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European governments and African demands for reparations

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Reparations for colonial atrocities in Africa are now, for perhaps the first time, a serious topic of discussion in European politics. The claims of the Mau-Mau veterans from Kenya, and the descendants of the victims of the Herero Genocide in Namibia (1904-1907), make headline news^[1]. Drawing on considerable legal and historical expertise, the cases represent a new professionalisation and seriousness of the campaign for African reparations. Gone is the inflated rhetoric of the 2001 Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which allowed European states to dismiss the issue as a means for some states to

boost their diminishing international legitimacy. In the Mau-Mau case, indeed, the British government was recently forced, effectively, to declare itself *guilty*, but not *liable*, for its repression of the uprising. In other words, it, like its German counterpart, is concerned about opening the infamous 'Pandora' Box', and creating a legal precedent which would precipitate an avalanche of claims from every corner of its former colonial world.

Both governments continue, in short, to express their position in the language of legal technique, not that of moral and political appropriateness. As one expert involved in these cases put it to me, however, 'they cannot just legislate these things away'. Litigants have both historical evidence and some legal precedents – German reparations to Holocaust survivors – on their side. Even if many individual cases may be conceived more in hope than in expectation, the 'evolving norm' of reparations for historical injustice is unlikely to be something that, in the long-term, European states can combat with *Realpolitik* alone. An alternative public position might well be preferable; one rooted in principle, but not guilty of political irresponsibility. Such a position would attempt, above all, to make an honest reckoning of the possible African political consequences of different ways of paying reparations. It would not, as some supporters of campaigns have been liable to do, ignore these possibilities in order to more fully purge Western guilt. Nor would it, as some opponents have been guilty of, equate African demands for reparations with simply the cynical manipulation of complex atrocities for external consumption. Whilst the 'internal' dimensions of colonial conflicts have sometimes been played down for obvious strategic reasons, the anger felt towards Western powers is just as often genuine enough, and not limited to activist circles.

Symbolic reparations

Some of the most sophisticated historical work on atrocities, when dealing with these difficulties, suggests that some form of symbolic gesture would be the most appropriate response. David Anderson, for example – an important witness for the prosecution in the Mau-Mau case – carefully stresses the complex Kenyan politics of the Uprising^[2]. Loyalists as well as rebels lost their lives, often amidst great cruelty and suffering. Anderson's work also, however, like Casper Erichsen's research in Namibia, places an emphasis on the importance of the real, not feigned, familial and personal links of many to British atrocities (whilst not denying that politicisation of the event is a significant phenomenon)^[3]. He recommends the symbolic burial of the dead from *both* sides of the conflict in a Kenyan Heroes Acre^[4]. With this Britain could clearly associate itself with contrition for its past actions, whilst perhaps avoid some of the embarrassment and dishonour involved in issuing official apologies. (These are often worded in painfully evasive terms in order to avoid triggering legal consequences.) Germany, likewise, has recently begun to repatriate some of skulls of dead Namibians which were taken to Europe as material for racial science after the genocide. Its long, and even remarkable refusal to do this at an earlier date, however, has done much to reduce its symbolic effect. Official complaints that the campaign for the return of the skulls concealed a 'hidden agenda' for reparations, although not wholly implausible, were certainly poorly expressed, and have created largely needless antagonisms in Namibia; antagonisms and an agenda that swifter and more open action on the return of skulls would surely have done much to defuse^[5].

Actions of this kind represent a potentially powerful, and less legally compromised counterpart to official apologies. They allow, most notably, for interventions to be tailored towards the complex felt needs of groups who will often have divergent attitudes towards the 'heroes' of the anti-colonial struggle. But of course, however, they do nothing to address the root causes of any social-economic difficulties that may have been intensified by colonial history. South Africa's Khulumani Support Group (born as a response to that country's Truth and Reconciliation Commission) has, in particular, done much to connect reparations with social justice. In both Kenya and Namibia many have called for large-scale payments of this kind, whilst frequently pointing to the continued marginalisation of affected groups by the post-colonial state. The capacity, willingness, and good faith of states

to play this role are, nonetheless, far from givens. Such considerations are highly relevant for an evaluation of exactly how, and to whom, payments might be made.

'Direct' reparations

Such problems are particularly acute when reparations are demanded by groups in political opposition. This is currently the case in Cameroon, as it was in Kenya before 2002^[6]. The demands of the Namibian Ovaherero Genocide Committee (OGC), affiliated with the opposition politician Chief Kuiama Riruako, also largely fall into this category. In every case, the idea that the African state would distribute or manage reparations payments was, or has been strongly opposed. Socio-economic underdevelopment, such opposition groups claim, is hardly likely to be remedied by that entity most responsible for its persistence. The OGC, in particular, has called for Germany to engage directly with it and other Herero political organisations – missing out the central state altogether. How bilateral relations could be transformed in this way remains, nevertheless, rather unclear. Unsurprisingly, moreover, questions have been raised both over the capacity of such organisations to deal with such payments, and with their capacity to represent their constituencies effectively. Although the OGC alliances have formed alliances with some (but not all) groups representing the Nama, for example – who also suffered tremendously – they have not yet done so with those representing other ethnic groups. Riruako's leadership of the 'Herero nation' is also heavily contested, and this further intensifies these difficulties.

The most robust response to these charges has been to point out that other groups are free to organise their own reparations movements^[7]. Such a prospect, though, is likely to discourage not only governments, but even more conservatively-minded judges, from opening 'Pandora's Box'. It might be thought that the Mau-Mau case, brought by victims themselves rather than their descendants, would be free of these difficulties. Caroline Elkins has certainly done much in an attempt to clarify claims to victimhood.^[8] The success, however, of one claim would be likely to lead to others being lodged by similar victims groups in Kenya. This, again, is likely to do much to heighten currently disabling anxieties relating to 'Pandora's Box'. The Namibian 'community reparations model' – whereby donors would pay community representatives directly – at least holds out some prospect of some definitive financial, if not ethical or political, 'resolution' of European governments' responsibilities. Such a prospect would seem vital if any change in European governments' attitude is to occur, but it is lacking when they are held civilly liable to individuals.

Inter-state reparations

It is the promise of avoiding difficulties like these that has led Allan Cooper, in his reflections on the Herero case, to suggest that payments to state treasuries may be only way in which large-scale reparations can be made compatible with any form of rational order in international relations. He sees the problems associated with Western agencies assessing the representativity of sub-state groups as being simply incompatible with diplomacy as we currently know it. By implication, he claims, existing political machineries are so ill-adapted to the task that the disorder provoked by 'missing out the state' would cancel-out the just effects of any good intentions behind it. Any such return, however, to Durban conference-style demands for payments without conditionalities – whatever practical advantages they may have – are currently extremely unlikely given the current place of the African state in the international order. The response that Western governments should not 'line the pockets of corrupt governments/dictators' is almost inevitable.

Targeted reparations

Much more plausible as precedents for future claims are mechanisms whereby payments are administered by African states according to conditions dictated by donor agencies. This is exemplified in the 2004 German 'Special Initiative' for Namibia, which pledged an initial 20 million euros in development assistance to the country – more than Germany's current, already sizeable, annual contribution. These funds, administered by the government with German technical cooperation, were to be targeted at *areas* affected by the genocide. This method enabled the government to avoid paying out 'reparations', thus keeping the lid on 'Pandora's Box', and saved it from *explicit* favouritism for any particular campaigning group. As a general technique, finally, it has the added attraction for European governments of not greatly enriching the African administrations they generally distrust. Some members of the OCD-1904 (Ovaherero/Ovambanderu Council for the Dialogue on the 1904 Genocide) – a rival to the OGC, and as a whole politically closer to the government than to Riruako's NUDO – also support this broad approach, if not necessarily its specific implementation.

As with the other methods discussed here, however, targeted reparations are also not without their disadvantages. This has been demonstrated clearly in many of the criticisms directed towards the Special Initiative. Germany's desire to avoid explicit favouritism has been interpreted as *de facto* exclusion by the OGC and some other Herero political bodies, who highlight their group's specific targeting during the genocide, and their leadership role in the reparations campaign. Other critics, meanwhile, have pointed out that the spatial focus of the Initiative fails to cater for the descendants of victims who have migrated to urban areas, or who live in the wide and historic regional diaspora. Perhaps most damagingly, finally, and in ways that might have been avoided, the Initiative has also been accused of an overly 'top-down' approach to project selection and implementation. Whilst some such criticisms have implied that these flaws could be substantially improved, others have called into question the whole aid-as-reparations approach. The channelling of funds through clunky (if not wilfully obstructive) government ministries and aid bureaucracies, they claim, serves inevitably to further marginalise the marginalised from interventions made on their behalf.

The key question for such an approach is whether any of the 'participatory' development techniques now in vogue represent a radical departure from previous practice. If not, it is difficult to see how they might represent the reparation of atrocity, rather than simply business as usual. It will not, in short, always be an easy thing to accompany symbolic gestures with real financial reparation. 'Direct' payments may be thought too great a step in the practice of IR, and 'targeted' payments thought too small, but such political considerations must be at the centre of reflection on the topic. Only that way might outcomes be reached, satisfactory *first* for the needs of post-colonial African societies, and *second* for those of the Western post-imperial conscience.

- [1] See, for example, *The Financial Times*, 'The Mau Mau case casts light on colonial records', (April 5th 2011), and *The Guardian*, 'Mau Mau abuse case: Time to say sorry', (April 11th 2011),
- [2] David Anderson, *Histories of the Hanged: The Dirty War in Kenya and the End of Empire* (New York & London: W. W. Norton & Company, 2005)
- [3] Casper W. Erichsen, "What the Elders Used to Say": *Namibian Perspectives on the Last Decade of German Colonial Rule in Namibia*, (Windhoek: Institute for Democracy, 2008).
- [4] See the conclusion to Anderson, *Histories of the Hanged*.
- [5] See, for example, *The Namibian*, "Hidden Agenda' criticised', (November 28th 2011).
- [6] Marie-Emanuelle Pomerolle, 'Universal Claims and Selective Memory: A Comparative Perspective on the Culture of Opposition in Kenya', *Africa Today*, 53:2, (2006), pp. 75-93, and *Libération*, 'Cameroun 1958: La guerre cachée de la France' (17th September 2008).
- [7] Author interviews in Windhoek, August 2011.
- [8] Caroline Elkins, *Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya*, (New York: Owl Books, 2005).

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