there was no guarantee of its success. She further explained that she had already undergone two examinations, one of which had led to the examining doctor establishing a thirty percent reduction in earning capacity. There is no further information or attestation in the file, so details of whether the examining doctor believed this reduction of earning capacity was persecution-related cannot be established. In February 1959, Gerda S. underwent another medical examination. The consultant, Dr Bunka, from the gynaecological hospital in Braunschweig, explained that at the time of the examination no persecution-related reduction in earning capacity existed. As a result of this medical examination, Gerda S.'s application for a pension was rejected. She was merely offered refertilisation therapy according to paragraph 30 of the Federal Compensation Law. Her lawyer, Herbert Fiene, made another application under the Final Federal Compensation Law on 16 December 1966 for compensation for her sterilisation; however, this claim was rejected because he had missed the Final Federal Compensation Law deadline of 30 September 1966. An appeal was again rejected by the regional court in January 1969, on the grounds that the deadline had been missed. Gerda S. made a last attempt in 1972/73, applying to the Hardship Fund. That application, too, was rejected in February 1973, on the basis that no reduction in earning capacity could be attested.

The story of her brother, Heinz P., is similar, except that he was proven as having a thirty percent reduction in earning capacity in 1955. He had been acknowledged as a victim of National Socialist persecution in 1949, but at the time was not granted any compensation because of the absence of a reduction in earning capacity. In July 1949, the Support Agency for Victims of Nazi Terror of the Wolfenbüttel district had acted on behalf of Heinz Petermann, writing to the Complaints Committee for Special Relief Affairs (*Beschwerdeausschuss für Sonderhilfssachen*) in Lüneburg that:

The local District Special Relief Committee is of the opinion that, even if the medical examiner has determined that this group of people suffered no direct bodily injury, the group nevertheless suffered psychologically from having been made infertile and continued to suffer the effects of infertility.<sup>41</sup>

It thus suggested that he should receive the minimum pension of 70 German Marks monthly, which a victim with a thirty percent reduction in earning capacity would receive, because his sterilisation had been racially motivated. Dr Gosau, from Wolfenbüttel, confirmed a thirty percent reduction in earning capacity in 1951. Whilst another medical examination could not attest any bodily damage resulting from the sterilisation, the examining doctor did cite the following

<sup>41</sup> Heinz P., Zg. 22/2003 Nr. 603, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Der hiesige Kreis-Sonderhilfssausschuss vertritt den Standpunkt, dass, wenn auch nach Ansicht des Amtsarztes dieser Personenkreis keinen direkten Personenschaden erlitten hat, dieser doch durch die Unfruchtbarmachung seelisch zu leiden hatte und auch noch weiter unter diesem Zustand leidet.'

comment made by Marcel Frenkel, the minister in charge of compensation at the North Rhine-Westphalian Interior Ministry:

However, if the sterilisation was performed based on the assessment of an ostensible physical or mental genetic defect to justify a ‘compulsory sterilisation’ that was in fact motivated by political, religious, ideological or, in particular, racial grounds (Jews, Jews of mixed blood, Gypsies, Gypsies of mixed blood), then the loss of reproductive function, sterility or infertility is to be compensated according to the same schedule of reduced earning capacity allowances as the Federal War Victims Relief Act has set for the loss of the uterus or testicles, with a reduced earning capacity of 30%.<sup>42</sup>

The examining doctor agreed in 1959: ‘The reasons for Heinz P.’s sterilisation were purely racial (Gypsy of mixed blood). The persecution-related personal damage amounts thus to 30%.’<sup>43</sup> These varying opinions serve to demonstrate just how arbitrary an interpretation of the damage resulting from a forced sterilisation was. Frenkel suggested the pragmatic solution to fix a certain percentage of reduction in earning capacity in such cases, a solution that was practically non-medical, and not linked to the individual claimant; nevertheless a professional medical endorsement was needed for the compensation authorities to even consider the damage. A note in Heinz P.’s file from 14 April 1956 shows that the official dealing with his file did not agree with this interpretation, saying that whilst the loss of testicles would lead to changes in personality and thus constitute bodily damage, a correctly administered sterilisation would not, and thus would have no effect on the person’s earning capacity. The official completely ignored the possibility that psychological damage could have a serious impact on the victim’s earning capacity. The decision was made in June 1958, rejecting the 1955 medical recommendation, giving the claimant merely a right to refertilisation therapy. A new neurological examination (by a third doctor, Dr Masuch) in April 1967 attested a reduction in earning capacity of forty percent. The doctor’s diagnosis was that Heinz P. suffered from a depressive neurosis with an ‘inferiority complex that does not respond to therapeutic treatment’<sup>44</sup> and that:

<sup>42</sup> M. Frenkel, *Das Entschädigungsrecht für die Opfer der nat.-soz. Verfolgung. Handbuch der Wiedergutmachung in Deutschland* (Humanitas, Koblenz, 1953), Abhandlungen und Kommentare Bl. 90 u. 91: ‘Erfolgte jedoch die Sterilisation wegen eines nur angeblich erbkrank-körperlichen oder erbkrank-geistigen Zustandbildes aus rein politischen, religiösen, weltanschaulichen oder insbesondere aus rassistischen Gründen (Juden, jüd. Mischlinge, Zigeuner, Zigeunermischlinge) als ‘Zwangsunfruchtbarmachung’, so ist der Verlust der Fortpflanzungsfähigkeit, der Zeugungsunfähigkeit bzw. der Gebärentüchtigkeit in Anlehnung an die für den Verlust der Gebärmutter oder der Hoden nach dem in dem Bundesversorgungsgesetz festgesetzten Sätze der MdE mit Anerkennung einer EM von 30% zu entschädigen.’

<sup>43</sup> Heinz P., Zg. 22/2003 Nr. 603, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: ‘Heinz P. ist aus rein rassistischen Gründen (Zigeunermischling) der Zwangsunfruchtbarmachung unterworfen worden. Der verfolgungsbedingte Personenschaden beträgt somit 30%.’

<sup>44</sup> Heinz P., Zg. 22/2003 Nr. 603, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: ‘nicht zu therapeutierenden Minderwertigkeitskomplexbildung’.

He suffered irreparable, life-long damages as a result of sterilisation on racial grounds ... The influence this has clearly had on his personality development for the rest of his life should, speaking as a psychiatrist, be compensated for with commensurate compensation.<sup>45</sup>

The fact that these three medical opinions vary to such an extent suggests that whilst some doctors closely adhered to older medical criteria or assumptions, others tried to be more open to interpreting the presented symptoms from a new angle, including taking into account the possibility of psychological, rather than merely physical, impairments. This led to diverging medical assessments, which left the compensation authorities with much scope for interpretation, and a choice as to which medical examination to take as the basis for their decision.

Heinz P. submitted an application for a Hardship Allowance in December 1966, which was rejected because it had been submitted after the deadline. Heinz P. did not give up and filed another claim in 1988 in order to receive money under the General War Consequences Law, for his sterilisation and forced labour. However, this was rejected because he had been recognised as a victim of National Socialist persecution, and the General War Consequences Law only provided compensation to those victims who did not qualify according to the first paragraph of the Federal Compensation Law. This is a classic example of a victim fighting the system, and ultimately receiving nothing because he qualified fully under neither law.

The third sibling, Harry P., who was also sterilised in 1944 in Breslau, did receive a monthly payment of 120 German Marks from the General War Consequences Law fund, as well as the one-off payment of 5,000 German Marks in 1985.<sup>46</sup> Harry P.'s fate had been the same as that of his brother Heinz. He was granted refertilisation therapy in 1958, but was refused a compensation pension and compensation under the Hardship Fund several times between 1949 and 1967 because he did not suffer from a reduction in earning capacity. Yet he received both a one-off and a monthly payment under the General War Consequences Law, even though he, too, had been classified as a victim according to paragraph 1 of the Federal Compensation Law.

Only one of the four siblings was successful in gaining a Federal Compensation Law pension. It cannot be ascertained from the compensation file why he was treated differently. Horst P. had the same history and even the same lawyer.<sup>47</sup> All his claims were rejected in April 1957 because of the lack of evidence for a reduction in earning capacity. However, in his case a settlement was made in

<sup>45</sup> Heinz P., Zg. 22/2003 Nr. 603, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Er hat durch die Sterilisation aus rassistischen Gründen einen nicht wieder gut zumachenden Schaden erlitten, der ihm sein ganzes Leben anhängt ... Die vorliegende Beeinflussung der Persönlichkeitshaltung für das ganze weitere Leben sollte nervenärztlicher Weise durch eine entsprechende Entschädigung entschädigt werden.'

<sup>46</sup> Harry P., Zg. 50/2004 Nr. 21, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>47</sup> Horst P., Zg. 22/2003 Nr. 605, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.



November 1957, in which it was decided that he was to be regarded as a victim of National Socialist persecution and that, in the event that there was a reduction in earning capacity, he would receive a pension. The P. family lawyer, Herbert Fiene, demanded such a pension in September 1967 based on the psychological damage amounting to a thirty percent reduction in earning capacity. As a result, a settlement shortly thereafter, in December 1967, granted him a one-off payment of 7,400 German Marks, a deferred pension payment of 21,208 German Marks for the time period from 1 November 1953 to 31 January 1968, and a monthly pension of 159 German Marks from 1 February 1968 onwards.

These cases show that Roma claimants often failed because of bureaucratic procedures, and not because they did not qualify for compensation. A close study of the files reveals that the four siblings all hired the lawyer Fiene in 1966/1967. However, Horst P., who was successful in gaining compensation, had done so in January 1966. Gerda and Heinz P. on the other hand did not hire Fiene until December 1966, and their brother Harry P. did not employ him until August 1967. Fiene filed claims for Horst, Gerda and Heinz under the Final Federal Compensation Law, but only in the case of Horst P. did he file before the deadline for claims. Harry P. had already filed a pension claim before, which was rejected because he lacked reduction in earning capacity. It was this missing of the deadline which was cited in the negative decisions of Gerda and Heinz. Horst P. was also the only one who had previously employed a lawyer. The fact that members of the same family suffering similar trauma were compensated in such different ways demonstrates the unfairness of the system, and explains the negative feelings about *Wiedergutmachung* expressed in so many Roma interviews.

The psychiatrists Harald J. Freyberger and Hellmuth Freyberger examined twelve Roma who had been forcibly sterilised in Königsberg between 1939 and 1941, in order to show that the reaction to this act differed according to the victim's cultural background.<sup>48</sup> They attest that in the particular case of forced sterilisation, the symptoms frequently were not apparent until long after the war, and often not until the inability to have a family became apparent. One of the demands made by the Compensation Laws was that the claimant must prove that there was a direct link between persecution and the suffered damage with so-called consecutive symptoms (*Brückensymptome*), i.e. symptoms that clearly linked the current illness to the persecution period. In such cases, the claimant would have to overcome two hurdles: first, that of the contemporary medical opinion failing to acknowledge the severity of psychological damage and its influence on the victim's daily life, and, secondly, the difficulty of proving a link to persecution if the effects did not manifest until the 1950s or even 1960s. The psychological effects might become apparent, for instance, when the members of this particularly family-oriented cultural group realised that they would never have children to look after them in old age. In the

<sup>48</sup> H. J. Freyberger, H. Freyberger, 'Posttraumatischer Verfolgungsdruck und Bewältigungsstrategien bei ehemals durch den Nationalsozialismus verfolgten Menschen', in Fischer-Hübner, *Die Kehrseite der 'Wiedergutmachung'*, p. 163; see also H. J. Freyberger, V. Dittmann, *Posttraumatische Belastungsstörung bei während des sog. 'III. Reiches' zwangssterilisierten Zigeunern* (unpublished lecture at the Psychiatric University Hospital Lübeck, 1989).

autobiographical material discussed in the second chapter, it is often mentioned that any wedding, birth, baptism, or confirmation could be a constant reminder of this shortcoming. Because of the importance of fertility amongst Roma, forced sterilisation often triggered identity crises, leading to an inability to cope with daily life. This, however, was never reflected in the official estimate of the reduction of earning capacity.

It has been shown that, in the first two decades after the war, psychological effects were not regarded as having an impact on the day-to-day life of a victim of National Socialist persecution, at least not with regard to his or her ability to provide for his or her subsistence. In the following section, the debate about psychological consequences and the effects this debate had on compensation payments will be discussed in more detail. However, in this section on sterilisation, the psychological effects cannot remain undiscussed, as the inability to create a family is described as the worst possible damage to a Rom's life. It is impossible to rank the severity of the psychological effects of a sterilisation, as every individual will react differently, depending on their family situation and age at the time of sterilisation. What is clearly stated in the various interviews and autobiographical writings in equal measure by male and female Roma is the centrality of fertility in the life of a Rom. In several compensation claim files the victims referred to partners leaving or divorcing them upon learning about their infertility. Olga K., born in 1929, stated in one of her letters to the compensation authority in Arnsberg that her husband had left her in favour of a 'healthy, normal woman'.<sup>49</sup> Similarly, in November 1954, Horst P. wrote in a letter to the first President of the Federal Republic of Germany, Theodor Heuss: 'it is inexplicable to me that of all things the psychological consequence of the sterilisation should be entirely ignored.'<sup>50</sup> He added that the effects were not merely psychological, but also destroyed his post-war life in that his wife wanted to divorce him when she found out about his infertility.<sup>51</sup>

This point is very emphatically expressed by Gerda S.'s lawyer in a letter to the President of the Administrative Headquarters in Hanover in December 1966:

Objectively, anyone who has been sterilised on racial grounds is burdened by insurmountable social prejudices because at that time Jews and Gypsies were being sterilised alongside felons and the mentally retarded. Subjectively, the psychological side effects that are especially severe in the case of this particular claimant must be taken into account. Gypsies tend to have large families and

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<sup>49</sup> Olga K., Münster, ZK 52687, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>50</sup> Horst P., Wolfenbüttel, Zg. 22/2003 Nr. 605, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'es ist mir unerklärlich, daß gerade die psychologische Folge der Sterilisation gänzlich unberücksichtigt bleiben sollte.'

<sup>51</sup> Horst P. does not seem to have received a response. However, a letter he sent to the Chancellor in 1958 was responded to by the Minister of Interior of Lower Saxony, who acknowledged receipt of the forwarded letter (as he was responsible for compensation, which was a matter of the federal states) and declared that, as a result, his file had been re-examined, noting that his case had been dealt with in the proper form. Horst P., Wolfenbüttel, Zg. 22/2003 Nr. 605, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

the parents' attachment to their children is greater than to anyone else in their lives. This degree of maternal instinct is only present in Romanic peoples. Taking into account this view of life that predominates amongst Gypsies, one can conclude that a Gypsy woman who has been sterilised for no medical reason would feel like a failure and be plagued by feelings of extreme sacrifice, shame, revulsion, and self-loathing.<sup>52</sup>

This section has attempted to show that Roma victims of forced sterilisation faced great difficulties in gaining compensation for this injustice. One has to ask whether these problems were Roma-specific, or whether other sterilisation victims encountered the same problems. The above has shown that Roma who were regarded as having been lawfully sterilised were not entitled to any compensation because they did not qualify as victims of National Socialist persecution as laid out in paragraph 1 of the Federal Compensation Law. Other victims of the Hereditary Health Law did not receive compensation either, if the verdict was not revoked after the war. Various non-Roma sterilisation victims, whose files can be found in the Wolfenbüttel archive, did not manage to have their Hereditary Health Court decisions revoked, and were thus not classified as victims of National Socialist persecution, either.<sup>53</sup> In the Hereditary Health Law the terms 'feeble-minded' and, more particularly, 'morally feeble-minded' were frequently cover-up phrases to describe those people whom the National Socialists regarded as 'asocial', i.e. people who did not contribute to German life in tune with National Socialist ideology. Begging, being unemployed, having illegitimate children or various partners turned one into an 'asocial', which was proven via intelligence tests that checked knowledge rather than intellect, yet the nature of those tests was not taken into consideration in the post-war period.

Both Roma and non-Roma 'asocials' were targeted with the Sterilisation Law, but the Roma were the only group to whom the traits of 'asociality' were attributed as a race. Whilst a German individual could be considered as 'asocial',

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<sup>52</sup> Gerda S., Zg. 22/2003 Nr. 604, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Objektiv ist der aus rassistischen Gründen Sterilisierte mit unüberwindlichen sozialen Vorurteilen belastet, weil damals einerseits Juden und Zigeuner andererseits Schwerverbrecher und Schwachsinnige sterilisiert wurden. Subjektiv sind die seelischen Begleiterscheinungen zu berücksichtigen, die in dem vorliegendem Fall der Antragstellerin besonders schwer sind. Zigeunerfamilien sind sehr kinderreich und die Anhänglichkeit eines Zigeuners zu seinen Kindern ist größer, als die Anhänglichkeit zu irgendeiner sonstigen Person. Einen solchen Muttertrieb findet man nur noch bei romanischen Völkern. Unter Berücksichtigung solcher bei Zigeunern herrschenden Lebensauffassung kann man davon ausgehen, dass eine grundlos sterilisierte Zigeunerin sich als Versagerin fühlt und mit Schmerzen des Entbehrens, Scham, Ekel und Grauen vor sich selbst belastet ist.'

<sup>53</sup> For example: Wilhelm B., Zg. 22/2003 Nr. 286, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Otto N., Zg. 22/2003 Nr. 471, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Rudolf H., Zg. 22/2003 Nr. 267, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Else W., Zg. 22/2003 Nr. 38, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Luise O., Zg. 22/2003 Nr. 39, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Willi B., Zg. 22/2003 Nr. 686, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Erika S., Zg. 22/2003 Nr. 15, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

and thus could become a victim of the Sterilisation Law, it was assumed that any given Rom had inherent 'asocial' traits. Those dealing with compensation failed to realise that, whilst the terminology used in justifying the early sterilisations of Roma was the same as that applied to other victims, the motivations had become increasingly divergent. This meant that a Rom sterilised under the Hereditary Health Law could have been a victim of racial persecution, exactly because of the link the National Socialists made between 'asocial' traits and the 'racial character' of Roma. However, one has to bear in mind that almost no academic research was done into the persecution of the Roma until the 1980s (the Buchheim report mentioned in chapter four was a mere ten pages long and not widely circulated, and the not much longer Calvelli-Adorno article was predominantly consulted by the legal profession), which meant that even the interested or critical bureaucrat dealing with compensation would have had a hard time finding out more about the persecution of Roma in pre-war National Socialist Germany. This was especially the case when Roma formed a sub-section of a broader victim group, as was the case with sterilisation, rather than having been singled out for a certain measure. In addition, the prevailing general prejudices towards Roma led to officials not questioning the reasons given by the various National Socialist authorities to justify their sterilisation.

### *The Lack of Compensation for Psychological Damage*

In Roma compensation files the question of psychological damage arises most often, but not exclusively, in connection with forced sterilisation. Because any compensation payment was linked to a reduction in earning capacity, and because of the then contemporary academic opinion on the psychological long-term effects of persecution, it was quite rare that a victim received a pension for the psychological effects of persecution.

In the immediate post-war period, psychological suffering was generally acknowledged and often led to victims being given direct aid. At that time the suffered events were still in recent memory, and the German public was confronted with photos from the concentration camps and the war crime trials, which led to consternation and guilt. Whereas none of the state laws explicitly compensated for psychological damage, it was commonplace to acknowledge psychological damage and to provide aid and compensation to victims suffering from such damage.<sup>54</sup> However, in the 1950s, this implicit recognition of psychological damage ended, as the prevailing medical opinion maintained that, whilst stressful situations could lead to psychological damage, negative effects would fade with time once the causal factors disappeared, and that this would not lead to permanent health damage.<sup>55</sup> This theory was based on the experiences of the consequences of the First World War, after which it was concluded that the psyche

<sup>54</sup> Schmelting, *Nicht Wieder Gut zu Machen*, p. 61.

<sup>55</sup> S. Goltermann, 'Kausalitätsfragen. Psychisches Leid und psychiatrisches Wissen in der Entschädigung', in Frei, Brunner, Goschler, *Die Praxis der Wiedergutmachung*, pp. 427–451.

of adults could not permanently be damaged, and that any permanent damage was a sign of endogenous mental instabilities. The body was regarded as a system made up of various organs, and if all of these functioned, the system was believed to be intact. Ben Shephard argues that in post-war Germany psychiatric opinion had not changed since the aftermath of the First World War, when it was believed that war neuroses were not the result of traumas experienced, but were caused by a secondary psychological mechanism, and were often brought on by the desire for compensation. As a result, after the Second World War, it was common practice in West Germany (in contrast to Britain) to ensure that German soldiers did not benefit from having developed psychological problems.<sup>56</sup> It was not until the late 1950s that psychiatrists in West Germany first began to acknowledge publicly that delayed psychological damage in former persecution victims was exclusively linked to the extreme conditions endured in the concentration and work camps; conditions that could not be compared with other existential hardships such as those experienced by prisoners of war.<sup>57</sup> This was based on the realisation that National Socialist persecution had been a completely new dimension of suffering, which could lead to deep and at times irreparable wounds, permanently altering the victim's personality. This opinion was most prominently voiced by Dr Ulrich Venzlaff in an article published in *Rechtsprechung zum Wiedergutmachungsrecht* in 1959.<sup>58</sup> He argued that doctors examining persecution victims should not adhere to the theories of the older psychiatric generation, who still believed that the psyche could overcome any kind of trauma. Venzlaff was particularly adamant that the experiences of victims of racial persecution should not be compared to those of German bombing victims or soldiers whose fate Germans so often compared with that of victims of National Socialism: 'The comparison to someone attempting to shake off his front line experiences upon his return to the communications zone can only be seen as blasphemous in this context, and, in a report of this nature, as an unfortunate faux pas.'<sup>59</sup> The studies of the medical examiner at the West German consulate in New York, William G. Niederland, had a major influence on the medical opinion of the time. These studies were based on examinations of Holocaust survivors making compensation claims from within the United States. Niederland fought against the failure to separate the body from the soul and insisted that the psychological effects of persecution were permanent. He described coming into contact with these symptoms as follows:

<sup>56</sup> B. Shephard, *A War of Nerves* (Jonathan Cape, London, 2000), pp. 299–300.

<sup>57</sup> For a recent study of psychologists involved in compensation cases see M. Rieck, G. Eshet, 'Die Bürden der Experten. Gespräche mit deutschen und israelischen Psychiatern über ihre Rolle als Gutachter in Entschädigungsverfahren', in Frei, Brunner, Goschler, *Die Praxis der Wiedergutmachung*, pp. 452–469.

<sup>58</sup> U. Venzlaff, 'Grundsätzliche Betrachtungen über die Begutachtung erlebnisbedingter seelischer Störungen nach rassischer und politischer Verfolgung', in *RzW* 1959, Heft 7, pp. 289–292.

<sup>59</sup> Venzlaff, 'Grundsätzliche Betrachtungen über die Begutachtung erlebnisbedingter seelischer Störungen nach rassischer und politischer Verfolgung', p. 291: 'Der Vergleich mit den nach Rückkehr in die Etappe abgeschüttelten Fronterlebnissen erscheint hier nur noch als Blasphemie und in Gutachten als bedauerlicher faux pas.'

My colleagues and I first encountered these tortured souls while serving on the psychiatric staff at New York City's Mount Sinai hospital in the late 1940s. At first, we diagnosed these unfortunates – who had come to the United States after having survived not only the concentration camps but also the postwar displaced person camps – as suffering from depression, and treated them accordingly. It was only after several years that I began to note that there was much more to their condition, complaints, and symptoms than a state of depression. The symptoms, we came to realize, affected not only the survivors, but their families as well.<sup>60</sup>

Niederland coined the term 'survivor syndrome' in various publications in the 1960s.<sup>61</sup> His definition of survivor syndrome described it as a prevailing depressive mood, general apathy, feelings of insecurity and helplessness, a severe guilt complex for having survived whilst others died, a range of somatic and neuralgic pains, anxieties and agitations, and permanent personality changes.<sup>62</sup> In his publications, he also established that one of the effects of persecution could be hypermnnesia, the opposite of amnesia, i.e. an extreme and vivid capacity for remembering. Yet, Niederland argued that, in practice, most Holocaust survivors tended to understate rather than exaggerate the effects of persecution.<sup>63</sup> In Niederland's opinion, it was not so much the financial benefits of compensation that helped the survivors, but rather the acknowledgement of their suffering, which the compensation payments expressed.<sup>64</sup>

In 1964, the neurologist Walter von Bayer supported Niederland's theory by showing that the damage done to one's psyche did not need to be pathologically apparent (examining doctors had argued that, because psychological damage did not lead to pathologically noticeable damage, it should not be taken into account when it came to compensation payments):

This was something entirely unprecedented: chronic, extremely persistent, complaints that did not respond well to therapeutic treatments; diminished productivity, changes to the social personality that have resulted from the horrific physical-psycho-social experiences of persecution in the individuals' biography and for which there is little or no organic cause or neuropathological

<sup>60</sup> W. G. Niederland, 'The clinical aftereffects of the Holocaust in survivors and their offspring', in R. L. Braham, *The Psychological Perspectives of the Holocaust and of its Aftermath* (Boulder, N.Y., 1988), pp. 45–52, here p. 45.

<sup>61</sup> W. G. Niederland, 'Psychiatric disorders among persecution victims: a contribution to the understanding of concentration camp pathology and its after-effects', in *Journal of Nervous and Mental Diseases*, 139 (1964), pp. 458–474; W. G. Niederland, 'The problem of the survivor', in H. Krystal, (ed.), *Massive Psychic Trauma* (International Universities Press, N.Y., 1968), pp. 8–46; for a definition of this term see Niederland, 'The clinical aftereffects of the Holocaust in survivors and their offspring', pp. 45–52.

<sup>62</sup> Niederland, 'The clinical aftereffects of the Holocaust in survivors and their offspring', p. 46.

<sup>63</sup> W. G. Niederland, *Folgen der Verfolgung. Das Überlebenden-Syndrom Seelenmord* (Suhrkamp, Frankfurt am Main, 1980), pp. 230–235 (Niederland first published his research in Germany in 1980, but had published his findings before in American medical journals. See, for example, Niederland, 'Psychiatric disorders among persecution victims', pp. 458–474).

<sup>64</sup> Niederland, *Folgen der Verfolgung*, p. 235.

explanation; they very rarely left the impression of a tendentious, exaggerated, “compensation-neurotic”, partly or wholly fabricated maladjustment.<sup>65</sup>

Essentially, in the first ten to fifteen years after the war no medical opinion acknowledged what was later to become known as ‘post-traumatic stress disorder’ (PTSD). Whereas traumatic reactions to events such as the First World War had been described in literature, it had not been acknowledged by the medical world that such stress could have a long-term impact on the sufferer. The Vietnam War led to psychiatric research on combat-related trauma, particularly in the United States, which in the 1960s and early 1970s was increasingly compared to the trauma caused by the First World War. Typical symptoms of post-traumatic stress disorder were described as including a continuous re-experiencing of the traumatic events and a general numbing and anxiety – often combined with depression.<sup>66</sup> Former prisoners of war in Japan were studied to establish more detail on post-traumatic stress disorder, and an American study of such prisoners showed that seventy-eight percent of these former prisoners of war had a lifetime diagnosis of post-traumatic stress disorder, compared to twenty-nine percent of the soldiers who had fought in Japan but had not been prisoners of war.<sup>67</sup> The studies in America established that the more severe the stress – for example, the more endangered the life of the sufferer at the time or the more severe the pain, torture or humiliation – the more severe the post-traumatic stress disorder would be after the event; this suggests that in the case of concentration camp survivors, this disorder would be at its most severe. In addition the symptoms were more likely to be caused if stress had been prolonged or repeated, as was the case with concentration camp survivors.

Because of the lack of research in the early days of compensation, many survivors who could have suffered from post-traumatic stress disorder were described as so-called ‘compensation neurotics’ (*Rentenneurotiker*). The view was that the psychological damage to victims claiming compensation had nothing to do with persecution, but was imagined and exaggerated in order to receive a pension payment. If these wishes were granted, it was believed that the neuroses would increase, as any form of compensation would reinforce the conviction that the

<sup>65</sup> Niederland, *Folgen der Verfolgung*, p. 9: ‘Es war hier etwas Neues in Erscheinung getreten: chronische, äußerst hartnäckige, therapeutisch wenig beeinflussbare Beschwerden, Leistungsmängel, Veränderungen der sozialen Persönlichkeit, die sich bei fehlendem oder gering ausgeprägtem Organbefund, hirnpathologisch nicht erklärbar, in biographischer Kontinuität aus den furchtbaren, leiblich-seelisch-sozialen Schicksalen der Verfolgung entwickelt haben und nur in den wenigsten Fällen den Eindruck einer tendiziösen, rentenneurotischen, übertreibenden, ganz oder halbwegs gewollten Fehleinstellung hinterlassen.’

<sup>66</sup> A. Förster, B. Beck, ‘Post-traumatic stress disorder and World War II: can a psychiatric concept help us understand postwar society?’, in R. Bessel, D. Schumann, *Life after Death: Approaches to a Cultural and Social History of Europe during the 1940s and 1950s* (Cambridge University Press, Cambridge, 2003), pp. 15–35, here pp. 16–18.

<sup>67</sup> P. B. Sutker, A. N. Allain, D. K. Winstead, ‘Psychopathology and psychiatric diagnoses of World War II Pacific theatre prisoner of war survivors and combat veterans’, in *American Journal of Psychiatry* 150 (1993), pp. 240–245.

claimant was in fact ill.<sup>68</sup> The German psychiatrist Karl Bonhoeffer (1868–1948), father of the protestant theologian Dietrich Bonhoeffer (1906–1945), developed this concept of ‘compensation neurosis’ (*‘Rentenneurose’*) in the aftermath of the First World War. Interestingly, Bonhoeffer was later a consultant for the Hereditary Health Law, recommending in 1941 the sterilisation of ‘half-Jews’. Bonhoeffer described this sort of neurosis as a disturbance resulting from the availability of pensions or compensation by individuals who were predisposed to traumatic neuroses.<sup>69</sup> This was taken up by the psychiatrist Abram Kardiner who, based on work with veterans of the First World War, believed that, since the traumatic pathology was socially accepted and at the time financially rewarded, their presence could be partially explained by secondary gain.<sup>70</sup>

It is clear from the case of Adolf L. that what would become known as post-traumatic stress disorder was not recognised as suffering in 1956. The idea that these psychological disturbances could lead to physical symptoms that could not be fully explained by a medical condition was not considered. Instead, he was described as a ‘compensation neurotic’:

From a qualified psychiatric standpoint, the numerous subjective complaints registered by the patient are thus not congruent with the objective result of the examination, but rather expressions of a reaction that is driven by a desire to secure pension payments ... His emotional profile, despite his emphatic self-pity, is marked by an elevated, demonstratively comical undertone ...<sup>71</sup>

Adolf L. also seems to have been an alcoholic after the war, but it was never questioned whether this was in any way a consequence of his experiences (post-traumatic stress disorder often leads to alcohol and drug problems).<sup>72</sup> Instead, officials noted handwritten comments of a highly pejorative nature in the margins of his claim documents: ‘probably from boozing! L. has, as far as I am aware, undergone rehabilitation’, and ‘ALCOHOL ABUSE’.<sup>73</sup> These comments demonstrate the disbelief and disrespect of the bureaucrats dealing with this claim, as well as a lack of awareness that alcoholism in itself could be an expression of deep-rooted psychological damage resulting from persecution. It further demonstrates how

<sup>68</sup> Venzlaff, ‘Grundsätzliche Betrachtungen über die Begutachtung erlebnisbedingter seelischer Störungen nach rassischer und politischer Verfolgung’, pp. 289–290.

<sup>69</sup> For more information on Bonhoeffer, see the biography by K.-J. Neumärker, *Klaus Bonhoeffer. Leben und Werk eines deutschen Psychiaters und Neurologen in seiner Zeit* (Hirzel, Leipzig, 1990).

<sup>70</sup> D. M. Bichescu, ‘Long-Term Consequences of Political Detention and Torture in Aged Victims: a Clinical and Psychophysiological Assessment and Treatment Study on a Romanian Sample’ (Dissertation submitted in 2006 at the University of Konstanz), p. 32.

<sup>71</sup> Adolf L., Zg. 41/1992 Nr. 1489, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: ‘Die zahlreich subjektiven Klagen des Untersuchten stehen daher mit dem objektiven Untersuchungsergebnis – was das nervenärztliche Fachgebiet angeht – nicht im Einklang, sondern sind Ausdruck einer durch Rentenbegehren gesteuerten Reaktion. ... Affektiv wirkt er trotz einer betonten Wehleidigkeit eher gehoben mit demonstrativ-komödiantischer Note ...’

<sup>72</sup> Förster, Beck, ‘Post-traumatic stress disorder and World War II’, pp. 17–18.

<sup>73</sup> Adolf L., Zg. 41/1992 Nr. 1489, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: ‘wahrscheinlich vom Saufen! L. hat m.W. eine Entziehungskur gemacht!’ ‘ALCOHOLABUSUS’.



different the internal and official language could be, as no claim justification would ever have included such crude references to the claimant's alleged alcoholism.

Very little research has been done on the psychological effects persecution had on Roma. This is probably not so much the result of a belief that psychological effects are the same across culturally distinct victim groups, but rather the result of neglect of the Roma as a minority group. The psychiatrist Dr Reinhart Lempp wrote a short paper on this topic in 1994,<sup>74</sup> arguing that Roma in particular seem to have problems identifying and thus expressing the psychological damage from which they might have suffered since the onset of persecution. In Lempp's view, Roma regarded the ensuing depression, nightmares or anxiety attacks as normal (which, in a sense, they in fact were), and thus they did not tend to address them or demand compensation for them. Instead, when asked what their symptoms had been since persecution, Roma tended to mention only specific physical ailments. Because Roma at times lacked the language or concepts to pinpoint the effects persecution had on them, it took a particularly experienced or interested examining doctor to pick up the more subtle comments which point towards the psychological harm done. This is exemplified by Lempp's report of a sixty-year-old Rom who, at the end of a consultation in which only physical troubles had been reported, mentioned that she would visit relatives in Vienna. In reaction to Lempp's question about the train's departure time, she told him that she had not taken a train since 1945. She explained that ever since her deportation she had felt an insurmountable fear when it came to train journeys. Lempp identified this as a persecution-related phobia, of which his patient had not consciously been aware and thus she had not mentioned it as an impediment.<sup>75</sup>

There are only nine cases in the Münster and Wolfenbüttel files of Roma making claims specifically for psychological damage.<sup>76</sup> Of these, five were victims of forced sterilisation, and in these cases the psychological damage was linked to the sterilisation. In eight cases, specialist neurological examinations were undertaken. In three of these cases, the examining doctors found no reduction in earning capacity, and in the five other cases, it was fixed between twenty-five and forty percent; thus high enough for the victim to qualify for the basic compensation pension. This suggests that the doctors fixed the amounts in order to have a clear-cut case under the law – i.e. either above the minimum required

<sup>74</sup> R. Lempp, 'Spätfolgen bei Sinti und Roma', in J. Wiese, E. Olbrich, (eds), *Ein Ast bei Nacht kein Ast. Seelische Folgen der Menschenvernichtung für Kinder und Kindeskinde* (Vandenhoeck & Ruprecht, Göttingen, 1994), pp. 52–60.

<sup>75</sup> Lempp, 'Spätfolgen bei Sinti und Roma', p. 55.

<sup>76</sup> Adolf L., Zg. 41/1992 Nr. 1489, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Bozena S., Zg. 22/2003 Nr. 29, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Harry P., Zg. 50/2004 Nr. 21, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Gerda S., Zg. 22/2993 Nr. 604, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Siegmund L., Zg. 22/2003 Nr. 668, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Anna L., Zg. 22/2003 Nr. 2310, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Heinrich L., Zg. 22/2003 Nr. 1008, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Horst P., Zg. 22/2003 Nr. 605, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Heinz P., Zg. 22/2003 Nr. 603, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

percentage, or at zero. Six of these ten victims received compensation, two of whom were sterilisation victims, and one received compensation for physical, rather than psychological damage. All of the cases where neurological examinations were done date from the post-Final Federal Compensation Law period, i.e. between 1965 and 1967, reflecting the above-mentioned shift in medical opinion regarding psychological damage. It seems that in the other cases, a neurological examination was suggested by the victims' lawyers, which might imply that the victims did not realise that the psychological problems they were experiencing constituted a damage for which they could claim compensation. These are cases when victims regarded certain consequences as 'normal' and thus had not explicitly stated them, just as in the above-mentioned case of Lempp's patient.

In two cases the new medical opinions of the 1960s were adopted and used as justifications for a reduction in earning capacity and thus a pension. In the case of Siegmund L.,<sup>77</sup> the examining neurologist and psychologist Dr James Lutz from Hanover made it very clear that Siegmund L.'s persecution had permanently harmed his psyche. He recorded his observations in August 1967:

For many years, the psychosomatic strains and deprivations suffered by concentration camp inmates have been well-known. Herr L. developed dystrophy from constant hunger.<sup>78</sup> He became a *Muselman*.<sup>79</sup> He was abused multiple times, which was alleged to have resulted in scarring to the skull, a concussion and partial loss of hearing in the left ear. Herr L. survived an illness that most likely involved a prolonged disturbance of consciousness associated with an infectious disease. He claims to have developed cardiac and gastric conditions from his time in the concentration camp. Herr L. was stripped of his 'human' dignity. He lost his faith in 'humanity'.<sup>80</sup>

It is not clear whether this is the voice of the examining doctor or whether these words were expressed as such by Siegmund L., but it seems plausible that

<sup>77</sup> Siegmund L., Zg. 22/2003 Nr. 668, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>78</sup> The phenomenon of hunger dystrophy was increasingly noted after the war, not only amongst concentration camp victims, but also amongst German prisoners of war in the late 1940s. See for instance, A. Hilger, *Deutsche Kriegsgefangene in der Sowjetunion 1941–1956. Kriegsgefangenenpolitik, Lageralltag und Erinnerungen* (Klartext, Essen, 2000) pp. 127–137, 165–172.

<sup>79</sup> The word '*Muselman*' (German for Muslim) was used in the concentration camps to describe prisoners on the edge of death who had surrendered to their fate, showing severe symptoms of hunger disease, physical exhaustion and mental indifference. The term, mostly used at Auschwitz, is said to have been derived from the 'oriental' way these prisoners used to squat, with their legs tucked in.

<sup>80</sup> Siegmund L., Zg. 22/2003 Nr. 668, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Es ist seit vielen Jahren bekannt, welche psychosomatischen Belastungen und Entbehrungen KL-Häftlinge erleiden mussten. Durch den ständigen Hunger kam es bei Herrn L. zu einer Dystrophie. Er wurde ein *Muselman*. Er wurde mehrfach misshandelt. Durch die Misshandlung soll es zu Schädelnarben, zu einer Gehirnerschütterung und einer Verminderung des Hörenkönnens links gekommen sein. Herr L. machte eine Krankheit durch, bei der es sich höchstwahrscheinlich um eine mit längerer Bewusstseinsstörung einhergehende Infektionskrankheit gehandelt haben dürfte. Er will durch die KL-Zeit herz- und magenleidend geworden sein. Herr L. erlebte seine Entwürdigung als '*Mensch*'. Er verlor den Glauben an die '*Menschheit*'.'

the former interpreted the expressions of the latter. Dr Lutz went on to show that, whilst physically the dystrophy did not cause any neurological damage, the psychological damage was significant. Diagnosing dystrophy was a new phenomenon in the medical and psychiatric profession after the Second World War, and was most commonly used to describe the psychological and physiological effects of starvation experienced by prisoners of war returning from camps in the Soviet Union. Importantly, the medical profession believed that the prolonged lack of protein in the prisoners' diets led both to physical deficits (such as high blood pressure, liver and kidney damage, and hormonal disorders)<sup>81</sup> and psychological damage (such as depression, apathy and irritability).<sup>82</sup> Dr Lutz clearly believed Siegmund L. to have suffered long-term damage, comparing his symptoms with the 'concentration camp syndrome', which was being described in the more recent publications:

Psychologically, Herr L. presented the typical 'concentration camp syndrome' as we have come to know it from the literature of the past ten years ... Herr L. has suffered from the concentration camp syndrome since 1945. His condition will not improve. The reduction of earning capacity in the case of concentration camp syndrome is estimated at 40% based on evaluations of persecutees.<sup>83</sup>

This report meant that the examining doctor believed that Siegmund L. was only at a sixty percent working capacity. As a result Siegmund L. received a pension to compensate the lost forty percent, retrospectively from 1953 onwards. This amounted to a one-off payment of 22,957 German Marks and a future monthly pension, and was determined by placing him in one of the civil servant pay categories. He received forty percent of the pension a civil servant in that category would receive.

Dr Lutz seems to have been particularly interested in the psychological consequences of persecution, and argued emphatically against the prevailing system of thought. The compensation file of Alfred L. (the brother of Siegmund L.) contains a very detailed, 65-page-long psychiatric assessment, privately commissioned in 1966.<sup>84</sup> As this was an independent report (i.e. not done by a compensation authority medical officer), one can assume that interest prevailed over duty.

<sup>81</sup> The German medical profession regarded sexual unresponsiveness as one of the consequences of dystrophy, which led to worries about the returning German prisoners of war being 'impotent heroes'. There were even a few reports in the 1950s which suggested that whilst the improved nutrition for prisoners of war after their release reawakened sexual desire, it sometimes tended in a homosexual direction. Moeller, *War Stories*, p. 108.

<sup>82</sup> F. Biess, *Homecomings: Returning POWs and the Legacy of Defeat in postwar Germany* (Princeton University Press, Princeton, 2006), pp. 71–73.

<sup>83</sup> Siegmund L., Zg. 22/2003 Nr. 668, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'In psychischer Hinsicht bot Herr L. ein typisches 'KZ-Syndrom' wie es durch die Literatur der letzten 10 Jahre genauer bekannt geworden ist ... . Das KZ-Syndrom besteht bei Herrn L. seit 1945. Es wird sich auch nie mehr bessern. Das KZ-Syndrom ist auf Grund der bei Verfolgten gemachten gutachterlichen Erfahrungen mit einer MdE von 40% zu schätzen.'

<sup>84</sup> Alfred L., Zg. 50/2004 Nr. 22, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

Alfred L. had been deported to Auschwitz in 1943 and filed a claim in 1966 for damage done to body and health, as he suffered from migraine with dizziness and nervous tiredness. The issues reported by Dr Lutz also included constant shame and anxieties, breathlessness, dizziness, nightmares and a daily sadness. Dr Lutz explicitly emphasised that he did not regard Alfred L. as a 'compensation neurotic'. This statement does not necessarily mean that Dr Lutz believed in the concept of 'compensation neurosis'. Instead, it is likely that Dr Lutz felt the need to mention this point as, having acted in other compensation cases, he probably anticipated that this issue would be raised or used as a justification to reject a claim. In addition, he ruled out the possibility that Alfred L.'s complaints were the result of endogenous psychological instabilities, emphasising that he was not a malingerer.<sup>85</sup> Endogenous neurosis was the most frequently cited argument for not classifying people with psychological problems as having persecution-related damage. Dr Lutz not only seems to have been reading widely with regard to the new developments in the area of psychology (which is exemplified by the many citations in his report, including various articles from the journal *Der Nervenarzt* (The Psychiatrist)),<sup>86</sup> but also with regard to the persecution of the various victim groups during the Third Reich. He maintained that he did so in order to better understand the potential symptoms suffered by the victims he examined. As in the case of Siegmund L., Dr Lutz concluded that he could not see these psychologically induced symptoms ever disappearing, i.e. he did not believe in the separateness of the psyche from the body, an idea supported by so many psychiatrists at that time.

Whilst Dr Lutz talked specifically about what happened to Alfred L., and the effects it had on Alfred L.'s psyche, he drew some general conclusions which seem very much to be convictions he wanted to convey to the compensation authorities:

The rule of prevailing dogma has collapsed: there is no longer any doubt that psychological trauma can also inflict irreversible damages. These damages are deeply rooted in the patient and become entrenched in his physiognomy. They are not symptoms of the subject's compensation neurosis because they were exhibited before any kind of pensions for damages incurred in the concentration camp were made available. The permanent damages resulting from emotional trauma did not develop in the camp while the actual physical suffering occurred, but appeared later, after the symptoms of alimentary dystrophy had subsided.

<sup>85</sup> 'I am convinced, with absolute certainty, that there are no indications of an endogenous depression or any symptoms of any other form of psychosis in Herr L. ... He did not respond to opportunities for simulation.' 'Es ist nach meiner Überzeugung absolut sicher, daß bei Herrn L. keine Zeichen einer endogen bedingten Depression bzw. keine Symptome einer durchgemachten andersartigen Psychose vorliegen. ... Zur Simulation gebotene Möglichkeiten wurden nicht angenommen.', Neurological assessment of Alfred L. by Dr James Lutz (1966), Alfred L., Zg. 50/2004 Nr. 22, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>86</sup> For instance the following article: W. von Bayer, 'Die Freiheitsfrage in der forensischen Psychiatrie mit besonderer Berücksichtigung der Entschädigungsneurosen', in *Der Nervenarzt* 28 (1957), pp. 337–343.

These damages are expressed in anxiety dreams, sudden onset of episodes of intense fear and emotional hypersensitivity that continue to occur even when the former concentration camp inmate has long since been immersed in a humane environment supported by kindness and love.<sup>87</sup>

In this case, his conclusion was that there was a definite reduction in earning capacity purely based on the psychological damage, which he put at fifty percent: 'He can, in fact, societally speaking, in no way be described as a productive person who can support himself. He is entirely dependent on the social position of his close family.'<sup>88</sup>

The case of Alfred L. shows again that examinations by various doctors led to very different results, particularly in the case of psychological damage. Dr Thelen, the chief physician at the neurological department of the Frederikenstift in Hanover, was asked by the President of the Administrative Headquarters to examine Alfred L. anew. In his June 1967 report, he stated that persecution-related depressions were in general difficult to diagnose: 'The magnitude of the "*Knick in der Lebenslinie*" (critical breakpoint in the individual's development) brought about as a result of persecution is by nature difficult if not impossible to ascertain objectively.'<sup>89</sup> This suggests that Dr Thelen was not convinced by theories such as those proposed by Nederland, though his decision in the case of Alfred L. shows that he did not want to rule out the possibility of persecution being a traumatic experience with long-term effects on the victim's life. However, he qualified the depression following traumatic experiences as a 'reactive' rather than 'real' depression. Dr Thelen thus acknowledged that there was some kind of depression and because, in the case of Alfred L., this depression could not be clearly explained by any events preceding or following persecution, he conceded the possibility that the depression could potentially be persecution-related and awarded a thirty percent reduction in earning capacity, which would entitle Alfred L. to a pension.<sup>90</sup> By acknowledging a reduction in earning capacity of five

<sup>87</sup> Neurological assessment of Alfred L. by Dr James Lutz (1966), Alfred L., Zg. 50/2004 Nr. 22, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Dieses Gesetz einer herrschenden Lehre ist gefallen: Es ist nicht mehr länger zu bezweifeln, daß auch ein psychisches Trauma irreversible Schäden setzen können. Diese Schäden wurzeln tief in der Person und graben sich in die Physiognomie ein. Sie sind nicht eine Erscheinung der rentenneurotischen Einstellungen der Probanden, denn sie bestanden schon, bevor es die Renten für im KZ erlittene Schäden gab. Die durch seelische Traumata entstandenen Dauerschäden haben sich nicht im Lager, nicht während der körperlichen Leidenszeit entwickelt, sondern erst, nachdem die Symptome der Hungerdystrophie verschwunden waren. Sie äußern sich in Angstträumen, krisenhaften anschwellenden Angstvorstellungen und seelischen Überempfindlichkeiten, die auch immer wieder ausbrechen, wenn der ehemalige KZ-Häftling längst wieder in eine menschliche, von Güte und Liebe getragene Umgebung eingebettet wurde.'

<sup>88</sup> Medical report by Dr Lutz (June 1967), Alfred L., Zg. 50/2004 Nr. 22, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Er kann tatsächlich in sozialer Beziehung keinesfalls als leistungsfähiger Mensch angesprochen werden und "sein Brot" verdienen. Er ist eben einfach von der sozialen Situation der engeren Familie restlos abhängig.'

<sup>89</sup> Medical report by Dr Thelen (June 1967), Alfred L., Zg. 50/2004 Nr. 22, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Das Ausmaß des verfolgungsbedingten "*Knicks in der Lebenslinie*" läßt sich naturgemäß nur schwer, wenn überhaupt, objektiv feststellen.'

<sup>90</sup> 'This medical condition cannot be traced with sufficient certainty to any damage incurred

percent above the required minimum of twenty-five percent, he made a clear point in favour of a pension – almost as if he adhered to the principle of *in dubio pro reo*. The effort to obtain a second expert opinion on behalf of the compensation authority suggests that the compensation authority had hoped for a lower, or even a zero percent estimate, which would have saved it from awarding a pension to the claimant. The compensation authority took the lower (and thus cheaper) of the two classifications, the thirty percent given by Dr Thelen, as the basis for Alfred L.'s pension. Consequently, Alfred L. was granted the minimum pension in 1968, retrospectively from July 1956.

The two discussed areas of compensation which posed a difficulty for Roma – forced sterilisation and psychological damage – have one thing in common: in that neither are problems specific or exclusive to Roma. In addition to the psychological damage, they suffered from their relative inability to secure compensation for this. It was a difficult undertaking for victims of the Hereditary Health Law to gain recognition of the fact that their sterilisation constituted injustice, and it involved a distressing and potentially traumatising process of undergoing the same kind of examinations that had originally led to the sterilisation order. The next difficulty was that, even if the sterilisation was acknowledged to have been unlawfully ordered, the simple fact of having been robbed of one's fertility did not entitle the claimant to any compensation. The nature of the Compensation Law was such that only the effects persecution had on the claimant's capacity to work would be compensated, which is why most sterilisation victims missed out on compensation pensions. Victims of unlawful sterilisations were offered refertilisation programmes, but these were frequently described as distressing, especially given their extremely low success rate. Particularly in those cases where Roma had been sterilised as part of medical experiments, refertilisation attempts were regarded as an unacceptable, renewed intrusion on the victim's personal life. What made the case of Roma sterilisation victims stand out was the fact that the majority of Roma had not been sterilised under the Sterilisation Law, and thus no court orders existed that could be revoked. In the case of the Roma's forced sterilisation, written documents proving their unlawfulness did not exist in the majority of cases, so it was tremendously difficult to prove the unlawfulness of these sterilisations. But even if the forced sterilisations that had taken place during the war were accepted as unlawful, the classification of the effect of such a sterilisation on the victim's mind, and then the assessment of whether such psychological damage had led to an impediment of the victim's working capacity, were highly subjective, as can be seen from the very different decisions made in the cases of the four siblings Harry, Gerda, Horst and Heinz P., cited above.

This same issue of objectivity was the problem in many of the cases assessing psychological damage. Just as the standard medical opinion of the 1950s (which outside the time of incarceration. 'Diese Gesundheitsstörung kann nicht mit genügender Sicherheit auf außerhalb der Inhaftierungszeit erfolgte Schädigung zurückgeführt werden.' Medical report by Dr Thelen (June 1967), Alfred L., Zg. 50/2004 Nr. 22, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

assumed that a sterilisation would lead to no physical damage) worked to the disadvantage of sterilisation victims, the lack of medical understanding of the severe psychological consequences of persecution, particularly imprisonment in a concentration camp, also jeopardised their chances of gaining compensation. The case of the Roma was further complicated by the fact that they often failed to mention anything but physical problems, where they could see a direct link to their persecution, during medical examinations. Psychological problems were often either regarded as 'normal' or they did not manifest until many years after the end of persecution (as, for instance, in those cases where a young Rom had been sterilised during the war, where the realisation of the effects might come years after liberation) so that the link to persecution was not made.<sup>91</sup>

Had the Roma been regarded as a victim group from the beginning, measures such as their forced sterilisation independent of the Hereditary Health Law probably would have been classified as a means of racial persecution. Instead, the Roma formed sub-sections of various other victim groups, which in themselves had not been paid due attention, or had simply been rejected as victims.

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<sup>91</sup> Lempp, 'Spätfolgen bei Sinti und Roma', pp. 52–60.

## Chapter 6: The Struggle for Recognition

### *Doubting the Roma's German Nationality*

In an attempt to keep a cap on spending, the West German government had linked compensation payments to the so-called territorial principle (*Territorialitätsprinzip*). This meant that a claimant could claim compensation only if, first, the claimant had been resident within the German borders of 1937 before persecution, secondly, had returned to the Western zones by 1947, and, thirdly, possessed German nationality.<sup>1</sup> It was not taken for granted by compensation officials that Roma were German; in particular, Roma with darker skin were frequently regarded as foreign. This was an unfair and prejudiced assumption, as, contrary to popular opinion, most Roma did in fact possess German nationality.<sup>2</sup> The majority of German Roma could prove their presence in Germany over many generations, and the biographical material has clearly shown that German Roma regarded themselves as German first and foremost.

Up until the German Nationality and Citizenship Law (*Reichs- und Staatsangehörigkeitgesetz*) of 1913 the principle of *ius soli* (birthright citizenship) had been enforced in all German states. This meant that whoever was born in a German state received German citizenship. This was explicitly replaced with the *ius sanguinis* (right of blood) in this 1913 Citizenship Law, which meant that only people who had a German father, were married to a German, or were naturalised were regarded as German nationals.<sup>3</sup> Persons who were not considered ethnically German but had previously held German citizenship through birth in a German state could retain this citizenship and pass it on to their children.<sup>4</sup> According to Dieter Gosewinkel, the clear-cut connection between ethnicity and nationhood only began to develop during the *Kaiserreich* (1871–1918), as a means of creating unity at a time of political

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<sup>1</sup> As West Germany had made several settlements with other nations (most prominently the 1952 Luxembourg Agreement, a one-off three billion German Marks compensation payment to the state of Israel), compensation to foreign nationals was distributed via these channels.

<sup>2</sup> Friedlander, *The Origins of Nazi Genocide*, p. 248.

<sup>3</sup> Reichs- und Staatsangehörigkeitgesetz (RuSTAG), 22.7.1913, in *Reichsgesetzblatt*, p. 583, here § 3.

<sup>4</sup> For more information on nationality in nineteenth- and twentieth-century Germany, see C. Conrad, J. Kocka, *Staatsbürgerschaft in Europa. Historische Erfahrungen und aktuelle Debatten* (Körber-Stiftung, Hamburg, 2001), particularly the chapter by D. Gosewinkel, 'Staatsangehörigkeit in Deutschland und Frankreich im 19. und 20. Jahrhundert', pp. 48–62.



weakness, but it did not become evident and dominant until after the First World War, as a reaction to defeat and the loss of overseas colonies and of Eastern territories to Poland. In the ensuing period of economic and political upheaval, nationalism became more widespread, leading to a concept of ethnic nationality.<sup>5</sup>

While certain Jews and Roma had been classified as German before the war, the Nuremberg Race Laws deprived all those regarded by the National Socialists as non-Germans of their citizenship. The previously cited Hugo H. clearly stated that it had been the National Socialist racial policies which for the first time in his life had made him feel like a Sinto, rather than a German, whereas previously he had felt like a Sinto and a German at the same time.<sup>6</sup> This serves to show that the differentiation between Germans and Roma came as a surprise to many Roma, just as the differentiation between Germans and Jews had taken aback many German Jews. Paragraph 2, section 1 of the law regulating *Reich*-citizenship (*Reichsbürgergesetz*), which was one of the Nuremberg Laws of 15 September 1935, stated that 'A citizen of the Reich is only that citizen who is German or related blood',<sup>7</sup> which, according to the National Socialists, excluded Roma. The 1949 *Grundgesetz* defined German citizenship and rectified the situation of victims of National Socialism who had thus been deprived of their citizenship as follows:

(1) Unless otherwise regulated by law, a German within the meaning of this Federal Basic Law (*Grundgesetz*) is a person who possesses German citizenship or who has been admitted to the territory of the German Reich, as it existed on December 31, 1937, as a refugee or expellee of German stock or as the spouse or descendant of such person. (2) Former German citizens who, between 30 January 1933 and 8 May 1945, were deprived of their citizenship for political, racial or religious reasons, and their descendants, shall be re-granted German citizenship on application.<sup>8</sup>

However, this principle was neither generally nor liberally applied to Roma. The issue of nationality was broached in a circular of 26 August 1952 by the Interior

<sup>5</sup> Gosewinkel, 'Staatsangehörigkeit in Deutschland und Frankreich im 19. Und 20. Jahrhundert', pp. 57–58.

<sup>6</sup> Hugo H., SHOAH, 50119 (1999).

<sup>7</sup> Reichsbürgergesetz, in *Reichsgesetzblatt* (Berlin, 1935), p. 1146: 'Reichsbürger ist nur der Staatsangehörige deutschen oder artverwandten Blutes ...'

<sup>8</sup> Paragraph 116, Grundgesetz vom 23. Mai 1949, in *Bundesgesetzblatt* I, p. 1, modified on 28 August 2006, *Bundesgesetzblatt* I, p. 2034: '(1) Deutscher im Sinne dieses Grundgesetzes ist vorbehaltlich anderweitiger gesetzlicher Regelung, wer die deutsche Staatsangehörigkeit besitzt oder als Flüchtling oder Vertriebener deutscher Volkszugehörigkeit oder als dessen Ehegatte oder Abkömmling in dem Gebiete des Deutschen Reiches nach dem Stande vom 31. Dezember 1937 Aufnahme gefunden hat. (2) Frühere deutsche Staatsangehörige, denen zwischen dem 30. Januar 1933 und dem 8. Mai 1945 die Staatsangehörigkeit aus politischen, rassischen oder religiösen Gründen entzogen worden ist, und ihre Abkömmlinge sind auf Antrag wieder einzubürgern.'

Minister of Lower Saxony to the various offices and people in charge of compensation. This circular clearly showed that there was great suspicion surrounding Roma's claims to German nationality. The circular's recipients were instructed about how compensation officials ought to deal with Roma claims, pointing out that these directions were the result of specific problems encountered when dealing with Roma claimants:

Particular care must be taken in ascertaining the citizenship of Gypsies, if necessary with the help of relevant German Citizenship Agency (President of the Administrative Headquarters, President of Administrative District) ... if citizenship cannot be ascertained beyond doubt or if the claimant is determined to not be in possession of German citizenship, he is to be advised to go through the Special Relief Committee and apply to my department for a waiver of the German citizenship requirement.<sup>9</sup>

While this statement is a reflection of the problems Roma encountered with officials doubting their nationality, it is also a step forward as it offers a means of simplifying the claims of those Roma who had difficulty proving their nationality as a result of having lost the necessary documents. However, this directive would require the compensation official to take the extra step of informing the Rom claimant of this option. Given the general distrust Roma had towards German officials and bureaucracy, and the difficulty Roma had at times in dealing with bureaucratic procedures, it is likely that Roma claimants would not have regarded this statement as Roma-friendly, but instead as yet another example of how Roma had to fulfil extra requirements and overcome additional hurdles to receive compensation.

An exemption to the strict requirement of having lived within the German borders of 1937 was made for those who belonged to the so-called 'German linguistic and cultural circle'.<sup>10</sup> The lawmakers had those German Jews (not the expellees) in mind who had lived in parts of Europe which had either formerly been German (e.g. parts of Poland, Sudetenland) or where there had been a strong German influence (e.g. Baltic States, Romania), where Yiddish was spoken and the communities regarded themselves as German. The individual had no right to decide whether he belonged to this cultural-linguistic group; instead he had to be examined and acknowledged as culturally or linguistically German by the authorities. This process included interviews and a language test; a test which might be 'passed' by the Germans of the

<sup>9</sup> Circular of 26 August 1952 by the Interior Minister of Lower Saxony to the offices in charge of compensation, 4 Nds Präs, Zg. 47/2003 Nr. 28, NLA-Staatsarchiv Wolfenbüttel: 'Die Staatsangehörigkeit der Zigeuner ist mit besonderer Sorgfalt evtl. unter Einschaltung der zuständigen Staatsangehörigkeitsbehörde (Regierungspräsident, Präsident des Verwaltungsbezirks) einwandfrei zu klären ... Ist keine völlige Klärung möglich oder wird festgestellt, dass der Antragsteller nicht die deutsche Staatsangehörigkeit besitzt, ist ihm anheim zu geben, über den Sonderhilfssausschuß die Befreiung von dem Staatsangehörigkeitserfordernis bei mir zu beantragen.'

<sup>10</sup> 'deutscher Sprach- und Kulturkreis'.

Sudetenland who spoke German at home and who had the same customs as those Germans living within Germany. But the emphasis on shared cultural values could be used to exclude a minority group which, though having existed for the past six centuries in Germany, was deemed to have preserved their own culture, identity and language above that of the country in which they lived. The lawyer and compensation expert Walter Schwarz confirmed that with regard to compensation, those Stateless and Displaced Persons whose command of the written or spoken German language was weak, missed out financially.<sup>11</sup> Nevertheless, these people had classified themselves as Germans before the war, and continued to do so, especially if they returned to Germany after the war. The refusal to emigrate from Germany after the war, which is frequently voiced in interviews with Roma who had been persecuted during the Third Reich, is testimony to the strength of the bond to Germany, still considered the 'home country'. These interviews include testimonies of offers made by GIs during the aftermath of the war to Roma to help them with emigration,<sup>12</sup> and suggestions made by children of Roma survivors to leave Germany behind in view of their parents being increasingly scared of the resurging violence initiated – according to the survivors – by neo-Nazis after reunification.<sup>13</sup> Few of these proposals were taken up, because most Roma wanted to stay in their country of birth, their homeland Germany. In fact, one interviewee who had emigrated after marrying an American GI described how she regretted the decision to leave Germany and would not recommend emigration to anybody as it was too difficult to leave behind family and *Heimat*.<sup>14</sup>

The case of Josef B. shows how the issue of nationality could be a major hurdle for Roma seeking compensation.<sup>15</sup> Josef B. had applied for compensation in 1954 for having been deported from the Sudetenland to Auschwitz (and then Buchenwald) in March 1943. As he had no documents proving his German nationality, he had been classified as stateless. Because of this status, his application for emergency relief (*Soforthilfe*) for returning emigrants was rejected in February 1952. In the decision it said that the claimant had to be considered stateless, rather than a Displaced Person, given that 'because of his heritage, his upbringing, and his culture, he cannot be considered a member of the German people'.<sup>16</sup> A further negative decision (14 June 1957) against the claimant's appeal stated that the claimant could not be classified as a German:

<sup>11</sup> W. Schwarz, 'Die Wiedergutmachung nationalsozialistischen Unrechts durch die BRD. Ein Überblick', in Herbst, Goschler, *Wiedergutmachung*, p. 46.

<sup>12</sup> Stojka, *Papierene Kinder*, pp. 201–207.

<sup>13</sup> Hugo H., SHOAH, 50119 (1999).

<sup>14</sup> Julia L., SHOAH, 5891 (1995).

<sup>15</sup> Josef B., Zg. 22/2003 Nr. 1247, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>16</sup> Josef B., Zg. 22/2003 Nr. 1247, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: '[da er] seiner Abstammung, seiner Erziehung und seiner Kultur nach nicht deutscher Volkszugehöriger ist'.

Nor would there be any justification for speaking in terms of German ethnicity on the part of this claimant because the Gypsies, based on their ancestry and their lifestyle, simply do not belong to the German Culture (*Volkstum*).<sup>17</sup>

The last part of this quote contains a classification which very much resembles the classifications and language of the Third Reich, in this case representing a continuity of both language and attitude. A note from 15 April 1958 shows that enquiries had been made as to whether the claimant was a refugee or a Displaced Person. The note concluded:

According to statements made by the senior case manager for Refugee Affairs, Herr Knoll, in accordance with Sections 1 and 2 and in conjunction with Paragraph 6 of the Federal Expellee Law, a refugee or expellee is someone who possesses German citizenship or who is of German ethnic origin. According to Paragraph 6 of the Federal Expellee Law (BVG), a person of German ethnic origin is defined as someone who has identified himself as being of German extraction in his home country, inasmuch as this self-identification can be verified by certain characteristics such as German descent, German language, upbringing and culture. Czech Gypsies who, as vagrants, claim to be in possession of German ethnic origin are to be rejected even if they have German-sounding names.<sup>18</sup>

The notes and decisions in the compensation files display a great scepticism concerning the ‘Germanness’ of Roma. The Roma’s supposed lifestyle is often used as an argument against their being German, as, for instance, in the case of Brunhilde W., where a written remark in her file from 1961 included the following unsubstantiated assertion:

<sup>17</sup> Josef B., Zg. 22/2003 Nr. 1247, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: ‘Mit Recht kann auch von einer deutschen Volkszugehörigkeit beim Kläger nicht gesprochen werden, weil die Zigeuner ihrem Herkommen und ihrer Lebensart entsprechend eben nicht Bestandteil des deutschen Volkstums sind.’

The following part of the decision shows that the argument is blurred, and that the reasons for rejecting this claimant’s case do not seem to have been exclusively the assumed fact that he was not German: ‘Furthermore, the numerous criminal complaints against the claimant after 1945 indicate that he was already headed down the wrong track for the most part and was possibly incarcerated for being workshy rather than on racial grounds.’ ‘Darüberhinaus lassen die zahlreichen kriminellen Strafen des Klägers nach 1945 erkennen, daß dieser sich schon weitgehend auf der schiefen Lebensbahn befindet und möglicherweise tatsächlich eher aus Gründen der Arbeitsscheu inhaftiert worden ist, als aus rassischen Gründen.’

<sup>18</sup> Josef B., Zg. 22/2003 Nr. 1247, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: ‘Nach Aussagen des Hauptsachbearbeiters für Flüchtlingsangelegenheiten – Herrn Knoll – ist Flüchtling oder Vertriebener im Sinne von §§ 1, 2 in Verbindung mit § 6 des Bundesvertriebenengesetzes, wer die deutsche Staatszugehörigkeit oder die deutsche Volkszugehörigkeit besitzt. Nach § 6 BVG ist deutscher Volkszugehöriger, wer sich in seinem Heimatland zum deutschen Volkstum bekannt hat, sofern diese Bekenntnis durch bestimmte Merkmale, wie deutsche Abstammung, deutsche Sprache, Erziehung und Kultur bestätigt wird. Tschechische Zigeuner, die als Landfahrer behaupten, die deutsche Volkszugehörigkeit zu besitzen, sind selbst mit deutsch klingenden Namen abzulehnen.’

The claimant is a Gypsy and as such is likely barely able to read and write, so she can hardly be expected to compile the necessary documentation on her own. The claimant spent all the years immediately following the war living in displaced persons camps. So it is doubtful that she ever possessed German citizenship.<sup>19</sup>

The case of Maria W., who in her application clearly stated that she was German, shows that, even if at times it was difficult to prove nationality, there was a strong sense of being German amongst German Roma. Maria W. had spent seventeen months in Auschwitz and had returned to Germany after liberation. However, the compensation authority demanded more concrete proof of her German nationality, based on the argument that she could not give any information about her parents and grandparents (such as their places of birth). The note stated that she had travelled with her family until the age of twenty, and that: 'Thus, there is the most serious doubt as to whether the claimant ever possessed German citizenship.'<sup>20</sup> In response to this, the claimant pointed out that the International Tracing Service in Bad Arolsen classified her as German and argued that even if this were not the case she should be treated as an 'ethnic German', given that she had lived in Germany all her life, that her family had given up all ancestral customs, and that by taking on the German language and German culture and customs, she and her family had professed to being part of the German people.<sup>21</sup> As she was awarded a pension in 1959 (one and a half years after she filed her claim), it can be assumed that her nationality was finally accepted as being German.

### *The Nature of Prejudice*

The issue of German nationality has shown that prejudiced or discriminatory comments and behaviour can be found in some of the compensation files. This raises the question of whether prejudiced thinking had any further effects on the administration's decision-making process. The extent to which the Roma's racial persecution went unacknowledged is, in a sense, the macro question, whereas the study of the compensation personnel's attitudes is the micro-level examination. In the Roma's files there are some explicitly racist remarks, advocating the Roma's exclusion from compensation. But more often the racism was much more

<sup>19</sup> Brunhilde W., Zg. 22/2003 Nr. 2677, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Die Ast. ist Zigeunerin, lesen u. schreiben wird sie kaum können, so daß sie sich selbst um die Beschaffung von Unterlagen nicht wird kümmern können. Die ganzen Jahre nach dem Kriege hat die Astin [Antragstellerin] in DP-Lagern gewohnt. Es ist daher zweifelhaft, ob sie jemals die deutsche Staatsangehörigkeit besessen hat.'

<sup>20</sup> Maria W., Zg. 22/2003 Nr. 2393, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Danach bestehen stärkste Zweifel, ob die Antragstellerin die deutsche Staatsangehörigkeit besitzt.'

<sup>21</sup> Maria W., Zg. 22/2003 Nr. 2393, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

subtle, and expressed a lack of cultural understanding and latent prejudice. The outcome, however, tended to be the same for the victims. A sense of 'political correctness' in relation to racial language might explain the relative absence of outright racist comments. However, one can clearly see that certain comments, which today would be regarded as 'politically incorrect', were used as standard arguments in the decision-making process.

The most basic prejudice was the tacit agreement that Roma had to be controlled, because of their 'wild' nature. This was the background to the acceptance of Hitler's restraining methods as having been necessary and acceptable to secure the safety of Germany and its citizens. A letter written in 1950 from the compensation authority in Düsseldorf to the North Rhine-Westphalian Interior Minister, which enquired about the official line towards Roma seeking compensation, acts as a vivid example of a probably standard West German attitude at that time towards Roma.<sup>22</sup> This letter referred to one of the precursors of the Compensation Laws, the Compensation for Wrongful Imprisonment Law, and asked whether it should categorically apply to Roma. The author raised two issues, one of a more factual, the other of a more biased, interpretive nature. He argued that one had to check not only 'whether or not the placement of Gypsies [in holding camps] actually involved a deprivation of liberty' but also 'whether this deprivation of liberty was unjustified.'<sup>23</sup> The first question is affirmed by the author, by perpetuating the stereotype of the wandering 'Gypsy': 'To the Gypsy, for whom even the tie to a permanent place of residence seemed unbearable, the collective life in the camps must have been particularly hard to take.'<sup>24</sup> In spite of this assertion, the author went on to question whether the incarceration had been unlawful:

The reason Gypsies were concentrated in camps is, in my estimation, the fact that the Gypsies, who were generally stateless and constantly moving from place to place, had already become a national plague in peacetime. In war times, when the men are called to serve in the army, they might even become a threat for rural areas. Furthermore, one has to consider that Gypsies wandering around unchecked during war are creating ideal conditions for enemy intelligence services, for espionage. So you cannot fault any

<sup>22</sup> Stadt Düsseldorf, Amt für Wiedergutmachung, Abt. V/1, an Innenminister NRW, 12.4.1950, betr. Haftentschädigung für Zigeuner, HStA Düsseldorf, Bestand NW 114, WGM allgemein, NW 114 Nr. 35, Haftentschädigung.

<sup>23</sup> Stadt Düsseldorf, Amt für Wiedergutmachung, Abt. V/1, an Innenminister NRW, 12.4.1950, betr. Haftentschädigung für Zigeuner, HStA Düsseldorf, Bestand NW 114, WGM allgemein, NW 114 Nr. 35, Haftentschädigung: whether the 'ob es sich bei der Unterbringung der Zigeuner um eine Freiheitsentziehung handelte' but also 'ob diese Freiheitsentziehung ungerechtfertigt war.'

<sup>24</sup> Stadt Düsseldorf, Amt für Wiedergutmachung, Abt. V/1, an Innenminister NRW, 12.4.1950, betr. Haftentschädigung für Zigeuner, HStA Düsseldorf, Bestand NW 114, WGM allgemein, NW 114 Nr. 35, Haftentschädigung: 'Der an das freie Leben gewöhnte Zigeuner, dem die Gebundenheit an einen festen Wohnsitz schon unerträglich schien, wird das Zusammenleben in Lägern besonders hart empfunden haben.'

government for gathering up elements that present a danger to the public good and keeping them under control in camps during war times. In this sense, you can compare the Gypsies to mentally ill persons who present a danger to public safety.<sup>25</sup>

This short passage contains a myriad of common, malicious sentiments. It shows that Roma were not regarded as Germans; they were juxtaposed with the German man who fought as a soldier for his country, leaving his wife behind, who was consequently left without protection from the Roma. It also demonstrates the familiar misconception that all Roma were travellers. The truth was that the majority of Roma, even before the war, had some sort of permanent residence, especially for the winter, which they used as a base for their travelling. This travelling was mostly undertaken either for trading purposes or to visit relatives across Germany for special occasions such as weddings and births. The passage also expresses an ingrained fear that these foreigners were used as spies by other nations – a sentiment which can be found in documents from the previous centuries. Putting these alleged character traits – foreign, travelling, spying – on the same level as those of a dangerous mentally ill person shows just how strongly and emotionally these prejudices were felt. If euthanasia was accepted for these dangerous mentally ill people, then the acceptance of the killing of Roma would not be an inconceivable leap. The suggestion of the author to deny these people their compensation comes, in this light, as no surprise:

If one were to compensate these Gypsies, who are an inherently asocial section of society, which has never added anything to the well-being of the *Volksgemeinschaft* [community], for their self-inflicted incarceration, as intended by the Compensation for Wrongful Imprisonment Law, one would have to expect, in my opinion, the animosity of broad sections of society. Expellees and victims of bombing, the unemployed and pensioners on benefits, as well as all tax payers, will have no sympathy for taxes paid through great sacrifice to be spent in such an economically irresponsible manner. Especially as it is clear how the greater part of this money will be spent.<sup>26</sup>

<sup>25</sup> Stadt Düsseldorf, Amt für Wiedergutmachung, Abt. V/1, an Innenminister NRW, 12.4.1950, betr. Haftentschädigung für Zigeuner, HStA Düsseldorf, Bestand NW 114, WGM allgemein, NW 114 Nr. 35, Haftentschädigung: 'Die Ursache für die Konzentrierung der Zigeuner in Lägern liegt nach meinem Ermessen in der Tatsache, dass der in der Regel staatenlose und stets umhervagabundierende Zigeuner schon im Frieden eine Landplage war. In Kriegszeiten, in denen die Männer zum Heeresdienst eingezogen sind, können sie sogar eine Gefahr für die ländlichen Gegenden bilden. Darüber hinaus ist zu bedenken, dass die unkontrollierbar herumziehenden Zigeuner im Kriege ideale Voraussetzungen für den feindlichen Nachrichtendienst, für die Spionage geben. Es kann daher keiner Regierung übel genommen werden, wenn sie in Kriegszeiten gemeingefährliche Elemente in Lägern zusammenfasst und unter Kontrolle hält. Man kann die Zigeuner in diesem Zusammenhang mit gemeingefährlichen Geisteskranken vergleichen.'

<sup>26</sup> Signed, i.A. Jocks, Stadt Düsseldorf, Amt für Wiedergutmachung, Abt. V/1, an Innenminister NRW, 12.4.1950, betr. Haftentschädigung für Zigeuner, HStA Düsseldorf, Bestand NW 114, WGM allgemein, NW 114 Nr. 35, Haftentschädigung: 'Wollte man dieser von Grund auf asozialen Bevölkerungsschicht der Zigeuner, die noch nie etwas zum Wohle der Volksgemeinschaft beigetragen

The author reaffirms entrenched prejudices: that the Roma as a group were ‘asocial’ and not interested in the well-being of Germany or Germans, that Roma did not contribute to the well-being of the state via taxes, and thus he advocated that German taxes should be used exclusively on the ‘German community’ (*Volksgemeinschaft*). Today, sixty years after the Third Reich, the usage of the term ‘*Volksgemeinschaft*’ is highly archaic and has a very clear National Socialist connotation. The fact that it was used in the 1950s shows that at that time ‘German community’ was still very present and acceptable as a concept, and possibly reinforced through initiatives such as the Equalisations of Burdens compensation paid to the expellees. This is another sign that attitudes towards Roma and concepts such as ‘German community’ did not change in May 1945. It similarly portrays racial stereotyping, implied by the categorisation that ‘Gypsies’ were ‘*von Grund auf*’, i.e. innately ‘asocial’. This view clearly shows that Roma were not even considered a victim group, because, in contrast to other victims, they were regarded as having been responsible for the actions that had led to their imprisonment. This means that instead of being placed at the bottom of the victim hierarchy, they did not receive a place in the victim categorisation at all. Yet even if, hypothetically, the ‘Gypsies’ should be classified as victims, the author suggested that it would be asking too much from West German citizens to provide the funds to compensate them, as West Germans rightly had the priority of looking after their own war victims along with those who depended on the Welfare State. According to this statement, an employed Rom, with German nationality, who contributed to the state via taxes and other payments – and who had suffered under the National Socialist regime – had no right to compensation let alone to acknowledgement as a victim. This quote demonstrates not only the prejudiced idea that the Roma were justly imprisoned, but also that they were still regarded as an unwanted people who were wasting tax payers’ money rather than using it towards the rebuilding of West Germany. The allegation of never having done anything for Germany in the past is projected onto the future and used as an argument against paying Roma compensation.

However, the fact that a letter was written to enquire about the official line on Roma making claims under the Compensation for Wrongful Imprisonment Law also suggests that previously given instructions regarding Roma had not been clear, that the decisions regarding Roma applicants might have varied, and that directly after the war there might have been more sympathy for victims of National Socialism as a group than there was to be from the 1950s onwards. The thesis that Roma had received more support in the immediate post-war period has emerged from chapter three on the early post-war years and is confirmed

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haben, für die von ihnen selbst verschuldete Haft in der Weise entschädigen, wie es das Haftentschädigungsgesetz vorsieht, so müsste das nach meinem Ermessen zu einer Erbitterung weiter Bevölkerungskreise führen. Vertriebene und Bombengeschädigte, Erwerbslose und Sozialrentner, ausserdem alle Steuerzahler, werden kein Verständnis dafür haben, dass die z.T. unter schweren Opfer aufzubringenden Steuern in einer volkswirtschaftlich unverantwortlichen Weise vertan werden, denn wie der größte Teil dieses Geldes verwendet wird, steht ohne Zweifel fest.’



by comments made in interviews with and biographies by Roma. At the same time the above exchanges show that, a few years after the end of the Second World War, less 'suspect' victim groups such as the expellees, bomb victims and ethnic Germans were already competing for sympathy and in instances like the above received priority over persecution victims. This competition for sympathy was accompanied by a competition for limited resources which were provided by members of the 'German community' and should thus, according to the authors who expressed the above opinions, be spent first and foremost on German victims.

The preconceived opinion of the character and travelling lifestyle of the Roma expressed in some of the cited passages can be found across the files. A flight to other countries, for example, is portrayed as a migratory instinct (*Wandertrieb*), and thus not classified as living in hiding, or fleeing National Socialist persecution, which consequently meant that it was not compensated. A 1961 decision rejected the claims made by Maria F., who had escaped impending persecution in 1940 by fleeing via Italy to Slovakia, Poland, Silesia and back to Italy, on the basis that there had been no immediate threat to Roma at that time in Germany; their 'flight' was described above all as an expression of the Roma's desire to travel:

The same reasons that apply to the alleged refusal of a trade licence also apply to the deceased's 'flight' from the territory of the Reich in the year 1939 or 1940 [the claim was made on behalf of her deceased husband]. In as much as this did not merely serve to confirm the innately Gypsy migratory instinct in the deceased, we must assume that it was motivated by law enforcement measures and not by racial persecution.<sup>27</sup>

Citing 'migratory instinct' as the reason for the Roma's movements rather than acknowledging that the Roma sought to flee from racial persecution seems to have been standard practice in the district of Arnsberg at that time, and reflects the officials' willingness to perpetuate common beliefs and an unwillingness to engage in ascertaining the background facts to, in this instance, the victim's felt need to flee.<sup>28</sup>

Another prejudice which negatively affected Roma's compensation claims was the belief that Roma 'traditionally' were not interested in education. This assumption meant that the expulsion of Roma children from school was not considered worthy of compensation. According to the Federal Compensation Law, a victim who had been forced out of education could receive up to 10,000 German Marks towards educational costs after the war (plus a loan of up to

<sup>27</sup> Maria F., ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg: 'Was für die Gründe gilt, die zur angeblichen Versagung des Gewerbescheines führten, gilt auch für die 'Flucht' des Verstorbenen aus dem Reichsgebiet im Jahre 1939 oder 1940. Wenn sie nicht überhaupt nur eine Bestätigung des in dem Verstorbenen als Zigeuner steckenden Wandertriebes gewesen ist, so muß angenommen werden, daß sie durch polizeiliche Maßnahmen und nicht durch rassische Verfolgung verursacht worden ist.'

<sup>28</sup> See, for instance, also the file of Anna F., ZK 52521, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; for reference to this 'migratory instinct' see also the file of Maria M., ZK 52811, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

10,000 German Marks after having completed education) or, in case the victim did not wish to make up the missed education after the war, a one-off payment of 5,000 German Marks (10,000 German Marks under the Final Federal Compensation Law).<sup>29</sup> In the files consulted, very few compensation payments were made to Roma for educational damage. In most cases this was because survivors claimed this compensation on behalf of their siblings or children who had died during the war. The Federal Compensation Law laid out that this compensation was only to be paid if the lack of education had an actual effect on the persecution victim's occupation and, as these victims died during the war, this had not been the case.<sup>30</sup> In the cases where claims for educational damage were rejected, the decision was often based on the belief that Roma would not have attended school in any regular manner anyway, either because of a lack of interest in education or because of their alleged travelling lifestyle.

One example is the case of Siegmund L., who was denied compensation for missed education. In his compensation file the following excerpt from a conference of the Lower Saxony judges (29 May 1957) in charge of the compensation cases can be found, which stated that in their opinion Roma should not be given compensation for missed education:

The general opinion was more or less that the Gypsies could not lay claim to educational damages resulting from a disruption of their education because, as a rule, Gypsies never received training for a specific vocation in the first place.<sup>31</sup>

Whereas this opinion did not change over the years, adjudication seems to have changed in at least some cases later on. This quote is from a 1970 decision, i.e. after the Federal Supreme Court had irrevocably declared the victim status of Roma, to which all compensation authorities had to adhere. It shows that the expulsion of Roma from schools was now treated on a par with the limitations put on Jewish children and students, but not without adding a condescending remark:

Despite the fact that Gypsies generally have no interest in formal schooling, we can assume in the case of this persecutee that he had attended school until the time of his deportation and would have undertaken vocational training once he had finished school.<sup>32</sup>

<sup>29</sup> BEG, §§ 115–119.

<sup>30</sup> Out of a total of thirty cases, three received compensation, in four cases the outcome cannot be ascertained, and the remaining claims were rejected. (Positive cases: Berta S., ZK 52326, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Olga K., ZK 52687, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Anna D., Zg. 50/2004 Nr. 10, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM).

<sup>31</sup> Siegmund L., Zg. 22/2003 Nr. 668, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Die allgemeine Ansicht ging dahin, daß bei Zigeunern ein Ausbildungsschaden wegen Unterbrechung oder Fehlens des Schulbesuches im allgemeinen nicht in Frage komme, da von der Ausbildung für einen bestimmten Beruf bei Zigeunern in der Regel nicht gesprochen werden könnte.'

<sup>32</sup> Berta S. (for Heinrich K.), ZK 52326, Staatsarchiv Münster, Entschädigungsakten,

As a result Berta S., who had made this claim on behalf of her deceased son, received a payment of 10,000 German Marks in February 1970 for educational damage.<sup>33</sup> Similar snide remarks can be found in almost all cases concerning education or vocational training; they are both an expression of commonly shared prejudices of the age, and a justification for these particular decisions. The fact that in the long run those Roma who persevered were successful shows that the officials' personal opinions could not override the federal law.<sup>34</sup>

Derogatory comments about the Roma as a group are frequently encountered, but, oddly enough, they are at times used to support the claim, or improve the situation of the claimant. In the case of Erich P., the city of Groß Stöckheim wrote a report in 1956 on the family P., for the compensation authority; supportive in principle, it nevertheless included derogatory comments like the following:

The family is diligent, frugal and leads a respectable lifestyle. But it should be noted here that their association with all their relatives – who show up here from time to time in mobile homes – has brought the family slightly into disrepute.<sup>35</sup>

Rather than leading to the goodwill of the official at the compensation authority, which was this letter's intention, it confirmed his negative attitude, which can be seen from the handwritten remark at the margin of this letter stating 'typical Gypsies'.<sup>36</sup> Patronising comments seem to have been the norm, but it is at times difficult to ascertain whether they were mere laconic dismissals or the result of racism. Even if this quote does not include outspoken racism, it does portray dormant prejudices, which do probably stem from some form of racism, even if it might not have been categorised as such by the person voicing

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Regierungsbezirk Arnsberg: 'Wenn auch Zigeuner im allgemeinen an einer normalen Schulausbildung nicht interessiert sind, so darf bei dem Verfolgten angenommen werden, dass er bis zur Deportation eine Schule besucht hat und nach deren Abschluß sich einer Berufsausbildung zugewandt hätte.'

<sup>33</sup> Compensation for educational damage was only paid if the loss of education had a direct impact on the claimant's post-war life. Relatives of victims who had died before the end of the war were not entitled to such compensation. However, in this case, the victim's death during the war could not be proven by the authorities, so his official day of death was 31 December 1945 (this date was generally used for victims whose exact time of death could not be ascertained). Thus, Berta S.'s son could have been alive after the war, and thus the educational damage could have had an effect on his post-war life, which is why his mother was entitled to this compensation.

<sup>34</sup> See, for instance, the file of Alfred L., Zg. 50/2004 Nr. 22, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM, where compensation for professional advancement was denied in 1968, on the basis that the claimant could have learned a trade after liberation (when he was 13 years old). As if this was not enough, the official felt the need to add the following snide comment, to convey his general disapproval: 'insofar as one can speak of [schooling] in the case of Gypsy children'; 'soweit bei Zigeunerkindern von einer solchen [Schulausbildung] überhaupt die Rede sein kann.'

<sup>35</sup> Erich P., Zg. 22/2003 Nr. 602, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Die Familie ist fleißig, sparsam und führt einen ordentlichen Lebenswandel. Es darf hier nicht unvermerkt bleiben, dass ihre Verbindung zu all den vielen Verwandten – die hier von Zeit zu Zeit mit Wohnwagen auftauchen – die Familie etwas in Verruf bringt.'

<sup>36</sup> Erich P., Zg. 22/2003 Nr. 602, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'eben doch Zigeuner'.

it. Even lawyers who were supposedly on the side of the Roma claimants made pejorative comments, which may have been intended to gain the leniency of an official, just as a parent might take a teacher's side when discussing a trouble-making child. The lawyers of Albert P. referred to the traditional Roma union of his parents as a 'so-called Gypsy – i.e. a common law marriage', which gives a very negative portrayal of this situation, especially given that Roma were not allowed to marry during the Third Reich.<sup>37</sup> This comment on the traditional Roma marriages not only shows prejudice, but points to a common problem for Roma seeking compensation on their partner's behalf, as all entitlements to compensation with regard to one's deceased partner were based on this partnership having been legalised by the German state. Arnold K. claimed compensation for his son's imprisonment in Auschwitz, where he had died after less than a month of imprisonment. Arnold K. reported that he had sought permission to marry Auguste K. during the Third Reich, but it had been denied. In an appeal (30 June 1960) against an initial rejection, Arnold K.'s lawyer said that they were seeking retroactive legalisation of this union, and that they would like to adjourn the case until this was achieved. The necessity for this was based on the rejection of the initial claim in February 1960, which had been based on the fact that the son had been illegitimate and thus did not qualify as a relative.<sup>38</sup> In spite of the letter from the lawyer, the claim was rejected anew in June 1960, again on the grounds that Arnold K. was legally not the father and that the son had not spent the minimum of one month in the concentration camp necessary for this sort of compensation. This latter point was refuted by the lawyer, who pointed out that, as the son had been in the concentration camp from 2 March 1943 to 1 April 1943 inclusively, his confinement amounted to exactly one calendar month. But a settlement was not agreed upon until 19 December 1961, after the Justice Minister of North Rhine-Westphalia had legalised the union on 30 October 1961, retrospectively valid from 1 May 1939, and the lawyer had demanded compensation yet again, on 20 November 1961. The result: 150 German Marks for the son's imprisonment. In most cases, the traditional Roma unions (which had been the result of either legal unions between Roma having been denied during the Third Reich, or of Roma having preferred traditional Roma unions over civil state ceremonies) were legalised by the relevant Justice Ministries without any complication. However, having to wait for this legalisation meant that the claims processes were stalled and that Roma felt insulted at being told that their, at times very long-term, unions were not accepted as legal, and thus they were not entitled to inherit compensation on behalf of their deceased spouses.<sup>39</sup>

<sup>37</sup> Albert P. (for Albert W.), ZK 31976, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg: 'sogenannter Zigeuner – d.h. wilder Ehe'.

<sup>38</sup> Arnold, K., 58 Nds Fb 4 Zg. 62/1985, Teil 1 Nr. 884, NLA-Staatsarchiv Wolfenbüttel.

<sup>39</sup> See, for instance, the files of Georg F. (for Grete F.), ZK 55776, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Maria Auguste W. (for Christian W.), ZK 167315, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Robert D., Zg. 22/2003 Nr. 2604, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

The tone used by German officials throughout these files when discussing Roma suggests that attitudes and to a lesser degree the language did not change in 1945, and that officials did not even regard it as necessary to hide their low opinions of the Roma – demonstrating a significant lack of awareness of discrimination in post-war Germany. In some of the files one finds comments which are strikingly similar in content and language to those of the Third Reich, which suggests that the author did not expect to be criticised for using such language. The 1953 police report on Franz S.'s criminal record, written for the compensation authority, reads no differently than similar reports written during the Third Reich:

S. has a bad reputation. His behaviour thus far confirms rumours that he makes his living engaging in criminal activities. He can be described *as an asocial element* ... In summary, it seems safe to say that, considering his personality, S. is not likely to improve.<sup>40</sup>

It was, however, not only the police who traditionally had a negative relationship with the Roma group and who employed such language. In a psychiatric-neurological report Professor Janz, who did a three-day examination of Heinrich L. in April 1957, began his report by describing L. as: 'a Gypsy of mixed blood in whom Gypsy elements prevail', which sounds exactly like the National Socialist terminology employed for racial categorisation.<sup>41</sup>

### *The Roma's View*

The analysis thus far has shown that the material contained in these compensation files can be rather one-sided, viewing the issue almost entirely from the perspective of the bureaucracy. The files contain only documents which were relevant to the bureaucratic process, and furthermore do not include material describing the wider context of the current and past situation of the claimant. Thus, if the historian is interested in the personal side of the victims, the answers found in these files are, from the outset, limited by this bureaucratic framework. The victim's story is reduced to items which were relevant to the specific task of compensation, so much so that, at times, a long history of persecution was condensed to the dates of concentration camp confinement. The claimants' unique and highly personal narratives often were irrelevant to the administering bureaucrat; personal, life-defining stories became the daily dealings of the compensation officials and thus were not given much attention or sympathy. This might explain why compensation officials were at times so insensitive towards

<sup>40</sup> Franz S., Zg. 22/2003 Nr. 265, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Der Leumund des S. ist schlecht. Sein bisheriges Verhalten hat die Gerüchte bestätigt, dass er seinen Lebensunterhalt durch die Begehung von strafbaren Handlungen bestreitet. Man darf ihn *als asoziales Element* bezeichnen. ... Zusammenfassend kann gesagt werden, dass bei Kenntnis der Persönlichkeit des S. nicht damit zu rechnen ist, dass er sich bessern wird.'

<sup>41</sup> Heinrich L., Zg. 22/2003 Nr. 1008, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Der Arbeiter L. ist Zigeunermischling mit vorwiegend zigeunerischem Einschlag'.

claimants, as is expressed in letters and notes from the victims found in some of the files. These personal letters add a unique dimension to the reading of the files, as they illuminate not only the personal stories, but the victims' views of the compensation process. The chapter on the survivors' stories gives one picture of how Roma felt about post-war Germany and *Wiedergutmachung*; the interviews and autobiographies are full of the fears and worries of Roma as presented in the various decades after the process. They depict how Roma felt mistreated, discriminated against and misunderstood during the process and after; and how the memories of persecution led to a prevailing suspicion and ensuing fear of all things German – especially doctors, officials and institutions. However, these are reports given or written a long time after the actual compensation procedure and may therefore give a 'processed' view of the past, a view which might have been influenced by the outcome of the process. In contrast, the various letters and personal notes collected in the compensation files give a hindsight-free portrayal of the worries, concerns and complaints that affected Roma victims at the time. The topics discussed might be the same, but not the manner in which they are discussed. This is partly because these stories are being told for different purposes: in the compensation files, stories are retold to convince the officials that compensation is due, whereas the retelling of stories long after the events, at a time when no more could be done about compensation, seems to be much more a way of recording the Roma's view of continued discrimination in Germany and a way of explaining why, in their view, they received inadequate compensation. This might be why the more recent retelling formed an integral part of the creation of the Roma identity as an ethnic minority – shaped by the Central Council from the 1980s onwards – a process which the retelling during the compensation procedures does not seem to have initiated.

The fear and distrust of the medical examinations, for instance, is expressed both in the interviews and autobiographies and at the time by the claimants, or rather by their lawyers or the doctors examining them. The doctor examining Anna L. in 1967 for the compensation pension described the psychological state of his patient as follows:

Frau L. is accompanied by her husband. She is visibly anxious and claims to be very afraid of the examination and the doctor. Each new method of examination is first met with mistrust and rejection. But she is nevertheless natural and at ease in conversation.<sup>42</sup>

The connection between this fear of doctors and the treatment of Roma during the Third Reich was made by the lawyer Dr Freytag (Kiel) in a letter (21 October 1957) to the President of the Administrative Headquarters in Lüneburg:

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<sup>42</sup> Anna L., Zg. 22/2003 Nr. 2310, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Frau L. kommt in Begleitung ihres Ehemannes. Sie ist deutlich erregt und behauptet, große Angst vor der Untersuchung und dem Arzt zu haben. Jede neue Untersuchungsmethode wird zunächst mit Mißtrauen und Abwehr beantwortet. In der Unterhaltung ist sie jedoch frei und natürlich.'

In the above-mentioned matter, my client was asked to undergo treatment. She came to me looking for help and made it clear that she has an insurmountable aversion to physicians' orders, as a result of the inhumane treatment she received in the concentration camp. As counterproductive as this may seem, she cannot – as she has stressed repeatedly – bring herself to overcome this aversion, despite the truly poor state of her current health.<sup>43</sup>

Roma had frequently been exposed to medical experiments, such as malaria and typhus vaccinations, and Roma did make claims for this maltreatment.<sup>44</sup> Female Roma also frequently fell victim to sterilisation experiments in the concentration camps. In the compensation claim of Charlotte K., for example, the sterilisation experiments undertaken by Claus Clauberg in Ravensbrück are described. She demanded compensation for the removal of her uterus, which had been required as Clauberg's sterilisation experiment had led to an otherwise untreatable infection.<sup>45</sup> This file is a good example of how the information the historian gains from compensation claim files is limited to the framework provided by the compensation claim procedure. The only fact one learns from this compensation file that is not directly related to the effort to prove the physical effects of sterilisation is that the claimant had offered herself as a witness to the state attorney in Kiel after Clauberg's arrest to act in a trial that in the end never took place as Clauberg committed suicide. The desire to be a part of bringing justice to Clauberg's victims is the only clue to the long-term impact this sterilisation had on the victim beyond the physical damage. Therefore, the historian would get a limited picture if only these sources were consulted. In contrast to these compensation claims where sterilisation is only one of the many claims made by Roma, the biographical material has shown that in fact the issue of sterilisation was one of the most central issues for Roma victims, and that this was the case not because of the physical damage it led to in some cases but because of the long-lasting impact it had on the Rom's position within the family and the Roma group, as well as on the inability to contribute to recreating the group after the war. This serves to reinforce the previously made point that the two sets of sources show different perspectives which reflect the disparity between the value system within the Roma community and the value system implicit in the Compensation Laws, exemplified here by classifying only the physical damage caused by sterilisation leading to an inability to work as worthy of compensation. It further reinforces the need to consult contemporary sources alongside the

<sup>43</sup> Pauline W., Zg. 22/2003 Nr. 2701, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'In obiger Angelegenheit ist meine Mandantin zu einer Heilbehandlung aufgefordert worden. Hilfesuchend wandte sie sich an mich und liess erkennen, dass sie eine unüberwindliche Abneigung gegen ärztliche Anordnungen habe, alles in Erinnerung an ihre unmenschliche KZ-Behandlung. So widersinnig diese Vorstellung auch ist, so kann sie, wie sie immer wieder betonte, diese Abneigung nicht überwinden, trotz ihrer zur Zeit wirklich schlechten Gesundheit.'

<sup>44</sup> Kurt A., for example, stated in his compensation claim that he fell victim to malaria and typhus injections at Natzweiler; Kurt A., Zg. 22/2003 Nr. 2350, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>45</sup> Charlotte K., ZK 25959, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

compensation claim material from the 1950s and 1960s, as some issues remained undiscussed for a long time, especially events Roma might have felt ashamed about or did not want to share with their families, let alone the public. So the impact of these events and the centrality it had for the Roma group would be lost if only the compensation claims were consulted.

A few of these files contain personal expressions which go beyond the framework of the laws, but noticeably these comments are only found in files of those Roma who decided to fight for more than was initially offered by the Compensation Laws, which suggests that the legal framework did not give any room for expressing concerns outside the narrow bounds of the law. Some Roma claimants wrote very personal letters to the highest German officeholders, expressing the belief and hope that they would be in a position to support them against the perceived injustice at the lower levels of the compensation authorities. These letters were sent to the Federal President, the Chancellor and the President of the Lower House of German Parliament, mainly in the 1970s, but some as early as 1954.<sup>46</sup> They were usually written in the form of a final plea, and had a very personal tone, relating both the persecution events and the specific compensation problems encountered by the victim and his family. In the case of one family – the family P. – four siblings and their mother repeatedly wrote to state representatives, making emotional appeals to their sense of decency and justice, lamenting the fact that sterilisation victims had not received compensation for this inhumane physical intrusion.<sup>47</sup>

All four siblings talked about their forced sterilisation and its impact on their post-war lives. Gerda S. (b. 1923) wrote to the wife of the then Chancellor Willy Brandt, Ruth Brandt, in 1972, referring to a newspaper article in which Willy Brandt had described his wife's commitment on behalf of desperate citizens who felt poorly treated by public authorities. In this letter, she retold the family story; her grandmother had been a 'Gypsy' and, before deportation, she had lived with her three brothers, Harry, Heinz and Horst P., and her father Erich in a house – emphasising that they had been sedentary and had been in constant employment. In 1944 the four siblings were faced with the 'choice' between sterilisation and incarceration in a concentration camp and, understandably, chose the former. They filed their first compensation claims in 1947, but received no compensation because no reduction in earning capacity could be ascertained. She wrote:

The Third Reich robbed me of my health. It took from me the joy of being a mother. For over 20 years, I've suffered terribly from abdominal pain, but none of that counts when it comes to our settlement. The Fourth Reich is throwing

<sup>46</sup> For example, a letter written to the first President of the Federal Republic of Germany, Theodor Heuss (1949–1959), in November 1954 by Josef E., asking for his support; Josef E., Zg. 22/2003 Nr. 1932, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>47</sup> Erich P., Zg. 22/2003 Nr. 602, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Gerda S. (née P.), Zg. 22/2993 Nr. 604, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Heinz P., Zg. 22/2003 Nr. 603, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Horst P., Zg. 22/2003 Nr. 605, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Harry P., Zg. 50/2004 Nr. 21, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.



billions into compensation. Compensation for foreigners who suffered under the Nazis. I have nothing against that. Nor does it bother me that many of our ministers have received generous sums. Why not? But what I cannot understand is how there is no place for us in our German compensation laws.<sup>48</sup>

Gerda S. further conveyed how she eventually had found a husband who, in spite of her infertility, stuck by her. She finally wanted to receive some compensation money in order to buy him a present. There was no reply from the Chancellor's wife, and the communication was not mentioned in any of the file's notes. Other files have shown that letters written directly to the Chancellor or President usually received a response from the relevant state authority – in North Rhine-Westphalia and Lower Saxony this was the Interior Ministries – which usually promised to examine the individual case anew, although, in most cases, the original decisions were simply reiterated.

The sentiment that the Roma as a group were excluded and not treated as equal to German or other victim groups is prevalent in all of the letters written by the P. family members, demanding that they be treated for what they were: Germans. Gerda S.'s brother, Harry P., wrote several letters to high-ranking politicians, the first in 1957 to then President of the West German Lower House of Parliament, Eugen Gerstenmaier, and the last in 2001 to then President of Lower Saxony, Sigmar Gabriel. In this latter letter he identified himself as a German, asking just how much a family was 'worth' in the German system, expressing his resentment that so much money had gone abroad:

They didn't even take into account the psychological trauma involved in a life without children and descendants. You have to ask yourself what a human being is even worth these days. When I read in the paper, for example, just how much a certain Herr Effenberg [a famous German footballer] from Bayern München is forced to pay just for a slap in the face, a full 147,000 German Marks! – then I'd really like to know what the decimation of our entire family is worth? ... I don't begrudge anyone who was harmed during that time their compensation. I just want to know one thing: why is the German government handing out mega-millions to foreigners while they simply forget about Germans living right here who were also harmed? Every year, new claims come in from abroad and not a single German politician dares to say, sorry, but your application was turned in too late. Our family was placed on a par with Jews back then. So why aren't we being compensated in the same way as the Jewish people?<sup>49</sup>

<sup>48</sup> Letter by Gerda S. to the Chancellor's wife Ruth Brandt on 13 November 1972, Gerda S., Zg. 22/2993 Nr. 604, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Das 3. Reich hat mir die Gesundheit genommen. Es hat mir die Freude genommen eine Mutter zu sein. Ich quäle mich schon seit über 20 Jahren mit Unterleibsschmerzen, aber all das zählt bei unserer Abrechnung nicht. Das 4. Reich wirft Milliarden für Wiedergutmachung heraus. Wiedergutmachung für fremde Völker die unter den Nazi gelitten haben. Dagegen habe ich nichts einzuwenden. Mich stört es auch nicht daß auch viele unserer Minister schon stattliche Summen erhalten haben. Warum auch nicht, aber ich verstehe nicht, daß in unserem deutschen Entschädigungsrecht keinen Platz für uns darin ist.'

<sup>49</sup> Letter by Harry P. to the President of Lower Saxony Sigmar Gabriel on 3 September 2001,

He asked the State President to act on his behalf, to talk with the compensation authorities: ‘So maybe you’re my archangel GABRIEL who’s come now, 50 years later, to help me achieve fair treatment. And who can restore my faith in justice.’<sup>50</sup> Although by the time this letter was written, the German parliament and the compensation authorities had long acknowledged that the persecution of the Roma had been racially motivated, there was a deep-rooted feeling amongst the Roma of being ‘second-class’ victims, as they felt they were deliberately ignored by the German compensation machinery. Indirectly (and perhaps unintentionally), Harry P. described the absence of an international, powerful Roma lobby as one of the main reasons for this disregard of them as a victim group. In a different section of the letter, he uses the terms ‘alien people’ (*fremde Völker*), ‘German victims’ (*deutsche Geschädigte*) and ‘Jewish people’ (*jüdisches Volk*), which would have caused offence had they been written by a non-Roma German, as they would be interpreted as having a racist undertone. In the case of Harry P., the letter did not so much express racism but rather his identification with the German people. He demanded not only equal treatment with Jewish victims – on the grounds that Germans had previously put them on the same footing during the Third Reich – but above all to be treated as a German victim.

Two further accusations found across these letters are that compensation processes were (deliberately) delayed and that ‘failure to observe the deadline’ was used as an excuse for denying their rightful claims. This latter point is well expressed in the above quote in which Harry P. suggested that this argument would not be used with a foreign claimant. It seems that Harry P. equated ‘foreign’ with ‘Jewish’, given that he referred to the unequal treatment of Jewish and Roma victims. His letter reflects the complaint, prevalent amongst Roma, that Jewish victims were prioritised on the German agenda above all others. Unless he closely followed the debates about *Wiedergutmachung* in the newspapers, it is unlikely that he was well informed about the new developments in regard to the compensation for forced labour in the late 1990s, which did include many ‘foreign claimants’. Similarly, Erich P.’s wife expressed this complaint in a letter to the Committee on Petitions of the West German Lower House of Parliament in 1976:

Harry P., Zg. 50/2004 Nr. 21, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: ‘Nicht einmal den seelischen Schmerz, ein Leben ohne Kinder und Nachkommen zu sein, hat man berücksichtigt. Da fragt man sich doch wohl, Wieviel ist denn heute noch ein Mensch wert? Wenn ich die Zeitung lese, was zum Beispiel ein gewisser Herr Effenberg [famous German footballer] von Bayern München, nur für eine Ohrfeige, voll 147 000 Mark zahlen muß, dann möchte ich doch wissen, was die Ausrottung einer ganzen Familie für einen Wert hat? ... ich gönne jedem der damals Geschädigten seine Wiedergutmachung. Nur möchte ich sie einmal fragen: Warum gibt die deutsche Bundesregierung ZIG Millionen an fremde Völker aus und die hier noch lebenden deutschen Geschädigten Menschen, hat man einfach vergessen. Jedes Jahr, kommen neue Forderungen aus dem Ausland und kein deutscher Politiker wagt sich zu sagen – bedauere, aber ihr Antrag wurde zu spät bei uns eingereicht. Unsere Familie wurde damals den Juden gleichgestellt. Warum entschädigt man uns nicht auch so wie das jüdische Volk?’

<sup>50</sup> Harry P., Zg. 50/2004 Nr. 21, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: ‘Aber vielleicht sind Sie für mich der Erzengel GABRIEL – der mir nun nach 50 Jahren, zu meinem Recht verhilft. Und der mir den Glauben an die Gerechtigkeit zurück gibt.’

Now there are new demands coming from abroad and no one tells them that their claims have expired – for a long time now, people have been singing that old German national anthem that speaks of unity and JUSTICE and freedom. But where is the justice for my children?<sup>51</sup>

The various letters show that in the case of the P. siblings, *Wiedergutmachung* did not lead to any sort of reconciliation between the German nation and the victims of the Third Reich, as they clearly expressed in 1979 when writing to the Interior Minister of Lower Saxony. This unanswered letter touched on all the sensitive topics mentioned both in the contemporary material from the compensation period and the interviews and autobiographies collected and written two generations later and is thus worth quoting at length:

With our compensation [claim] the assumption is that we submitted our claims for damages too late. And that in itself is a flat-out lie. How can we have missed the application deadline when we had already filed our claims for compensation prior to 1950? To be precise, in the year 1947/48, in Wolfenbüttel, that is, in Braunschweig. This is yet another case of hatred being applied against us. This must have been the handiwork of a hidden former Nazi. Today, after about 35 years, they show us the movie *Holocaust*, as a remembrance. Today, after 35 years of German crime, we're reminded of our fate. But today, 35 years later, we know now more than ever what it means to be old and alone, without children, without children's children. Today, after all these years, we're still waiting for our compensation ... People should do more than just talk about this movie, they should do something for once. Dear Herr Minister, maybe you have the courage to act in a way that is just. Please don't just think only about the Jews who suffered so terribly. Please think about the many German citizens who sacrificed their health so they wouldn't be gassed to death. We are that kind of German family. It's not just that tremendous damage was done to our health, our entire family was wiped out ... When will we ever be able to finally make clear to people that we are not the ones who missed the application deadline, but rather that the officials at the compensation claims office in Lower Saxony are at fault for the fact that we have had to fight for over thirty years now for what is due us. We've respectfully addressed this letter to you, Herr Minister. Can we get a response from he [sic] who we've addressed our request to? A personal response? Thank you, the siblings, Heinz, Harry and Gerda P.<sup>52</sup>

<sup>51</sup> Erich P., Zg. 22/2003 Nr. 602, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Jetzt kommen wieder neue Forderungen aus dem Ausland und keiner sagt ihnen, dass ihre Ansprüche schon verjährt sind: Da singt man schon lange wieder das Deutschlandlied in dem es heißt: Einigkeit und RECHT und Freiheit. Aber wo bleibt denn nun das Recht für meine Kinder?'

<sup>52</sup> Letter by Heinz and Harry P. and Gerda S. (née P.) to the Lower Saxony Interior Ministry on 15 February 1979, Heinz P., Zg. 22/2003 Nr. 603, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Man geht bei unserer Wiedergutmachung davon aus, wir hätten unsere Entschädigungsanträge zu spät gestellt. Und gerade das ist doch eine gemeine Lüge. Wie kann man denn seine Antragsfrist versäumen, wenn unsere Entschädigungsanträge schon vor 1950 gestellt wurden. Um es

At times death, rather than due compensation, ended this struggle for recognition. The dedication of Kurt A. to his compensation claim was, for instance, extremely personal, direct and long-running, starting in 1954 and lasting until 2002, with the Central Council playing an important role in the belated achievement of compensation.<sup>53</sup> Between March 1943 and liberation, he had been imprisoned in Auschwitz, Natzweiler, Dachau and München-Riem. He lost his parents and five of his six siblings in the concentration camps. He sent out his first personal reminder to the compensation authority in the form of a postcard in February 1957, almost three years after registering his first claim, asking for a rapid decision. This was followed by an impromptu visit in October 1957 to enquire personally about how things stood with his application, giving an account of his deportation to Auschwitz and the medical experiments he had had to endure.<sup>54</sup> In 1958, Kurt A. received the 6,000 German Marks immediate aid given to repatriates, as well as 3,900 German Marks for his imprisonment in concentration camps and 800 German Marks for damage done to his professional career in 1960. In November 1969 the Social Service Committee for Persecutees of the Nazi Regime (*Sozialausschuß der Verfolgten des Naziregimes*) (Frankfurt am Main, Hesse) made renewed claims on behalf of Kurt A. for damage done to his professional advancement, his social security payments and bodily injury and health, all of which were rejected in April 1970, on the basis that the payments in 1960 were the result of a settlement (*Vergleich*) which precluded further payments, and because all deadlines had passed by this time. A further claim made to the Hardship Fund in November 1969 was rejected in July 1972, based on the argument that the claimant had already received compensation and thus a claim under the Hardship Fund was unjustified. Kurt A. expressed his disappointment in a letter to then Federal President Walter Scheel in January 1977, which must have been written on his behalf by a friend or acquaintance, as Kurt A. was illiterate. In this letter he portrayed his suffering and asked for sympathy and a pension:

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genau zu sagen schon im Jahre 1947/48, in Wolfenbüttel beziehungsweise Braunschweig. Hier hat man doch schon seinen Haß gegen uns ausgespielt. Hier muß doch schon so ein versteckter ehemaliger Nazi am Werk gewesen sein. Heute nach ca. 35 Jahren zeigt man uns den Film Holocaust zur Erinnerung. Heute nach 35 Jahren Deutschen Verbrechens werden wir wieder an unser Schicksal erinnert. Heute nach 35 Jahren merken wir es mehr denn je was es heißt, im Alter allein zu sein, ohne Kinder und Kindeskiner. Heute nach so vielen Jahren warten wir immer noch auf unsere Wiedergutmachung. ... Über diesen Film sollte man nicht nur reden, sondern endlich einmal handeln. Sehr geehrter Herr Minister, vielleicht haben sie einmal den Mut gerecht zu handeln. Denken sie jetzt nicht nur an die Juden, die so furchtbar gelitten haben. Denken sie auch einmal an die vielen Deutschen Bürger, die ihre Gesundheit geopfert haben, um nicht vergast zu werden. Wir sind so eine deutsche Familie. Man hat uns nicht nur einen furchtbaren Schaden an unserer Gesundheit beigebracht, man hat auch eine ganze Familie ausgerottet. ... Wann können wir es denn endlich einmal jemanden klar machen, daß nicht wir die Antragsfrist versäumt haben, sondern daß die Niedersächsische Entschädigungsbehörde die Schuld trägt, daß wir heute noch nach über 30 Jahren für unser Recht kämpfen müssen. Wir haben unser Schreiben an Sie, verehrter Herr Minister gerichtet. Können wir auch einmal Antwort von dem bekommen, an dem [sic] unsere Bitte gerichtet ist? Eine persönliche Antwort? Vielen Dank: Geschwister Heinz, Harry und Gerda P'

<sup>53</sup> Kurt A., Zg. 22/2003 Nr. 2350, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>54</sup> Kurt A., Zg. 22/2003 Nr. 2350, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

You are my last hope ... I, too, am entitled to the pension because everyone who was in the camps gets this kind of pension ... I cannot read nor write. My God, is that too much to expect?! After all, we suffered for years and years!! Besides, I'm disabled. Surely, you can help me, can't you?! ... I'm begging you to help me, Sir, so that my pension is approved.<sup>55</sup>

This letter demonstrates a belief that the President could have a direct influence on his personal compensation claim process, if Kurt A. convinced him that he had been treated unfairly. His portrayal included only some of the payments he received, and no explanation as to why he did not receive others. The fact that he referred to the pension which, in his opinion, every former concentration camp inmate was entitled to, shows that he did not fully understand the multi-faceted workings of the, admittedly very complicated, compensation system. His file shows that he did not receive a pension based on a medical examination undertaken in March 1960, which stated that no persecution-related health damage could be established.<sup>56</sup> So at that point in time, in the eyes of the compensation authority, the precondition for a pension was not fulfilled, rather than his lawyer having missed the application deadline (though a missed deadline was cited later on as a reason for refusing his renewed request). The analysis of the discussions around *Wiedergutmachung* in the interview and biographical material has also shown that there was a skewed perspective of what forms of compensation there were and who was entitled to it, and that the main constituent of *Wiedergutmachung* was considered to be the pension, which is presumably similarly linked to a misunderstanding of the complex system. This example of Kurt A. misapprehending the compensation system at a time when he was still involved in the process suggests that rather than the misapprehension in the later biographical material being a reflection of forgotten details, it is a reflection of the complex compensation procedure not being understood by the victims it was designed to help.

It is not apparent from the file whether Kurt A.'s plea was answered, but it is likely that it was ignored, as he felt compelled to approach another high authority two years later, in the form of a letter to the Committee on Petitions of the German Lower House of Parliament in December 1979. This letter is of a similarly polite and desperate tone as the one to the President, emphasising that his limited financial means had ruined his chances for compensation: 'Since I don't have enough money to afford to hire a star lawyer, the lawyers I sought out have

<sup>55</sup> Letter written by Kurt A. to the President of the Federal Republic Walter Scheel on 13 January 1977, Kurt A., Zg. 22/2003 Nr. 2350, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Sehr geehrter Herr Bundespräsident! Sie sind meine letzte Hoffnung. ... Die Rente steht mir aber doch auch zu, denn jeder KZ-ler bekommt so eine Rente. ... Ich kann nicht lesen noch schreiben. Mein Gott, ist denn das zuviel verlangt, wir haben doch jahrelang dafür gelitten!! Außerdem bin ich noch gehbehindert. Sie können mir doch bestimmt helfen?! ... Ich bitte Sie, mir zu helfen, damit meine Rente genehmigt wird.'

<sup>56</sup> This 1960 report is not in the file. Another medical report from 1958, however, which attested a fifty percent reduction in earning capacity, and acknowledged that this could be persecution-related, was ignored.

botched the whole thing with their incompetence!!!' He stressed again that he was tricked out of compensation because of his illiteracy and appeals to their sense of 'humanity and justice'.<sup>57</sup> This sentiment of having been cheated because of an inability to understand the system is also reflected in the interviews where interviewees described the signing of settlements as their biggest mistake, relating this to their inability to read or understand the documents used in the process.

The Committee on Petitions of the Lower House of German Parliament did not respond to the specific grievances, but merely pointed out in a letter in January 1980 that the administration of compensation was the responsibility of the states, and thus his letter would be passed on to the Lower Saxony Parliament in Hanover. Kurt A. persevered by writing another letter to the Lower Saxony Parliament, asking for a pension; he received a further negative reply. For Kurt A. the fight for compensation in the form of a pension did not end here, and in 1988 he authorised the Central Council, in the person of its president Romani Rose, to act on his behalf. In 1988/1989 the Central Council compiled a list of 525 cases of Roma who had been severely persecuted during the Third Reich, and who, in spite of serious health damage, had, to that date, not received adequate compensation pensions.<sup>58</sup> The Central Council wrote to the relevant compensation authorities on behalf of these victims; the letters written by the Central Council are markedly different to much of the previous material supplied by Roma. They tended to be well drafted, comprehensively argued, and included references to other successful Roma cases in support of the claim they were making. It shows that the Central Council had the benefit of a broader perspective, clearly knew what kind of demands stood a chance of being accepted, and used the direct involvement of Rose – who soon gained recognition from the German government as the main spokesperson of the Roma – to maximise leverage.

In Kurt A.'s case, the Central Council criticised the fact that the discrepancies between the two medical examinations had not led to any further investigations and that the decision against awarding a pension had simply been based on the 1960 medical report, which claimed that there was no reduction in earning capacity. Rose further described the proposed settlement, which by default precluded future claims, as immoral, given that the authority must have known of A.'s illnesses. The response from the Lower Saxony State Authority (March 1989) was swift, which suggests that some importance was placed on Rose's role as the representative of German Roma, and argued that the decision had not been immoral, as the authorities had relied on the 1960 medical report which did not list any illnesses. It did, however, acknowledge that it could be assumed, without further medical examinations, that the persecution had led

<sup>57</sup> Letter by Kurt A. to the Committee on Petitions of the West German *Bundestag* on 12 December 1979, Kurt A., Zg. 22/2003 Nr. 2350, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Weil ich aus finanziellen Gründen mir keinen Starnwalt leisten kann, haben die Anwälte meiner Wahl alles aus Unkenntnis der Sachlage verdorben!!!'; 'menschliche gerechtigkeit [sic]'.

<sup>58</sup> As the Central Council denied all access to its files, this case could not be cross-checked with the information kept by the Central Council. Cross-checking would have added another dimension to this case, and might have clarified a few issues that remained unclear from reading the compensation file.

to psychological damage, which probably amounted to a twenty-five percent reduction in earning capacity, and thus it suggested a pension (of 566 German Marks monthly) as of January 1989, as well as a one-off payment for the past of 40,000 German Marks, to which the Central Council seems to have agreed. This pension offer was probably the result of the Final Federal Compensation Law 'assumption clause' (§ 31 BEG-S), which had proposed as early as 1965 that a twenty-five percent reduction of earning capacity could be assumed in the cases of victims who had spent at least a year in imprisonment.<sup>59</sup> Whilst the eventual lump sum payments seem significant, they came well over four decades after the end of the war. The fact that Kurt A. did, in the end, receive compensation hints at a desire to close the case in a way that would satisfy the claimant so as to prevent further action from the Central Council. This is particularly likely given that at one point a reason for not awarding him a pension had been that he had missed the deadline – a fact that had not changed in 1989. It was probably more strategic for the state of Lower Saxony to close the case this way than risk negative publicity at a time when the voice of the 'forgotten victims' had started gaining political weight.

The communications of the Central Council in this compensation file suggest that, in the long history of Roma compensation, Roma organisations played a pivotal role in winning belated compensation payments. The nature of the Central Council's involvement (and its success) in this particular file serves to show that in the 1980s there was a shift from individual agency, where every Rom claimant fought for himself (or, at times, for his family), to collective agency, mirrored in the Central Council's effort across Germany on behalf of 525 particularly hard-hit victims. By moving away from individual claims and individual fates towards claims on behalf of a group of Roma by a central representative, the Central Council took a new approach, thereby constructing a claim to Roma identity based on a particular claim to victimhood, a process which was supported by the newly created organisational apparatus representing German Roma. With this came a move away from the assimilation of the 1950s and 1960s, which was based on the Roma's desire to reinforce their Germanness, which can be seen from the letters enquiring why foreign victims were being paid more compensation than German victims, i.e. German Roma; this was on the one hand the result of Germanness being the basic requirement of the Compensation Laws, but on the other hand it was linked to the differentiation created by the National Socialists between the 'Gypsies' and Germans which had been regarded as artificial by German Roma and which had led to a desire to undo this differentiation within the community and beyond. Ironically, the success of the Central Council was largely built on differentiating between Roma and Germans, based on the claim of the Roma's position as an ethnic minority. This clearly creates an ambiguous situation as not only the personal material in the compensation claim files, but also the autobiographic material from the 1990s expresses the Roma's strong sense of feeling German.

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<sup>59</sup> BEG-S § 31.

The voice of the Central Council is strong because it took a new tone and approach. Its success was not only to gain further payments for Roma victims but also to ensure that the Roma voice was heard and that the Roma were established as a victim group in their own right (which again contradicts the standpoint taken by Roma victims in the 1950s of being German victims). Some other voices of friends or supporters of Roma, which were not collective and thus perhaps less loudly voiced, also had an impact on compensation procedures. Chapter three on the immediate post-war period has shown how Otto Pankok took on the cause of the Roma in his region, and successfully so. What differentiates the support of non-Roma from the support of the Central Council is the tone it took: non-Roma tended not to fight on behalf of the Roma group as a collective entity or as a separate, collective, victim group, but rather on behalf of specific Roma or specific families (as in the case of Pankok). It has been shown that lawyers wrote letters of support even if at times patronising the claimant, for instance when leniency was requested for the mistakes made by Roma because of their lack of knowledge of the system or instances where their 'traditional' lifestyle meant that they could not supply the necessary documents or give the required proof. Even if these advocates were not always as clearly outspoken or forceful as the Central Council would be and did not engage in collectivism, they did at times have an impact on the compensation process. For instance, the directive of the Lower Saxony Interior Minister, mentioned at the beginning of this chapter, did open up a new avenue for Roma who had problems proving their nationality, even if this went hand in hand with the advice to check the nationality of Roma meticulously and might have been interpreted as yet another barrier to compensation by Roma victims. The vicar Georg Althaus is another example of an individual who took a role in some Roma compensation claims made in Wolfenbüttel. Althaus had a long-standing interest in Roma, predating National Socialism, which he retained after the war. In the 1950s Althaus was in charge of the Evangelical Lutheran Church's Mission in Israel and for the Gypsies (*Evangelisch-lutherisches Pfarramt für den Dienst an Israel und den Zigeunern*) in Braunschweig, and he also founded the Lutheran Gypsy Mission (*Verein für lutherische Zigeunermission*) in 1956.<sup>60</sup> Althaus's emphasis was on accepting the Roma as they were rather than forcing them to assimilate (based on the argument that assimilation had failed previously), as he expressed in an information letter in 1956: 'Let us stop trying to re-fashion the Gypsies! Otherwise, we'll lose them. Better to let the Gypsies be Gypsies and develop naturally into true Gypsies ...'.<sup>61</sup> The compensation claim file of Adolf P. shows how Althaus tried to act as a middle-man between the compensation authority and the Rom claimant by writing to the Hanover compensation authority in 1964, asking it to take into account negative experiences by Roma with German officials during the Third Reich, and their ensuing psychological damage when

<sup>60</sup> Reiter, *Sinti und Roma*, p. 168.

<sup>61</sup> Pfarramt für den Dienst an Israel und den Zigeunern, Pa Dut, Nr. 26, Landeskirchliches Archiv Wolfenbüttel: 'Verzichten wir darauf, dass wir die Zigeuner ummodelln! Sonst verlieren wir sie. Die Zigeuner sollen vielmehr Zigeuner bleiben und zu echten Zigeunern sich entfalten ....'



assessing the state of the claimant's health.<sup>62</sup> Althaus did not explicitly mention 'racial scientists', instead he described the Roma's distrust of German officials and authorities as the result of interaction with people who pretended to be the friend of the Roma: 'That's related to the tremendous difficulties the Gypsies have experienced in their encounters with dubious, so-called "friends of the Gypsies".'<sup>63</sup> Material from the State Church Archive (*Landeskirchenarchiv*) in Wolfenbüttel shows that even if Althaus was trying to help the Roma, and regarded himself as being on their side, Althaus displayed similar prejudices and stereotypes to those of other advocates of the Roma such as their lawyers and Otto Pankok. In an article Althaus wrote in 1953 entitled *Wie steht es eigentlich mit den Zigeunern*, he repeats the negative stereotyping of the wandering, stealing and lying 'Gypsy' arguing that in spite of this Jesus loved them, wondering 'whether they don't also have loveable traits?', emphasising that people like him, who had spent much time with the 'Gypsies', had found such attributes: 'Anyone who has ever gotten to know them has found that they are loveable and learned to love them.'<sup>64</sup> In fact Margalit describes Althaus as a 'romantic racist', and as a person who transferred the ideas of the educational model employed by the Lutheran Mission in Africa (Althaus had been born in 1898 in German East Africa, the son of German missionaries, and spent his early life there) to this ethnic minority, contending that the criminal 'Gypsies' were the result of 'pure Gypsies' mixing with criminal and 'asocial' non-'Gypsies'.<sup>65</sup> So both the Central Council's engagement and the help of non-Roma showed some signs of ambivalence: the Central Council created an ambivalence between the Roma as Germans and the Roma as an ethnic minority, both sentiments used at different times to gain recognition and compensation, yet with the latter being more successful. The ambivalence which is common to non-Roma supporters is that on the one hand they stood up for individual Roma, but on the other hand, they perpetuated certain romantic or at times even negative stereotypes of the Roma as a group, in some cases, like in Althaus's, reverting back to exactly those ideas employed by the racial scientists during the Third Reich.

It has been established that the material found in the compensation claim files was in most cases limited to what was necessary for the decision-making

<sup>62</sup> Adolf P., Zg. 22/2003 Nr. 2314, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>63</sup> Adolf P., Zg. 22/2003 Nr. 2314, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM: 'Das hängt mit den schweren Erfahrungen zusammen, die die Zigeuner mit zwielichten, angeblichen "Zigeunerfreunden" gemacht haben.'

<sup>64</sup> NL Burmester, Nr. 276, Landeskirchliches Archiv Wolfenbüttel: '... ob sie nicht auch liebenswürdige Züge haben?'; 'Jeder, der sie näher kennengelernt hat, hat solche gefunden und liebgewonnen.'

<sup>65</sup> 'When Gypsies commit crimes today... I'll say point-blank that they aren't full-blooded Gypsies, but rather have non-Gypsy blood and have inherited criminal tendencies along with it. A lot of criminals and whores, retards and rejects come from the association of the Gypsies with asocials.' 'Wenn Zigeuner heute Verbrechen begehen ... so sage ich schlankweg, daß sie keine reinen Zigeuner sind, sondern Blut von Nichtzigeunern haben, die verbrecherische Neigungen vererbt haben. Aus Verbindung der Zigeuner mit Asozialen gehen viele Verbrecher und Huren, Schwachsinnige und Abnorme hervor.' See G. Margalit, "'Großer Gott, ich danke Dir, daß Du kleine schwarze Kinder gemacht hast". Der "Zigeunerpastor" Georg Althaus', in *Werkstatt Geschichte*, 25, 2000, pp. 59–74, here pp. 67–69.

process. The Münster archive holds the compensation file of Maria F. who fled Germany, with her extended family, to Yugoslavia, via Italy, giving a limited insight into her plight.<sup>66</sup> Harry F., who seems to be a nephew of Maria F., was interviewed for the Fortunoff Video Archive in 1991 about the same events.<sup>67</sup> In stark contrast to Maria F.'s file, his account gives a much more detailed and colourful description of the F. family's war-time years, and supports the previously made point that the compensation claim files reduce the survivor's history to the key points necessary to establish compensation payments, and thus only tell part of a story. These two different accounts of the same story, told almost forty years apart, serve to show what is deemed important not only in two different contexts, but also at two very different points in time. It thus supports the points made in the chapter discussing the biographical material: first, that the compensation claim files in the majority of cases allowed the claimant only to recount what was directly relevant to the administration of the case which restricted the story to the Compensation Laws' framework; secondly, that the more recent material shows what is really important to the survivor group as those are the events that are recounted many years later; and thirdly that in the process of recounting events, certain memories become shared and collective memories, which are a way of dealing with and understanding the past. These two reports thus provide a link between the two sets of sources, showing that the voice of the victim can be heard throughout the years, even if the story that is told is somewhat different depending on the circumstances in which it is told.

From Maria F.'s file we learn that she was a widow, making a claim on behalf of her late husband Emil F. in 1957, and that she was a mother of six children, all of whom were born between 1936 and 1951. The biographical material is limited to the information that Emil F.'s father had been a showman, Emil himself a musician, and, like his brothers, he had been part of the Reich Music Chamber (*Reichsmusikkammer*). It was further stated that her parents, too, had been musicians, showmen and traders. One further learns that the annual income of Emil was estimated to have been about 3,600 Reichsmark before 1939, after which he was no longer allowed to travel (and thus was unable to pursue his trade) in line with the Compulsory Settlement Order. From then on he was restricted to the area of Danzig and Zoppot and his income was reduced to about 2,000 Reichsmark. The persecution history given in this file is brief. It is reported that when Emil and Maria met in 1935 they had not been permitted to marry legally, due to the Nuremberg Race Laws, and thus had a traditional Roma wedding. In addition, his trade licence was confiscated. Maria F. explained that they decided to leave Germany after the Compulsory Settlement Order, having heard that other Roma had already been deported.<sup>68</sup> The F. family crossed the border to Italy in May 1940, where Maria F. became infected with malaria. We learn from an affidavit by Paul A. in 1950 that the family left behind three large

<sup>66</sup> Maria F., ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>67</sup> Harry F., Fortunoff Video Archive, T-2768 (1991).

<sup>68</sup> Maria F., ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

showman's wagons which contained a travelling cinema.<sup>69</sup> A very brief resumé of the ensuing journey is given (their stations included: Slovakia, Poland, Upper Silesia, Yugoslavia, West Prussia and Italy). Their stay in Slovakia, for instance, is confirmed by an affidavit by Berthold B. (25 April 1957), who met the family F. in Slovakia in 1941 before going on to Krakow, where they would meet again. The voice of Maria F. is interjected in a note in which she emphasised that they had fled from the *Gestapo*, the SS and various police authorities, involving eighteen months of imprisonment,<sup>70</sup> rather than having undertaken 'some kind of Gypsy journey'.<sup>71</sup> She cited the fact that they had no criminal record to prove that their persecution had been solely based on them being 'Gypsies'.<sup>72</sup> In spite of this evidence, her claim was rejected, and the flight was described as migratory instinct.

In contrast to this limited information about a family that survived the Holocaust, the story of Harry F., from the same extended family, is very different in emotion and tone and includes more personal details, because Harry F. was able to talk freely. Harry F. was born in March 1938 and he reported how they used to travel as puppeteers in Pomerania, Magdeburg and Dessau. Like Maria F., he conveyed that at some point they were no longer allowed to travel and that at this time his uncle had decided it was best to leave Germany, given what was happening to Jews. What follows is a complicated and somewhat fragmented story of a family's flight across Europe. They left Germany via Nuremberg, where they managed to buy counterfeit passports for 500 Reichsmark. The whole family left for Italy, but was stopped at the Brenner Pass, on the border with Italy, when the Germans refused their passage. The family claimed that they were part of the *Reichstheater*, on a trip to play in Italy, but this was not believed because supporting documents could not be provided. Just as they were being sent back, a German actress came along – apparently on her way from Rome, where she had been filming *Münchhausen* – and saved the family by approaching Harry F.'s grandfather, greeting him with 'Well it's about time I saw you all again'.<sup>73</sup> She apparently told the police that she knew the family, and asked that they be

<sup>69</sup> A compilation made on 21 November 1957 stated the following possessions as left behind by the family F.: a caravan (4,500 Reichsmark), a motor tractor (2,500 Reichsmark), a set of drums (450 Reichsmark), a car (2,000 Reichsmark), furnishing and clothes (4,000 Reichsmark) – amounting to a total of 12,400 Reichsmark.

<sup>70</sup> An affidavit by Oswald and Helene B. showed that they were arrested together during their flight in Agram (Yugoslavia) in June/July 1942 (with Hugo, Karl, Emil and Maria F.) as well as in May 1944 in Sanquinetto (Italy) (12 March 1957); according to the affidavit by Julius S. (22 March 1950), the arrest in Agram was carried out by the 'Croatian SS-police, who was under order to seize and incarcerate all those who were racially different.'; 'kroatische SS-Polizei, die Weisung hatte, alle Andersrassigen aufzugreifen und einzusperren.' Maria F., ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>71</sup> Maria F., ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg: 'Wanderung im Sinne der Zigeuner'.

<sup>72</sup> Maria F., ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>73</sup> Harry F., Fortunoff Video Archive, T-2768 (1991); 'na endlich seh ich Euch mal wieder.' It is not quite clear who this actress was. Leni Riefenstahl comes to mind, as she had used Roma for the filming of *Tiefeland* (filmed in 1940–1944, but premiered in 1954), which she had 'requested' from the Maxglan camp near Salzburg. Riefenstahl did not, however, have a part in Erich Kästner's *Münchhausen*, which was filmed in 1943, mainly in Berlin.

allowed to pass – the officials acquiesced and allowed the family to cross the border. Harry F. did not mention her name, but claimed that this actress had made various films with Roma, which in his view explained her help. Once their passports expired (about two years later), the family F. could no longer remain in Italy, as the Germans were searching for German men who were liable for military service. Their journey thus continued to Zagreb, though Harry F.'s story doesn't mention how they crossed the border without passports.

At the border in Croatia part of the family was arrested by the Italians, on order of the Germans, but when the mothers started singing Schubert *Lieder* to the border guards, they were once again allowed to pass. The *Ustasha* (Croatian Revolutionary Movement) is described as having been brutal towards Roma, though the F. family escaped this due to their German passports. Their journey continued to Bucharest, where they witnessed the deportation of Jews. The family was forced to sell their jewellery and move on to Bulgaria where, unfortunately, there were too many Germans to hide safely. In the interview Harry F. explicitly attributed the presence of these Germans to the existence of concentration camps in the area, rather than to the war. He described how his cousins had been highly decorated soldiers before being sent to Auschwitz, perhaps in order to show that his own family had been brave and loyal German citizens. They left Bulgaria to return to Yugoslavia but, again, they had trouble crossing the border. Again, the women saved them by promising to spend some time with the soldiers, on the condition that they allowed the father with the caravans, horses and family to pass (this account is too vague as to establish whether this involved giving sexual favours). Back in Yugoslavia, the family split up, and one part posed as a KdF (Strength through Joy – *Kraft durch Freude*) theatre group, performing mainly for the military. As this did not earn enough money, they had to supplement their income by begging and stealing. The other part of the family in the meantime performed for the partisans.

At some point the family needed to flee and was captured in a forest by Germans who beat them and locked up the women and children in a farmhouse, and the men in prison. After about a fortnight they were transported to Zagreb, where they underwent delousing, which was perceived as particularly degrading. They were further transported to Germany and were sent to a work camp in Marburg an der Lahn from where they escaped shortly before Christmas 1944. They survived the remaining few months in hiding, until liberation by the Americans. Harry F. went on to recount the life of his grandfather as a puppeteer, and narrates very vividly the rather complicated plot of *Faust*, which was part of the repertoire of his grandfather's puppeteering group. He explained how he came from a long line of puppeteers, and how this skill had to be both learnt and in one's blood, thus it was passed down from father to son. His grandfather also engaged in live theatre productions and used to play the *Freischütz* with his fourteen children. He was also a musician, playing his harp for a Duchess, who presented him with a large harp as a sign of recognition. Harry F. described his grandfather as a very

learned man who taught him how to read and write. He went on to talk about how puppets had been around since the fourteenth century and originally came from Bohemia. He also showed photos and pictures of his family, amongst them a photo of his grandfather teaching his son how to handle a puppet. In stark contrast to the compensation files, this interview describes the post-war period and how the family tried to reintegrate into normal life in post-war Germany. In the case of Harry F., the family went to Regensburg, where they spent their first Christmas in freedom. They resumed making puppets and performing with them, but Harry F. lamented that contemporary society had little regard for this art. The pre-war romanticism no longer existed, and neither did the life of bonfires and music. He argued that if they were to perform, people would revert to the old prejudice and criticism that they had nothing better to do than sing, and that they avoided tax and earned their living by stealing. Harry F. emphasised that they had always paid tax, including for their cars and dogs.

These two versions of a family's fate under the National Socialists could not be more different and serve to illustrate the limited scope for interpretation offered by the compensation files. The first account essentially had to be reconstructed exclusively on the basis of the material found in the compensation files. The affidavits and the enquiries made by the compensation authority in an effort to check the veracity of the claims help the reader to understand what happened during the Third Reich in terms of persecution. What is largely lost is the personal side, the story of how the family managed to survive and any kind of perception of how they regarded or understood what was happening to them. The material in the file is concerned with establishing specific dates and places, according to which decisions could be made, and thus the focus is on information that could be used in the process of establishing the various compensation payments if the claim had been successful. The fluctuation in Emil's income is meant to portray the results of persecution-related restrictions and would serve as a basis for establishing the amount of compensation that would be paid; the precise value of the lost possessions was given in order to establish the total value for compensation; the fact that the family had fled from the *Gestapo* serves to prove that they had been exposed to racial persecution and thus qualified under the Federal Compensation Law and the dates given are put in context with the racial persecution measures (such as the Compulsory Settlement Order) to further emphasise this point.

In stark contrast, the facts and figures lose importance in Harry F.'s interview and one can see what victims focused on if their story telling was not limited to the framework of the compensation procedure. The Third Reich was used to paint a picture of the idyllic life of the free Roma before Hitler came to power, a highly romanticised portrayal, which reinforces the commonly held view of the 'free Rom' who travels and spends the nights around the fire amidst his family. But as the interviewee was not even born until 1938 this is clearly a device, albeit perhaps subconscious, to show the rupture brought about by National Socialism. The story of the idyllic period preceding the onset of persecution is another

example of a 'collective memory', in this case not to explain something that is otherwise difficult to understand (such as the continued death of concentration camp inmates after their liberation) but to emphasise the extreme nature of the measures taken by the National Socialists against the 'Gypsies'. By talking about both the pre-National Socialist and the post-war life, the interviewee shows what has been lost for ever, thereby showing the long-term impact of the National Socialist measures. So what seems to matter here is that life was not only interrupted or destroyed, but that there was no return to the pre-persecution life for those who survived. This also meant the loss of the tradition of passing on skills such as puppeteering, which had been so central to his family's life, both culturally and economically.

It clearly also is important to the interviewee to paint a picture of the family from a socio-cultural point of view, perhaps in order to dispel certain myths or prejudices he feels are common amongst the German people. Various comments – such as the women performing Schubert *Lieder* and his grandfather performing the *Freischütz* with his family – serve to show that this family was and is German, and that their lives, customs and behaviour were deeply anchored in German culture. It reinforces the resentment felt amongst Roma about the differentiation created by National Socialist policies between Germans and Roma, which Roma previously had not felt as they regarded themselves as Roma and German at the same time. The story about his cousins who had been decorated German soldiers yet were deported to Auschwitz is an expression of the dichotomy created by this artificial distinction.

In the end, the compensation files are not only a portrayal of what Roma received in the form of compensation (and how they received it), but also the history of an encounter between the victims and the new West Germany, administered by some of the 'old' Germans, who had at times played a part in their persecution. The official material in the files, but particularly the personal notes and letters, elucidate the lives of Roma and their sentiments towards compensation and Germans after the war, and provide a link to the stories told in interviews and biographies from the 1990s onwards. The letters in the files show the Roma's worries and complaints at the time, whilst the autobiographical material gives an indication of what was remembered and what was deemed important to retell thirty years later. The communications in the files are a portrayal of how each side perceived the other and how these views influenced the workings of the compensation processes. It emerges that each side had fairly set ideas, and thus expectations, about the other, which tended to reinforce old patterns of thought and conduct, encouraging continuity rather than the development of new attitudes and behaviour. These patterns of thought re-established themselves after a few years during which victims received comparatively more attention, with the early era of the Federal Compensation Laws being a time when sympathy for victims of National Socialist persecution declined, in favour of 'German' victims such as the expellees and victims of bombing. At the same time the files show that the Roma had individual supporters, and later collective agency in the form of the

Central Council, who all played a role in their struggle for compensation and recognition, showing that in the long run the struggle for compensation required more than just establishing the nature of racial persecution, that in the end it took the creation of a victim identity, on the basis of being an ethnic minority, to receive broader recognition.

The above analysis has also shown that the compensation files can be used for much more than merely tracing a bureaucratic process, a point further illustrated by some of the other information contained within the files. Various documents in the files provide a picture of the socio-economic situation of the Roma claimant. For instance, if a claimant had a criminal record it was almost always noted in their file, and at times further enquiries were made at the local police office. As was often the case with these files, negative or unusual situations (in this case convictions) were more likely to be recorded than positive factors such as having been a good member of society. At times pre-liberation convictions were mentioned, especially if they had been the alleged or supposed reason for incarceration or deportation. A criminal record is detailed in at least eighteen of the 161 Wolfenbüttel compensation files.<sup>74</sup> These offences vary from the case of Eduard L.,<sup>75</sup> who had been imprisoned for ten days in March 1946 for theft, to that of Franz S., who had been in prison at the time when he made his compensation claim in 1954, due to having been sentenced to ten months in prison plus a three-year loss of his civil liberties in October 1953, for a series of previous convictions including theft and perjury.<sup>76</sup>

The files also show that some Roma had been financially supported by social services.<sup>77</sup> The fact, repeatedly lamented as an injustice, that social services took

<sup>74</sup> Wolfenbüttel: Gisela W., Zg. 22/2003 Nr. 1005, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Wladyslaw W., Zg. 22/2003 Nr. 1575, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Robert S., Zg. 22/2003 Nr. 591, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Franz S., Zg. 22/2003 Nr. 265, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Alwine S., Zg. 22/2003 Nr. 1095, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Adelheid L., Zg. 41/1992 Nr. 1490, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Johanna A. (née L.), Zg. 50/2004 Nr. 23, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Auguste V., Zg. 22/2003 Nr. 2135, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Wilhelmine L., Zg. 22/2003 Nr. 2210, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Siegmund L., Zg. 22/2003 Nr. 668, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Josef B., Zg. 22/2003 Nr. 1247, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Janusch A., ZK 50179, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Anna F., ZK 52521, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Albrecht J., ZK 24918, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Charlotte K., ZK 25959, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Eduard L., ZK 24252, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Maria M., ZK 52811, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Adolf P., ZK 53536, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; for an example of the nature of these criminal record reports, see the file of Robert S., who received prison sentences of between nine months and three years for serious theft. Robert S., Zg. 22/2003 Nr. 591, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>75</sup> Eduard L., ZK 24252, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>76</sup> Franz S., Zg. 22/2003 Nr. 265, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>77</sup> Wilhelmine L., Zg. 22/2003 Nr. 2210, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten,

their share when compensation was paid, is noted in a series of compensation files, and seems to support the theory that a section of the Roma claimants remained the socio-economic outsiders they had been before the war.<sup>78</sup> These sums were quite substantial at times, and covered social benefits previously paid to the claimant. Such was the case with Brunhilde W., who had received on-and-off financial support from 1958 at the latest, from both the city of Braunschweig and the city of Wolfenbüttel, which meant that when she received a retrospective pension payment of 29,028 German Marks in 1971, she had to pass on 2,860 German Marks and 2,740 German Marks, respectively, to the social services of the cities of Braunschweig and Wolfenbüttel.<sup>79</sup> However, the files not only offer insight into the Roma's post-war situation, but also contain references to the pre- and early persecution period. This is not exhaustive information, as this kind of information was not required for the compensation process and thus is only found in those files where it had been volunteered. What continually arose was whether the claimants had an itinerant trade licence (*Wandergewerbeschein*), as their withdrawal was often cited (though rarely accepted) as evidence of the onset of persecution. This shows that, pre-1945, travelling tradesmen (dealers in textiles, basket-makers etc.) or travelling artists were quite common in the Roma community. However, in most cases, these travelling traders had fixed homes to which they returned between their sales trips and for the winter months.<sup>80</sup> This assumption is confirmed in those cases where Roma claimed compensation for professional damage, as a majority of Roma repeatedly cited some form of travelling occupation. Auguste V. reported that her itinerant trade licence had not been renewed in 1939, which meant that her previous annual income (cited to have been about 1,000 Reichsmark), earned from the trading of textiles, could not be maintained.<sup>81</sup> Similarly, Edith B. noted that she had worked for her grandmother as a travelling artist for a weekly income of fifty to sixty Reichsmark.<sup>82</sup> Only a

4 Nds WGM; Janus A., ZK 52521, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>78</sup> Alfred L., Zg. 50/2004 Nr. 22, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Wilhelm L., Zg. 62/1985 Teil 1 Nr. 598, NLA-Staatsarchiv Wolfenbüttel, 58 Nds Fb 4 Teil 1 Nr. 598; Brunhilde W., Zg. 22/2003 NR. 2677, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds Wiedergutmachung; Janusch A., ZK 50179, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Eduard L., ZK 24252, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>79</sup> Brunhilde W., Zg. 22/2003 NR. 2677, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>80</sup> See, for instance, the cases of Anna F., ZK 52521, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Maria F., ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Johann D., ZK 30332, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg; Ernestine N., ZK 29698, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.

<sup>81</sup> Auguste V., Zg. 22/2003 Nr. 2135, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>82</sup> Edith B., Zg. 22/2003 Nr. 556, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; in comparison, Eduard L. reported that as an unskilled labourer (*Tiefbauarbeiter*) he had earned 0.71 Reichsmark an hour, which amounted to approximately 1,400 Reichsmark a year; Eduard L., ZK 24252, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnsberg.



very few claimants explicitly stated that they were still exclusively travelling after the war.<sup>83</sup> From the correspondence with lawyers it becomes clear that they often had trouble passing on decisions or getting information or supporting documents because their clients were travelling or had moved without passing on their new addresses – be it for extended visits to relatives or for professional reasons.<sup>84</sup>

The richness of these files becomes particularly clear when they are compared with other *Wiedergutmachungs*-material, such as restitution files. The following chapter analyses restitution claims filed by Roma both in the immediate post-war years and under the Federal Restitution Law. Because these files concerned objects rather than lives, they are of a much more straightforward nature and thus less extensive. The claimant tended to benefit from this in the sense that claims were processed more efficiently and definitively. However, because of this, restitution claims tended not to have brought about the discussions to which compensation claims had led. Discussions addressing issues such as the nature of the Roma's persecution were vital as they would eventually be part of the basis for greater recognition of Roma as victims of National Socialism.

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<sup>83</sup> For example Edith B., who said that she travelled until 1959, as her husband had been a travelling textile salesman. Edith B., Zg. 22/2003 Nr. 556, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>84</sup> See, for example, Brunhilde W., Zg. 22/2003 Nr. 2677, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Otto W., Zg. 22/2003 Nr. 2569/I, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

## Chapter 7: Property Claims

Restitution was the second main pillar of *Wiedergutmachung*. Whilst the Federal Compensation Law primarily covered damage to health and career, the Restitution Law endeavoured to return assets that had been unjustly taken from victims of National Socialist persecution. The military laws implemented in the three Western zones and West Berlin between 1947 and 1949<sup>1</sup> formed the legal background and framework of the Restitution Law,<sup>2</sup> which was passed in 1957 as the Federal Restitution Law, incorporating the Allied laws and extending restitution to goods confiscated or destroyed in the occupied territories.<sup>3</sup> Similar to the need for a separate compensation law, the Allies decided that restitution should be regulated by a separate law, too. Inter-state regulations governing expropriations that had taken place outside the German Reich had existed in 1945. However, for expropriations within the German Reich, it was difficult to establish the legal groundwork (be it based on German or international law or as part of reparation agreements) that would justify the return of expropriated possessions. The established human rights regulations based on the fourth Hague Convention of 1907 were insufficient to guarantee expropriation victims restitution or adequate compensation because this *Völkerrecht* (international law) was based on the principle of sovereign states which, within their territory (and any occupied territory), were responsible for their own nationals.<sup>4</sup> After the end of a war the state whose territory had been annexed had a right to compensation, but not the affected individual within that territory. Even claims of expropriation

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<sup>1</sup> Gesetz Nr. 59 (Rückerstattung feststellbarer Vermögensgegenstände an Opfer der nationalsozialistischen Unterdrückungsmaßnahmen) der Militärregierung Deutschland – Amerikanisches Kontrollgebiet – v. 10.11.1947, Amtsblatt der Militärregierung Deutschland – Amerikanisches Kontrollgebiet – Ausgabe G vom 10. November 1947, p. 1; Gesetz Nr. 59 (Rückerstattung feststellbarer Vermögensgegenstände an Opfer der nationalsozialistischen Unterdrückungsmaßnahmen) der Militärregierung Deutschland – Britisches Kontrollgebiet – v. 12.5.1949, Amtsblatt der Militärregierung Deutschland – Britisches Kontrollgebiet – Nr. 28, p. 1169; Verordnung Nr. 120 (Rückerstattung geraubter Vermögensobjekte) der Militärregierung Deutschland – Französisches Kontrollgebiet – v. 10.11.1947, Amtsblatt des französischen Oberkommandos in Deutschland Nr. 119 vom 14. November 1947, p.1219; see Goschler, *Schuld und Schulden*, pp. 108–109.

<sup>2</sup> For more detail on the genesis and development of restitution, see Goschler, *Schuld und Schulden*, pp. 100–121, 203–212.

<sup>3</sup> Bundesgesetz zur Regelung der rückerstattungsrechtlichen Geldverbindlichkeiten des Deutschen Reiches und gleichgestellter Rechtsträger (Bundesrückerstattungsgesetz – BRüG), 19.7.1957, in *Bundesgesetzblatt* 1957, pp. 733–742.

<sup>4</sup> J. Lillteicher, *Raub, Recht und Restitution. Die Rückerstattung jüdischen Eigentums in der frühen Bundesrepublik* (Wallstein, Göttingen, 2007), pp. 43–44.

victims who had emigrated could not easily be made by the new state they were now citizens of, as they had been German nationals at the time of expropriation. Therefore the Allies decided to establish a new type of legal claim by creating separate restitution regulations covering claims that went beyond the traditional reparations and the internal civil code. This 'internal restitution' came to encompass the return of possessions taken within German territory, as opposed to 'external restitution' which regulated the return of possessions that had been taken outside the German Reich, which would be part of inter-state agreements.<sup>5</sup>

Between 1947 and 1949, restitution laws were implemented in the three Western Occupied Zones. No unified law was passed because the Allies could not reach an agreement on what should happen with those assets belonging to deceased victims with no heirs. The US had promised all of these unclaimed assets to a Jewish successor organisation, which made the Germans involved in the drafting of the law fear a drain of assets. The French and, particularly, the Russian Allies preferred unclaimed assets to become state property. It was the Americans who passed the first Restitution Law in November 1947,<sup>6</sup> having planned it since 1945.<sup>7</sup> The law required everybody who had (even innocently) acquired Jewish possessions to return them. If the former owner was no longer alive, Jewish successor organisations were to be the inheritors. This American law was adopted by the British occupying powers with slight alterations in May 1949.<sup>8</sup>

The Allied restitution regulations thus enabled victims who had lost possessions or property as a result of racial, religious or political persecution to make claims for the return of these goods or for compensation if they could no longer be returned. These claims could be made both against individuals and against the German Reich.<sup>9</sup> Claims had to include a detailed description of the lost possessions as well as a description of the circumstances under which these possessions had been taken. The decisions were taken at the Compensation Chambers of the District Courts.<sup>10</sup> The lawmakers (i.e. the legal divisions of the Western Allied Military Governments) incorporated the so-called 'confiscation assumption' (*Entziehungsvermutung*), which was an a priori assumption that there had been a correlation between persecution and expropriation. This meant that the claimant only had to show that he had been amongst those victims who had been collectively persecuted (e.g. under the Nuremberg Race Laws), rather than proving that expropriation had been racially, religiously or politically motivated.

<sup>5</sup> Lillteicher, *Raub, Recht und Restitution*, p. 52.

<sup>6</sup> Gesetz Nr. 59 (Rückerstattung feststellbarer Vermögensgegenstände an Opfer der nationalsozialistischen Unterdrückungsmaßnahmen) der Militärregierung Deutschland – Amerikanisches Kontrollgebiet – v. 10.11.1947, Amtsblatt der Militärregierung Deutschland – Amerikanisches Kontrollgebiet – Ausgabe G vom 10. November 1947, p. 1.

<sup>7</sup> For more detail on the genesis and development of restitution, see Goschler, *Schuld und Schulden*, pp. 100–121, 203–212; Lillteicher, *Raub, Recht und Restitution*, pp. 43–53.

<sup>8</sup> Gesetz Nr. 59 (Rückerstattung feststellbarer Vermögensgegenstände an Opfer der nationalsozialistischen Unterdrückungsmaßnahmen) der Militärregierung Deutschland – Britisches Kontrollgebiet – v. 12.5.1949, Amtsblatt der Militärregierung Deutschland – Britisches Kontrollgebiet – Nr. 28, p. 1169.

<sup>9</sup> Lillteicher, *Raub, Recht und Restitution*, p. 85.

<sup>10</sup> Lillteicher, *Raub, Recht und Restitution*, p. 86.

The moment of expropriation was crucial in the decision of restitution cases as in most cases it defined the nature of the expropriation.<sup>11</sup> All expropriation efforts by the National Socialist state or the NSDAP were a priori regarded as unlawful if they could be linked to a persecution measure.<sup>12</sup> In these cases the legal successor to the German Reich had to fulfil the restitution responsibilities, a role taken on by the Regional Fiscal Authorities (*Oberfinanzdirektionen*). Therefore, if an individual or the state objected to a claim it was their responsibility to prove that the expropriation had not been linked to the persecution. In contested cases the circumstance of expropriation was the basis for the decision whether persecution and expropriation had been linked. In the case of the Roma, as the following will show, most expropriations had taken place on deportation to Auschwitz, or shortly thereafter, which meant that, given that the deportations to Auschwitz had from the beginning been regarded as racial persecution, the claim to restitution was automatically established.

This Federal Restitution Law unified the Allied laws, but most resembled the US Restitution Law.<sup>13</sup> With the Federal Restitution Law, West Germany agreed to return property seized in Germany or in the occupied territories. However, the law extended only to possessions in Eastern Europe that had been physically transferred to German territory by the National Socialists after expropriation (so, for instance, it excluded houses outside German territory). The German state further agreed to hand over unclaimed assets to Jewish successor organisations, as most of the looted assets had belonged to Jews. For the American Zone this was the Jewish Restitution Successor Organisation (JRSO), and for the British and French Zone the Jewish Trust Corporation for Germany (JTC).<sup>14</sup> In 1964 a final amendment to the Restitution Law removed the one and a half billion German Marks ceiling which the German government had set in the 1952 Transition Agreement (*Überleitungsvertrag*). It further provided 800 million German Marks for a Hardship Fund for those who had not met the restitution application deadline of 1 April 1959.<sup>15</sup> Assets within the Soviet Occupied Zone were not dealt with until after re-unification in 1990. The restitution of possessions or compensation thereof was more or less completed by the end of the 1960s in the Federal Republic of Germany, with three to three and a half billion German Marks having been paid.<sup>16</sup> Of this figure, 400 million German Marks

<sup>11</sup> Lillteicher, *Raub, Recht und Restitution*, p. 88.

<sup>12</sup> Lillteicher, *Raub, Recht und Restitution*, p. 90.

<sup>13</sup> Bundesgesetz zur Regelung der rückerstattlichen Geldverbindlichkeiten des Deutschen Reichs und gleichgestellter Rechtsträger (BRüG, 19.7.1957), in *Bundesgesetzblatt I*, 1957, p. 734.

<sup>14</sup> Hockerts, 'Wiedergutmachung. Ein umstrittener Begriff und ein weites Feld', p. 29; for more information on the Jewish Restitution Successor Organisation and the United Restitution Organisation, see T. Winstel, 'Die Testamentvollstrecker. Zur Rolle von Anwälten und Rechtshilfeorganisationen'. In Frei, Brunner, Goschler, *Die Praxis der Wiedergutmachung*, pp. 533–553, particularly pp. 535–543.

<sup>15</sup> N. Bentwich, *The United Restitution Organisation, 1948–1968: the Work of Restitution and Compensation for Victims of Nazi Oppression* (Vallentine Mitchell, London, 1968), p. 23 (initially the deadline had been 1 April 1958, but an amendment to the Restitution Law soon extended this deadline by a year).

<sup>16</sup> W. Schwarz, 'Die Wiedergutmachung nationalsozialistischen Unrechts durch die BRD', in Herbst, Goschler, *Wiedergutmachung*, p. 42.

had gone to the various successor organisations by the end of 1967.<sup>17</sup> After re-unification the Law Regulating Open Asset Questions (*Gesetz zur Regelung offener Vermögensfragen*) came into force, which regulated the return of property that had been taken both by the National Socialists and by the German Democratic Republic after 1949.<sup>18</sup> If the return of these goods (mainly houses) was no longer possible, those who had had goods expropriated before 1945 could claim compensation under the Law for the Compensation of NS Persecutees (*NS-Verfolgtenentschädigungsgesetz*) of 27 September 1994.<sup>19</sup>

Whilst the Compensation Laws were in every sense German laws, the Restitution Law was legally German law but formally Allied law (*Besatzungsrecht*). The law was not developed in German parliament, but was the result of discussions of a German-American working team.<sup>20</sup> Initially, each zone had a Supreme Court of Restitution, staffed exclusively by Allied lawyers, as the final judicial authority. These Supreme Courts came into play if the claimant contested the decision made by a Higher District Court. The Allies had hoped to prevent judges from favouring so-called *Ariseure* (Germans who had appropriated Jewish possessions) and to ensure that all the assets were returned to the victims. Dr Heinz Düx reported, based on his experience as a judge at a District Court in the 1950s, that this check imposed by the Allies was indeed necessary, as many judges had tried to delay restitution claims in the hope that the Zonal Law Number 59 (*Zonalgesetz Nr. 59*, the US law ordering the return of all unjustly acquired assets) would later be abolished, since many German judges disputed the legality of this law.<sup>21</sup> Allied influence was later reduced but never entirely disappeared from the sphere of restitution. In the Federal Republic of Germany, the final authority on restitution was a specially formed Supreme Court, consisting of two Allied and two German judges. A neutral judge (usually Scandinavian) held the chairmanship of this Supreme Court. The Supreme Court thus took on a function that would normally have been held by the Federal Supreme Court (*Bundesgerichtshof*), which shows that full responsibility in the field of restitution was never handed over to the Federal Republic of Germany.<sup>22</sup>

The Federal Restitution Law's expenditure was a fraction of that of the Federal Compensation Law; the former amounting to 2.02 billion Euros and the latter to 43.59 billion Euros by the end of 2003.<sup>23</sup> Of this Federal

<sup>17</sup> L. Herbst, 'Einleitung', in Herbst, Goschler, *Wiedergutmachung*, p. 20.

<sup>18</sup> Gesetz zur Regelung offener Vermögensfragen (Vermögensgesetz – VermG) vom 23. September 1990, in *Bundesgesetzblatt II*, p. 885.

<sup>19</sup> NS-Verfolgtenentschädigungsgesetz (NS-VEntschG) vom 27. September 1994, in *Bundesgesetzblatt I*, p. 2632.

<sup>20</sup> W. Schwarz, 'Namen', in Bundesministerium der Finanzen, Schwarz, *Die Wiedergutmachung nationalsozialistischen Unrechts*, vol. 2, pp. 815–819.

<sup>21</sup> H. Düx, 'Geschichte der Entschädigung in Westdeutschland nach 1945 – von den Gesetzen der Westalliierten zum BEG', in Gustav-Stresemann-Institut, (ed.), *Die Opfer des NS-Staates heute – eine Zwischenbilanz der Entschädigungspraxis in Bund und Ländern* (Gustav-Stresemann-Institut, Bonn, 1988), pp. 13–26, here p. 14.

<sup>22</sup> Bentwich, *The United Restitution Organisation*, p. 14.

<sup>23</sup> *Leistungen der öffentlichen Hand auf dem Gebiet der Wiedergutmachung*, as of 31 December 2003 (Bundesministerium der Finanzen, Berlin, 2003), p. 1.

Compensation Law sum, 490 million Euros was in the damage category of ‘wealth and possessions’ (274 million Euros for wealth and 216 million Euros for possessions).<sup>24</sup> This disparity of sums is due to the different nature of the payments, since the Federal Compensation Law paid life-long pensions, whereas the Restitution Law either returned goods or made one-off payments. Certain forms of restitution were taken on by the Federal Compensation Law; it was responsible for providing compensation for possessions that had been destroyed, damaged or plundered during the time of persecution, but only within the December 1937 borders of Germany.<sup>25</sup> This also covered possessions lost as a result of deportation or emigration. Compensation was calculated according to the replacement cost at the time of the decision, and was limited to 75,000 German Marks per victim. The Federal Compensation Law further compensated lost wealth as regulated in paragraphs 56 to 58, including, for example, losses resulting from boycotts, and emigration costs of up to 5,000 German Marks.<sup>26</sup> Compensation within this category was also limited to 75,000 German Marks per victim. The Federal Restitution Law (BRüG) was responsible for all other forms of restitution, and used the established conversion rate of ten Reichsmark to one German Mark.<sup>27</sup> The application deadline was 1 April 1959 (§ 27 (2)). However, if a claimant had originally submitted an application to the wrong authority (e.g. compensation authority) in time, the deadline was regarded as having been kept. In order to limit the number of restitution claims and payments, the Federal Restitution Law demanded that the claim wrongly made under the Federal Compensation Law had to be a substantiated claim, i.e. that the claimant had accurately listed the lost or damaged possessions, rather than just having ticked the claim box ‘damage done to property and wealth’. This was done because claimants tended to tick all categories of damage provisionally, without substantiating each claim. The Federal Restitution Law took on the

<sup>24</sup> *Leistungen der öffentlichen Hand auf dem Gebiet der Wiedergutmachung*, p. 4.

<sup>25</sup> BEG, §§ 51–55; § 51 (1): ‘The persecutee shall have a claim to indemnification for loss of or damage to property if any chattel (Sache) belonging to him at the time of the loss or damage has been destroyed, defaced or delivered up to looting within the territory of the German Reich as constituted on December 31, 1937.’ ‘Der Verfolgte hat Anspruch auf Entschädigung für Schaden an Eigentum, wenn eine ihm im Zeitpunkt der Schädigung gehörende Sache im Reichsgebiet nach dem Stande vom 31. Dezember 1937 zerstört, verunstaltet oder der Plünderung preisgegeben worden ist.’ Translated into English by the Institute of Jewish Affairs (N.Y.), 1956, p. 25; USHMM, Ferencz collection (D 819 G3 G425 1956).

<sup>26</sup> BEG, §§ 56–58; § 56 (1): ‘The persecutee shall have a claim to indemnification if he has suffered a loss of his capital resources in the territory of the German Reich as constituted on December 31, 1937. Restrictions on the persecutee’s use of his property or capital resources shall be deemed to be tantamount to a loss of capital resources. The claim may also be asserted if the loss was caused by boycott.’ ‘Der Verfolgte hat Anspruch auf Entschädigung wenn er an seinem im Reichsgebiet nach dem Stande vom 31. Dezember 1937 belegenem Vermögen geschädigt worden ist. Eine Schädigung an Vermögen liegt auch dann vor, wenn der Verfolgte in der Nutzung seines Eigentums oder Vermögens beeinträchtigt worden ist. Der Anspruch besteht auch, wenn der Schaden durch Boykott verursacht worden ist.’ Translated into English by the Institute of Jewish Affairs (N.Y.), 1956, p. 26; USHMM, Ferencz collection (D 819 G3 G425 1956).

<sup>27</sup> BRüG, § 15 (1).

successor organisations for unclaimed property previously accredited by the three Western Allies.<sup>28</sup>

The case of August W. shows which cases fell under the Federal Compensation Law and which under the Federal Restitution Law and also portrays the dealings between the compensation and restitution authorities. August W. had been granted 2,500 German Marks by the compensation authority for a caravan which was lost after he was deported. The compensation and restitution authorities, however, began a dispute concerning the nature of this case. The compensation authority had paid the money, as it had been told that the caravan had been left behind and was later destroyed, which meant this damage fell under paragraph 51 of the Federal Compensation Law.<sup>29</sup> However, it later emerged that this caravan had in fact been confiscated by an agent of the Third Reich, which made it a restitution damage. The compensation authority now wanted the 2,500 German Marks it had already paid to August W. reimbursed by the Hanover Regional Fiscal Authority, but the Regional Fiscal Authority refused to do so. In the end, a court decided in favour of the compensation authority and demanded that it be paid the 2,500 German Marks it had mistakenly paid to August W. by the Regional Fiscal Authority, because the possessions had been confiscated by an agent of the Third Reich rather than left behind.<sup>30</sup>

If the proportion of Roma compensation claims in relation to overall compensation claims is small, the proportion of Roma restitution files is even smaller. As there have been no projects cataloguing restitution claims in the same manner as the compensation claim files in Münster and Wolfenbüttel were analysed, these Roma restitution files are even harder to trace. The restitution files can only be retrieved by name, leaving it to the researcher to guess which of them might be a Rom file. This has been done with the restitution files at the Münster archive, and twenty-nine Roma restitution claims have been found. These claims were made against the German Reich, represented by the relevant Regional Fiscal Authority. Claims made in these files broadly fall into one of three categories: claims for the restitution of houses; claims for the restitution of caravans; and claims made for household goods, jewellery, musical instruments, etc. These files give an impression of what Roma reclaimed after the war, and reveal the social background of these claimants, as well as giving an insight into their post-war living situation. The nature of these restitution claims is mirrored in many compensation claims, where Roma listed their lost property under the damage categories of possessions and wealth.

The case of these Münster restitution files is particularly significant as about fifty percent concern a group of Roma from Berleburg, whose situation and expropriation has been studied by Ulrich Opfermann and Michael Zimmermann. These restitution files continue the story of the fate of the Berleburg Roma in the

<sup>28</sup> BRüG, § 11 (Jewish Restitution Successor Organisation, Jewish Trust Corporation for Germany, *Allgemeine Treuhandorganisation*, and the *Gemeinschaftsfonds* for the French Zone).

<sup>29</sup> See note 701.

<sup>30</sup> August W., Zg. 22/2003 Nr. 2294, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

post-war period,<sup>31</sup> and allow a study across the supposed break point of 1945. None of the previous literature on the post-war situation of Roma in Germany discusses the restitution of property. The works that study the compensation of Roma either do not mention the fact that they were victims of expropriation at all, or dismiss this topic as irrelevant or negligible, based on the common assumption that Roma usually did not possess wealth.<sup>32</sup> Therefore, these restitution files open up a new field of research; they serve as an example of a settled group of Roma, disproving the perception of many Germans that the Roma were at best an itinerant or at worst a 'vagrant' people. In addition, the files show the workings of a process which was much more straightforward and less dependent on judgement and interpretation than that of compensation, which serves to reinforce the significance of the bureaucrats' and officials' attitudes in the initial compensation procedures. In addition, these files give a further understanding of the expropriation procedure that was applied to Roma as well as some socio-cultural insights into both the Roma's pre- and post-war lives.<sup>33</sup>

The history of the Roma in Berleburg shows their century-long presence in the area and the radicalisation of policies during the Third Reich, leading up to their deportation and expropriation. The city of Berleburg had two so-called 'Gypsy Colonies' before the war, which had developed since the 1726 settlement policies instigated by the Count of Wittgenstein.<sup>34</sup> Roma families had settled in the areas of Westerwald, Siegerland and Wittgenstein in the late seventeenth century, eventually forming various settlements around the city of Berleburg. In the nineteenth century one of these settlements came to be known as the Berleburger *Zigeunerberg* ('Gypsy Mountain'), which was primarily inhabited by poor Roma, but also by non-Roma basket-makers and traders. These two groups were culturally, historically and linguistically disparate, but lived and worked together, and intermarried at times.<sup>35</sup> Eventually, this settlement assimilated and integrated with the majority population and living standards improved. In 1926 about eighty-five percent owned their own modest houses and sent their children to school, but the average education and income of this settlement remained below that of the average Berleburg citizen.<sup>36</sup> In the early 1930s this 'Gypsy Colony' in Berleburg consisted of about 400 inhabitants (of whom about 280 were regarded as 'Gypsies').<sup>37</sup> For comparison's sake, the total inhabitants of the city amounted to 3,300 people, of whom fifty were members of the Jewish community.<sup>38</sup> A tourist office brochure from the 1920s shows that the citizens

<sup>31</sup> U. Opfermann, 'Zigeunerverfolgung, Enteignung, Umverteilung. Das Beispiel der Wittgensteiner Kreisstadt Berleburg', in A. Kenkmann, B.-A. Rusinek, (eds), *Verfolgung und Verwaltung. Die Wirtschaftliche Ausplünderung der Juden und die Westfälische Finanzbehörden* (Villa ten Hompel, Münster, 1999), pp. 67–86.

<sup>32</sup> Spitta, 'Entschädigung für Zigeuner?'; K. Stengel, *Tradierte Feindbilder*.

<sup>33</sup> See pp. 196–197.

<sup>34</sup> Zimmermann, *Rassenutopie und Genozid*, p. 82.

<sup>35</sup> Opfermann, 'Zigeunerverfolgung, Enteignung, Umverteilung', p. 67.

<sup>36</sup> Opfermann, 'Zigeunerverfolgung, Enteignung, Umverteilung', p. 68.

<sup>37</sup> Zimmermann, *Rassenutopie und Genozid*, p. 89.

<sup>38</sup> Opfermann, 'Zigeunerverfolgung, Enteignung, Umverteilung', p. 68.



of Berleburg did not regard the existence of these colonies as something that needed to be hidden, as it advertised the *Zigeunerberg* as a unique settlement (*originelle Kolonie*) and described it as an ‘exoticism’.<sup>39</sup> The tone suggests that these settlements were regarded as unusual curiosities.

Politically, the city had been dominated by the German Nationalist People’s Party (*Deutsche Nationale Volkspartei*, DNVP) and then the NSDAP, with the latter gaining 51.9 percent in the last free elections in November 1932 (in contrast to thirty-three percent nationwide).<sup>40</sup> The story of the Berleburg Roma very clearly delineates the National Socialist policies towards this minority, starting with their exclusion from social services, and ending in their deportation to Auschwitz. For instance, in 1933 the Berleburg Roma were excluded from the relief organisation *Mutter und Kind* (Mother and Child), followed by their exclusion from the *Winterhilfswerk* (Winter Relief Organisation) in 1935. The National Socialist mayor Dr Theodor Günther wanted to cleanse his city of Roma and proposed their expulsion in 1933/34, planning to move them forcibly from the settlement to a remote place in the Lüneburger Heide.<sup>41</sup> This was, in the end, never implemented, but the mayor did prevent any more Roma from settling in Berleburg.<sup>42</sup>

In addition, the Sterilisation Law was used as a means for controlling Roma. Between 1933 and 1940, seventy Roma were reported by the authorities to the Hereditary Health Courts (twenty-five being children under the age of ten), of whom nineteen were forcibly sterilised.<sup>43</sup> In 1937 Günther expressed the opinion that ninety-nine percent of the Roma children should be classified as being ‘hereditarily feeble-minded’ – which would allow sterilisations under this law. He regarded the Sterilisation Law as the key to solving the ‘Gypsy problem’, suggesting that if the Roma were isolated and forced into inbreeding, the ensuing hereditary diseases would justify a brutal enforcement of sterilisations.<sup>44</sup> He rationalised this radical measure by presenting his calculation that by the year 2049 the percentage of Roma of the Berleburg population would grow from 8.4 percent (1933) to sixty-four percent.<sup>45</sup> As part of the quest for cataloguing all German Roma, Ritter and his racial hygienists ‘visited’ the Berleburg Roma in 1937, 1938 and 1939.<sup>46</sup> An example of how *Reich*-wide measures affected the

<sup>39</sup> Opfermann, ‘Zigeunerverfolgung, Enteignung, Umverteilung’, p. 68.

<sup>40</sup> Opfermann, ‘Zigeunerverfolgung, Enteignung, Umverteilung’, p. 68.

<sup>41</sup> Opfermann, ‘Zigeunerverfolgung, Enteignung, Umverteilung’, p. 70.

<sup>42</sup> Zimmermann, *Rassenutopie und Genozid*, pp. 82–84.

<sup>43</sup> Zimmermann, *Rassenutopie und Genozid*, p. 88.

<sup>44</sup> ‘Will it be possible to isolate and sequester the sedentary Gypsies, geographically and socially, in colonies, so that inbreeding will lead to genetic defects and thus comprehensive measures for the prevention of hereditary diseases shall become necessary?’; ‘Wird es gelingen, die seßhaften Zigeuner kolonieweise örtlich und gesellschaftlich so zu isolieren und abzukapseln, daß durch Inzucht Erbschäden entstehen und damit umfassende Maßnahmen zur Verhütung erbranken Nachwuchses notwendig werden?’ T. Günther, ‘Die Zigeunerverhältnisse in Berleburg’, in *Ziel und Weg*, Heft 11 (1937), pp. 262–268, here p. 264; see also Zimmermann, *Rassenutopie und Genozid*, p. 89.

<sup>45</sup> T. Günther, ‘Seßhafte Zigeuner’, in *Preußisches und Reichsverwaltungsblatt* (Heymann, Berlin, 1937), pp. 193–197, here p. 196.

<sup>46</sup> Zimmermann, *Rassenutopie und Genozid*, p. 140.

Berleburg Roma was their children's exclusion from school, which was ordered by the local police on 29 October 1942, effective as of 1 November 1942, and justified with the claim that Roma were infested with lice. This once again serves to reinforce the central role played by the police in measures taken against the Roma. Some parents protested, which meant that this exclusion was revoked for a few children, but only after the parents had been warned that they should prevent their school-going child from playing with children who had been excluded; an impossibility, as these were in some cases siblings.

Other restrictions, similar to those imposed on Jews, included a special train carriage for Berleburg Roma working outside the city, as well as the prohibition in March 1942 on their visiting cinemas and restaurants, along with shopping being restricted to two and a half hours each day. Roma soldiers were not exempted from these curfew measures. Twenty-six Roma from Berleburg had been drafted into the army, and some were even awarded the Iron Cross, but they were discharged by 1941.<sup>47</sup> The veteran's right to travel second class with a third-class ticket was withdrawn from one Rom veteran.<sup>48</sup> This incrementally increasing persecution culminated in a meeting of city officials in February 1943 where it was decided – on the basis of a citizen list – whom to register for deportation.<sup>49</sup> The District Administrator (*Landrat*) was adamant that as many Roma as possible should be deported, without exempting those who had integrated. This committee chose 132 Roma for deportation, and not a single exception was made on the day of deportation (9 March 1943). Of the deported Roma, 125 died in Auschwitz.<sup>50</sup> Only a few were spared, including Luise M., who made restitution claims on behalf of her father and uncle, both of whom had died in Auschwitz. Luise M. and her husband Anton had managed to escape deportation, presumably because Anton's mother had been 'Aryan' and because Anton had been a *Wehrmacht* soldier between 1936 and 1938, and then again from 1939 until his discharge in 1943.<sup>51</sup> Those who remained in Berleburg lived in constant fear as the deportation in March 1943 was not regarded as the last measure by the Berleburg authorities and the Roma spared thus far continued to be subjected to the same racial restrictions.

In contrast to much of the property or possessions of Jewish victims, who were forced into selling cheaply or leaving behind property upon emigration, it was almost exclusively the National Socialist state (or one of its agents) which was directly responsible for the expropriation of Roma property. This expropriation was done very systematically and thus can be traced in cases where the material documentation was not lost or destroyed. One such set of correspondence

<sup>47</sup> Zimmermann, *Rassenutopie und Genozid*, p. 198.

<sup>48</sup> Zimmermann, *Rassenutopie und Genozid*, pp. 190–191.

<sup>49</sup> The following officials attended this meeting: the District Administrator, the NSDAP district leader, a city councillor, a *Stadtinspektor* (city superintendent), a representative of the Employment Office, a member of the health authority and a teacher. This diverse mix of occupations is an interesting example of the role of 'normal' Germans in the National Socialist racial war.

<sup>50</sup> Zimmermann, *Rassenutopie und Genozid*, p. 306.

<sup>51</sup> Luise M., Nr. 1600, Nachlass Ludwig J., LG Siegen, Rückerstattungsakten, Staatsarchiv Münster.

shows what kind of possessions were taken, and by whom, from Roma living in Berlin before they were deported to Auschwitz in 1943. It shows the key role the Berlin Regional Fiscal Authority and the police apparatus played, and explains why Regional Fiscal Authorities across Germany acted in place of the German Reich in restitution cases after the war. In Berleburg claims were to be made against the German Reich, represented by the Münster Regional Fiscal Authority. This suggests that in Berleburg an expropriation mechanism similar to that in Berlin had operated, probably following directions from Berlin, or at least following its lead.

A letter sent on 5 May 1943 to the President of the Regional Fiscal Authority of the Brandenburg branch of the Department for the Utilisation of Assets, (*Vermögensverwertungsstelle-Außenstelle*) by the *Gestapo* shows that the confiscation of property of Roma sent to concentration camps was highly calculated and organised. This letter refers to a detailed list of possessions taken from Roma who had been deported to Auschwitz by the Berlin Criminal Police. It is further declared that a total of 12,951.39 German Reichsmark (kept at the Regional Fiscal Authority Berlin-Brandenburg) had been taken from these Roma as well as jewellery and other possessions (kept at the Berlin Criminal Police Office). An attachment lists the forty-seven Roma concerned, from the districts of Wittenberge, Zehdenick and Bernau. Three further letters from the *Gestapo* to the President of the Administrative Headquarters in Potsdam on 10 June 1943 detail the possessions taken from Roma living in these three districts. The following property, for instance, was confiscated from Karl S., resident of Bernau, which shows that both possessions and cash were confiscated:

Property Holdings: 1 bedstead, 5 chairs, 1 chest, 3 down comforters, 2 lamps, 1 table, 1 radio receiver, 1 record player, 1 kitchen cupboard, assorted kitchenware, 2 violins, assorted items of clothing, 1 bicycle and a caravan.

Cash holdings: 263.26 Reichsmark. Valuables: 3 rings.<sup>52</sup>

The forty-seven listed Roma had all been registered in these three districts, with all of the Roma in Wittenberge living in flats, and only three of the sixteen Roma in Zehdenick living in caravans which, once again, confounds the idea of the supposed 'vagrant' nature of the Roma.<sup>53</sup> A final letter from the mayor of Bernau to the *Gestapo* on 2 August 1943 shows that, for this district, the handing over of confiscated monies and possessions was done quickly and in an orderly way. The possessions and cash (1173.39 Reichsmark) of these

<sup>52</sup> Letter from the *Gebeime Staatspolizei (Staatspolizeistelle Berlin)*, to the President of the Administrative Headquarters in Potsdam on 10 June 1943; 'Oberfinanzdirektion files concerning Gypsy property', RG-07.008\*03 (USHMM) (original document at the Landesarchiv Berlin): 'Ver-mögenswerte: 1 Bettstelle, 5 Stühle, 1 Komode, 3 Federbetten, 2 Lampen, 1 Tisch, 1 Radiogerät, 1 Plattenspieler, 1 Küchenschrank, diverser Küchengerät, 2 Geigen, diverse Wäsche, 1 Fahrrad und ein Wohnwagen. Barbetrag in Höhe von 263,26 RM. Wertgegenstände: 3 Ringe.'

<sup>53</sup> This information is not made clear for Bernau. However, because no addresses were included in this document – and in other documents a lack of address denotes that the person lived in a caravan – it is plausible that all twenty-two Roma resident in Bernau had lived in caravans.

'evacuated' Roma were handed over to the President of the Regional Fiscal Authority of the Brandenburg Branch of the Department for the Utilisation of Assets (*Vermögensverwertungsstelle-Außenstelle*), which then sold or auctioned off these goods.<sup>54</sup> The legal basis for this treatment of Roma possessions was Hitler's Edict on the Utilisation of Assets Confiscated from Enemies of the Reich to Benefit the German Reich (29 May 1941).<sup>55</sup> The Central Office of the Security Police (RSHA) had, a day after Himmler's implementation order of the Auschwitz Decree (16 December 1942), classified the Roma as enemies of the *Reich* (*reichsfeindlich*), which meant that their property could be handed over to the *Reich* after their deportation.<sup>56</sup>

Whilst these communications are incomplete, they show that the police, together with the *Gestapo* and other local authorities, had been involved in the deportation of the Roma to the camps. The painstaking organisation and documentation of the confiscation and redirection of wealth – both money and objects – suggests that this action was not a local initiative by over-zealous party members, but rather the result of policy instructions. As these expropriation measures can be found across the Reich, as demonstrated in the restitution files of Berleburg, Münster and Wolfenbüttel, there must have been a directive or at least an acceptance of these sort of expropriations from the central administration. Most restitution claims were made by Roma whose belongings had been expropriated as a result of their deportation following the Auschwitz Decree. Hans-Dieter Schmid has established that in the process of deportation the Criminal Police had usually been responsible for taking any cash from Roma and passing this on to the relevant fiscal authority (*Oberfinanzkasse*), while the *Gestapo* had generally been responsible for securing all other possessions. The *Gestapo* usually passed these on to the local authorities who initially secured these assets and were also responsible for belatedly applying to the President of the Administrative Headquarters (*Regierungspräsident*) for a seizure directive for these possessions.<sup>57</sup> Numerous restitution claimants reported that their possessions were confiscated by the *Gestapo* at the moment of deportation.<sup>58</sup> The Berlin material cited above confirms that these possessions were then

<sup>54</sup> Letter from the mayor (*Oberbürgermeister*) of Bernau (near Berlin) to the *Gestapo* Potsdam on 2 August 1943; 'Oberfinanzdirektion files concerning Gypsy property', RG-07.008\*03 (USHMM) (original document at the Landesarchiv Berlin).

<sup>55</sup> Erlaß des Führers und Reichskanzlers über die Verwertung des eingezogenen Vermögens von Reichsfeinden vom 29. Mai 1941 (RGBl. I. S. 303) zu Gunsten des Deutschen Reiches; Letter from the *Gestapo* (*Staatpolizeistelle Berlin*) to the *Oberfinanzpräsidenten* Berlin-Brandenburg on 5 May 1943; 'Oberfinanzdirektion files concerning Gypsy property', RG-07.008\*03 (USHMM) (original document at the Landesarchiv Berlin).

<sup>56</sup> Erlaß RSHA 30.1.1943 'Gesetz über den Widerruf von Einbürgerungen und die Aberkennung der deutschen Staatsbürgerschaft' (14.7.1933), see Opfermann, 'Zigeunerverfolgung, Enteignung, Umverteilung', pp. 78–79.

<sup>57</sup> H.-D. Schmid, "'... treat them like Jewish objects'": the treatment of the Sinti and Roma at the hands of the fiscal administration', in *Romani Studies* 5, vol. 13, no. 2 (2003), pp. 149–162, here p. 152.

<sup>58</sup> For example: Georg F., Nr. 12076, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Eduard L., Nr. 10654, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Josefine A., Nr. 9711, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Michael M., Nr. 10631, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

usually sold or auctioned off by the Department for the Utilisation of Assets of the President of the Regional Fiscal Authority. The legal basis for these expropriations was the Law Concerning the Confiscation of Assets from Enemies of the People and State (*Gesetz über die Einziehung volks- und staatsfeindlichen Vermögens*) of 14 July 1933, which shows that the basis of the Roma's expropriation was comparable to that of the Jews', albeit with variations. For instance, according to the 1933 law a directive had to be issued to the owner of the possessions before the confiscation of the goods, but in the case of the Roma the implementing authorities argued that doing so would cause a panic and make the Roma resist deportation, thus these directives were frequently supplied after expropriation and even collectively for all those Roma deported from one area.<sup>59</sup> Thus, Schmid argues, the fiscal administration was obeying the same orders and applying the same laws across the victim groups, although the manner in which Roma were expropriated was more arbitrary and peremptory. For instance, it was retrospectively declared that the Roma who had been deported to Poland in May 1940 had, in fact, been enemies of the Reich, which belatedly legalised the expropriation of their assets. Similarly, the January 1943 Auschwitz Decree implementation order extended this status to all Roma deported to Auschwitz, thus justifying the expropriation of their possessions.<sup>60</sup> A further difference between the expropriation of Roma and Jewish possessions was that the expropriation of Roma usually took place at the time of deportation (or even afterwards), whereas the expropriation of Jews had begun much earlier and was a more incremental process, with gradual expropriation going hand in hand with their marginalisation from civil society and final expropriation taking place at the point of deportation.<sup>61</sup>

Expropriation was just as organised and documented in Berleburg as it was in Berlin, with the city of Berleburg taking over ownership of the Roma's houses, gardens, meadows and fields, and renting these out to 'Aryans'. In December 1943, on behalf of the President of the Regional Fiscal Authority (*Präsident der Oberfinanzdirektion*), the Siegen Revenue Office (*Finanzamt*) took charge of the administration and utilisation of all confiscated property and retained all income.<sup>62</sup> It created one account, the 'Gypsy Collective Account' (*Zigeuner-Sammelkonto*), for the revenue from the sale of Roma property to Berleburg citizens. For property such as houses and fields, where a regular income was earned, an account was created for each plot or house, entitled 'Gypsy Account' (*Zigeunerkonto*), including the name of the previous owner, even if he or she had already died in Auschwitz. The houses in good condition were rented out to companies or given to Germans who had lost their homes after Allied bombing, and those in poor condition were let out to companies as housing for Eastern European slave labourers.<sup>63</sup>

<sup>59</sup> H.-D. Schmid, "'... treat them like Jewish objects'", pp. 153–154.

<sup>60</sup> H.-D. Schmid, "'... treat them like Jewish objects'", p. 153.

<sup>61</sup> L. Auslander, 'Coming home? Jews in postwar Paris', in *Journal of Contemporary History*, vol. 40, no. 2 (April 2005), pp. 237–259, here p. 240.

<sup>62</sup> Opfermann, 'Zigeunerverfolgung, Enteignung, Umverteilung', p. 79.

<sup>63</sup> Opfermann, 'Zigeunerverfolgung, Enteignung, Umverteilung', p. 79.

Of the 132 Berleburg Roma sent to Auschwitz in March 1943, only seven survived. They returned to Berleburg after liberation in search of relatives and their previous homes. With the support of the British Military Government, these returning victims took possession of their property, moved back into their houses and terminated the city's leases.<sup>64</sup> Such was the case of the heirs of Wilhelm D., in whose file it is specifically mentioned that 'Upon instructions received by the military government, the property was returned to co-heir Karl D. upon his return from the concentration camp in the year 1945 so that he could administer and manage it on his own,'<sup>65</sup> although the city of Berleburg remained the official owner in the land register. Whether the Revenue Office really had a say is not clear, but it would not be surprising if it quietly acquiesced out of fear of admitting an injustice, or simply bowed to Allied pressure, while continuing to believe they had acted correctly.<sup>66</sup> Ulrich Opfermann argues that the attitudes of the local authorities remained unchanged and that even the recent liberation of the concentration camps, along with Allied photographic material and publicity, did not alter their mindset or language, and so Roma were still described as 'asocial' by officials such as the new mayor.<sup>67</sup> A 1950 report in this file further shows that the Allied soldiers not only demanded the return of property, but helped the victims to re-establish their livelihood, for instance in the case of Karl D. by providing him with livestock.<sup>68</sup>

The Münster restitution files include twelve claims made for property in the so-called Berleburg 'Gypsy Colony' but, as some refer to the same families or properties, only nine distinct properties were actually involved. Seven of these properties were in the same street, An der Lause, with one in Astenbergstraße and one at Trufferhain – all in the same neighbourhood, which is also where the post-war claimants lived. In none of these cases did the deported pre-war owner survive, so relatives made claims on their behalf. These claims were made soon after liberation, under the zonal restitution regulations, the earliest in December 1946.<sup>69</sup>

Of the nine properties, eight had been appropriated by the Siegen Revenue Office after the Roma's deportation, and one had been destroyed before March 1943.<sup>70</sup> Accordingly, these claims were about changing the names in the land register from 'Stadt Siegen' to the name of the heir who, in most cases, had already returned to live in their inherited house. These seem to have been small, detached houses, in most cases with a garden and perhaps a field or a small amount of farmland. In terms of size, they were between 1.83 *Ar* and 5.33 *Ar* (one *Ar* equalling one hundred square metres), and the estimated values for

<sup>64</sup> Opfermann, 'Zigeunerverfolgung, Enteignung, Umverteilung', p. 83.

<sup>65</sup> Wilhelm D., Nr. 8641, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster: 'Auf Weisung der Militärregierung ist dem Miterben Karl D. nach Rückkehr aus dem K.Z. im Jahre 1945 der Grundbesitz zur eigenen Bewirtschaftung und Verwaltung zurückgegeben worden.'

<sup>66</sup> Appolonia J., Nr. 15986, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster.

<sup>67</sup> Opfermann, 'Zigeunerverfolgung, Enteignung, Umverteilung', p. 84.

<sup>68</sup> Wilhelm D., Nr. 8641, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>69</sup> Anton M., Nr. 16051, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster.

<sup>70</sup> Luise M., Nr. 16000, LG Siegen, Nachlass Ludwig J., Rückerstattungsakten, Staatsarchiv Münster.

these properties (estimates either made by independent trustees or the Siegen Revenue Office) were between 1,100 German Marks and 5,100 German Marks. The highest valued house is described as follows:

The building is a 1.5-story half-timber frame house with a slated roof. The ashlar cellar includes 2 stable rooms and 3 storage rooms. There are 5 rooms that can be lived in on the ground floor and in the attic. There is an attached shed. The structural condition is fair. War damages are not in evidence.<sup>71</sup>

In addition, this house had six hectares of fields. This shows that these were not wagons or makeshift houses, but solid lower-middle-class homes, with gardens and farm buildings. In all of the claim cases, the land entry was successfully changed to one of the heirs. In all but one case the initial decisions were made in 1950. The process was prolonged if other heirs made similar claims or the legal order of succession could not be ascertained, rather than the restitution office disputing the return of the property.<sup>72</sup> A part settlement was, for example, reached in the case of the house at An der Lause 13, which had belonged to Franz R. and his wife Auguste H. (née M.), who had died in Auschwitz. As the entire family of Franz R. had died in the concentration camp, half of the property went to the family of Auguste H.'s mother (M.), and the other half to her father's relatives (Paul and Rudolf H.), who could not be found and had not made a claim. The General Trusteeship Organisation (*Allgemeine Treuhandorganisation*, one of the officially recognised successor organisations entitled to make claims for unclaimed property) made a claim for this part on 27 August 1951.<sup>73</sup> This was, however, contested by the M.s' lawyer, who demanded that they inherit everything under the condition that they would pass it on to the H. family if they were found. He described this as a possibility, as the father had come from the East and '... you cannot dismiss out of hand the notion that Father H.'s heirs might be found now that our Fatherland has been successfully unified and orderly conditions have since been restored in the East.' The Siegen District Court, however, rejected this claim as it, first, arrived a day after the deadline and, secondly, because the claim could not be made on behalf of the heirs – they would have to make this claim in person. As the deadline had been missed, these potential heirs would now have to deal directly with the General Trusteeship Organisation.<sup>74</sup>

Whilst this was a negative decision, nothing suggests that this was related to the claimants being Roma, it was rather the result of strict adherence to the law

<sup>71</sup> Wilhelm D., Nr. 8641, LG Dortmund Rückerstattungsakten, Staatsarchiv Münster: 'Das Haus ist ein 1.5 stöckiger Fachwerkbau mit Schieferdach. Das in Bruchstein erbaute Kellergeschoß, enthält 2 Stallräume und 3 Kellerräume. Im Erd- und Dachgeschoß sind 5 Wohnräume vorhanden. Ein Schuppen ist angebaut. Der bauliche Zustand ist mittelmäßig. Kriegsschäden sind nicht eingetreten.'

<sup>72</sup> The exception being a house at Astenberg 14, which had belonged to Wilhelm D., who died in Auschwitz. See Wilhelm D., Nr. 8641, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>73</sup> Auguste R., Nr. 16224, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster.

<sup>74</sup> Auguste R., Nr. 16224, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster: 'Es ist aber nicht von der Hand zu weisen, dass nach erfolgter Vereinigung unseres Vaterlandes und Wiederkehr geordneter Verhältnisse in der Ostzone doch noch Erben des Vaters H. festgestellt werden können.'

regulating restitution. The General Trusteeship Organisation made a claim for property in 1951 in two further cases where the heirs had not been established. The case of Karl M. (An der Lause 11) shows that these organisations handed over the properties without much ado if the rightful heir made a claim. Both the General Trusteeship Organisation and the Jewish Trust Corporation had filed claims, and initially the compensation authority in Siegen (21 March 1952) had declared that the property would go to the General Trusteeship Organisation, as no heirs had made their claim. When two heirs did prove their rights (one of them being the sister of Karl M., who had died in Auschwitz), both the General Trusteeship Organisation and the Jewish Trust Corporation withdrew their claims.<sup>75</sup>

Whilst the files make clear that Roma had their possessions returned, one can also see that the Siegen Revenue Office made a profit from the victims' belongings in various ways during and after the war. The city of Berleburg had profited from the deported Roma by selling their household goods. This had been common practice, as it had been with the possessions of deported Jews. The Siegen Revenue Office admitted to having sold Ludwig J.'s household goods for 20 Reichsmark,<sup>76</sup> Heinrich P.'s household goods for 450 Reichsmark,<sup>77</sup> and Ludwig and Theresa W.'s stove for 60 Reichsmark.<sup>78</sup> These are undoubtedly just a fraction of the goods sold, but the only ones noted in these files by the authority responsible. The first post-war mayor played down these revenues from the Roma's possessions to about 25,000 to 30,000 Reichsmark, probably to fend off any restitution claims and reduce guilt.<sup>79</sup> Some files show that the local authorities were reactive, rather than active, when it came to restitution claims, which can also be interpreted as a method of avoiding any admission of culpability. An example is the case of the bombed-out (*Ausgebombte*) Paul W., who had bought household goods (cupboard, bed and other furniture) which had belonged to the deported Rom Heinrich P., from the city of Berleburg. After the war Frieda L. (Heinrich P.'s sister), unacquainted with Paul W., demanded the return of those possessions. Another Mr P. also made an appearance, demanding the return of these possessions. Paul W. at first refused to return these goods, but reported that he returned them once he had learned why the city of Berleburg had taken Heinrich P.'s possessions. Paul W. then made a claim to the city of Berleburg for the 500 Reichsmark he had paid for the goods, as 'The department head, Frank – who has since been relieved of his office – told me I should go get my money from the Nazis.'<sup>80</sup> This throwaway 'advice' is a clear sign that responsibilities were passed on from one authority to another and that nobody wanted to make themselves accountable for what had happened or for the crimes that had been committed. This account also demonstrates that there was no way to avoid the returning of

<sup>75</sup> Karl M., Nr. 16221, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster.

<sup>76</sup> Konrad J., Nr. 16035, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster.

<sup>77</sup> Heinrich P., Nr. 16054, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster.

<sup>78</sup> Appolonia J., Nr. 15986, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster.

<sup>79</sup> Opfermann, 'Zigeunerverfolgung, Enteignung, Umverteilung', p. 81.

<sup>80</sup> Heinrich P., Nr. 16054, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster: 'Der inzwischen entlassene Amtsdirektor FRANK erklärte mir, ich solle mir das Geld von den Nazis geben lassen.'



the goods in cases where the transactions had been clearly documented, such as the seizure of houses. However, in less straightforward cases, where possessions changed hands more than once, no serious effort was made to trace the whereabouts of the goods or estimate their value, and those cases were often dismissed because investigations led nowhere. The city of Berleburg clearly did not want to incriminate itself by admitting to having sold these possessions, as that would have both shown their culpability and further drained the city's funds.

The Siegen Revenue Office made further gains from these illegal expropriations by demanding a 'handling charge', which was five percent of the rent collected, as well as any investment, before the property was returned. The Revenue Office kept meticulous accounts of their income from confiscated properties, which they did not try to destroy when the Allied troops arrived, suggesting that they did not think that they had anything to hide. These records show when the properties were confiscated, as well as when this revenue stream ended – which was in most cases due to the houses being handed back to returning victims or their relatives. In the case of Anton M.'s house at An der Lause 13, the Siegen Revenue Office declared that it had received rent from 1 January 1944 until February 1945, amounting to 430.24 Reichsmark, which was, after a five percent deduction as reimbursement for administration costs, transferred to the successors (without interest, which, according to § 15 (2) of the BrüG would have been unlawful).<sup>81</sup>

The material presented prompts two questions: first, whether settled Roma were treated more favourably than travelling Roma and, secondly, whether Roma who made their claims later, under the German Restitution Law, encountered more problems than these Berleburg Roma making claims under Allied directives. In addition, the fact that mobile property tended to have been destroyed might have made the substantiation of claims more difficult, and the question arises whether the compensation for lost caravans (especially in regard to the amounts awarded), for instance, was more dependent on the bureaucrat's benevolence than in the case of houses where the ownership could simply be transferred. There are sixteen restitution files from the Münster State Archive – all claims made to the District Court of Dortmund – concerning caravans and/or household goods. In eight cases the restitution claim was made for mobile homes with household goods, clothing and other family possessions. Six cases ended in settlements where the Münster Regional Fiscal Authority compensated for the lost or destroyed goods. Of the two that did not result in a payment, one case was withdrawn by the claimant (13 November 1958) who had filed a claim for his grandmother's caravan, after the Münster Regional Fiscal Authority objected to the claim because of a lack of substantiating material (10 April 1958).<sup>82</sup> The other rejected case concerned the possessions of the deceased Hedwig E. (née R.); these included a caravan with its contents, as well as clothing and jewellery, which she had to leave behind upon her deportation from Dortmund to Ravensbrück in the spring of 1943. The rejection of this claim (13 April 1965)

<sup>81</sup> Anton M., Nr. 16051, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster.

<sup>82</sup> Anna K., Nr. 9140, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

was based on the claimant having missed the deadline, which was, according to paragraph 30 of the Federal Restitution Law, 1 April 1959.<sup>83</sup> The settlements with Roma making claims for caravans and other possessions vary between 3,200 German Marks<sup>84</sup> and 7,000 German Marks.<sup>85</sup> These are all possessions of those sent to concentration camps, which had been confiscated by the *Gestapo* in March 1943. In most cases the Roma did not know what had happened to their possessions or whether they had been destroyed, but if the proceedings in Berlin were comparable to those in other parts of the Reich, it is likely that the possessions were confiscated by the *Gestapo* and sold, or otherwise used. Most claim sums were made in Reichsmark, varying from 3,000 Reichsmark for one caravan with household goods,<sup>86</sup> to 11,800 Reichsmark for several items including a caravan (worth 10,000 Reichsmark), a wooden shed (worth 600 Reichsmark) and jewellery and musical instruments (worth 1,200 Reichsmark).<sup>87</sup>

The nature of these decisions suggests that there was no general conviction that these Roma should not be classified as victims of racial persecution – as had been the case in some compensation claim files – and doubts as to whether Roma had been victims of racial persecution were never cited as a reason for a negative decision. As in the cases in Berleburg, the negative decisions tended to be linked to missed deadlines – a legal argument that could be found in any victim groups' restitution files. An important difference between the Berleburg files and these Münster files is the date of the claims. Whereas in Berleburg most claims were made straight after the war, the Münster claims were made in the late 1950s. This is most likely because, in Berleburg, the survivors or relatives were living in these houses even if, legally, ownership of them had been transferred to the city and thus the issue of ownership arose immediately. In contrast, the Münster restitution claims concern mobile homes which had been destroyed, meaning that survivors or relatives could not take up housing there and thus fighting for restitution might not have been a post-war priority. Furthermore, the emphasis of Allied demands concerning restitution had been on housing the returned victims and thereby clearing up the most visible injustice and creating a positive image of how things were being dealt with by both the Allies and Germany.

Roma who had made claims for mobile homes usually also made claims for household goods, jewellery, clothing and musical instruments. These claims tended to be successful. Among the files of the Staatsarchiv Münster were six positive claims for household goods and all other material belongings,<sup>88</sup> which received

<sup>83</sup> Hedwig E., Nr. 12833, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>84</sup> Adam L., Nr. 9150, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>85</sup> Wilhelm & Berta H., Nr. 12330, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>86</sup> Adam L., Nr. 9150, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>87</sup> Joseph & Friederike J., Nr. 11104, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>88</sup> Jakob K., Nr. 12394, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Maria F., Nr. 12077, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Eduard L., Nr. 10654, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Rosetta & Otto K., Nr. 13236, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Rosetta K., Nr. 13061, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Georg F., Nr. 12076, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Josefine A., Nr. 9711, LG Dortmund, Rückerstattungsakten,

settlements between 2,400 German Marks<sup>89</sup> and 4,500 German Marks.<sup>90</sup> The quoted value of these possessions had been between 2,130 Reichsmark (equivalent of 213 German Marks)<sup>91</sup> and 8,000 German Marks, which suggests that, on average, half of the demanded sum was paid.<sup>92</sup> In most cases, the processing of these claims was quite unproblematic, especially as certain cases had already been established in the compensation claim files.<sup>93</sup> The claims were all made around 1958, i.e. after the passing of the Federal Restitution Law in 1957, and had their first decisions in 1961/62. The time span of these processes is comparable to the estimate based on the Münster compensation claims (across the victim groups) that claims regarding property and wealth tended to take around three and a half years to be processed.<sup>94</sup> In the few cases where the 1 April 1959 deadline was missed,<sup>95</sup> the final decision took a few years longer, mostly in order to establish that a previous claim had been made under the Federal Compensation Law. Another delaying factor was a complicated line of succession, which resulted in several heirs making claims for the same goods. For the possessions of Maria F. (née P.), for instance, eleven heirs had come forward, and the restitution authority offered a settlement in December 1967, awarding 2,745 German Marks for household goods and jewellery to all of these eleven heirs, as it could not be established whether some of these persons had more of a claim than others.<sup>96</sup>

These restitution claims are, for several reasons, much more straightforward than the compensation claims. Firstly, restitution is per se a more straightforward procedure, as the lost possessions can usually be named and priced. There is much more scope for interpretation in the personal compensation cases, and success is often directly linked to the ability of the claimant to express his or her illnesses or concerns and to convince the compensation officer that these were persecution-related. Even in the cases where the restitution of goods was no longer possible, compensation of goods was fairly straightforward, as the replacement cost can usually be established. In contrast, compensation claims involve various medical examinations, which invariably express personal opinions.

There are noticeably fewer prejudiced and discriminatory comments in these restitution files than in the compensation files. At times derogatory comments were made, such as the one about Roma being notoriously poor. Werner P. made a claim for his stepsister Agnes M. who had been deported in March 1943 and died in Auschwitz. According to her stepbrother, she had possessed clothing,

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<sup>89</sup> Rosetta & Otto K., Nr. 13236, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Rosetta K., Nr. 13061, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>90</sup> Georg F., Nr. 12076, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>91</sup> Eduard L., Nr. 10654, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>92</sup> Josefina A., Nr. 9711, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>93</sup> Maria F., Nr. 12077, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>94</sup> Miquel, *Wiedergutmachung in Nordrhein-Westfalen*, p. 20.

<sup>95</sup> See, for instance, Georg F., Nr. 12076, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; and Maria F., Nr. 12077, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>96</sup> Maria F., Nr. 12077, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

one pair of silver earrings, one silver ring, and one silver necklace.<sup>97</sup> However, the Münster Regional Fiscal Authority, writing to the Compensation Office at the Dortmund District Court, said that the Siegen Revenue Office was unable to verify this claim. The Revenue Office did state that it did not believe that Agnes M. had any significant possessions worthy of compensation: ‘The majority of Gypsies were notoriously poor. If little M. really left behind clothing and jewellery, then, in my opinion, we can assume that her possessions will not have been worth more than 100 German Reichsmark.’ The result of this assumption was a rejection of the claim in December 1959 on the basis that the minimum value for restitution was 1,000 Reichsmark – according to the General Directive Number 10 (*Allgemeine Verfügung Nr. 10*) of the British Military Government.<sup>98</sup> This statement reveals an untrusting and negative view of claims made by Roma – however, they were not frequently made with such explicitness. The patronising tone of ‘little M.’ (*die kleine M.*) (Agnes M., who was twenty years old at the time of her deportation, was erroneously described as a fourteen-year-old at the time of deportation) is mirrored in some other files. The lawyer for Hugo K., in his correspondence with the Münster Regional Fiscal Authority regarding dates and successorship, was as condescending as some of the Roma’s compensation lawyers even though he too supposedly acted on Hugo K.’s behalf.

In contrast to the compensation cases, no doubts are expressed about the Roma’s victim status in these restitution files. For the sake of comparison, the compensation files at the Wolfenbüttel archive have been checked for restitution claims, and it has been found that these claims were, in nature and procedure, very similar to those made to the Dortmund District Court.<sup>99</sup> The persecution of the Roma is neither questioned in the early cases concerning the houses in Berleburg, nor in the later cases concerning property at the Dortmund District Court.<sup>100</sup> The few discriminatory or patronising comments by officials and lawyers suggest that this difference was not determined by attitudes. The difference from the compensation files was that these restitution files concerned only cases of Roma who had been deported to Auschwitz as a result of the Auschwitz Decree. Even in compensation cases, racial persecution was rarely questioned in those cases where Roma had been deported to Auschwitz in 1943. Roma predominantly had

<sup>97</sup> Agnes M., Nr. 9813, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>98</sup> Agnes M., Nr. 9813, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster: ‘Die Zigeuner waren in der Mehrzahl notorisch arm. Wenn die kleine M. wirklich Bekleidung und Schmuck hinterlassen hat, dann kann es sich mE um Sachen gehandelt haben, deren Wert 100,—RM nicht überstiegen haben dürfen.’

<sup>99</sup> See, for instance, the following files: Wilhelm R., Zg. 22/2003 Nr. 2721, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Christina S., Zg. 22/2003 Nr. 1635, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; August W., Zg. 22/2003 Nr. 2294, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>100</sup> The only exception being a comment made about Luise M., where it was claimed that because she had not been expropriated, she could not have belonged to the victim group (she was living on a property belonging to her father and uncle, who both had been deported to Auschwitz, where they died). Luise M. had probably been spared deportation because her husband had served in the *Wehrmacht* and had an ‘Aryan’ mother. See Luise M., Nr. 16000, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

difficulties gaining recognition for persecution before this time. In addition, the military government's restitution guidelines demanded more specific and immediate actions from the German government than their compensation guidelines. For instance, in order to ensure the return of property, the Allies ordered that the higher restitution authorities had to contain neutral (i.e. non-German) officials or judges, not just a victim, as was the case with the compensation authorities. These military restitution decrees were in place much earlier than was the case with the compensation regulations. This Allied control can even be seen after the creation of the German Restitution Law in 1957, in the form of an independent, non-German judge on the panel of the highest restitution court.<sup>101</sup> What seems most important in these cases is that, by the time the German Restitution Law was passed and claims started coming in around 1958, the Federal Supreme Court had firmly established that racial persecution had taken place since at least 1943, so that there was no scope for denying claims on the basis of the claimant not having been a victim of racial persecution.

The above analysis has shown how Roma had had their property expropriated, what they had made claims for and how these were dealt with. It is important not to forget that expropriation meant much more to the victim than just the loss of material goods. Leora Auslander has written an insightful article on this subject examining the restitution claims by French Jews who returned to Paris after the liberation of France in the summer of 1944.<sup>102</sup> She discusses how expropriation was regarded as part of the dehumanisation process preceding extermination, and how, after surviving and returning home, the loss of possessions not only led to a partial loss of self and loss of one's place in society, but also to the loss of object-related memories. Auslander further argues that as a result of expropriation, the meaning of homecoming was greatly changed in those instances where pre-war possessions were not found upon return. The Roma biographical material has shown that returning home was motivated by the hope of finding surviving relatives, but also in order to pick up the life that had been interrupted by deportation. The restitution files suggest that Roma tended to return to those places where they had been forced to leave behind homes and possessions. Just like the French Jews returning to Paris, German Roma were disappointed when, upon their return, they found their homes being lived in by other people and their possessions gone.<sup>103</sup> Therefore filing restitution claims was a key element in the process of normalisation and re-establishing their lives. If one looks at the, at times highly detailed, inventory lists provided by Roma returnees, one can see that restitution served as a way of restarting life,

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<sup>101</sup> This meant that the victims had two years to file their restitution claims. However, by this time most cases had already been dealt with by the Allied restitution laws. The deadlines were only slightly more generous under the BEG, but because of the lengthy process involving medical examinations etc., and the need for three Compensation Laws, the deadlines were at various times extended. Whilst the BEG-S extended the 1 April 1958 deadline to the end of 1965, it also created an exclusionary deadline of 31 December 1969, after which no more claims of any nature could be made.

<sup>102</sup> Auslander, 'Coming home? Jews in postwar Paris'.

<sup>103</sup> Auslander, 'Coming home? Jews in postwar Paris', p. 243.

but also as an attempt to have objects with sentimental value returned. Wilhelm D. listed all those belongings necessary to restart his life at home in a detailed three-page inventory list, which included objects such as daily clothing, small agricultural utensils and kitchen equipment.<sup>104</sup> Similarly, Konrad J. demanded compensation for the goods needed for daily life – left behind by his uncle on his deportation to Auschwitz – including ‘2 goats, 2 rabbits, half a ton of hay, 1 bicycle, 300kg of potatoes and 3 hens.’<sup>105</sup> In contrast, other claims focused on, or included, more personal items such as jewellery, which, especially if claimed on behalf of a deceased relative, probably had greater symbolic than financial value. Josefine A. demanded compensation for earrings taken from her by the *Gestapo* on her deportation to Auschwitz.<sup>106</sup>

Auslander further describes how the restitution claims were a platform for returning victims to voice their hopes and anger, portraying the emotional involvement of the claimants.<sup>107</sup> Few such expressions are found in the Roma restitution files. One reason is that almost all Roma claimants had engaged lawyers for their restitution claims, who took on all communications with the authorities. Another reason might be the relatively low educational level of many Roma which prevented them from directly engaging with the restitution authorities, for instance, by writing to them. A letter from the lawyer of Georg F. explains his client’s lack of involvement and missing of deadlines by pointing out that he could neither read nor write.<sup>108</sup> Similarly, Ferdinand R. (the heir to Hedwig E.’s possessions) asked for lenience with regard to a missed deadline in a letter he sent to the restitution authority in 1965, pointing out that he was ‘unskilled in bureaucratic procedures’ because he had been to school for only one year.<sup>109</sup> Such comments show that the historian can learn more from the files than merely the particulars of the restitution process. Because the Roma’s restitution files tended to be shorter than many of the restitution files of more wealthy claimants, and because of the limited direct interaction of Roma in the form of letters, less information can be drawn from them than, for instance, Auslander drew from the restitution claims made by French Jews. Nevertheless, the historian can get an impression of socio-economic background from these files and also some impressions about the Roma’s view of their own position and their views on the expropriation that had taken place.

Auslander observed that French Jews often expressed their anger at the injustice of having been deported for who they were rather than for what they had done: the same emerges from Roma restitution files (and their memoirs in general).<sup>110</sup>

<sup>104</sup> Wilhelm D., Nr. 8641, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>105</sup> Konrad J., Nr. 16035, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster: ‘2 Ziegen, 2 Kaninchen, 10 Zentner Heu, 1 Fahrrad, 6 Zentner Kartoffeln, und 3 Hühner.’

<sup>106</sup> Josefine A., Nr. 9711, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Agnes M., Nr. 9813, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>107</sup> Auslander, ‘Coming home? Jews in postwar Paris’, pp. 249–250.

<sup>108</sup> Georg F., Nr. 12076, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>109</sup> Hedwig E., Nr. 12833, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster: ‘aktenunkundig’.

<sup>110</sup> Auslander, ‘Coming home? Jews in postwar Paris’, p. 253.

In the restitution files what the claimant regarded as inadequate compensation for lost goods is described as a renewed humiliation, adding to the injustice of having had his property unjustly expropriated in the first place. Appolonia J. showed outrage in a letter reacting to the decision made by the restitution authority in June 1961 offering her 1,000 German Marks:

The respondent cannot possibly expect me to agree to such a disgraceful settlement, because the 1,000 German Marks in compensation is a veritable insult in consideration of the actual damages I suffered through no fault of my own.<sup>111</sup>

She goes on to say that the sum she declared for the lost goods was already lower than the real value, stating that she had made claims

to the amount of 9,501 German Marks ... and I will not accept anything less than this. Because in March 1943, we were ripped away from a perfectly stable household, eight siblings and parents, and hauled off to the camp, and through absolutely no fault of our own.<sup>112</sup>

As reflected in both quotes, Appolonia J. emphasises that she and her family had committed no crimes and one gets the sense that after the first injustice of expropriation, she regards failure of her restitution efforts as a second injustice. Her rejection of the first offer seems to have had some impact, as a second settlement was offered in January 1962 amounting to 2,500 German Marks, which she appears to have accepted.<sup>113</sup>

Aside from the claims made for houses and caravans, the claimants frequently listed lost possessions and their exact values – in the case of the family W. (as stated by the daughter) this included clothing, watches and jewellery worth 4,025 Reichsmark – which gives the historian an impression of the economic status of these claimants (bearing in mind that restitution claims only represent those who in fact had had possessions they could make claims for, and thus leaves out the poorer sections of all victim groups).<sup>114</sup> These claims for (albeit

<sup>111</sup> Appolonia J., Nr. 9076, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster: 'Der Antragsgegner kann ja unmöglich von mir erwarten das [sic] ich mit einem derart beschämenden Vergleich Einverstanden bin, denn die 1.000– DM Entschädigung sind ja eine direkte Beleidigung gegenüber dem wirklichen Schaden den ich ohne mein Verschulden erlitten habe.'

<sup>112</sup> Appolonia J., Nr. 9076, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster: 'in höhe von DM 9.501,— ... und von dieser Summe werde ich nicht abweichen. Denn wir wurden im März 1943 aus einen Ordentlichen [sic] Haushalt, acht Geschwister und Eltern herausgerissen und ins Lager geschleppt und das noch in voller Unschuld.'

<sup>113</sup> This exchange also shows that there was some scope for negotiation, which suggests, on the one hand, that the restitution authorities made lower offers to begin with, while Appolonia J.'s acceptance of a sum far lower than that originally demanded by her on the other hand suggests that the claims made might have been inflated. This inflated demand was not necessarily a malicious exploitation of the system, but rather a reflection of the knowledge that the restitution authorities never compensated the full sum demanded. Appolonia J., Nr. 9076, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>114</sup> Appolonia J., Nr. 15986, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster.

modest) homes and often large caravans along with the inventories show that many of these Roma were in fact moderately well off, even if, at times, officials were sceptical. The lawyer of Josefine A., Dr C. Rawitzki, made a detailed list on 30 April 1959, including violins, a radio, three bicycles and a gramophone, making the point that:

As was the case in many well-to-do Gypsy families, there was a series of valuable pieces of jewelry that were seen as investments and made of solid gold. There were, among other things, a series of antique gold coins, heavy gold rings and earrings intended for the claimant's mother and children. The claimant reported the total value of the assets at 8,000 German Marks and that does not appear to be an inflated value.<sup>115</sup>

From a socio-cultural point of view, it is interesting how frequently claims were made for musical instruments, most often guitars and violins. In various cases these instruments seem to have been the means of supporting the family, which also seems to be confirmed by the many compensation files where claimants described themselves or their relatives as musicians.<sup>116</sup> The desire to have these instruments returned or compensated is thus linked not only to regaining the memories which are associated with these instruments but also to the basic opportunity these instruments offered to rebuild the Roma's lives. These instruments, however, were never compensated specifically, but rather fell under the settlement offer for the general category 'household goods'. Jakob K. even made a claim for a Stradivarius violin, worth 20,000 Reichsmark. This violin had been passed on from father to son but, in this case, Jakob K. had been given the violin by his grandfather on his fourteenth birthday, as his uncles had already been sent to a concentration camp. This particular case serves to show the centrality musical instruments could play in Roma families. The Münster Regional Fiscal Authority did not believe that this violin was a real Stradivarius, and argued that, given the violin's worth, Jakob K.'s parents would have sold the violin when their son was arrested: 'It would defy common sense if the parents had not undertaken such steps after their son had been arrested, considering what the violin was

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<sup>115</sup> Josefine A., Nr. 9711, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster: 'Wie in vielen wohlhabenden Zigeunerfamilien war auch eine Anzahl von wertvollen Schmuckstücken vorhanden, die als Vermögensgrundlage gedacht waren und aus schwerem Gold bestanden. Es waren u.a. vorhanden eine Reihe alter Goldmünzen, schwere goldene Ringe und Ohrhinge für die Mutter der A.St. [Antragstellerin] und die Kinder. Der Gesamtwert der Einrichtung ist von der Antragstellerin mit 8.000—DM angegeben worden, und das scheint nicht überschätzt zu sein.'

<sup>116</sup> Karl L., Nr. 9148, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Maria F., ZK 52544, Staatsarchiv Münster, Entschädigungsakten, Regierungsbezirk Arnberg; Robert S., Zg. 22/2003 Nr. 591, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Heinrich S., Zg. 22/2003 Nr. 2621, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Auguste V., Zg. 22/2003 Nr. 2135, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Adolf P., Zg. 22/2003 Nr. 2314, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Harry P., Zg. 50/2004 Nr. 21, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; Heinz P., Zg. 22/2003 Nr. 603, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.



supposedly worth.<sup>117</sup> Not only did the Regional Fiscal Authority disbelieve the claim and characterise the Roma family as mercenary, by refusing compensation they made it harder for the family to earn a living.

A final interesting side-observation from the restitution files (which again is mirrored in the compensation files) is the fact that a high proportion of Roma who mention their nationality describe it as German.<sup>118</sup> Only one restitution claimant states that she had previously held German nationality but was stateless at the time of the claim (without revealing the reason for the transition; it is possible that she had been deprived of her German nationality during the Third Reich and had not regained it since).<sup>119</sup> This fits in with the fact that, in the compensation files, testimonies and memoirs, Roma regarded themselves as Germans; and with this comes the demand to be treated as such. The letters written by Roma compensation claimants to high-level politicians, discussed in chapter six, express this sentiment very clearly.

The most striking conclusion to be drawn from this material seems to be that, in contrast to perceived opinion, Roma had significant possessions, for which they successfully filed claims. The fact that this part of the history of *Wiedergutmachung* has been wholly ignored is indicative of the traditional and prejudiced stereotype of the Roma as an underprivileged section of society that does not own property. This attitude can even be read in academic studies which aim to set the story of Roma persecution right.<sup>120</sup> Throughout this book it has been shown that the perpetuation of a negative stereotype of the Roma before, during and after the Third Reich has been the major stumbling block for Roma in post-war Germany. These restitution claims prove at least one aspect of this stereotype to be wrong by demonstrating just how comparatively well-to-do Roma could be.

The analysis of these Roma restitution files has shown that the restitution process was much more straightforward and usually faster than the compensation process. This is predominantly linked to these expropriations having taken place at the time of deportation, in these cases at the point of deportation to Auschwitz. The restitution laws did not demand proof from the claimant that the property or possessions had been unlawfully taken, instead the claimant had to show that he had been a victim of National Socialist persecution. If this was successfully done, the restitution authorities presumed that the expropriation had been linked to this persecution. Given that Roma deported after the Auschwitz Decree had from the outset been regarded as victims of National Socialist persecution, their status and thus the nature of the expropriation did not have to be

<sup>117</sup> Jakob K., Nr. 12394, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster: 'Es widerspräche der Lebenserfahrung, wenn die Eltern im Hinblick auf den angeblichen Wert der Geige nichts dergleichen unternommen hätten, nachdem ihr Sohn verhaftet worden war.'

<sup>118</sup> Appolonia J., Nr. 15986, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster; Josefine A., Nr. 9711, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Heinrich P., Nr. 16054, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster; Frieda S., Nr. 15982, LG Siegen, Rückerstattungsakten, Staatsarchiv Münster; Appolonia J., Nr. 9076, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>119</sup> Maria F., Nr. 12077, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>120</sup> Spitta, 'Entschädigung für Zigeuner?', pp. 385–402.

investigated by the court or proven by the restitution claimant. The main point of contention delaying compensation claims – whether persecution had been racially motivated or otherwise – did not arise in these restitution cases. The fact that restitution did not involve a discussion of the character or motives of persecution was beneficial with regard to the speed with which restitution claims were dealt with; however, the absence of such a discussion also meant that it did not add to the debate about the victim status of Roma, and thus did not help to establish their earlier racial persecution, and did not draw attention to the Roma's fate – which was an important issue to survivors, especially those who remained in Germany. It seems that restitution had little impact beyond the actual return of the property, as Roma rarely mentioned the issue of restitution, or the return of possessions or property in interviews or autobiographical material. This lack of reference to restitution in discussions about *Wiedergutmachung* suggests that Roma did not regard it as an integral part of *Wiedergutmachung*, and therefore it neither appeared to help the Roma feel that these injustices had been rectified, nor created a sense of acceptance or recognition within Germany after the war.

There could have been room for unfair treatment in the decision-making process in the later cases where compensation levels were set for lost goods, so comparing the sums paid by the District Court Düsseldorf or District Court Dortmund to those paid to Roma claimants elsewhere, and to other claimants, gives an indication of whether these payments were reasonable. Such a comparison is, of course, highly speculative, because people made such different claims for possessions, varying from simple furniture to very valuable jewellery or antiques. In Roma settlements concerning lost or destroyed caravans, household goods and possessions other than houses, amounts awarded ranged between 3,200 German Marks<sup>121</sup> and 7,000 German Marks<sup>122</sup> in those cases where caravans formed part of the claim, and between 2,400 German Marks<sup>123</sup> and 4,500 German Marks<sup>124</sup> in cases concerning possessions other than caravans (household goods, jewellery, clothing and musical instruments). The value quoted by the claimants in these cases had varied between 2,130 Reichsmark<sup>125</sup> (according to § 15 (1) Federal Restitution Law, ten German Reichsmark were converted to one German Mark)<sup>126</sup> and 8,000 German Marks.<sup>127</sup> The claims made for possessions in the Wolfenbüttel compensation claim files were similar to those administered by the District Court Dortmund, and the amounts paid had a similar range, with demands between 3,000 and 4,000 German Marks, and payments between 1,000 and 2,500 German Marks.<sup>128</sup> In order to put these figures in perspective, one should look at

<sup>121</sup> Adam L., Nr. 9150, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>122</sup> Wilhelm & Berta H., Nr. 12330, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>123</sup> Rosetta & Otto K., Nr. 13236, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster; Rosetta K., Nr. 13061, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>124</sup> Georg F., Nr. 12076, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>125</sup> Eduard L., Nr. 10654, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>126</sup> BEG § 56 (3).

<sup>127</sup> Josefina A., Nr. 9711, LG Dortmund, Rückerstattungsakten, Staatsarchiv Münster.

<sup>128</sup> See, for instance, the cases of: Christina S., Zg. 22/2003 Nr. 1635, NLA-Staatsarchiv Wolfenbüttel, Entschädigungsakten, 4 Nds WGM; August W., Zg. 22/2003 Nr. 2294, NLA-Staatsarchiv

federal, non-victim-group-specific figures. At a federal conference of the Heads of State Compensation Divisions (*Wiedergutmachungsreferenten*), a statistic was commissioned to ascertain the average payment made to claimants under the Federal Compensation Law, according to categories of damage. No distinction was made between the different victim groups in this analysis. The result for damage done to possessions (the so-called *Vermögensschaden*, which did not fall under the Restitution Law, but rather the Federal Compensation Law) was an average of 9,000 German Marks paid to each claimant.<sup>129</sup> The amounts paid to Roma were below this average but, taking into account that the Roma claims often involved comparatively few and fairly basic possessions, the amounts paid do seem appropriate.<sup>130</sup>

This chapter has shown that there were both peculiarities specific to Roma restitution claims and similarities to the restitutions made to other victim groups. The fact that the expropriation of property belonging to the different victim groups rested on the same laws and similar principles – more so than in the case of motivations and implementation of the persecution of the Roma versus that of the Jews – meant that there were similarities in the restitution process. In addition, analogous observations can be made when looking at the human side, the personal impact of expropriation and the personal necessity of restitution. Regardless of which victim group a claimant belonged to, comments regarding the expropriations' fundamental injustice and both the objects' sentimental value and at times importance for restarting a life after persecution can be heard across the files. Even if the personal commentary in the Roma restitution files seems to be more limited than the commentary found by, for instance, *Auslander* for Parisian Jews, the Roma restitution files do offer an insight into the lives and feelings of these Roma claimants beyond the mere proceedings of the restitution claim.

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Wolfenbüttel, Entschädigungsakten, 4 Nds WGM.

<sup>129</sup> T. Winstel, *Verhandelte Gerechtigkeit. Rückerstattung und Entschädigung für jüdische NS-Opfer in Bayern und Westdeutschland* (Oldenbourg, München, 2006), p. 272.

<sup>130</sup> BEG § 58.

## Conclusion

The book begins by arguing that there is a clear case for describing the persecution of Roma during the Third Reich as having been racially motivated, that this persecution had started long before the 1942 Auschwitz Decree, and that therefore the Roma should have been regarded a priori as victims of National Socialist persecution. The racial nature of the Roma's persecution remained unrecognised after the war partly due to the ongoing continuity of harsh anti-Roma measures going back to the Weimar Republic and a general acceptance of Third Reich measures – particularly policing measures – as justified controls of 'criminals' and 'asocials'. Roma, unlike Jews and some others, were therefore not viewed as inherently innocent victims.

The first chapter concludes that despite the existence of real continuities, it is the distinctions and the discontinuity between the periods of persecution that make the case for the persecution of Roma as having been racially motivated. The measures employed by the National Socialists were utterly out of proportion to any previous ones, and the language used made the racial nature of the persecution increasingly clear. Although the National Socialists built on previous sentiment and attitudes, they radicalised the scope and aim of anti-Roma measures, with deadly consequences. The subsequent chapters of the book, particularly chapters three and four, show that, from the beginning, supporters of Roma as well as the victims themselves had argued that their persecution had been racially motivated (e.g. Pankok, Cavelli-Adorno, Buchheim). Thus, even if negative stereotypes influenced the Roma's treatment within *Wiedergutmachung*, the failure to recognise the nature of the persecution was not inevitable; both Roma supporters and Roma themselves offered an alternative view, which was, indeed, eventually accepted and incorporated in the compensation structure.

The view that there was a continuity of thought after the war that made the post-war lives and the compensation process of Roma more difficult is clearly brought out in the interview and autobiographical material discussed in the second chapter. This material also shows that the immediate post-war period was a comparatively good period for Roma in that there was some recognition of the suffering of those who had just returned from the concentration camps, and some favourable treatment, mainly on the part of the Allies, such as preferential provision with food, clothing and accommodation. The examination of this personal material has shown that this body of sources is invaluable as a means of discovering which issues were important to Roma within their own culture,

issues that exceeded the framework of the compensation procedures. The story of the family F. told in chapter six supports the contention of this book that the information contained in the material created as part of the compensation process is very different to the stories told thirty years later in interviews. Whereas the compensation claim files do contain some personal material (such as letters to higher government authorities), it is limited to the context of the legal framework. The destruction of family norms and traditions both via the humiliation endured, for instance, in the Auschwitz 'family camp' and via the forced sterilisation process are issues that rarely come to light in the compensation claim files, as these are issues that were not compensated and thus were of no relevance to the bureaucratic process. Yet, these are the most frequently discussed topics in interviews with Roma. In addition, this material brings out the rather difficult role played by the Central Council of German Sinti and Roma, who in the 1980s became involved in some of the compensation claims. Both the interview material and the compensation claim material show that there was a desire amongst Roma to show the extent of their assimilation, emphasising that they were part of the German nation, which was, of course, a prerequisite for receiving compensation under the Compensation Laws. Repeatedly, Roma describe that they regarded themselves as part of the German victim group, demanding that they be treated as such. However, the success of being recognised as a distinct victim group rested on the Roma proving that they had been persecuted by the National Socialists as a 'race', which in turn rested on the ethnic identity generated for Roma by the Central Council. This shows that the process of establishing the Roma as a victim group was (and to some extent still is) extensive, and required the compensation process, the efforts of the individual Rom and later of the Roma organisation. But whereas the process led to some gains in the compensation realm, this process negated some of the assimilation that had previously taken place, which had led to the majority population increasingly regarding Roma, especially the German Sinti, as a social group (with a low social status) and less and less as a distinct ethnic group.<sup>1</sup> Ironically, the post-war developments in a way reinforced the racial categorisations created by the National Socialists, which Roma survivors so often described as arbitrary in post-war interviews. In effect what this meant was that the racial persecution of the Roma had a lasting effect on their position within Germany after the war. Because of the way in which the fight for compensation developed, the National Socialist treatment of Roma came to be not only regarded as a racial persecution, but as the persecution of a race, which appears to have turned 'being Roma' from a social and cultural to a racial identity. Whereas there always has been a cultural or social, rather than racial definition of being Jewish, the social definition of being a Rom appears to have been lost as a result of the fight for compensation. There is no intrinsic reason why Roma could not have had a cultural definition of being Roma without

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<sup>1</sup> J. Lipa, 'The fate of Gypsies in Czechoslovakia under Nazi domination', in M. Berenbaum, *A Mosaic of Victims: non-Jews Persecuted and Murdered by the Nazis* (I.B. Tauris, London / N.Y., 1990), pp. 207–215, here p. 208.

being an ethnicity; however, this sort of cultural or social identity seems to have been subsumed by the way in which the fight for compensation was conducted. Ultimately, this could almost be regarded as a defeat on the part of the Central Council, as the Roma's recognition as victims of racial persecution is in a sense an admission of their not being German. In turn, this means that Roma did not receive recognition or compensation for having been ill treated as Germans, as demanded in the letters found in some compensation claim files, but instead only because they had been treated badly. One has to bear in mind that the logic that led to compensation and recognition was not necessarily the only method that could have led to the Roma being included in the group of victims, but the path followed by the Central Council was a successful way to get the attention necessary to improve compensation and recognition and thus might appear intentional in hindsight.

The third chapter follows up on the comments in Roma interviews about the immediate post-war period being a time of comparatively positive treatment and freedom by analysing material from the immediate post-war period, the period preceding the Federal Compensation Laws. This chapter argues that during the period in which initial immediate aid was administered via various local and state initiatives Roma often were able to receive these as well as recognition of their status as victims of racial persecution. However, in most cases this success was based on the support of an articulate non-Roma supporter – such as Otto Pankok – who knew what kind of claims victims could make, who was very aware of the nature of the Roma's persecution and who thus could often successfully argue with the authorities. In addition, the Roma were not treated on a par with Jewish or political victims, which meant that they often had to fight harder in order to receive help, or had to fulfil extra criteria. This in turn is linked to the very early organisation of victim groups, which brought with it a desire to clearly define and rank the different victims of National Socialist persecution, which, if at all, ranked 'asocials' and criminals (the category in which the Roma seemed to have been placed) at the very bottom. The strong influence of victims of political persecution can be seen in the correspondence that Pankok undertook in order to secure the recognition of Roma.

The second part of this book considered the specific problems encountered by Roma during the processes of compensation and restitution. On the one hand issues that were characteristic of Roma cases (such as the lack of compensation for forced sterilisation, the issue of nationality and the encountering of certain prejudices) have been highlighted, and on the other hand problems that were encountered by all victim groups, but perhaps more severely by Roma (such as the lack of compensation for psychological damage and the nature of the compensation process, which required an exact account alongside written documentary evidence). The challenges connected with forced sterilisation were manifold; first, because it was not acknowledged that Roma had been racially persecuted as a group, their forced sterilisation during the latter part of the Third Reich was not acknowledged as having been racially motivated. Secondly, because most Roma

were sterilised outside the Sterilisation Law, the provision that a victim could receive compensation for a forced sterilisation if the victim could prove that the basis on which the sterilisation had been ordered was incorrect did not apply to them. In most cases forced sterilisations of Roma were not carried out on a court order; hence there were no court orders to be overturned after the war. And, thirdly, a problem common to all sterilisation victims, no compensation was paid for the forced sterilisation as such, but only if the forced sterilisation had led to a reduction in earning capacity: a strange application of labour market economics to an attack on fertility. Yet the interview material, alongside the personal material analysed in chapter six, clearly shows that forced sterilisation was regarded as the biggest crime after the murder of their families. The inability to have children created a continuous sense of personal failure in its victims, which was only aggravated over time. Within the Roma community, forced sterilisation damaged the individual and the community beyond this sense of personal failure and absence: on the one hand because forced sterilisation led to a destruction of the community and the family structure and thereby destroyed the chance to pass on values and traditions and to rebuild the community, and on the other hand because forced sterilisation led to a continued stigmatisation after the war, as the general population associated forced sterilisation with the Sterilisation Law and thus with the 'feeble-minded' and 'asocials'.

In contrast to forced sterilisation, the lack of compensation for psychological damage affected all victim groups. This was the result of the unfavourable medical opinion, which only very belatedly started to accept that extreme situations could have a long-term psychological impact, in turn reducing the victim's earning capacity, the only aspect of interest to the compensation authority. Nevertheless, chapter five has shown that Roma were at times affected particularly severely by this situation because they often did not realise that what they were experiencing were severe psychological problems, and thus did not fight for these symptoms to be acknowledged.

Chapter six discussed barriers which are more difficult to assess or measure, such as the existence of latent or dormant prejudice and its effect on the compensation process. The personal material in the compensation files gives a very clear picture of the subjective view of the Roma involved, and a general feeling of being treated unfairly because of prejudice. The disputes concerning the Roma's German nationality are an example of an extra battle Roma had to fight in order to receive compensation. However, as was shown, there are instances where comments and directives can be regarded as potentially having had a positive effect on the Roma's cause even if they might be interpreted as hurdles or prejudice by Roma (such as the directive mandating extra investigation in the case of Roma's nationality, which in effect gave Roma a further way of proving their nationality). However, the prevailing feeling, particularly amongst the victims, remained that they were fighting against an inherently prejudiced system. The many negative comments about Roma found in the files, at times even from lawyers supporting these claimants, tend to support the argument that there was, if nothing else,

a prejudiced atmosphere in which it was more difficult for Roma claimants to receive compensation. This difficulty was only further augmented by the nature of the compensation process which placed so much emphasis on the claimant supplying certain documents and making a formal, substantiated claim.

The academic literature on the compensation of Roma tends to single out restitution as not noteworthy in the Roma context on the assumption that Roma did not have sufficient possessions to make restitution claims. The research of this book has proven this view wrong, by showing that Roma continuously made restitution claims both in the immediate post-war period and later on under the Restitution Law. The argument that Roma owned possessions is supported by the claims made by Roma as part of their compensation claims, for belongings left behind upon deportation or flight. The analysis of the restitution claims further throws light onto the expropriation of Roma property and shows the involvement of the police in it. The conclusion from the restitution files is that in most cases the Roma were successful in being returned either their possessions or homes and that this was because expropriation could in almost all cases be linked to the moment of deportation, in most cases in early 1943. Because 1943 had always been taken as the date from which the persecution of the Roma had been regarded as having been racially motivated, and because the expropriation could be so clearly linked to the moment of deportation, the restitution process was much more straightforward than the compensation process. For the restitution process to be successful, the only requirement was to show a link between expropriation and racial persecution – which, from 1943 onwards was accepted. In contrast, compensation claims were often made for the period preceding 1943 and any claims linked to health damage, in particular psychological damage, were usually drawn-out and contested by the compensation authorities. This meant that even if the claimant was successful in the end, he or she had to endure a much longer process, and potentially relive their persecution over and over again by reciting their story and through countless medical examinations, which Roma who had been subjected to medical experiments or forced sterilisation found particularly stressful. The simpler decision-making involved in the restitution process meant that it did not uncover very much of the persecution of Roma during the Third Reich, and thus did not play the same cumulative role in the establishing of the Roma as a victim group as the compensation process eventually did.

This book has confirmed the difficulties Roma had in establishing their claims to compensation in the aftermath of persecution. The legal background to Roma not receiving compensation from the outset has been outlined before, but this is the first detailed study of the material generated by the compensation processes. This book has taken a new approach by seeking to go beyond establishing that Roma had not been regarded as victims of racial persecution, and analysing the many other problems encountered by Roma during the compensation process. It has compared the subjective with the objective story of official denial of compensation and recognition in the *Wiedergutmachungs*-process. In addition, this book has tried to differentiate between the immediate post-war period and



the Compensation Law period. By studying Roma restitution files this book has looked at a body of sources that has hitherto been largely ignored by historians. The analysis of the restitution material, in particular, refutes the common assumption of the 'vagrant' and poor Roma and gives a picture of how Roma tried to restore their 'normal' lives within West Germany after the end of their persecution. This desire to return to a normal life to some extent inhibited their pursuit of compensation, because qualification as a victim of racial persecution required a chain of proof showing that Roma had been persecuted because they were a 'race' separate from the Germans, which was at odds with their assimilation efforts and their desire to prove that they formed part of the German victim group. Combining the more recent autobiographical and interview material with material from the restitution and compensation processes that had taken place many years previously offers a new approach to the subject, as most literature tends to divide the experiences of Roma into either the Compensation Law period or the recent period during which the Roma's voices have increasingly been heard. However, by combining these different sources, this book brings together the 'objective' story of the official denial of victim status and the subjective experience of victimhood among the Roma, connecting two periods of time which somehow seem to have been artificially divided by historians, yet are regarded as a continuum by the victim group itself.

## Epilogue

At the core of this book is the issue of recognition: the Roma's struggle in the post-war period to be classified as victims of National Socialist persecution. The Allies made clear that the German attitude towards the few Jews who remained in Germany would be regarded as a measurement for the German willingness to build a true democracy in their country, a sentiment expressed by John McCloy, the American High Commissioner in Germany, in 1949.<sup>1</sup> The Compensation Laws were the result of such pressures and marked the recognition of the persecution of the Jews. In stark contrast, it was the compensation processes and the ensuing legal debates that set in motion the slow and twisted process of recognition of the Roma's persecution. So, rather than receiving compensation because they were regarded as victims of National Socialism, Roma came to be recognised as such victims only because they were, over the years, successful in enforcing their compensation claims. The date of 1943 as the starting point of persecution was eventually revised because of the claims and appeals made by Roma who were offended by the arbitrariness of this date. A side effect of these modifications was a revision of the idea that National Socialist crimes had to have been based on a written order, towards the recognition that racial persecution could be the result of a general direction or sanction from the centre, implemented by various groups, often locally based, such as the police forces and racial scientists. The 1950s and 1960s were a time when both the victims and the West German legal and compensation establishments had to create and agree on a narrative of the persecution of this specific victim group. However, the full recognition that the Roma's persecution had been similar in nature and consequence to that of Jews was not attained until March 1997, when the then German President Roman Herzog acknowledged that 'The genocide against the Sinti and Roma was motivated by the same racist hysteria, with the same malicious resolve, and executed with the same wilful intent for systematic and total annihilation as the genocide against the Jews.'<sup>2</sup>

The creation of a separate law for victims of National Socialism meant that victims had a greater chance of making a successful case, but it also meant that a framework was established which delineated what was to be regarded as

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<sup>1</sup> F. Stern, *Im Anfang war Auschwitz. Antisemitismus und Philosemitismus im deutschen Nachkrieg* (Bleicher, Gerlingen, 1991), p. 264.

<sup>2</sup> Sandner, *Frankfurt. Auschwitz*, p. 12: 'Der Völkermord an den Sinti und Roma ist aus dem gleichen Motiv des Rassenwahns, mit dem gleichen Vorsatz, mit dem gleichen Willen zur planmäßigen und endgültigen Vernichtung durchgeführt worden wie der an den Juden.'

a National Socialist crime, and who was defined as a victim, thereby creating a victim group separate from 'ordinary' German war victims. This is reflected in the differentiation between 'persecutee' and 'victim', the former meaning victims of National Socialism, whereas the latter term applied to all those who had suffered in some way under the Third Reich. There are various reasons why certain groups which are today recognised as victims found no place in these constructions: once the Communist Party had been banned in 1956, any active Communist was classified as fighting against the democratic order in post-war Germany and was barred from compensation on that ground; homosexuality was, until 1969, illegal under West German law; and Roma fell victim to a lack of re-education regarding anti-Gypsyism and suffered from institutional and social discrimination.<sup>3</sup>

Because of the continuity of language, patterns of thought and outlook, the policies and methods of the Third Reich towards the Roma were regarded as a continuation of earlier German policies, and thus the treatment of the Roma, excluding their deportation to Auschwitz, was not considered as explicitly racial National Socialist acts under the Federal Compensation Law. No great exposure of persecution events took place, because lawyers took the National Socialists' arguments at face value, rather than making deeper enquiries into the motivations behind such actions as the 1940 deportation to the *Generalgouvernement* (occupied Poland). Recognition of racial persecution was further undermined because the police force made frequent use of Third Reich material concerning 'Gypsies', and continued to discriminate against them, sometimes using National Socialist era laws and policies in doing so. Doctors also often regarded the physical and mental complaints experienced by Roma as being hereditary, rather than the result of persecution. As a consequence, the Roma remained a group that was dealt with mainly by the police and social services – a group stigmatised as being on the fringes of society, and not identified as a victim group.

The academic study of Roma in the post-war period serves to exemplify this continuity of thought. Hermann Arnold, who worked as a medical consultant for the *Wehrmacht* between 1939 and 1945, became a professor for social hygiene in Saarbrücken and director of the Health Authority in Landau, where he studied 'Gypsies' and marginal groups.<sup>4</sup> After Robert Ritter's death in 1951, Arnold was given Ritter's personal research material by Ritter's assistant Eva Justin, in addition to unhindered access to the research material from the Institute

<sup>3</sup> Whilst the term 'anti-Semitism' was coined at the end of the nineteenth century (by the anti-Semite Wilhelm Marr), the term 'anti-Gypsyism' came into existence in the 1980s. Terms like this were first used in France (*l'Antitsiganisme*), then in Germany (*Antiziganismus*) and eventually English-speaking nations adopted the term 'anti-Gypsyism' to describe prejudices against this minority. The fact that these terms each include the words usually not employed by the minority group itself ('Gypsy', 'tsigane' or 'Zigeuner'), shows that they have been created by the majority population, and even though some Roma organisations, such as the Central Council, have adopted the usage of this term, many regard it as inappropriate exactly because it includes these prejudice-laden words. Wippermann, *Wie die Zigeuner*, pp. 10–11.

<sup>4</sup> K. Reemtsma, 'Exotismus und Homogenisierung', in Giere, Heil, Lagrene, Schweiger, Strauß, *Zwischen Romantisierung und Rassismus*, p. 65.

for Racial Hygiene, which was kept initially in Tübingen, and later in Mainz. Only in 1981 was it moved to the federal archive in Koblenz, after the Central Council had publicly applied pressure on the German government. Arnold used this material uncritically as the basis for his research, and developed into post-war West Germany's 'Gypsy expert'; he was, for instance, until 1979, a member of the advisory board for 'Gypsy Questions' at the Federal Ministry of Family Affairs.<sup>5</sup> Just like Ritter, Arnold believed that race was the determining factor for culture, social behaviour and an individual's psychological make-up. In his 1977 publication, *Ein Menschenalter danach. Anmerkungen zur Geschichtsschreibung der Zigeunerverfolgung* (A Generation later. Commentary on the writing of history of the persecution of Gypsies)<sup>6</sup>, Arnold distances Ritter's work from the Roma genocide by arguing that racial hygiene in the Third Reich had nothing to do with racism, at least not in academic circles. In his opinion, the German term for racial hygiene (*Rassenhygiene*) should be equated with the term 'eugenics' which, according to Arnold, carried no political baggage in the rest of Europe.<sup>7</sup> Arnold does acknowledge the murder of the Roma, but argues that, rather than plans for systematic genocide, individual and uncoordinated actions had led to their deaths. As was common at that time, Arnold justified the research done during the Third Reich by referring to the preceding century, pointing out that the registration of 'Gypsies' had been the norm in Germany since 1816.<sup>8</sup> Whilst he did acknowledge the injustice, he tried to minimise it, employing a recurrent, patronising tone: 'exaggerated statistics on the number of murdered Gypsies discredit the gruesome reality and should be corrected ... Neither pity nor attempts to cover the truth serve our "travellers".'<sup>9</sup>

Another example of the continuation of attitude is the work of the lawyer Hans-Joachim Döring, who wrote one of the earliest overviews of the persecution of the Roma in 1964. His work shows that the Roma 'issue' continued to be treated as a policing 'problem', and that it was still supposed that this ethnic minority had criminal tendencies, thus showing an 'understanding' of the National Socialist measures against Roma. While he put some effort into tracing the persecution of the Roma, his analysis is biased as it is almost exclusively based on legal material, documents from the police and offices of criminal investigations (*Landeskriminalämter*). The fact that he believed the claim that Roma were, in fact, criminal is made very clear at the start of his book: here, he wondered whether the Roma's criminal records improved after having been sent to concentration camps and suggested that this be checked by examining their post-war criminal records and fates.<sup>10</sup> In other words, concentration camps were

<sup>5</sup> Winckel, *Antiziganismus*, p. 40.

<sup>6</sup> H. Arnold, *Ein Menschenalter danach. Anmerkungen zur Geschichtsschreibung der Zigeunerverfolgung* (Eberwein-Feik, Mainz, 1977), p. 6.

<sup>7</sup> Arnold, *Ein Menschenalter danach*, p. 7.

<sup>8</sup> Arnold, *Ein Menschenalter danach*, p. 11.

<sup>9</sup> Arnold, *Ein Menschenalter danach*, p. 14: 'Überhöhte Zahlen von ermordeten Zigeunern diskreditieren die grausame Wirklichkeit und sind zu berichtigen. ... Weder Mitleid noch Schönfärberei, ... , ist unseren 'Reisenden' nützlich.'

<sup>10</sup> 'Between 1933 and 1945 Gypsies were mostly sent to concentration camps. It would be of

to be seen as a sort of re-education penal measure and recidivism as evidence of 'asociality'.

The Roma remained a group that was recognised mainly by the police and social services – a group stigmatised as a marginal group, which nobody identified as a victim group. The power of international leverage is demonstrated by the reaction of the German government to pressure in 1950 from the Allied High Commission and the General Secretary of the UN, who, after some French input, took the side of victims of medical experiments.<sup>11</sup> As a result of demands from these groups, the Federal Cabinet created special regulations on 26 July 1951 for victims of medical experiments, explicitly including victims living outside Germany.<sup>12</sup> This was a reaction to pressure from abroad and an attempt at damage limitation, rather than a voluntary initiative, which illustrates how those victim groups which had international leverage could successfully influence the German government.

In the case of certain groups of Jewish victims who had not been paid due attention one can further see that the German government tended to react to international pressures, rather than being pro-active. For instance, the result of efforts made by the Jewish Claims Conference in October 1978 on behalf of those victims who had come to Western Europe after 1965 (the so-called late emigres), i.e. after the Final Compensation Law, led to special payments to this group.<sup>13</sup> On 3 October 1980, the German government endowed a Hardship Fund with 440 million German Marks, to be administered by the Claims Conference.<sup>14</sup>

It was around this time that the Roma in Germany sought the support of non-Roma organisations to launch a campaign for them as the 'forgotten victims', which would lead to the creation of a fund on 26 August 1981 for non-Jewish victims.<sup>15</sup> This 100 million German Marks fund was divided into two parts: 80

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criminological interest to know whether the criminality of Gypsies was changed by this. Did the incarceration in concentration camps – which happened until 1940 as 'asocials' with or without justification and which often lasted several years – lead to an improvement of their behaviour towards the settled population or did they – after being torn from their specific way of life – become, upon regaining their freedom, criminals who did not refrain from violent crimes?' 'Die Zigeuner wurden zwischen 1933 und 1945 überwiegend in Konzentrationslager eingewiesen. Es ist deshalb kriminologisch von Interesse zu wissen, ob sich hierdurch die Kriminalität der Zigeuner veränderte. Hat die bei Vielen mehrjährige Haft in Konzentrationslagern – bis 1940 etwa meist als Asoziale zu Recht oder zu Unrecht eingewiesen – zu einer Besserung ihres Verhaltens gegenüber der sesshaften Bevölkerung geführt, oder sind sie – für Jahre aus ihren arbeitsreichen Lebensgewohnheiten gerissen – nach wiedererlangter Freiheit zu Verbrechern geworden die auch vor schweren Gewalttaten nicht mehr zurückschrecken?', Döring, 'Die Motive der Zigeunerdeportation vom Mai 1940', p. 12.

<sup>11</sup> See, for instance, S. Baumann, 'Entschädigung für Opfer von Humanexperimenten. Ein unrühmliches Kapitel in der Wiedergutmachungspolitik in der Bundesrepublik Deutschland' (Master's thesis, LMU München, 1992) (unpublished).

<sup>12</sup> *Kabinettsprotokolle*, vol. 4, 1951, p. 566; Meldung des Presse- und Informationsamtes der Bundesregierung Nr. 651/51 v. 26.7.1951; between 1951 and 1960, 3.7 million German Marks were made available by the government to these victims.

<sup>13</sup> H. Klee, 'Die besonderen Gruppen von Verfolgten', in Bundesministerium der Finanzen, Schwarz, *Die Wiedergutmachung nationalsozialistischen Unrechts*, vol. 5, p. 447.

<sup>14</sup> Klee, 'Die besonderen Gruppen von Verfolgten', p. 447.

<sup>15</sup> *Richtlinien für die Vergabe von Mitteln an Verfolgte nicht jüdischer Abstammung zur Abgeltung*

million German Marks were used for one-off payments of up to 5,000 German Marks mainly to Roma, to non-Jewish victims who had emigrated from Eastern Europe after 1965 and to Spanish Republican resistance fighters; the remaining 20 million German Marks formed the so-called Compensation Disposition Fund (*Wiedergutmachungsdispositionsfonds*), which was distributed amongst victims who had suffered particularly severe persecution and who found themselves in economic plight.<sup>16</sup> As of 2005, a total of 2,028 claims had been made to this Compensation Disposition Fund, of which 1,934 came from Roma. In 879 cases, Roma received either one-off payments, continuous payments or both. The most common reason for a rejection was that the nature of the individual's persecution did not qualify the applicant for a payment (539), followed by a non-fulfilment of the residency or nationality requirements (139).<sup>17</sup>

In the 1980s the Roma civil rights movement increasingly gained media attention and the support of the German Social Democratic Party and the Green Party. Efforts leading up to this new prominence, however, had begun much earlier, with an international movement of Roma seeking justice. In 1971, the First World Romani Congress met in London, forming the International Romani Union, a grass-roots movement which focused on key issues such as freedom of movement and material welfare, and the fight against institutional and social discrimination. This congress also suggested uniting the European Roma by standardising the written Romani language, establishing a Romani encyclopedia and creating a national flag or anthem.<sup>18</sup> A crucial meeting of this new organisation was the Third Romani Congress, which took place in Göttingen in 1981. It had a significant impact on the self-awareness and confidence of the German Roma civil rights movement, and led to some much-needed publicity. The development of this German movement was greatly facilitated by the international human rights organisation, Society for Endangered Peoples (*Gesellschaft für bedrohte Völker*, founded and led by Tilman Zülch in 1970), which advocated the cause of the Roma. It was also this society which, in 1981, initiated the translation of Donald Kenrick and Grattan Puxon's book, *The Destiny of Europe's Gypsies*, which would give the first overview of the Roma's persecution to be published in German.<sup>19</sup> A close partnership was to develop between this society and the Central Council of German Sinti and Roma, formally founded in 1982 in Heidelberg. One of the first public demonstrations by German Roma in 1979 at Bergen-Belsen was supported by the Society for Endangered Peoples. The 1979 memorial stressed the continued discrimination in its motto *In Auschwitz vergast, bis heute verfolgt* (Gassed in Auschwitz, persecuted to this day); in the same year Zülch's book

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*von Härten in Einzelfällen im Rahmen der Wiedergutmachung vom 26.8.1981*, in Bundesanzeiger Nr. 160 vom 29.8.1981, p. 1.

<sup>16</sup> Forster, *Wiedergutmachung*, p. 101.

<sup>17</sup> Bundesministerium der Finanzen, *Entschädigung von NS-Unrecht* (August 2006), p. 34.

<sup>18</sup> Y. Matras, 'The Development of the Romani Civil Rights Movement in Germany, 1945–1996', Tebbutt, *Sinti and Roma*, p. 53.

<sup>19</sup> Kenrick, Puxon, *The Destiny of Europe's Gypsies*; M. Zimmermann, 'Zigeunerpolitik und Zigeunerdiskurse im Europa des 20. Jahrhunderts', p. 62.

of the same title was published.<sup>20</sup> The event was attended by politicians such as the president of the European Parliament, Simone Veil, a former Jewish camp inmate at Auschwitz and Bergen-Belsen, who expressed her solidarity.<sup>21</sup> This coincided with the broadcasting of the television series *Holocaust* in Germany, which aroused a lot of sympathy for Jewish victims in particular, but also for victims of the Third Reich in general. The public demonstration at Bergen-Belsen was followed by a hunger strike at the Dachau memorial camp in April 1980, which was once more supported by the Society for Endangered Peoples. Of the twelve Roma participants, three were former concentration camp inmates. The aim of this hunger strike was to draw attention to the continued discrimination against Roma in Germany and, more specifically, to force the Bavarian Interior Minister to disclose the whereabouts of files collected by the Bavarian Gypsy Police, renamed Central Agency for Vagrants in 1953.<sup>22</sup> These files contained material from the National Socialist period and were used by the police after the war to continue measures against this minority. The Roma suspected that the Bavarian police had continued to use these files even after the dissolution of the Central Agency for Vagrants in 1970.<sup>23</sup> Although the Bavarian Interior Ministry refused to reveal information on this material and only admitted to a regrettable continuation of some prejudice in the police forces, the strike was a success in the sense that it generated international solidarity through global media coverage.<sup>24</sup> Romani Rose emerged as the movement's leader and was treated as such by the German government; meetings with the German President Karl Carstens (1981), the German Chancellor Helmut Schmidt (1982) and the soon-to-be Chancellor Helmut Kohl (1982) affirmed his role as spokesman.<sup>25</sup> The mediator role of the Society for Endangered Peoples was key in negotiations with Helmut Schmidt's Social Democratic government, which led to the political recognition of and financial support for the Central Council.

Although there were internal disagreements as to whether the Central Council should include all Roma or just German Roma, this organisation rapidly came to be regarded as the representative body of German Roma by the German government. The split amongst German Roma is comparable to that encountered in the early twentieth century between German and Eastern European Jews. Some German Roma believe that the Eastern European Roma, who increasingly

<sup>20</sup> T. Zülch, *In Auschwitz vergast, bis heute verfolgt* (Reinbek, Rowohlt, 1979); this publication coincided with a few other works on the fate of the Roma, which led to an increased academic and intellectual interest in this victim group; Geiges, Wette, *Zigeuner heute*; J. Boström, U. Dresing, *Das Buch der Sinti*. "...nicht länger stillschweigend das Unrecht hinnehmen!" (Elefanten, Berlin, 1981); L. Rinser, *Wer wirft den Stein? Zigeuner sein in Deutschland. Eine Anklage* (Weitbrecht, Stuttgart, 1985).

<sup>21</sup> M. Krausnick, 'Der Kampf der Sinti und Roma um Bürgerrechte', in J. Giere, (ed.), *Die gesellschaftliche Konstruktion des Zigeuners. Zur Genese eines Vorurteils* (Campus, Frankfurt/N.Y., 1996), pp. 147–158, here pp. 149–150.

<sup>22</sup> Winckel, *Antiziganismus*, p. 34.

<sup>23</sup> M. Krausnick, *Wo sind sie hingekommen? Der unterschlagene Völkermord an den Sinti und Roma* (Bleicher, Gerlingen, 1995), p. 217.

<sup>24</sup> Krausnick, *Wo sind sie hingekommen?*, p. 218.

<sup>25</sup> Widmann, *An den Rändern der Städte*, p. 31.

emigrated to Germany after the collapse of Communism, would bring the settled, better-off German Roma into disrepute and would thus hinder their fight for recognition and financial support. To this day the Central Council seeks acknowledgement from the German government that the German Roma are an ethnic minority and receive minority status comparable to the Danes or the Sorbs<sup>26</sup>, i.e. the focus is on being recognised as a German ethnic group. In stark contrast, the Hamburg-based Roma and Sinti Union, founded in 1975 by Rudko Kawczynski (now also the president of the European Roma and Travellers Forum), explicitly acts on behalf of all European Roma, encouraging them to apply for asylum in Germany. This organisation sees the Roma in a broader context, as a non-territorial European people.<sup>27</sup>

Interestingly, this fight for recognition both as an ethnic minority and a victim group has been primarily led by the post-war generation (both Rose and Kawczynski were born after the war). One of the questions arising is why exactly the Roma remained relatively silent for such a long time, and why their creation of a collective memory and identity after the Holocaust was so different from that of the Jewish victim group. The interviews and biographical materials examined in the second chapter are testimony to a delayed creation of consciousness as a victim group, as it is often mentioned that family members or partners did not discuss their experiences until the 1980s, when the Central Council's activities had led to a broader acceptance of the Roma minority group and further compensation, both of which brought the persecution of the Roma into the consciousness of the German public and political parties. What further becomes very apparent, particularly in the interviews, is a sense of shame, a sense of lost dignity and values, brought on by the conditions in the concentration camps, which might have been a reason behind their silence. If one looks at the structure of much of the Roma population in Germany, one can see that it is still a highly traditional one, where certain objects are considered 'unclean', with a strict separation of the male and female spheres, and very clear systems of respect and duties within the family and beyond. Whereas other prisoners might have envied the Roma for having had a mixed, family camp in Auschwitz-Birkenau, the Roma would have regarded the breaking of Roma traditions and taboos which resulted as a further humiliation. Despite this, there seems to have been an attempt to return to these traditions after the war, which can be seen from the many comments in the interviews about the importance of family structures and of passing on traditions. In order to maintain these traditions, it might have been necessary to suppress much of what happened in the camps. The only way to continue life might have been to return to pre-Third Reich norms and traditions, to erase the persecution from memory, and to be silent within the family and towards the wider community. This is further supported by the fact that most Roma

<sup>26</sup> The Sorbs are a Western Slavic people of Central Europe, who arrived in the area that is now Germany during the sixth century AD, and now live in the states of Brandenburg and Saxony.

<sup>27</sup> R. Rose, 'Konkreter Minderheitenschutz für die Sinti und Roma', in Central Council Deutscher Sinti und Roma (ed.), *Minderheitenschutz für Sinti und Roma im Rahmen des Europarates, der KSZE und der UNO* (Zentralrat Deutscher Sinti und Roma, Heidelberg, 1994), pp. 10–20.



claim that the pre-National Socialist period was idyllic in every sense, even if, given the restrictions put on Roma during the Weimar Republic, this probably was not the case. Taboos on sharing their experiences are also apparent in the fact that many Roma did not tell their partners about their forced sterilisations, which led to marriages falling apart when the enforced infertility was eventually revealed. So, whereas survival in the camps meant suspending Roma laws and norms, re-adjusting to life in post-war Germany meant a return to exactly those norms. Consequently, no collective survivor identity was formed since it would have run counter to the longer-term continuance of the group within Germany. However, when the group around Romani Rose made their concerns about continued discrimination and insufficient compensation public, when political parties started taking notice of them, and the media moved on from mentioning Roma mainly in connection with crime and poverty towards covering their persecution, other Roma started to engage with these issues, too. Many Roma began to accept the Central Council's help, and, as the files have shown, this often led to long-delayed compensation payments and the incremental growth of a collective consciousness as a Holocaust survivor group.

This delayed voicing of a collective survivor identity added to the idea of the Roma as 'forgotten victims'. This image was further reinforced in the 1980s when the opposition parties (the centre-left Social Democratic Party (SPD) and the Green Party) sympathised with the victims, pointing out to the ruling parties that the Roma had been overlooked. In October 1985 the Green Party proposed a Law Regulating Adequate Relief for all Victims of National Socialist Persecution from 1933 to 1945 (*Gesetz zur Regelung der angemessenen Versorgung für alle Opfer nationalsozialistischer Verfolgung in der Zeit von 1933 bis 1945*), demanding, amongst other things, a standard pension for all victims of National Socialism, a lifelong entitlement to a sanatorium stay, annual holiday money, and belated pay for slave labour. In contrast to the Green Party, the SPD did not criticise the Compensation Laws as such – given that they had been involved in passing them – but they also demanded adjustments. They argued that certain victim groups had not received fair compensation because of various limitations in the laws. Thus the SPD suggested the creation of a foundation dealing with these shortcomings.<sup>28</sup> However, none of these proposals were accepted by the centre-right (CDU/CSU/FDP) coalition under Helmut Kohl. In November 1985 the SPD challenged the government to provide a detailed report of all the compensation hitherto paid. The result of this was a government report published in October 1986 entitled 'Federal Report on Restitution and Compensation for Damages Incurred as a Result of National Socialist Injustice and on the Situation of the Sinti, Roma and Related Groups' (*Bericht der Bundesregierung über Wiedergutmachung und Entschädigung für nationalsozialistisches Unrecht sowie über die Lage der Sinti, Roma und verwandter Gruppen*).<sup>29</sup> In this report, *Wiedergutmachung* was portrayed as a unique and successful venture. The problem of

<sup>28</sup> Forster, *Wiedergutmachung*, pp. 104–105.

<sup>29</sup> Bericht der Bundesregierung vom 31.10.1986, in *BT-Drucksachen* 10/6287.

the Roma and slave labourers having been insufficiently compensated under the Compensation Laws was acknowledged, but it was argued that the Hardship Funds (such as the one set up in 1981) had dealt with these problems. This latter point was particularly heavily criticised by the opposition parties and the victim organisations.

Soon after this report, in 1987, the first official parliamentary hearing of representatives of these victim groups took place, which included members of the Central Council.<sup>30</sup> For the parliamentarians it was an unsettling experience to hear the victims' accounts. This, and the aforementioned political debates and demands, resulted in the creation of a Hardship Fund amounting to 300 million German Marks to alleviate hardship endured by these 'forgotten victims'.<sup>31</sup> However, Helmut Kohl and his government refused to make changes to the existing Compensation Laws. Whereas both Schmidt and Kohl had, by 1985, recognised the Roma genocide, the Lower House of German Parliament did not formally acknowledge the murder of the Roma as having been racially motivated until 1989.<sup>32</sup> In the spring of 1995, the first memorial specifically commemorating Roma was created in the former concentration camp of Buchenwald.<sup>33</sup> After re-unification, various victim organisations had demanded that the memorial created in 1958 by East Germany's ruling party, the Socialist Unity Party of Germany (SED), which was regarded as biased because of the regime's Communist convictions, was altered. In 1991 a panel of historians, commissioned by the Thuringian *Wissenschaftsminister* (Minister for Arts and Science), proposed to fill the gaps left by the German Socialist regime, and to commemorate the persecution of, amongst others, Roma and homosexuals.<sup>34</sup>

One of the other 'forgotten victim' groups were the victims of the 1933 Hereditary Health Law, which had enabled courts to order forced sterilisation. Demands had been made, between 1961 and 1965, to include these victims in the Compensation Laws. After a hearing of experts in front of the Compensation Committee of the Lower House of German Parliament, the government refused these demands. The refusal was based on the argument that the Hereditary Health Law and the decision-making authorities, the Hereditary Health Courts, had not been unlawful.<sup>35</sup> Instead, on 3 December 1980, the Federal Finance Ministry passed a decree according to which those forcibly sterilised between 1933 and 1945, who had not qualified under the Compensation Laws or the General War Consequences Law, could receive a standard one-off payment of 5,000 German Marks and up to 100 German Marks monthly. The Federal Finance Ministry

<sup>30</sup> H. Tümmers, 'Compensation for Victims of the Nazi Sterilisation Program', in *The Practice of Wiedergutmachung: Papers and Minutes*; workshop organised by Norbert Frei, 24–27 June 2004, pp. 33–37, here p. 34.

<sup>31</sup> Protokoll, 46. Sitzung, 3.12.1987, 11. Deutscher Bundestag, pp. 3194–3219.

<sup>32</sup> Krausnick, *Wo sind sie hingekommen?*, p. 218.

<sup>33</sup> Krausnick, *Wo sind sie hingekommen?*, p. 221.

<sup>34</sup> U. Härtl, *Die Neukonzeption der Gedenkstätte Buchenwald* (Stiftung Gedenkstätte Buchenwald und Mittelbau-Dora, Weimar, 2001).

<sup>35</sup> N. Schmacke, H.-G. Güse, *Zwangssterilisiert – Verleugnet – Vergessen. Zur Geschichte der nationalsozialistischen Rassenhygiene am Beispiel Bremen* (Brockkamp, Bremen, 1984), pp. 156 ff.

did not, however, change its stance that the Sterilisation Law was not a specific National Socialist law, which is why sterilisation victims were dealt with outside the sphere of the Compensation Laws.<sup>36</sup> Not until 1988 did the German government officially annul the sterilisation decisions taken during the Third Reich, retrospectively declaring these sterilisations as a National Socialist injustice.<sup>37</sup>

Another of these ‘forgotten’ victim groups were homosexuals, on whose behalf little had been done publicly until after the legal reforms of 1969 and 1973.<sup>38</sup> In the 1970s, attempts were made to have these victims included, but with very little success. The case of the homosexuals shows that some ‘forgotten victims’ had not really been ‘forgotten’ but, rather, deliberately excluded from the Compensation Laws; in this case because, until the legal reforms, homosexual acts were officially illegal. The banning of the Communist Party in 1956 de facto excluded all Communists from compensation as, by belonging to this party, they did not adhere to the democratic principles of Germany.<sup>39</sup> By contrast, the Roma had not been legally excluded as an ethnic minority, but they were not merely ‘forgotten’ either. The continuity of racial prejudice had led to an acceptance of the justification that Roma’s criminal records or ‘asociality’ had been the motivating factor behind their internment. This ethnic stereotyping meant that they had been deliberately disqualified as victims of racial persecution, and thus excluded from full compensation.

Romani Rose and the Central Council believe that their story is one of being continuously sidelined, and reduced to ‘second-class victims’. In an interview with the *Süddeutsche Zeitung*, published on 23 June 2003, Rose cited the way Roma were dealt with under the last *Wiedergutmachungs*-effort, the Foundation ‘Remembrance, Responsibility and Future’ created in the year 2000 – as an example of the carelessness of the German government and their refusal to acknowledge his people adequately.<sup>40</sup> In the interview, Rose complained about the way the distribution of this fund was organised. Whilst the German government and German industry gave the money for the fund, its distribution was managed by various Jewish partner organisations. According to Günter Saathoff, head of the Foundation ‘Remembrance, Responsibility and Future’, it was difficult to find an organisation to administer the claims of non-Jewish victims. The International Committee of the Red Cross, the UN Refugee Agency and various church

<sup>36</sup> Goschler, *Schuld und Schulden*, pp. 348–349.

<sup>37</sup> Gesetz zur Aufhebung von Sterilisationsentscheidungen der ehemaligen Erbgesundheitsgerichte (25.8.1988), in BGBl. 1998, 2501.

<sup>38</sup> On the persecution of homosexuals during the Third Reich, see Nieden, ‘Die Aberkannten. Der Berliner Hauptausschuß “Opfer des Faschismus” und die verfolgten Homosexuellen’, R. Plant, *The Pink Triangle. The Nazi War Against Homosexuals* (Mainstream, N.Y., 1987); T. Bastian, *Homosexuelle im Dritten Reich: Geschichte einer Verfolgung* (C. H. Beck, München, 2000); and on the issue of compensation, see Landeszentrale für Politische Bildung, *Wider des Vergessens: die Verfolgung von Homosexuellen im Dritten Reich, die unterbliebene Wiedergutmachung für homosexuelle Opfer in der Bundesrepublik Deutschland* (Landeszentrale für Politische Bildung des Saarlandes, Saarbrücken, 1996).

<sup>39</sup> Hockerts, ‘Wiedergutmachung in Deutschland: Eine historische Bilanz 1945–2000’, p. 125.

<sup>40</sup> R. Klüver, ‘Die Geschichte eines Verfolgten – und was sie über die Tragödie der Sinti und Roma erzählt’, in *Süddeutsche Zeitung*, 23.06.2003, p. 3.

organisations declined to deal with these slave labour claims. The International Organisation for Migration (IOM) in Geneva was a last resort, even though it had no relevant experience or personnel to deal with these claim cases.<sup>41</sup> Rose insisted that the German government would never have chosen a totally over-worked and non-expert organisation for any other (presumably Jewish) minority group. The legwork for the IOM was done by the Central Council, supplying documents and proofs for the administration of the claims made by Roma former slave labourers. In a sense it is ironic that the group which had been persecuted because of their alleged nomadic nature had to apply for compensation to an organisation responsible for migration.

The very different stories of both the perception and self-representation of Jews and Roma in Germany after the war, is related to their very different places within and relationships to Germany. This, in turn, is linked to the different natures of anti-Semitism and anti-Gypsyism in Germany before and after the Third Reich. Anti-Semitism seems to have had a strong political character (even if not exclusively so), which was reinforced and turned into a device for propaganda by the NSDAP, so that, in contrast to anti-Gypsyism, identifying and prohibiting anti-Semitism after the war seemed more straightforward. Anti-Semitism and anti-Gypsyism were employed differently by the National Socialists – even if to the same end – and thus different sensitivities developed. Most importantly, anti-Gypsyism was not related to or identified as racism after the war. Whereas any endorsement of anti-Semitism would be classified as an identification with National Socialism, anti-Gypsyism – especially if it was not voiced in racist language – did not create such a link.<sup>42</sup>

In addition to the different treatment of these two groups by Hitler, another reason for the disparate attitudes towards these two groups after the war is the different positions they held within German society before the Third Reich. Under the National Socialists, both groups were excluded from the Germanic community (*Volksgemeinschaft*), but from different starting points. Jews were turned into something Roma had been for a long time: disenfranchised, victims of racial discrimination, often economically deprived and barred from society. Thus the contrast was more visible in the case of the Jews, some of whom had been part of the German economic, cultural and social elite and a significant part of the professional middle classes.

In a way, Roma and Jews (with the exception of Eastern European Jews) have been at opposite ends of the prejudice spectrum. Anti-Semitism had always had its opponents due to the presence of many prominent Jews within German life, whereas nobody of political significance ever supported the victimised Roma – at

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<sup>41</sup> Some of the claim material from the IOM, generated by the Foundation 'Remembrance, Responsibility and Future', is currently being made available at the United States Holocaust Memorial in Washington D.C., USA.

<sup>42</sup> For comments on these issues see Wippermann, 'Wie die Zigeuner'; Wippermann, 'Auserwählte Opfer'; G. Margalit, *Antigypsyism in the Political Culture of the Federal Republic of Germany: A Parallel with Antisemitism?* (Vidal Sassoon International Center for the Study of Antisemitism, Jerusalem, 1996).

best, this group was romanticised in literature or music. The romanticised ‘Gypsy’ lifestyle was regarded as free, passionate and natural (even if this was allegedly achieved by means of thievery and fraud), which is quite contrary to the view of the capitalist Jew, who was feared as the destroyer of the traditional values and orders of the Protestant Ethic.<sup>43</sup> Because of this outlook, ‘Gypsies’ were regarded as a ‘social problem’, whereas Jews tended to be described as political enemies from the *Kaiserreich* (1871–1918) through to the Third Reich. This further explains why anti-Semitism was eradicated from the public spheres in post-war Germany, whereas anti-Gypsyism continued in German institutions, rather than merely in the private sphere, as tended to be the case with anti-Semitism.

Before the advent of racial anti-Semitism and anti-Gypsyism, social prejudices tended to have been similar, accusing Jews and Roma of stealing, cheating and living off the work of the majority population. It seems that racial anti-Gypsyism arrived before racial anti-Semitism, most prominently in the works of the historian Heinrich Moritz Gottlieb Grellmann, who, in 1783, described them as an oriental people, claiming that their negative characteristics stemmed directly from their oriental origin.<sup>44</sup> There were clear similarities to the racial anti-Semitism as, for example, expressed by Hartwig von Hundt-Radowsky in the early nineteenth century. Hundt-Radowsky argued that Jews and ‘Gypsies’ had similar characteristics which, in his opinion, suggested that they had similar racial origins, and thus they should be ‘dealt’ with in a similar manner. However, the proposal to ‘deal’ with Jews in the same ways as ‘Gypsies’ is a suggestion that goes as far back as Martin Luther.<sup>45</sup> A more ‘Gypsy’-specific attitude was the idea that, because of their racial origin, they could not be reformed and thus had to be heavily controlled or even institutionalised. The fact that a Jewish emancipation developed shows that there was a realisation that this minority added value to German cultural, economic and political life, which was not said about the much smaller minority group of the Roma (about one tenth of the number of Jews in Germany before the Third Reich) who remained in social isolation and who ‘needed’ to be reformed.

Despite the common experience of persecution, the preconditions for Roma and Jews to re-integrate into German life were not alike because of the different ways these attitudes (i.e. anti-Semitism and anti-Gypsyism) were dealt with by German politicians and international leaders and organisations. As a result, a very different awareness developed amongst and about these groups within Germany, which has had an enormous impact on their reception and treatment within the *Wiedergutmachungs*-apparatus. It is very telling that because of the Shoah, Jews in Germany wanted to be identified as anything but an ethnic minority, due to its racial connotations. For Roma, however, being identified

<sup>43</sup> M. Weber, *Die Protestantische Ethik, und der Geist des Kapitalismus* (J. C. B. Mohr, Tübingen, 1934).

<sup>44</sup> Grellmann, *Die Zigeuner*.

<sup>45</sup> See, for instance H. von Hundt-Radowsky, *Der Judenspiegel. Ein Schand- und Sittengemälde alter und neuer Zeit* (Schlagehart, Würzburg, 1819); M. Luther, *Von den Juden und ihren Lügen* (first edition, Wittenberg, 1543), p. 93.

as a distinct ethnic minority ended up being the path towards recognition and compensation. This poses a very personal conflict: in order to be recognised as a victim, remembering the Third Reich is crucial – both for the minority and the majority society. However, it seems that in order to receive similar public acceptance and recognition as other ethnic minorities, a process of normalisation, of minimising the historical and ethnic characteristics, is required. The two processes negate each other to some extent, which is why German Roma battle with this issue to this day.



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