The Austrian Historians' Commission

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It is a truth universally acknowledged that nowhere is the past a greater burden on the present than in the historian's own area of interest. In Austria, in 2008, the past seemed to be more than usually present. From the outset, it was declared a year of multiple anniversaries; and the years 1848, 1918, 1968, and above all 1938 were recalled in conferences and books and in public discussion in the media. And yet some aspects of the past were curiously absent: Austrian democracy, we learned from an events listings handout distributed at Vienna airport, was established in 1918—only to be extinguished by the Nazis in 1938. In this context, Oliver Rathkolb's finding (presented at a conference on democracy held at the Vienna Museum in March), that forty percent of Austrians do not even know who Engelbert Dollfuss was, is hardly surprising. This is not to say that there is no engagement with the thornier questions of Austria's past—in the University's Institut für Zeitgeschichte, there is talk of little else—but that there is now, as delegates at the same conference agreed, something of a gulf between the general public's understanding of the past and that of academic historians and some sections of the press.

At the center of Austria's contested contemporary history is the increasingly disputed founding mythology of the Second Republic. Famously, the Allies' Moscow Declaration of 1943 affirmed that Austria had been the first victim of Nazi aggression and expressed the intention of restoring an independent democratic government, subject to the condition that Austrians demonstrate that they had contributed to their own liberation. In practice, resistance to Nazism in Austria was a marginal phenomenon, and the regime was never threatened; but the double myth of victimhood and resistance was indispensable to the liberal democratic political consensus of the postwar period—and with it, the Second Republic's prosperity and stability. It served a useful purpose but, in doing so, proved an obstacle to any real attempt to come to terms with the country's recent history.

For, in fact, the Anschluss unleashed a wave of euphoria in Austria, which only later gave way to more sober responses to the new regime.[1] The most obvious *victims* of 1938 were the country's Jews, who were subjected to one of the most vicious pogroms in modern European history. Individuals were taunted, humiliated, and beaten up; and Nazi thugs and greedy

[1]See Gerhard Botz, "Der ambivalente 'Anschluß' 1938/1939. Von der Begeisterung zur Ernüchterung," *Zeitgeschichte* 6, no. 3 (1978): 91–109.

Austrian History Yearbook 40 (2009): 288–299 © Center for Austrian Studies, University of Minnesota
doi:10.1017/S0067237809000216

https://doi.org/10.1017/S0067237809000216 Published online by Cambridge University Press

neighbors ransacked and plundered their homes and businesses. Their property was either seized or sold at nominal prices, and the proceeds were diverted to the state through arbitrary new impositions, such as the Reich Flight Tax (*Reichsfluchtsteuer*) and the levy on Jewish assets (*Judenvermögensabgabe*), with such speed and efficiency that events in Vienna served as a model not only for the later pogrom that was staged across the Reich in November of the same year, but also for the arrangements pertaining to emigration and the "transfer" of property.

Although it is difficult to estimate how much Jewish property individuals and the state plundered between the occupation of Austria and the deportation of Austria's remaining Jews to the death camps in 1942, that was not the main obstacle to restitution and compensation after the war. There was also the difficulty in identifying the survivors of Austrian anti-Semitism and its murderous consequences and in verifying the authenticity of their claims. In addition, those seeking restitution of their property faced opposition from the new owners, many of whom had acquired real estate and assets indirectly and frequently disputed the rights of the original owners to restitution. Finally, for the state itself, restitution was a complicated issue with potentially far-reaching implications. While institutions and organizations (including the Roman Catholic Church and the Socialist Party) scrambled to secure the restoration of their own confiscated assets, the issue of restitution was a problem for the state.

Despite pressure from the Western Allies, ministers and officials—whose own observations reflected the persistence of anti-Semitic clichés about Jewish control of the press and finance capital—were reluctant to accept the principle that the restitution of "Aryanized" property was legitimate or desirable; nervous of a public backlash, they minimized the culpability of minor Nazis. But Austria also wanted to obstruct Soviet reparation claims to German assets on Austrian soil, and it was the necessity of establishing the illegitimacy of German acquisitions of Austrian property between 1938 and 1945 that was the principal driving force behind the restitution legislation of 1946. Nevertheless, this was qualified by so many exceptions that the odds were stacked against claimants, and the legislation was far less effective in ensuring justice for the victims than equivalent legislation in West Germany or Western Europe.[2] The official narrative of Austria's contemporary history has come increasingly under challenge during the last thirty years, primarily as the result of research findings, but not least with the impact on Austria's international reputation of the revelations about Kurt Waldheim's wartime career in the late-1980s and the *fascisant* sympathies of the FPÖ leader Jörg Haider.

The Austrian Historians' Commission was intended to address these earlier shortcomings. As the Commission's final report acknowledges, the impetus came again from outside Austria. In Switzerland an "Independent Commission of Experts" had been set up in 1996 to look into financial relations with Nazi Germany (and was something of a model for Austria), whereas in Germany itself, companies with branches in the United States were repeatedly threatened by "class actions" for the payment of wages and compensation to the Nazi regime's forced laborers, culminating in 1999 in the establishment of a fund (the *Stiftungsinitiative der deutschen Wirtschaft*) to compensate the victims. The threat of similar actions against Austrian companies, and not least the high-profile case of the sequestration

[2]Robert Knight, "Restitution and Legitimacy in Post-War Austria 1945–1953," *Leo Baeck Institute Year Book* 36 (1991): 413–41, especially 417–27. See also Robert Knight, ed. *'Ich bin dafür. Die Sache in die Länge zu ziehen': die Wortprotokolle der Österreichischen Bundesregierung von 1945 bis 1952 über die Entschädingung der Juden* (Frankfurt, 1988).

https://doi.org/10.1017/S0067237809000216 Published online by Cambridge University Press

from the Stiftung Leopold of paintings of dubious provenance, formed the immediate context to the setting up of the Commission in October 1998. Its remit was to "research the entire complex of expropriation on Austrian territory during the Nazi period, along with restitution and compensation (including social and financial benefits) from the Republic of Austria after 1945, and to report on these matters." A general summary of the Commission's work and its research findings was published in 2003.[3] It was followed by some fifty volumes of "progress reports" on various specialist aspects of the Commission's works, which were published during the course of the following year. The following discussion is an attempt to provide an overview of a necessarily limited selection of these volumes.

The general summary report (*Schlussbericht*) begins with an extensive introduction, which sets out the background to the establishment of the Commission and the rationale for the recruitment of its members, including legal experts, whose task was to clarify such issues as the legal responsibilities of Austria in international law after the end of the war and to analyze the legislation pertaining to restitution, compensation, and citizenship.[4] The scope and limits of the Commission's field of enquiry are also set out, together with an indication of complementary research, primarily by private companies. Banks and other institutions and organizations (such as political parties, museums, agencies such as the Forestry Commission, and organizations such as the Dorotheum) have set up their own commissions, most of which had not reported when the Commission's final report went to print.[5] The introduction is followed by a critical evaluation of the literature, which reinforces the point that—with some notable early exceptions—neither expropriation nor restitution was considered an important theme for research until very recently, either in Austria or abroad.

This is a point that is also taken up by Gerhard Melinz and Gerald Hödl in their quantitative analysis of the "Aryanization" of privately owned real estate in Vienna, with few exceptions a hitherto surprisingly neglected field of research.[6] "Aryanization"—the term itself is identified as a bureaucratic neologism of the 1930s—is increasingly understood as a term for a range of strategies aimed at excluding Jews from the economy, and the focus of research has been broadened to include hitherto neglected areas such as this one. And if researchers have come late to the theme, the authors argue, and have concentrated instead on the expropriation of business, then that echoes the priorities of the Nazis themselves. This does not mean that the forced disposal of private real estate can be understood separately either from the broader strategy of economic marginalization (as it was frequently a consequence of other measures, such as the expropriation of a business) or from the need to raise money for emigration; but the process gathered pace with the general radicalization of policy, first at the end of 1938

[3]Clemens Jabloner, Briggite Bailer-Galanda, Eva Blimlinger, Georg Graf, Robert Knight, Lorenz Mikoletzky, Bertrand Perz, Roman Sandgruber, Karl Stuhlpfarrer, and Alice Teichova, *Schlussbericht der Historikerkommission der Republik Österreich. Vermögensentzug während der NS-Zeit sowie Rückstellungen und Entschädigungen seit 1945 in Österreich. Zusammenfassungen und Einschätzungen* (Vienna and Munich, 2003).

[4]On the relationship between the methodologies of history and law in the context of the Commission's work, see Clemens Jabloner, "Am Beispiel der Historikerkommission: Zeitgeschichtliche Forschung in juristischer Perspektive," *Österreichische Zeitschrift für Geschichtswissenschaften* 16, no. 1 (2005): 111–36.

[5]The Dorotheum engaged historians to reassess its role in the Nazi period after the Commission judged its first report as unsatisfactory.

[6]Gerhard Melinz and Gerald Jödl, *"Jüdisches" Liegenschaftseigentum in Wien zwischen Arisierungsstrategien und Rückstellungsverfahren*, (Vienna, 2004). The authors refer, among others, to the work of Gerhard Botz, whose pioneering study of Vienna under the Nazis included a lengthy discussion of "Aryanization." See Gerhard Botz, *Nationalsozialismus in Wien. Machtübernahme, Herrschaftssischerung, Radikaliseirung 1938/39* (Vienna, 2008), this latest "distillation" superseding that referred to by the authors.

https://doi.org/10.1017/S0067237809000216 Published online by Cambridge University Press

and then in 1941 with the systematic expropriation, deportation, and murder of Vienna's remaining Jewish property owners.

The aims of this project were to establish a broad model that would serve as the basis of future analysis, to identify groups of beneficiaries, and to establish broadly what kinds of restitution took place, and on what scale. Of the 1,335 property owners in the study, about 90 percent were Jewish (as defined by the Nuremberg laws), and the rest were "Aryan" partners, "*Mischlinge*" and so on. The overwhelming majority of the properties (80 percent) were apartments, followed by family houses (concentrated in the nineteenth district), and most of the cases involved part-ownership of properties. The majority of properties went to new private owners, but a third went to the state and 8 percent to companies. Of the private beneficiaries, the majority were from the well-to-do middle classes of Vienna, although some were from the provinces and a very few from outside Austria. But the most important beneficiary was the state, which collected a levy on purchases (the so-called *Entjudungsauflage*) and a tax on Jewish assets (*Reichsfluchtssteuer*). Of 1,241 real estate shares considered, 69 percent were fully restituted; whereas in a further 20 percent of cases, a restitution claim was filed but no restitution followed. It is presumed that a settlement was reached between Aryanizer and original owner, although there is no evidence for this. These figures conceal a discrepancy, however: property Aryanized (and still owned) by the state was restored in 99.1 percent of cases, whereas property Aryanized by private individuals was restored in only 54 percent of cases; and in the case of "Aryanization" by private companies, it was restored in barely a third of cases. In other words, the authors conclude, the more the manner of acquisition deviated from the normal practice of the real estate market, as for example when the Nazi state introduced compulsion in the form of trustees, or of uncompensated expropriations undertaken directly by the state, the greater the likelihood of restitution; the more "private" the transaction, on the other hand, the less likelihood there was of a successful restitution, especially in the case of gifts or bequests. Most restitutions were completed by 1950; after that the number of successful cases fell off sharply, and the authors conclude that the Third Restitution Law (of 6 February 1947), the most important for the victims of Nazism, left both sides feeling aggrieved: the victims because the theft of their property by the Nazi state was now compounded by their responsibility for compensation payments; and the Aryanizers, who now formed interest groups of "restitution victims," because they felt the compensation was too little. To many Jewish victims of the wholesale theft instituted by the Nazi state and a "significant proportion of its citizens," Melinz and Hödl conclude, the shortcomings and disappointments of the restitution procedures seemed like a second expropriation.

The "Aryanization" of real estate is only part of the story. At the time of the Anschluss, Vienna had 190,300 Jewish citizens, of whom 60,000 lived in rented apartments (and 3,000 in privately owned accommodation). In the wake of the Anschluss, thousands were thrown out of their homes. Although such evictions were illegal, some 44,000 apartments had been Aryanized by the time the law was changed over a year later; 59,000, by 1945. Georg Graf surveys the withdrawal of tenants' rights from a legal-historical point of view in the first part of the Commission's report on the "Aryanization" and restitution of apartments in Vienna.[7] This is followed by an account of the so-called "wild Aryanizations." Explained in 1946 by the Austrian federal police as an initiative of the party and state to secure Jewish assets after the Anschluss, "Aryanization" was a euphemism for armed Nazis' violent and illegal

[7]Georg Graf, Brigitte Bailer-Galanda, Eva Blimlinger, and Susanne Kowarc, *"Arisierung" und Rückstellung von Wohnungen in Wien* (Vienna, 2004).

https://doi.org/10.1017/S0067237809000216 Published online by Cambridge University Press

intrusions into the homes of private citizens, the theft of moveable property such as furniture, and frequently also the abduction and public humiliation of the tenants themselves. (Some of the most valuable moveable property ended up in the hands of senior Nazis, including Hitler, whereas ordinary party members and bombed-out neighbors appropriated less valuable items.)[8]

Neighbors—or indeed anybody—might demand that Jews leave their apartments within a certain time. They would then occupy the property themselves without any regard for legal niceties, whereas the rightful tenants were left to find lodgings with friends and relatives, prompting further disparaging observations from the neighborhood Nazis. In October, the Vienna Gestapo reported that all the Jewish tenants in Ottakring, Hernals, Währing, and Döbling had been ordered to leave their apartments. Although many Jewish tenants had been given notice of 12 or 24 hours, others had been driven out immediately, forced to hand over their keys, and been left standing homeless with their families on the street in the middle of the night. Denunciation was widespread, mainly among NSDAP members eager that their party comrades should benefit from any action, but also among private citizens; and Jews were not simply denounced as "non-Aryans," but were also characterized stereotypically as Communists or accused of criminal activity. Nor was the covetousness of neighbors reserved for spacious apartments in well-to-do streets. One victim remembered:

> "We lived … in this horrid stuffy little flat on the ground floor in the second courtyard … But that did not alter the fact that within two weeks of Hitler arriving, we had to get out of our apartment; the neighbours had collected signatures so that the house would be "free of Jews" [*judenrein*]. I have never in my life lived as badly as we did there, where we were thrown out, not even during the war. But obviously there came a point where our neighbors begrudged it us nonetheless, this palace."[9]

Those who survived eviction, deportation, and the death camps nevertheless found it difficult to find somewhere to live after the war ended; and in some cases, former Nazis went to court—successfully—to force the eviction of victims quartered in their apartments. Restitution of tenancy rights was outside the scope of the Third Restitution Law; and despite pressure from the Jewish community, international Jewish organizations, and the American occupation authorities, no separate law was passed. The reenfranchisement of former Nazis for the 1949 parliamentary elections exacerbated the marginalization of survivors. Neither alternative solutions pursued by the Jewish community for the relief of homeless Jews nor the provisions of the State Treaty requiring action on the part of the Austrian state did much to alleviate the situation significantly.

The dramatic images of violence, petty thieving, and the unkindness of strangers during the so-called "wild" phase of "Aryanization" should not mislead us into thinking that what took place was somehow a spontaneous episode driven by the party rank and file. Peter Melichar's lengthy and detailed study of the "reordering" of the banking system, a relatively neglected area, combines an overview of expropriation and restitution, with over a hundred individual case studies of the experience of private banking houses (with the emphasis on the banks rather than on the individual bankers), and reminds us of the extensive role of bureaucrats, bankers, and other "pen-pushing perpetrators" in a lengthy, painstaking, and undramatic process.[10]

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[8]*Schlussbericht*, 118–23.

[9]Grafe et al., "*Arisierung*" 113–18; the quotation is from p. 118.

[10]Peter Melichar, *Neuordnung im Bankwesen. Die NS-Maßnahmen und die Problematik der Restitution* (Vienna and Munich, 2004).

https://doi.org/10.1017/S0067237809000216 Published online by Cambridge University Press

Melichar makes some very pointed initial observations about the use of terms such as "robbery," "theft," and "plunder," which he deems inappropriate in this context. Such metaphors, he argues, not only obscure the procedures of expropriation, but also reduce explanation to the suggestion of arbitrary individual action. The metaphors produce, in effect, a euphemistic evasion. Quite apart from their melodramatic connotations, terms such as "robbery" misrepresent several dimensions of the expropriation process, suggesting a series of spontaneous actions "from below" motivated by greed and limited to the well-documented frenzied outbursts of 1938, whereas in fact the process of expropriation was much longer, extending beyond even the Holocaust itself to the postwar confrontations of survivors with bureaucracy. It is inappropriate, Melichar argues, to extend the metaphor of robbery from the ransacking of shops and homes for moveable goods and valuables to the much more complex processes, involving large-scale planning and organization, in the expropriation of private banks or, for that matter, much of the industrial and commercial sector.[11]

The study deals first with the big joint-stock "High Street" banks, which had not stabilized since the collapse of the Habsburg Monarchy. Melichar presents the "Aryanization" (or "Germanization") of these banks as the final phase of a staged rationalization of the sector. The war and inflation had effected the first structural purge of the Vienna banking system, and the second stage had reached its zenith with the collapse of the Creditanstalt in 1931. The events of 1938 constituted a third phase, involving the "Aryanization" of all the private Jewish banks and at the same time expropriations and closures in the joint-stock sector. The German stake in Austrian banking had been insignificant before 1938; but after the Anschluss, the question was not whether but *how* Austrian banks would lose their independence. Most Austrian banks came under German control; and by the end of the war, eleven banks in which there had been no German stake at all before 1938 were counted as "German property."

The Nazis no more had a unitary policy on banking than they had a coherent economic policy, argues Melichar, and the "reordering of the banking system" was accordingly less a matter of implementing a program than the cumulative effect of a range of diverse measures (purges, regulatory orders, initiatives, and so on). The reordering led to the closure of economically unviable banks, as well as the "Aryanization" of Jewish banks. Major banks attracted the most attention. At least six were liquidated (out of twenty-one) and others were "Germanized": the Creditanstalt by the state holding company VIAG (Vereinigte Industrie-Aktiengesellschaft) and the Deutsche Bank, for example, and the Länderbank by the Dresdner Bank. The VIAG, the Reichswerke Hermann Göring, and IG Farben largely took over the industrial interests of Austrian banks. Of the private banks—whose number is difficult to determine but was probably well more than a hundred—most were shut down and a handful "Aryanized": eight according to the Vermögensverkehrsstelle (VVSt), although there were other takeovers that were not registered as "Aryanizations." The beneficiaries were either German private banks or the non-Jewish shareholders of the banks themselves.[12]

The process of "Aryanization" in the banking sector began with a purge of Jewish directors and employees, led by Nazi colleagues such as Rudolf Pfeiffer, who had been an "illegal" Nazi under the Austro-fascist regime and who oversaw the purge at the Creditanstalt in 1938.[13]

[11]Ibid., pp. 22–25.

[12]Ibid., pp. 66–143. Melichar's account is extensive and detailed. Some of the salient points are discussed more briskly in the summary volume, *Schlussbericht*, 101–05.

[13]Melichar, *Neuordnung*, 26.

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Although the focus of discussions of "Aryanization" is the expropriation of homes and businesses, moveable property, and financial assets, the loss of livelihood had an enormous impact on individuals, families, and communities. Nevertheless, the effect of Nazi racial policies on the labor market and the organization of the professions in Austria remain relatively neglected in the field of research. The Commission's extensive and wide-ranging report on the reordering of labor by the Nazis goes a long way toward remedying this deficiency.[14]

The Anschluss was immediately followed by racial and political purges, but there was more than this, the author argues, to the reordering of careers under the Nazis. Professional life under the new political order was constructed not just as something determined by race and politics, but also by efficiency, training, and "rationalization." Central to this construction was the idea of work as national endeavor (*völkisches Schaffen*), an ideological framework within which, the authors argue, the purges and dismissals have to be understood. Be that as it may, the impact of the Anschluss on the regime's victims was real, material, and immediate. Civil servants had to swear allegiance to Hitler, whereas Jewish public servants (and political opponents) were sacked with the introduction of German legislation for the restoration of a "professional" civil service in Austria. Private employers were no less ideologically enthusiastic, despite the initial absence of central direction.

The authors examine the impact of the new professional order on a range of occupations in extensive detail. A series of studies of professionals (lawyers, doctors, architects, pharmacists, veterinarians), of public servants, and of private-sector workers and employees is supported by tables containing a wealth of quantitative material and by numerous case studies. The number of Jews in employment sank dramatically in the course of the year as a consequence of emigration, prohibitions on exercising certain professions, and dismissals. Although the variability of individual cases and the gaps in the sources make it difficult to estimate the scale of the material losses, Franz Rudolf Bienenfeld and Charles Kapralik estimated for the Joint Executive Board for Jewish Claims on Austria an overall total of some $300 million (at 1953 rates).

The pseudolegality of the persecution of Austria's Jews rested on the Nuremberg laws, whose spurious claim to define racial identity was deemed sufficient by most members of the police and judiciary to rationalize the Nazis' treatment of their victims. There was no such clarity in the case of Roma and Sinti, a significant minority in eastern Austria. There was no agreed definition of the term "gypsy" in the Nazi state, other than traditional prejudice, which meant that the term was applied indiscriminately to Sinti and Roma communities, other traditional travelers (*Jenische*), and so-called "asocials," a definition in terms of "everyday language" that had informed official definitions since the nineteenth century.[15]

The overwhelming majority of Austrian Gypsies (some 9,000) lived in the formerly Hungarian territory of Burgenland (subsequently subsumed into the *Reichsgaue* Styria and Lower Danube). The local Nazi leaders in eastern Austria, Tobias Portschy, *Gauleiter* of Burgenland (and subsequently deputy *Gauleiter* of Styria), Siegfried Uiberreither, the *Gauleiter* of Styria, and Bernhard Wilhelm Neureiter, the commissioner for Gypsy matters in the Racial Politics Office of Lower Danube, were influential in radicalizing Gypsy policy both

[14]Alexander Mejstrik, Therese Garstenauer, Peter Melichar, Alexander Prenninger, Christa Putz, and Sigrid Wadauer, *Berufsschädigungen in der nationalsozialistischen Neuordnung der Arbeit. Vom österreichischen Berufsleben 1934 zum völkischen Schaffen 1938–1940* (Vienna and Munich, 2004).

[15]Florian Freund, Gerhard Baumgartner, and Harald Greifeneder, *Vermögensentzug, Restitution und Entschädigung der Roma und Sinti* (Vienna and Munich, 2004), 17–25.

https://doi.org/10.1017/S0067237809000216 Published online by Cambridge University Press

locally and in Berlin. The Anschluss swept away the remaining inhibitions that the Treaty of St. Germain and the Austrian constitution had provided, and Gypsies were arrested in the course of an operation against the "work-shy." Disenfranchisement came quickly, on 16 March, and Gypsy children were excluded from schools in the Burgenland in May. Austrian Gypsies were forbidden to cross the border into the "Altreich," and in July forced labor was introduced. Arrests followed in a "crime prevention" operation carried out in the spring of 1938; and the following year, some 3,000 Gypsies, a third of them women, were rounded up and incarcerated in concentration camps. With the invasion of Poland came deportations; and, with the appointment of Himmler as Reich Commissioner for the Consolidation of Germandom came a concerted focus on dealing with the "Gypsy" question. Fewer than 2,000 of Austria's Gypsies survived the Nazi dictatorship; and although few of those who did had had much property to lose, not all were as poor or dependent on the state as Nazi propaganda insisted. Some had reserves of cash and valuables, which, in so far as they were not already exhausted by the time of the deportations, fell to the local authorities or the state. In the Burgenland, in particular, settlement had been encouraged since the time of Maria Theresa; and some Gypsies owned houses and smallholdings. Such settlements were generally demolished, and anything of value remaining was sold.

Only around 10 percent of Burgenland Gypsies survived the Holocaust. Of those who did, many remained on the land register, often for decades, their smallholdings nominally administered by the local authorities. In the absence of claims from owners or their heirs, much of this property fell to the Austrian state. Finally, Gypsies constituted one of the many groups of victims who were marginalized and subjected to discrimination not just during the Nazi period, but both before and after as well. Without a powerful and articulate lobby to speak for them, the survivors had considerable difficulty not just in securing compensation, but even in establishing their pre-1938 income and citizenship.

If the experience of Jewish victims and survivors was at the center of the Commission's business, then, its remit was to become a far wider one, seeking to encompass all the victims of the Nazi regime. Besides Sinti and Roma, these included a range of other ethnic minorities, such as Slovenes and Czechs, and other groups whose experience had hitherto received relatively little attention from historians. Among these were the thousands of forced laborers, predominantly from the Soviet Union, who had been transported to the Reich and put to work on farms and in factories in order to help solve the problem of meeting the war economy's chronic shortage of labor. Florian Freund and Bertrand Perz produced pioneering studies of forced labor in wartime Austria some twenty years ago.[16] Their contribution to the Commission's work builds on this earlier expertise with a study whose aim was to produce a statistical overview of forced foreign workers in Austria between 1940 and 1945, broken down by chronology, country of origin, sex, and economic sector. The study is followed by an attempt (by Mark Spoerer) to establish how many of the forced laborers who had worked in Austria during the war were still living in 2000. Both studies are essentially quantitative analyses and accordingly accompanied by statistical tables both within the text and in the extensive appendices.[17] Here, as elsewhere, however, terms and definitions are also important; and Freund and Perz are precise in what they mean by "forced labor"

[16]Florian Freund and Bertrand Perz, *Das KZ in der Serbenhalle. Zur Kriegsindustrie in Wiener Neustadt* (Vienna, 1987); Florian Freund, *Arbeitslager Zement. Das Konzentrationslager Ebensee und die Raketenrüstung* (Vienna, 1987); Bertrand Perz, *Projekt Quartz. Steyr-Daimler-Puch und das Konzentrationslager Melk* (Vienna, 1991).

[17]Florian Freund, Bertrand Perz, and Mark Spoerer, *Zwangsarbeiter und Zwangsarbeiterinnen auf dem Gebiet der Republik Österreich 1939–1945* (Vienna, 2004).

https://doi.org/10.1017/S0067237809000216 Published online by Cambridge University Press

(*Zwangsarbeit*), one of the many descriptions in the range between "slave labor" and the Nazis' own euphemistic term "*Reichseinsatz*." This term is used to refer to labor that workers are forced to undertake as a consequence of their national or ethnic origin, regardless of their professional skills or training, and excludes both work undertaken as a direct result of social or economic need or participation by Germans in the Reich's various labor service schemes. Freund and Perz identify four principal categories of forced laborers on Austrian soil between 1940 and 1944: foreign civilians, prisoners of war, Hungarian Jews, and concentration camp prisoners. The number of civilian forced laborers in Austria rose from 129,000 in 1941 to over 580,000 in September 1944.

The 178,000 "eastern workers" (*Ostarbeiter*) from the Soviet Union constituted the largest single national group (30.8 percent) followed by 106,000 Poles (18.3 percent). The overwhelming majority of these foreign forced laborers were in the most industrialized regions of Austria, almost half (46 percent) of them in Vienna and Lower Danube, a quarter (25.5 percent) in Styria and Carinthia, and an additional 19 percent in Upper Austria. They were employed predominantly in heavy industries such as iron and steel production, manufacturing, and vehicle production and in the arms industries. The construction industry also initially employed large numbers of forced foreign laborers—about a quarter of the total in 1942—but the proportion declined later in the war. By September 1944, forced foreign labor accounted for over a quarter of Austria's entire civilian workforce. Prisoners of war constituted the second largest category of forced labor in wartime Austria. The French constituted the largest single national group of POWs more or less throughout the war, but the Soviets sustained the highest level of fatalities in POW camps in the region, 22,121 or 96 percent of all such deaths. Some 55,000 Hungarian Jews were deported in 1944 to Austria, where they were put to work on the Reich's southeastern defenses (*Südostwall*). Poor working and living conditions here killed thousands. With the approach of Allied forces, these workers were "evacuated" to Mauthausen in forced marches, where the sick and weak were murdered at the roadside. It is estimated that only half of the Hungarian Jews in Austria survived. Finally, concentration camp prisoners constituted a small but significant group of forced laborers as the function of concentration camps moved increasingly from the persecution and incarceration of political opponents and minorities to the exploitation of labor for the war effort. A string of satellite camps around Mauthausen and Dachau were built on Austrian soil, primarily for the purpose of putting concentration camp prisoners to work.

In 1945, there were around a million forced laborers who had been employed in Austria during the war, and Spoerer calculates how many of those who survived the war might still be living in 2000. This calculation is made not on the basis of known recipients of compensation payments in Eastern Europe, whose data Spoerer holds to be inconsistent and informed by questionable criteria, but on the basis of a demographic model that breaks down the surviving cohort by age, gender, and nationality and takes into account the health care provision of the survivors' homelands. Spoerer concludes that around a quarter of a million former forced laborers from wartime Austria, around 21,000 of them former prisoners, could have survived until the turn of the century. The largest number of survivors, calculated on this basis, would be in the Ukraine, with large numbers also in Poland, France, Russia, and Italy.[18] The Austrian government used this study as a basis for the Reconciliation Fund established in December 2000 (though it seems the number claiming

[18]See also Spoerer's published work in English using the same methodology: Mark Spoerer and Jochen Fleischhacker, "Forced Laborers in Nazi Germany," *Journal of Interdisciplinary History* 33, no. 2 (2002): 169–204;

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compensation—around a hundred thousand—did not bear out Spoerer's estimates of the likely number of survivors).[19]

Compensation and restitution was begrudging and belated. Those victims who survived the nightmarish experience of Nazi persecution and might justifiably have expected the return of their property or compensation for loss of livelihood were met with the uncompromising force of Austria's denial of responsibility, reinforced by the "annexation theory." Brigitte Bailer-Galanda examines the development of legislation dealing with restitution and compensation from the Restitution Acts of the postwar years to more recent measures taken in the 1990s.[20] Although Renner's provisional government embarked immediately on a process of registering property expropriated under the Nazis, it was reluctant to accede to Allied pressure in the matter of restitution. The parties of the left (SPÖ and KPÖ) would have preferred to use confiscated assets to set up a fund from which all victims of the Nazis could have benefited according to need, but the Allies insisted on restitution, as was clear from all their statements on the issue: in the London Declaration of 1943, at the Paris reparations conference of 1945, and in drafts for a "state" treaty with Austria. A breakthrough was only possible at the time of the (unsuccessful) attempts to block Soviet reparations demands. On May 15, 1946, all expropriations carried out during the occupation were declared null and void (with a "nullification law"), in the hope that property designated as German, and thereby falling within the scope of Soviet reparations demands, would revert to Austrian ownership. It was an argument that convinced neither the Soviets nor the Western Allies.

In any case, no effective practical measures were taken to restore expropriated Jewish property to its former owners. The State Treaty negotiations accelerated the promulgation of the Restitution Laws. The first (26 July 1946) covered property expropriated by the authorities and held by the state; the second (6 February 1947) covered property that had fallen to the state as a consequence of war crimes legislation and de-Nazification. The Third Restitution Act (also passed on 6 February) was the most important for individual victims of the Nazis. It established a regulatory framework for the return of expropriated assets in private hands—albeit one that, controversially, limited the degree to which entitlement could be inherited. Its provisions had been opposed by business interests and right-wing members of parliament, who claimed they unsettled the economy; and the Social Democrats made their consent to the restitution legislation conditional upon measures to return to the party property confiscated in the wake of the Austro-fascist coup of 1934. In response to domestic political pressure, several exclusions were introduced in the final draft of the Third Restitution Act and in addition, if the Restitution Commission saw fit, the original owner could be made to cover expenses incurred on the property up to and including the purchase price, whether or not the sale had been freely concluded.[21] (Further restitution laws in 1947 and 1949 covering a range of relatively minor issues occasioned no real controversy.) Finally, the State Treaty of 1955 changed the situation significantly, insofar as Article 26 made restitution an obligation for Austria under international law.

Mark Spoerer and Jochen Fleischhacker, "The Compensation of Nazi Germany's Forced Labourers: Demographic Findings and Political Implications," *Population Studies* 56, no. 1 (2002): 5–21.

[19]See Maria Schaumayer, "Austria's Contribution to Reconciliation," in Oliver Rathkolb, ed., *Revisiting the National Socialist Legacy. Coming to Terms with Forced Labor, Expropriation, Compensation and Restitution* (Innsbruck, 2003), 24–29.

[20]Brigitte Bailer-Galanda, *Die Entstehung der Rückstellungs- und Entschädigungsgesetgebung. Die Republik Österreich und das in der NS-Zeit entzogene Vermögen* (Vienna and Munich, 2003).

[21]See Knight, "Restitution and Legitimacy," 425–27.

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The extent to which restitution was implemented with good grace is a moot point. As long as the occupation of Austria continued, the Allies resisted attempts to lessen the impact of legislation (and de-Nazification measures generally), albeit in the context of the onset of the Cold War and the necessity of binding Austria to the West diplomatically. Nor was the pressure always successful. The Austrian government and parliament successfully blocked Allied attempts to see that unclaimed "heirless property" was distributed, tenancy rights restored, or pensions were paid to those driven from Austria in 1938. The speed and efficiency of restitution are difficult to determine in the absence of important evidence. (Restitution files from Vienna for the crucial period before 1955 were officially destroyed in the 1980s.) Certainly, it seems some claims of foot-dragging may have been exaggerated, and some claimants were successful despite application deadlines and a trend toward settlements less favorable to claimants.

In certain very specific regards, the Austrian state's duty to see that restitution is effected has been found wanting—for example, in the case of restitution in kind for the return of tenancy rights. Similarly in areas such as citizenship, social security rights, and the implementation of the Victims' Welfare Act of 1947, progress has been less than satisfactory. Austrian exiles who had been compelled to apply for citizenship abroad after the Anschluss were barred from reclaiming Austrian citizenship (and the other rights that went with it) after the war, and it was not until the 1990s that the situation improved significantly.[22] Similarly, those who had been driven out of Austria in 1938 or had managed to flee often continued to suffer in their destination host countries from massive economic problems, such as years of unemployment, and as a consequence of the unavailability of insurance. These disadvantages related to social insurance had their impact not least in retirement, when there were often no—or very restricted—rights to claim on the pension system of Austria or the host country.

The first part of the Commission's study of this neglected area aims to set out the development of the law by which Austria sought to rectify the position after the war: the so-called "*Begünstigungsrecht*," which provided for "preferential" treatment of victims of both the Nazis and the Austro-fascist regime. The report contains an overview of the numerous legal changes and exclusions as the law was revised over fifty times between 1947 and 2000. The main part of the study is a quantitative analysis of the application of the law, complemented by "qualitative," narrative material. The authors found that the majority of applicants were not resident in Austria and pursued their claims from abroad, mainly from the United States, Israel, and Great Britain. Some 90 percent were victims of persecution on racial (rather than religious or political) grounds. For those who managed to overcome the complexity of legislation that wrong-footed the legislators themselves, adequate compensation was achieved, if not always following the first application.[23]

Revised even more frequently than the law on social security (largely as a result of Allied pressure), the Victims' Welfare Act of 1947 was designed to compensate for damages incurred as a result of persecution by both the Austro-fascist "Corporate State" and the Nazi regime. Again, the Commission's study is a quantitative one, though one complemented with considerable qualitative evidence as well. Barely 60 percent of the applications for compensation under the law were successful, the law itself was applied inconsistently (and

[22]Dieter Kolonovits, Hannelore Burger, and Harald Wendelin, *Staatsbürgerschaft und Vertreibung* (Vienna and Munich, 2004).

[23]Nikolaus Dimmel, Heinz Berger, Hermann Kuschej, Berthold Molden, and Petra Wetzel, *Analyse der praktischen Vollziehung des einschlägigen Sozialrechts hinsichtlich der Vollzugspraxis im Bereich der §§500ff ASVG* (Vienna and Munich, 2004).

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inconsistently with legal norms), and some groups of victims—above all Roma and Sinti and homosexuals—had difficulty in gaining recognition at all. The most frequently cited grounds for compensation were imprisonment.[24]

What did the Austrian Historians' Commission achieve? After all, it was superseded by events, insofar as the Schüssel administration, burdened as it was by the reputation of its FPÖ coalition partners and not only beleaguered by the diplomatic isolation of Austria, but also humiliated by the "sanctions"—albeit more symbolic than real—applied by the European Union against a member state for the first time in its history—introduced a number of restitution "initiatives" even as the Commission was still working. By the end of the year, a six-billion Schilling fund had been set up and steps were taken to provide a further fund to compensate those whose property had been confiscated.[25] In terms of determining whether Austria had behaved well or badly towards the victims of persecution, the Commission was unable to establish the kind of global balance sheet of what was lost and what was returned or compensated that might have drawn a line under the issue. The concluding report certainly had some very straightforward observations to make. Austria's efforts on behalf of victims of Nazism, the members of the Commission report, have not only been slow, belated, and fragmentary, but they have been lost too among an opaque multiplicity of measures and are always shaped by a denial of the co-responsibility of Austrians for Nazi crimes, which has meant that they have in turn lacked the necessary open-minded generosity. In short: "Every new measure had to be wrestled out of Austria."[26]

Judging by the necessarily restricted sample briefly considered here, the Commission's principal achievement has been an impressive and wide-ranging work of scholarship. Although some parts of the history covered were already well known (if little acknowledged) through the earlier work of individual historians such as Botz, Knight, Freund, Perz, and others, it delivers much that is new, particularly in terms of the economic history of persecution and restitution, and it does so in many areas that have hitherto been largely neglected in historical research. To add to these achievements, the contributors have amassed an enormous amount of material to support these studies, scouring archives and—no small achievement in itself—getting out of them hitherto unused documentation. To be sure, the findings of the Commission are a starting point for further research rather than a final word—although, of course, they build on the considerable achievements in this field of the Dokumentationsarchiv des österreichischen Widerstandes, not least insofar as many of the contributors are past or present staff of the archive. And in constituting that basis for a new, more open approach to the questions discussed here, the most important outcome of the Commission's work may well have been to enable Austria to examine the recent past without the ideological baggage that has impeded discussion in the past. That would be a considerable achievement.

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[24]Karin Berger, Nikolaus Dimmel, David Forster, Claudia Spring, and Heinrich Berger, *Vollzugspraxis des "Opferfürsorgegesetzes". Analyse der praktischen Vollziehung des einschlägigen Sozialrechts*. (Vienna and Munich, 2004).

[25]See Ernst Sucharipa, "Revisiting the National Socialist Legacy. Restitution: Why Now? The Austrian Experience," in Rathkolb, ed., *Revisiting the National Socialist Legacy*; Günter Bischof, "Victims? Perpetrators? 'Punching Bags' of European Historical Memory. The Austrians and their World War II Legacies," *German Studies Review* 27, no. 1 (2004): 17–32.

[26]*Schlussbericht*, 453.

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