

Elazar Barkan's

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SOME QUOTES FROM ELAZAR BARKAN'S THE GUILT OF NATIONS: RESTITUTION AND NEGOTIATING HISTORICAL INJUSTICES PERTINENT TO APOLOGY FOR POLL-TAX IN NEW ZEALAND

"The demand that nations act morally and acknowledge their own gross historical injustices is a novel phenomenon. Traditionally realpolitik, the belief that realism rather than ideology or ethics should drive politics, was the stronghold of international diplomacy. But beginning at the end of World War II, and quickening since the end of the Cold War, questions of morality and justice are receiving growing attention as political questions. As such, the need for restitution to past victims has become a major part of national politics and international diplomacy. p.xvi

The new international emphasis on morality has been characterised not only by accusing other countries of human rights abuses but also by self-examination. The leaders of the policies of a new internationalism - Clinton, Blair, Chirac and Schroder - have all previously apologised and repented for gross historical crimes in their own countries and for policies that ignored human rights. These actions did not wipe the slate clean, nor were they a total novelty or unprecedented. Yet the dramatic shift produced a new scale: Moral issues came to dominate public attention and political issues and displayed the willingness of nations to embrace their own guilt. This national self-reflexivity is the new guilt of nation. p.xvii

In contrast with the potential risk and morbidity of autistic self-indulgent victimisation, the novelty in the discourse of restitution is that it is a discussion between the perpetrators and the victims. This interaction between perpetrator and victim is a new form of political negotiation that enables the rewriting of memory and historical identity in ways that both can share. Instead of seeing the increased role of victimisation as a risk, the discourse of restitution underscores the opportunities and the ambivalence embedded in this novel form of politics.

We could say that in those cases in which the victim and the perpetrator are engaged in negotiating a resolution of historical crimes, the relative strength of the victim grows.

Legal convention defines restitution as only one form of the possible methods to amend past injustices; the are others, such as reparations or apologies. Restitution strictly refers to the return of the specific actual belongings that were confiscated, seized, or stolen, such as land, art, ancestral remains, and the like. Reparations refers to some form of material recompense for that which cannot be returned, such as human life, a flourishing culture and economy, and identity. Apology refers not to the transfer of material items or resources at all but to an admission of wrongdoings, a recognition of its effects, and, in some cases, an acceptance of responsibility for those effects and an obligation to its victims. pp.xviii-xix

Restitution is a large part of the growing attention being paid to human rights and itself testifies to the increased attention being paid to public morality and the augmented efforts to amend past injustices. p.xix

A fundamental alteration focuses on the realization that victims have rights as members of groups, which has called for a re-examination of our understanding of justice. Our notion of justice is broadly founded on the Enlightenment principle that human rights accrue to individuals. Today an emerging political sense stipulates that such rights may also accrue to groups. This particular view holds that while preserving individual human rights remains crucial, this is in itself no longer sufficient because people cannot enjoy full human rights if their identity as members of a group is violated. The emerging political sense, or neo-Enlightenment morality, which, among other notions posits the need for a combination of individual and groups, creates a modern dilemma: How can the Enlightenment principles of individual rights and justice be applied to minorities and to the traditional cultures of indigenous peoples, and what principles can be applied to resolve, or at least to negotiate, the conflicts that arise when individual rights clash with those of a group? For example, governments in general do not recognise the communal legal identity of ethnic groups. To the degree that governmental policies are aimed at a group, implementation is often directed toward the individuals who belong to it. However, by accepting a policy of restitution, governments implicitly or explicitly accept a mechanism by which group identity receives

growing recognition. p.xx

Traditionally the winner [of conflicts] imposed various payments on the loser. The Versailles Treaty (1919) postulated harsh terms for the losers. In public memory the war indemnity levied upon Germany in 1919 caused, or at least heavily contributed to, World War II. The wisdom of the Versailles terms was strongly criticised along realpolitik lines and the perceived failure of the policies of vindictiveness. Having learned from experience, the Allies in 1945 did not impose reparations upon Germany. Instead the United States accepted the burden of rebuilding Europe and Japan and initiated the Marshall Plan. This introduced a novel factor into international relations: Rather than hold to a moral right to exploit enemy resources, as had been done previously, the victor underscored future reconciliation and assisted its defeated enemies to re-establish themselves. In hindsight the policy is widely celebrated. Within this context of non-vindictiveness the modern concept of restitution was born . . . Germany, acting on vaguely comparable motivations of perceived international interests but also on its unique need to re-establish political and moral legitimacy, sought to repent for its sins by reaching an agreement with its victims. In 1952 the Germans began to pay compensation, but instead of paying the winners, they paid those they had victimised the worst - primarily the Jews. While the Allies' Marshall Plan and their non-retributive stance toward Germany may have been imaginative politics, the innovative phenomenon in the German-Jewish agreement was that the perpetrator compensated the victims on its own volition in order to facilitate self-rehabilitation. Germany's voluntary admission of responsibility for the Holocaust and consequent restitution to its victims provided a mechanism to enable Germany to move beyond its crimes and facilitate its healing. This admission of guilt had to be done in concord with the victims. In this case the restitution agreement was formulated between West Germany and Israel, both 'descendant' entities of the perpetrators and the victims. The agreement between Germany and the Jews turned out to be one of the most significant cornerstones of the newly formed German Federal Republic. p.xxiii

This was the moment at which the modern notion of restitution for historical injustices was born. The German reparations that followed the war became the gauge for future restitution claims. A generation after Germany had begun to pay restitution to Jewish victims, other victims of World War II called for reparations. The first case was concluded when, in the late 1980s, the American government compensated Japanese Americans interned in camps during the war. The resolution quickly became a model for other groups that demanded justice. African Americans and other victims of the slave trade were quick to cite the agreement as a precedent for their own renewed claims. pp.xxiii-xxiv

The Japanese response in the aftermath of World War II was very different from that of Germany. Following Hiroshima and Nagasaki, Japan claimed victim status and refused to acknowledge any responsibility for its war crimes. It came under a particular flood of public criticism regarding its treatment of "enemy" women, those who were known as the comfort women, during World War II. An initially small protest by women's organisations turned into wide-spread anti-Japanese sentiment in several Asian countries. But Japan did not budge. For a short period it seemed as though Japan might respond to the criticism, but this misconception quickly evaporated. A feeble official intimation that Japan was indeed responsible for the crime of enslaving women into sexual servitude during the war was never transformed into a confession of its role in the war and certainly not into a deep self-re-examination of Japanese history. p.xxv

The notion that group suffering deserves restitution evolved in the United States between the 1950s and the 1970s as the civil rights movement and the politics of the Great Society program informed a new political morality that led to affirmative action. p.xxvii

The debate . . . involves a host of specific decisions. These include questions not only about what constitutes fair reparation but also about who is entitled to it. Is blood relationship or direct lineage an essential component? Is there a statute of limitations on national injustices?

What constitutes a historical injustice? Why are certain inhumanities classified as gross historical atrocities while others are merely forgotten? p.xxx

When the public judges historical events as crimes or injustices according to contemporary moral values, the judgement is often anachronistic. However, at times the criminal nature of historical actions has been indisputable; it has been clear at the time even to the perpetrators. p.xxxii

One new measure of this public morality is the growing political willingness, and at times eagerness, to admit one's historical guilt. As a result of admitting their guilt, the perpetrators may expect to have cleaner consciences and even direct political payoff. p.xxviii

An apology doesn't mean the dispute is resolved, but it is in most cases a first step, part of the process of negotiation but not the satisfactory end result. Despite the oft-contentious debate, the principle of apology is increasingly accepted. At the very minimum these apologies lead to a reformulated historical understanding that itself is a form of restitution and become a factor in contemporary politics and humanitarian actions. p.xxix

Elazar Barkan. The guilt of nations: restitution and negotiating historical injustices.: New York: Norton, c2000.