ALLER SIMPLE (ONE-WAY TICKET)
CORPORATE ACCOUNTABILITY FOR MASS ATROCITY
A STUDY OF THE FRENCH NATIONAL RAILROADS

by

Sarah Federman
A Dissertation
Submitted to the
Graduate Faculty
of
George Mason University
in Partial Fulfillment of
The Requirements for the Degree
of
Doctor of Philosophy
Conflict Analysis and Resolution

Committee:

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Date: ________________________________ Summer Semester 2015

George Mason University
Fairfax, VA
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by

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Master of Arts  
American University of Paris, 2011

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Summer Semester 2015  
George Mason University  
Arlington, VA
“It doesn’t matter whether the children study the Holocaust…. 
What matters is that you are a good person—
good to Jew and good to non-Jew.”

- Channah
Auschwitz Survivor
DEDICATION

This dissertation is dedicated to the 75,721 Jews deported from France, those family members that survived them and those sympathetic individuals who did their best to help them.

And, though I am not sure of our relation, to Sarah Federman, born October 21, 1926 and deported to Auschwitz from France on convoy 21, August 19, 1942. She died at age 16. I saw her listed on the Shoah Memorial *Wall of Names* in Paris; the haunting sensation of running my finger over my own name helped spark this research and gave it an eerie closeness throughout.

- Sarah FEDERMAN 1926 -
ACKNOWLEDGEMENTS

This now six-year process began in France during a time when my focus was not on war, but on my corporate job and assimilation. Tooling around Paris and trips throughout France and Europe, however, exposed me to the enormous footprint of the two world wars and Stalin’s purges. After I had felt the impact and size of these catastrophes, my life and career began to change. During this journey I encountered many extraordinary, talented, and deeply compassionate people that both informed this research and give it resonance. This dissertation was co-creation at its core; the following all played an important role.

To protect their anonymity, I will not list the names of the eighty survivors I interviewed; please know that you each touched me beyond this research and continue to do so.

Individuals

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George Mason University- School of Conflict Analysis and Resolution
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ABBREVIATIONS

Association pour l’histoire des chemins de fer en France............................AHICF
(Association of French Railroad History)

American Jewish Committee..........................................................AJC

Alien Tort Statute of 1789..........................................................ATS

Corporate Financial Performance...............................................CPF

Confédération générale du travail...........................................CGT
(France union, including railway workers.)

Commission pour l'indemnisation des victimes de spoliations..............CIVS
(Commission for the Compensation of Victims of Spoliation)

Le Centre National de la Recherche Scientifique............................CNRS
(The Center of National Scientific Research)

Conseil Représentatif des Institutions juives de France....................CRIF
(Representative Council of French Jewish Institutions)

Corporate Social Responsibility................................................CSR

Foreign Sovereign Immunities Act of 1976..................................FISA

Société Nationale des Chemins de Fer Français...............................SNCF
(French National Railroad)

Social, Economic and Cultural [Rights].......................................SEC

Truth and Reconciliation Commission.........................................TRC

The United States Holocaust Memorial Museum..........................USHMM
TRANSLATIONS

Most of the archival materials were written in French and roughly half of my interviews occurred in French. Both the personal interviews and the archival materials I translated myself. Anyone who thinks his or her thoughts or ideas have been mistranslated, please contact me.

TERMINOLOGY

Throughout this dissertation, readers will see Holocaust when referring to international or U.S. related topics and often the word Shoah when talking about France. This warrants a brief explanation. The French use the Hebrew word Shoah meaning catastrophe when referring to the Holocaust. The French do so because the word Holocaust, derived from Greek, became part of 12th Century French and meant “offering up in ritual.” The French wanted to avoid the suggestion that Jews were burned as any kind of symbolic offering.
ALLER SIMPLE (ONE-WAY TICKET): CORPORATE ACCOUNTABILITY FOR MASS ATROCITY-A STUDY OF THE FRENCH NATIONAL RAILROADS

Sarah Federman, PhD

George Mason University, 2015

Dissertation Chair: Dr. Leslie Dwyer

Transitional justice employs a variety of mechanisms, including compensation, apologies, trials, commemoration, and truth seeking, to guide societies through violations and to more inclusively protect the rights of all people. This dissertation argues that including market actors and embracing open-ended processes enhances this post-conflict work.

This research examines this intersection of corporate accountability and transitional justice through the battle between the SNCF (French National Railroad) and a group arguing the company made insufficient amends for transporting over 75,000 deportees, in horrific conditions, from France towards Auschwitz during WWII. The group voices its discontent through lawsuits and proposed legislation. The company responded with apologies and commemorative efforts—not direct compensation. As of 2015, the conflict continues in various locations.
Archival work, site visits and over 120 interviews with senior officials, religious leaders, railway executives, historians, lawyers, ambassadors, survivors, and others make visible the contours of this multi-decade debate. The dissertation considers the SNCF’s role in the transport of deportees and the post-war engagement with transitional justice practices.

The case study reveals the importance of including corporate actors in post-conflict work and addressing the conundrums raised by their participation. Complicit corporations, like the SNCF, benefit from legal lacunae but can also be caught in blame cycles and double binds that make their productive participation challenging. Politics and semiotics can amplify these challenges especially in this case which involves a company whose business – rail transport – resides at the symbolic heart of the atrocity.

The interviews provide access to the wide-range of responses both in the United States and France; reasons victims offered for holding on or letting go to the company’s responsibility suggested that open-ended approaches create the best environment in which to address power dynamics, changing victim needs, and locality differences. Approaches seeking closure only found themselves upended and often further harmed victims. The dissertation concludes by considering non-legal discursive spaces that may be useful for including corporate actors in ways that speak to victim needs.
Channah and I sat at table farthest from the stage along with other Holocaust survivors during their Day of Remembrance annual breakfast sponsored by the United States Holocaust Memorial Museum at Mandarin Hotel. Because Channah was slumped in her wheelchair, I went to the buffet to collect her breakfast. As the Holocaust Museum staff spent an hour handing awards to one another and to donors in recognition for their contributions to Holocaust education, the survivors, seated to the rear of the room out of earshot, silently ate their breakfasts.

Midway through the presentations, Channah reached over and squeezed my hand, looked me in the eye, and said with the strength of deep kindness, “My name is Channah. I survived Auschwitz.” Her husband turned around and shushed her, “Channah, not during the presentations!” She continued undeterred, “I don’t think it matters if the children study the Holocaust. My son doesn’t and my daughter does.” She paused, “What matters is that you are a good person, good to Jew and good to non-Jew.” (2014) She released my hand, slumped back in her wheelchair, and returned to her croissant, struggling to add the jam. I used her knife to add a little jam and removed her tea bag from her teacup. We sat together and ate in silence. She said nothing more and did not need to. The simplicity of Channah’s statement summarized what mattered pre-war, war, and post-war. Ultimately, we may not need more research, books, museums or lawsuits to
have what we truly want. We simply need to treat each other with respect, dignity and even love.

I have taken Channah’s words to heart while writing this dissertation. My purpose has been not only to contribute to Holocaust education but also to focus on the professional, academic, and personal ways we can treat each other better, even in the face of mass atrocity and corporate giants.
INTRODUCTION

By 2015, the individuals who carried out the Nazi agenda have almost all passed away. Those individuals still alive from the Holocaust era, children at the time, can almost all safely proclaim themselves victims of an adult world. They could do little in support of or resistance to the Nazis. Today, those survivors and their descendants seeking for justice the atrocities of World War II must swat at phantoms. Or must they? Holocaust restitution cases continue to engage the public via lawsuits, new commemorative sites, Hollywood films such as Woman in Gold (about art restitution) and the April 2015 indictment of a 93-year-old Auschwitz worker for his bookkeeping. This dissertation considers another contemporary debate; how does society hold corporate entities, devoid of living perpetrators, accountable for their wartime complicity in genocide? An examination of the French national railroad conflict seeks to contribute to the scholarly conversation at the intersection of transitional justice and corporate social responsibility, providing bridges between the fields and enriching them both.

Conflict summary

“The (French) government should establish justice before railroads.”

-Maurice Rolland, 1952
Maurice Rolland, a lawyer and member of the French Resistance spoke these words while working towards justice in post-war France. His position reflects the sentiments of a number of present-day lawyers, legislators and survivors living in the United States who want to link justice for Holocaust crimes to regional and high-speed train bids. This group fighting the company wants the SNCF (Société Nationale des Chemins de Fer Français), now a major global player in worldwide rail bids, to be more transparent regarding its wartime role and to compensate victims before advancing business interests. To begin, an appreciation of the importance of trains in France will assist readers who may find such a conflict curiously long and acerbic.

Today as during wartime, trains in France act as the veins and arteries through which most people and goods eventually flow. Trains, and the SNCF specifically, remain central to French life and a source of French pride as well as economic power. Trains and the SNCF are as central to French culture and pride as wine and cheese. French railroad engineering from railcar production to transport management remains world class, competing effectively against Japanese, German, and other train companies from around the world. This is reflected in the SNCF’s earnings. The SNCF reported its 2013 worldwide revenue as 32.2 billion Euros (roughly $44 billion dollars). Americans lack this strong connection to trains; in 2015, Departures reported that only 2% of Americans had taken a city-to-city train. Therefore some may not understand that to challenge the SNCF means challenging France.

1 SNCF. Profile and Key Figures, 2013.
2 “Train by the Numbers.” Departures, March 15, 2015.
Created in 1937, the SNCF began as a conglomerate of five major private rail companies operating in France. When they came together, the former private owners retained a 49% share of the company; the state acquired 51%. At the start of the war, the company boasted 400,000 employees.\textsuperscript{3} The railroad soon found itself in a terrible position; the armistice with Germany placed the railroads under German command. While the SNCF maintained daily operations, the occupying German made regular demands. The most horrific of these demands was the command to transport 75,721 Jews to the German border where a German driver then took them to Auschwitz. The deportees traveled thirty-six hours packed in cattle cars with no food, water, light, or sanitation. Roughly 2,200 of the original 75,721 Jews transported survived Auschwitz.\textsuperscript{4}

Since the 1990s, seemingly in response to lawsuits, the company worked with victims and Jewish groups both within and outside of France to clear its name. The company opened its archives, commissioned independent research on its history, contributed and still contributes to commemorative efforts, and issued several formal apologies. The company did, however, refuse to pay reparations directly to survivors, saying that as a state-owned enterprise France would pay. After much pressure caused by the lawsuits and legislative boycotts, the French government did capitulate, signing a $60 million settlement with the U.S. State Department in December 2014 to compensate an estimated 2,000 victims and descendants not covered by other programs.

\textsuperscript{3} As a result of the transition from coal reduced, today the company employs closer to 250,000 individuals.
\textsuperscript{4} Note: While this thesis focuses specifically on the Jewish deportations, political prisoners and others also found themselves on these trains to Auschwitz.
The settlement came on the heels of a class action lawsuit (that had been thwarted by the Foreign Sovereign Immunities Act) and legislative efforts that threatened to boycott the company unless it made amends with local victims. A small, vocal group challenging the SNCF succeeded in their lobbying efforts; five states—Virginia, Maryland, New York, California, Florida—drafted legislation to create barriers for the SNCF’s participation in U.S. high-speed rail and commuter contracts, valued at over $47 billion. The French and U.S. governments, along with the SNCF said they hoped the December 8, 2014 settlement would stop the lawsuits and legislation. Within four months, however, on April 16, 2015—Holocaust Remembrance Day—descendants of deportees filed a class action lawsuit in Chicago trying to hold the company accountable for theft. The story continues.

The story of Leo Bretholz helps personalize this public debate.

Leo Bretholz was the most vocal survivor based in the United States right up to the day he died in March 2014. He pressured the SNCF to pay survivors and to apologize for what had happened during the war before the company advances business interests in the United States. Bretholz’s story and his fight with the SNCF well represent the views of the other survivors challenging the company.

Leo’s story touched the hearts of thousands. His book *Leap into Darkness: Seven Years on the Run in Wartime Europe* details his seven harrowing escapes from the Nazis, including the escape from convoy number 42 heading from France to Auschwitz. He and

---

5 The SNCF had won the Virginia Railways Express and Massachusetts Bay Transportation Authority contracts; bid for commuter rail projects in Maryland and high-speed rail projects in Florida and California.
Manfred Silberwasser, not yet teenagers, forced open the bars in the merchandise car and jumped out. The boys survived, but the others did not fare so well, “773 were gassed on arrival or died en route, while 145 men and 82 women were selected for forced labor. Only four men from Transport 42 managed to survive Auschwitz.” (Rasmussen 2014)

Leo described the experience of starting what would be for most of the passengers their aller simple—their one-way ticket and last rail journey,

Now began the final count-off, fifty to a freight car, the divisions based strictly on numbers...I saw pregnant women, and mothers nursing their newborn babies. There were small children who toddled along, prodded by guards to keep moving. Some of the children whimpered but held onto traces of dignity...Some children comprehended the moment’s severity and tried to act like adults...I saw infants in cardboard boxes covered with dirty diapers and clothing. Everywhere there were infants in makeshift cradles. Lives that had just begun were now about to end. One cradle was placed next to an old man in the final hours of a long life. Now they would depart together.

There was too much sadness to absorb. As I waited to be assigned to a freight car, I heard commotion from the car in front of mine. A boy was separated from his family. He screamed to stay with them. The guards would not permit it. The boy kicked his thin legs at the guard holding him around the chest. “Prends-moi!” he screamed. Take me! Get me! The family cried back. The guards would not be moved. The father—broken, emasculated—pleaded for his son’s return, arms extended. The boy was shoved into one car, his family into another.

(Bretholz, Olesker 1999: 164-5)

After the war, Leo moved to Maryland where he ran a bookstore. For years he chitchatted with customers, including journalist Michael Olesker. Olesker said he never knew about Leo’s experiences until he attended a Holocaust memorial service to write a newspaper article. He was surprised to see Leo at the event. Leo took a yellow felt star
out of his pocket and said to Michael, “I had to wear this.”6 After hearing Leo’s story, Olesker encouraged him to write a book, to which Leo replied, “Only if you help me.”7 The book they wrote together, *Leap into Darkness: Seven Years on the Run in Wartime Europe*, has sold thousands of copies since 1999.

Though initially hesitant to participate, Leo became the most vocal survivor spokesperson challenging the SNCF. He testified in the Maryland hearings, met with government officials and spoke to the press. *The Baltimore Sun* published his statement in their paper March 1, 2014, one week before his death.

While it was many years ago, the horrific injustices I experienced during the Holocaust are seared in my brain. I can still recall in explicit detail the atrocities I saw as I was placed in a cattle car bound for a Nazi death camp and as I watched families being separated and possessions taken away.

And I cannot forget who was responsible. The train company that tried to send me to Auschwitz was owned and operated by SNCF, a French company that still exists today. SNCF collaborated willingly with the Nazis and was paid per head and per kilometer to transport 76,000 innocent victims — including American pilots shot down over France as well as 11,000 children — across France to death camps like Auschwitz and Buchenwald.

It's been more than 70 years since the war, and only now is the French government negotiating with the U.S. to provide compensation for me and other victims of SNCF's deportation.

SNCF's affiliate, Keolis America, is among the finalists bidding for a 35-year public-private partnership to operate the Purple Line, a planned mass rail project in Maryland, estimated at $6 billion. We cannot allow this to happen until reparations are made.

---

6 Olesker told me this story at Leo’s funeral while we watched his family and friends lay dirt on Leo’s casket. March 2014.
7 Olesker told Leo to write three pages about the trains and when he read Leo’s description sent him no less than 150 questions. From Leo’s answers the book began and the trains became thematically central.
SNCF carried out its transports with precision, cruelty and deception. On each convoy, we were packed into 20 cattle cars, 50 people each. For the entire multi-day trip, we were given only one piece of triangular cheese, one stale piece of bread and no water. There was hardly room to stand or sit, and in the middle of the train was a single bucket to relieve ourselves.

Of the 1,000 people on my train, only five survived the war. I was one of the lucky ones. I jumped out of the moving train, managing to pry open the bars on the window just enough to slip through.

I even have a copy of an invoice SNCF sent the French government, seeking payment for the services it provided. They pursued payment on this after the liberation of Paris, after the Nazis were gone. They even charged interest for late payments. This was not coercion, this was business.

SNCF was not coerced into using cattle cars. It was not coerced into sending bills after the war. It was not coerced into serving no water on the trains. Had SNCF resisted, the number of those killed from France would have been greatly reduced. Had SNCF not imposed horrific conditions on its trains, many additional lives could have been saved.

Instead of taking responsibility for its actions during the past 70-plus years, the company has spent millions of dollars on a lobbying and public relations campaign to rewrite history and avoid accountability for its pivotal role in one of history's greatest atrocities.

While the recent talks are a step in the right direction, it is critical that any agreement must be reasonable and fair for the survivors and the families of those who have perished around the world.

Maryland State Sen. Joan Carter Conway and Del. Kirill Reznik, Democrats from Baltimore City and Montgomery County, respectively, have introduced legislation requiring that such companies with a relation to those responsible for Holocaust atrocities pay reparations before being eligible to participate in state public-private partnerships.

This would not be the first time that lawmakers in Maryland have taken a stand for what's just. A law was passed in 2011, with unanimous support, requiring companies to disclose their Holocaust-era ties before pursuing a contract to provide MARC train service. I hope the representatives of my home state will continue to ensure that only companies with clean hands receive our tax dollars.

I am overwhelmed by the support I have received. As of Friday, more than 128,000 people have signed a petition on Change.org urging SNCF to finally pay reparations. That is more than one signature for every man, woman and child sent on SNCF trains toward Nazi death camps.

I hope my fellow Maryland citizens will support these courageous legislators and also my
petition at change.org/SNCF. All I am asking, all anyone is asking, is that SNCF finally take responsibility for its willing and deliberate participation in the Holocaust.

Until that happens, we will not forget and we will not be silent.

Leo’s outcry moved the survivor community as well as the larger public. While Chapter Three will speak to Leo’s historical accusations; his passion for justice inspired many to continue the fight. His story also demonstrates the fatigue of the survivors as they, now in their eighties and nineties, attempt to take on perpetrators. Sitting Shiva after his funeral, several of Leo’s family members recalled him saying in his final days that he was “Holocausted-out.” Maybe it was no coincidence that he died days before another Maryland State hearing. As is common with much Holocaust restitution, the second generation seems to be the engine behind the fight. Many survivors are just too old to do much more public work.

In spite of the poignancy of Leo’s testimony and personal story, his views did not uniformly reflect the opinions of survivors interviewed. Most did not take issue with the SNCF; those who remained in France after the war, however, offered different justifications than those who moved to the United States. Part III examines these differences and what they can teach us about transitional justice work more generally. In this way, this dissertation expands the box around this conflict. While fascinating unto itself, the SNCF’s predicament provides a rich opportunity to consider transitional justice efforts at the intersection of market actors, states, diaspora victim groups, and civil society seventy years after the crimes occurred.

Research Findings
Based on over 120 interviews, archival research, participant observation, site visits and other research, this dissertation seeks to make the following two contributions to the scholarship and practice that address the aftermath of atrocity. Transitional justice efforts address widespread acts of atrocity. Considering all participating agents could help transitional justice practices reach into and contribute throughout society.

(I) Therefore, I first argue that state or victim-centric transitional justice activity and efforts considering only natural persons (versus legal persons) broaden to more fully include markets and market actors. Beyond conviction, businesses can serve as resources for commemoration, participants in transparency efforts and leaders in apology as well as victim services. In doing so, these entities can make greater contributions to a better post-conflict quality of life for all. Moving away from a solely state or victim-centric transitional justice methodology also allows for a more accurate accounting of the communities of victims and perpetrators. Market actors play an important role and represent the increasingly globalized world. Transnational corporations, like the victims, are not necessarily bound to state borders. Victim communities often leave the state in which the atrocities occurred creating diaspora communities that need to be addressed. In this conflict, some of the diaspora and a transnational corporation find themselves battling out their differences overseas. Approaches bound by locality, the state in which they occurred, and narrow definitions of perpetrators may be less adaptable to the ways in which atrocity plays out and transcends borders in the aftermath.

This conflict also points to conundrums raised by the inclusion of corporate actors. Legal lacunae can provide undeserved amnesty while politics and blame cycles
can leave company’s struggling to make amends and reintegrate. This dissertation traces how semiotics and other dynamics thwarted productive participation of the SNCF in some important post-conflict dialogues.

(II) The second posits that post-conflict or transitional justice efforts, especially when involving corporations, most resonate with the shifting needs of victims and the varied aims of involved parties when they do not try to fix, resolve, or force closure and instead invite diverse perspectives and create open forum to explore needs and accountability. This creates an environment more conducive to addressing the power dynamics and politics exacerbated by the perpetrator’s corporate identity.

For transitional justice projects, an attitude of openness in regards to history allows people to do their own research and make their own meaning out of the events that transpired. In regards to restitution, an open-ended attitude means allowing people to speak after they have received compensation. The SNCF conflict, for example, revealed that a number of survivors—because of an oversight in various countries—never received restitution. Had the French courts succeeded in closing the Holocaust restitution debates in 2008, a number would have died never seeing any compensation for their tremendous losses. An open attitude regarding apologies would accept that apologies might need to be made in many ways and to many different people. Furthermore, the expectation would not be that the trauma would disappear after the apology. Commemorative sites too are places where people can come together, discuss and make sense of the past rather than bury it. In this way, transitional justice practices exist as verbs versus nouns. They appear to have the greatest resonance when treated processes rather than culminating events.
Survivors know that no legal, social, or academic attempt to put the lid on the past erases their memories or the impact of the trauma. During interviews, many made it clear that while life moves on, the past is never over. While post-conflict efforts had meaning to them, their needs shifted over time, as did their interpretations of the past. Many, for example, expressed material needs after the war and now, in retirement, express new emotional needs spurred by resurfacing early memories. When approaches try to complete the past or “heal” the trauma, victims know this cannot be done. Enns urges us to some degree accept the irreparability of harm, “death is irreversible; after genocide and war, the scales of justice cannot be balanced.” (2012: 15) A certain amount of imbalance always remains. This could impact transitional justice practices and evaluation processes; success could be evaluated according to the mechanism’s ability to create open environments that include multiple voices, rather than its ability to repair irreparable harm.

Such environments honor each generation’s need to make sense of the past. This may need to happen many times and in many ways and by many groups. Approaches that aim at resolving or completing the past stifle this process and can reenact a tyrannical power structure. Harm cannot be bounded; this research revealed that different groups separated by geography or distance from the trauma processed the trauma differently. The Jewish diaspora survivors in the United States, for example, differed from those in France; second and third generations often took a different approach to the trauma than those who experienced it. This dissertation considers the dynamics that account for both
the holding on and the letting go of the SNCF’s role specifically, and retribution more generally.

The broader society needs the freedom to reconsider accountability as contemporary society’s viewpoint shifts. The post-Nuremberg courts that tried complicit German corporations reflected a nascent notion of corporate accountability. As these notions evolved and world events, such as the fall of the Berlin Wall, created a safer space in which to contest the past, the world identified and held accountable “new” perpetrators. Efforts trying to settle the past or close the books do not leave space for new interpretations and understandings. Individuals and communities revisit and reflect on their history, preventing them from doing so perpetuates or recreates a repressive dynamic. Bounded approaches can also entrench power structures and political agendas that have a vested interest in certain versions of history. Those advocating a particular version of the past often have a reason – financial or political – for doing so. Processes promoting transparency and exploration challenge these structures without having to take them head-on in court.

Such open-ended environments could also more easily bring attention to present-day needs, a concern of many victims. When learning of the SNCF conflict, Charlotte, orphaned by the deportations, asks, “A quoi ça sert?”—What’s the point? Charlotte cannot understand the purpose of the legislation or lawsuits even though she doubts the company’s innocence, “I talked to some railway workers after the war and they said ‘we didn’t know.’ I didn’t believe them.” To acknowledge the harm, she says a symbolic euro from the SNCF might be nice or a donation to retirement homes where survivors are
living out their final days. Charlotte offered as an example the last known survivor of the Vel d’hiv (the largest French round-up), her friend who lives down the street sitting blind and deaf in a low quality retirement home. She interrupted the interview to say, “Excuse me a moment, I just want to check on the Palestinian, Syrian and Iraqi children…” When she finished listening to the television news, she said that instead of more lawsuits against the SNCF, “What I’d really like is to see Israel apologize for the children in Gaza!”
This research sought to understand the atrocities in the contexts in which they occurred as well as the extent of and responses to amends making efforts. Embedding us all in the temporal settings -- replete with lines of power, politics and cultural differences--both during and after the war aims to broaden compressed discussions of this conflict. Doing so will help us see more hidden aspects of the case as well as provide new insights regarding transitional justice as applied to corporations. This dissertation seeks to illuminate wartime and post-war *habitus* as a means for examining the impact and cost of corporate complicity. In the sociological sense, *habitus* is the set of dispositions, norms and preferences impacted and reinforced by social structures of power, gender, ethnic group, and class. This work adds a temporal aspect to *habitus*, claiming that to understand the world in which one finds oneself requires an awareness of the tenor of the times. Every decade since WWII has brought new definitions of justice and crimes. The distinctions of “genocide” and “crimes against humanity” all emerged after the war, as the sense of an international human rights agenda. Notions of justice shift and judgments are made from ever changing standpoints. To align with the transitional nature of things,
transitional justice practices are most complete when they resist trying to be so. In other words, accepting that our sense of culpability and responsibility may change, means tools for healing and restitution may also develop.

This research approach emerged after I surrendered to the fact that I would not be able to solve this conflict and neither would anyone else. To do so would require not only agreement from everyone impacted, it would stifle new insights and freedom. While the conflict might settle down, the question of the company’s role and its responsibility for the harm remains an open question. Part II demonstrates how attitudes about accountability change over time to try to solve the conflict would presume no future shifts would occur. This would be both a naïve and arrogant stance. Even after all survivors pass away, the second generation lives with the legacy.

Relinquishing that intention, helped me become curious, seeking to understand and enrich the dialogue rather than fix or control it. Moral repair (Walker 2006) and moral understanding is indeed a peripatetic journey. I began researching with a desire to resolve the conflict and feeling quite angry with the company. Living in Paris, I felt heartbroken and distraught to learn the material role the company played and that the train drivers all kept their jobs after the war. During the war, the company facilitated their death and seemingly with no resistance. It would have been my family and me.

After researching the company’s post-war efforts to make amends, I became somewhat soothed. I felt the company’s current management had taken the crimes of their predecessors seriously. The SNCF’s commemorative efforts, apologies and commitment to transparency soothed me. At this point, I became angry with the majority
of the lawyers and legislators for not at least educating themselves regarding the SNCF’s efforts. You can say the company should do more, but publically declaring it did nothing is incorrect and ultimately galvanizes support for their cause via deception. I then forgave the lawyers and legislators, believing that the legal framework itself pitted these parties against one another in ways that encouraged over simplified storylines and misinformation.

My own opinions changed so often in response to new perspectives and opinions, I decided that the best method would be one that invited readers into the same process. I would share with them the nuanced arguments and marginalized stories overshadowed by sound bite laden discourse. Seeking out multiple voices and actions and placing these within the tenor of the times demonstrates the dialogic aspects of post-conflict work. The discursive nature can only bring insights if multiple voices and factors can join the party. I have brought as many as I could find. Part IV elaborates public spheres that could make room for this dialogue.

I found that no wartime or amend-making action by the SNCF occurred in isolation. The company’s actions (Part II), while seemingly prompted by individual legal actions in France, mirror the shifting of Holocaust-consciousness occurring in the post-Cold War era. The research also shows the forums and dialogic mechanisms used to process harms have, in many cases, forced transparency and responsibility, allowing restitution to occur. Rarely, if ever, did some restorative act take place out of sequence with the times or exemplify a sense of justice not already emerging elsewhere. This conflict occurred and still occurs as part of a larger dance. These patterns became
apparent as I first traced the larger discourse surrounding the conflict emerging from the lawyers, legislatures, historians, Ambassadors, journalists, archivists and other elite and expert voices. Then, I sought the more marginalized discourses such as the opinions of survivors living in relative isolation in France and the United States. Rich perspectives emerged not observable in modern discourse. Finally, extensive research on wartime and post-war France as well as global trends in Holocaust restitution contextualized the SNCF’s actions. The SNCF emerges neither more nor less heroic than most, both during and after the war. Its visibility, more than its actions, makes the SNCF an anomaly as compared to thousands of other implicated companies. This may make the findings generalizable, making the SNCF conflict an ideal case study for better understanding corporate crimes in the context of transitional justice. Corporations or business programs may also find the SNCF’s journey informative.

The case study approach

Case studies allow us to describe social worlds in theoretically meaningful ways. Social agreements, power structures, and values within subgroups reflect the larger contexts in which individuals find themselves. Byrne talks about cases as,

complex systems—a position that transcends the holistic/analytic dichotomy by recognizing that in complex systems…trajectories and transformations depend on all of the whole, the parts, the interactions among parts and whole…(2009: 2)

In this way, the case study method reflects and embodies the notion of *habitus* and the contextual approach to transitional justice advocated at the beginning of this methodology discussion.
Like *habitus*, many case study approaches recognize no part as isolated from its interrelation with other parts—each reinforces the other in repeating patterns. Shifts in one area can shift the whole but never be removed from it. Additionally, illuminating the dynamics of power, politics, culture, values and preferences within one context promotes a more democratic form of knowledge production. The lines of power pushing certain stories and perspectives and marginalizing others can be seen for what they are and what interests they protect.

Certain case study approaches can also be democratic by allowing the voices with the researcher, versus the researcher alone, lead to the ultimate insights. When I began, I did not know what this would ultimately be a case of and within some methodological frameworks, that is a fine place to start. As Ragin says, “strong preconceptions may hamper conceptual development.” (1992: 6) Rather than identify variables at the start of the study, I began by studying the history and then following the contours of the contemporary debates. I did not know the field of transitional justice existed when beginning this study, nor did I know much about trauma or discursive politics. These all emerged as important aspects of the case; it would have been impossible for me to know this at the outset. The answer to the question, “what is this a case of?” changed a few distinct times during this research and continues to develop. The process has been more of a mixture of emergence and creation.

**Making this case**

*What is a Case? Exploring the Foundations of Social Inquiry* identified four-approaches to cases; cases can be found, made, objects or conventions. While I
experienced myself as stumbling upon this conflict, from the standpoint of a *case*, I believe I *made* this case through my definition of it. This resonates with the approach of John Walton who claims, “…Cases are “made” by invoking theories, whether implicitly or explicitly, for justification or illumination.” (Ragin 1992: 121) This makes case studies, he says, “a fruitful strategy for developing theory.” This dissertation seeks to develop theory at the intersection of transitional justice and corporate social responsibility by illuminating previously invisible aspects of this seven-decade process. Seeking out marginalized narratives and a variety of scholarly frameworks made this possible.

The case study’s invitation to engage in an interdisciplinary approach allowed me to bring awareness to places and perspectives missed or suppressed. I integrated historical, political, and anthropological paradigms to understand how this conflict played out in variety of settings, sometimes in the minds of newspaper readers, sometimes discussed in groups, or in official meetings. The overlay of interviews, archival documents, films, news articles, memoirs, participant observation, and informal conversations over a five-year period, allowed a more robust sense of the narrative landscape.

Legal cases promote a very particular kind of narrative framework. Each side seeks narratives that support its position as either defending or prosecuting party. Journalistic coverage of the debates often adopted similarly polarizing positions. This research contributes to the conversation by surrendering the binary paradigm in exchange for presenting the variety of perspectives surrounding this debate. Because many
expressed much more nuanced and textured opinions than the ones presented publically, this research may enrich the debate.

The emergent quality of the case study approach that invites a multi-discipline and multi-sourced approach to research allowed theory to develop alongside my own growth. At first I thought I had a case of a company with impunity for wartime crimes; then I thought I had a case of a company that had tried to make amends, but was repeatedly rebuffed; and then I thought it was a case of something still not complete. The battle was about finding that missing piece and addressing it. Finally, or at least at this point, I have come to see that there is no final resting space in the context of corporate complicity or any trauma. The case points to the importance of working with and not against the irony of post-conflict efforts, working to repair what can never be fixed while holding accountable market actors that have neither face nor body.

The case study approach allowed me to define the conflict more broadly than had been done publically. Ragin asserts cases are cases because they analyze “social phenomena specific to time and place.” (1992:2) Redefining the boundaries was a political move. I considered the case the SNCF’s wartime activities through today—as part of a continuous spectrum. Public debates considered the SNCF past (during the war) and present without considering both the amends making efforts and the repressive silences that transpired in between. I was able, therefore, to show the shifts in corporate accountability over time and how the company engaged with traditional transitional justice practices. I am reframing the public debate by altering how I delinate the case.
The following begins with an argument for studying trains generally and the French National Railroad specifically as an ideal case in which to deliberate these questions of corporate accountability for mass atrocity.

**Why study trains?**

As a result of the minimal post-war condemnation of Nazi-corporate contributors, many Holocaust-implicated businesses operate as integral and intimate parts of today’s economy. These brands live in homes, provide jobs and advance civilization. These companies include GM, Nestle and Bayer aspirin (a subdivision of I.G. Farben that created the Zyklon B gas used in the gas chambers) and Random House books whose owner Bertelsmann A.G. published Nazi propaganda including, “Sterilization and Euthanasia: A Contribution to Applied Christian Ethics.” Many carry the same name; i.e. Siemens (who constructed the gas chambers), Hugo Boss (the Nazi uniforms), Fanta soda (this Coca-Cola brand was first developed by the Nazis to quench the thirst of their soldiers) and many other banks and financial services.

So why study trains? In 1976, Holocaust scholar Raul Hilberg asked a similar question, “why should the student of the Jewish Holocaust interest himself in the German railroads?” (1976; 60) He answers, that while many organizations (S.S., industrial enterprises, banks, etc.) contributed the destruction of Jews in Europe, the railroads were “indispensable at its core.” (70) He cites Auschwitz’s forty-two parallel tracks as an example. During the war, the German Reich Railways Company employed 900,000 people and the SNCF 400,000. The sheer number of employees involved raises questions of how to handle the culpability of the masses. Can hundreds of thousands be held
accountable? In the case of the Holocaust, Hilberg says “yes,” arguing that these railway workers were “not mindless robots. As intelligent men they were capable of understanding the tenor of their time.” (1976: 71) But Hilberg did not speak to how culpability ought to be addressed. Should all agents be tried? Should the company, beyond the individuals, be held accountable? If so, how and for how long? These questions are all relevant in cases of corporate accountability today.

**Why study French trains?**

The SNCF conflict, as compared to the German, Czech or other cases involving trains, is of particular interest for several reasons. Firstly, the SNCF has engaged with more transitional justice mechanisms (trials, public dialogues, truth seeking, and commemoration) than most atrocity-implicated companies. This dissertation outlines these mechanisms as well as the responses to these efforts. I hope the findings will be useful for those dealing with other contemporary cases.

The SNCF conflict also attracts attention because of the high stakes. For the SNCF, the case represents as much as $47 billion of missed business opportunities in the United States— not a trivial amount for any company or national economy. This case will also be of great interest to scholars of corporate social responsibility (CSR) who may recognize the SNCF’s double bind—a familiar problem in the field. Angry survivors and their supporters consider every SNCF apology, contribution or move to increase transparency financially motivated. Yet, when they perceive the company to be unresponsive, they argue that this proves the company’s indifference. The SNCF finds itself caught in what Braithwaite called “the shaming machine.” (2004) Once a discussion
of past crimes has been activated, the accused can find no path to resolution. The knot tightens with every move. David and his team have caught their giant and aim to keep him tied down. This points to an important challenge within transitional justice and CSR: how to move society forward while engaging with discussions about the past? Can anyone make amends? Is the amends making process harder for corporations? This research suggested that the SNCF’s corporate identity clearly added to its challenges. Its product or service represents the atrocity at its core. Many people already perceive corporations as wealthy and heartless; without a specific face, but simply a logo they become easy to hate. As a result, we now have a train company with a limited ability to move at least in the United States. This also gives people a sense of power—they can stop a railroad, if not during the war, at least they can do it now. Without movement, trains become useless. In response to feeling so powerless during an atrocity, bringing a large corporation to its knees can be invigorating. I suspect this adds to the challenge for corporations, especially the SNCF.

This provides insight that may be useful for CSR scholarship. In most cases involving corporate crimes against humanity, the victims have little political, social or economic power. Liberian children fighting against Firestone’s child labor practices have far less leverage, for example, than the Jewish voting block in Florida, California, New York, Virginia and Maryland. In the SNCF conflict, the victims determine whether or not they find the company’s efforts acceptable or continue to create difficulties as the company pursues lucrative contracts in their states. The conflict provides a rich
environment to consider the complexity of corporate accountability when survivors have a voice.

**SNCF Conflict: A case powerfully defined**

There is a power and politic to framing a case; speaking directly to my choices promotes the spirit of transparency and to allows the frame itself to begin supporting the inclusion of previously marginalized conversations. The temporal and geographical contours of this case have been fairly simply to delineate. From a temporal standpoint, I examine the role of the SNCF in the transport of deportees during the war and the post-war conflict about this role through the present. As mentioned previously, this is a rather political move—public debates slice the conflict differently. My approach, however, makes this a case about a process—a series of turning points over time contributing to our evolving notions of justice and trauma. Geographically, this conflict involves primarily the United States and France with a dash of Israel.

Beyond time and space, cases also must delineate inclusion. Issues of politics and power emerge around who speaks; therefore I want to address the demographics of those whom I considered actors in the conflict. I defined as the set of actors anyone involved in the conflict and/or impacted that the transport of deportees in World War II. This includes perspectives that emerge in public discourse as well as bed pillow conversations, for example, between survivor-couples not involved in the litigation. I reached many, if not all, of these parties; many perspectives can be found in the pages the come. The accessibility of the modern actors made the study of this case feasible. The case study approach, that allowed me to embed myself ethnographically at times, helped me
demonstrate the intricate interrelationships among and between the different actors. Those who never could speak in person, I could bring into dialogue through this text.

**SNCF Conflict: at the nexus of CSR and transitional justice**

Defining a case, however, requires more than simply constructing temporal, geographic, and demographic boundaries. The definition of a case’s boundaries actually point to what it is a case of. I frame this as a case of corporate complicity in mass violence and the response of involved parties, via transitional justice mechanisms, to this legacy of violence. Considering the conflict within the frame of transitional justice allows me to highlight the dialogic interplay of trials, legislation, commemoration, restitution, transparency demands and apologies. A legal study, in contrast, would only consider the lawsuits. This advances my claim that this case and others like it be included in transitional justice discussions. The framing of this case as one involving corporate accountability allows me to invite corporate social responsibility scholars and practitioners into discussions of post-conflict corporate engagement.

The framing process also forced me to take a stand on one of most hotly debated aspects of this conflict. While the SNCF has a mixed public-private identity and operated in conjunction with the French state during the war, I consider this a case of corporate accountability. The company bids for non-state contracts, presumably without requiring approval from the French government, operates for profit, and has remarkably powerful brand recognition in France. It is judged under private law and is responsible for its own bottom line. While the company’s mixed identity play a significant role in the post-war lawsuits (Part II), many of the questions the conflict evokes would apply to complicit
corporate actors, private or public, involved WWII and beyond. The section below on
Interviews and archival research explains the interviewees in detail.

While the focus of the research was on this specific case, insights gathered on
how corporations skirt around and can contribute to amends making in the aftermath of
violence may be useful for others outside of this context. Those wishing to contribute to
those harmed without inadvertently using victims symbolically may also find guidance
here. Of course the contextual nature of this case make it a challenging tool for those
looking for a predictive framework. Because I argue completion is not the goal might
make prediction less important over all or at least deter those looking for such a model.
The primary questions of this research consider, how best to engage with questions of
corporate accountability in regards to crimes against humanity? How can the changing
needs of larger social justice harmonize with the shifting and varying needs of victims?
What kind of framework and approach embrace the challenges of both justice and harm
without leading to resignation in the face of the unanswerable? Ultimately this is not a
dissertation about outcome, but about process.

Beyond the scholarly contribution, the conflict may be intrinsically interesting to
readers; firstly, the conflict involves a visible corporate player and addresses one of the
world’s greatest atrocities. The conflict has continued for decades, remarkably resistant to
resolution mechanisms and seemingly unaided by the shared human rights standards of
two western nations. In addition, that the few remaining victims will live beyond 2020
creates urgency; chances to serve the remaining Holocaust victims continues to dwindle.
Former French Ambassador-at-large for Human Rights, François Zimeray, note during a
personal interview in 2011 that this atrocity would soon transition from one of memory into one of history, creating a host of new complications.

**Interviews and archival research**

**Ethical questions**

Ethical questions related to this study fell into two categories, funding and the interviews themselves. A number of interviewees asked who funded this research, fearing the SNCF had a hand in this endeavor. While the SNCF does offer scholarships for study, I chose to maintain my financial independence. I received money to conduct my research only from France’s *Shoah Foundation* and George Mason University’s Presidential Scholarship and Summer Assistantship Fund. The Institute for Humane Studies and the Minerva Institute at Tel Aviv University provided additional travel funds.

Regarding the conversations with Holocaust survivors and others, the Internal Review Board (IRB) exempted this research because they considered it oral history. While I was glad to be free of the regulatory body, I do not consider this research. I spent hours talking with survivors about the most painful period in their lives and arguably one of the most tragic moments in human history. Taking the risks seriously, I independently considered the ethical issues. Firstly, I discussed with renowned trauma therapist Cloé Madanes how to conduct these interviews in such a way that did not further traumatize survivors. Based on our discussions, I steered interviews in a way that allowed survivors to tell me anything they wanted about the war but did not poke at the wounds. The details of their story were not necessary for me to understand how they felt about the trains and the impact of the war on their lives. In sum, I avoided voyeuristic questioning, focusing
instead on the larger questions of my research while listening with care whenever someone wanted to share something related to the past.

While the IRB required no consent forms and only a couple of the survivors requested anonymity, I protected everyone’s anonymity. A source file with the name of each individual and his or her pseudonym is password protected and saved in a locked drawer in my office and on my computer in a password protected file.

**Interviews as valid sources**

“What’s Truer Than True? .... The Story.”

-Hasidic Wisdom

**Framework for history: integration of testimony**

The above quote highlights the power of stories; they may not be truer than the truth, but they can be powerful enough to blind us and make us deaf. For example, the stories that justified slavery made many blind and deaf to the suffering it caused. Stories do all kind of work; they convince people they were wronged, call us into action or hide certain shameful facts. Cobb ardently advocates that such stories be taken seriously; she claims they “have gravitas; they are grave. They have weight. They are concrete. They materialize policies, institutions, relationships, and identities that circulate locally and globally, anywhere and everywhere.”(2013:3) This Hasidic phrase points to just a fraction of the complications of narratives. This dissertation does not take the position that the story is *truer* than the truth nor that there is some external knowable truth; what
we know lies somewhere in the recursive interchange between our stories and what is so “out there.” The question here is how to honor this complicated relationship when discussing history. This dissertation responds to this conundrum by adding more stories. I interviewed as many people as I could about the conflict from as many different perspectives possible. I also consulted a number of archives and historical works because storylines can be found as prominently in documents as through oral transmission.

At least in theory, this approach resonates with the French view of things. In French the word *histoire* refers to both “history” and “story.” Holocaust scholarship originally favored archival research and eventually, with trepidation, accepted some testimony with trepidation. Historians believed documents pointed towards the truth, overlooking that the truth they found was one entirely dependent on the survival of particular documents.

**Testimony & Scholarship**

Early holocaust scholars relied solely on surviving documents. Raul Hilberg reconstructed the Nazi bureaucracy in his seminal work, *The European Destruction of the Jews*, through German and other documentation. The Nazi commitment to record keeping made this possible. French historian George Ribeill, who wrote an extensive article about the SNCF’s WWII history, also relied solely on documentation. The publications of renowned Vichy historians Michael Marrus and Robert Paxton, acknowledged for helping France admit complicity, based their conclusions on their archival findings; they claimed individual testimonies had become watered down, having been told and retold. (Marrus, Paxton: 1981) In spite of his commitment to archival research, Marrus notes the
limitations of such an approach, “historians succumb easily to the temptation to place intellectuals and journalists at the center of their universe—people of the word, who leave traces so readily accessible to research.” (1981: 54) Only those who write or who leave printed traces get to tell the story.⁸

Those stories only shared between friends tiny apartments outside of Paris or whispered between survivor couples after one awakened from a memory-induced nightmare rarely make it into the history books. Many stories never even make it into the spoken word. Hannah, who now lives alone on the Upper West Side of Manhattan, says she never really talked to anyone. Her friends, she said, never wanted to hear about what she saw and experienced. She still wakes up every night with nightmares. As such, many stories remained fragments, images that flash across their eyes or find them in dreams; they continue to haunt people throughout their lives.

Within academia, however, the testimony genre has earned more credibility since the original scholarship of Hilberg, Marrus and Paxton. Testimony first appeared in trials. In *L’ère du témoin* (The era of the witness), French historian Annette Wieviorka says testimony became the preferred discursive style as a result of Eichmann trial. (1998) Unlike the Nuremberg trials, the Eichmann trial aimed to both be history and create history, contributing to collective memory as well as existing as a site of justice. Arendt challenged this approach, saying that courts ought to be sites of justice; she found this

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⁸ The irony is that survivors read Nazi materials first to find and then to know their families. Elise never met her father. He was deported on convoy 77, one of the few that departed France for Auschwitz after the allies stormed the beaches at Normandy. For any information on her father she has to refer to Nazi documents.
collapsing of history and justice problematic. (2006) Including testimony in criminal trials was just the beginning. Wieviorka grappled with how to integrate these testimonies into the evolution of the *historical story*. (1998) She felt while survivor sentiments deserved respect, the historian ought to distance oneself from these emotions in order to construct a proper telling of history. In this way, Wieviorka’s scholarship simultaneously advanced and decentralized survivor accounts in the construction of history.

**Importance of Narratives & Testimony**

This marginalization of testimony, in the form of personal narratives, limits the historical emotional understanding and when carried into transitional justice, cripples the field’s ability to reach victims. Any place victims’ voices do not matter impacts their ability to have their needs met. While this dissertation discusses the impact of sidelining victims’ perspectives in legal and political spaces, the marginalization began as much in the historical space. Hayner believes centralizing victim stories would urge the greater centrality of victims’ voices in a trauma long silenced and denied. (French 2012) In spite of their potential flaws, biases and historical errors, this dissertation treats these narratives as material, even if mutable. Stories and framings of the debates that emerge from these interviews are treated as real as any document.

The film projects of Steven Spielberg and Claude Lanzmann demonstrated to the world the gravity of stories. The thousands of interviews collected by the Steven Spielberg team now make up the majority of the existing witness testimony. Survivors interviewed often mentioned, with pride, that they had added their testimony to the collection. Lanzmann’s *Shoah*, the nine-hour documentary interviewing perpetrators and
bystanders, provides insight not just into the Nazi machine, but also into the hearts of those who carried out its plan. These tremendous undertakings so powerfully portray the Holocaust through narrative and personal account, I chose to seek the same kinds of sources. Both works used simple language and asked basic, yet powerful, questions and in doing so showed the world so much. I wanted to do the same.

While the Spielberg interviews and Lanzmann’s documentary promoted the role of interviews in Holocaust studies, testimony remains on the outskirts of scholarship, including historical and within the field of conflict resolution. Allowing stories to do their ethical work, as Nelson calls narratives to do (2001), requires an examination of the political discourse dominating the conflict’s trajectory and limiting possibility; silenced survivor needs and opinions impacts how the culture makes sense of the events. If society cannot hear about the atrocities, it is less likely the culture will be able to course-correct. But neither can we assume that talking about victims or listening to victims talk necessarily equates caring for them. Within the larger discussion about how the SNCF was held accountable, this dissertation will show how victims’ stories can be repurposed for larger social agendas without circling back to meet the actual needs of the victims. Part IV shows how survivors resisted this symbolic use of their experiences by compiling their own histories, creating their own commemorative ceremonies and finding their own spaces in which to speak about their losses and its impact.

**Narratives in Aller Simple**

While Phase 1 of the research focused on interviewing the legal, legislative, social, and other political leaders, Phase 2 focused predominantly on victims. The
survivor interviews focused on their wartime experiences and post-war experiences positioning them as far more than vessels of history or tools of politics; I interviewed them as experts on mass atrocity and the needs these crimes create. The interviews positioned them as guides and teachers who have earned the platform to speak not just about their own experiences but the world at large. Many surprised me and proved far more engaged with the world’s events than I assumed. This section now discusses the breadth and nature of the interviews conducted.

**Interviews: searching, snowball sampling, and serendipity**

The 120 interviews for this research fell into two categories:

1) Jews in France during the war touched directly by the Holocaust (who may now live in the United States, France, Israel or the U.K.) and

2) Professionals working directly on the SNCF conflict or those with expertise on related aspects (i.e. Vichy historians, Jewish community leaders, etc.).

Serendipity, planning and persistence all played a large part in accessing these individuals. The serendipity sparked my first days in the National Archives in Paris where a WWII historian heard me applying for an access card, asked me about my research and then handed me famous Nazi-hunter Serge Klarsfeld’s contact information. Within twelve hours, we were sitting in his living room reviewing together original documents, including Nazi roundup orders. I also benefitted from the generous help of my fellow students at the American University of Paris, including Tamaki Ota whose husband works for Shinkasen, the Japanese speed train company and invited me to a speed train conference were I met SNCF Chairman Guillaume Pepy and many other
SNCF executives. Another student, Samuel Solvit, had worked with a number of senior Jewish leaders and diplomats in France and provided me contact information, suggesting strategies for reaching out to them. I contacted and met with a number of these contacts. Then, astonishingly the father of another student, Anne Ditmeyer, happened to be one of the founding executives at Amtrak and a train and transportation expert in the United States. These and other interactions, laid the foundation for other interviews with historians, Holocaust experts, journalists, train experts, Jewish NGOs in the United States, SNCF executives, SNCF workers, members of the French Jewish community, survivors and ambassadors.

The United States Holocaust Memorial Museum (USHMM) and word of mouth helped me locate survivors residing in the United States and France. The USHMM has a third-party contact service that allowed me to send emails to survivors in the United States or France. The response was so overwhelming, my voicemail filled up for several weeks and I could barely keep up with the incoming email. I spoke with the majority of those who responded to my request.

Interviews: definition of Jew

Before describing the interviews, I wanted to clarify the use of two terms used through this document--Jew and Survivor. What every victim interviewee had in common is that they were persecuted for their Jewish ancestry. At the time of the war, many interviewees had no knowledge of their Jewish identity; only when police threw them out of parks or someone knocked on their door and took away their parents did they come to understand they carried an unfavorable identity unfavorable.
Those who knew they were Jewish rarely associated the identity with religion. France handed over its Jewish immigrants (often from Poland, Holland, or Germany), rather than Jewish citizens, therefore many children ascribed their problem to their foreign origins, rather than their religion. Relatively few Eastern European immigrant families in France practiced the religion of Judaism, though many spoke Yiddish at home. One survivor said as a child regarding the persecution, “I thought it had something to do with Yiddish.” Others had the same perception. They were not far off; occupied France agreed to transport these undesirable outsiders they had welcomed during the post WWI labor shortage and later shunned during the depression in the 1930s.

Nazis ascribed Jewish identity in ways not even consistent within Judaism. In the conservative, orthodox and Hassidic branches only someone whose mother is Jewish could be considered a Jew. The Nazis did not make that designation. More than a discussion of semantics, identity construction is part of the violence. The Nazi division of people into groups of Jew and non-Jew according to their own designations began the violence. In discussing the power of socially constructed identity, Kriesberg cites “the Nazi’s violent imposition of their characterization of who and what Jews were stands as a grotesque example of that tendency.” (1998: 65) A designation that became synonymous with worthy or not worthy of life.

The Nazis identified people as Jewish who never considered Judaism as a significant part of their identity. For example, Maurice deported to Auschwitz with his brother, later converted to Catholicism. People had no say in their Jewish identity, either with the Jews or the Nazis. This even occurred in my own family where the story goes;
my great grandparents disowned my great-aunt for marrying a non-Jew. My uncle says the family considered her dead once she married outside of the religion. She escaped to France with her husband where she was eventually shot in Marseille by the Nazis or French collaborators for being Jewish. My great aunt was not Jewish enough for her family, but Jewish enough for the Nazis. Her Jewish identity terrorized her on both ends. Jewish identity always seemed rather complicated and I did not wish to add any social construction of identity. Therefore I do not refer to anyone as Jewish unless they identified as Jewish. Instead, I consider them victims of Nazi persecution for their ascribed Jewishness. In seeking interviewees, I searched for anyone in France the Nazis, or French, targeted for persecution because of their Jewish ancestry.

**Interviews: Survivor definition**

I also wish to clarify my use of “survivor.” Historically, the French, only considered survivors those who spent time in an extermination or labor camp. This impacted how entitled other types of victims felt about making restitution claims or even reaching out for emotional help. For years, for example, few considered hidden children as potentially damaged. Only now, in 2015 will the Claims Conference formally recognize this group, offering a new form of restitution to which they can apply. These now octogenarians have waited a long time for inclusion and many say the acknowledgement of their suffering is more meaningful than the money. The definition of “survivor” remains a contested space. I have chosen a wider definition, the one issued by The United States Holocaust Museum (USHMM), which

Honors as survivors any persons, Jewish or non-Jewish, who were displaced, persecuted, or discriminated against due to the racial, religious, ethnic, social and
political policies of the Nazis and their collaborators between 1933 and 1945. In addition to former inmates of the concentration camps, ghettos, and prisons, this definition includes, among others, people who were refugees or were in hiding. (Jordan 2014)

Within that group, I focus on those living in France during the war persecuted for their Jewish ancestry. This includes hidden children, children who ran away, or those saved by a mother and father who figured out how to falsify papers, trick the authorities or who miraculously went unnoticed. All survivors interviewed were under the age of eighteen during the war; few survivors remain who had reached full adulthood before its end.

**How many survivors remain?**

Many people ask how many survivors remain, especially when considering the need for additional compensation programs. For some the question itself creates a sense of unease. The Talmud, the central text of Judaism, advises against counting Jews, as if somehow this ancient document anticipated that the counting of Jewish people would contribute to their demise. Jews only acquired last names in the eighteenth and nineteenth centuries when the invention of the census started counting them, and all people, for tax purposes. This identification, when the time came, facilitated their persecution.

Beyond this, an accurate modern estimate is difficult for a several of reasons. France’s commitment to laïcité, secularism, means that the country’s census does not include religion as a demographic category. This makes estimating the number of Jews difficult, as well as survivors. The best source of survivor estimates is Registry of Holocaust Survivors. In 2010, this volunteer registry, estimated roughly 80,000 survivors remain worldwide, roughly the same number transported from France. An estimated
71,915 lived in the United States, perhaps speaking to the perception of the country as a safe haven after the war. Only an estimated 2,493 called Israel home and 487 remained in France. Given the age of these survivors, many may have passed since 2010. At the same time, many others may not have registered either because they do not know about the program, have no interest in participating, or do not consider themselves survivors by certain definitions.

**Profile of survivor interviewees**

Most living survivors had not reached age eighteen by the end of the war. The majority lost at least one and at times both parents. Some reported losing over 100 members. They changed schools, names, countries, languages and religions for protection. Some emerged from the war speaking a different language than their parents; those hidden by nuns emerged with new names confused whether they were Jewish or Catholic and some returned to school having missed years of education. Surviving parents often emerged from the war as little more than shells of their former selves after the war. Many withdrew into silence grieving the loss of family members while simultaneously struggling to physically survive. Almost everyone permanently lost their homes and their jobs.

During interviews, almost no one ever spoke about those doing the harm. Individuals who hurt them physically or emotionally were almost never mentioned. This is worth mentioning now because the majority of those interviewed were uninterested in the SNCF conflict. Many used the passive voice “we were taken.” Or “my parents were transported” but rarely identifying who did the moving or taking. They care most about
the impact it has had on their lives. “I don’t hold the people alive today responsible,” says Arnaud who survived just with his brothers and now lives in Arizona.9

They are more complex than this brief introduction can reflect therefore various vignettes and comments by survivors will pepper this dissertation. Because dividing up people’s comments thematically often felt like dismembering their personhood, I include several longer vignettes. These allow survivors to speak, helping them upend the symbolic use of their losses for political aims or larger aims for justice. The following specifies more clearly the categories of interviewees.

**Survivors and descendants suing the SNCF**

The law firm Akin & Gump claimed to represent over 600 survivors worldwide against the SNCF. This research reports discussions with the most vocal of these participants as well as those not involved in the conflict.

**Survivors not suing the SNCF**

Interviews with survivors not involved in the lawsuit provide an interesting counter narrative to those of the plaintiffs. Having experienced the same losses, numerous survivors express satisfaction with the funds they receive directly from the French state. They take no particular issue with the SNCF specifically. However, a number of these individuals not involved or previously interested in the conflict, expressed great satisfaction and joy when they heard about the December 2014 settlement between France and the United States even if ineligible for compensation. Parts II and III will explore this shifting perspective.

9 Phone interview. April 22, 2014.
**Inter and Intra group differences**

While I spoke with survivor groups in different localities (France and throughout the United States, U.K. and Israel), I was not looking for trends within these groups. I simply wanted to make sure I had left no stone unturned. Part III, however, shares some surprising findings. The reasons people offered as justifications for their views on the SNCF conflict often correlated with their distance from the site of deportation. Those who lived in France after the war had different reasons for absolving the SNCF than their U.S. counterparts who departed soon after. This provides opportunities for a rich discussion on the transnational differences in the processing of both trauma and accountability, important for any work with diaspora groups.

**Politicians, Jewish leaders, lawyers, SNCF executives, historians**

Interviews with elite aimed to reach anyone participating in the dialogic interplay between Jewish, corporate, and political individuals contributing to the master narrative of this conflict. In France the interviews included SNCF executives, Holocaust activists, Jewish community leaders, politicians, journalists, Vichy historians, and the French Ambassador of Human Rights. In the United States, these interviews included lawyers, lobbyists, historians, State Department officials, Jewish community leaders, legislators, and other government officials working on the front lines on this conflict. Countless casual conversations with others interested in or a part of the conflict in the United States, France, Israel, England, and beyond complemented the formal interviews.

**Key conflict players**
While the conflict involves large numbers of individuals, a few contemporary players serve as the pivot points around which the current debate swirls. I interviewed each of these individuals along with many others noted throughout this dissertation.

**Harriet Tamen**, is the lead U.S.-based lawyer who launched the original class action suit and spearheads the fight against the SNCF. Tamen has worked *pro bono* for over ten years on the conflict and has much experience negotiating with the French. She reluctantly signed the French bank settlement in the 1990s, concluding the decision was “the biggest mistake” of her life. (Eizenstat 2009: 337) Richard Weisberg, a lawyer who worked on the French bank settlements with Tamen, thought her disappointment over the bank settlement, prompted her battle against the SNCF.¹⁰ (2014) Her efforts brought this conflict to the national and international stage. Since launching the suit in the 1990s, she claims to have gathered roughly 600 litigants worldwide and while the Foreign Sovereign Immunities Act blocked her class action lawsuit from courts, she successfully helped lobby for legislation. Tamen received no compensation from the December 2014 settlement signed between the French and U.S. government. She did not find the settlement satisfying because it still excluded certain individuals. She swore during the treaty signing that she would continue her fight.¹¹ She has continued the fight, participating in the April 2015 class action suit against the SNCF.

**Serge Klarsfeld**, a historian and lawyer by training who escaped persecution in France as a child, received France’s highest medal of honor in 2014 for his holocaust related

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¹¹ I attended the treaty signing and stood next to Harriet as she made this declaration, before the formal ceremony, to the legislators, survivors, and lawyers present.
historical research and activism. Serge and his wife Beatie, who live in France, contested the impunity of former Nazis and became famous for their Nazi hunting in the 1980s that ultimately lead to the Klaus Barbie trial in France. They also dedicated much of their lives to tracing the destinies of the over 75,000 deportees from France, producing a book listing the name, date of birth, country of origin, and likely date and location of death for every deportee. They have helped thousands trace family members and succeeded in convincing the French state to establish an orphans fund to support children who lost a parent through the deportations. Thousands receive this restitution. Serge Klarsfeld continues to lead the French Jewish community in regards to holocaust restitution and education issues; he played a pivotal role in how the SNCF conflict evolved in France. Klarsfeld is the leading voice of the French Jewish community today.

**Bernard Emsellem**, head of Corporate Social Responsibility for the SNCF, has worked for years on the question of the SNCF’s responsibility for activities during World War II. He travelled often between the United States and France to meet with different groups and respond to local outrage regarding the company’s past. Emsellem, himself Jewish, says he lost cousins during the deportations; his aunt had seven children, two of whom died in the Holocaust. Even though her five other children and her husband survived, Emsellem says the grief of losing the two eventually killed her.

**Alain Leray**, CEO of SNCF America, is also French and Jewish. Lithuanian by descent, he also lost family during the Holocaust. The SNCF transferred Leray, who received his MBA from Dartmouth, to the United States after the death of his predecessor Dennis
Douté and around the time the legislative battles were heating up in the United States. His placement in the United States is temporary.

Leo Bretholz, discussed in the introduction also became a key player in this debate.

**Interview questions**

While many interviews often unfolded naturally, others were more strategically planned to address the professional position of the interviewee or comfort-level of the survivors. Appendix A provides a sampling of the questions asked.

**Recording of interviews**

When possible, interviews occurred in person. Otherwise interviews took place over the phone, Skype, or in some cases via written correspondence (email or postal mail). Some interviews were recorded, though in most cases, I opted to jot down short notes during the interview and write copious notes after the interview and followed up when I had questions. Recorded interviews were transcribed.

**Duration and context**

Interviews typically lasted between two to four hours when in person and between 30 minutes to an hour when over the phone. In a few cases, I developed relationships with interviewees and visited with them multiple times over the years. In the case of survivors, many took place in their homes. With experts (legislators, lawyers, ambassadors, SNCF executives), the interviews often took place in their offices. Some interviewees occurred at cafés. Interviews were conducted in either French or English and sometimes a mixture of both. All translations are my own.
Limitations of the interviews

While this research project has sought to reach all of the actors involved in the conflict and all materials related to the history of the company’s role in the war, this in no way suggests that the findings here represent an ultimate truth. Firstly, all stories cannot be accessed. In her work, Nordstrom recognized the futility, “there are some 15 million people in Sri Lanka, and there were 15 million stories of political violence, all equally central.” (2004) I reached a number of survivors, but surely there are more and perhaps those most cloistered have the most unique story. Unfortunately, I was not able to speak with every person involved in the litigation against the train company. I spoke to the most vocal and some only marginally involved and hoped these would accurately represent the majority or at least the strongest voice against the company. Finding survivors not involved in the conflict, through ignorance or disinterest, proved far easier simply because there are far more of them, in spite of the perception created by the press that the majority of the survivors seek reparations from the SNCF.

Even if I could speak with every living survivor, I still would not have all the stories; they emerge contextually and over time, creating more stories than people. Each person has more than one truth. From a narrative perspective, “there is no wholly unvarnished truth, no view from nowhere, no pristine thing, able to be apprehended equally by all who can see or hear.”12 (Freeman 2013) Freeman acknowledges a “narrative pressure” to provide as complete a story possible in spite of these limitations. This dissertation seeks to present as complete a story as possible based on these interviews and this research,

12 Forward to Speaking of Violence by Sara Cobb.
knowing that the story can never fully be told. To acknowledge this complexity, I also
created a focus group, engaged in various related events, and issued a survey—all
described below.

Presentation followed by a Q & A

On June 15, 2014 in Bethesda, Maryland I presented my research to a group of
Holocaust survivors. Members keep this monthly group solely for survivors, including
those who were in the camps, hidden children, and anyone touched directly by the
Holocaust. I received permission from the group and its organizers to attend several
meetings and to eventually present my research and hear the group’s feedback. The day
of my presentation, roughly twenty-five survivors from all over the world listened to the
presentation and about seven made comments.1314

Participant Observation & Survey

Appendix B includes a list of the ongoing participant observation, pro bono work
and conference presentations related to this research. See Appendix C for the survey
questions. Using this four-question questionnaire and a summary of the conflict, I
surveyed thirty Holocaust and genocide scholars regarding the conflict for their beliefs of
how the moral dilemma ought to be solved and whether the SNCF had done enough to
make amends.15

Published sources and archival documentation

13 My presentation came after three individuals talked specifically about their experiences
in the camps.
14 Other focus groups are listed in the bibliography.
15 A surprising number remarked formally on paper or verbally that the reason they went
into academia was to avoid such complicated moral questions.
Engaging deeply in the question of the SNCF’s complicity required a significant amount of historical, and therefore, archival research. The published materials consulted includes; archives, books and articles on the German-occupied France, newspaper articles, government documentation, trade publications addressing trains, and a wide variety of scholarship within the fields of transitional justice, conflict resolution, narrative theory, and corporate social responsibility.

For general Holocaust education, I visited the following museums several times, often multiple times; The United States Holocaust Memorial Museum in Washington D.C., Yad Vashem in Israel, The Shoah Memorial in France, and the Holocaust Museum and Education Center of Southwest Florida.

**Archival materials**

The archival findings enabled me to articulate the actual role of the SNCF during the war and remain grounded in the era. Doing my own historical research enabled me to find my own voice amidst the various historical contortions circulating in the public discourse. I relied on three archives: the SNCF archives in Le Mans, France and in Paris; the Archives Nationales (National Archives); archives at the Mémorial de la Shoah, and L’Association pour l’histoire des chemins de fer (AIHCF), which specializes in French train history.

**SNCF archives: a contested space**

The SNCF has centralized their archives in Le Mans, France. The company opened these archives to the public, by appointment only, in 1996. The archives employ fifteen staff members and claim 600 meters worth of material for the years 1938-1948. In
addition to continuing normal transportation of persons and goods throughout France, the
SNCF transported soldiers, military equipment, and livestock. The SNCF kept records of
all wartime activity, including every demand by the occupying forces and the amounts
charged. Invoices for these transports and letters discussing transports exist. The
company also kept a careful record of the whereabouts of its over 400,000 employees,
including those deported and shot. Very few documents refer specifically to the Jews or
other deportees.

In May 2011, Maryland House Bill 520 required the SNCF to digitize its archives
and make them publicly available before the company could be eligible to compete for
state contracts. The company complied and now these archives can be searched online;
full access, however, requires a visit to the U.S. Holocaust Memorial Museum in
Washington, D.C. or Yad Vashem in Israel.

SNCF archives debate

While the SNCF may provide the most publicly accessible archives of any
Holocaust-implicated company, Jean Jacques Fraenkel, who works with Offshore, an
organization for children of deported families, questions that the SNCF has been put in
charge of opening its archives, given that facts uncovered may implicate the SNCF of
crimes against humanity. The company’s extensive wartime collection has suspiciously
little information on the deportation trains. Vichy historian Michael Marrus and SNCF’s
head of Corporate Social Responsibility, Bernard Emsellem, believe that many
documents were destroyed after the war or at the time of liberation.\footnote{16}

\footnote{16} John Elster claims the SS destroyed the records from Drancy before fleeing in 1944
and moreover many other archives were “shredded during the liberation because they
bore ‘racial’ observations that are incompatible with the republican culture which has
prohibited any religious or the ethnic remark in official documents since 1872.” (2004)
France’s leading Holocaust activist, Serge Klarsfeld, noted specific omissions. He claims
the archives of the liaison between the SNCF with the Germans who managed the civil
and military transport in occupied France (known as the WVD located at 3 rue Berry in
Paris) have not yet been found. The SNCF’s communication with the 9th bureau of the
Vichy national police who organized the special convoys of Jews still remains to be
found. Klarsfeld says these vital documents would help us understand any reticence
the SNCF may have expressed about their actions.

From my own experience, the SNCF Le Mans archives had a suspicious lack of
images. The bound record that lists all the wartime images, ‘Le Train a L’Affiche 1937-
1977,’ has no images available between 1938-1948. In other words, the archive claims to
have no images of the company taken during the war. Given the size of the archive, so
large it requires fifteen employees to maintain, such an absence is notable. When asked
why the SNCF archives do not have one single image available from the war years, the
archival staff simply shrugged; others within the SNCF seemed unsurprised.

Some believe that such documents may exist but cannot be found because of
disorganized archives. Eric Freedman, a lawyer who works on the case against the SNCF,
notes that even though the SNCF claims all the materials are at the Le Mans archives,
many interesting and relevant documents appear to be available at archives in Lyon,
Toulouse, and Compiègne. (2014) The National Archives of Paris and those at
Fontainebleau also have interesting and relevant materials. Others claim that the SNCF
offices outside of Paris also have documents. Researchers looking for specific
information on deportations such as the organizations of train cars must visit the French
départments (counts) that had internment camps. There, researchers can find
 correspondences between the préfecture (police department) and the SNCF demanding
train cars and calls to organize transfers between camps.

There is a chance some information exists in the archives but is still inaccessible
for legal reasons. In France, personal info may not be viewed for 60 years. For example, I
found a box that had wartime documents but also documents from the 1960s. The staff
pulled the box from my hands. Additionally, in France, corporations can legally destroy
their archives every fifty years. Though this seems not to have happened in the case of
the SNCF, it proved problematic in WWII cases against the French banks.

According to Michael Cosgrove, British born journalist writing in Lyon, France,
missing information is not simply due to disorganization or legal requirements, rather, he
said in an interview that there are still French today, “holding each other’s beards.”
Mémorial de la Shoah

These archives had early first hand accounts of the deportations as well as extensive information on the Federman family transported to Auschwitz. I am still in the process of determining the relation.

National archives of Paris

The National Archives of Paris houses the Paul Durand Collection. Paul Durand was a government official working as a Committee Correspondent of the 2nd World War in the 1950s -1960s. A son and grandson of railway workers, he found evidence of resistance within the SNCF and used this to publish a book on resistance within the company, “La SNCF dans la guerre: sa résistance à l’occupant.” His collection includes original communications between the SNCF, the French state, and the Occupier regarding the implementation of the armistice and other matters. He did not write specifically on the deportations, though some interviewees included some mention of these transports. Some of those testimonies are included in this dissertation.

L’Association pour l’histoire des chemins de fer (AIHCF)

This association for rail history, located in Paris, has a small library open to the public by appointment. With the guidance of the collection’s lead librarian, Marie-Noëlle Polino, I found some information on the SNCF during the war. She helped me learn more about the 497 SNCF workers who, after the war, lost their national rights (citizenship) for collaboration. She and her library staff also guided me to important information about
Fournier, the President of the SNCF during the war, the role and nature of technocrats, and the complexity of French reasoning during the war.

**Analyzing the Analyzer: Sarah Federman**

“The unanalyzed element in every theoretical analysis (whether subjectivist or objectivist) is the theorist’s subjective relation to the social world and the objective (social) relation, presupposed by this subjective relation.”

– Pierre Bourdieu

The aforementioned reviews the sources for my research, but omits the important element of who I am as the reader and listener. This section addresses my subjective relation to the world of this conflict by introducing my background, how I came to this subject and why this research felt more like fulfilling a soul contract than simply a doctoral requirement. The story began before my birth; my Jewish grandfather escaped from Poland before Hitler came to power; he, two brothers, and eventually their parents made their way to New York while six other siblings perished. My grandfather raised my father and uncles safely in Brooklyn while his siblings, nieces, and nephews faced certain persecution in Poland. The tragic narrative circulated prominently throughout my family though I had little particular interest in the Holocaust until I recorded my grandfather’s story for a college family history class. The interest lay dormant until a job transfer moved me from Manhattan to Paris.
Upon my departure to begin what would become a three-year assignment in France to support a recently acquired advertising company, an old friend and renowned historian casually made the following request, “find out if those French train drivers kept their jobs after the war.” I laughed, shrugged, and said “ok,” forgetting the question for about three years, focusing on acclimating to French work and social life and taking short traveling breaks around Europe. During my travels within and around France, something began to shift. I eventually found myself wanting to answer that question about the trains. Traveling to the trenches of Verdun, the abandoned tracks of the Treblinka death camp in Poland and to Berlin helped me appreciate the scale and impact of the world wars. Haunted by all rail tracks after my trip to Treblinka, I began taking the bus instead of the metro to my boyfriend’s apartment. When I explained why he said, “You need to just get over it. It was a long time ago.” Ultimately, I lost the boyfriend and kept the trains.

In retrospect, it is astonishing how all these little moments culminated in one instant that guided the past five years of my life and ultimately changed my future. Summer Sundays the road along the Seine closes allowing cyclists, runners and rollerbladers to enjoy the stretch along the river. After blading for an hour or so as I did many Sundays, I unbuckled my skates, put on my flip-flops and headed to the Jewish Quarter (Le Marais) for some of the world’s best falafel. One Sunday, I stopped first into the Shoah Memorial Museum. With skates in hand, I wondered around the outside courtyard looking at the names of all of the French deportees, wondering if there were any Federmans. Trembling, I ran my fingers across my own engraved name, photographed below.
It would have been me. Later that afternoon, when I returned to my apartment in Paris, I saw my name engraved in the foyer, Sarah Federman; same name, but different decade and different reality. One of the survivors I interviewed, who had lost most of her family, had lived on my same street. It would have been my family and me. Like many of my peers, I studied the world wars in college, watched films and visited museums, yet felt I lacked the capacity to wrap my head around the tragedy in Europe during the 20\textsuperscript{th} Century. While keeping my job, I found a master’s program in International Relations in Paris and used it to study the 20\textsuperscript{th} Century and research the role of the French railroad. I began unaware of the U.S.-based conflict regarding the SNCF’s role in the war, I simply wanted to know if those train drivers kept their jobs after the war. They did. So did the police.

This narrative explained how I ultimately came to the topic, but leaves out the spiritual aspects and strange coincidences. There were more than I can name here. The following offers a small peak into some of the peculiar happenings. These included, an orthodox French Jew, unaware of the nature of my work, strolling into Office Depot in Paris and placing Hebrew prayers around my completed masters thesis on the French railroads.

The odd coincidences and moments occurred often, if unpredictably. They have now become almost normal. My last days in Paris, for example, I went to the post office to buy stamps to send postcards to all of the child survivors I had interviewed during the
summer. The post office clerk said, “I’m sorry, we only have these stamps, today.” He brought out the stamps photographed below, commemorating a round up of children during the war. Almost all of the survivors who received the card reached out to comment about the stamp.

Stamp used to send thank you cards in Paris

Then there was the simple bizarre comfort between the interviewees and me. Many remarked how strangely comfortable they felt with me. “We just met a few hours ago,” survivor Maurice tells a neighbor we meet on a small side street in Versailles, France, “but I feel like I’ve known her for years.” This happened in the United States as well as France. April 26, 2015, I attended a film screening in Washington D.C. of Nathalie’s wartime story. She introduced me to the program director saying, “When I first met
Sarah, it was love at first sight. I felt like I had known her forever.” I felt the same way. Hannah, who lives alone on the Upper West Side said after our day together, “You’re like chocolate. You’re delicious; I don’t want to let you go.” Interviews felt like meeting old friends; we chatted for hours in French and/or English. All of these serendipity and strange resonance combined with the energy of the conflict itself made the research experience feel more like keeping up with a train, rather than pushing one forward.

There seemed to be some strange connections with some of the interviewees. During one interview, an elderly survivor couple showed me photos of the grandmother of my best friend from high school. We accidentally discovered the connection just moments before I left. Another couple found photographs of a Federman family under their bed in a shoebox. The woman searched her mother’s address book and found that these Federmans lived in the same building as her aunt and uncle who had been taken to Auschwitz.
I told my family about these photos. They said nothing. Then, one day, almost by accident, my father says “oh yes, we had family that went to France.” I had been working on the research for five years before he thought to tell me. My mother who has spent countless hours listening to me talk about this journey said later, “Oh, yes she was in Marseilles.” I started to wonder about this information only coming to me after I had completed my research. Perhaps I needed to study this subject without knowing I may have had family ties in France.

**Identity Advantage**

Beyond the survivors, my identity as an American female with a Jewish last name assisted me in gaining wide access to the conflict players. The French elite sought access to an American market and perhaps some believed welcoming versus shunning me would facilitate that access. My three years living in Paris and working for a French advertising company made them see me, I believe, as someone earnest in my attempts to understand and learn their culture and perspective. Once the interviews began, many seemed to appreciate an opportunity to discuss complexities compressed by a public debate that legal discourse made overly simplistic. American elite involved in the conflict proved harder to reach and some expressed concern that the SNCF sponsored my research. They did not. Ultimately, a number saw me as working against them; I attribute this to the legal framework that considers ambiguity or complexity as a threat to their carefully
constructed narratives. They had a very particular goal in mind; to make the SNCF pay and ultimately they succeeded. My desire to complicate the issues raised appeared to some has having the potential to derail their efforts. Being female, I believe also made me slightly less threatening. People invited me into their homes and lives in a way they may not have had I been a man. Conversely, I am sure that being a female American of Jewish descent limited me in ways I cannot know. Perhaps I would have heard more anti-Semitic comments or been invited to and included in more meetings and ceremonies.

**Impacted self**

Access into people’s lives, archived boxes and the minds of experts did more than offer me unique access across groups to better understand a conflict, it impacted my core. Some comments about losses undid me, maybe not at the time, but eventually. Like the trauma many described; it shifted between the foreground and background of their lives. David, a survivor, said, “You picked a melancholy subject, Sarah. But as bad as you think it was, it was really worse…” (2014) Sometimes the survivors would see me knocked over by their stories and then try to console me. After hearing me take a deep sigh one said, “Don’t take it so hard, Sarah.”

Friends and family noticed my soul and disposition waxing and waning throughout the process; they offered me meditations, essential oils and pointed me to the French seaside to the beaches painted and repainted by Monet as well as the Basque country where I spent days swimming, meditating, nibbling on sardines and pondering the past. Today, these survivors and these stories stay with me. Sometimes the stories find me and sometimes I pursue them. In the spring of 2015, I visited a retirement home in Arlington,
Virginia to spend time with the residents. By chance, the hostess sat a woman at my table that had spent the war hidden in France. When asked out she met her husband in New York, she started, instead, telling stories about being six-years-old in hiding and sending secret messages to her family. Her daughter turned to me and said, “she never talks about the war. I haven’t heard any of this before.”

Also during the spring of 2015, I started receiving messages from folks asking me to return to France. So, in June of 2015, I returned to Paris to visit the Drancy internment camp with a survivor—an activity I was too emotionally tired to handle the year before. Charlotte, who lost both parents in the deportations, found friends to drive us in the cold rain to Drancy. We walked around the dilapidated but still operational dormatories where authorities housed tens of thousands of deportees awaiting their one-way (aller simple) train ride to Auschwitz. She told me stories, ones she had not yet shared with anyone. We visited the little museum and she continued to talk and talk and talk... “I haven’t told much of this to my children, I think it is probably time now,” she said.

Strangely, it seems every time I fulfill a promise another one is born. While Charlotte and I completed our visit to Drancy, likely her last, Maurice--another survivor--asked me to come back to France so we could take the train together to Strasbourg (on the German border) where his brother lives. They lost both their parents and survived Auschwitz together. They do not get along very well now—they seem to think seeing me together might be good for them. “Erwin was jealous I got to see you this time. He wants to you come back.” If I go with them, it could be their last visit; the elder brother is quite old. Next year, should I get the funding, I will sit beside Maurice on the SNCF train ride
to Strasbourg. He will ride the SNCF at an 85% discount — the one benefit of deportation. When we arrive we will eat Alsatian blood sausage and sauerkraut with his brother just a few kilometers away from where millions of French died in the trenches during WWI. Anything could happen during that conversation and the chances are new promises will be born.

**Contributions**

Beyond my personal growth and my contact with the individual survivors, I would like to contribute to the SNCF debate by enriching the dialogue through broader historical understanding and discussing victim needs that transcend national boundaries and shift over time. I seek to highlight perspectives marginalized, to enrich the important discourse constructed by the lawyers and their supporters and provide insight to the variety of ways in which victims process conflict. Beyond the scope of the SNCF debate, I wish to contribute to the decentralization of the field of transitional justice in a way that creates space for transnational market actors and victims and makes room for the insights gained regarding irreparable harm. Intersecting transitional justice and corporate social responsibility literature provides a context for these preliminary discussions. This dissertation, aims to meet this goal through the following four parts.

**Part I: Approach, Scholarship and Historical Background**

After the introduction to the data collection and literature review, this historical inquiry examines the claims made against the SNCF in Senator Charles Schumer’s [D-NY] Senate Bill 1393 proposed July 30, 2013. Drawing on multinational archives, historical pieces, witness testimonies, documentaries, site visits, museum tours, and interviews, this
section enriches historical discussions that became compressed in some of the public, legal, and legislative debates. Briefly sidelining questions of legal liability, allows us to look together at the tenor of the times and the decisions made or avoided. While not a definitive history, this inquiry provides a shared foundation for the wider discussion about what may be owed and how a corporate entity might pay such a debt.

**Part II: Post-Conflict Interplay Between Victims, a Corporation, and Civil Society**

Part II reviews the post-war claims (legal and extralegal) against company throughout the United States and France and the SNCF amends making responses. Interviews with survivors and other involved parties provide responses to these efforts, showing where trust existed and remained broken.

**Part III: Has the SNCF Done Enough? Letting Go Versus Holding On**

Part III explores what contributes to some survivors abstaining from and others holding on to the train conflict. Diaspora communities, generational variations, limitations of transitional justice practices when applied to corporations and rising anti-Semitism in Europe all contributed to disparate opinions. Part III also investigates how the SNCF’s corporate identity constrained and challenged its ability to respond during the post-war period; the semiotics of trains, the company’s mixed corporate/state-owned identity, and the pressures of a proud and powerful train union all impacted the responses outlined in Part II.

**Part IV: Dialogic Spaces That Embrace Market Actors & the Complexities of Trauma**
This final section introduces other dialogic spaces that could invite broader discussions about the impact and prevention of corporate complicity as well as changing nature of trauma. These spaces can better include market actors in ways that embrace the ironic work of restoring the “un-restorable” by surrendering the goal of fixing and broadening the focus beyond the SNCF.
CHAPTER TWO

LITERATURE REVIEW

Theoretical underpinnings

From a theoretical standpoint, this case provides an opportunity to consider how post-conflict mechanisms can play out with a market actor. The field has well groomed, if still controversial, pathways for handling those accused of war crimes (i.e. Charles Taylor) and/or corrupt states (i.e. post-war Germany). The ever-expanding field of transitional justice also has demonstrated an increasing commitment to victims’ services. This case, however, stands a bit awkwardly relative to these dialogues. While the SNCF conflict raises questions regarding needs born from atrocity, theoretical work regarding business remains comparatively thin.

Therefore, this literature review considers first whether the field of transitional justice is indeed the proper theoretical framework for this study. An examination of the field’s definition, genealogy and goals suggests that yes, the SNCF conflict can be productively considered within this context. Then, this scholarship overview explores how scholars handle economics generally and corporations specifically. My research revealed that the role of corporate actors remains a more marginalized conversation within the field. Therefore, the literature review investigates what factors might contribute to this marginalization and what arguments exist for a greater inclusion of
market actors in all levels of transitional justice work. I conclude by proposing the integration of corporate social responsibility literature as a means of enriching burgeoning dialogues.

**Research questions**

The research questions born out of this inquiry include:

1. What post-conflict processes exist to meet the needs of society and victims?
2. How are the roles of economics and market actors currently considered within the field of transitional justice?
3. What might contribute to the relative marginalization of these forces and actors?
4. What might the field be missing by sidestepping these active players?
5. How might the introduction of corporate social responsibility scholarship assist both fields in deepening their work around both the obligations and possible contributions of these actors?

Beyond the literature review, this dissertation considers the employment of transitional justice practices in the multi-decade SNCF conflict.

- What mechanisms were used?
- How did impacted parties respond to the post-conflict practices?
- What do the responses and the longevity of the conflict tell us both about the practices more generally and the specific impact of the SNCF’s corporate identity on the unfolding of events?

**Transitional justice: the right field for the SNCF conflict?**
Transitional justice, like the debates surrounding the SNCF, seeks to address the complex problems that mass atrocity creates. The field addresses many dimensions of the post-conflict experience, including victim needs, social justice and social restructuring. While no scholars or practitioners claim to be able to restore the lives or structures obliterated by violence, the responses speak to and publically acknowledge what the conflict destroyed. Compensation provides some measure of material and symbolic redress; trials announce that perpetrating behavior has consequences; commemoration honors the dead; commitments to transparency promote free speech and inquiry where tyranny brought repression; apologies make the loss public, legitimizing victims and their needs. The multi-decade SNCF debates grappled multiple times with all of these mechanisms, and still do. The SNCF’s corporate identity provides an opportunity to consider how well these practices address market actors, especially ones that transcend national borders.

Part II introduces the literature related to each of the relevant transitional justice practices (trials, transparency, compensation, commemoration, and apology); this chapter considers more broadly whether transitional justice provides the appropriate framework for this case study and how current debates addressing corporate actors speak to or leaves gaps related to the questions raised by this conflict.17

**Transitional justice: what it is**

17 To focus this discussion and lay the groundwork for the findings of this research, I sideline the aspects of field that take on structural transformation and social justice. While considerable scholarship addresses these pillars of the field, they are less central to the issues emerging from this research and the two major contributions this work seeks to make.
The field offers a variety of state-centric responses to mass atrocity designed to serve the victim and larger society by working towards sustainable peace through democratic transition. In practice, the field operates through a variety of forums including, but not limited to, criminal trials, truth commissions, reparations, enhanced security, and commemoration. (ICTJ 2008) According to the International Center for Transitional Justice (ICTJ),

Transitional justice refers to the set of judicial and non-judicial measures that have been implemented by different countries in order to redress the legacies of massive human rights abuses. These measures include criminal prosecutions, truth commissions, reparations programs, and various kinds of institutional reforms. (ICTJ 2014)

Although certain goals and practices predominate, the field is not static; it “is and should be a contested space.” (McEvoy, McGregor: 2008: 2) This literature review outlines the contested space of transitional justice through the field’s name, genealogy, and goals. While the practices and goals are varied, the predominant discourse in the field focuses on state actors and victims within a state. While issues democratic transition and security are irrelevant to this conflict.

**Transitional justice: a complicated name**

Examining the name of the field provides access to both the intentions of the field and some of its major debates. *Transition*, says Roht-Arriaza, implies that there will be a time when things have settled. (2006) But when will that be and who decides? Is there a statute of limitations on pain or how long one can hold someone personally accountable? *Post-conflict*, a possible alternative to *transitional*, also suggests that conflicts end. In many cases, however, violence can still erupt and seemingly dormant genocidal
mechanisms can awaken. The 2014 settlement and the class action lawsuit launched after
the settlement (April 2015) related to the SNCF conflict also demonstrates the enduring
nature of post-conflict issues. Scholars also debate the direction of the transition; in many
cases practitioners move the society towards a democratic form of governance and
justice. In corporate complicity cases, I propose the transition might be better described
as one from a corporate ethos focused solely on the bottom line to one that embraces the
concerns for civil society more generally.

Differing conceptions of justice impact how scholars theorize the role of post-
conflict work. Montada argues these debates over justice, rather than being problematic,
remain central to the work. (2012) Liberalism, for example, views “justice as fairness”
and fairness only as it can occur in a constitutional democratic regime. (Rawls 2005)
Hence, justice requires democracy. Justice viewed from a criminology standpoint evokes
retributive models. When justice refers to any loss of agency, this may lead to
considerations of a number of social, economic, and cultural (SEC) factors. (Carranza
2008) As a result, Goodale and Clarke find the word so “normatively thin” that it serves
as an “empty signifier.” (2010) They prefer the “thicker” term of human rights. Human
Rights may provide more clarity regard how we want to treat one another, but suggests
little regarding what to do when we do not.

While post-conflict human rights may best describe this field of study, there
seems to movement towards renaming the field “transformative” justice to allow the
inclusion some of the issues of business and industry discussed in this paper. (Gready
2010, Lambourne 2009, Van der Merwe 2008) The advocacy to move the field towards
transformational rather than transitional justice suggests that more conflicts considering questions beyond democratic conversion – like the SNCF conflict – may now find a home in the field. The following considers whether the field’s genealogy and goals align with the questions raised by the SNCF conflict.

**Genealogy**

The field grew out of the need to hold perpetrators accountable while establishing new stable states. For Elster, transitional justice emerged as a response to tyranny in Athens (400-420 BC). In 411 BC, after the people overturned the oligarchs’ first takeover, they chose a harsh form of retribution. After the second takeover, in 403 BC, they realized their earlier approach failed to consider root causes. Their second attempt at accountability moved away from a retributive model, shifting towards institutional reforms that restored civil rights to the disenfranchised, allowed citizens to launch prosecutions, prohibited lynching, and prevented cycles of retribution by creating grievance processes. (Elster 2004) This shift from retribution to reform remains central to the field and to this research though it leaves unaddressed the impact of the crimes on individuals, a major concern of this dissertation.

Most scholars consider that modern transitional justice begins with the Nuremberg trials. (Teitel 2003, Arbour 2007) These origins make the field ever more resonant for this post-WWII conflict. Teitel and others attribute the emergence of international law to these post WWII trials because they “established individual criminal responsibility for international crimes.” (Arbour 2007: 2) Teitel claims the field then moved into a post-Cold War period during which transitions in Central America, Europe
and Africa moved the field towards “nation building” and truth telling. In this way, the SNCF conflict resonates more with the Nuremberg period than the post Cold War epoch. This nation-building period was eventually critiqued for its liberal peace-building agenda, meaning that democracies, in the name of “helping,” imposed their values, standards and institutions on societies whose cultures did not always resonate with these approaches. Many believed that the proliferation of western-influenced democracies would create national security – therefore at times placing their needs above the local ones. In response, by 2003, the field championed humanitarian justice and underpinned the global “campaign against terrorism.” (Teitel 2003: 91) In this way, Teitel noted the field moved away from criminal accountability to the larger human rights agenda, (2003) expanding the field’s territory and goals. The SNCF debates resonate more with questions addressed in the human rights deliberations and the questions of accountability raised at Nuremberg.

**Goals of Transitional Justice**

The field’s genealogy speaks to its origins rather than its intentions. Today, most transitional justice efforts focus on the transformation of fragile states into “free” societies secured by the “reestablishment of law and democracy.” (Hazan 2010) Hayner says the field sees itself as a “mid-wife” who is tasked with safely bringing forth democracy. (2010) Louise Arbour, former UN High Commissioner for Human Rights pushes for broader goals, claiming the work must “assist the transformation of oppressed societies into free ones by addressing the injustices of the past,” including SEC [social, economic and cultural] rights. (2007: 3) Arbour’s framing, rather than Hayner’s,
articulates the field broadly enough to include some questions raised by this research. In the SNCF conflict, with the transition to democracy complete, demands focus on addressing the injustices of the past.

**Transitional justice as imperialism**

The fact that the SNCF conflict involves two countries with a similar heritage and human rights agenda helps the conflict sidestep some complications of many post-conflict efforts. When a western nation applies transitional justice practices in a non-western context, the advancement of democracy and the growing human rights agenda can be viewed as a kind of “westoxification” or imposition of Western standards. (Baxi 2012, Rajagopal 2003, Wilson 2001) Duffield says the liberal agenda resists this autonomy because it cannot support the autonomy of nations because such autonomy requires independent vernacularization and an on-going establishment of people’s own belief systems, identities and destinies.  

(2002) Notwithstanding the cultural resonance between France and the United States, the French Parliament has found the intervention of U.S. based lawyers and lawsuits very displeasing. They resent this involvement in their state affairs.

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18 Clarke encourages practitioners to reflect specifically on the secular cloaking that blinds them to dominant discourses. She claims much rests on Judeo-Christian logic that is so familiar to scholars that they barely recognize it as their own. This has been especially apparent and problematic in Islamic regions, including Sub-Saharan Africa.  

(2009)

19 SNCF’s Bernard Emsellem and Alain Lipietz who sued the SNCF both emphasized during our respective meetings in Paris in June 2015 how much the French government despises U.S. involvement in France’s treatment of post-war issues.
Goodale and Clarke, challenge that human rights work has become a kind of “moral imperialism.” They contest that peasant intellectuals, local lawyers, activists, and native leaders remain active in developing human rights and other discourse. (2010) France may develop its own discourse, but this does not stop outsiders from interjecting theirs.

Is transitional justice local enough?

Some promote localizing the field and centralizing victims’ needs as a way to mitigate western influences and backlashes against intervention. (Shaw, Waldorf, Hazan: 2010, Fletcher, Weinstein: 2004, Kelsall 2005, Cobban 2007) They hope this will bring attention to the gap between “international legal norms and local priorities and practices.” (Shaw, Waldorf, Hazan: 2010) This gap became visible, some say, when U.S. officials in Iraq and Afghanistan charged in without involving the local people in discussions about what transitional justice could be for them. Civil servants sent by the United Nations discovered there were no shared notions of accountability, knowledge, or experience. (Lutz 2006) Crocker worries, however, that local groups can be too weak and divided to support efforts or even engage in a meaningful dialogue. (2000)

Gready’s promotion of “embedded justice” over “distant justice” reflects this interpolated experience of justice. (2005) The introduction of the local Gacaca courts in Rwanda, for example, reflects this move to embed justice at the village level. Others say this localization of transitional justice in the form of local courts does not necessarily centralize victims’ needs. To ensure that local means more than macro-level processes applied locally and to reveal power dynamics, some scholars ask that such processes first
be evaluated from the perspective of the victim. (Orentlicher 2007, Drumbl 2007, Hirsch 2010) The research methodology for this dissertation responded to this need for embedded justice by exploring people’s opinions one-on-one, in their homes, and in their home countries. Part III shares these responses; the impact is not uniform; furthermore, local has come to mean many things when diaspora, transnational entities, and multiple generations become involved.

**Business and transitional justice**

The SNCF conflict, because it involves a corporate actor, provides a stellar opportunity to explore what the field offers to post-conflict situations involving businesses. Even if the SNCF claims public status as an *Etablissement Public Industriel et Commercial* (EPIC) -- a public establishment of industrial and commercial nature -- the entity operates under private law, has some private ownership and conducts business beyond France. The company retains powerful brand recognition and is culturally recognized both as a business and part of the French government. This section how transitional justice scholarship addresses corporate actors and some lacunae in the field.

In 2013, Routledge released *Corporate Accountability in the Context of Transitional Justice*. This recent book, edited by Sabine Michalowski, reflects a growing interest in the intersection between business and transitional justice, addressing how corporations currently figure into transitional justice practices and the practical and theoretical problems of inclusion. Mass atrocity requires the complicity of many enterprises. Legal and political lacunae within international human rights work, however, often allow corporate actors to act with impunity. This doctoral research considers a
company that received impunity for decades and then found itself on the defensive, looking for ways to escape liability while contributing socially.

Traditionally, the discussion regarding industry in the wake of atrocity falls into two categories: economic crimes (looking backward) and economic rights (looking forward). (Miller 2008, Lambourne 2008) The first category of economic crimes considers states as corrupt economic actors, the role of industry in war economies, and corporate accountability. The crimes range from pillaging, ill-gotten gains, and starvation, to more general accusations of corruption and greed. The second category speaks to the ways in which industry figures into long-standing economic inequality both as a complicit actor and a means of advancing SEC rights. To create a manageable scope for this research, the dissertation does not address how corporations contribute to SEC violations or other structural inequities.

Clarifying business-related terminology

Because the field related to money, the movement of money, and the role of profit-seeking enterprises cover such a wide-range of issues; I wanted to clarify the use of terms in this review. Economics refers to theories concerning the production and circulation of wealth. Business refers to the actual practice of economics. Industries and corporations serve as “the agents” of business. Industry can include the rail industry, the diamond trade, in the case of Liberia and Sierra Leone, as well as weapons producers or

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20 SEC rights include the right to education, housing, and health. The International Covenant on Economic, Social and Cultural Rights (ICESCR) serves as the international legal guideline for these rights. These rights address questions of access, but not necessarily structural factors.
security service sectors. *Corporation* refers to legally created entities. These entities can be national or multi-national companies that played a material role in a conflict either through collaboration with states or in their independent destruction of people or natural resources. Corporate actors range from large oil companies like Exxon and Chevron to railroads like the SNCF, banks and weapons manufacturers. Also, omitted because of limited space, will be the role of non-profit corporations, smaller businesses, such as grocers, car dealerships, restaurants, general stores and other independent businesses responsible for meeting daily basic human needs. In the case of WWII, the combined participation of all enterprises played an indispensable role in carrying out the Nazi agenda, even though only the larger companies faced any legal liability.

**Distinguishing State and corporate accountability**

While the above clarifies the distinction between business, industry and economics; corrupt regimes muddy these distinctions; without free economies, business and industry often act as extensions of the State. While money flows through them, the State owns the profits or takes a piece of any money it touches. This proved especially true in the case of the French railroads. During the war, the SNCF served literally as an extension of the French State and therefore the German Occupier. The question of ill-gotten gains became the central focus of many SNCF-related debates even though the French Vichy leaders appeared not to use businesses to augment personal wealth.

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21 Note this review applies a narrower definition of corporations than Elster, who included political parties, churches, professional associations, and municipalities. (2004) While these groups can play important roles in post-conflict settings, this work focuses specifically on profit-seeking entities.
Transitional justice & economic crimes


Ill-gotten gains: a focus for scholarship and practice

Ill-gotten gains remain a central concern in more contemporary atrocities; examples include Augusto José Ramón Pinochet who had multiple offshore accounts, Sani Abacha from Nigeria amassed four billion dollars in assets, the DRC’s Mubuto Sese Seko collected an estimated twelve billion dollars, and Indonesia’s Suharto hoarded nine billion dollars in assets. (Carranza 2008) Most of this embezzlement remains at large. States themselves can become tax havens for corporations and outsource security activities, such as fighting wars. In this way, governments can remain at arms length from the violence they endorse. The ability to recuperate ill-gotten gains remains difficult at best; this area needs more research and new strategies.  

22 22 On February 24, 2015, I attended an event addressing these issues sponsored by the Foundation for Defense of Democracies. The event, entitled, The New Financial Wars:
Interest in asset recovery is on the rise globally. In 2005, the UN Convention Against Corruption (UNCAC) declared asset recovery a primary goal, along with establishing corruption as a criminal offense. (UN 2005) Within its charter, the ICC has the right to obtain proceeds from ill-gotten gains and use the gains to support victim recovery programs. The new Peruvian government, for example, successfully recovered assets from Fujimori and his collaborators, and then used these funds to support reparations and truth seeking programs. (Carranza 2008) The U.S. Alien Tort Statute (ATS) from 1789 was enacted in the in 2004 trial against the Marcos family in the Philippines regarding their billion-dollar estate. (Hilao v. Estate of Ferdinand Marcos 2004)

Carranza says because asset recovery is the easiest corruption-related issue to address, the field focuses primarily on this pursuit. Andrieu and Eichlin, however, claim Carranza’s focus on asset recovery skirts larger corruption issues. (Andrieu 2012, Eichlin 2009) Eichlin finds Carranza’s application too small, urging for a greater focus on the larger mechanics behind corruption that keep post-conflict communities unstable. He believes this has been done successfully in Bosnia and Herzegovina where the state court “prosecuted the most serious cases against organized crime, economic crime, and corruption.” (2009: 353) Still other scholars would consider even these trials only a

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*The Convergence of Illicit Finance, Economic Power, and National Security* invited senior officials from the White House, the Justice Department and other divisions tasked with tracing and trapping these ill-gotten gains. Many expressed the daunting nature of this task.

23 Carranza believes his work *does* address larger economic issues because he defines economic crimes broadly using the International Covenant on Economic, Social and
topical treatment. Trials do not lead to deep considerations regarding the greed and opportunity that serves as the source of corruption. (Ware, Noone: 2003)

In this way, part of the SNCF conflict resonates with major debates in the field. The question of whether the SNCF charged the Germans for the transport of deportees and whether railway workers stole material belongings during the transport of deportees becomes a focal point of many debates. The April 2015 class action lawsuit filed by descendants now focuses on items, "illegally, improperly and coercively taken from the ownership or control of an individual during the deportations." Chapter Three addresses the validity of these claims. The SNCF conflict, however, deals with the gains of a company versus an individual, a lesser-discussed subject matter.

**The marginalization of corporate accountability**

While scholars and practitioners increasingly discuss ill-gotten gains of individuals and states, the following section investigates the reasons scholars site for the nominal treatment of industry and business more generally. Proposed explanations for the historical marginalization of business include:

1) legal lacunae make corporations accountability for crimes against humanity challenging,

2) transitional justice prefers short-term projects, and

3) power elites and structural forces mask culpability.

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Cultural Rights’ definition. These crimes include, lack of access to opportunity, education, and vocational training. Regardless, his scholarship emphasizes pillaging, misuse of property, and starvation of people.

Legal loopholes: big enough for corporations to slip through

Neither corporate crimes nor contributions to SEC inequalities find a natural home in the legal approach. A number of scholars noted how the structure of international law makes it difficult to discuss the culpability of economic actors in mass atrocity. (Arbour 2005, McEvoy 2007, Miller 2008, Shaw, Waldorf: 2010)

Lawyers struggle to establish legal liability. Criminal courts, like the ICC, prioritize bodily harm; businesses often contribute to bodily harm only indirectly. Businesses may have transported soldiers, housed monies, fabricated uniforms or other materials used in combat. Therefore their crimes may seem less important than those directly linked to violence. Designer Hugo Boss, for example produced Nazi SS uniforms; connecting these uniforms to the Final Solution (aka the Holocaust) is challenging.

Beyond the limits of the criminal framework, pragmatically speaking, the ICC lacks the capacity to handle corporations; its hands are full with individual war crime trials. The ICC could not currently handle the sheer volume of cases if prosecutions also included economic institutions. Beyond corporate accountability, such courts struggle to overlay structural issues on this violations approach. (Hayner 2010) Criminal law is not designed to handle systemic concerns.

Concerns about corporate accountability

Corporate trials also raise questions of collective accountability and collective guilt that some scholars fear can lead to cycles of shame and blame. (Minow 1999, Braithwaite 2004) Group accountability – including corporate and other civil society
groups – leaves much of the society eternally condemned. Moving forward requires expunging the collective. 25 (Albright 2014)

In the decades following WWII, France held individuals rather than collective entities accountable. The police force, for example, responsible for the round-ups and detention of the deportees never received a collective slap on the wrist. The SNCF too only expunged individuals, but never was tried – until the 1990s – as a collective.

**Ambivalence regarding economic crimes**

Other scholars attribute the light treatment of business to the field’s neoliberal agenda; neoliberalism, they claim, avoids SEC issues. (Gready 2010, Waldorf 2012, Michalowski, Kramer: 2006) Waldorf attributes this avoidance to the failure of communism and the general decline of the left. (2012) This decline led to what Arbour calls a, “deep ambivalence within justice about social justice.” (2007) Carranza believes this ambivalence created resistance within human rights discourse to unite political and civil rights issues with economic ones. (2008) Economic issues became taboo. Elie Wiesel observed this phenomenon when claiming people often argued that negotiations of ill-held bank accounts distract from the more “noble” work of remembering the dead. (Eizenstat 2009) Reclaiming an apartment or bank account seems relatively

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25 In response to my question during her talk on the Responsibility to Protect Initiative at the United States Holocaust Memorial Museum, Madeline Albright expressed this specific concern regarding corporate accountability. When I then asked, if the responsibility to protect is a collective effort, why is not accountability also a collective endeavor, she said that that was an interesting point that she had not thought about. (2014) Her response suggests there is room for more dialogue, research and exploration regarding these questions. The event, entitled *From Words to Action, the Responsibility to Protect* took place at The United States Holocaust Museum. July 23, 2013.
straightforward as compared to trying to compensate a mother for the planned murder of her 5-year-old child.

Privileging short-term projects over structural change

Other scholars claim they avoid questions of corporate accountability and economic crimes because they consider such concerns beyond the field’s mandate. Some prefer for short-term “transition” projects with proven models of success. (Miller 2003, Arthur 2009, Aguilar, Isa: 2011) Some hope that as a result of successful short-term transitional projects, economic wrongs will right themselves. (Aguilar, Isa: 2011) In the case of the SNCF, however, one can see that unsettled issues can leave a thorn for seventy years or more. Economic wrongs only seem to “right themselves” when someone takes up the torch and rights them.

Peacebuilding relies on corporate and elite collaboration

Owners of corporations and the corporations themselves create and reinforce power structures that resist accountability. According to Galtung, “when the structure is threatened, those who benefit from structural violence, above all those at the top, will try to preserve the status quo so well geared to protect their interests.” (Galtung 1969: 179) This is true at the individual and the collective level and especially true in France. For years, many of the French held each other’s beards, including French President Mitterrand who protected befriended collaborators from legal or political attack. The French Catholic Church and Georges Jean Raymond Pompidou (France’s Prime Minister 1962-68) pardoned Paul Touvier, a lead French collaborator and the first convicted in France for crimes against humanity. He, along with René Bousquet and Maurice Papon
who both ran the Vichy police that organized and conducted the round-ups, had great post-war careers both in government and business. (Golsan 2008) Some transitional justice practitioners observe that structural changes may anger elites upon whom development and peacebuilding depends.26 (Brown, Caumartin, Langer, Stewart: 2012) During the ICC trial for Charles Taylor, for example, the Liberian government refused to freeze Taylor’s assets, claiming such an act betrayed due process and would not serve the country. The government did not elaborate. Many believe that wealthy corporations, like wealthy leaders, anchor the peace; taking them to task can shake up a fragile state.

**The resources to skirt accountability**

Many corporations and elites who play large economic roles have political and financial means to prolong and appeal lawsuits, delaying or nullifying payments. Pinochet, Marcos, and Suharto all used their stolen assets to stop or limit investigations. (Carranza 2008) More recently, in 2012, a court in Ecuador attempted to hold Chevron accountable for environmental damage since the 1960s. However, the $18 billion settlement has been called “unenforceable.” The company refuses to pay and the government has no means by which to demand payment. (Gomez 2013) The SNCF used its legal counsel, clout, and relationship to the government to avoid all direct liability. As of 2015, the company retains a clean legal record regarding WWII.

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26 After the fall of regimes in Latin America and Eastern Europe, prior leaders and their military supporters retained much power and could reignite violence. It would have been too much, Roht-Arriaza argues to prosecute this elite for all their corruption. Trials would have destabilized the state. (2006)
The following considers arguments for the greater inclusion of corporations in spite of legal lacunae, the post-conflict region’s dependence upon these economic powerhouses, and the long-term nature of some of such efforts.

**Including business for sustainable peace**


Galeano highlights the impact of these often-invisible actors:

> The big bankers of the world, who practice terrorism of money, are more powerful than kings and field marshals, even more powerful than the Pope of Rome himself. They never dirty their hands. They kill no one: they limit themselves to applauding the show... they don’t concern themselves with prisons or torture chambers or concentration camps or extermination centers, although these are the inevitable consequences of their acts. (1991: 108)

Miller and Drumbl consider denying the role of business and industry perpetuates myths about the origins of conflicts. (Miller 2008, Drumbl 2005) Miller says post-conflict dialogues often stay at a surface level, “the truth sought becomes who killed or tortured who rather than who controls immense tracks of land through colonial enterprises.” (2008: 281) In other words, dialogues focus on the warriors and their victims rather than those individuals and forces directing them into battle. Therefore, Van der Merwe accuses the field as acting superficially if addressing, “only the excessive use of oppressive power rather than the basic nature of an exploitative system.” (2008: 117)

Parjis maintains that real “freedom” or “justice” requires protection from corruption and inequalities. (1995) Desmond Tutu agrees, considering unaddressed economic issues
“powder kegs” that threaten to blow up peace. If not through direct violence, they can also upend progress. For example, the failure to address these issues in post-colonial rule has been used as an explanation for Zimbabwe’s reversal of fortunes. (Muvingi 2009: Miller 2008)

Not all scholars consider inequalities a core commitment of the field. Waldorf remains unconvinced by the argument that poverty and inequality drive conflict and is therefore not convinced that the inclusion of such issues is required. (2012) Others fear such inclusion could make the field so enormous as to be meaningless (Waldorf 2012, Gready 2010, Roht-Arriaza 2006) and struggling with issues of long-term inequality could dilute other achievements. (Miller 2008, Elster 2006) Issues of corruption, fraud, and business crime, may be too difficult for the field to disentangle. (Doig, McIvor: 1999)

In spite of these arguments, Collier urges those working in post-conflict environments to take on the challenge of addressing economic factors. In post-conflict periods, difficult or not, the time is right. Post-conflict countries could benefit most from this attention to economics because they have inferior policies compared to other developing nations, intergroup conflicts are even more challenging, and broken social bonds decrease incentives for honest dealings. Additionally, post-conflict states can sometimes make positive changes more easily. People tend to be more open to change, greater aid flows into the country during the two-three year post-conflict period, and peace agreements may be more easily enforced. (2003) Creating greater synergies between transitional justice and development might allow practitioners to take advantage

While the aforementioned discussion addresses economic inequalities and corruption generally, corporate accountability and responsibility falls under the same umbrella. Corporations carry and embody the structural factors to which these scholars respond. The millions of individual actions carried out by businesses’ agents culminate into a formidable force for good or ill. Not engaging with these actors denies their role and also misses an opportunity to leverage their power for the establishment of long-term positive peace.

**CSR scholarship to aid transitional justice**

Corporate social responsibility literature could help scholars find productive ways to engage these ubiquitous yet hard to access entities. Firstly, the field points to the important distinctions between corporate *accountability* and corporate *responsibility*. DeWinter claims that responsibility suggests prevention whereas accountability suggests actions necessary to address harms enacted. (2013) In post-conflict contexts, corporations could be considered from both standpoints – allies in prevention and entities to be held accountable.

Increasingly large multi-national corporations, including the SNCF, hire someone as the overseer of corporate social responsibility. Post-conflict practitioners could engage with these professionals. HSBC and USAA, for example, have employees dedicated to “Corporate Social Responsibility and Community Investment.” Both companies require the employee to engage in strategic outreach and relationship building activities – the
transitional justice field could better leverage these relationships. The director of Corporate Social Responsibility within the SNCF, for example, handled and still handles issues relating to WWII-related crimes. He also works on disruptive technologies that could threaten rail business in the future and sustainable approaches to growth. Part IV introduces CSR scholarship more fully, considering how it could contribute to the SNCF debates as well as other related conflicts.

**Conclusion: literature review**

Transitional justice encompasses a wide variety of responses to violent conflict. Some practitioners privilege work that focuses on nation building while others focus on the needs of victims. The field appears still a bit perplexed regarding how to handle these corporate actors, at times even richer and more powerful than the States in which they operate. This dissertation uses the SNCF conflict to explore the contours of at least one corporate-related example because it raises important questions about what happens when market actors engage in transitional justice practices. The following chapter introduces readers to the historical context of the modern debate. Chapter Three provides a shared foundation, if not a definitive version of history, from which to consider the SNCF’s accountability and its efforts to make amends. The historical discussion begins with an introduction to the historical frame used and then addresses the major claims against the SNCF outlined in New York Senator Charles Schumer’s 2013 legislative bill designed to challenge the company.
“In all of my work, I have never begun by asking the big questions because I was always afraid I would come up with small answers. And, I have preferred therefore to address these things which are minuitia or detail in order that I might then be able to put together in a gestalt, a picture, which if not an explanation, is at least a description or full description of what transpired.”

-Raul Hilberg, Holocaust historian

A framework for history

Raul Hilberg’s efforts resulted in crisp and detailed descriptions of the Nazi bureaucratic machine. This exploration into the SNCF’s role in the WWII transports brings together a wide range of sources with a similar intention, without the promise of providing a full description. There is just too much we do not know. The resulting description may leave readers with a murky bog rather than a gestalt picture. Rather than aim to be definitive, this chapter offers readers the opportunity to know what we know and what we do not know. This offers a fair, if not conclusive, shared starting point for the broader discussion about amends making.

Creating a description of the past is at best a farcical attempt. Stories about what happened change over time, an ongoing frustration and joy of historical research. Archives open, eyewitnesses decide to speak, or perpetrators confess. This shifts narratives and leads to new conclusions; the tenor of the times, the information available, and the bias of the historian all contribute to these shifts. This historical portrait takes on this challenge of embedding the reader in the past, knowing the past has past. According to Bourdieu, “nothing is more misleading than the illusion created by hindsight in which all the traces of a life, such as the works of an artist or the events at a biography, appear as the realization of an essence that seems to pre-exist them.” (1990: 55) This endeavor cannot therefore claim to access some pre-existing essence of the past. There is no truth to be found. Instead we have a handful of facts and shifting interpretations of what those facts meant at the time and from our perspectives today. To make the best of the challenges of studying history and shifting interpretations of what facts mean, this historical presentation considers the events within the *habitus* of the times. *Habitus*, in this context, means the web of intersecting dispositions, values, and self-reinforcing social structures that created fluctuating constraints and opportunities in the daily life of wartime France and within the SNCF. The Nazi party and regime, for example, had its own *habitus*, which Hilberg claimed the proved at times “an actor even more important than Hitler.” (Broch 2014: 359)

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28 Four years into my research, my family mentions we had a family member who married a non-Jew and was shot in Marseilles. Why this took four years astonishes me; this exemplifies history’s often-slow emergence.
Historical portraits often use one of the following three standpoints, the lenses of ideology (trends, frameworks of thought), economic trends, or the *habitus*. Undeniably, trends of anti-Semitism throughout Europe and the economic plight of Germany contributed to the deportations. Because the broader discussion revolves around questions of culpability and amends-making, rather than economic theory or philosophy, Part I uses the framework of *habitus*. The *habitus* is dynamic result of social structures overlaid with individual will. The norms of the context derive from the past and replicate themselves through its agents. The *habitus* structures minds and dramatically influences behavior, tastes and preferences.

Almost unnoticeable to those living within its grasp, it can only be observed if hardly understood from the outside. A *habitus*-centered approach contributes to these ideological and economic lenses by showing how norms impacted one’s sense of the world and one’s choices. Bourdieu claims actions are impacted by,

> dispositions durably inculcated by the possibilities and impossibilities, freedoms and necessities, opportunities and prohibitions inscribed in the objective conditions...[these] generate dispositions objectively compatible with these conditions and in a sense pre-adapted to their demands. (1990: 54)

What people could see as possible was framed by their context. *Habitus* impacts contexts and sub contexts, for example the SNCF’s own corporate culture impacted decisions surrounding the participation in the deportations. Appreciating *habitus* requires not just understanding culture and context; it requires a fanciful forgetting of how the story ends.

**Forgetting how the story ends**
Feigning ignorance serves a both as an impossible and worthwhile undertaking. The task itself forces us to release something that others did not know—what came next; this changes the whole narrative of the past. Ricœur argues that the conclusion pulls the whole storyline. (1981) From a historical perspective, Halbwachs similarly observes, “The past is not preserved but is reconstructed on the basis of the present.” (1992: 40) Sartre observes the same phenomena noting that when constructing any narrative, “you appear to start at the beginning. And in fact you have begun at the end.” (1965) We cannot make meaning of the past without the present. Yet to appreciate the past and its complexities we cannot let its conclusion cloud us or prompt us to connect unrelated dots.

The United States Holocaust Museum engages in this farcical attempt. The permanent exhibition begins by discussing Hitler’s rise to power, careful not to reveal what comes next. Visitors move from panel-to-panel and film-to-film in a pretend game, pretending not to know how the story evolves. Even without knowing the exact trajectory, visitors know that book burnings and racial laws erupt into history’s most comprehensive annihilation of a people. To the French railway workers and bystanders in the 1940s, however, “the concentration camp universe as we know it today was inconceivable during the occupation, and it was a big leap of imagination to go from seeing people deported in bad conditions, to imagining the gas chambers in the east…” (Broch 2014: 372) Understanding and appreciation does not necessarily mean absolving our predecessors, it simply, as a starting point, promises the modern reader a more authentic engagement with the past.
Today we know Nazis sent Jews to killing centers and work camps; we know the
Germans lost the war. We know much more than this; most of those trying to survive
between 1941-1944, however, could not begin to imagine the enormity of the project in
which they found themselves. Salomon’s family, for example, was oblivious to the nature
of the Nazi agenda. He spent the war in a farm near Chartres, France while his mother
and aunt had rented an apartment about four miles away. His uncle and older cousin
worked on a farm. His whole family survived living in different villages totally oblivious
to the on-goings around them,

In France, we didn’t know what was happening. We knew at one time the
Germans, the Nazis, and the Gestapo were taking all the foreign Jews. They were
there one day and they would disappear. The rumor was they were going to
Germany to work for the German war effort. This was the impression that people
in France had in Paris…we didn’t recognize there were forced labor camps where
you couldn’t live very long. (2014)

Seeing how children tried to make sense of their surroundings can help modern
readers appreciate the innocence and naiveté with which many viewed their times. Jean-
Claude Moscovici, at six-years-old said when he and his sister found themselves at
Drancy internment camp they used Pitchipoï (פיטşi פוי)’ to refer to that mysterious
unknown place from which no one returned. (2009) “Only later, did I know that this
place that we called Pitchipoï, was Auschwitz-Birkenau.” (Moscovici 2009) How could
a child have imagined the nature of the destination? How could anyone? Marie-Claude, a
French resistant on a convoy headed for a death camp, “translated a sign nailed to a post
spotted along the way: Vernichtungslager. ‘Nichts,’ she said, ‘nothing, nothingness,

29 Phone interview. May 6, 2014.
toward nothing.' Had [the deportees] heard the words Auschwitz or Birkenhau, they would have meant nothing to them.” (Moorehead 2011: 184) Modern readers, however, cannot make the words mean nothing to them. We know the destination of those trains and have difficult imagining a time when people did not know with certainty or clarity.

Post-war understanding impacts survivor testimony. In France, even the word Nazi was rarely used. Hidden child Ester recalls, “We didn't use the work Nazi in France. We said les Allemandes, the Germans. The word Nazi came after the war. (2014) Presumably, this later use of Nazi helped distinguish post-war Germans from the Nazi regime. Similarly, Paul Rose and Kate O’Hare, staff at the United States Holocaust Memorial Museum, say survivors during testimony tend to forget and start to adopt narratives and terms that were not used during the time, like the expression “cattle car” which they said no one used until the 1950s. (2012) O’Hare and Rose emphasized that no testimony was ever really pure; modern terms and understandings of the war even infiltrate survivors’ recollections. So how could they not inform those who never even saw what they saw? Briggs notes, “connecting events that are separated in time and often space involves an active social process of extracting discourse from one setting and inserting it into a new setting.”(1996:22) In other words, there are no pure stories separated from the time and context in which the telling occurs. Survivors, like the rest of us, cannot entirely separate what they now know from what they knew. Beyond this, more information surfaces every year.

In 2013, Holocaust scholars concluded a thirteen-year study that reported a total of 42,500 forced labor camps and killing centers under the Nazi regime; this number
shocked even the historians compiling the information.\textsuperscript{30} (Lichtblau 2013) If the 2013 finding shocked scholars, one can only imagine the limited comprehension of those living seventy years ago, especially without modern communication devices. Renowned Vichy historian Henry Russo recognized that,

\begin{quote}
Historian knowledge is limited by missing documents, the subjectivity of interpretation, and the impossibility of understanding bits of pieces of the past through the prism of the present. All historians know...they cannot tell you what happened, but only reconstitute with what’s available in a way that’s meaningful to people in the present. They navigate between islands of truth established on oceans of incertitude. (Ribeill 2008: 34)
\end{quote}

This historical inquiry will move between “islands of truth” and leave ample opportunity to swim about within the “oceans of incertitude.” This position of both certainty and uncertainty provides a more valid place from which to launch a discussion about responsibility and accountability. This approach to history could also promote healing. Trauma psychotherapist Daniéli claims that a realistic understanding of the past helps people accept what happened, the way it happened, the extent of their agency, and the other possible outcomes. (2008) A \textit{habitus} approach promotes this more authentic understanding. The following considers Vichy France, the dangerous and compromising context in which the French railroads operated.

\textbf{The teleology of Vichy France’s \textit{habitus}}

At the beginning of the 20\textsuperscript{th} Century, France welcomed immigration, inviting hard-working eastern-Europeans to help tackle the boom of the Industrial Revolution. Many fleeing persecution in their home countries (Poland, Hungary, etc.), responded

\textsuperscript{30} The more commonly accepted number had been around 5,000.
eagerly to this invitation. France’s growing economy offered a promising financial future and the birthplace of Montesquieu, Voltaire and Rousseau, promised a life of social liberty. The enormous economic downturn in the 1930s, however, caused France to turn on its immigrants. Wanting to preserve the few jobs it had for French citizens, the country ended immigration and made the environment less hospitable to those foreigners already in residence. Citizenship became harder to ascertain. Though France has always been a difficult environment in which to assimilate, the devastating economic situation of the 1930s made it far worse. These larger economic and ideological trends may explain why France, after the Occupation, barely resisted the anti-Semitic legislation that withdrew citizenship and barred Jews from various aspects of the workforce, leading up to their ultimate deportation. A long standing anti-Semitism in France combined with an economic depression made foreign-born Jews an easy target; the French government needed little convincing that these individuals needed to be removed. For many French citizens, however, the undesirability of these foreign-born Jews came second to the more pressing problems of German Occupation, a war, and limited rations. No safety and no guarantees for anyone.

The complexities of wartime France are the subject of a popular French television series *Un Village Français*, with an estimated 1.3 million viewers per episode in 2014, embeds viewers in French people’s daily wartime experience. Rarely do characters behave consistently honorably or dishonorably in this occupied French town. Viewers

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31 Source: MediaMetrie TV Ratings via TelmarPeaktme media software. This number does not include those viewing the program on DVD or YouTube.
watch how the shifting daily conditions and fidelities collide with tradition and culture, creating an environment in which no one knows how any storyline will evolve. Life was fragile; people sold one another as well as information and scarce goods. In this context, few worked to save the Jew because of anti-Semitism as well as fear and general self-interest.

French legal scholar Vivian Curran attributes the appeal of the television program precisely to its ability to demonstrate the thousands of little ways people reacted in a moment-by-moment basis to the “objective conditions.” She says the variety of characters represents the wide range of complicit and resistant behavior and also the changing roles each character played. (Curran 2014) One might aid an escaping Jew one day and the next day help repair the uniform of the Nazi occupying her home while kindly serving him soup. Personal circumstances and the norms of the moment dictated one’s courage and/or generosity. The program resonates because it embeds viewers in the *habitus* of the occupied France 1940-1945. Similarly, this dissertation’s history section may leave many readers in similarly mixed feelings. Clearly what happened was an atrocity of the worst sort; what to have done about it remains a complicated question. More likely could have been done; the cost may have been one’s life or simply a slap on the wrist. Sadly we will never know.

**Importance of habitus for prevention**

The importance of *habitus* has implications for conflict resolution as well; how we assign blame for past behavior impacts how we approach solutions and prevention. Preventing repetition requires understanding how “structured structures predispose to
function as structuring structure.” (Bourdieu 1990) Structure creates and allows the normative environments in which atrocities occur; preventing future atrocity requires addressing these intricate spaces, rather than just shifting the overarching ideology and economic conditions. Today, for example, Holocaust-implicated companies such as Siemens, Barclays and JPMorgan Chase & Co. find themselves in the midst of large scandals. During April 2014, unrest in Ukraine, the French and German national railroads (SNCF and Deutsche Bahn AG) ruffled many international feathers with their dealings with Valdimir Yakunin, former KGB agent, friend of Putin, and head of the Russian state-owned railway RZD, a company on the U.S. sanctions list. Perhaps post-war penalties proved insufficient to change the structures within the corporations that encourage profits regardless of crimes enacted in pursuit.

Generally, most historical accounts of these businesses do not consider the modern implications of past behavior. Historians specialize in the past. Dr. Peter Hayes, speaking at the United States Holocaust Memorial Museum, presented a talk entitled, “Corporate Responsibility: Lessons from Businesses in the Third Reich.” During the talk, the audience comprised of invited corporate representatives asked him to speak about the impact of the past on the present and the takeaways for corporate social responsibility today. Dr. Hayes repeatedly pronounced that he was an historian and did not feel comfortable talking about the present. (Hayes 2014) I surveyed over thirty Holocaust scholars at a Lessons and Legacies conference about the modern moral dilemmas posed

32 In the first quarter of 2014, all three companies made the front page of The Wall Street Journal for corruption related incitements.
by the SNCF’s roles in the transport of deportees. Many wrote or said something to the effect, “this is precisely why I went into studying history, so I did not have to make these kinds of calls.” This has left those interested in the connections between the past and the present with few places to look. Serge Klarsfeld and Vichy historian Michael Marrus have served as the most extensive bridges in regards to wartime France. Noted French historians Annette Wieviorka and Georges Ribeill have also written about their view of the contemporary SNCF conflict. None of the aforementioned, however, addressed the Russian railways contract or broader issues of corporate accountability beyond the Holocaust. A contribution of this dissertation, and the field of conflict resolution more generally, is the ability to straddle history and the present with the intention of launching new dialogues to make a wider contribution. By looking in both directions, forward and backwards, many new questions can be raised in proper forums.

**Corporate habitus**

Cultures have more than a singular *habitus*; civil society, government and businesses all have related but distinct systems. The SNCF had a strong *habitus* before the Germans arrived used to organize and operate 400,000 employees and 450,000 ordinary wagons (and other specialized trains). Employee professionalism resembled an *esprit de famille*, the spirit of a family. (Broch 2014) This has deep roots; French railway workers in the nineteenth century were deeply motivated by “notions of security, obedience, and community.” (Broch 2014: 365) Executives within this company used this earlier *esprit* to create a sense of duty and dedication towards the SNCF directors. (2014: 368) The great uncertainty during war, likely amplified for some the value of
security and acts of obedience and community. Broch claims, “If railway workers were unlikely to disobey orders, it was because of a deep-seated commitment towards their profession, as well as a unique concern with security, rather than an absence of morality as such.” (2014: 365) Broch makes a tautological argument here. Acting according to some morals rather than others is, indeed, a moral stand. Her claim could justify all Nazi actions and immoral actions in general; one could claim all Nazis acted out of loyalty to Hitler and for concern for security. Other than sociopaths, who acts with no morality? Reasons explain actions without absolving responsibility. Perhaps, better said, SNCF workers may have obeyed orders *more* out of loyalty and fear than because of latent anti-Semitism or latent anti-immigration sentiments.

Alain Lipietz, lead defendant fighting the SNCF in France, describes SNCF *ethos* by quoting SNCF’s secretary general during the September 21, 2006 debate on France-Culture, a division of Radio France. During the show, the secretary general said in answer to why the company participated in the deportations,

> I will explain to you why. Do you want to know? Well, here it is. The SNCF, today as during the war, is a complicated of trains that follow one another, etc., etc. I am sorry to tell you that the railroads function in a certain way. The railway workers try to make the railroads work. It is their core business. (Lipietz 2012: 82)

The quote demonstrates the high value that remains on doing one’s job in spite of the larger moral framework in which one finds oneself. The SNCF’s normative environment, born out of a nineteenth century spirit of loyalty and obedience for most workers became completely, “internalized as a second nature and so forgotten as history—is the active presence of the whole past of which it is the product.” (Bourdieu 1990: 56) Learning
about the SNCF’s moral universe may explain the behavior; whether it justifies it remains a question. I ask that readers let the upcoming historical portrait wash over them, resisting the urge to judge until the conclusion, if not longer.

**History and law**

Law plays such a central role debates, the dialectic between law and history warrants a brief discussion. The law often researches and employs history, especially in this conflict, to make an impactful argument. In doing so, legal settings can bring historical moments into modern daylight, allowing for new opportunities of reflection and judgment. Unlike historical or other approaches that engage readers in the complex *habitus* of the times, legal versions of history find themselves led by a more authoritative or definitive teleology of history. Richard Wilson observes this saying, “courts often endorse one version above all others, whereas historians may integrate elements of competing accounts.” (2011:7) Because of this, many historians avoid legal spaces, finding themselves forced into versions of history that feel incomplete or incongruent with their sense of the past. Russo, for example, refused to testify on Holocaust restitution cases in France. He believed the system of history and justice ought not to be falsely intertwined in this way. Many legal scholars understand law’s teleological use of history that can flatten important contours. Leora Bilsky, for example, says the “law and society movement points to the law’s inability to reflect history’s complexity.” (2012: 12) Corporate-sponsored histories, as will be shown in Part II, have their own set of politics and are created with a variety of constraints as well. While legal cases and corporate-produced materials can lead to and exhibit many important historical findings, the
constrictions on both suggest extralegal history discussions like the forthcoming may invite a richer understanding of the past and a more vigorous look at humanity. By looking at complexity, we leave man standing there in all his heroism, cowardice, doubts, ignorance, intelligence, beauty and roughness. This standpoint provides a different position from which to consider accountability.

Therefore, this chapter sidesteps the pitfalls of legal and corporate-sponsored history by inviting complexity and acknowledging the “concrete semiotic and discursive mechanisms by which the past is selectively brought into the present for strategic ends.” (French 2012: 337) The outcome is a complicated and incomplete history without agenda designed to create a shared platform for discussion about accountability and responsibility.

**Organization of the historical inquiry**

Compiled from a wide variety of primary source documents, memoirs, interviews, documentaries, and historical works this section responds to each of the 2013 Senate Bill 1393’s claims against the company; Appendix D provides the bill in its entirety. For coherence and to ensure the greatest contribution to the public dialogue, this work focuses on the most recurrent modern-day questions and accusations regarding the SNCF’s role in the deportations. Each section will provide the claim’s official wording; the following summarizes the major claims addressed herein. These include the following claims against the company,

1. The SNCF, a separate legal entity, collaborated freely with the Nazis.
2. SNCF used its own trains in the deportations, staff determined the conditions and cleaned the dead bodies out of the wagons after the arrival.

3. The company profited from the deportations.

4. SNCF employees stole deportee belongings.

Rather than carrying out the “charade of pristine revelation” (Eltringham 2009: 60) these chapters bring together a wide range of sources to describe what we think may have happened.

“Our company operated these trains up to the border.

Under duress, unquestionably, but it did so nonetheless.”

-Guillaume Pepy, SNCF Chairman

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**Overview: SNCF during the war**

As noted in the introduction, prior to 1938, a number of independently owned companies comprised the French rail system. In 1937, the French Parliament voted to nationalize all public and private companies; they were on the verge of bankruptcy. In the newly created national enterprise, the French State had 51% ownership and controlled appointments to the Board of Directors, the budgets and policies. The remaining 49% would remain in the hands of prior owners for forty-five years, after which the state

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33 2011.
would buy them out over time. This new enterprise became known as the SNCF (Société Nationale des Chemins de fer Français).34

When Germany invaded France, the SNCF had roughly 400,000 employees and its inventory included 60,000 steam locomotives, 450,000 ordinary wagons and 1,500 passenger cars. (Jones 1984) During the German invasion of Paris in June of 1940, the SNCF vacated the Parisian headquarters, moving to Lamotte-Beuvron in the Sologne region approximately 150km south of Paris. During this time, the trains struggled to transport the over two million fleeing Parisians and support the French military effort. The company transported thousands, but even more were left waiting. (1984)

June 22, 1940, France signed an armistice with Germany that placed the SNCF’s rolling stock, as well as all communication services, under German control. By August, the Germans requisitioned 80,000 of the SNCF’s 450,000 wagons and 1,000 locomotives. (1984) Le Besnerais, Managing Director of the SNCF during the war, said the company intended “to obey the letter of the law, in the strict limit of the inevitable.” (Durand 1968: 117) In other words, the company would comply with German orders; no other option existed. By December 1940, over 182,692 SNCF wagons traveled on German rail lines—

34 Bernard Emsellem of the SNCF provided this information via email on the SNCF’s ownership. (2015) He added that in 1983 when the forty-five years had expired, the state compensated the owners and then created a new enterprise. Under the same name of SNCF, the company became an EPIC (Etablissement à Public caractère Industriel et Commercial) meaning there is no private investment; it is a state enterprise. This is a legal designation that allows commercial activities, which the State cannot conduct directly.
by March 1942, the Germans had requisitioned nearly half of the SNCF inventory.

(Jones, 1984)

Between 1941-1944, in spite of the requisitioned materials, the SNCF continued transporting paying passengers, German soldiers, livestock, war materials, raw materials (coal, etc.), and deportees (Jews, gypsies, political prisoners, and others). The SNCF billed (with interest) La République Française (the French State as an extension of the German war effort) for every demand issued, including transporting deportees within France and possibly to the German border. Prior to the Jewish roundups, the Vichy government directed the SNCF to transport political prisoners, gypsies, homosexuals and others to Germany; the SNCF transported an estimated 86,827 individuals to Germany. More than half died either through overwork, torture, or execution.

Jones’ 1984 book, *Politics of Transport in Twentieth-Century France*, celebrates the SNCF’s achievement during these war years, making no mention of the company’s role in these deportations. Jones, characteristic of his time (the 1980s), omits the Holocaust. He writes, as the Germans increased their demands, “the SNCF responded to the challenge, achieving the *tour de force* of carrying more passengers in 1943 than in any year since 1932 at the price of increased red tape, overcrowded trains and long delays.” (1984: 132) Jones omits that not all were willing passengers; in addition to the 86,827 mentioned above the French police forced over 75,000 primarily foreign-born Jews, into cattle cars. SNCF drivers drove them to the border. Deportees suffered at least
36 hours with no food, water, light, or sanitation. The journey alone killed many. While many scholars site Jones in articles about rail and transportation history, none take on his glowing report of the SNCF in WWII. Those articles challenging the SNCF’s wartime glory can be found by Vichy historians, not transportation ones. From a transportation perspective, the SNCF did its job. Whether that job always had merit remains at the heart of this dissertation.

**Transportation vs. deportation**

Before launching into specific claims regarding the SNCF’s role in the deportations, a brief note about the use of the word *deportation* versus *transportation*. French historian Georges Ribeill insists that in today’s discussion scholars make an important distinction between the words “deport” and “transport.” Deportation transports left from Drancy, Compiègne, and traveled to the German border. These trains, he claims, operated solely under German authority. Vichy, itself was responsible for transports further up the logistical chain such as moving people to the camps. (Duhem 2008) In other words, Vichy appears to have coordinated the transport of deportees from various towns within France to the internment camps where they were held before being transferred to Auschwitz.

The word deportation also suggests that the company chose that the people be removed from France. The company did not deport the Jews; it transported them in horrific conditions. This dissertation uses the expression, “the transport of deportees” to

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35 In 1941, at least some deportees traveled as 3rd class passengers to internment camps in Beaune-la-Rolande and Pithiviers.
refer to the SNCF’s activities. Today’s readers may decide whether this distinction is semantics alone or reflects a meaningful difference.

**History of the transports**

The Germans determined that deportations from France, totaling 100,000 Jewish adults would begin in 1942, 50,000 each from the occupied and unoccupied zones, with 22,000 coming from Paris. Theodor Dannecker, the SS officer responsible for organizing and supervising the French roundups, estimated this would require the transportation of 15,000 Jews per month. The Germans allegedly enrolled the French police to conduct these roundups. Pierre Laval, a French politician and cabinet member of the Vichy Regime who supported the German occupation and agenda, refused to send the French Jews, which threw off the German schedule and roundup plans. This is when Eichmann considered excluding France from the roundups. (Hilberg 1961) Had Laval caused more trouble, he could have changed history for France. Instead, he offered to add-in the Jewish children to make up for the loss in numbers; what would France do with thousands of orphans? He thought. Laval’s eagerness to include those under sixteen, apparently even unsettled the Germans. Laval only responded saying he had given the Allies a chance to take in these troublesome Jews and they refused. (Hilberg 1961) The Nazis eventually acquiesced to Laval’s suggestion to take the children,

In 1942, according to Serge Klarsfeld’s estimate, 1,032 children under six years of age were sent to Auschwitz from France, along with 2,557 between six and twelve, and 2,464 between thirteen and seventeen. Over 6,000 children that year alone. (Marrus, Paxton: 1981: 263)

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36 Because the French deportations included fewer Jews than transports coming from other parts of Europe, eventually the transports included French Jewish nationals.
As a result of German orders and Vichy collaboration between March 26, 1942 and August 1944, the SNCF transported a total of 75,721 deportees, including 11,000 children. The majority of the deportees left various French internment camps in convoys: 44 trains in 1942, 24 in 1943, and 15 in 1944.\(^{37}\) (Ribeill 2008: 38) The majority of deportees were first placed in internment camps throughout France, Drancy being the most notorious. Klarsfeld found, “all but 12 of the seventy-nine deportation trains carrying Jews to the east left from Drancy.” (Marrus, Paxton: 1981: 252) Roughly 2000 survived.

The deportations, horrific in nature, became increasingly worse. While the first deportees traveled in 3\(^{rd}\) class passenger rail cars, historical findings suggest the subsequent deportees traveled in cattle cars,

Near the end, the thinnest veils of decency were torn away. More than 300 children were deported from Drancy in its last regular convoy on 31 July 1944, including at least one baby born in the camp… (Marrus, Paxton: 1981: 255)

The following considers the specific modern-day accusations based on this wartime participation of the transport of deportees.

**Claim 1: The SNCF remained a separate corporation during the war and collaborated voluntarily with the Nazi regime**

On July 30, 2013, Senator Charles Schumer [D-NY], introduced bill Senate Bill 1393. The bill alleges,

\(^{37}\) These ‘special trains’ were known as the *Sonderzüge*. (Broch 2014: 371) Historians estimate the number of convoys range from seventy-nine to eighty-three.
That SNCF, a separate corporate entity that remained independent during World War II, operated the deportation trains for a profit, as ordinary commercial transactions. SNCF remained under French civilian control throughout World War II and is alleged to have collaborated willingly with the German Nazi regime.

This section explores whether the SNCF operated independently, worked for a profit, and/or collaborated willingly.

The question of independence

The legislation attests the SNCF operated during the war as an independent corporation. The SNCF refutes the claim of independence, identifying itself as a state-owned enterprise. In actuality, the company existed, and still exists, as a mix of public and private ownership.\(^ {38}\) From a legal standpoint, the company operated under private law, causing some to categorize the company as private. From an ownership standpoint, the government still holds the majority share. Prior to 1938, several separate corporate entities operated the French railroad system, that year the state nationalized the railroad; private ownership retained 49%, hence, the company’s public identity.\(^ {39}\)

In 1939, the German occupation further unified the railroad with state affairs. At the Convention Franco-Allemande d’Armistice on June 22, 1940, France signed agreements

\(^ {38}\) As will be discussed later, lawyers working against the SNCF accuse the company of taking the stance of state-ownership in U.S. courts to be protected by the Foreign Sovereign Immunities Act and a private-ownership stance to receive exemption under French law.

\(^ {39}\) In recent years, private ownership has increased.
placing the SNCF, its personnel and all its assets, under German control in the occupied zone,

The French government will engage, under the order of the High German Commandant, to proceed with all necessary reclamation work. The French Government will make available within the occupied territory all specialized personnel necessary and quantity of railway rolling stock equipment and other means of communication used under normal conditions in times of peace.40

French historian Georges Ribeill interpreted the Armistice as forcing the SNCF to operate exclusively under German authority during this time. (Duhem 2008) Wieviorka interpreted the statement differently, seeing the SNCF as retaining ownership of its materials (trains, wagons, etc.) while the German head of transport managed all of the operations of the trains (schedules, etc.) She claims this division created a bit of ‘jealousy’ within the Vichy regime that thought themselves independent of the Germans. (2007) If jealousy existed, it did so because someone perceived the SNCF has having more freedom than the Vichy government. Any flexibility this alleged freedom made possible remains in question.

This question of SNCF identity befuddled modern French courts, which at first agreed with the Senate Bill 1393 accusation and then overturned the decision. In 2006, the Administrative Court of Toulouse found both the SNCF and the French state guilty, arguing that the SNCF operated free from German influence. According to the Court, the SNCF, in spite of its statutory status as a mixed public and private company, in reality was managed by the French State, acting on its own behalf and not on behalf of the occupying authorities. The court said this explained why the company never requested

40 Articles 13 and 15 of the Armistice referred to the railroads.
official requisitions. In sum, the Administrative Court of Toulouse makes the same determination as Claim 1; the SNCF operated somewhat independently.

When the SNCF appealed the decision, however, the Court of Bordeaux ruled in the company’s favor citing a Vichy decree issued on October 10, 1943 that made the SNCF a limited liability company. (Curtis 2004) The Court of Bordeaux ruled the company could not be held liable because of the company’s legal status. In conclusion, the SNCF has a mixed public-private identity. Part II will show how the SNCF used these differing identities to escape liability in the United States and France. During the war, the company operated neither wholly free of German and Vichy rule nor wholly bound. The Germans and the French state arguably needed the trains more than the trains needed them. Neither France nor the German war effort could operate without French trains. This could have given the company more leverage than it utilized.

**The question of collaboration**

This leads to the question of whether the SNCF chose to collaborate; Bill 1393 states the SNCF, “is alleged to have collaborated willingly with the German Nazi regime.” A brief overview of French collaboration contextualizes the SNCF’s possible position.

**Collaboration in France**

Under the leadership of Charles de Gaulle, post-war France denied aligning with the Nazi regime. Through their archival research, however, Vichy historians Paxton and Marrus discovered that France collaborated much more than de Gaulle either admitted or
understood. Marrus and Paxton found the French could have resisted far more than they did,

When we began several years ago to look closely at the measures taken against Jews in France during the German occupation, we found the French had more leeway than was commonly supposed, and that the victor and vanquished had interacted much more intricately than we expected. (1981: xvi)

Stuart Eizenstat, lawyer and lead negotiator on many Holocaust restitution settlements, said about France,

No other country in Western Europe so actively consorted with the Nazis and so enthusiastically supported their measures against the Jews. A virulent strain of indigenous anti-Semitism in the Vichy regime turned France into a country of persecution rather than protection. (2009: 316)

While post-war France denied collaboration and argued that its hands were tied during the war, it appears it often operated with free hands, aiding and supporting the German agenda to various degrees. This context is important for considering the context of the SNCF; those employees or executives also may have had far more flexibility than the company proclaims, but they also operated in an already collaborating France.

In regards to business, Feldman says during the German Occupation, “businessmen faced more alternatives than they later pretended and often made very reprehensible choices.” (2002: 28) Feldman also believed many business people found themselves caught up in the political and social atmosphere of their times. (Feldman 2002)

**SNCF and collaboration**

Initially, SNCF leadership appeared, like France, to begrudgingly align with the Germans. Fifteen months after the armistice placed the railway under German authority,
President of the SNCF, Pierre Eugène Fournier, reaffirmed his commitment to meeting the German requirements as long as a minimum level of French needs are met, “France, while nonetheless maintaining its reservations, is disposed in the framework of the policy of collaboration, to find a practical solution allowing the SNCF to help Germany as long as the vital needs of France are assured.” (AHICF 2001) Fournier’s statement shows a reluctant willingness to acquiesce.

Yet contemporary debate seems to distance SNCF from an identity of collaboration. Historian and economist Michel Margairaz argues the SNCF cannot be considered a collaborator because the company operated under the thumb of both the complicit French government and the German occupier. (Ribeill 2008: 46) Alain Leray, the CEO of SNCF America, further distances the SNCF from complicity, saying in an NPR interview, “The SNCF did not deport anyone. The Nazis did.” (Keyes 2014) This remains a contested point.

Early in the occupation, the Germans noted the company’s lack of enthusiastic compliance with regular operations. December 29, 1942, President Münzer, the Nazi responsible for French rail activity, wrote letter to the SNCF saying, "The spirit of collaboration within the SNCF leaves something to be desired." (Münzer 1943) The HDV, the division of over which Münzer presided, continued to issue a number of statements expressing its dismay over the SNCF’s lack of willingness to collaborate. The

41 Monsieur de Directeur Général with M. le Président Münzer à la HVD, le 29-12-42. 3 January 1943, Box 72 AJ 474. National Archives of Paris, France.
lack of enthusiasm at the executive level became most visible after the German defeat at Stalingrad in February of 1943.\textsuperscript{42} (Bachelier 1996)

**The SNCF Corporation working with the Germans**

For the German needs to be met and the transports to arrive to their destination on time, more cooperation than disobedience occurred. After the armistice, the Nazis sent 60,000 German soldiers to France to oversee forty million people and 6,000 to monitor 400,000-500,000 SNCF workers. Supervising so many individuals with so few Germans, required complicity,

No occupying power, however, can administer territory by force alone. The most brutal and determined conqueror needs local guides and informants. Successful occupations depend heavily upon accomplices drawn from disaffected sympathetic or ambitious elements within a conquered people. (Marrus, Paxton 1981: xvi)

While some feared the consequences of non-adherence, others used the occupation to advance their careers or status. This helped the Germans maintain control of France without expending tremendous resources.

The Germans made a variety of demands; the transports of deportees became just one of thousands. As the war progressed, the SNCF’s independence to fulfill the various German requests lessened. In 1940, the Nazis briefly set up a transportation division in Paris and within a month returned all control, except for the costal operations, back to the French. As a result, from 1939 to 1941, the SNCF fulfilled (and billed for) all German requests while retaining majority of control over its operations; the SNCF consulted only

\textsuperscript{42} The battle of Stalingrad, August 23, 1942 through February 2, 1943, is seen as the turning point of the war. The Germans never regained their positions after this defeat to the Soviets.
with the Vichy government, not the Germans, regarding its activities. During these years, the Germans apparently rarely issued orders. By November 1942, however, the SNCF found itself under complete control of the Vichy Ministry of Transportation. (Curtis 2014) After the German occupation of the free zone, the SNCF retained only daily management. (Bachelier 1996, Curtis 2014) By 1944, the WDV (Wehrmacht Verkehrs Direktion), the department responsible for the transport of German troops, directed the entire railroad.

This leads to the question, if the SNCF had been operating more freely prior to Vichy involvement, why did it acquiesce to the German demands for deportation transports? The first deportation trains left France March 26, 1942, four months before the Vichy increased their involvement. In total, forty-four livestock cars packed filled with deportees left France in 1942, most before November. Many more trains departed in 1943. If, indeed, the SNCF had some freedom until well into 1943, the company maybe could have intervened on behalf of the deportees. Perhaps no one wanted to risk the privileged relationship with the Germans. Ultimately, the SNCF leadership at the time of the armistice agreed to respond, for payment, to the German demands. This semi-independent relationship seemed to dissolve by late-1942, after many deportation trains had already made their way to the German border. The enthusiasm with which the company executives participated remains a mystery as does whether or not any objected; no historians have found proof of protest regarding the deportation trains.

**SNCF workers and the Germans**
The prior section discussed the corporation’s position relative to the Germans; the following describes some of the *habitus* in which *cheminot*, railway workers, functioned. At first, railway workers experienced a similar transition from privilege to control as Germany’s resources dwindled from its two-front battle and large extermination agenda. Initially, SNCF employees benefitted from German dependence on their skills and expertise. After the June 22, 1940 armistice, the Germans liberated hundreds of SNCF workers arrested for suspected acts of sabotage, missing identity papers, passing the demarcation line, communist activities (propaganda, organizing meetings), and altercations with German soldiers. They liberated SNCF employees first, presumably because they needed functioning railroads.\(^{43}\)

The protection of workers slowly eroded. By 1943, the Germans simultaneously drafted SNCF workers and promised their protection. In March of 1943, for example, the German delegate of the Minister of Communications wrote the French Minister and Secretary of Industrial Production and Communication requesting the SNCF provide 10,000 workers to support German railroads.\(^{44}\) Of these, 2,700 refused or left the SNCF. (Wendt 1943) The Germans eventually drafted at least 18,000 SNCF workers as soldiers for *Travail Obligatoire*, mandatory labor. At the end of the war, 7,000 SNCF workers were found serving in Germany. (SNCF Archives 2011) While workers lost control over

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\(^{43}\) The Archives at Le Mans has hundreds of hand-written records on every worker arrested, date of arrest, reason, length of incarceration, where, and liberation date if any between 1940-1949.

\(^{44}\) Délègue du Ministre Des Communications du Reich (Wendt) to Monsieur Ministre et Secrétaire d’Etat à la Production Industrielle & aux Communications, 15 March 1943, Box 72 AJ 419, National Archives of Paris, France.
the location of their lives the Germans still offered some level of protection over their lives. In November 1943, German authorities reconfirmed their commitment to protect the railway workers, promising no SNCF hostages. Again, this served their purposes winning the war required a well-functioning railroad.

By 1944, once German defeat seemed likely and railway sabotage increased, protection of SNCF workers disintegrated. On April 2, 1944, for example, German soldiers assassinated SNCF agents and their families in response to acts of sabotage. Two days after the incident, the French Ambassador of the occupied zone issued a formal protest to German General Feldmarschall von Rundstedt recounting the events:

At 22h45 (10:45pm) military transport train 9872 going from Baisieux-Tit to Amiens Tit was derailed because of a rupture in the railway caused by an explosion at KM 7,500.45 No one on the train was hurt and none of the military supplies were stolen.

At 11pm, in ASCQ where they had stopped, the head of the station, Monsieur Carre, called his night agents to stop the train traffic on track 2. A German officer from the derailed train, and several other German soldiers, walked into Carre’s office and shot three station agents, gravely injuring Monsieur Carre and two others. The soldiers then went into the village, woke up 22 other SNCF workers in their homes and killed them. This number of 22 is based on a Police report by the town of Lille; there were a total of 22 agents from the SNCF killed by these soldiers.46 (1944)

The Ambassador wrote, "It is the first time since the occupation of France by German troops that such things have occurred." (Ambassador of France 1944) The Ambassador declared these unjustified deaths would result in grave consequences, including withdrawing support for the German effort. In spite of this proclamation German soldiers

45 A different letter attributed this ‘explosion’ to an act of sabotage.
46 Ambassador of France in the occupied zone to German General Feldmarschall von Rundstedt, 4 April 1944, Box 72AJ 419, National Archives of Paris, France.
killed four SNCF workers in Tiel that same month. Later that year, on November 29th the German Military Tribunal condemned seven railway workers to death in Dijon. In response, the Head of German transport responsible for the region-expressed regret, perhaps showing growing German insecurity. Regardless, relations worsened. The war demanded more of everything from both the company and the railway workers who found themselves increasingly under the German thumb.

**Collaboration: the question of French resistance**

A discussion of collaboration requires a discussion of the resistance in France and within the SNCF. Thousands of French, Jewish and non-Jewish participated in the resistance; the Gestapo and French police shot, deported, and tortured many regardless of age or infirmity. Formal members of the Resistance engaged in a myriad of activities such as creating and circulating underground newspapers and false identities, hiding Allied troops, or simply removing German propaganda. Generally, Poznanski says, Jews created networks to help Jews because other efforts often excluded them. Jews of all ages and social ranks worked within these networks. Walter, a survivor interviewed in Paris, says at age six he ran away from a group home where his parents placed him and joined the (Jewish) resistance. He threw grenades at Nazis and shepherded sheep carrying secret documents. (2014) While Jews helped each other, more often the Resistance focused on fighting the Germans than assisting non-Jews. This proved true within the SNCF as well.

**SNCF: collaborator or resistor?**
The story of SNCF resistance during the war has become legendary, at least in France. This chapter discusses the extent of resistance and considers whether this story is evidence of non-collaboration. Historian and economist Michel Margairaz claims while the SNCF could not be considered a collaborator because it worked under state and German control, the company could less be considered a resistant. (Ribeill 2008: 46) A robust and fair discussion requires distinguishing between the corporations as a whole, its executives, and its workers. To be clear, the SNCF, as a corporate entity, appears never to have joined the resistance or engaged in any known company-wide effort to derail the German war effort or save deportees. No evidence suggests that senior SNCF executives conspired to derail Nazi efforts. While films, books, and medals of Honor proclaim great heroism within the company, the majority of the 400,000 SNCF employees, like the majority of the French people, vacillated between passive collaborator, victim, opportunist, diligent employee, loyalist, anti-Semite, resistant, and at rare moments a Jewish protector. Part II discusses the how the legend of resistance became arguably larger and more prolific than the acts. A small percentage of railway workers appear to have performed these acts.

“Stopping a train is not simple, Mademoiselle. You can get killed stopping a train, especially if you are French and the train is German.”

— The Train, 1964

The rare few: SNCF railway worker resistance

While the overall enterprise acquiesced rather than resisted, a number of SNCF employees acted in opposition both to the German occupier and their employer. (Delpard 2005) Estimates show that roughly 2,000 of the 500,000 SNCF employees engaged in
acts of sabotage. The Germans shot an estimated 800 SNCF railway workers for these acts; 1,200 found themselves sent to Nazi death camps for their subversion. The SNCF recorded acts of sabotage. Reports were sporadic between 1940-41; these reports increased in 1943 and became quite frequent and well organized by 1944. (Bachelier 1996) As the war carried on, people became increasingly dissatisfied with German occupation and as German strength and confidence decreased, sabotage increased. René Clément’s 1946 film La Bataille de Rail made famous the most dramatic acts of sabotage that took place towards the end of the war. Around D-Day, SNCF workers derailed trains filled with German munitions destined to fight the invading allies. The film suggests that without these acts of sabotage, the Allies might have been unable to secure the German defeat. In addition to the famous derailments, acts of sabotage conducted by SNCF workers included:

- Helping prisoners, those in the resistance, and the persecuted cross from the occupied zone to the free zone.
- Sharing information about the movements of German transports.
- Offering technical knowledge on how to sabotage trains to members of the French Resistance.
- Sabotaging railroad tracks and railcars by cutting breaks or disrupting axels with sand or rocks. (Bachelier 1996)
- Distributing underground newspapers.

47 This works out to be roughly .004% of the organization, hardly enough for the corporation to claim an identity of resistance.
Some resisted with relatively few consequences others lost everything. Louis Brochard, the most famous, refused to drive his train. He refused first to drive a train of political prisoners and later one carrying German soldiers. In response, the SNCF refused to pay his bonus and forced him to leave. He lost his SNCF title on October 30, 1942 and was arrested January 8, 1943 for other acts of resistance. Even though Brochard lost neither his life nor political liberty for his resistance while at the SNCF, curiously no other railway workers are reported to have followed his lead. In other cases, acts of resistance had grave consequences. The following three examples outlines the variety of possible fates for resisters:

- M. Berger, second in command at the Poitiers railway station was condemned for trafficking war materials in an occupied zone, a crime “contre l’Ordonnance du Führer,” against Hitler’s ordinance. Imprisoned from July 29, 1940 through April 28, 1945, he spent four years, nine months total in prison plus two years in an isolation cell.

- Dr. Lamper, caught end of 1942 for acts of resistance in the South East Region, was killed in Camp Vaihingen.

- K. Rozet Inspection SES, Second VB Resistant, caught in March 1943, deported to Auschwitz in March 1945. (SNCF Heritage Site 2012)

48 The SNCF historical documents claim miners and railway workers went on strike in northern France in 1943. The purpose and consequences of that strike were not mentioned.
Some acts of resistance by SNCF workers resulted in larger German retribution. On April 16, 1942, at roughly 3:40, a train carrying German soldiers on leave was derailed on the Paris-Cherbourg line. The convoy, which was moving at 90km/hour, included 10 railcars, 8 of which were metallic. Thrown from its course, the locomotive, rolled 60 meters off rail, pulverizing two non-metallic cars. This derailment was caused by an act of sabotage.

**Consequence of sabotage**

The Security Police in Berlin reported that the derailment killed twenty-eight Germans and wounded thirty others. The German police (GFP), the judicial police, the French military police along with other offices responded by:

- Searching the homes of communist suspects.
- Controlling the schedules of those living in towns near where the bombing occurred.
- Visiting 88 hotels.
- Verifying the identity of 527 travelers.
- Arresting 700 individuals between April 16-18
- Finding 51 individuals who had been missing in town at the time of the attack.
- Closing all sporting and entertainment events.
- Enforcing a curfew between 7:30pm and 6:00am.
- Killing 30 hostages—none of whom were deemed responsible for the derailment but were considered part of terrorist groups directly or indirectly complicit.
- Arresting 4 people for being suspected Gaullists (in support of Charles de Gaulle and a free France)
This vignette also provides a sense of the joint German and French police response to acts of sabotage. In retribution for the roughly thirty Germans killed, the joined police forces and killed approximately thirty hostages. Consequences only became harsher in the following years. Acts of sabotage put many people at risk, not just one’s own life, but also those of one’s family, neighbors, friends, and colleagues.

Some acts were more symbolic, and likely less risky, having more to do with maintaining a sense of identity rather than actively subverting Nazi efforts. The following story about the Manifestation of 11 November 1943, provides an example: on this day, the anniversary of France’s armistice with the then defeated Germany, Chauffeur de Chaudière (the boiler) at VVO successfully placed a French flag on top of a chimney 40 meters high. Word of mouth led to a gathering. By 10am all personnel working at that location stood in front of the flag, heads bare, singing the Marseillaise (the French national anthem). After a discussion with the German soldiers, workers pulled the flag down after a moment of silence at 11pm. (Cosmi 1943) This example, and the ones prior, demonstrate the wide range of German responses to various acts of resistance. All of this, however, seems to have had nothing to do with the transports of deportees.

The SNCF, as a corporation, strongly discouraged acts that damaged property. Acts of sabotage became an additional cost of war, upsetting company executives who, as expressed in archival documents, already felt the burden of increasing wartime demands.

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49 An official report on this incident can be found in the SNCF Archives (Le Mans, France) under the code: AN, F14 13643, DGT, Note pour le ministre, 16 avril 1942.
and insufficient payment. Sabotage hurt the SNCF as much as the Germans. To hurt the Germans one also had to hurt the trains. Willingly or not, the SNCF played a vital role in the German war effort; the benefits of this role to the company remain a contested point. At the beginning of the occupation, the French State (Vichy) told the SNCF that the government would not cover war-related expenses caused by sabotage. The company carried the risks and burdens associated with occupation, whether it profited from this relationship remains a question. The Germans needed the trains to roll on and so they did. The SNCF had to ensure its trains were fit to run and therefore increased efforts to limit all acts of sabotage. In their company circular, meant to reach the company’s 400,000 employees, the SNCF posted images like the one below, telling the railway workers that they must protect the machines, and in doing so, protect the lives of their fellow countrymen.
SNCF announcement asking railway workers not to sabotage the machines

Translation:

*Sabotage Some Machines?*

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50 Used with the permission of the Centre des Archives Historique de la SNCF.
The text and image of a subversive railway worker demonstrates one of the ways the company attempted to curtail the destruction of its property.\(^{51}\) This image positions the company as more protective of its machines than in support of subversion; at the same time, it does not necessarily prove the company collaborated willingly. In 1943, the Nazis added their voice to the French government’s command that the SNCF protect its property from acts of sabotage.\(^ {52}\) (Bachelier 1996) The SNCF responded to the Germans saying it would only report acts of sabotage to the military and police authorities, claiming staff was neither equipped nor trained to actively fight these acts. (Bachelier 1996) In this way, the SNCF refused to be an arm of the military. One cannot know whether the company drew these lines primarily to protect employees, avoid the economic costs of fighting sabotage, or as a way of not assisting the Occupier. Likely, SNCF executives believed acts of sabotage would only increase the intensity of German supervision, something the SNCF, especially then President Pierre Eugène Fournier, worked ardently to prevent. While the SNCF sought to protect its assets, it continued to be a primary target for those within the resistance.

**Stoppings the Germans required stopping the SNCF**

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\(^{51}\) This image was one of the very view images available at the SNCF Archives in Le Mans. Their file labeled “Images” for the war years was all but empty.  
The image below, shows a matchbook distributed during the war. The matchbook cover says, “Each Frenchman is a soldier of the Liberation! The back of the match shows the French rail lines the Germans used to transport soldiers. Inside the matchbook, users find an explanation of “Two ways to derail Nazi trains.” Rail sabotage became emblematic of the French resistance, even though these acts occurred relatively later in the war and incidents were scarce as compared to the thousands of other smaller individual acts.

53 This matchbook has a New York address on the cover. I have contacted the Diamond Match Company to explore whether the United States produced these and distributed them during the allied invasion at Normandy to encourage acts of resistance.
Matchbook promoting railroad sabotage
The previous discussion addressed the SNCF’s collaboration with the overall German war effort. The questions at the heart of this dissertation, however, involve collaboration related to the transport of deportees. The following describes the SNCF’s treatment of Jewish employees, the role of senior executives in the transports as well as the actions of the cheminot close to these convoys.

**Collaboration with anti-Semitism**

This section speaks to the SNCF’s treatment of the Jews and collaboration and resistance related to the deportees. Early on in the occupation, the SNCF leadership complied with racial declarations related to the Jews. The first census of the Jews in France began in June and July of 1941. On July 20th, the personnel director of the SNCF counted and reported the number of Jewish agents within the company, 121. Some SNCF workers who were designated as Jewish asked that that designation be removed. Other

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54 I took photos of this matchbook, which resides in the private collection of Michael Samuels, 2014.
Jewish SNCF workers were made redundant (admirably dismissed). (AHICF 2001) In rare cases, Germans forgave the Jewishness of certain SNCF workers. On July 6, 1942, for example, Julien Lemme was arrested for not wearing his yellow star. He was liberated and began work again on August 29, 1944. Occasionally, the SNCF argued on behalf of certain Jewish employees, but more often did not and any protections promised at the beginning of the war were often later revoked.

According to Catherine de Béchillon, a French-born Jew whose father, Henri Lang, worked for the SNCF during the war, the SNCF should have immediately sent these agents, harassed for their Jewishness, to the free zone. (AHICF 2001: 141) In the case of Henri Lang, the SNCF made some effort. On August 16, 1941 the SNCF pleaded before the Commissariat general aux questions juives, the division handling Jewish issues, not to deport engineer Henri Lang. They argued Lang, a World War I veteran, offered exceptional scientific services. Friends pleaded with Lang to simply make his way to the free zone, yet out of his sense of pride duty, Lang refused to leave his post. (Bibas 2012) Deported March 22, 1942, Lang died of exhaustion at Auschwitz on May 21 that same year. Lang’s story appears to be an anomaly, but there may have been others for which we have no testimony or documentation.

**Collaboration with the deportations**

If the SNCF did little to help Jewish employees, it seems to have done less to help the Jewish deportees. Most Vichy historians agree with Henry Rousso’s statement,

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55 This supports Broch’s observation of the deep sense of duty and professionalism many SNCF workers shared, even those persecuted for their Jewishness.
arguing that whatever the margin of maneuver the SNCF had it did not use it to assist the deportees. (AHICF 2001: 352) Klarsfeld’s research found no trace of any resistance in the upper or lower levels of the SNCF in relation to the deportations. (2011) Bachelier’s findings concur; he found that the SNCF often protested German requests (for additional trains to move troops, etc.), but never protested orders for the trains used to deport Jews to the camps. (1996) Hilberg examined records in the central office of German security that recorded all details of the deportations and every associated action. He found no reports of any major problems in France. (2006) Vichy historians Robert Paxton and Michael Marrus, noted this “curious” lack of SNCF resistance as it related to the transport of Jews saying this was a,

   curious blind spot affected (by) the French railway system, which managed widespread, organised resistance to all kinds of German demands – except deportations to the east. (…) Railwaymen apparently helped about fifty Jewish children escape from one convoy in September 1942, and may also have smuggled some tools into baggage cars to help prisoners to break through the floorboards. Nothing interfered with the transports to Auschwitz, however, even in the summer of 1944 when substantial derailments and sabotage affected other shipments. Perhaps this resistance was simply what one might expect from any company in an occupied country, resenting being told what to do after a time. (1981: 331)

Broch absolves the majority of cheminot arguing that most had no knowledge of the transports. Because most of the transports left from Drancy to Auschwitz,

   Only a handful of the 400,000 cheminots would ever come into direct contact with the trains. Second, the destination was often known as Novéant, a town on the German border. If the name Auschwitz was ever pronounced, it had absolutely no resonance at the time. (Broch 2014: 372)

Those observers and participants who did come in contact with the deportees, Raul Hilberg considers collaborators; he holds them accountable, claiming those managing the
traffic and time schedules, not those in Germany issuing the orders, had the real responsibility. (Broch 2014: 362)

**Collaborating with deportations: SNCF executives**

Little is known about exactly what SNCF executives, as government technocrats, knew about the transports’ final destination or if they contested in any way. Catherine de Béchillon, daughter of a deportee, claims that it took two months before the SNCF understood that deportees were headed to a work camp; only a barbarian, she said, could have even imagined it was an extermination camp. (AHICF 2001) Klarsfeld disagreed, claiming that even at age eight he immediately knew deportation meant death. (AHICF 2001)

Klarsfeld claims, for example, no one has found a record of the SNCF’s communication with the Vichy national police who organized the convoys. These documents, he claims, could help us understand any reticence the SNCF may have expressed about the actions required. Even without the proof, Bernard Emsellem, SNCF’s current head of Corporate Social Responsibility, believes the senior executives had a fairly good understanding of the Nazi plan to exterminate the Jews. (2012) While in the beginning the Germans organized the transports, gradually the company’s senior executives apparently became involved. By the summer of 1942, Vichy organized the wagons and local prefectures managed the transport and refueling. (Bachelier 1996)

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56 Béchillon asks us, when considering this question, to imagine that we do not know what we know. In this way, her approach supports the premise of this history section, that history ought to be understood in context.
Correspondences within the SNCF discuss the straw that would be used in the wagons, the slop buckets, and how refueling would take place. (Wieviorka 2007) The organization and nature of these transports will be discussed more fully later in this chapter.

**SNCF’s Pierre Eugène Fournier: a collaborator?**

A rarely discussed fact raises suspicion regarding executive perception of the Nazi agenda. President of the SNCF, Pierre Eugène Fournier, served as governor of the Bank of France from 1937-1940 and then as President of the SNCF from September 1940 through July 1946. During one year while president of the SNCF, Fournier held a disconcerting and rarely discussed bureaucratic position; from 1940-1941 he served as the first director of SCAP, *Service de contrôle des administrateurs provisoires*. This government office aryanized Jewish businesses and property in the Occupied Zone. In Fournier’s words, this position was to ensure, “the exclusion of all Jewish influence on the economic life of France.” (Verheyde 1999) While under German direction, SCAP had only French trustees, who reassured Germans they could handle this process on their own. Vichy officials likely appointed Fournier because of his tenure as Governor of the Bank of France. Polino, a French train historian, describes Fournier as honest, straightforward, and rigid. (2011) This likely appealed to the Germans. Broch says technocrats such as Fournier commonly held such positions and therefore such a post could not be used to prove collaboration. (2011) Yet he was unnervingly successful at his task. According to Verheyde, during Fournier’s term, SCAP evolved from just monitoring Jewish businesses, to selling them off or closing them; the Germans asked that he minimize unnecessary brutality in executing this mission. An October 1940
census of Jewish businesses indicated, “11,000 Jewish enterprises in Paris, of which 7,737 were privately owned and 3,455 were incorporated companies.” (Adler 1987) During his time with SCAP, Fournier announced that SCAP successfully aryanized (eliminated Jewish ownership) of over 4,500 Jewish businesses in order to meet the German deadline of December 26, 1940. In 1940, the Germans told SCAP to give the money from the sales to the Jewish business owners. This eventually changed. Assets were seized, likely after Fournier’s term.

Fournier left SCAP after a year when the Germans started over-involving themselves. He appeared to have no ethical problem with aryanization, only with the occupation and the Germans meddling in his work. He supported Pétain as a means of asserting French independence. The Germans arrested him on June 6, 1944 (D-Day) and held him hostage for a week, citing him as troublesome. Likely his arrest had more to do with his distaste for German control than any issues regarding the deportations. His tenure at the SNCF ended in 1946, possibly for political reasons due to charges he faced relating to the storage of gold between 1939-1940 during his term as Governor of the Bank of France.

**Fournier: SCAP as proof of collaboration?**

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57 Lawyer Eric Freedman, who works on French restitution issues in Paris, said most aryanization went unreported. This means some of those collecting the money likely held it, yet there is no evidence suggesting Fournier stole assets. Interview in Paris, August 10, 2014.
Fournier’s role at SCAP remains a little known fact among the politicians, executives, and lawyers currently involved in the debate. When told of Fournier’s role with SCAP, François Zimeray, former French Ambassador to the Rights of Man, replied, “if that is true, that could be a problem.” (2011) Vichy historian Robert Paxton also responded that he was unaware of Fournier’s multiple positions, noting if he indeed held such a position, it could cause quite a problem for the present day company.58 (2011) Klarsfeld also did not know about Fournier’s simultaneous position at SCAP and neither did Richard Prasquier, President of CRIF, France’s central Jewish organization. (2011) Curiously, the issue has not yet entered the Franco-American debate or recently written historical accounts addressing the question of collaboration.

**Fournier: deportations**

Beyond SCAP, historians know little about Fournier’s participation in and understanding of the deportations. While Fournier has been accused of running the technical delegation of the SNCF that organized the deportations, the independently commissioned Bachelier report on the SNCF’s wartime history, cannot confirm this. The report cites only one unknown engineer who attended a conference to organize transports during the *Vel d’Hiv* (the largest roundup of Jews in Paris). The journalistic film *Les Convois de la Honte*, The Convoys of Shame, accuses Fournier of providing four communists seats on the SNCF’s Board of Directors in exchange for protection from prosecution related to the deportations. (2005) Polino challenges this claim, saying individuals would not need such protection, as early post-war France did not consider

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58 I found Paxton at an event in Paris. I pulled him aside at the end to ask this question.
transporting people a crime. This remains quite disconcerting. She surmised that if Fournier offered such seats, communists in Moscow ordered it furthermore she denies that Fournier actively participated in the deportations. (2011) The dearth of information known about Fournier’s understanding points to the greater lack of understanding regarding the extent of what all SNCF executives knew. There is no evidence that Fournier ever resisted the transports. Some of those closer to the deportation trains, however, seemed to engage in some small acts of resistance. Whether this absolves or softens accusations of collaboration against the company over all remains for the reader to decide.

Is helping deportees resisting collaboration? While overall the cheminot and SNCF executives appeared to follow orders without refute, some broke out of the trance long enough to assist, even if in small ways, a few of the deportees. They assisted in the following ways,

- providing water when possible,
- collecting and mailing (transferring) the scraps of letters that deportees threw from the small cattle car windows,
- assisting in some escape attempts\(^{59}\),
- providing hiding places in the deportation wagons,
- loaning SNCF uniforms for acts of deception, and
- slowing trains to allow passengers to jump off.

\(^{59}\) I could not find details on the nature of these assists.
Providing Water

Some Red Cross workers, Quakers, civilians and occasionally SNCF workers attempted to provide water to deportees trapped in convoys often stopped for hours in atrocious heat or cold. Local Poles living near Treblinka remarked that they risked their lives to provide Jews water upon their arrival at the death camp. (Lanzmann 1985) Some SNCF staff attempted to provide water to deportees in convoy wagons awaiting departure. Survivor Francois Rohmer recalled that during his four-day journey from Compiègne to Dachau, the train would occasionally stop. He said, “During these stops, surveillance was less strict. [French] Railway workers could pass us water, renewing our courage.” (Ribeill 2008: 39) Merlin, who worked at a station that deportees passed through, said that for the first trains the staff could pass people food and water through the holes in the wagons. In the months leading up to the liberation, however, the Germans forced them to stay 100 meters away. He remarked that even some of the German soldiers were apologetic, “certain German soldiers were themselves appalled.” (Merlin 1966) Reports of this prevision seem inconsistent. Researchers found a telegram from the Vichy government to the SNCF asking the railway company to provide water. The company apparently had not been doing so and did not do so as a general policy.60

Mailing Letters

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60 Alain Lipietz reminded me of this fact during our interview in Paris June 19, 2015. Sitting along the Seine at Berthillon Café he explained to me about the telegram and how this telegram helped him win his lawsuit against the company. It proved the company was not just obeying the Germans, but was actually cruel.
Deportees would sometimes throw scraps of paper with messages and mailing addresses through small openings in the railcars that *cheminot* would sometimes be able to mail. These with notes and addresses and some SNCF workers mailed these letters. While this may seem trite, the act of mailing letters was important to those who wrote and received them. Charlotte Delbo on a convoy train in January of 1943, wrote,

> We took from our bags paper and pencils and wrote notes: “that the person who finds this would please have the kindness to let…X know that her daughter…his wife…Christiane, or Suzanne, or Marcelle— has been deported to Germany. We are in good spirits. See you soon.” Each ending with “I’ll come back.” Each put many addresses in the message hoping that theirs would alert the parents of others, to ensure that at least one message would arrive. Many of these notes were collected by the railway workers of Compiegne who sent them. (1965: 10)

Catherine de Béchillon received a letter her deported uncle threw from his train leaving from Compiègne. The letter said, “We are leaving. We ask you to hang on. We will hang on until the end.” (AHICF 2001: 142)
SNCF employee, Raoul Merlin, says his colleagues sent a number of the letters they found thrown out the windows by deportees. Merlin says,

Certain SNCF workers (notably MM Paques, ex CMVP and Lecocq, ex-IN2 at the time) told me they took a good number of the letters the deportees had managed to drop onto the tracks a little before the departure or during the departure to the post office after having put them in envelopes. The letters were written on whatever paper the deportees had been able to find. (1966)

Mailing these letters became increasingly difficult towards the end of the war, he explained. During the last months of the occupation, German officers collected the letters after the trains departed, preventing SNCF workers from collecting and mailing them.
They could only send letters the Germans had overlooked. Maurice Lemaire, Regional President of the SNCF’s northern division, confirms that his team also tried to send letters. He regretted, however, they could only offer moral support. He said watchman guarded the trains closely, shooting all prisoners who managed to escape from the wagons. The SNCF workers could not approach the convoys without the risk of being shot themselves. Lemaire states, “the soldiers responsible for the trains were armed with submachine guns and would have used them without hesitation at the slightest provocation. At night there were floodlights on the trains.” (1966)

The Bobigny commemorative site outside of Paris posts a few of the letters thrown out railcar windows.

From I don’t know where  
Sunday July 19th, 1943

My dear parents, 
Maybe this is a last letter to tell you that I am leaving in a livestock car of 1,600 people, 50 per wagon. Don’t worry on my behalf. I am with comrades and my fiancé Roger Rybacq. We leave for Poland but I will see you after the war in our house.

Do not cry for my fate. I have what I need; I am Jewish and must suffer. Until now we were with the French police and we were fine. But for the past three weeks had the Germans and it was terrible. Stopping mail was not sufficient, they hit us with batons daily—they wanted to know the addresses of our parents or families to stop them…the person who finds this letter will have a good heart and put it in the mailbox to reassure my parents whose two daughters were stopped and of whom they have had no news.

Madelaine Herscu  
Convoy 57: July 18, 1943

Drancy July 30, 1943

61 This comment was hard to translate. It seemed as if she some how thought she deserved the punishment for being Jewish.
My dear friend,

Fate would have it that you would become a godmother to my child as faster than you would have wanted it. I did not have a chance to speak to you before I left. I do not know where to find my son, where I must go to find him, when one day he will come back to life. However, I leave courageously with the firm conviction that my son will not be abandoned. That you, I dare say, “my dear friend,” stay to look after him after I am gone. I am no more than a number in a wagon crammed in…but do not worry about me. I am in good spirits and I am counting on returning quickly. I send you a huge hug with all my love and maternal love, if cruelly proven. A kiss for my Jeannot. Hello to my family. In three hours we leave at dawn. I send you kisses, more kisses and cry to you with all my strength “Goodbye.”

Your Eva

Eva Golgevit
Convoy 58: July 31, 1943

These letters talk about the beatings and being crammed into railcars that clearly SNCF workers present would have seen. Or, at least in collecting these letters would have read. Those closest could have witnessed only fear and terror, for the destination and for the already devastating separation from loved ones. Mailing letters for some provided a somewhat safe means of demonstrating caring if not outright resisting the events before their eyes. Several took greater risks with varying degrees of success.

**Assisting escapes & hiding Jews**

Arno Klarsfeld references several SNCF-initiated escape attempts; he claims railway workers successfully intervened at Rozan, Lille on September 12, 1942, to help some children. In August 1944, SNCF staff prevented SS Captain Aloïs Brunner from sending the final convoy from the internment camp. (Klarsfeld 2011) This second incident may be the one recounted in a report below found within the SNCF archives.
August 4th, 1944, a SNCF employee discovered that at the Peyraud station, the Germans guarded a wagon of 70 deportees. The employee hopped on his bike and rode to the station to inform the Maquis, guerrilla resistant fighters. At 1am, the train staff re-hitched the wagons sending the train to Annonay (near Lyon), instead of Compiègne via St. Rambert, its intended destination. When the train arrived at Annonay, the convoy stopped in front of the station. A German got out thinking it was St. Rambert. The Maquis began firing; gunfire continued throughout the night. The Germans put up a white flag of surrender, but fighting started again. Eventually, the Germans put the deportees in front to protect themselves from the shooting; as a result three deportees were killed. In the end, this act of resistance resulted in the liberation 67 deportees. (SNCF 1945)

The SNCF employees participated in the resistance by informing the Maquis and re-hitching the train. The Maquis carried out the actual battle.

Other SNCF workers assisted with escape attempts by helping the deportees free themselves. SNCF employee Raoul Merlin said workers occasionally hid tools such as clamps, chisels, hammers, hacksaws, etc. underneath the hay. He asserts some survived thanks to these efforts. (Merlin 1966) SNCF Secretary Raloux, was deported September 17, 1943 with 139 others in the same wagon. Only twenty-three arrived in Weimar. Hidden instruments apparently enabled their escape, allowing deportees to break down the walls. Railway workers also attempted to disguise deportees. Broch describes,

One cheminot from Valence managed to dress eleven of the deportees in SNCF uniforms and smuggle them out of the station unnoticed. Another approached a Jewish deportee discreetly, telling him he could supply him with an SNCF uniform.

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62 The Maquis were French resistsants who lived in lightly populated regions, including the forest during the war. These guerrilla bands, beginning mostly as small groups of men hiding from conscription, became active in the resistance.

63 Compiègne had an internment camp during the war. Of the 75,000 Jews deported to Auschwitz from France, 40,000 were sent directly from this camp.

64 Rapport concernant la libération du wagon de déportés en gare d’Annonay (Ardèche). Resistance de la SNCF, 1945, Box 72 AJ 498, National Archives of Paris, France.
uniform and smuggle him out. The deportee turned down the offer: his father had already climbed aboard the train, and he could not leave him alone. (2014: 374)

This speaks to the reticence deportees may have had in accepting help; remember Jewish SNCF engineer Henri Lang, whose friends encouraged him to flee. He refused and soon after found himself at Auschwitz. Fear of fleeing was common; Bretholz says that during his escape from the moving railcar, many inside told him not to escape, fearing it would lead to death for everyone. (1999) Escapees had the greatest risks and the most to gain; everyone was afraid.

Alfred, who survived the war with his family, tells of the vital role some railway workers played in his survival. In the afternoon of August 26, 1942, a French resistant came to his house. His sister and his nieces left while he stayed with his mother in the apartment. Later in the evening, a railway worker came to get him and his mother. He brought them to the train station and hid them in a piece of furniture with two doors; an exterior door faced towards the railway station and the other, which faced the platform where the train would arrive. Emile, the head of the railway station, came to help them, informing them that the Milice (French militia) were in front of the station and on the train platform. With help they were able to board a train wagon stationed on the rails and they were able to travel to Moulins. Having passed the line of demarcation (into the free zone), the train controller then saved their lives. Alfred’s mother was hidden in a special train compartment, which he had reserved for her safe passage and had closed with a key. (2014) Other stories include members of the resistance informing villages with hidden Jews when the Gestapo was on their way by ringing the railway station a certain number of rings. SNCF workers would communicate the signal warning the Jews to hide.
Ester, a hidden child during the war, says a railway worker saved her family. When she and her family were hiding in a house in rural France, a member of the Gestapo came to the village to clear out the Jews. With a gun to his head a SNCF worker, who knew where they were hidden, refused to reveal what he knew. Ester, who now lives in the United States, says this explains her fond feelings for the *cheminot*. (2014)

**Slowing trains**

The SNCF heritage website claims that some SNCF drivers slowed trains at certain points to allow deportees to jump off. Substantiating this claim in France proves challenging, though an account from Belgium provides an example of what might have occurred in France,

Simon Gronowski, an 11-year-old Jewish boy in 1943, was one of the few who managed to escape a train headed for the gas chambers of Auschwitz...April 19, 1943, three young members of the Belgian Resistance were able to slow down Gronowski’s train long enough for some deportees to break open wagon doors and escape. (Tabor 2014)

Tabor claims, “this is said to be the only known successful halt of a Nazi train during World War II.” (2014) Leo Bretholz who survived by prying open the rusted bars and forcing their small bodies through the tiny openings jumped as the train slowed to make a turn, “As the train slowed and rounded a curve, the men slipped through the window, and upon hitting the ground, tore off the yellow star with the word "Juif," French for "Jew," that had been sewn to their coats…” (Rasmussen 2014) From the description, the train appeared to slow to make the turn successfully, not to aid the deportees.  

65 Perhaps some SNCF drivers slowed some of the deportation trains, but I have found no written records or testimonials to substantiate this claim.
no one seems to have interviewed the French train drivers after the war. They have all since passed away.

Sometimes workers offered nothing more than a kind word; even these were appreciated. Charlotte Delbo recalls during her journey in January 1943 a railway worker whispering, “they are beaten. They lost Stalingrad. You will return soon. Have courage, little ones.”66 (1965: 10) There were millions of individual moments in which kind words may have been exchanged or an escape attempted. Hundreds of small towns in France had railway stations and were the homes of the 400,000 SNCF employees. Each of these villages had their own networks, tendencies towards collaboration and/or resistance and was a microcosm of the war, making generalizations difficult. Many of these acts of resistance happened in these in-between spaces. Most of those who assisted deportees probably did not seek acknowledgment. It would be impossible to know all the small ways in which SNCF workers collaborated and/or resisted and the contexts in which those actions occurred. These acts demonstrate, perhaps at the very least, not a total absence of caring. Ultimately, however, every train reached its destination and that was due to the collaboration of the majority.

**Eager collaboration of some**

While some railway workers attempted to help the deportees, others seemed to care little. SNCF regional director Louis Cambournac wrote to director general of the

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66 Note: this is a very early recounting of the rail journey. Most people did not speak of their experience until the 1990s. Delbo published this in 1965 long before France acknowledged its complicity in the deportations.
SNCF Robert Le Besnerais, distraught over an incident with Germans over last minute train of deportees. The SNCF was running late although eventually the delayed train of deportees headed for Sobibor made it out of the station. Broch noted the director appeared much more concerned with the timing of the trains than the destination or the condition of the transports. Only 5 of the 1,008 deportees on that train survived. (Broch 2014: 377) The director’s correspondence made no mention of the passengers. When Red Cross and Quakers from the United States and Britain in 1942 tried to help the deportees by offering them food and water, SNCF executives complained these efforts prevented the trains from leaving on time.67 (Broch 2011)

Overall, the transport of over 75,000 deportees to the German border and the survival of only a few suggest that more collaboration than resistance existed within the SNCF. For the most part, every man, regardless of his feelings, did his part to ensure the trains reached their destination. The decision not to help had huge consequences for the deportees and those who survived them. Tragically, a correspondence between Adolf Eichmann, head of the department of Jewish Affairs, and Heinz Röthke, the SS officer working with Dannecker, suggests that had the French resisted more, the deportations in France may have been avoided. "When a deportation train missed its scheduled departure from Bordeaux July 15, 1942, Eichmann was furious. He telephoned the Judenreferat68 in Paris to deliver a blast that must have withered Heinz Röthke, the new man in

67 According Broch, correspondences about the Red Cross are available in the Paris National Archives.
68 The office responsible for Jewish Affairs.
Eichmann had called the affair, 'disgraceful' and said to Röthke something to the effect, “well, if you cannot do it maybe we should scratch France off the list of countries that can to remove its Jews.” Röthke apparently dissuaded him. (Ribeill 2008) Perhaps if someone could have delayed the trains enough to frustrate Eichmann, Jews in France may have escaped persecution. The SNCF executives did not appear to have played that role, nor did the workers. France surrendered the majority of its foreign born Jews.

**Complacency within the SNCF?**

Given the role the SNCF could have had in limiting German success or assisting deportees, the SNCF arguably did little. This section considers some factors contributing to this limited participation, including fear of consequences, the challenges of sabotage and fidelity to the company. Acts of resistance often had grave consequence, but this alone does not explain, why did the railway workers, so active in sabotaging German transports, never refused to drive or sabotage the deportation trains. (Broch 2014) Through her research Broch found that, “first, the lives of those inside were in no way guaranteed, and the violence of the railway sabotage should not be underestimated. Second, after the train was sabotaged, there was little chance of effectively hiding and saving hundreds of people trapped inside.” (2014: 373) The physical challenges of sabotage cannot be underestimated, but neither can the power of bureaucracy and professionalism.

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69 Heinz Röthke and Theodor Dannecker are thought to be the two Nazis most responsible for the deportation of French Jews.
SNCF complacence: supported by corporate ethos?

Like trains linked one to another, so too were SNCF employees linked together by corporate loyalty and the sheer momentum of their endeavor to deliver goods, people and livestock throughout France. Pulled by a common purpose, they all did their part to move trains forward and survive. The esprit de famille Broch found within the organization would further amplify this phenomenon. This cheminot passivity, “is not that they were unable to ‘harness their conscience’; rather, the professionalism of the cheminots, was deeply entwined with a unique moral code of conduct.” (2014: 365) Codes of moral conduct, reinforced by a sense of duty and loyalty created the corporate habitus of the SNCF. This was never a company of free thinkers, known for its revolutionary environment.

The company relied on the power of reinforcing conformity and norms. Operating such an enormous amount of rolling stock, schedules, and staff demanded precision and consistency, not creativity and/or individuality. Such attributes were never rewarded. Promotions more likely came from diligent enactment of policy than from out-of-the-box thinking. During the war, any revolutionary thinking would only be further discouraged (as demonstrated previously—the SNCF circulars discouraging sabotage). Everyone was under watch, not only by the German Occupier, but also by his fellow countrymen. René Bousquet, secretary general to the Vichy Regime police 1942-43, for example, sent a message to the free zone August 20 and 22 of 1942 requesting the prefects inform him of anyone resisting actively or have the attitude of resisting the Jewish roundups and deportations. He said, “You are not to hesitate to break down all the resistance that you
find among the population and to report the officials whose indiscretion, passivity, and ill will has complicated your task.” (SNCF 1944) Perhaps we ask too much of the average individual, focused on their own wartime survival.

Leo Bretholz, transported on a deportation convoy in November 1942 understood this, commenting, “Convoys such as ours were simply another little splinter of the war, of which they had grown weary, from which they turned to take care of their own lives.” (Bretholz 1999: 163) The struggle of survival and professionalism within the organization surely contributed and civilians’ preoccupation with their own lives leaves out any mention of anti-Semitism or xenophobia within the company or France. Surely this also played a role.

**SNCF complacence: anti-Semitism?**

Were SNCF workers indifferent because they shared with many French, a deep if unspoken dislike of Jews and immigrants? Marrus and Paxton’s *Vichy France and the Jews* details the ways in which Vichy France and its citizens enacted and promoted and supported the anti-Semitic legislation of France. They found while there was anti-Semitism in France in the 1930s, a more generalized xenophobia and wartime scarcity exacerbated anti-Jewish sentiments. (Marrus, Paxton: 1981) Anti-Semitism surely existed within the company, but few documents or testimonies speak to the nature of how this sentiment impacted acts of resistance. More research is needed in this area.

The SNCF workers attitudes generally, reflected the sentiments of the times, leaning perhaps further towards Vichy and away from de Gaulle. Pétain, the hero of Verdun, embodied many of the values that the *cheminot* community had upheld for years:
Work, Family, Nation.” (Broch 2014: 369) If she is right, professionalism and *esprit de famille* stopped acts of sabotage. In modern discussions of corporate responsibility, this invites a questioning of the value of such attributes, useful in times of freedom, dangerous in times of tyranny. To prevent future harm, corporations might need to change their *ethos* after violations, not simply pay restitution.

**SNCF complacence: ignorance?**

Perhaps, some say, the SNCF workers would have acted more on the behalf of the deportees had they understood the final destination. Maybe they did not know; maybe they did. *J’Accuse*, an underground French newspaper circulated in the Drancy internment camp, informed internees about the most probable future. As early as 1942, the paper reported that torturers “are burning and asphyxiating thousands of men, women and children deported from France.” (Bretholz 1999) If the French underground knew, one would presume the SNCF executives would also have been aware of such circulating stories. Railway workers also probably heard the rumors, but had little intimate knowledge.

This raises again the question of how much the deportees knew. Witnesses in Treblinka and Sobibor said that a number of Jews from other parts of Europe arrived in passenger cars, not cattle or merchandise cars. These mostly Western Jews, were so oblivious to their destination, they spent the journey playing cards. One man even got out to buy something at a station and the train took off without him. He chased the train. Polish railway men watched women fixing their hair and putting on their make-up moments before being let out of the cars and gassed at Sobibor. They said they could not
tell deportees what would happen because they were forbidden contact with the victims. (Lanzmann 1985) In France, many deportees rode the trains holding on to vouchers for their valuables, believing all might be made right upon arrival. If deportees could not believe their fate how could the average French railway worker? Other victims knew, often those who had experienced pogroms in Eastern Europe.

The question of whether SNCF executives and workers knew the destination may not even matter. Clearly the fact that people were forced on to trains in horrific conditions made the atrocities visible enough. François Mauriac who saw the departing trains in France asked, “in what other époque were children torn away from their mothers, packed into cattle cars?”(Ribeill 2008) What more did people need to know?

**Claim 1: Conclusion**

While the company may not have eagerly collaborated, it played a pivotal role in the German war effort, advocating for its own self-preservation along the way. The acts of resistance were brave, significant and relatively rare: assistance for the deportees appeared the most sporadic and infrequent. Efforts rarely saved lives. The company’s privileging of self-preservation ultimately cost at least 75,000 lives and millions of dollars in Holocaust restitution. Documents speaking to the SNCF’s formal acquiescence or remonstrations regarding the deportation trains cannot be found. The SNCF executives likely knew or could surmise the deportees would be killed; railway workers who drove trains filled with screaming deportees knew the trip alone, if not the destination, caused severe human suffering. The stories of resistance highlight some of the small ways individuals tried to help the doomed.
The company’s overall ability to stop those trains remains a question; the Germans and French relied on trains and therefore the company might have had more leverage than it exercised. At the same time, as the war progressed, consequences for disobedience grew increasingly severe. Disputes with the Germans had unknown consequences; though early on much more could have been risked. As for ownership, the company’s identity appears decidedly mixed. Today, the SNCF is considered an EPIC, *Entreprise Public Industriel et Commercial*, a public enterprise both industrial and commercial. This modern designation reflects the public and private identity the company has maintained since its inception. The next section examines the extent of the SNCF’s participation in the coordination of the trains and the horrendous conditions in which the deportees travelled. Again, the goal is not to provide a definitive description, rather to share what seems to have been the case based on available sources.

**Claim 2: The SNCF determined the conditions, operated the trains, and cleaned the wagons.**

**Bill S 1393 claims:**

*The complaint alleges that SNCF provided the necessary rolling stock, scheduled the departures, and supplied the employees to operate the trains bound for the concentration camps...The plaintiffs further contend that SNCF herded as many people as possible into each car, requiring passengers of all ages and sexes, including the elderly and young children, to stand throughout the trip of several days’ duration, with no provision for food or water and no sanitary facilities. The complaint further alleges that SNCF cleaned the trains after each trip, removing*
the corpses of persons who perished during transit due to the execrable conditions of the train cars. The destination was in each case a camp in which the deportees were to be exterminated, worked to death, or made to suffer terrible and inhuman conditions.

An extension of the question of collaboration, this inquiry explores 1) the extent of the SNCF’s operational control over the transports, 2) whether deportees traveled in SNCF wagons, 3) who determined the conditions, and 4) whether workers cleaned the wagons after the transports. To provide access to the nature of the conditions, the following offers some first hand accounts of the deportee experience. Some say the journey was the worst part of their experience, worse even than the camps.

The journey

In 1965, Charlotte Delbo provided one of earliest descriptions of the conditions. She traveled in a car of 222 people who carried their suitcases with them. For sanitation there was “only a half a box of straw.” (1965: 9) She describes the experience:

We sat next to each other for the long voyage, friends, side-by-side. I was with Yvonne Blech, Yvonne Picard, Viva, Madam Van der Lee who had placed her black hat on her suitcase, her otter coat wrapped around her legs. It was cold. The train didn’t move…The train started again. We sang. The bumps caused the [sanitation] barrel in the middle to slide from one side of the wagon to the other. When you needed it, it was hard to use because it was so high. We created a step with our suitcases. Luckily the contents quickly froze or we would have been sprayed at every twitch of the train. The train rolled on and we sang.

We examined the walls. With our nails or pocketknife we broke off pieces of wood. We created a hole so we could read the names of the train stations. When the train slowed, we knew that we had approached a switch, where we would have to wait and quickly write and throw more notes out the train…we tried to dislocate the floorboards. Nothing could be done in my wagon but in Madeleine Dechavassine’s the opening was big enough to get out. Some demonstrated that
escape would be possible but the others would be shot. If they could have read the future...[they would have taken the risk]...we were locked together at night to sleep. The next day when we looked at the railroad stations the names meant nothing...Tuesday morning, the train stopped in a large train station. Breslau. The soldiers opened the doors and gave us a warm drink. We had had nothing to drink since the departure. Apart from barley soup given to us at the Weimar station we had also had nothing to eat, because the bread had been frozen.

A soldier, closing the door said, “We are leaving you here. Now it is the SS who will communicate with you.” The long voyage continued. The train stopped in the evening and did not move all night. It was very cold. The next morning, Wednesday, January 27th 1943- the wagons opened. The cries, the screams, and incomprehensible orders, dogs, SS, machine guns, the rattling of weapons. The platform was not for a train station. The cold cut through us. Where were we? We had not known that until two months later. 150,000 died without [even] knowing that they were at Auschwitz. (1965: 10-11)

Francis Rohmer, later head of clinical neurology at Strasbourg’s school of medicine,
described his four-day voyage from Compiègne (France) July 2, 1944 to Dachau. They divided people into groups of 50; when they called his group everyone had to enter the cattle car; then they added another 50. French Historian, Georges Ribeill quotes Rohmer’s experience:

The wagon became nothing more than a caravan of people going mad, trying to strangle themselves, commit suicide, hit themselves with bottles, open their veins, then falling exhausted, dead on to those trying to sleep. To increase the horror, some would scream all the way until their death, “Help, I don’t want to die.” The second day, we arose. Sleep had given us some renewed force. We decided to move the dead to one side of the wagon. The work was infernal. In falling, the cadavers would become tangled, when pulling them apart, pieces of flesh would peel off. The cadavers were still warm, yet they are stiff...the fatigue and pestilent odor made us vomit.70

70 The full account and others can be found in “De l’université aux camps de concentration. Témoignages strasbourgeois,” Les Belles Lettres, 1947, 560.
Of the 2,521 who made the voyage, Rohmer says 984 died during the trip (nearly 40%).

(Ribeill 2008: 39) During these voyages, some deportees had “soft” deaths, dying from asphyxiation, hypothermia, thirst, or terror. Others simply sweltered in the summer and froze in the winter. The wagons, designed for animals and merchandise, threw the adults, children, babies, elderly and the handicapped from side-to-side on this horrific journey. Some said the panic of thirst and the swelling of their tongues proved far more terrifying for many than the probable destination. (Delpard 2005)

Bystanders, like Édith Thomas, witnessed these conditions. She said,

I saw a train pass by; at the head of the train, a wagon containing the French military police and the German soldiers. Then, came the cattle cars, packed. The skinny arms of children clinging to the bars. A hand outside flapping like a leaf in a storm. When the train stopped voices cried, “Momma!”

A French military policeman who managed the convoy leaving from Gurs, the French internment camp, September 1, 1942 wrote the following description:

In truth, the special train of September 1st was transporting a mixed group of men, of women; of elderly, of sick and wounded were left to their fate once the train had departed. With the exception of those traveling in the two passenger cars, the group was parked on straw, humid with urine. The women were desperate, without hope, to satisfy their natural needs out of the sight of strangers. The site of this train left a powerful and negative impression on the non-Jewish French population who saw it.

(AHICF 2000: 200)

If bystanders saw these conditions, so too did the SNCF workers tasked with the transports. The descriptions of the deportees detail the harrowing nature of the journey,

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contextualizing the importance of the claim of the Senate bill. Even if unable to stop the Holocaust, the following considers, what possible control, the SNCF employees had over the conditions and trajectory of these trains. The answer seems a complicated as the rail network.

**SNCF organized the transports?**

Today the SNCF claims, “The composition of the trains, choice of train cars, times and routes were detained under the coercion of the occupying forces.” (SNCF 2012) Historians debate the extent of the SNCF’s control over the condition of the transports and whether French or German railcars were used. Through his four-year study of the SNCF archives, Bachelier found that French railway workers, under German supervision, organized, managed and drove all deportee transports as far as a town called Novéant, just shy of 100km from the German border.72 (Ribeill 2008: 45) Curtis is convinced by the Bachelier’s finding that,

It was the SNCF that worked out the operational details, especially those concerning the Vel d’Hiv roundup73 of 13,000 Jews. The deportation convoys were formed and driven by French rail employees. The difficulty in judgment lies in ascertaining the degree of German supervision over the SNCF personnel…The SNCF participated in the formation, direction and operation of the convoys. (Curtis 2014)

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72 The company referred to the transports as "Transports IAPT" (an acronym standing for "Transport of Israelis, Germans, Poles, and Czechs").
73 The Vel d’Hiv was France’s largest single roundup of Jews, occurring July 16 and 17 in 1942. Named after the Vélodrome d’Hiver a large cycling stadium in Paris in which the French policed locked up over 13,000 terrified men, women, and children for days with no food, no sanitation and little water. They were then transported to internment camps within France and then to Auschwitz.
Broch challenges this saying, “no known documents suggest that the SNCF had any say in their deployment or organization.” (2014: 371) Hilberg found the transports’ organization was handled out of Germany, implementation started in the Reich Main Security Office (RSHA) headed by Heinrich Himmler, where the Bureau of Jewish Affairs (IV-B-4) was housed. Adolph Eichmann, the ‘orchestrator’ of the Final Solution, led this bureau with great efficiency and energy, and it was from this seat that he conducted the movement of people across Europe to their deaths. (Broch 2014: 371)

Anecdotal evidence suggests in some cases the French, if not the SNCF, provided input as to the conditions of the travel,

Henri Cado, Director of the French Police in the Free Zone, asked that each freight car contain thirty passengers and two guards. Each car should have hay, ‘pitchers, drinking water, toilet buckets,’ as well as ‘a medical service for the convoy, made up of the doctors and nurses who are amongst the deportees. (Broch 2014: 372)

Raoul Merlin, one of few witnesses who spoke about the deportees, said they had little access to the trains. He said,

The *cheminots* were made aware of the transports only a few days before their departure. What is more, *cheminots*, had little if any direct contract with the deportees. On the day of departure, when the convoy was brought to the platform and all the doors were opened, no railway men were allowed within close proximity of the train. (Broch 2014: 373)

Historians cannot seem to agree regarding the question of choice, though at least at the railway worker level, individuals seemed to have had little choice; the executives may have had more. If they did have any choice, few seemed to exercise it or did so through small acts of resistance mentioned earlier. Furthermore, what would choice have meant? Did anyone say no on principle? What would have been the consequences?

Marrus asks why people are not discussing the conditions at the Drancy internment camp
over which the French had much more control.\textsuperscript{74} Conditions at Drancy only improved when the Germans took over the camp.

The wagons

The second claim also states that the SNCF “provided the necessary rolling stock,” suggesting the passengers traveled in SNCF rail cars. From a legal and legislative standpoint the question of wagon ownership becomes central even if some survivors may find this irrelevant. A woman aboard a deportation convoy at eight-years-old said, “how am I supposed to know whose train car it was? I was being separated from my mother, that’s all I knew.” (2014)

The following explores this debated topic because it surfaces in debates even though the survivor’s point remains the most salient. Did it really matter? Most agree that during the roundups, deportees moved within France to internment camps via French third class passenger cars; (Esrail 2014) and the first convoy that left France for Auschwitz in 1942 was also third class passenger train. Hilberg said the cost of these transports became expensive for the Germans. To mitigate costs and for security reasons, the Germans seemed to have preferred freight trains. According to correspondences between Danneker and Röthke,

\textsuperscript{74} The Shoah Memorial in Paris has a 1940s radio broadcast falsely reassuring French citizens that the detainees were being well fed and housed. The report comments on how much meat they receive and their work schedule.
The manpower required to guard convoys was one reason that the Germans preferred freight cars. Whereas it took two hundred men to mount a proper guard for a passenger train, a freight train required far fewer. French police accompanied the deportees to the German frontier at Novéant, where the Germans took over. (Marrus, Paxton: 1981: 259)

Switching to freight cars meant deportees traveled in “merchandise trains” used to transport cattle and soldiers in the 1920s. Wieviorka found the change to animal transport cars came with the second convoy that departed June 5, 1942. (2007). Raphael Esrail, Auschwitz survivor and holocaust educator at the Fondation pour la mémoire de la Shoah, confirms this claim, saying the majority of transports that arrived in Auschwitz from throughout Europe arrived in freight cars, except he says, for perhaps a small number coming from Anvers, in France. (Esrail 2014) Today, most scholars and survivors refer to these freight cars or as cattle cars, however Madeline Herscu used the phrase convoi à bestiaux, animal wagon, in a letter she threw from her deportation train. (Bobigny Site 2014) Wieviorka says the change of wagons and other conditions changes occurred when Dannecker became responsible for “The Final Solution” in France, prior to this the SNCF may have had more freedom in determining conditions. (2007)

Alternatively, Arno Klarsfeld claims German trains transported the deportees. He bases this claim on a letter dated July 28, 1942 from Heinz Röthke the SS Lieutenant in charge of Jewish affairs from 1942-1944. Röthke wrote:

Starting in August 1942 there will be 13 convoys of Jews. As the Wehrmacht transportation leadership confirmed yesterday, rolling equipment is available and

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75 Said during an email exchange.
76 Arno is the son of Serge Klarsfeld and curiously SNCF’s lawyer when in New York.
ready to go for all of the trains for the month of August. The evacuation will continue to be carried out by German freight cars as has been done up to this point. It is necessary to change the trains of the Jews within the ZNO (unoccupied zone) because the Jews must leave Drancy in the German merchandise trains prepared under the direction of Wehrmacht. 77

Appendix E offers a translation of Dannecker’s directive, to the secret police in France issued June of 1942, states that “special freight cars” are to be used for the transports, 78 he did not say whether they would be French or German. Raul Merlin, SNCF worker at the Compèigne station from which many convoys departed, says the Germans commanded the gathering and preparation of their train wagons. 79 Days before the departure, the station received a group of covered wagons. The German railway workers told them to choose those acceptable for transport, alienating those with missing or loose floorboards, etc. Germans directed cheminot to set up between 20-25 vehicles on two platforms, including one for officers and soldiers and another able to carry an automatic weapon. Once organized, he said the military authorities conducted a very thorough examination and replaced a couple of vehicles they thought were not up to par. His team never received the exact dates of departure. (Merlin 1966)

Some historians corroborate these findings. After what he considered exhaustive work in the SNCF archives, Ribeill found no request for SNCF empty passenger trains or merchandise train for use in the deportations. (2008) As mentioned earlier, Vichy

77 Emphasis added.
78 In 1942, 40-50 deportees travelled in a single cattle car. By 1944, the number rose to 120 per car. (Ribeill 2008)
79 Merlin served as the sous-chef de Gare de 1e classe à Compiègne.
historians today consider it very likely that most incriminating documents have been destroyed. Ribeill’s fruitless search cannot be deemed definitive.

Röthke’s letter, Merlin’s testimony and Ribeill’s lack of findings suggest that SNCF wagons were not used; deportees traveled in German cars. Yet, how then to explain photos like the one below of deportees forced aboard SNCF railcars? Bernard Emsellem, head of corporate social responsibility at the SNCF, claims that this incident took place in Hungary. (2011) French war train expert, Broch confirms that yes Germans requisitioned SNCF trains for use all over Europe. (2011) Regardless, photographic images are hard to ignore.
The Department of Tourism of Bobigny, with SNCF funding, is converting the Bobigny platform from which most convoys departed, into a commemorative site. The site, discussed in greater detail in Chapter Eight, has several large images depicting the deportations, some of SNCF railcars and some of German railcars. 80 Anne Bourgon, who helps manage this emerging memorial, informs visitors that none of these photos are of

80 Photos taken during a site visit August 2014.
this actual site because no images have been found of the dozens of trains leaving Bobigny, making it harder to ascertain a definitive answer as to whose railcars carried deportees from France. Of the images below the first has an SNCF stamp and the second a Deutsche Reichsbahn (German Reich’s railway) stamp.

Boarding the cattle cars: the SNCF name can be seen on the right.

The photographs prove, at the very least, that the Germans used SNCF railcars at some point during the deportations. If the Germans deemed the cars sufficient for deporting Hungarian Jews, then why not for those in France? The complexity of German operations boggles the mind; perhaps they had reasons not to use SNCF cars in France. Perhaps they
thought workers would sabotage selecting weak trains to help the deportees. Ribeill says whether they were SNCF wagons or German wagons makes no difference; the wagons used were just the ones most ready for international transport. (2008: 36) From a legal and political standpoint, the difference matters.

Who drove the trains?

The question that prompted this doctoral research, “did these drivers kept their jobs after the war?” appears clearer than the proceeding questions. What to do about it remains a more difficult question. Historians seem to agree that French train drivers took the deportees close to the German border (more specifically the town of Novéant) where a German driver then continued the progression to Auschwitz. (Klarsfeld 2011) Secret service police operations along with the RHSA (Reichssicherheitschauptamt) department, handled the logistic operations of deportees once they arrived at the German border.

Survivor Bernard Le Chatelier recounts this transfer of authority,

In the middle of the night, during a stop, the wagon doors opened. We thought we had arrived. No, we were only at the frontier and were now being taking by a SS team. Armed with batons…they would get into the wagons and hitting us, would move us into half of the wagon where they could count us again. (Ribeill 2008: 37)

No historians found information or conducted interviews with the SNCF workers who drove the trains or assisted directly in the deportations, but based on other interviews, we can surmise that drivers, if unaware of the destination, could not ignore the suffering. For *Shoah*, Claude Lanzmann interviewed train drivers and railway workers who participated in the transport of Jews in the Treblinka and Sobibor death camps in Poland. A former driver explained he could hear the screaming very well; he said they screamed for water. Lanzmann just asked him if he got used to it. He said no, it was very distressing for him.
The Germans paid them in vodka so that they would keep driving the transports. He said he drank every drop; he needed it to keep going and to help him handle the stench of the cars upon arrival.\(^8\)

They may have not had control, but they likely witnessed the suffering. The bystanders discussed earlier saw the pain and suffering, so must have the staff, even if the destination remained mysterious. No records indicate that any driver French refused to drive a train of deportees. In answer to the original question prompting this research, during the post-war collaboration purges, none of these drivers lost their jobs. After the war, survivors could have ridden trains driven by men who had taken their families to their deaths.

**Were SNCF workers at least kind?**

Nazis may have imposed the conditions, selected the railcars, and commanded SNCF workers to drive the trains. However, SNCF workers remain responsible for any cruelty. Many witnesses can attest to the cruelty of the French police, though less is known about SNCF workers. Francine Christoph, a survivor deported at age eight, recalls those who forced people in to trains, “They were not gentle, either.” (Ville de Bobigny 2011) Some thrust the elderly so violently their bones broke. Mathilde Freund, a survivor who ran to the station in Lyon to look for her husband reported the following,

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\(^8\) Lanzmann also interviews Mr. Gawkowski a man who drove trains into the Treblinka death camps two to three times a week for a year and a half. Gawkowski simply said yes he did it. Then silence. He had no further explanation. (1995)
What I saw there I will never forget my whole life. I saw the French employees push all the men into the cars...I heard screaming and crying, there were bloody corpses on the ground. They were pushed like animals. (Guttman 2010)

While it is unclear from these descriptions whether French police or SNCF workers pushed and shoved; some may have. This remains a contested point. Esrail, an Auschwitz survivor and researcher at France’s Shoah Foundation says, “Contrary to the literature, I have found no statement in survivor testimony that complains of the behavior of SNCF staff.”82 (2014)

SNCF workers and corpses

Claim 2 also raised the question of whether SNCF workers assisted in the cleanup.

Senate Bill 1393 claims:

...The complaint further alleges that SNCF cleaned the trains after each trip, removing the corpses of persons who perished during transit due to the execrable conditions of the train cars...

All passengers suffered on those transports and many died, especially the elderly and infants. One known as the “Train de Mort”, Train of Death, departing from Compiègne arrived at Auschwitz with 500 dead. Nazis death camps were designed to handle mass murder “cleanly” to avoid the bodies and stench created from annihilating millions. But there was always “mess” after the transports and Senate Bill 1393 alleges that the SNCF participated in the cleanup. According to Broch, most likely a SNCF worker would not have done this for the simple reason that they did not travel beyond the German border. They would not have been on the trains when they arrived at Auschwitz.

82 Email exchange.
Furthermore, most of the trains would not return immediately to France but would have been used throughout Europe for other purposes. (2011)

Dannecker’s directive suggests that, at least some cases, deportee had this task upon arrival,

One Jew shall be designated, with the responsibility of maintaining orders during the trip and of cleaning the car at the end of the trip. That Jew shall also bring along sanitary equipment. Since freight cars are used for such convoys, at least one slop pail shall be provided for each car. (Dannecker 1942)

In some cases, Germans would clean out the cars during the voyage. On his deportation from Compiègne to Dachau with over two thousand others, survivor Francis Rohmer recalled stopping just beyond the French town of Revigny. The doors opened and those in charge yelled “Raus, Schnell,” Get Out, Quickly! The living descended and, “they put in our car dead from the neighboring wagons…Once the transfer of dead was completed, they had us get into another wagon that was bigger…” (Ribeill 2008: 39)

These findings suggest that SNCF workers probably never participated in removing corpses from the wagons.

**Conclusion: Claim 2**

The claim that the SNCF organized the transports cannot be wholly dismissed or wholly confirmed. Sometimes it seems the company played a significant role; other times the Germans seemed to be in charge. There is no evidence of protest either way. The SNCF workers unlikely herded the deportees into the rail cars; the French police had that task which many appeared to perform it aggressively and unapologetically. SNCF workers unlikely cleaned the wagons of corpses and feces upon arrival, as those train workers would not have crossed the border. German train drivers apparently drove the
trains from the border to Auschwitz. The cleaning, based on at least one testimonial, SS tasked to deportees. The most hotly debated even if not the most significant question remains that of payment. Was the SNCF paid *per head, per kilometer* to transport deportees? Many experts continue to try to piece together a definitive answer to this question.

**Claim 3: The SNCF profited from the transport of deportees**

**Bill S 1393 claims:**

> *During World War II, more than 75,000 Jews and thousands of other persons were deported from France to Nazi concentration camps, on trains operated for profit by the Société Nationale des Chemins de fer Français (in this Act referred to as SNCF), including deportations to Auschwitz and Buchenwald.*

This question remained at the heart of the SNCF conflict. The question of whether working for free would have been preferable did not surface in the political debates. In 2012, Dennis Douté, former SNCF America CEO, wrote a letter to Florida Representative Robert Klein, saying, “despite claims to the contrary, no the SNCF did not ‘profit’ from the war or from the transport of deportees.” (Douté, 2012) Douté’s statement says only the company did not make money, not that the company did not charge. This game of semantics lasted several years until those challenging the SNCF learned to ask about invoicing or payment rather than profits.

During the March 10, 2014 Maryland House of Representative Hearing on the question of the SNCF, SNCF America CEO Alain Leray said that the SNCF was not paid for the transport of deportees to extermination camps. The legislator then asked
him, “Why do you presume that the panelists, the numerous panelists that came before you, are expressing that SNCF was paid, in fact, per head, per kilometer?” Leray responded, “I would like to know.” The following discussion speaks to this disconnect between the SNCF’s position and those that accuse the company of charging for the transports. People respond viscerally when hearing the SNCF may have received payment for the transports. Declaring a blanket conclusion based on the scarcity of archival documents, however, might be presumptuous. The documents point in one direction; though there easily could have been others, destroyed long ago, pointing in other directions.

Liability for profiting from the Holocaust perplexed many courts for years. Vichy historian Michael Marrus claims that this question of “unjust enrichment” challenges courts because many companies did not see a profit during the war. (2009) Even if they charged Germans for goods or services, many companies, like the SNCF, lost money during the war. Yet, legal scholars, like Leora Bilsky, resists letting these companies walk away simply because their business ventures saw a loss. She argues for liability even in the absence of profits, “for example, if you did not pay salaries, even if you had losses, you are liable.” (2014) The lawyers and their supporters challenging the SNCF felt similarly. The SNCF, they claimed, charged for these transports as part of the course of normal business; this money ought to be returned to survivors. The following shares

the findings from this research regarding the question of payment and also asks readers to consider if working for free would have been preferable.

**Wartime payments**

Throughout the war, the SNCF received monies, albeit far less than they charged, for services rendered to the occupier, including the transport of coal, munitions, German soldiers, livestock, food, and other resources. The SNCF rarely received the full monies invoiced; Appendix F shows the difference in the amount of francs the SNCF determined the Germans owed and the amounts actually paid. In almost every case, the company received roughly half of the invoiced amount. This incensed the SNCF executives.

Throughout the occupation, SNCF, the French (Vichy) government, and the German occupier often debated over the question of payment. The following exchange exemplifies these deliberations. In a letter dated November 8, 1940, the SNCF discussed the payment due for transporting German soldiers. The letter claimed that in July of 1940, the French State agreed to pay. By August, however, the French State changed course now saying the Germans would pay the SNCF directly for these soldier transports. The SNCF and the French State participated in a conference to deliberate this issue. In September of that same year, the French Minister, Secretary of State of Finances, and the French Secretary of State of Communications asserted that the Germans would pay for the transport of their soldiers directly. The SNCF replied asking which German department they ought to bill. The French State responded the company must bill General Huntziger of the [German] Armistice Commission. When the SNCF invoiced Huntziger’s office, the Armistice Commission told them that the Germans
never agreed to pay the SNCF for this transport. Huntziger’s office wrote, “the SNCF must take on without the right of remuneration all of the constraints resulting from the transports for the German army.” (SNCF 1940)84 From this exchange, one could imagine the possibility of the Germans also saying the SNCF transport the deportees without “the right of remuneration.” Though no one has found such documents.

Payment for the transport of deportees

The origin of the monies used to transport deportees throughout Europe varied; who received those monies remains unclear—did the Germans pay themselves or the railroads in the occupied countries? Hilberg discovered that in Germany the Jews ended up paying for their own deportations. Hilberg says,

The Reich Security Main Office [RHSA] paid for costs of the deportations…However, the RSHA did not actually furnish the funds from its own money, either. Instead the Gestapo used its very close association with the Jewish community machinery to confiscate the money which the Reichsvereinigung had collected from the Jews in the forms of special taxes.85

(Hilberg 1961: 298)

Croatia, by contrast, paid Germany to destroy its Jews. In 1942, the Croatian Finance Minister Koshak agreed to pay Germany 30 Reichsmark for each Jew removed. Hilberg found that French taxpayers likely paid for the transports via German imposed taxes. In a correspondence between the German police budget specialists and the German Minister of Finance, they quoted a rate of 76,000 Reichsmarks for eighteen trains headed to

84 SNCF Service Commercial – Facturation des transports de l’Armée allemande- PARIS le—Addressed to Le Director Général from 3 SNCF officials; Boyaux, Fournier, Besnerais. 8 November 1940. National Archives of Paris, France.
85 Reichsvereinigung was an organization the Nazis forced all Jews in Germany to join in July of 1939.
Auschwitz from France; the voyage from the border to Auschwitz cost 439,000 Reichsmarks. The Germany agency RHSA covered this cost. (Ribeill 2008: 37) It is unclear whether the SNCF, France, or a German travel agency received the 76,000 Reichsmarks for eighteen trains travelling from France to the border.

Klarsfeld found that “the Third Reich paid the SNCF for the deported Jews and the French state paid the SNCF for the French Military police that watched over the Jews.” (AHICF 2000: 151) The question seems to remain; whom did the Third Reich pay for the deported Jews? Invoices have been found proving the SNCF charged for the transport for deportees within France (to the various internment camps). Appendices H, I, and J show three of these invoices, all dated after the allies arrived at Normandy. While such transports contributed to the terror and transported people against their will, they did not occur under the same miserable conditions as those that went to Auschwitz.

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86 “The bills were addressed from the SNCF to the German travel agency of continental Europe, that arranged for payment either directly by the security police (the SIPO SD, the sponsors and shippers of the Jews), or through the intermediary of the administration of the military German commandment in France. The cost of the escort of the French military police was billed by the SNCF to the Minister of the Interior, as underlined, the 15th of September 1942, the director of commercial service of the SNCF, heads of the passenger traffic division, to the prefect of the Loiret…” (AHICF 2000: 151)

87 Appendix H shows an invoice from the SNCF to Prefect of Haute-Garonne for the transport of deportees within France (August 12, 1944). Appendix I shows a cover letter from the Police General Secretary to the Prefect of Haute-Garonne announcing an invoice for deportee transports within France (November 16, 1944). Appendix J shows a similar letter to the Prefect of Haute-Garonne announcing another invoice from the SNCF for first trimester transport of deportees. (November 30, 1944)
No invoices have been found that show the SNCF received monies for these cattle car transports headed to death camps. The closest document found, Appendix G, is a copy of an invoice between the Gestapo and a German travel agency, issued for the transport of Jews, that charges per kilometer for 1500 Jews from Bobigny (the railway station next to the Drancy internment camp) to Auschwitz. The invoice, issued by an office called, “The Middle European Regional Travel Office” was created as a subdivision of the Deutsch Reichsbahn (German National Railways) that received payment for the deportees. This office sent the invoice to the Commanding Officer Ministry (the Gestapo) for the movement of this “Special Jewish Train,” noting this train would not operate on a normal schedule. This invoice seems to suggest that payment for these transports occurred between German divisions and did not include the SNCF.

In sum, no one has found, or shared publically, SNCF invoices for the transport from the internment camps to the German border. Invoices do exist for transports to internment camps within France. Much is left to speculation. Maybe the SNCF received payment in some cases; maybe executives refused to issue invoices on principle; maybe they demanded payment and the Germans refused. Without documents or testimony this all remains speculative. The absence of documents seems peculiar as both the Germans and the SNCF kept meticulous records during the war of every transport, its contents, and monies owed/received. Collaborators may have destroyed these documents during or

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88 Raphael Prober, at the Maryland House Hearing in 2014, mentioned another invoice for a shipment of political prisoners and other deportees.
89 Hilberg notes that none of the Nazi documents ever said extermination or death. Offices with official sounding names, like the one above, were created to contribute to a kind of illusion of normalcy and order.
after the liberation. Had the SNCF refused payment because they considered such requests deplorable, such correspondences would likely reside within the company’s archives with the other letters of protest. Given the regular invoicing of Germans for all other transports, it would not be out of character for the SNCF to have charged for the transports.

Liability vs. ethics

In a legal setting, charging for any deportation-related expense might make the company liable; from an ethical standpoint one can ask, “would it be better to have done it for free?” Working for free, many French felt enabled and supported the German effort; it allowed Nazis to invest the monies elsewhere. French train historian, Marie-Noëlle Polino claims SNCF workers saw working for free as more acquiescent than billing at standard rates. She argues working for free demonstrated collaboration in many people’s minds. The SNCF had no special interest in helping the Germans. She cites the charges for transporting chickens from one small town to another as a kind of resistance designed to remind the Germans that the French remained displeased with the occupation. (2011) Harriet Tamen, the lawyer representing 600 survivors against the SNCF, finds this argument disgusting and furthermore does not believe it. (2011) In 2000, Serge Klarsfeld argued the SNCF should not have received any payment,

The SNCF should and could have protested the role it had to play by refusing, at minimum, to be paid for the transportation which provided a real material solution to the Nazi crime...What we are seeing is the absolute indifference of an

90 There are some local archives throughout France that contain some SNCF related documents. SNCF archivists know this; these archives have not been thoroughly searched for related documents. This would be the next place to look.
administration...that does not realize that in asking for payment for these services it becomes all the more complicit to crimes that are being committed. (AHICF 2000: 152)

For Klarsfeld and Tamen, and those actively involved in today’s conflict, accepting any payment demonstrated more than a beneficiary level of complicity, it indicated a deep moral wrong.

**Klarsfeld’s change of heart**

Because of Klarsfeld’s influence over the French Jewish community (discussed in the introduction), his evolving opinions regarding the SNCF warrant examination. In 2000, he claimed “the Third Reich paid the SNCF for the deported Jews” (AHICF 2000: 151) and chastised the company for accepting any monies for deportees or prisoners. He said,

> even if the SNCF cannot be legally considered complicit in crimes against humanity, still the fact remains that it did wrong and that as a public company it should take into consideration this shadow, as recently have many other public and private institutions, that have decided, to take responsibility for the past, to support the national foundation for memory…(AHICF 2000:152)

Today, however, he makes softer claims against the SNCF by emphasizing the distinction between payments for transport to internment camps within France and payments to transports headed to Auschwitz. During an interview he said, “Except certain convoys from the province that I just discussed, all the other trains were German paid by the Gestapo to a German travel agency.” (2011) He provided the invoice (Appendix G) between the Gestapo and the German travel agency as evidence. During an interview, Klarsfeld attributed the discovery of new information to his changing views. (2011)
Some of those familiar with Klarsfeld’s work say his softened feelings towards the SNCF stem from his belief that the company has made sufficient amends. The SNCF made large contributions to his organization (*Sons and Daughters of the Deportees*) and continue to fund commemorative, educational, and research projects he proposes. In 2002, for example, Klarsfeld together with the SNCF presented an exhibit entitled, "French Children of the Holocaust." The exhibit existed for multiple years and was shown in railway stations Paris and throughout France (Paris St. Lazare, Lyons Par-Dieu, Limoges, Clermont-Ferrand, Marseilles, Rennes, Lille, Strasbourg, Pepignan, Nice, Toulouse, Nancy, and many more).\(^91\) Polino says that since that time, Klarsfeld stopped going after businesses to pay reparations or express regret. (2011)

Klarsfeld’s evolving perspective allows his name to be used by opposing parties. In the Maryland House Hearing (March 10, 2014) on the SNCF issue (House Bill 1326), lawyer Harriet Tamen cited Klarsfeld’s earlier condemnation of the SNCF. During the hearing she said,

> Although the SNCF did not ask to transport the Jews, it did make money. [Klarsfeld] pointed out, and I quote again, “SNCF should have and could have shown its opposition to the role it played by at a minimum, refusing to be paid for the transports with which SNCF supported the commission of the crimes. We note the absolute indifference of the management that would not miss an opportunity to get paid and didn’t seem to realize that in accepting payment of the bills that the SNCF became morally complicit in the crimes that would be carried out.”\(^92\)

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\(^91\) This powerful display inspired the Deutsch Bahn to install a similar exhibit of the same name in Germany.

\(^92\) [http://mgahouse.maryland.gov/house/play/ff17c955-b995-42f5-9df2-aacf40b8987d/?catalog/03e481c7-8a42-4438-a7da-93ff74bd4a4e%22%20t%20%22\_blank](http://mgahouse.maryland.gov/house/play/ff17c955-b995-42f5-9df2-aacf40b8987d/?catalog/03e481c7-8a42-4438-a7da-93ff74bd4a4e%22%20t%20%22\_blank)
Alain Leray, President of SNCF America, spoke after Tamen, also quoting Serge Klarsfeld, but for different purposes. In defense of the company he said, Klarsfeld verified that the invoices used as evidence against the SNCF were not related to the deportation trains. Rarely do public debates disclose the company’s efforts to make amends which ultimately convinced Klarsfeld to lay down his sword. Part II describes these efforts and Part III discusses how these efforts influenced some of the French Jewish community, including Klarsfeld, but has little impact on Tamen and her team outside of France.

**Per head, per kilometer**

During the contemporary debates, those accusing the SNCF would highlight that the SNCF billed the Germans for the deportation metric of *per head, per kilometer*. This gruesome thought that the SNCF received payment per head has outstanding shock value and galvanizes support for their cause. This dissertation wants to simply broaden the dialogue by reminding the modern public that in the 1940s, the metric of *per head, per kilometer* was used to determine the rate for paying passengers, German soldiers and livestock. Anything or anyone with a head was calculated this way. Appendix K demonstrates how the SNCF charged the Germans for the transportation of soldiers and livestock using this metric. To a train company, Germans, cows, Jews, chickens and passengers are all just “things” to be transported. The dehumanizing metric may highlight the deeper problematic of how industrialization and capitalism often values life. Polanyi’s 1944 *The Great Transformation* points this out when he comments on how modern state, “subordinates the substance of society itself to the laws of the market.” (Polanyi 2001: }
In this case, the “substance of society” includes people. In sum, *per head, per kilometer* metrics may speak more to the contribution of industrialization to the Holocaust than to the SNCF’s dehumanization of Jews. Though anti-Semitism still may have run deep, this metric may not necessarily be indicative of those sentiments.

**Spoliation**

The April 2015 class action lawsuit filed against the SNCF accuses the company of seizing personal property during the deportations. Tamen first raised this issue of theft around April 2011. According to Eric Freedman who worked with Harriet Tamen on the class action lawsuit against the SNCF, Tamen included theft as an issue to circumvent the Foreign Sovereign Immunities Act (FSIA). This might be why the April 2015 lawsuit focuses on theft, rather than complicity in genocide. While little evidence of theft by SNCF workers seems to exist, it could have occurred as it did with police and French citizens; the theft and acquisition of Jewish property was at the core of the Holocaust. Generally throughout Europe, many stole from the deportees as they departed for the East. In Germany the corruption was built into the system, with civil servants, including railway workers and police receiving “gifts” of Jewish valuables from throughout Europe. (Hilberg 1961)

When civil servants in other countries stole, however, the Germans would interrupt the theft. According to Hilberg, the Germans recorded that Parisian shippers (150 vans and over 100 French workers) robbed 38,000 Jewish apartments whose contents they were tasked to send to Germany. The enormity of theft by the shippers and

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93 Chapter Four discusses the FISA in more detail.
movers caused the Einsatzstab Reichsleiter Rosenberg (ERR), the Nazi division dedicated to the plunder of Jewish property suggested 700 Jews conduct the sorting. Out of concern for sabotage by the railway workers in France (and the Netherlands), German railway workers were sent to France to coordinate and conduct the shipments. (Hilberg 1961: 420) In Paris, much of the storing and then sorting of Jewish goods occurred in the Austerlitz train station that belonged to the SNCF. While Jews may have sorted the goods, the fact that the SNCF housed these stolen items provided opportunity for theft. Freedman, who worked on the wanted to hold the SNCF accountable for deportee goods held at the Austerlitz station in Paris. This station served as a holding place for all the deportees positions; they were then sorted and dispersed. Much to his chagrin, Freedman’s findings never were used in the legal or legislative debates. (Freedman 2014) They have been introduced here to broaden the inquiry.

Some say theft by railway workers during the actual deportations would have been nearly impossible. French rail archivist, Polino says likely only the French police, not the SNCF workers, had access to possessions. She saw testimonials with railway workers saying they were all put in the train station after the railcars were checked; they watched deportees through windows inside the station. According to other testimonials, deportees left the station with some baggage, often carried in a neighboring railcar. Rarely were bags left in the station. In sum, Polino says of course she has no idea whether anyone stole something, but the chances that most had physical access are slim. (2011)
Whether or not the SNCF workers stole the possessions deportations may legitimize certain legal claims against the company, though it seems trivial in comparison to the larger atrocities. Lilly, who, along with her family was deported from France on the train convoys said during an interview, “Stealing?...Well that was the least of it.” (2014) Who could argue?

**Conclusion: Claim 3**

The question of ill-gotten gains remains at the heart of debates. The lack of eyewitnesses and the dearth of invoices for the transports to the German border make conclusive claims impossible. We know the SNCF issued invoices, even after the liberation, to the French State for the transport of deportees within France. One known invoice exists between German agencies for the transport of deportees from France to Auschwitz. The SNCF did not appear to receive payment for that transport. This does not mean it never did; the documents simply cannot be found.

The on-going debates between the SNCF, French government and the Germans over payments may have resulted in a variety of invoicing structures and payment agreements. The fact that only one bill exists for the dozens of transports seems suspicious. We may never know. The oft quoted *per head, per kilometer* metric adds great power to testimony against the SNCF. From a historical standpoint, however, the metric was used throughout the war for German soldiers, cattle, and passengers. This is simply how trains calculated rates. This industrialized method of counting becomes excessively gruesome in the context of the deportations and at the same time might not be indicative of anti-Semitism *per se*. In regards to theft, some railway workers may have
stolen; most likely at holding stations, rather than as people were being forced into cattle cars. Yet, this question will remain at the heart of the debate at the federal court in Chicago should the case be tried. Imaginably, these questions of profit distract from the larger questions of the absolute disregard for humanity. Is the point that one was paid or that they did it at all?

**Conclusion: Part I**

Part I introduced the conflict, methodology, and contributions as well as created a foundation for a discussion of post-conflict processes by embedding readers in the *habitus* of the times. This section, meant to be neither definitive nor exhaustive. It provides access to the historical context around which modern debates occur.

The senior executives acquiesced perhaps in part to ensure their own independence and perhaps because the Vichy values of duty resonated with their own values. Railway workers, also motivated by a sense of duty and pride, continued to carry out their assigned tasks. Whatever margin of maneuver the company may have had to improve conditions for the deportees at the beginning of the war seemed to lessen over time. Small efforts to provide water, assist a few to escape, mail letters and offer words of reassurance demonstrate some ways in which a few tried to help. To do more, people may have had to risk their lives for those they did not know and whose languages they could often not understand. More were willing to take this risk for their own liberation; towards the ends of the war, a number of heroic individuals sabotaged trains to derail the transport of German munitions, but little was done on a large scale to save the deportees. Regarding profits, the SNCF mostly lost money during the war; as the German demands
increased so too did their willingness to pay for services. Even though no invoices remain showing billing for trips out of Germany, no evidence has shown that any executives resisted the orders. They may not have greased the tracks, though they surely did not place any significant barriers.

Through this exposure to a wide variety of sources, readers will hopefully be able to make modern moral judgments from a position of knowledge and deep reflection. Separating the executives from the railway workers, for example, demonstrates fractures that can exist within a corporate entity. While the entity may be considered singular in a legal sense, the nature of a corporation is to have many crosscutting narratives and internal divides. Does one judge the entity, the individuals, or both? What if all the perpetrators have died? Exploring the tenor of the times for the purpose of understanding versus condemning also invites reflexivity; in what ways are we making similar, if less direct, compromises today? What companies that we now use continue to engage in human rights abuses?

This historical inquiry leaves the door open for new findings and revisions of current information. This dissertation argues that transitional justice efforts most resonate with survivors and can make the greatest contribution when they do not try to resolve, fix or close the books. Therefore, this historical inquiry concludes leaving the discussion open; there is more to add, perhaps and more to be found. Hopefully more will come out in future research and in public dialogues. To examine and evaluate the post-war period, the dissertation considers the post-conflict practices employed by both the SNCF and those nipping at its heels. Part II divides the discussion according to the legal and
legislative actions, debates over compensation, transparency efforts, commemorative projects and apologies. The Timeline in Appendix L and the discussion demonstrate that these practices overlap far more than this organizational structure suggests. Such a structure, however, allows for a more nuanced discussion of the contributions and limitations of each approach.
PART II

POST-CONFLICT INTERPLAY BETWEEN VICTIMS, A CORPORATION, AND CIVIL SOCIETY

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INTRODUCTION

“So we continue to work in partnership with those most deeply affected to ensure such unspeakable horrors never occur again. That is why SNCF has made a long-term commitment to transparency, education of younger generations, and acts of remembrance... Much of what has been done is not known in the United States...”

- Guillaume Pepy, SNCF President & Chairman94

Pepy’s promise of a long-term commitment acknowledges the painful truth many survivors expressed; life moved on and yet they were never free from the past. Such commitment also creates an opening for new generations and new parties to reflect on the past and make their own meaning; he alludes to this when he speaks of educating the

94 2010.
younger generations. Those fighting the company perceive the SNCF as trying to pay for harm through other activities. While the SNCF is correct that the United States remained unaware of the company’s amend making efforts, his focus on transparency, education and commemoration sidesteps, the demands for restitution that constitute the debate discussed in the next three chapters.

Organization of Part II

To organize this discussion of the post-war demands for justice and company’s amends making efforts, Part II uses the framework of transitional justice mechanisms. Chapter Four considers lawsuits against the company; Chapter Five outlines legislative debates and related international negotiations; Chapter Six reviews compensation-related issues; Chapter Seven traces the SNCF’s moves towards greater transparency; Chapter Eight reviews its participation in and funding of commemorative events and apology-making efforts. While Part II silos these practices for discussion purposes, in reality they proved far more overlapping and iterative than this framework suggests. The Timeline (Appendix L) shows how these practices interwove with one another in the post-war decades. The cross cutting themes uniting all these practices were the challenges of irreparable harm and the limitations of focusing on one actor. The depth and breadth of the conflict highlights the importance of including corporate participants in post-conflict 95-Tamen and her team challenging the SNCF demanded these traditional transitional justice practices—accountability, transparency, and apology. For Tamen’s team, accountability meant money; transparency meant full access to the company’s archives and apology meant accepting total responsibility.
work. The SNCF was challenged heavily and also contributed significant funds to commemoration and restitution while it increased transparency and issued apologies. Even if some deem these efforts insufficient, the company helped set a precedent for corporate efforts.

Each chapter opens with an introduction to the relevant transitional justice literature. Each chapter then considers the global and national contexts in which the SNCF’s participation in these processes occurred to explore whether, in the words of lobbyist Aaron Greenfield, the SNCF is truly an “outlier” when it comes to taking responsibility for its actions.96 Ultimately, the SNCF proved neither far ahead nor far behind of any Holocaust implicated entity in terms of accepting responsibility or working to make amends. Each chapter also includes responses by the French Jewish leadership, French Jewish survivors, descendants, survivor diaspora, as well as the lawyers, historians, lobbyists, legislators, ambassadors and other professionals.

Because of the predominance of legalism in the field of transitional justice (Osiel 1999), Part II begins with a discussion of post-conflict trials as they relate to business generally and then the Holocaust and the SNCF respectively. Law and legislation, while imperfect, offered survivors an audible voice and a sizeable international platform. This platform became meaningful for many; their efforts contributed to an international settlement. Law can amplify and give power to voices that have been previously

96 During an interview at a Starbucks on the Annapolis harbor just a few days after the Maryland State Senate hearings.
marginalized or too resigned to speak. There are many reasons voices do not enter the public domain; people may believe they have nothing to say, the work is not worth the effort, talking about the past will be too painful, and many feel they do not feel they can any power against the entities or structures that harmed them. Survivor Albert’s comments echo the difficulty of being one’s own voice in the face of large entities. Albert says, “At my age, I cannot do anything… je n’ai pas du poids [I don’t have anyweight].” (2014) Herman, a psychiatrist and trauma specialist notes that these legal cases can enable “the survivor to engage in legal battles with the perpetrator from a position of strength.” (1997:210) Lawyers provide poids that survivors, like Albert, feel they lack. Justice experts and passionate second-generation help bring long-silenced voices to the national and international stage.

97 Albert made these comments during a phone interview. May 6, 2014.
CHAPTER FOUR

LEGAL APPROACH TO CORPORATE ACCOUNTABILITY & THE SNCF

“The purpose of the trial is to render justice and nothing else.”
-Hannah Arendt

Arendt made this statement in response to what she considered to be the overly ambitious 1968 Eichmann trial. Writing history and attending to victim needs, she believed, was beyond the purview of the court. However, there is no slam-dunk in justice as Arendt’s opening quote may suggest. Trials and lawsuits shine a light on those persons or entities that gouged the prosperity of civil society; they provide a forum for discussion and can issue verdicts but to suggest or even hope that they complete the past betrays both the victim experience and the nature of the harm.

Instead, legal decisions provide mileposts as those living in the post-conflict world identify and agree to the terms of perpetration. Court decisions set precedents for contemporary society and aim to offer some redress, even if only symbolically. Legal proceedings in the wake of atrocity also serve as a powerful means of distinguishing the past from the present. If law could perform these functions with an attitude of process rather than closure or resolution, its efforts might allow for more textured and nuanced discussions and less unnecessarily adversarial tactics.
The SNCF-related lawsuits brought the complicity to light, prompted much amends-making activity and pushed towards a settlement. Yet, as a result of law’s push towards resolution, many important nuances and perspectives were sidelined, including the consideration of other market actors. This dissertation aims to amplify law’s contribution by placing it back into the wider context of post-conflict amends making.

**Law’s contribution to post-conflict contexts**

Many scholars believe the Nuremberg trials served as the birthplace of transitional justice and contribute to what remains as a modern privileging of international humanitarian law over the more diverse approaches to post-atrocity peacebuilding. (McEvoy 2008, Crocker 2000, Gready 2005) Similarly, the post-Nuremberg trials held by the U.S. military, which tried corporations, are considered the birthplace of modern western conceptions of corporate accountability for mass atrocity. Scholars also applaud law for its well-groomed processes and proceedings, brings a kind of soothing rational calm and uniformity to irrationality and chaos. (Geertz 1983; Ratner 1998) Trials can reestablish rule of law (Landsman 1999), aid in the formation of public records, and public acknowledgement of wrongs enacted. (Minow 2002) The SNCF legal proceedings contributed in these ways even though a conviction never resulted.

While *ad hoc*, national, and special courts handle the majority of post-conflict trials, examining the International Criminal Court (ICC) provides insight into legal approaches to atrocity. Established in 1995, the ICC formalized and globalized the process of individual accountability. Its precedents and norms impact accepted codes for international legal behavior and approaches to accountability. Proponents claim
international trials, like those held by the ICC, give teeth to emerging democracies too fragile to transcend local differences. International support allows them to hold perpetrators accountable. (Orentlicher 2007) Trials have an additional purpose for societies transitioning from tyrannical to more democratic systems; they help people separate from the past as well as reevaluate guiding moral principles. Elster used his account of 19th Century France to demonstrate how quality trials help a new regime distinguish itself as juste. (2004:2) Beyond distinguishing oneself from the preceding regime, Osiel says trials can go deeper, helping the larger society reassess beliefs and commitments. (1997) In this way, trials make the world a better place by expanding public discourse around human rights issues. (Minow 2002; Osiel 1997)

**Challenges of legal approaches**

In spite of these advantages, the benefits of trials remain contested. In post WWII France, for example, the Laval trial failed to bring about cool rationality. The courtroom lacked order and jurors insulted this head of Vichy France, demanding bullets to kill him on the spot. (Elster 2004) Osiel critiques trials for often sacrificing the rights of the defendant, distorting historical understanding, “foster delusions of purity and grandeur,” and requiring more admissions of guilt and repentance than a nation can handle. (1997) Roht-Arriza

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98 This desire to distinguish oneself as juste as compared to the previous regime remains central to the French Parliamentary debates in July 2015 regarding the survivor agreement. They dislike the wording that suggests that Vichy was a legitimate government like their own.

99 Laval, accused of high treason and now seen as responsible for the deportation of children, received death by firing squad.
considers trials expensive, time consuming, held far from those most affected by the crimes, and have an unknown long-term impact. (2006) This proved a common critique in France where some still feel disgruntled at having to pay legal bills for lawsuits that never came to trial. Others died waiting. Minow critiques trials in legal terms, saying many employ retroactivity, or *ex post facto* procedures. Trials may hold people accountable for activities that were legal at the time. She sites Bosnia, Rwanda, and WWII as the primary examples. (2002) France, the birth nation of modern democracy, however struggled to make such claims.

Others critique trials for neatly separating victims and perpetrators and as a result distorting the narrative landscape. Elster finds victim-perpetrator categories changing, blurry, and unreliable. He notes how many WWII resistors had “morally ambiguous starts.” (2004) Survivors said surviving for Jew and non-Jews often meant selling out others, lying, stealing or breaking moral norms accepted during peacetime. To streamline cases, legal experts seek testimony for its intrinsic, not instrumental value. Only stories that support the argument come forward. Fletcher says victims must articulate needs in ways that resonate with international legal norms and the system of retributive justice. (2013) Survivors of atrocity have been found to be less likely to have their requests answered if those requests do not align with international legal norms. (Shaw, Waldorf: 2010) This is also known as “narrative jurisprudence,” because it considers “the ways in which law creates and constrains narratives as well as provides a space to deliberate

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100 In interviews, a few survivors living in France had paid lawyers to help them take legal action against the company. They never saw any monetary return on their investment.
meaning and norms.” (Douglas, White, Boyd: 2001: 112-3) The ritual of the trial inhibits more nuanced categorization of the players and restorative dialogues. As a result, legal proceedings can lead to thinner discussions and prevent access to the more multi-layered issues at hand. (McEvoy 2008) Furthermore, international lawyers’ notions of justice dominate international criminal justice, (Roberts and McMillian 2003) marginalizing other conceptions of “accountability.”

Many stories that cannot fit these requirements simply disappear from social spaces entirely. Roe calls stories that lie outside of the dominant narratives nonstories. (1994) This dissertation brings these nonstories forward in order to enrich and broaden the discussion. For example, the majority of the victims interviewed had no interest in the conflict; legal experts and the press, rarely, if ever articulated this perspective. Lawyers defending the company look for counterstories that challenge the prosecution’s storyline, but might rarely bother to seek out the disorganized and fragmented nonstories. This analysis will share the dominant as well as the counter- and nonstories related to the debate. No longer seeking this metanarrative can help unlock the polarizing nature of conflicts. (Roe 1994)

Djočinović talks about this flattening of narratives when he expresses concern when we see the world solely through the “optic nerves of criminal code.” (2014: 83) There is much more grey in the world than criminal law might wish. Yet, without legal action, arguably most victims would have no power against a previous oppressor. The legal framework also has a proclivity to use victims symbolically. For example, it appears that while some victims sought legal support, others said legal experts solicited them to join
the case. Victims often joined knowing little of the history or the company’s efforts to make amends. They may have wanted to continue to trial anyway, but their limited information allowed them to be used symbolically.

The following traces great strides made post-Nuremberg laid the foundations for future trials against corporations with a hand in atrocity with four-decades of shut-eye in between.

The Holocaust as a business

During World War II, hundreds of companies played a material role in carrying out the Nazi agenda. Hugo Boss designed uniforms for the SS; Fanta quenched Nazi thirst; I.G. Farben sold the Zyklon B used in gas chambers. Barclays Bank and JP Morgan Chase helped Nazi money to flow throughout Europe and unapologetically seized and maintained Jewish assets. Krupp (now Thyssen Krupp) produced German tanks and artillery and Frederick Flick led a conglomerate of companies that plundered occupied territories, aryanized Jewish businesses, and contributed to the enslavement and deportations of local peoples.

Corporations first found themselves legally accountable for massive human rights violations related to the Holocaust during the twelve subsequent trials in Nuremberg. Conducted by the U.S. military, these trials examined the wartime activities of Krupp Steel, Flick, and I.G. Farben, among others, but did little more than slap a few individuals on the wrist. The judge convicted a few dozen board members none of whom served

101 Krupp Steel was accused of preparing Nazis for aggressive war, Flick of plundering and the use of slave labor, and I.G. Farben of supplying Zyklon B used in gas chambers.
more than eight years; the majority went on to hold major roles in government and business in post-war Europe. Renowned legal scholar Bilsky says, “privileging of the criminal paradigm made it difficult for the law to tell the story of the participation of private business organizations in the Nazi Regime.” (2012: 132) The businesses remained in tact. Additionally, larger systems of collusion and corruption remained unexamined. In this way, the trials “rendered justice and nothing else,” (Arendt 1963) albeit an arguably rather light form of justice. These post-Nuremberg cases, however, set a precedent that corporations, or at least their board of directors, could be considered complicit.

These early trials could also be critiqued for the relative absence of victim voices. Compared to the amount of Holocaust testimony that exists today, at the time of these first trials survivor testimony was considered a relatively weak form of testimony. In the early post-war trials, lawyers and other officials gave voice to the still voiceless in the face of these large corporate enterprises. For the next four decades after Nuremberg, little happened in the way of corporate accountability for mass atrocity. No international trials judged corporations for human rights violations. Bilsky attributes the silence to “legal lacuna, cold war politics and inaccessibility of corporate archives.” (2010: 137) Until the 1990s, when individuals attempted to file claims against corporations for WWII activities judges argued for a statute of limitations and claimed the issue resided between nations not between corporations and individuals. (Marrus 2009)

The fall of the Berlin Wall and the formal end of the Cold War opened the floodgates for Holocaust-related corporate cases, often called Transnational Holocaust reparations lawsuits (THL). Between 1945 and 1995, only about a dozen victims filed lawsuits in the
United States for Holocaust era claims. The courts dismissed the claims. Between 1996-2002, however, seventy-five had been filed. (Bazyler 2002) Victim testimony become more central than it had been in the early post-war trials. Burt Neuborne, lead prosecuting attorney in the Holocaust restitution cases against the Swiss banks, considered the collapse of the Soviet Union proved pivotal in allowing for these lawsuits; the United States no longer needed Berlin for protection from Russia or Switzerland to protect its money. (2013) After the Cold War independent lawyers representing large numbers of litigants launched a variety of cases. (Marrus 2009)

By the late 1990s, major German firms and the German government created a $5.1 billion compensation fund for victims; participating companies included; Bayer, BMW, Volkswagen and Daimler-Chrysler. (Silverstein 2000) The next major landmark work involved UBS, Credit Suisse and other banks housing the monies of WWII deportees and slave laborers. Ford Motor Company accused of force and slave labor and “unjust enrichment” at its German subsidiary during the war, became an outlier. In 1999, a New Jersey Judge threw out a lawsuit against the company siting the expiration of the statute of limitations; in other words, too much time had passed. Ironically, Ford itself had applied for restitution in 1965 for wartime losses, ultimately receiving $1.1 million from the Foreign Claims Settlement Commission in 1965. (Silverstein 2000) In spite of a sluggish Ford, many companies participated, albeit reluctantly in the move towards restitution.

These cases – often resolved via settlements rather than convictions -- had a major impact on how corporations figured legally into transitional justice. They set a precedent
of how “mass justice” would be handled beyond the treatment of individual claims. (Eizenstat 2009) Trying these restitution cases under civil, rather than criminal law, facilitated decisions. (Bilsky 2012) Yet, this did not solve the problem of how to punish such entities. Legal punishments for corporations tend to vary from imprisonment of primary agents, lustration, and fines.

**Contemporary Debates: market actors, corporate personhood**

While the ability of courts to try cases of corporate accountability in the wake of mass atrocity has continued to develop after the 1990s, (Bohoslavsky, Rulli: 2010) “corporate personhood” remains a complex legal problem. This debate impacts how the SNCF conflict is positioned as well. Corporate personhood, an American legal notion, considers that groups of individuals may have the same rights as individual persons. Whether or not corporations have the same obligations as individual persons remains contested. In 2001, the *Harvard Law Review* observed international corporations found themselves with more legal rights than obligations; “international law views corporations as possessing certain human rights, but it generally does not recognize corporations as bearers of legal obligations under international criminal law.” (2001) This observation prompted a discussion regarding whether transnational corporations now needed to be held to the same human rights standards as states and the creation of the UN’s *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regards to Human Rights*. (Dhooge 2007)

Dale, observed, in the case of the Unocal Oil Corporation, there can be a double-standard in the handling of corporations that corporate personhood does not address,
On the one hand, when it benefits corporations, the state treats corporations as persons, extending to them all of the rights that it extends to its human citizens; on the other hand, it does not hold these corporate persons to the same tough standards that it holds human persons when they violate the law. (Dale 2011: 164)

These difficulties are compounded by the fact that criminal courts, such as the ICC, for example, will only prosecute a natural person not a legal person. Even if the ICC and other criminal courts could try legal persons, the prosecution would have the difficult task of proving the accused entity possessed both a mens rea (guilty mind) and an actus reus (guilty act). The question of whether the corporate consciousness resides solely within the company’s agents or exists as something greater than the whole, has vexed scholars for years. (Dewey 1925, Salmond 1966, Laufer 1994) Did the SNCF have an obligation to stop the trains even though the country was occupied and under German orders?

Elster notes how this vague and changing notion of corporate obligations pushes conflicts back to a state-centric framework.

The international legal framework is and will remain essentially state-centric; there is a very limited formal role for other international actors, although their participation in international decision-making processes is often desirable. Transnational corporations should perhaps accept some moral obligations; but they have no clear legal obligations in respect to human rights apart from compliance with the law of a particular country in which they are operating. (2005: 36)\textsuperscript{102}

While this may seem tangentially related to the SNCF conflict, the question of identity continues as an underlying and recurrent question. Who was responsible for the transport of deportees? Was it the executives or individual railway workers? Even if

\textsuperscript{102} The accord discussed at the end of Chapter Five demonstrates how the SNCF conflict remained negotiated in a state-centric model.
everyone had a hand, they are all now deceased. Is there, then, a corporate self that exists beyond the lifespan of the individuals? If so, is the SNCF of today remains responsible for the actions of its predecessors? Part III will show many survivors express much ambivalence about this.

Recognizing to address corporate complicity in spite of the complexities, the ICC has attempted to expand its jurisdiction to include legal persons. In the 1990s, the ICC had at least two major discussions addressing this limitation in their jurisdiction. In 1996, the committee discussed the issue of including “Criminal Liability for Corporations.” Some deciding delegations rejected the notion, claiming individuals control corporations and therefore responsibility ought to remain with individuals. (Chiomenti 2005) Two years later, in 1998, the issue resurfaced. Under the Preparatory Committee to the UN Diplomatic Conference on the Establishment of the ICC, the French delegation proposed text that would support the inclusion of judicial (or legal) persons. Following this trend, former ICC leader prosecutor Luis Moreno Ocampo pushed the ICC to include corporations as possible perpetrators. He was unable to make the change before stepping down from his position. As of 2015, nothing has been finalized and no corporation has yet been tried within the ICC.

Corporate accountability in the United States

By the 1900s, state courts began holding corporations criminally liable claiming that individual actions reflected the motives and intent of the corporation. (Laufer 1994) This culminated in the U.S. Supreme Court 1909 landmark decision in the criminal case, New York Central & Hudson River Railroad v. United States. The Court held the railroad
company responsible for the actions of its agents. So long as the individual was acting on behalf of the corporation (versus say stealing from the corporation), then the corporation would be held liable. (Laufer 1994) This court may have considered the SNCF liable; this chapter will show the logic that retained the company’s impunity.

The Supreme Court’s 1909 decision facilitated the trial of other corporate cases, this time involving human rights violations. A number of cases tried to resuscitate and make applicable the 1789 Alien Tort Statute (aka. U.S. Alien Tort Claims Act) because the statute allows district courts to try cases involving any alien for a tort, as defined by the United States. (Dale 2011) In 1996, Doe v Unocal became the first case to attempt to use this statute. Several local Burmese sued Unocal, a subsidiary of a California state oil company, for a variety of human rights abuses, including forced labor, imprisonment, death and other inflictions prompted by a gas pipeline being constructed in the region. While the case eventually settled out of court, a number of California state judges did allow the Alien Tort Statute to be used. Dale notes how this case contributed to the development of transnational discursive spaces at the intersection of states, corporations and civil societies that transcend national borders.

After Unocal, other cases emerged. In 2000, for example, a U.S. district judge decided in Bowoto v Chevron Nigeria Ltd. that Chevron could be sued and tried in the United States for complicity in Nigerian military troops’ murder of non-violent

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103 The court held the railway company criminally accountable for its agents offering illegal rebates to sugar refineries.

104 Those suing the SNCF in the April 2015 class action lawsuit use the ATS; this case is discussed later in the chapter.
protestors. The company was said to have helped transport the troops to the site of the
protestors. (Pegg 2003) In 2011, in Doe vs. Exxon, the Washington D.C. District Court of
Appeals held Exxon liable for torture, murder and other criminal acts to guard oil
facilities against Indonesian villagers. In 2011, in Flomo v. Firestone National Rubber
Co., Liberian children sued Firestone for improper child labor. (Congressional Research
Services Report 2012) This slew of cases culminated in 2012 when the Supreme Court tried the case of Kiobel vs. The Royal Dutch Shell Company regarding Shell’s alleged complicity in the rape, torture and murder of protesting Nigerians. The Supreme Court dismissed the case, saying the United States lacks jurisdiction over Nigeria. This decision raised the ire of many human rights groups who see this as a major blow to corporate accountability. Some human rights lawyers had used the Alien Tort Statute to hold foreign subsidiaries of U.S. parent companies responsible. While the case did not extend law’s ability to handle corporate accountability cases, it brought the question of corporate participation to the forefront.

In spite of these developments, the increasing privatization of violence allows some multinational corporations to hide or shirk their complicity. (Pelton 2006, Gómez del Prado 2012) In 2007, the U.S. Oversight Committee found Blackwater, a private military and security company, guilty of provoking 84% of the violent incidents leading to the shooting of Iraqi citizens. Although the U.S. State Department asked for compensation, it chose not to investigate criminal charges. Other private companies thought to be complicit for similar violations are Aegis, Triple Canopy, Erinys, and Unity Resource Group. As of 2012, only two people had been indicted. (Gómez del Prado
The question of complicity of corporations whose purpose is security and weapons production remains one of the most challenging areas to address. While beyond the scope of this dissertation, this issue deserves mention because many modern questions revolve around this murky area. Weapons manufacturers sell weapons and weapons are designed to inflict harm. When they do so are they liable? For now, the answer seems to be, “Rarely!”

Other nations have been doing their own work in this regard. The 1984 gas leak in Bhopal India that leading to an estimated 2,000-3,000 deaths at the time and thousands in the following years culminated in a 2010 court District Court decision in Bhopal imprisoning seven former employees and fining each $2,000 for their negligence that led to the leak. (BBC 2010) In spite of these advances Bilsky notes,

Criminal law’s focus on individual intent has persistently prevented it from addressing the collective nature of bureaucratic and corporate wrongdoing. Hence no corporation has ever been charged with or convicted for an international war crime or similar offense. (2012)

Legal lacunae still keep corporate war crimes cases out of court.

**Lawsuits apply pressure to market actors**

The limited applicability of the Alien Tort Statute and the Foreign Sovereign Immunities Act make such trials difficult. Andrew Baker, Director of International Jewish Affairs of the American Jewish Committee (AJC) in Washington, D.C., says no one actually thinks they can win in court; these Holocaust-related cases are more about pushing for settlements, “I don’t think any Holocaust era claim case that ever was ever really decided in court. In other words, if you look at these in many cases they were filed
in a court but they’re all settled outside. It was a way to get attention.” (Baker 2014)

They definitely attracted attention, resulting in billion dollar settlements.

These settlements proved that corporations could be held accountable financially, if not legally, leaving unresolved the question of whether they ought to be challenged for their wartime behavior. In spite of his impressive wins against the Swiss banks, Neuborne claims, “while doing business with a Hitler or Stalin raises serious moral issues, it is, in my opinion, an undue expansion of the concept of criminal conduct to criminalize facially lawful economic behavior retrospectively.” (2012) This speaks to Minow’s concern that post-conflict trials are often guilty of retroactivity or ex post facto. (2002) In *Some Measure of Justice*, Marrus also questions holding these companies accountable in court, arguing that lawyers and litigants chose these targets because of their “deep pockets,” not because they carried more of the moral responsibility. He believes in many cases this explains discussions shifting from mass murder to theft. (2009)

**SNCF post-war**

After WWII, many companies went through a period of lustration or purges, dismissing various employees. Over 100 employees in the French rail company lost their jobs and citizenship through this *épuration*. These individuals lost their entitlements due to accusations of collaboration. In total, 467 SNCF staff received the severe designation of “*indignité nationale*” (national indignity) for acts of collaboration—none

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105 Marrus was referring primarily to the Swiss and French bank settlements in the 1990s.
106 Vichy historian Ludivine Broch has acquired the documents regarding these individuals from the High Court of France. She has not yet published her findings but told me that there was no mention of the transport of deportees as being the cause of dismissal.
of these demotions related to transporting deportees. While 467 SNCF staff ultimately lost their national rights, the company had a reputation for protecting its staff. René Mayer, the Minister of Public Works, was responsible for the purges taking place in the transportation industry; a commissioner working under Mayer commented on the SNCF’s lack of complicity:

> There is a great malaise within the SNCF, and it appears that the identification of some of its directors as being collaborators, anti-social and lacking in the moral attributes of a chief, is taboo. There is a kind of conspiracy going on, and friendships appear such that the men in question are saved, even though we are fully aware that they no longer deserve their place within the company, considering the current circumstances.\(^{107}\)

(Broch 2011)

Chapter Three discussed the strong *esprit de famille* within the SNCF that promoted this in-house fidelity. Additionally, suspicion remained that orders from Moscow compounded any proclivities within the SNCF to protect its staff. Alain Lipietz, lead plaintiff of the French lawsuits against the SNCF, purports that Joseph Stalin ordered the French communist party (which included railway workers union) to abandon the cleansing of collaborators within the organization. They wanted energy focused on the fighting in the East. (2011) Chapter Three sites the claim that SNCF’s wartime president Pierre Eugène Fournier provided four seats on the SNCF’s Board of directors to communists in exchange for protection from prosecution related to the deportations.\(^{108}\)

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\(^{107}\) From Chapter Eight of Broch’s unpublished dissertation.

\(^{108}\) As discussed in Part I, rail historian Marie-Noëlle Polino dismissed the claims as nonsense; after the war, she explained, France did not consider transporting people a crime. If Fournier did as Delphard’s film suggests, Moscow’s communists must have demanded it. (Polino 2011) The train unions’ connection to the communist party supports Bilsky’s attribution of post-war silence to the Cold War. (2010)
(Delpard 2005) When the iron curtain lifted, so too did the protection of collaborators and trials against the SNCF began. By this time, however, most of the perpetrators had already died. The SNCF would be charged as a symbol of the wrongful acts, but no individuals would be called to trial. It was too late.

**Purging non-market actors**

A handful of non-business actors also found themselves held accountable after the war. Philippe Pétain, the Prime Minister of Vichy France, faced trial for treason immediately after the war in 1945. Pétain was stripped of his military honors and spent life in prison. Pierre Laval also faced trial after the war. Laval, discussed earlier, was tried for high treason for his leadership of the Vichy government and for commanding the French people *not* to assist the allies after they landed at Normandy. While these purges and trials suggest post-war France took collaboration seriously, these trials expunged a rather large collective. In response, civilians held some collaborators accountable outside of the halls of justice. For example, certain women deemed collaborators for coupling with German soldiers living in their homes or villages or supported the German occupation in some way, found themselves with shaved heads or in other ways publicly humiliated. While some acts of revenge or retribution occurred, most turned the other cheek towards collaborators. Post-war days in France were quite harsh; supplies were low; many people shuffled around in wooden shoes and struggled to find goods. Survival took precedence over revenge. The purging period did not last long.

**France forces closure**
Once formal and informal épuration ended, France tried unsuccessfully to seal the lid on WWII. The 1946 Ganascia decision forbade victims from taking legal action against the state. This decision offered the government impunity; the impunity lasted eighteen years. In 1964, France incorporated “crimes against humanity” into law with no statute of limitations. This 1964 decision helped Holocaust activist Serge Klarsfeld bring Klaus Barbie “the Butcher of Lyon,” infamous for his torture of Gestapo prisoners in Lyon, to trial in the 1980s. With the help of depositions from over 700 resisters and Jews, on July 4, 1987, the judge sentenced Barbie to life imprisonment. He died four years later. Two of the most renowned collaborators, however, escaped trial and imprisonment for the majority of their lives, “both Maurice Papon and René Bousquet, responsible as secretary-general of the Vichy police for the deportation and many thousands of Jews from the free zone, lived until the 1990s as free men.” (Moorehead 201: 296) François Mitterand, President of France 1981-1995, successfully protected his good friend Bousquet who was acquitted in 1949. Bousquet briefly lost his honors and access to public service positions, only to be reinstated and receive amnesty in 1958. In the fifty years after the war, only four collaborators of the Vichy criminals received sentences.

As discussed earlier, the fall of the Berlin Wall, the end of the Cold War and the opening of archives led to another round of Holocaust litigation in the 1990s. During this time, Klarsfeld renewed indictments against the previously protected Bousquet.109 In 1994, Paul Claude Marie Touvier became the first French person condemned for crimes

109 In 1993, Christian Didier shot Bousquet in the head less than a month before his trial.
against humanity for his actions during WWII. He received life imprisonment for his massacre of Jews. He died in prison two years later. In 1998, French courts finally sentenced Maurice Papon for his role in the Jewish deportations, marking the end of the longest French trial in history. Marrus says the eventual court decision in 2002 regarding Papon served as a turning point. This court ruling determined that the French state held responsibility for Jewish persecutions; establishing legal culpability of the state changed the nature of the debate and the cases to come. (Marrus 2012) Once the French state could be held accountable, its owned and operated enterprises were not far behind. As an extension of the French state, the SNCF – the French national railroad- became a target.

**Holding the SNCF legally accountable**

“We have no qualms with present day French people… We are only looking for justice, and we want to see it in our time.”

- Leo Bretholz, survivor

Even if survivors have no qualms with the present-day French people they must recon with them; all perpetrators have died. French taxpayers will likely pay for the $60 settlement signed in December of 2014. The dead can be held accountable symbolically; only the living can provide material compensation, apologies and offer amends. French and United States lawyers and their clients have spent over twenty years trying to bring the SNCF to legal justice. Courts have proved a challenging forum. Historian Michael Curtis describes the SNCF conflict as a “moral problem and a highly technical legal problem.” (2014) This review of SNCF-related litigation explains these technical legal challenges. Tables A and B in this section along with the Timeline (Appendix L) list all
of the related litigation and its outcome. The number of the cases and the challenges of making it to trial demonstrate both the challenges of holding market actors accountable and having the last word, in court or outside. The conflict roles on so long as people have something to say and representation enough to have their voices heard. The company’s mixed public-private identity vexed courts and the lack of a living perpetrator made conviction ultimately impossible. The following outlines the French court’s dismissal of all SNCF cases and how they eventually closed to all Holocaust-related litigation.

**First to claim his legal voice: Kurt Schechter**

In 1991 when Kurt Schechter, an orphan due to the deportations who escaped multiple times from persecution, secretly copied 12,000 documents from the Toulouse archives for the years 1938 to 1949. (Lipietz 2011) He found within these documents an invoice the SNCF issued to the French government for the transport of Jewish deportees. He announced his findings to the media. His lawsuit appears to have prompted the opening of the company’s archives and funding of independent research on the company’s activities during the war – discussed in Chapter Seven. Prior to Schechter’s public presentation of the evidence, the company maintained an identity of résistance. Movies, books and memorials commemorated the heroic acts of résistance, completely omitting the deportations. Schechter dropped the case when the SNCF offered to put a plaque at the station from which the French and German police and SNCF staff packed up his family and sent them to Auschwitz.

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110 Schechter passed away several years before the December 2014 settlement was negotiated and signed.
Another finds his voice: Jean-Jacques Fraenkel

Litigants like Jean-Jacques Fraenkel wanted more than a plaque; they wanted material retribution for their losses. Without money, they claimed apologies and transparency meant little. Fraenkel, son of a deportee and president of *Offshore Coordination of Deported Children*, issued a complaint in July 1998 against the SNCF for crimes against humanity. The court dismissed the case.

Loudest voices: Alain and Georges Lipietz

The most infamous French case, that of the Lipietz family, went farther than any other and inspired many others in France to challenge the SNCF. On November 14, 2001, Alain and Georges Lipietz (son and father respectively) filed against the French state for their losses related to the deportations. Their lawyer, Rémi Rouquette, advised the plaintiffs to add the SNCF to their claim. Alain Lipeitz claims that his father, for whom he launched the suit, had no grudge against the SNCF, but they decided to add the company nonetheless. Rouquette, their lawyer, made the case against the company claiming the SNCF was a distinct juridical entity, separate from the State: therefore suable. (Lipeitz 2011) As a result of Rouquette’s suggestion, Alain and Georges filed the case in the Administrative Court in Toulouse against the French State *and* the SNCF for the injuries suffered by Alain’s mother, father, and step-father because of their arrest by the Gestapo on May 8, 1944 and the SNCF trip May 10 and 11 from Toulouse to Paris-Austerlitz, and of their internment at Drancy from May 11 through August 17, 1944.

Contesting the case, Arno Klarsfeld, son of Serge Klarsfeld and sometimes SNCF lawyer, emphasized that the Gestapo organized transport to the Drancy internment camp
(not the SNCF) and that Georges Lipeitz never took the trip from France to Auschwitz. 

(2006) Arno Klarsfeld’s claim suggests that the SNCF had no control over the management of the voyage. Furthermore, if Georges only travelled to Drancy, he did not endure the same transport conditions as the deportees travelling over thirty-six hours to Poland to a death camp. While George was not a willing passenger, his experience was not the one for which the SNCF attracted the most ire.

Critics assert that post-war trials can be so lengthy they limit their impact. (Roht-Arriaza 2006) Such was arguably the case in the Lipetiz lawsuit. This one outlived the defendant. This is often a risk in these cases today as the litigants are quite old.¹¹¹ The Administrative Court of Toulouse read its decision to a large room of jurists, students, and journalists among others on June 6, 2006, five years after the case was filed and three years after the death of Georges Lipietz.¹¹² Prosecuting lawyer, Rémi Rouquette made the following statement,

The Lipietz family did not want to go to Drancy...they did not buy a ticket to Paris and were not, in effect, customers of the SNCF. So the railway had no business having them on the train...It never did anything, or tried to do anything, to slow down the rhythm of the convoys, even after the Allied landings. (Lipetz 2009)

In response, the SNCF’s attorney reiterated the argument that the company had no autonomy during the war. He then argued a legal technicality; at the time of these events the company operated under private law. Therefore, any cases against the SNCF for these

¹¹¹ Leo Bretholz, who ardently fought the SNCF in the United States for his forced ride to a death camp, died nine months before the U.S.-French settlement signing. Many others have and continue to join him.

¹¹² The lawyer for the French state did not attend even though the case was against the government as well as the SNCF.
offenses would need to take place in a civil or criminal court, not an Administrative one. Christophe Truilhé, the French government’s commissariat, responded with the court’s ruling. While France has no statute of limitations on crimes against humanity, this only applies to charges brought in criminal court, not administrative courts like this one. The court claimed that the SNCF went beyond the demands of both Vichy and the Nazis. The SNCF’s autonomy to pursue its financial interests during the war prevented it from being able to argue that the company could not choose the transport conditions. As a result, the State and the SNCF found themselves condemned by the Tribunal of Toulouse for their role in the deportations. The beneficiaries received €62,000 from the French State. This was a symbolic win for many; a financial gain for just a few. Monies would only be paid to these specific litigants; this decision did not create a compensation program for others.

In March 2007, the Administrative Court of Bordeaux granted the SNCF the appeal, claiming the SNCF operated according to private law at the time and could not be viewed as executing a public service. The Lipietz family appealed, this time before the Conseil d’Etat (The Council of the State that serves as the Supreme Court for administrative cases). The Conseil d’Etat found the SNCF not liable, arguing the company did not have the initiative to deport people. They claimed, however, if the

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113 A commissariat is an independent magistrate, specializing in administrative law. A commissariat is not a judge, but confers with the judge throughout the case. Their comments are influential and often reflect that of the judge at the time they are read.
114 The French state paid and the SNCF appealed; Lipietz says many people supported SNCF’s appeal because they believed the narrative of resistance promulgated and idealized by the 1947 film *Bataille du Rail*. (2012)
SNCF had to conduct these transports, they surely did not for a minute reflect upon the consequences. The ruling lead to a legal dead-end in France, but unleashed a chorus of demand.

**Voices encouraged by legal proceedings**

The Lipietz family’s win against the French State, if not ultimately against the SNCF, inspired others to take on the SNCF. Curran, a lawyer who worked on and translated the Toulouse decision elaborated,

… a vast number of new lawsuits were begun after the Lipietz plaintiffs won their case in 2006. They started almost immediately. In a comparable situation in the United States, most of those plaintiffs could have been members of a single class action lawsuit. Since nothing similar to the American class action suit exists in France, the Council of State was able to foresee how the already-taxied judiciary would reel under the burden of thousands of additional cases. (2010: 264)

Because the French legal system prohibits class action lawsuits, litigants must launch an individual suit and assume the legal fees. The lack of class action as a legal option impacted much of the Holocaust-related litigation in France because most could not pay their own legal fees. Therefore while some hired lawyers and others simply wrote irate letters to the SNCF. An estimated 1800 complaints were filed after the Lipietz plaintiffs received money from the French State. (Marrus 1981) Complaints came from a combination of survivors and their descendants. Then SNCF president, Anne-Marie Idrac, received an estimated 200 letters from throughout Europe, the United States and

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115 In U.S. class action lawsuits, lawyers can work on a contingency fee, meaning they do not receive payment unless the entity settles.
116 Skype interview with Alain Lipietz. 2014.
Israel from survivors and their families demanding compensation. One such letter came from Louise, a survivor living in Paris.

**Louise’s letter to the SNCF**

Louise did not need the money; her request to the SNCF was largely symbolic. Louise and her husband, Aaron, live in a beautiful home along the Seine, overlooking the Eiffel Tower. The couple summers in Normandy where they enjoy the Jewish community and spend their days playing golf and bridge. They have a comfortable retirement—a bit of peace after she survived three bouts of cancer in her adult life and suffered much trauma in her early life related to France’s participation in the Shoah. The following tells the story of Louise’s family during the war; while the SNCF did not cause of the totality of her loss, it transported her siblings; their death destroyed her mother. Trying to hold the SNCF accountable was just a small part of their post-war healing.

Born 1938 in the Marais, Paris’ Jewish neighborhood, Louise’s parents hid her in a convent in Belgium where she stayed for three years. At age five, Louise says she did not know she was Jewish or even that she had parents. The convent raised her as a Catholic orphan. When her parents came for her, she could not speak to them: they only spoke Yiddish and she spoke French. Her mother had had six children at the beginning of

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117 This survivor and her husband told me their story outside at a café across the street from the Deauville-Trouville SNCF train station. They summer in Normandy and were able to meet me for a few hours. (July 28, 2014) Upon returning to Paris, I had dinner with their son near Sacré Coeur. He filled in some details during the dinner and in emails before and after my meeting with his parents.
the war; four were born in Poland and two in Paris. Louise lost several siblings whom she never knew.\footnote{The family who survived did so by living in different locations with false papers. Their son provided this information about Louise’s parents whereabouts in an email correspondence.}

While Louise feels fortunate that her parents survived and they regained their family apartment, her mother never recovered from the loss of several children—all transported on the SNCF railways. Her mother developed epilepsy; as a child Louise often found her on the floor. Louise married her current husband, Aaron, at age seventeen she says in order to separate from her family’s sadness. They left for Casablanca, Morocco where he served in the military and she happily ran a boutique. Their families could not bare separation from Aaron and Louise after having lost so much during the war. (Aaron’s family, also Jewish and in France during the war, survived many losses.) The couple, sad to leave Morocco, returned to Paris where discussing the war remained taboo. Louise said her mother never spoke about how she saved herself. Her brother also never spoke about the war except at the end of his life when he said he wanted to be cremated to “join his friends.”

The war became important again later in life, Louise said. She remarked how the memories and feelings return during retirement.\footnote{Part III elaborates on this phenomenon of memory, suggesting that the resurgence of feelings during retirement may contribute to the appeal of this conflict so some survivors seventy years after the events occurred.} She started researching her family when she stopped working, but found little. Today she has flashes of seeing her father during her visits when he was detained in the Beaune-la-Rolande internment camp. Every
year Aaron and Louise attend the Yom HaShoah, Holocaust Remembrance Day: Annual Reading of the Names at the Shoah Memorial in Paris.

This vignette shows the simultaneously tangential and yet central role the SNCF played in these stories of wartime suffering. Establishing SNCF legal liability for its part in Louise’s story remains difficult; not the cause, yet without the company’s participation the outcome may have been different. The company did not cause the Holocaust, but perhaps had it refused to drive Louise’s siblings her family would have stayed in tact; her mother would have avoided epilepsy and Louise would not have had to run away from home. So many actors (legal and natural) played their part; Louise revisited these issues, suggesting we need processes that leave space for this iterative process. A child with the world turned against her would most definitely see perpetration differently; an adult whose losses have been publically acknowledged and who has seen perpetrators challenged will relate differently to her voice.

**Louise challenges the SNCF**

While as of 2014, the couple says they just want to live in peace, back in 2006 just after the Toulouse decision, however, Louise sent the following letter to the SNCF. The letter, written by the couple, threatens legal action if the company does not respond directly to their demand for financial compensation. They believe while money is never enough, it helps. Her letter:

Madame le Director de la SNCF  
34, rue de Commandant René Mouchotte  
75014 Paris  

Madame Director,
I hereby request, through the heritage of succession, payment of damages to repair the prejudices caused by your public establishment, with the French state, for their arrest and transport by train in inhumane conditions. The requested sum [is in the appendix]. The origins of this demand can be found in attached appendix. The absence of a positive response within two months of this demand will lead to legal action. The wagons were prepared by the SNCF and carried by the SNCF like merchandise wagons. They were practically rolling prisons. It is therefore incontestable that the acts committed by your public establishment, like those committed by the state functionaries, constitute complicity in crimes against humanity, as established both through the work of historians and jurisprudence.

The finding is not as was found in the Lipietz case against the State and the SNCF (Administrative Court of Toulouse, June 6, 2006). The harm lies clearly in the deprivation of liberty in violation of the most basic principles of law, the appalling conditions of the transport and detention. All persons who have undergone this fate suffered throughout their lives severe psychological disorders and the survivors suffer until they die.

An identical request was sent to the state.

I ask that you accept my distinguished salutations.

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Louise attached an appendix identifying her as the sister of déportés non revenus (deportees who did not return) and listed their names.

- Maurice Didier born October 4th, 1923 in Lodz, Poland. Interned at the Drancy Camp, October 22nd, 1942 and transported on convoy 42 [to Auschwitz] November 6th, 1942.
- Rachel Didier: born October 2nd, 1927 in Lodz, Poland. Functionary of the French State, was interned at the Drancy camp in 1942, transported on Convoy 46 December 1943 to Auschwitz. The transport lasted several days.

Sums requested:
150,000 € per person
50,000 € per transport

Total Requested: 400,000 €

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120 Names changed.
The extremely formal tone of the letter, as contrasted to the more intimate description of Louise’s life described above, demonstrates law’s particular way of speaking. Louise knows to couch her request in legal terms, reflecting her awareness that, to be heard, one’s needs must be articulated in a way that resonates with legal norms in a retributive system. (Fletcher 2013, Shaw, Waldorf: 2010) Arno Klarsfeld, serving at the SNCF’s lawyer at that time, responded to the letter saying the company had no choice regarding its participation. He said the SNCF had been constrained and the workers would have been shot for disobeying. The response enraged Aaron and further eroded any hope that the company would honor the family’s losses materially or symbolically. In spite of frustrating responses, survivors and their descendants felt emboldened to approach both the state and the company for their losses; more believed their voices mattered and would test their weight.

In spite of these limitations, the lawsuits opened a long-sealed forum for discussing Vichy France and market actors like the SNCF. Until these lawsuits, the company’s role had rarely, if ever, been debated publically. Courts only offered discursive opportunities for a few years. In 2009 France, the Conseil d’Etat, (the highest French court on administrative judicial orders), issued a decision that closed, for perpetuity, all French courts to all Holocaust-related cases.

**WWII voices in silenced in French courts**

The Conseil d’Etat’s Glemane decision, determined that beyond existing reparations programs the State owned nothing more in regards to WWII. The court ruled on Hoffmann-Glemane v France and SNCF that while the crimes themselves were
incommensurable; pragmatically speaking there would have to be a financial cap. No more individual cases would be heard. Marrus calls the February 16, 2009 decision the decisive ending to French Holocaust litigation. The court ruled specifically on claims sought by Madeline Hoffman-Glemane from the French State and the SNCF totaling €280,000, for the deportation and murder of her father and for her own suffering. The administrative court in Paris passed the question to the Conseil d’Etat. The state dismissed the claims against the SNCF referring to the decision issued on the Lipietz case. Regarding the French state, the court held the State responsible for the atrocities, reiterating the Papon decision (addressing the accusations against former Vichy police Secretary General Maurice Papon), that the State’s actions completely violated the rights of man and citizen. The decision also declared, however, that the Papon trial led to a variety of reparations programs, paying roughly €800 million for compensation programs and commemorative projects.\textsuperscript{121} They determined these efforts satisfactory, declaring that these measures “must be seen as having permitted, to the extent that has been possible, the indemnification of victims and their families…for the wrongs of every sort caused by the actions of the state that contributed to deportations.”\textsuperscript{122} (Marrus 2012) France had paid enough, the court said. Part II shows how the court decision did not end the conflict; it simply pushed it into different forums.

\textsuperscript{121} The court issued its decision on February 16, 2009 after all SNCF related suits had already been dismissed from French courts.

\textsuperscript{122} The decree can be found at: http://www.conseil-etat.fr/fr/selection-de-decisions-du-conseil-d-etat/avis-assemblee-du-contentieux-sur-le-rapport.html
While Chapter Six (and the Timeline in Appendix L) will describe the timing and breadth of French compensation programs in greater detail. The SNCF litigation in France sought material redress directly from the SNCF, not via the French government. The litigants demanded material and symbolic amends both for their personal loss and to hold accountable an entity they believe received unfair impunity. Furthermore, no program yet compensated individuals or their descendants for the horrific nature of those voyages.

The court decision claimed there had to be limits on the sums paid and found that the French sums proved commensurate with the rest of Europe.123 Some historians and involved parties claim the decision also reflects the administrative nightmare caused by the flurry of Holocaust-litigation during the prior fifteen years. Without class action in France, courts treat all claims individually, tying up courts for years. Furthermore, the courts felt that because claimants have to cover the legal fees themselves, such a process created an unfair burden for them. The Glemane Avis ended this administrative problem and the perceived burden on survivors.

Reactions to closure of French Courts

Reactions to this decision by the high court of France varied. Lead Holocaust activist Serge Klarsfeld said he felt satisfied by the decision. He believed the restitution programs established in the 1990s addressed the primary concerns. Lead litigant Alain Lipietz, now a leader within France’s Green Party, explained during an

123 The avis’ original text, translated by Marrus, “…doivent être regardées comme ayant permis, autant qu’il a été possible, l’indemnisation…des préjudices de route nature causés par les actions de l’Etat qui on concouru à la déportation.”
interview that during the time of his suit many of the French Jews had already accepted a kind of a settlement with the SNCF. The company would make contributions to Holocaust memorialization and education and in return, the Jewish community would not seek direct compensation for losses. (2014) More specifically he says in 2001, Klarsfeld signed a secret agreement with the SNCF on behalf of his organization, Sons and Daughters of the Deportees. This letter, written in English and addressed to judges in New York, stated that the compensation the SNCF provided to the organization would stand in for the compensation of the individuals. (2011) Lipietz claims to have a letter signed by Serge Klarsfeld, saying Klarsfeld would not sue the company. Lipietz did not agree with such a bargain. Klarsfeld, as the leader of the survivor community, could alone convince many to place their efforts elsewhere. Furthermore, it meant that discussion did not extend into the consideration of other culpable market actors, past or present. The issue simply disappeared, at least from public debate.

Beyond this, Wilson saw great symbolic value in the court’s statement. He saw the statement as representing the State’s first formal recognition of responsibility,

It was not until the landmark judgment of 16 February 2009 that France’s supreme judicial body, the Conseil d’État, formally recognized the country’s role in deporting Jews to Nazi extermination camps while ruling out any more reparations from the French state for deportees and their families. (2011: 35)

For this reason, to him it had great value.124

124 Many consider Jacques Chirac’s 1995 apology, however, the first formal recognition of responsibility. This apology will be discussed more fully in Chapter Eight.
Helen Lipietz, part of the Lipietz case, and a former public law attorney, however, said the decision “hurt her heart.” She feels not enough has been done to support the needs of survivors; they never received compensation for suffering or prejudice. (Lipietz 2009) Ultimately, French courts proved difficult and then impossible vehicles for those seeking compensation. The existence of U.S. class action provided hope to over 600 litigants worldwide, but these efforts would also be stalemated.

The three major lawsuits in France (though unsuccessful) and a number of smaller individual claims made against the SNCF made it impossible for the company to deny its material role in the transport of deportees.

As of 2014, Lipietz has given up on litigation in France as have many others in France, but felt if U.S. courts succeeded this would actually be very shameful for France.¹²⁵ Yet, for those believing legal redress remained central and warranted, the United States offered the only chance. And maybe the French need not take it to heart; Bazyler argues that U.S. courts have been the primary source for Holocaust restitution for contemporary seekers of compensation, “as with all transnational litigation today, the highly-developed and expansive system of American justice makes the United States the best, and in most instances, the only, legal forum for the disposition of such claims.” (2002: 12) Frustrated litigants who never received a centime from France had renewed hopes when U.S. based lawyers took up the fight in the United States.

**U.S. Class Action: adding voices and pressure**

¹²⁵ Said during a skype interview in 2014.
One of the reasons the legal battle could continue in the United States is the existence of class action lawsuits. Rabbi Andrew Baker, of the American Jewish Congress, explains this difference saying, “U.S. courts allow for class action suits, which virtually all other courts don’t. It makes it feasible and even profitable to do it here. Trying to go after these countries in Europe is much more problematic.” (Baker 2014)

For businesses, class action settlements can provide protection from future litigation. Bilsky claims class action suits provide an even larger societal function; like international criminal law, they represent “the systematic attempt to overcome structural sources of impunity from liability for human rights violations.” (2012: 120) Class action allows a response to those who believe a corporation has received unfair impunity. Henry Kerner, who worked in the House of Representatives Oversight Committee on the SNCF conflict, said during an interview, he has mixed feelings about class action suits generally, however, he believes in the case of the SNCF they make sense. He has mixed feelings generally because while class action can, for example, remove dangerous products from the market, they often lead to very small amounts for the individual claimants. Because this class action has relatively few survivors to whom it would apply, the amounts might be quite substantial and he believes the SNCF owes them this money. (2012)

Bazyler claims the U.S. legal system offers other benefits; its rules for evidence facilitate case building.

American-style discovery, mostly unknown in Europe, allows plaintiffs’ lawyers to better develop the case through requests for production of documents, requests for admission, and depositions of adverse parties and witnesses during the pre-trial process, rather than having all the evidence available at the outset of the litigation. (2002:12)
He goes on to say the U.S. juries are also accustomed to delivering large settlements for Holocaust era claims. For those seeking restitution for the Holocaust, U.S. involvement remains the greatest asset.

**Challenging the SNCF via class action**

After his loss in France against the SNCF, Fraenkel sought out NY-based lawyer Harriet Tamen who had worked on the French bank settlement to launch a class action suit. Stuart Eizenstat, who worked on the negotiations as a delegate of the Clinton administration, described Harriet Tamen during the French bank negotiations as,

> The most knowledgeable and the most unyielding, the most passionate and embittered about the recent French efforts at restitution, which she deemed woefully inadequate. An intense person with a sharp mind, bristling with kinetic energy, and hair cropped so short it created an accurate impression of toughness. (Eizenstat 2009: 325)

Richard Weisberg, who also worked with Tamen on U.S. based class action lawsuits against the French banks in the late 1990s, says that Tamen “is tremendously devoted to her clients.” (2014) He says she does not love France and is bothered by all efforts to cover up and deny the past.

For over 10 years, NY-based law firm Akin Gump Strauss Hauer & Feld, led by Harriet Tamen, has claimed to represent 600 litigants (roughly 200 in France, over 200 in the United States, and 200 from throughout the world), seeking their day in court against the SNCF. Tamen, along with Raphael Prober, and other lawyers working pro bono, sought a financial settlement from the SNCF. They demanded roughly 60,000 euros per person. If they won, the SNCF could have been liable for at least 36 million euros:
roughly equal to the entire corporation’s revenue in 2013. Even if the judges did not rule in her favor or even agree to hear the case, Tamen knew the case could be leveraged to push the company towards a settlement.

Chapter Five will show how Tamen and her supporters used the threat of boycott to push towards a settlement. Tamen said she believed if she put all her survivors in front of any court, she could kill SNCF’s chances to win any contract. She said alternatively, if they settle (provide money to the survivors) then she could get a picture on the front of The New York Times of SNCF CEO Guillaume Pepy shaking hands with the survivors. This, she says, will win them tons of business. (2012) Tamen launched her first lawsuit, Abrams v. SNCF, in 2000 in the District Court for the Eastern District of New York. The court dismissed the case saying the SNCF, as the Foreign Sovereign Immunities Act (FSIA) of 1976 protects government owned enterprises, like the railway company. The Court of Appeals reinstated the case based on the claim by the litigants that the FSIA did not exist during the times of the crime. The Supreme Court ruled on an unrelated case that the FSIA applied retroactively, forcing the Court of Appeals to dismiss the case. The litigants tried, unsuccessfully, to bring their case to the Supreme Court in 2005.

In 2006, Tamen and her team tried another approach. They filed Freund v. SNCF focusing on property losses related to the SNCF’s role in the transport of deportees. They asked the District Court for the Southern District of New York for an exception to the FSIA. The court denied the request. Tamen and her plaintiffs, along with the support of Senators such as Charles Schumer, sought to fight this limitation created by the FSIA by changing the federal legislation. Chapter Five discusses this legislation as a response.
Table A shows the overlapping nature of the U.S. and French legal cases related to the SNCF.

### Table A: Overview of SNCF-related lawsuits/decisions

<table>
<thead>
<tr>
<th>Year</th>
<th>Name of Lawsuit</th>
<th>Location</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>1991</td>
<td>Kurt Werner Schaechter v SNCF</td>
<td>France</td>
<td>Schechter drops case in 2006 when the SNCF offers to post a commemorative plaque in the railway station at Longages-Noé.</td>
</tr>
<tr>
<td>2000</td>
<td>Abrams et al. v SNCF&lt;sup&gt;126&lt;/sup&gt;</td>
<td>USA</td>
<td>Class action lawsuit launched. Led by Tamen. District Court for the Eastern District of NY dismisses the complaint saying the SNCF has immunity because of the FSIA.&lt;sup&gt;127&lt;/sup&gt; Court of Appeals reinstated the case only to have it dismissed by the Appeals Court after the Supreme Court ruled on an unrelated case that the FSIA was retroactive. Litigants appeal, without success, to the Supreme Court in 2005.</td>
</tr>
<tr>
<td>2001</td>
<td>Lipietz et al. v Prefet de la Haute-Garonne and SNCF</td>
<td>France</td>
<td>The court dismisses the case. Litigants appeal and in 2006, the Administrative Court of Toulouse rules against the SNCF and the French government. SNCF appeals and wins in 2007.&lt;sup&gt;128&lt;/sup&gt;</td>
</tr>
</tbody>
</table>


<sup>127</sup> FSIA is the Foreign Sovereign Immunities Act of 1976 that prevents suits against sovereign nations.

<sup>128</sup> Translation of the judgment: [http://lipietz.net/spip.php?article1891](http://lipietz.net/spip.php?article1891)
<table>
<thead>
<tr>
<th>Year</th>
<th>Case Name</th>
<th>Country</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>Freund et al. v SNCF</td>
<td>USA</td>
<td>Litigants (led by Tamen) seek restitution for property stolen by SNCF workers and ask the District Court for the Southern District of NY for an exception to the FSIA. They are denied. February 2011, the lawyers petition the Supreme Court who denies the claim in October of that same year.</td>
</tr>
<tr>
<td>2015</td>
<td>Karen Scalin, Josiane Piquard and Roland Cherrier v SNCF</td>
<td>USA</td>
<td>In this class action lawsuit, claimants seek damages for international law violation, conversion, and unjust enrichment. Lawyers: Steven Blonder and Much Shelis. This focus on theft attempts to circumvent the FSIA that blocked the other class action suits.</td>
</tr>
</tbody>
</table>

**SNCF’s legal defense**

While never brought to trial in the United States, the SNCF has responded publically to the lawsuit reiterating two major arguments; the company’s hands were tied and/or that legal technicalities absolve it from liability. The SNCF first argued that the French State signed the armistice placing the company under German control; the company urged survivors to seek restitution directly from the state. The SNCF reminded litigants and their lawyers that in September 1939, France was occupied by Germany and...
through Article 13 in the 1940 Armistice agreement the SNCF found itself under the direction of the Reich. (see Chapter Three) According to the Armistice,

The French government commits itself, under the High German Command, to carry out all necessary work to put the system into working order. The French government will make available in the occupied territory the necessary specialized personnel, rolling stock and other modes of communication in the same quantities as in peacetime.

This agreement required France to make all trains available to the Germans in the occupied territory. The company’s lawyers argue that this proves that the SNCF did not operate independently during the war. Former SNCF America president Dennis Douté and SNCF lawyers went further, positioning the SNCF as a victim. Douté said during the war, “Assets were plundered and destroyed, its employees and their families threatened, and hundreds of them executed.” (Sohr 2011) This retort tended to anger litigants, not endear them to the company. These arguments helped the company succeed in court, but did little to heal the hearts or appease the mind distraught about the company’s past.

The company also played on legal lacuna in each country, highlighting the legal lacunae that make corporate accountability challenging. Lipietz criticizes the company for arguing, in France, that it operated under private law during the war. Private law cases are tried only in criminal courts the French court struggled holding deceased “criminals”, especially corporate ones, accountable. In the United States, on the other hand, the company played the “government ownership” card. This enabled them to be exempted under U.S. Foreign Sovereign Immunities Act. As a mixed public-private entity, the company could play these different hands without changing the facts. This further enraged those litigants who understood the legal strategy. The legal framework placed the
SNCF on the defensive, leaving it to wriggle out of all liability claims in one meeting and then planning commemorative events in the next.

**Law’s contribution: adding poids (weight) to voices**

In *Narrating Evil*, Lara argues that by making justice we make an unfair world fair. (2014) Lara’s comment provides a very hopeful spin on justice yet, would someone who lost her parents believe that the world was fair because of a conviction? Likely not. However, Lara’s claim points to something else that may be important for our understanding of justice. She speaks of “making justice” rather than “seeking justice.” This suggests that justice is something created rather than something found. In our creation of justice, we create ourselves. Derrida talks about *la démocratie à venir*, democracy to come (2005); similarly justice is always coming, never arrived – a verb rather than a noun. The weight of the voices impacts the momentum of justice.

Lawyers gave public weight to the voices most impacted by the atrocities. These voices had enough weight to take on large corporate and state entities. Billions in restitution have been paid as a result of these settlements, including that of the Swiss bank settlements regarding dormant accounts. The banks paid a combined 1.25 billion. (Marrus 2009)

Rabbi Andrew Baker, Director of International Jewish Affairs at the American Jewish Committee (AJC), acknowledges the contribution lawyers have made in holocaust restitution,

There’s a tendency to take all of these as ambulance chasers and by the way some of them deserve that. But the fact is, it sort of forced engagement by more responsible parties and at the end of the day, this was settled more effectively and more comprehensively. (Baker 2014)
Lawyers can provide a voice for those unwilling or unable to speak for themselves. Joan, for example, says,

My husband is the Holocaust survivor. He will not and cannot speak about that time. I am his wife…and I am a writer. Together we worked out his reparations. When I say my husband and I did it together, that means he has incredible documentation…I did the writing and the speaking…[He] will not speak to anyone.129 (2014)

Researchers Kleinman, Das and Lock note that since the Holocaust, the western world has become quite attuned to, “the incommunicability of pain, its capacity to isolate sufferers and strip them of cultural resources, especially the resource to language.” (Kleinman, Das, Lock 1997: xiii) Survivors without partners or supportive children, still have no public voice. Part III will discuss how second and third generations also advocate on behalf of family members.

Lawsuits can also provide restitution to survivors not cared for by other programs; class action lawyers, for example, can seek groups unintentionally missed. Rabbi Andrew Baker says, “in all these programs, there are always cases where people have kind of fallen through the cracks, they covered many people but not all people.”130 (Baker 2014) The December 2014 settlement aims to serve some of these individuals.

Law: supporting those who moved on

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129 Email correspondence.
130 In the case of the SNCF there seems to be roughly 100 living survivors transported via French railroads not eligible for other compensation, often because their home country did not sign restitution agreements with France as did Belgium, Poland, the UK, and the Czech Republic. In this way, Tamen’s lawsuit helped speak for this population. Chapter Five discusses the international negotiations that occurred in 2014 to meet the needs of these survivors.
Legal experts can also be advocates for those who succeeded in life by looking forward. Numerous survivors talked about challenges after the war and their efforts to build a happy life for themselves and their families; they often did so by not looking back. Part III discusses this notion further.

**Law: difficulty with corporate actors and irreparability**

This dissertation began with the argument that transitional justice practices need to include market actors and have the great chance of resonating with victims and contributing to civil society when they embrace irreparable harm. On a more basic structural level, the law has a hard time accepting the invitation to work towards justice in such a way that honors that closure and completion is never really possible. The lawyers and their supporters push towards a final decision; they seek an outcome that settles the case. While legal experts can close their briefcases and spend the afternoon meeting with new clients, the survivors can less easily do so. Victims know the story is not over; at least not for them. The loss and its impact remain. Law cannot easily embrace a model of transitional justice that invites the ambiguity and incompleteness many survivors experience.

The legal framework also encouraged mutual distrust. The lawyers and litigants could position anyone not unilaterally against the company, as effectively a Nazi sympathizer. This is not to say a softer more conciliatory approach would have been ideal. The French government and/or the SNCF may have preferred a less adversarial approach, but as Reynolds points out, many governmental and corporate bodies do. Settlements tend to better serve their image. Reynolds thinks this raises the suspicions of
anyone promoting more conciliatory approaches. (2013) Therefore, rather than promoting more conciliatory approaches over adversarial ones, this dissertation asks that we reexamine models that promote closure and polarize debates.

**Conclusion: Chapter Four**

The lawsuits—even though never leading to a conviction—helped broaden transitional justice to include corporations and gave *poids* to victim voices. Facing dead ends in the legal sphere, the U.S. based lawyers turned to boycotts, via U.S. legislation, designed to block the SNCF from lucrative contracts in the United States until the company directly pays restitution to survivors. The following chapter outlines the related U.S. legislation and the contribution of boycott pressures.
CHAPTER FIVE

SNCF-RELATED LEGISLATION

“No company whose trains carried innocent victims to death camps should have the right to lay the first inch of track in this country.”

-Ron Klein, Florida Democratic Representative

The company’s business interests in a number of U.S. States with large Jewish populations made boycotting an attractive option. The combined legal and legislative pressure on the SNCF would eventually culminate in the December 2014 settlement towards the close of this chapter. The legislative pressure skyrocketed the conflict to the national and international attention. Legislators in New York, Virginia, Maryland, California and Florida all drafted bills that created potential roadblocks or at the very least bad press for the company as it bid for commuter, regional and high-speed rail contracts. Once publicized the cause seemed to take on a momentum of its own. Between the lawsuits, legislation and a slew of media attention, the SNCF found itself with more than a thorn in its side. Those wanting to bring the SNCF giant to its knees had an exciting fifteen years at the commencement of the 21st Century. The conflict took hold in 2010.

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the U.S. States where survivors and Jews more generally had significant political power and voice.\textsuperscript{132}

This dissertation opened with the claim that transitional justice efforts are incomplete if they do not include the role of corporate actors. The dripping of this conflict into legislative spaces points to the desire of at least a small, but powerful group, to address the question of corporate accountability for atrocity. Legislative spaces allowed the public to revisit the question of accountability based on more modern notions of justice and fairness. The manifestation of the conflict in France as well as in local communities in Florida and the government buildings in Annapolis Maryland demonstrates the transnational nature of these debates. The question of SNCF responsibility transcends temporal and geographical boundaries. If those lives are in Israel or Los Angeles, the conflict finds itself there. Wherever the trauma still lives, the conflict can continue. This can transcend generations as well; the conflict lives on in the children and grandchildren—some of who testified against the company in state hearings or spoke to the press. This chapter introduces the legislative bills related to the SNCF drafted in California, Florida, Maryland, and New York. Table B shows an abridged timeline of the legislation and how it interwove with legal action and the SNCF’s public statement. The Timeline (Appendix L) offers a more complete outline.

\textsuperscript{132} Massachusetts was a curious exception. The SNCF (and its subsidiary Keolis) won the MBTA contract in 2014; the largest contract in the state’s history. SNCF America CEO said, during an in person interview, that the company’s WWII history was not publicized in Massachusetts and did not seem to pose a problem for the SNCF’s bid. The Jewish population might be much less politically vocal as a group in this more protestant-dominant region.
Table B: Abridged: Legal Actions, Boycotts, Legislation, Apologies (2009-2011)

<table>
<thead>
<tr>
<th>Date</th>
<th>Location</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 February 2009</td>
<td>USA</td>
<td>CA legislators challenges SNCF via Assembly Bill 619.</td>
</tr>
<tr>
<td>6 June 2009</td>
<td>USA</td>
<td>Freund et al. v SNCF: Southern District Federal Court NY dismisses claims against France, SNCF and CDC.</td>
</tr>
<tr>
<td>12 May 2010</td>
<td>USA</td>
<td>Freund et al. meet with Senate Judiciary Committee to support legislation to sue the SNCF.</td>
</tr>
<tr>
<td>September 2010</td>
<td>USA</td>
<td>FL legislators take on the SNCF via the proposed <em>Holocaust Accountability and Corporate Accountability Act</em> (S 28/HR 4237).</td>
</tr>
<tr>
<td>23 November 2010</td>
<td>USA</td>
<td>Florida and California threaten to boycott SNCF. Guillaume Pépy, SNCF Chairman, presents his “regrets” in the USA.</td>
</tr>
<tr>
<td>25 January 2011</td>
<td>France</td>
<td>In France, Guillaume Pépy, SNCF Chairman, regrets “the consequences” of SNCF’s role in the deportation, stating that the SNCF was “under constraint and requisitioned” and that it was “a cog in the Nazi war machine.” The French press considers this to be the first public apology by the SNCF.</td>
</tr>
<tr>
<td>10 February 2011</td>
<td>USA</td>
<td>Freund et al v SNCF: Supreme Court application granted to 23 March 2011 but the Supreme Court never hears the case.</td>
</tr>
<tr>
<td>May 2011</td>
<td>USA</td>
<td>MD Governor O’Malley signs HR 520 requiring the SNCF to digitize archives before bidding for contracts.</td>
</tr>
<tr>
<td>June 2014</td>
<td>USA</td>
<td>MD proposes new legislation to challenge SNCF’s bid for the Purple Line.</td>
</tr>
</tbody>
</table>

**California: bringing the issue to the world**

In 2009, just as France had issued the Glemane decision closing the courts, California issued the first legislative proposal and the Southern District Federal Court NY
dismissed claims against France, SNCF and CDC in *Freund et al. v SNCF*. While, current California law requires state legislators to select the best company at the best price when awarding state contracts, February 25, 2009 California Assemblyman Bob Blumenfield proposed legislation that would allow legislators to consider a company’s morality as well as its expertise and pricing. Assembly Bill 619 addressed only companies that participated in World War II deportations, including companies involved in the transportation of people to work camps or POW camps.\(^{133}\) Mark Rothman, Executive Direction of the L.A. Holocaust Museum (the first Holocaust museum in the U.S.), and supporter of the bill said he wishes that such legislation would extend to other sectors too and apply to companies such as General Electric. He wants to see greater social responsibility.\(^{134}\) (2011)

The following non-profit Jewish organizations supported Assembly Bill # 619: 30 Years After, Bet Tzedek: The House of Justice, Jewish Family Services of Los Angeles, the Los Angeles Holocaust Museum, and Second Generation. (California Senate

\(^{133}\) “This bill would require any entity applying for a contract with the authority for goods or services related to the high-speed train network, as specified, to affirmatively certify whether it had any direct involvement in the deportation of any individuals to extermination camps, work camps, concentration camps, prisoner of war camps, or any similar camps between specified dates during World War II. The bill would also require the authority to acknowledge and note the importance of complying with this certification, as provided.”

\(^{134}\) Arguably, this bill could apply to U.S. train companies who transported Japanese Americans to internment camps. Luckily for Amtrak, however, the company did not exist as a conglomerate until 1971. Some critiqued the bill for its narrow focus; if pushing for accountability for crimes against humanity, why stop at railroad companies operational during WWII?
In response, the museum issued this official statement in support of the bill,

… we believe that the residents of California have a direct interest in making sure that companies that are awarded the contracts publicly disclose their involvement in the deportations of California residents and families of California residents prior to being awarded any high-speed rail construction contract. Moreover, we believe it's important to require companies seeking the contracts to provide transparency and take responsibility for actions that have so tragically affected the lives of many Californians and thousands of others.

(California Senate Transportation and Housing Committee 2010)

While Assembly Bill #619 passed in the California Senate and House of Representatives, former Governor Arnold Schwarzenegger vetoed the bill saying,

To the Members of the California State Assembly: I am returning Assembly Bill 619 without my signature.

While I sympathize with the victims of the Holocaust and other individuals that were transported against their will during World War II, this bill needlessly places the state in a position of acknowledging the activities of companies during that time.

For this reason, I am unable to sign this bill.

Sincerely,
Arnold Schwarzenegger

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The adamancy of local Jewish groups never seemed to extend beyond the French trains. In February 2015, no Jewish groups appeared to challenge an event planned for the Siemens Corporation, another train contender, scheduled at the state capitol. The company planned to rally support for its high-speed train initiative in California. During the war, Siemens’s sold electrical parts to the Nazis for use in the concentration camps. The company also operated a number of factories in the camps operated by Nazi SS. Poor working conditions and malnutrition often led to death. Part III considers this curious singular focus on railroads and French railroads specifically, that provides a kind of an amnesty to all other offenders. Like California, Maryland and Florida stayed focused on the SNCF.

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Even though the bill did not pass, Schwarzenegger's veto brought the question of SNCF's WWII role into the national and international news; articles ran in *The New York Times* and *Figaro*, a French national newspaper. The Jewish community’s apparent unanimous support for the legislation convinced many nationwide that the California bill had merit, encouraging other states to follow suit.

**Florida: chasing French railroads**

One month before Schwarzenegger’s California veto, in September of 2010, Florida Democratic Representative Ron Klein introduced a bill requiring all companies pitching for the high-speed rail business in Florida to provide materials explaining their role in transporting Jews to concentration camps. The Holocaust Accountability and Corporate Responsibility Act (S 28/HR 4237) sought to make U.S. Courts an impartial forum for claims brought against any railroad organized as a separate legal entity involved in deporting now U.S. citizens to concentration camps. Klein and Theodore Deutsch later submitted H.R. 6347. Unlike the prior bill aiming to open U.S. courts, H.R. 6347 relates directly to the high-speed train project. The act required any company applying for high-speed rail projects to declare its involvement in deportations to death camps between January 1, 1942 and December 31, 1944.\(^{136}\) Clearly the SNCF was the

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\(^{136}\) This proposed legislation concerns only on those companies who had any role in deportations to death camps. This exempted the Japanese contender Shinkansen, a company that transported 700,000 Koreans to work camps during the war. Japanese transported people to work camps not death camps; Florida legislation only applied to those transporting people to work camps. The bill would also not cover U.S. train companies who may have transported Japanese-Americans to detainment camps. Amtrak did not become a conglomerate until after the war. Most of those companies have since disbanded and reorganized under Amtrak or other rail groups.

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sole target. They took no issue with the Japanese and no broader interest in corporate accountability.

A small group, located mostly on the eastern side of the state, created a group called The Coalition for Holocaust Rail Justice. They created a website that monitors the lawsuits, legislation and included survivor testimony. While the name suggests a battle against all rail companies, the group focuses only on the SNCF conflict. The bill did not pass, though it had a variety of supporters. The legislative process allowed people to consider the question of SNCF accountability in the comfort of their Florida residences, at their local Holocaust commemorative centers, and during their survivor meetings. The aftermath had transcended international and national boarders. They could participate in the debate even if they did not live in France, speak French anymore, or identify as Jewish. The legacy of trauma surpassed all demographic and geographic delineations. Address the aftermath of Vichy France; one would have to travel to Florida, New York, Virginia, Maryland and California. So, I did.

**Maryland: risking $900 million**

The most vitriolic legislative battle occurred in Maryland. I was fortunate to be living nearby when the conflict reached its peak. While five states drafted legislation, in May 2011, Maryland Governor Martin O’Malley signed the only piece of SNCF-related

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138 Other supporters of the bill included representatives Carolyn Maloney, Jerrold Nadler, Ileana Ros-Lehtinen, and Senator Charles Schumer. Cosponsors included Representatives Gary Ackerman, Theodore Deutsch, Maurice Hinchey, Ron Klein and Senators Evan Bayh, Russ Feingold, Al Franken, and Joseph Lieberman. Note: not all Florida congresspersons speak poorly of the SNCF. Congresswoman Corrine Brown supports the SNCF and the state’s effort to seek federal funding for rail projects. (Brown 2014)
legislation passed to date. This would hearten many who would soon learn that the Supreme Court would deny the petition for *writ of certiorari*. As with the California and Florida legislation, the Maryland bill targets specifically the SNCF. *Maryland House Bill 520* required the SNCF to digitize all of its World War II archives before contending for the Maryland Area Regional Commuter (MARC) rail contract.\(^{139}\) This group wanted these archives digitized so the world could access its contents at any time.

According to *Maryland State Bill 479 / House Bill 520*,

> Any entity and the majority owners of any entity that is pursuing a procurement contract with the Maryland Department of Transportation to provide MARC train service, to disclose what, if any, activity it undertook in the deportation of individuals to extermination camps or death camps during the period between January 1, 1942 and December 31, 1944. The entity must also disclose any records it has in its possession and their location. Additionally, the company must disclose whether it has ever provided restitution or reparations for its actions.

The SNCF complied and lost the contract, anyway.

In Maryland, the conflict rose to new levels in 2013 when the SNCF pitched for the proposed Purple Line contract. The Purple Line, as an extension of the Washington D.C. Metro Rail system, would be a combined state and national project. This time, instead of transparency, the legislative bill requested compensation for survivors. *Maryland House Bill 1326/Senate Bill 754* introduced in January 2014 requires Keolis North America (a SNCF subsidiary of which the SNCF has a 70% share) to pay Maryland resident survivors before becoming an approved contractor.

\(^{139}\) For over ten years, the SNCF archives had been open to the public, by appointment, in Le Mans France. Discussed further in Chapter Seven.
Maryland-state resident survivor Leo Bretholz strongly supported the state legislation up until his death; he wrote in a Change.org petition that,

> The time has come for SNCF to fully acknowledge its active role in the atrocities of the Holocaust and to pay reparations to the survivors who were sent toward the death camps aboard SNCF trains and to the families of those who have perished. (2013)

His petition received over 120,000 electronic signatures. Bretholz became an icon and local hero. (Sears 2014) The State Department considered state-level pressure on this French national company to settle was tantamount to international diplomacy work. Maryland had no right to carry out this kind of negotiation, thought federal officials.  

These federal legislators responded to the bill saying if the state passed the legislation they would rescind the $900 million of federal funding. Furthermore, the federal government claimed it had already commenced negotiations with France over this issue. The bill sat in three committees at the end of the 2014 term; no state legislator wanted to be responsible for the federal government’s retraction of a $900 million investment in their state. Even though the bill did not pass, it raised even more awareness for the issue. The Washington Post wrote a front-page article on the decision.

The discussion section of this chapter reviews the discursive opportunities the Maryland bills provided. A public hearing in both the Maryland State House and Senate in Annapolis allowed multiple people to voice their grievances – those individuals will speak later in this chapter; the hearing will also be described in detail in the coming pages.

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140 I was told this in various conversations with involved parties.
New York: working to change federal law

The SNCF also found itself facing the city council in New York. This time the conflict moved down to the district and city level. It would not be bound either by the actions taken in other states. City officials wanted their own opportunity to challenge this corporate entity that came to represent the worst of the Holocaust and a remaining outlier. In 2014, a statement was released saying,

Council Members Levine and Kallos will introduce a city council resolution that would call on the state legislature to pass legislation barring contracting with companies that profited from the Holocaust, but have never compensated victims. (U.S. House of Representatives 2014)

While journalists report that city officials put pressure on state legislators to pass legislation related to the SNCF, NY-State legislators have already been involved for years. House of Representatives member, Carolyn Maloney, however, first introduced the legislation challenging the SNCF in 2003.  

NY State Senator Charles Schumer, on July 20, 2013, proposed before Congress, The Holocaust Rail Justice Act asking U.S. Courts to serve as,

an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons, and for other purposes.

Between 2011 and 2014, the SNCF conflict moved through the United States as swiftly as trains crisscross the country.

SNCF’s responses

The SNCF responded to legal and legislative actions primarily through public statements and lobbying. Though SNCF subsidiary Keolis participated in the majority of the bids, sophisticated justice seekers always alerted others of its SNCF-ownership. In response to the Maryland legislation, Jerry Ray, a spokesman for SNCF America, fumes against the company-specific targeting of the bill. He says, "This bill, directed exclusively at France — our oldest ally — invites foreign countries to open up their courts to allow retaliatory lawsuits against the United States and its entities from any corner of the globe….” He goes on to say that these bills serve "no public purpose since non-litigious reparations programs … have long been available to residents of France during World War II and their children, including U.S. citizens." (Fritze 2011)

The statement of Alain Leray, CEO of SNCF America, argues these legal and legislative actions distract from the vrai coupable, truly guilty,

As a French railroader, I’m completely outraged at all the misrepresentation, mischaracterizations that are being spread around right now against the company… What’s being said right now is actually an insult. As a French Jew I am appalled because you’re taking away responsibility from the Nazis, and that’s the beginning of denial. (Lepiarz 2014)

Part III will demonstrate that a number of survivors agreed with Leray, his conflict of delegitimized his viewpoint in the forums in which it was heard.

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Ray’s comment points to the existing compensation programs for which a number of U.S.-based survivors remain eligible, discussed in Chapter Six.
Emsellem, head of CSR for the SNCF, says the company has considered leaving the U.S. market claiming that from a financial standpoint these projects are rarely lucrative. Local companies will be hired to do the actual construction, providing U.S. jobs and income. The financial rewards of international construction projects are never as high as those at home. (2011) Emsellem admits, however, that such projects offer a substantial boost to SNCF’s global reputation. In spite of his claims, the SNCF 2013 Profile and Key Figures, reveals the importance of these project; Keolis, the SNCF subsidiary bidding for many U.S. projects, was one of the company’s few divisions with an increase in revenue.

The company will likely not retreat from the United States. Amounts spent in lobbying reflect this continued commitment. According to Open Secrets, a non-profit organization that tracks money flow in politics and the subsequent effects on policy and elections, SNCF America spent an estimated $1,000,000 on lobbying in 2012 and again in 2013, though not all lobbying efforts relate to the Holocaust transports.143 Open Secrets only posted two lobbying bills related to the Holocaust-related legislation totaling $40,000. The lobbying firms, however, reported a variety of activity regarding Holocaust-rail related legislative bills (HR 1505, S. 1393, S. 634, HR 1193) between 2012-2014.

Legislation: a transitional justice mechanism

143 Some survivors, legislators and lawyers ask why that money could not have just been given to the survivors.
This section considers the contributions of legislative action as a means of engaging market actors. Judicial action is slow and relies on the decision of the presiding court. Much of the interplay simply occurs between the lawyer and these courts. Litigants said they occasionally receive email updates as to the status of the case, though many felt out of touch. Law, for most, was a tenuous waiting game. Legislative efforts moved more quickly and invited involvement from its supporters. Survivors like Rosette Goldstein and Leo Bretholz approached their legislators, asking for support. Those protesting the company could, in effect, champion the cause in their districts and across state borders. Local, national and international news sources interviewed them and voiced their demands. This offered them recognition; even with no settlement, some voices were being heard and validated by an often-sympathetic public. The hope was that action in one state would spread to the others. Legislative and judicial efforts sent a clear message; the atrocity has a price tag and it must be paid in cash.

**Limits of legislation: singular focus, singular voice**

On the most material and basic level, the legislative space kept the focus on the SNCF. Some bills thinly disguised this intention by saying the bill would apply to other rail companies that transported deportees during the war to death camps. When asked why the legislation exempted other corporate entities, Maryland delegate Sandy Rosenberg said during an interview, “that’s what people came to me about.” (2014) He meant that he responds to his constituents; if they want trains, he focuses on trains. When asked if other companies bidding for state contracts would be vetted to ensure they had no past or present engagement in crimes against humanity, he said simply, “no.” (2014)
Rafi Prober, a lead lawyer, challenging the SNCF in the United State, made a similar comment during a discussion. He said he focuses on the SNCF because that is what his clients want; if clients want him to focus on broader issues he would focus on those issues. These particular lawyers and legislators working on the SNCF conflict seemed content with their singular focus on the SNCF.144

Legislative efforts: perpetuate blame cycle for SNCF

An oppositional model deepens divides as a means of pushing towards a solution. This often means encouraging distrust of the other side as well as anyone who does not come out ardently in support of one’s position.145 Minow highlights how blame, once assigned, can never be surpassed; it can last for perpetuity. (1999) This blame cycle can be difficult to break, worsening relations beyond the duration of the conflict. This seemed to be the intent of at least some of those involved. In Florida, for example, Klein’s bill suggests that if the SNCF makes amends it can apply for state contracts. His statement to The New York Times, however, suggests he intends to permanently block the SNCF from doing business in Florida, “No company whose trains carried innocent victims to death camps should have the right to lay the first inch of track in this country.” (Baume

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144 This is not to say that this is always the case. Many lawyers and legislators in other contexts work to broaden debates and extend the reach of their efforts. This singular focused seemed to be the tenor of this conflict.

145 I experienced this as a researcher. When those fighting the SNCF did not perceive me as unequivocally for their cause, they became suspicious of my motives. A number asked me if the SNCF was funding my research; the company did not fund my research.
This model provides no path for reintegration or recreating the SNCF as a company that can contribute to society.

**Advocating for survivors without the survivors**

The nature of the legislative space promoted a perception that many felt far more adamantly than they actually did about the conflict. Part III will discuss this in depth. The singular focus of the bills, suggested a kind of certainty and clarity that many either did not have or would not have had if they spent a touch more time examining the questions. Some Jewish organizations did not consult survivors before supporting the legislation. The second generation felt confident in its decision-making. In California, for example, Jewish community organizations supported the bills without being prompted by survivors and or rarely consulting with them. The organizations did little if any research on their own, accepting what their friends told them about the SNCF. L.A. Holocaust Museum, Executive Director Mark Rothman issued an official statement on the matter, yet said none of his constituents or Holocaust survivors came to him regarding the SNCF.\(^\text{147}\) (2011) During an interview he seemed fairly neutral about the legislation, initially not recalling the issue or his organization’s official statement. He said someone at *Bet Tzedek* informed him of the legislation, thinking he might be interested in sponsoring it as well.

Klara Firestone, the founder and current President of *Second Generation*, who also sponsored the legislation, had to be reminded of the bill as well during a phone interview. Firestone, a psychotherapist working with survivors and their families, said

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\(^{146}\) Appendix M shows the SNCF’s response to Klein in a letter from the former CEO of SNCF America, Dennis Douté to Klein.

\(^{147}\) I spoke with Rothman over the phone about this issue. March 24, 2011.
California Representative Bob Blumenfield’s field deputy contacted them directly to ask for their support. These organizations designed to support Holocaust education and survivors supported the bills but were not asked to do so by survivors. Jewish leadership, often the second generation, may find themselves rubber-stamping proposals without considering in what ways they will serve survivors and the larger society. The streamlined decision-making in bill sponsorship privileges simplicity and clarity.

**Political appeal of Holocaust restitution conflicts**

In the states creating legislation, the Jewish vote matters and so does being on the right side of World War II; as a result, the SNCF bills resembles a kind of *political tiramisu*, or a political dessert, rather than a political *hot potato*. Many officials want a piece, hoping to be associated with the right side of justice; they want to be seen as politicians sympathetic towards victims. At the very least, no one wants to look like they were on the wrong side. The tiramisu effect was compounded by the nature of the victims related to this conflict. The few remaining Holocaust victims, all children during the war, are the most sympathetic.

In Kaminer’s hierarchy of suffering, which distinguishes between metaphoric holocaust sufferers and actual ones, actual Holocaust survivors top the list. (2004) Novick recognized this position as so privileged that other groups developed, “Holocaust envy.” (2000: 197) The survivors addressed in this dissertation, reflect this first-place status three times over. Firstly, they are recognized as Holocaust survivors, then as children at the time of the events, and finally now as elderly individuals living out their final days. Of those alive today, only a very small minority reached more than eighteen by the end of
World War II and experts estimate no survivors will remain by 2020. Today’s survivors are therefore sympatric as both children survivors and now as the elderly. As a result, this group touches hearts and reaches across political divides.

**SNCF unsuccessfully claims victim status**

In debates, the SNCF and its staff also position the company as a victim. While the history chapter discussed the constraints and losses of the company, within this adversarial model, claims of victimhood can appear as pathetic pleas for amnesty. In response to the Maryland legislation Alain Leray, CEO of SNCF America, makes the following plea, positing the SNCF as a victim alongside the SNCF losses,

> Under the June 1940 armistice convention, France was defeated by the Nazis and it said all of the railroads would be under German command,” he said. “They took over and stole everything. They stole 2,000 locomotives and killed more than 2,100 of my colleagues — 820 were beheaded. How is this cooperating with the Nazis? (Ain 2014)

This claim to victimhood, rarely sat well with the public. As Cole points out in *The Cult of Victimhood*, “The victim's innocence is the source of her moral power;" (2007:27) by “innocence” Cole means total helplessness. The SNCF cannot make the same claim to innocence or helplessness and as a result their claim to victimhood has far less moral power.

**Maryland State Hearings: an available, but limited, discursive space**

Examining the discursive spaces of the Maryland State Hearings provides an opportunity to see how the legislature provided an important space for the question of a market actor’s accountability. This analysis also points to how the focus on completing and resolving the conflict, promoted a static narrative environment. Nuance, complexity,
and even exploration were all pushed aside in favor of an expedient process and moral clarity. The promise of the event was a fair space in which to debate, deliberate and to ask questions. While the event succeeded in providing a public space for voices, it also appeared to use testifiers as much as provide a space for them. In 2014, Maryland held two hearings, one in the House and one in the Senate (March 10 and 13 respectively). Both events entitled *Public-Private Partnerships Disclosure of Involvement in Deportations* deliberated the SNCF’s bid for the new Purple Line contract.

The March 13, 2014 Senate hearing on the Maryland House Bill 1326/Senate Bill 754 began with a discussion of whether the company had fulfilled the requirements to compete for the MARC contract (digitizing its WWII archives). The hosting committee on Budget and Taxation allowed both sides opportunities to speak while twelve state legislators listened and asked questions. The SNCF America CEO attended, as did the head of Keolis, SNCF’s head of Corporate Responsibility, and an Auschwitz survivor speaking on SNCF’s behalf. On the other side, a variety of lobbyists, survivors, and descendants attended and spoke.

**Leo Bretholz: died waiting**

Survivor Leo Bretholz, slated to be the main speaker against the SNCF in both hearings, died the day before the Senate hearing. This added a certain solemnity to the event; survivors and friends who knew him spoke of his commitment to the bill; the bill’s sponsor, Kirill Reznik, made a formal request that the bill be named after the late Mr. Bretholz. The House hearing was rescheduled so attendees could attend his funeral. His death emphasized the urgency of the question posed by the bill; are there survivors who
still need to be compensated? If so, time is running out even if compensation might be largely symbolic to someone with only months or a few years to live. Mr. Bretholz died waiting for compensation.

**Legislative testimony for corporate-complicity issues**

Hearings allowed parties to testify and legislatures ask questions, yet the more nuanced conversations occurred in the lobby, during post-hearing lunches, and after-hours in homes, via email and over the telephone. During the session, speaking was formal and controlled. Those speaking either for or against the company had five minutes each. Joseph, a second generation survivor, explained over lunch that he chose to speak *against* the company during the Senate hearing only because during the House hearing he chose the neutral position, and found himself slated only one minute instead of five. He says he picked a side just to have more speaking time. The fact that picking a side offers represents in a material way, the privileging of an adversarial stance to a more inquisitive one. Those wishing to embrace complexity, ambiguity, mixed feelings, or add nuance to the discussion will only have 60 seconds to do so. This demonstrates the binary framing of the event, which many non-participating survivors emphasized during our time together. Even though Joseph spoke against the company he admitted to me after the event that he did not know enough about the SNCF’s situation to speak about what the company should or should not do to make amends. (2014) The format of the event encouraged him to mask his uncertainty. I argue it is precisely from the standpoint of uncertainty that the most enriching and potentially healing work can originate.

**Controlled space: double-victimization**
The framing forces a moral stand and also has the potential to symbolically use victims. In Rosa’s home several days after the hearing, she expressed her appreciation for the opportunity to participate. During the interview, however, it also became clear that Rosa had spoken against the company not knowing that the French government had a compensation program that applied to her situation. As a result, she spoke against the company believing no compensation would be available to her. She met the lobbyists and legislators needs for this case, but did they meet her needs? Once she discovered she could apply for funding, she did. In early 2015 Rosa says she received a check from the French government through a process totally separate from the train conflict.

The Jewish Community Relations Council asked Martin Goldman – formerly the Director of Survivor Services at the United States Holocaust Museum (USHMM) -- to testify against the SNCF, though he also knew little about the issues. Discussions with Goldman, Rosa, and Joseph revealed that all testified knowing very little about the SNCF

148 She lost family in the concentration camps. During our time together, she brought into the living room currency her family had used while in the Buchenwald camp. She told me her story in the presence of her husband and daughter. The meeting took several hours; they had laid out fruit, dates, and chocolate for our time together. (March 24, 2014) When I told her compensation existed, she immediately began the claims process. She sent me an email saying she received a check and had been helped by many wonderful people. The consulate in NY was terrific.

149 My subjective interpretation based on our interview was that when Rosa learned these facts she felt surprised and a bit fooled by those who asked her to testify. She spoke publicly not knowing the facts. A very intelligent woman who still works full time for a government agency, she seemed bothered to be speaking in the dark.

150 Goldman and I met before the hearing, seated on benches outside the room. We chatted about how he came to the hearing as well as his understanding about the train company’s role and its efforts to make amends. Much of his information did not match what I had discovered in my own research. He seemed unaware of any actions the SNCF had taken to make amends.
conflict. Yet, each made deep claims against the company. This raises questions about the symbolic use of testifiers that could arguably double-victimize victims and limit the development of the narratives surrounding the conflict. Stories stay relatively in tact in this forum; without richer forums for dialogue and greater education for all involved, many leave more firmly entrenched in their perspectives.

**Legislative hearings: performative and static**

Spaces that are adversarial and promote performative acts as a means of persuasion often stop short of reaching the richer content. Performance, by nature, must exaggerate and highlight in order to focus audiences by amplifying some aspects while obscuring others. The challenge of repairing the irreparable may be harder to appreciate in this context. Considering market actors as moral entities, an important consideration can become narratively thin and disappointingly contentious. This event may have been especially prone to performance because ultimately legislatures could support the bill without ever casting a vote. The final statement by the representatives from the Federal Transport Committee, confirmed that if this bill passed, the federal government would withdraw $900 million in funding for the project. No state legislator would want to be responsible for an almost billion dollar loss to the state budget. They used a typical political approach to handle this conundrum. Kirill Reznik, a Maryland delegate and the bill’s sponsor said that the bill sat in four committees, which was way to slow down the process of anything happening. No one wanted to be responsible for the withdrawal of federal funding from the project. (2014) Having the bill in four committees just weeks prior to the summer adjournment saved state officials from having to cast a voting. While
the legislative process provided a forum for debate, the federal government’s threat prevented any action from occurring. The legislators were not disappointed; Reznik, along with sponsor Sandy Rosenberg, were happy to have it move to the federal level. (Reznik 2014) Therefore, government officials could say anything to the company and support the survivors without ever having to cast a vote.

The flawed nature of the bill also contributed to the performative nature of the hearings. The bill attacks the French government, via the SNCF, which violates international protocol. Rascover, of *The Maryland Reporter*, noted these problems,

> Under French law, SNCF can’t pay reparations, only the French government can. So the bill seeks to accomplish the impossible. Such a bill violates international law because SNCF is part of the French government, not a private corporation. Maryland can’t demand reparations from an arm of a foreign nation. That’s the job of the U.S. State Department. The bill also violates federal law by tainting the bidding process on federally funded programs. This bill clearly aims to punish SNCF by setting unrealistic barriers before the railroad can bid on the Purple Line contract. That kind of one-company discrimination (a “red-headed Eskimo” bill in legislative lingo) is blatantly illegal under state and federal contracting law. The state attorney general’s office has declared that to be the case. So has the Federal Rail Administration. So has the Maryland Department of Transportation. (2014)

Therefore, even proposing such a bill seems either an opportunity to satisfy lobbyists and/or appeal to the Jewish voting block. Or perhaps, the State simply wanted to try to have more power on the international stage. As a result of the Federal Trade Commission’s threat and the violations of international law, the event could be little more than a mock hearing, performing justice rather than creating it.

**Keeping the villain a villain**
The legislative hearing provided an important opportunity to consider this market actor; this dissertation argues we need more public spaces that do this. The challenge, however, is that such spaces carry within the binary framework of the law and can constrain how we frame one another. In this year, the SNCF, framed as an extension of Nazism, was effectively hung in stocks while audiences cheered at their humiliation and downfall. The dice seemed loaded at the outset. Maryland Senator Conway opened the Maryland State Hearing accusing the SNCF of not complying the prior bill, *Maryland House Bill 520*, which required the SNCF to digitize all of its World War II archives before contending for the Maryland Area Regional Commuter (MARC) rail contract. Conway did not elaborate as to how they did not comply. Lobbyist Greenfield said the compliance issue came from the accusation that the independent archivist the SNCF used to review the archives was allegedly not actually independent. He claimed that Vichy historian Michael Marrus participates in SNCF events and is on the SNCF payroll. Greenfield believed, therefore, the work was not completed as dictated. He accused the SNCF of not providing access to the archives. When asked whether he had gone online to see if they were available, he said he had not. (2014) The archives, however, are available. In hearings, unlike courtrooms, statements can be tossed about without ever having to be verified.

The SNCF, while it had a chance to speak comments from its representatives were not necessarily heard or taken as legitimate. In this particular hearing, the moderators allowed the victims to speak overtime, but repeatedly cut off the SNCF representatives. As a result, the hearing became less a chance to *hear* one another, explore the past and
consider obligations and more an opportunity to hang the SNCF in effigy. Lobbyist Aaron Greenfield explained during an interview after the event, that he texted senators questions to ask the company. This led to a kind of a machine gun approach to questioning. While the accusations and questions moved with some, the narrative environment became ultimately static. The room had victims, perpetrators and heroes (potentially being the State senators who would right this wrong). Subtler perspectives or moderate participants had no standpoint from which to speak and barely even a chair in which to sit. In more robust dialogic spaces, moderate views have airtime and “perpetrators” can speak without each word tightening the noose around their own neck.

The event effectively let the company hang itself. Part III explores some of the politics and semiotics that also contribute to this dynamic. No known Nazis or former Nazis attended the event, yet many treated the SNCF executives as if they personally had crammed deportees on cattle cars and drove them to Auschwitz. Hearings, like theater suspend time and identity to meet the needs of the storyline, and the hearing worked in much the same way. During the hearing, Bernard Emsellem, head of CSR for the SNCF, handed a piece of paper to Alain Leray, CEO of SNCF America, which said Nazis? Meaning, why is this hearing positioning us as Nazis? 

(Leray 2014) The SNCF, for a time, worked with the Nazis, sometimes begrudgingly and against its will; sometimes willingly. Emsellem and Leray, rather than Nazis, are French Jews who work for the

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151 Leray told me this in an interview several weeks after the event.
152 Some railway workers said they got along quite well with the Germans and sometimes even enjoyed working with them. They respected their fellow railway men’s technical expertise. (Voix Cheminotes 2015)
SNCF seventy years after the crimes, which highlights again the conundrum of corporate personhood. Is the SNCF Emsellem and Leray, or the company’s wartime identity? In this way the question becomes not just where the company’s identity is located, but also when, 1943 or 2014?

The SNCF’s corporate identity likely exacerbates this problem and warrants further study. Many perceive corporate operations as cold as the steel that makes our trains. Therefore corporations are treated as entities without feeling and while they are from a legal standpoint, the individuals that make up the corporation are human. Engaging with them in a belligerent way or one that leaves them permanently framed as Nazis exacerbates tensions without necessarily leading to broader understanding about the nature of trauma, improving our ability to serve victims, or develop our sense of the legal and ethnical obligations of corporations.

In spite of the performative nature of some of the testimony, the SNCF provided a material target for some filled anger and this seemed to provide some relief even if only metaphorically. In Moral Repair, Walker says such entities must learn to accept a certain amount of this hostility and indignation, but stop short of letting themselves become a scapegoat. (2006) This raises questions about whether corporations more often could serve as an important vehicle through which injured parties can work out their rage. Keeping corporations out of the discussion might remove important contexts through which justice can be deliberated and agreed upon.

Improved dialogic spaces take into account this phenomenon of perpetration. If the harmful acts may be remembered in detail and carry with it tremendous emotion,
more sophisticated spaces would explore that aspect of harm without having to create the illusion that those in the room performed the acts. As of now, it drives the conversations; unexposed everyone buys into the illusion that the past is happening now. Accountability can still be required; we do not pretend the past is happening now in order to reconsider it and the modern implications.

**Legislative hearing becomes nasty**

Otherwise, when this important distinction cannot be made, the harm can actually worsen. Those who testified on behalf of the SNCF found themselves attacked. SNCF CEO Leray said he had Jews insulting him and accusing him of turning on his fellow Jews. A survivor who spoke on the company’s behalf, for example, found himself berated by a Maryland survivor after the hearing. She told him she found it disgusting that he defended what they did. Most miss the relatively painful irony that this event and much of the conflict has become Jews fighting Jews; the primary SNCF executives working on these issues are Jewish. Alain Leray, CEO of SNCF America is also Jewish and lost much extended family in the deportations. Bernard Emsellem, the head of Corporate Social Responsibility for the SNCF is the front man for these issues. He traveled between the United States and France, met with historians, and crafted letters

154 Leray took over the position after former CEO Dennis Douté passed away unexpectedly. Leray says he in the French operation he had been responsible for the transport of cars via rail (meaning new cars). He said he was appointed to the U.S. position only on a short-term basis.

155 When I met SNCF Chairman, Guillaume Pepy and told him about my research, he put me in touch with Bernard Emsellem. Emsellem and I have met and spoken numerous times over the years.
back and forth to U.S. lawyers and government officials. Emsellem lost cousins in the deportations. The SNCF’s chose to appoint these two long-time Jewish employees, as the front line in these deportation attacks on the company may have been intentional.

**Overlooking corporate contributions**

A binary framework also encourages to either focus on the accused as solely a perpetrator or a potentially powerful contributor to society, but not both. Hinton recognized the challenge of having a perpetrator identity;

>The problem with the concept of perpetrator is that it connotes stasis. A perpetrator is someone who has carried out “a criminal, immoral, or harmful act” (Oxford English Dictionary Online 2009), defined by a deed that erases all history prior to the deed…The notion of perpetrator therefore freezes time in a synchronic, structured binary. (Hinton 2012:158)

The SNCF’s post-war efforts are all but ignored. Hinton points out how perpetration erases all deeds prior to the crime under discussion; in the same way, perpetration can also wipe out all deeds done *since* the crimes occurred. The hearing also erased all of the SNCF’s post-conflict deeds. As will be shown in Chapter Seven and Eight, the SNCF’s commemorative, educational, memorialization, and transparency efforts in France and the United States never surfaced during the hearings.

**Conclusion: legislation**

The hearings had their limitations; they could not provide a forum for parties to come together and explore the impact of the harm and possible solution. They did not lead to a broader inquiry into corporate accountability more generally or the ways in which complicity complicates all our lives today. Yet, survivors who would never see their day in court had a chance to speak and legislators took a stand, even if only
symbolically, against corporate participation in crimes against humanity. In this way, the Maryland State Senate and House along with the other states that proposed legislation created a public forum for questions of corporate accountability. Roughly a year prior to the Maryland hearings, but well into the decade-long battle regarding the SNCF, the U.S. State Department and the French government began negotiations to move this debate out of local legislators and out of the hands of lawyers. The following describes the nature of these negotiations and the intended outcome.

**State Department Negotiations: only way to go is up!**

The legal efforts and state-legislative processes seemingly pushed both countries towards a settlement. The SNCF could not effectively bid for U.S.-based contracts and as a result U.S. government likely found itself with an unhappy France. Bazyler, noted this phenomena in Holocaust restitution cases,

> One of the most critical lessons to be learned from the Holocaust restitution movement is that once momentum is created for a cause, which is then embraced by the public and the media, a favorable resolution, either through a court settlement or through the political arena or both, becomes much more likely. (2002: 37)

The pressure moved the question to international and diplomatic levels. The French approached the U.S. State Department mid-2013 to initiate talks to resolve the conflict between the SNCF and this particular group of survivors and their supports. On February
6, 2014, the U.S. State Department officially began negotiating with the French
government over the issue of the deportees transported on French trains.\textsuperscript{156}

The limited framework for handling corporations internationally may force business
conflicts to be handled at the national level. This makes the conflict state-centric versus
corporate-centric. This allowed the SNCF to avoid further public shaming; the
government eventually took responsibility.

\textbf{In the absence of international law: State-centric negotiations}

The U.S. State Department and French government officials had numerous
conference calls to discuss the details of the settlement. The meetings occurred under the
State Department Office of Holocaust Issues, first under Special Envoy Douglas
Davidson and then his successor Nicholas Dean. No SNCF representatives attended these
negotiations. U.S. Secretary of State John Kerry called on Stuart Eizenstat to lead the
negotiations with the French government. Eizenstat successfully negotiated the French
bank settlement in the 1990s, in the last minutes of the Clinton administration, to the
satisfaction of both governments.\textsuperscript{157} Eizenstat agreed to lead the negotiations to help
resolve the SNCF conflict, but requested that this be done under the U.S. State
Department, though the department did not want to get involved. (Davidson 2014)

Office staff listened in as Stuart Eizenstat negotiated with the French, primarily
with the French Ambassador at Large for Human Rights, Patrizianna Sparacino-

\begin{flushleft}
\textsuperscript{156} Email exchange with the U.S. State Department office of Holocaust Issues confirms
this date.
\textsuperscript{157} Bill Clinton left office happy to have the issue settled; in 2004 the French government
awarded Eizenstat the Legion of Honor.
\end{flushleft}
While they both signed the agreement December 8, 2014 in the Treaty Signing room; the French Parliament still has to ratify the agreement. During Spring 2015, French Parliament debated the accord unhappy with two major aspects. The first was the general frustration that again the Americans were meddling in French affairs and the second concerned the wording of the agreement. Alain Lipietz, who fought the SNCF in French courts, said the French Parliament generally just dislikes the agreement. They think it is “bad at its core” but will have to pass it. He says the accord involves things Parliament hates addressing; business, Americans, Jews, and WWII compensation. Participants said the negotiations were challenging but not especially tense. Negotiations with the French government regarding the SNCF have been less vitriolic, even if frustratingly slow for its participants and those awaiting the results.

Negotiation challenges: retroactivity, citizenship and fairness

The nature of the SNCF’s corporate identity, its corporate ethos or notions of corporate personhood did not seem to surface during these discussions. As Elster noted,
with so much legal lacunae regarding corporate obligations, deliberations inevitably return back to the state (2005); neither improving corporations internally nor their dealings with civil society. While both countries want survivors to receive warranted and absurdly long overdue restitution; issues of citizenship, retroactivity and protection for the SNCF became sticking points during the negotiations. The parties debated whether the settlement would include only to those who were citizens of the countries that had no agreements with France. After the war, the UK, Belgium, Czech Republic, Slovakia and Poland signed agreements with France compensating survivors who now resided in their countries. Appendix N shows a copy of the UK agreement.

Davidson said during an interview that he could not remember why the United States never signed a similar agreement to compensate survivors. (Davidson 2014) Katherine Shaver, writing on the conflict on behalf of The Washington Post, said that she asked the same question to Stuart Eizenstat and someone at the State Department; she said no one knew. She heard one theory, however, saying that perhaps there were so few Americans to whom this applied, the United States focused more on countries like Germany or Switzerland where there were numerous private companies. 164 (2014) Legal and legislative spaces did not reveal the ways in which the United States allowed those individuals to slip through the cracks. These spaces marginalized this point, minimizing any reflexivity the U.S. State Department may have to undergo.

Citizenship

164 She told me during our email exchanges. February, March, and April 2014.
In addition to these country agreements, France’s own changing citizenship laws during the war complicated the question of wartime and post-war citizenship. In the 1940s, the country rescinded citizenship rights given to anyone who received rights after 1923.\textsuperscript{165} Therefore, immigrants from Holland, for example, who became nationalized as French in 1920, would not have been considered French during the war. Leo Bretholz, behind the legislation in Maryland, allegedly applied for compensation from France but was refused because the French government said he was not French. Of course it was also the French government during the war that prevented him from being a French citizen.\textsuperscript{166} (Maryland House Hearing 2014) Survivor Rachel, a now retired biochemistry professor, explained her family’s own complicated problem with citizenship. The French accepted her father’s immigration from Germany on the condition that he would never become a French citizen. In the beginning he could not come and go from France, separating the family for a time until they could all move to France around 1937. While in France, her family paid French taxes and lived a French life, but never received French citizenship. Rachel says of the French citizenship policies at the time,

They passed legislation, I don’t remember the specifics…I was really disappointed in France’s handling of us. We came into France and we were stateless because our citizenship had been revoked. We just lived [in France] in a normal way, but always with temporary papers, which had repeatedly required renewals. (2014)

\textsuperscript{165} This effectively would remove rights from anyone invited to France in the post-WWI labor shortage.

\textsuperscript{166} Stated during the Maryland State House Hearing. (Minute: 15:52) http://mgahouse.maryland.gov/house/play/ff17c955-b995-42f5-9df2-aacf40b8987d/?catalog/03e481c7-8a42-4438-a7da-93ff74bd404e%22%20t%20%22_blank
Her father was killed, but might not have been if France had awarded him citizenship, she believed. Her mother committed suicide.

**Retroactivity: equal compensation for diasporic groups**

The French claim they never apply retroactivity in French restitution programs; furthermore, they explained that perceived unequal treatment would upset the French Jewish community. The State Department responded saying requiring these survivors to miss decades of pensions is not fair. The negotiation participants also wanted to avoid double-dipping. Though, one wonders if it matters if a 97-year-old former deportee somehow acquires an “extra” $10,000. This negotiation will apply to so few people, all of whom experienced unquestionable suffering. Davidson explains the problem from the French perspective,

> I mean one of the things they are most concerned about and this is an official French position nobody—no Americans should get more than a French person does. This is a clashing view of what fairness. Or equality. Because we say if it is not fair if you are 85 years old and you miss years worth of a pension—and someone in France has had 70. They said no, no, no. In France fairness means you get accepted in the program and you go forward with the pension. It should be the same for Americans. And the French—the CRIF[^167] is very much on the same lines they don't want retroactivity because they are afraid of the consequences I think. (Davidson 2014)

Retroactivity eventually was agreed upon, as was who would disseminate the funds.

Those survivors globally, to whom this would apply, will submit their claims to an office within the State Department who promises to turn around claims quite quickly and make the requirements quite loose. Many of those to whom these funds would apply are in their mid-eighties and beyond; little time remains.

[^167]: Lead French Jewish organization that handles all cultural affairs.
Fears of anti-Semitic backlash

During the negotiations Jews in France expressed deep concern for the social and political implications for Jews in France. This both prompted the negotiations (the ongoing conflict was unsettling the French Jewish community) and impacted their unfolding (paying Jews “too much” would not bode well). Emsellem, head of CSR for the SNCF, fears the French will say, “Again, the Jews! Again the Americans!” He believes this could worsen anti-Semitism and anti-Americanism in France. (2014) The terrorist attacks at the Kosher grocery store in Paris in January 2015 exemplify the inhospitable environment for Jews that exists in France. (Part III discusses modern anti-Semitism in France and how this may impact the unfolding of the conflict). Broader dialogic spaces, discussed in Part IV, could allow participants to use this conflict as an opportunity to address some of the pressing needs of Jews in France, today.

American involvement is not necessarily welcome in that debate; though perhaps if we could find a way to partner with France and the SNCF and address the modern pain points, while also addressing the past, some of these issues could also subside. Weisberg (a lawyer who worked on the French bank settlements) attributes the resentment of American involvement in post-war affairs to the fact the Americans and lawyers originally forced Vichy to become transparent. He says the French want total possession of their history; they tend to resent the U.S. contribution to the illumination of this history. France tends to push for a single version of history and do not appreciate
interference. (2014) (Chapter Seven will discuss the unfolding of this historical story). To Weisberg, the SNCF conflict was the straw that broke the camel’s back. The French could not handle one more U.S. intervention. To handle the potential anti-Semitic backlash after the French bank settlements – also prompted by U.S. intervention — Weisberg said, the French government spoke to large groups of the French Jewish community and then monitored threats of anti-Semitism. Perhaps, they will do the same after France ratifies the agreement.

**Legal immunity**

Beyond concerns for survivors, France wanted immunity, meaning a promise of an end to litigation and legislation if it settled on behalf of the SNCF. The State Department, however, lacks the power to promise either. The democratic structure of the United States prevents any branch or entity from having the last word. In other words, the State Department could not promise France that no more litigation or legislation will surface. This stalemate can be understood as a democratic response to what was tyrannical rule. This became quite a contentious issue.

Eizenstat might frame the challenge as simply the result of working with two different, albeit legitimate systems. He attributed the 1990s French bank settlement frustrations to, “a clash of cultures between two perfectly legitimate but utterly different ways of regarding the state, public administration, individual rights, privacy, and rendering justice to the victims of one of history’s greatest crimes.” (2009: 315) While both systems might be legitimate, Ambassador Davidson said during an interview that he

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168 Weisberg made these comments during a two-hour phone interview. June 27, 2014.
was confounded why the French could understand that constitutional rules prohibit the State Department from binding the President, states, courts, and all citizens.\textsuperscript{169} The best the State Department can do, Davidson said, is showing its past record. The Department successfully deterred legislation and litigation after negotiations with Iraq. The French responded that such evidence would be insufficient reassurance especially given that State Department could not even call off the state legislators during the negotiation process. (Davidson 2014) French concerns about continued litigation were warranted; an additional suit was filed just four months after the signing.

Response to negotiations

Many survivors and experts supported the negotiations when they began, agreeing that this matter ought to be handled, federally, rather than on a state level. Reznik and Rosenberg, Maryland delegates who co-sponsored the bill said during interviews that they were content with federal involvement. Michal Marrus, the Vichy historian most active in this conflict, believes that the conflict ought to be addressed at the inter-state level. (2014) Flora who spent a few years in France with her family before they successfully fled to Switzerland is happy about the federal level negotiations, she feels that generally individual states are becoming too involved in foreign policy, “It would be in my interest to have something settled but I don’t think that it’s right. This should be a

\textsuperscript{169} The State Department requests to pause the legislative efforts during the negotiations, Congresswoman Carolyn Maloney refused, claiming the State of New York had a right to refuse to allocate taxpayer dollars to companies implicated in the Holocaust. The State Department responded telling legislators and their supporters that their efforts posed an obstacle for restitution; the legislative bills made the French less likely to settle, they claimed.
federal matter not a state matter.”

Tony, who lost family on the trains, is also fine with the inter-state negotiations, but takes issue with Stuart Eizenstat. He wanted to see Harriet Tamen at the negotiation table, “Harriet is the right person to negotiate,” he says, “You cannot be nice to these people.”

The settlement details

The State Department estimates about 2000 applicants (about 100 direct survivors and 1900 descendants) could benefit from a settlement between the French government and the U.S. State Department. (Baker 2014) SNCF America CEO Alain Leray estimates twenty to thirty, “or maybe just one,” emphasizing how expansive this conflict has become relative to the number of survivors he believes are impacted. Though the number of actual direct survivors might be quite small. The settlement would apply to three main groups and their beneficiaries (of whom the State Department estimates there might be thousands). The first applies to actual deportees from France now citizens of any country accept those that already have agreements. These individuals would receive $100,000 each. The second category would apply to spouses of the deportees, also not citizens of any of the aforementioned countries. Payments will vary for these individuals. The third group would be those individuals standing for survivors or their spouses who died after WWII. Payments would vary. (U.S. State Department 2014) As part of the agreement the

During the phone interview, Flora went on to say that her family received some compensation from France for her family’s losses in Lyon. In exchange for money, someone turned in her family that remained hidden in Lyon. This part of her family travelled on the SNCF railroad towards Auschwitz where they died.
SNCF will contribute $4 million to Holocaust commemoration and education, but the French government will cover the $60 million slated for restitution claims.

At the Treaty Signing, Tamen declared the whole settlement a waste because it would not apply to those who lost both parents on the trains. For example, Florida resident Rosette Goldstein has fought ardently against the company for over ten years. Relatively young, in her early seventies, Rosette will likely not receive compensation because she already receives monies from the Orphan’s fund for the loss of her father taken on convoy #64. (Goldstein 2011) The orphans fund, created by Serge Klarsfeld, however is available to individuals anywhere in the world and might cover those about whom Tamen expressed concern.

Payment for Tamen

A big surprise to a number of involved parties was that Tamen received no compensation for her work on the issue. The settlement was seen as the result of a diplomatic effort not a legal one. Tamen worked only on a contingency fee, meaning she would only receive payment in the company settled. She told former U.S. Ambassador and Special Envoy for Holocaust Issues, Ambassador Douglas Davidson, that she has fourteen years of time sheets demonstrating her hours served. She keeps timesheets because if the SNCF settled, she could receive some money for the hundreds or perhaps thousands of hours she committed to this work; the court would determine her legal fees.

171 She said this to others, including the press, Representative Carolyn Maloney and myself. One of the other lawyers from a firm with whom she worked disagreed with Tamen, saying to her, “I don’t think it’s a total waste. Some people will get money.” I was standing with the group during this conversation.
However, it looks like Tamen was cut out of her share. In the early stages of the French-U.S. negotiations regarding the SNCF, the summer of 2014, the question of Harriet’s compensation remained on the table. (Davidson 2014) By fall, however, the teams had reconsidered and the December 2014 settlement included no compensation for Tamen. According to Davidson, while she has timesheets, Tamen has no contracts with litigants committing them to provide her with a portion of her settlement. In other words, if the French government compensates survivors directly, rather than through the courts, contingency fees do not apply. The recipients of the settlement will now decide whether to compensate Tamen with their earnings. If the 2015 class action lawsuit filed in Chicago succeeds either in court or outside, Tamen could receive a piece of the settlement.

**Reaching beyond the SNCF**

Settlement details may matter greatly to those to whom it applies; however the negotiations served other purposes. The negotiations satisfy those challenging the SNCF, and to allow the French national railroad to compete unimpeded in U.S. markets. Bazyler argues that these restitution settlements may also send a warning to others,

> As a result of the victories achieved by victims in the Holocaust in courts of the United States, individuals and corporations presently engaged in human rights abuses are on notice: eventually you will be held responsible for your misdeeds. (2002: 44)

Though Bazyler’s confidence might be a touch optimistic. The SNCF of 1945 was held responsible symbolically. Those who participated have since passed away; those individuals never had to accept responsibility publicly. Is knowing that your company might be held accountable in seventy years really such a threat? Especially when
legislation, litigation and public debate never speaks beyond railroads? Only time will tell.

Overall keeping this negotiation a state-centric affair side steps the issues raised by SNCF’s corporate identity. In taking control, the States can position themselves as the dominant player in international affairs while not acknowledging increasing global corporate power and the receding old school diplomacy models. Unless these State institutions begin inviting corporations into the room, I suspect they, not business, will find themselves soon sidelined.

**Conclusion: legislation and the settlement**

This chapter considered the ways in which legal and legislative battles can, in their search for resolution, flatten complexities that need to remain textured. The legislative battles allowed people to advocate locally while politicizing the event even more and deepening the victim-perpetrator divides. Both forums also marginalized stories that did not meet the needs of those leading the battle. In spite of this, this battle led to a sizable agreement. Once the French government ratifies the settlement, the focus becomes the pragmatic one of the dissemination of funds. The U.S. State Department and the Israeli government agreed to process claims expediently from around the world. As of May 2015, the U.S. State Department was estimating the process would take 6,000 hours. Whether this process will be easy for survivors remains to be seen. To determine whether the SNCF could be considered an “outlier” and the complexities of corporate monetary amends, the next chapter considers the unfinished restitution business in the aftermath of the Holocaust, then in France specifically and regarding the SNCF.
CHAPTER SIX

RESTITUTION & COMPENSATION

The question of financial restitution for physical and emotional harm remains a predominant issue in post-conflict work and the focus of SNCF debates. Holocaust survivors have received more financial compensation than any other victim group even though, as this chapter will show, the process was rarely timely or gentle. Immediately after the war, survivors and survivor communities including Israel questioned whether accepting money from Germany was tantamount to accepting food from the devil and suggested some kind of forgiveness. In the intervening years, Israel and most Jewish community and survivor groups have accepted compensation when offered; some did so with mixed feelings, as this chapter will show. As Chapter Four demonstrated, most

During an interview, Ambassador Davidson explained that French lawyers distinguished between reparations and restitution or compensation. They claimed reparations referred to settlements between nations (i.e. Germany paying Israel). They consider compensation money offered to individuals to redress harm. Therefore, even though the field of transitional justice often uses reparations to mean both funds bequeathed between nations and compensation for victims, this dissertation uses the terms restitution or compensation when talking about the question of the SNCF financially compensating victims and uses the word reparations when discussing redress between nations. May 27, 2014.
Holocaust-related lawsuits result in settlements that fund compensation programs. These programs aim to “settle” the issue related to the particular perpetrator be it a bank, sovereign nation or other complicit entity. Synonyms for settle include; to work out, conclude, and put an end to. Closure is embedded in the concept of restitution. Victims know that total closure is never possible; even if one no longer seeks revenge or retribution, the harm will rear its head again. Trauma may return in the form of memories during retirement or in other ways. Compensation also raises the question of whether, once one is paid, one still has the right to voice outrage at the prior treatment. In other words, can compensation be viewed as kind of a payoff to silence victims?

Settlements can also be highly political, often allowing states to restore diplomatic relations and/or market actors to pursue profits without ghosts of the past thwarting modern endeavors. When this occurs, victims may be issued a few hundred dollars in exchange for the use of their story. Regardless, many appreciate the funds, the symbolic gesture and the public acknowledgement of their harm. Settlements and restitution efforts ought to be positioned as mileposts on the endless journey, or pauses between chapters, rather than definitive moments of completion. This chapter considers the positionality of compensation within the broader field of transitional justice, then in relation to the Holocaust, France, and the SNCF. Regarding market actors, the positioning of corporations as being soulless entities with deep pockets limits the kinds of discussions that can occur.

Restitution in transitional justice
The field of transitional justice began mostly as a state- and perpetrator-centric model, working to establish a new stable state in part by holding collaborators accountable. In addition, victim needs, often in the form of compensation, has become a hallmark of many transitional justice efforts. The UN supports these programs, actively advocating for “adequate, effective, and prompt reparation for harm suffered.” (2005) Proponents of restitution assert it assists restoring dignity, healing, ending active violence, preventing future violence, creating “collective memory,” and promoting reconciliation. (Van der Merwe, Baxter, Chapman: 2008) Restitution programs can also support greater social solidarity by publically legitimizing victims’ suffering. (de Greiff 2010, Minow 2008) In the SNCF conflict, interviewees challenging the company expressed that restitution from the company would represent the company’s acceptance of responsibility. Today’s SNCF would symbolically take responsibility for the SNCF of the past.

Critiques of restitution programs

This section offers a few critiques of restitution programs most relevant to this research. Distribution was, and remains a major challenge in Holocaust and other contemporary programs. Colombian human rights activist, Pablo de Greiff claims that in some cases claims fail to be complete, have changing evidentiary standards, define victims inconsistently, and often lack cohesiveness either by not including a meaningful apology or working at cross purposes with other transitional justice programs. (2010) In certain circumstances, recipients say the amounts received often are too small to be meaningful. (Minow 2002) This chapter will demonstrate the devastating effects had on
Holocaust victims, many of who were (and still are) turned away for not having proper documentation for wartime losses or died while waiting for compensation.

Even when received, the psychological impact of restitution remains uncertain. Hamber claims that understanding the psychological repair offered by reparations can never really be measured. (2002) The findings of this research supports this claim; many interviewed victims shared mixed responses to compensation. While often victims request restitution more than trials, (Robins 2009) some fear asking for money dishonors the level of loss (Eizenstat 2009) or leads to an expectation of silence once received. (Minow 1999) Some Holocaust survivors said they chose not to accept money because they felt that a kind of forgiveness was expected in return. They were not interested in this form of reciprocity.\(^{173}\) In spite of these limitations, Rabbi Andrew Baker of the American Jewish Committee in Washington D.C., considers financial compensation as,

\begin{quote}
...at least some basic justice...to make some kind of payment even if it is just a gesture that acknowledges the suffering that took place. It seems to me that that is elemental. And I think, if you know survivors, that there are all different ways that they respond to it.\(^{174}\)
\end{quote}

When positioned as a gesture, a token, or an attempt to reconstitute stolen dignity, compensation serves as a significant facet of post-atrocity work. The involvement of corporate actors as a source of these funds addresses another central focus of this research. More than any other atrocity, Holocaust settlements involve market actors. The restitution programs that surfaced in the 1990s provided billions of dollars for victims;

\(^{173}\) Based on interviews.
formerly complicit corporations contributed the majority of the funds. Today, market actors do contribute to restitution programs in at least some post-atrocity contexts.¹⁷⁵

**Corporate settlements: a source of restitution**

Including culpable market actors in post-conflict accountability efforts can provide significant sources of funding both for victims and the fragile society. South African corporations contributed roughly $144,000,000 to reparation/reconstruction funds to compensate victims and help build the country after apartheid. (Sandoval 2013) Oil exports, under the oil-for-food program, funded the reparations program. (Van Houtte, Delmartino 2010) As noted in the introduction to this chapter, such programs also have political or other fiscal purposes. States want legitimacy and corporations want to operate unimpeded. While industry can be a source of reparations and contribute to the rebuilding of society, politics play a role in how such programs emerge. In regards to September 11th, for example, Issacharoff and Mansfield claim the U.S. Congress formed the compensation program primarily to ensure the well-being of the country’s airline industry. (2010) For corporations, settlements can be the cost for operating in the post-conflict space. Engaging corporations requires appreciating the economic impact these companies and industries have on recovering and flourishing nations.

In order to situate the SNCF conflict in this larger dialogue, the following introduces how Holocaust compensation programs unfolded globally, then in France and finally in relation to the SNCF. The multi-decade processes and the mixed responses by

¹⁷⁵ I am very curious about the other restitution programs corporate actors have funded. That research would be a natural extension of this dissertation. To focus my efforts, however, I provided just a sampling of the kinds of programs that exist today.
victims point to the unworkability of restitution as closure and the important role of market actors (both materially and symbolically” in restitution programs.

**Holocaust restitution: expanding the definition of victim over time**

Immediately after the war, German Holocaust-implicated companies contributed to a pool that the government disseminated through centralized compensation programs. As of 2012, Germany estimated that it had contributed $7 billion in individual payments for harms inflicted during World War II. (Frei 2014) After reviewing over 600,000 restitution claims, Norbert Frei applauded Germany for what he considered the largest attempt for restitution for mankind.

Unfortunately, the original restitution programs, when individuals most needed the money after the war, were severely limited. In the beginning, programs only acknowledged material losses. Danieli explains,

> The laws did not take into account personal damage to victims of Nazi persecution – those who had suffered in mind and body, or had been deprived unjustly of their freedom, or whose professional or economic prospects had been summarily cut short. Nor did these laws consider assistance to widows and orphans of those who had died as a result of Hitler’s policies. (2008:347)

Frei also acknowledged some of these early limitations, contextualizing them as part of a more generalized ignorance rather than a malicious attempt to dismiss the impact of harm. The impact proved devastating. After the war, western medicine did not recognize the concept of trauma and surely not yet intergenerational trauma. Homosexuality -- illegal in Germany for a number of years after the war, delayed the acknowledgement of victimization of this group. (2014) Frei’s comments highlight that compensation, like justice, cannot surpass a culture’s own moral framework.
The definition of those harmed *continues* to expand. As recently as 2014, the German Finance Ministry agreed that the German government would create a $250 million fund for child survivors worldwide. Nazi victims born after January 1, 1928 will receive approximately a payment of $3,000 for medical and/or psychological care. Compensation will cover children in ghettos or camps or who physically hid or disguised their identity for more than six months.

The on-going expansion of the definition of legitimate victim-groups highlights a central claim of this dissertation. Any program that introduces compensation as means of completing the past could deny future individuals not yet recognized of their legitimacy. This can lead to double-victimization. Issuing compensation, however, from the position, “we know this is not everyone and we apologize in advance for the incomplete nature of the program, but we need to start someone. We hope this program leads to others that will reach those worthy individuals not yet compensated materially or symbolically.”

Accepting the limitations of programs also acknowledges what many victims and other witnesses know to be true. (Many survivors appreciate this necessary limitation even more than their descendants.) Furthermore, most witnesses also understand that the monies returned are a fraction of the material and emotional loss. Bazyler observes this gap when he writes, “the payments made by the corporate wrongdoers will come nowhere close to disgorging the profits they made from their dealings with the Nazis or participation in the Holocaust.”\textsuperscript{176} (2002: 41) Complicit market actors cannot resolve

\textsuperscript{176} Part 1, Chapter Three showed that the SNCF was not a big financial winner in the war.
anything and yet their participation in amends making proves significant to many individuals.

**France: U.S. intervention in state-centric efforts**

As noted in Chapter Four, the high court of France decided that while no compensation would be adequate, the programs offered are sufficient. Life must now go on. In this way, the court simultaneously acknowledges the difficulties of working to heal irreparable harm *and* declares the journey complete. This has been the trend in the French approach; this continued effort to close the books that began with Charles de Gaulle’s return has been repeatedly upended by both survivors and much to their chagrin, by American involvement. This involvement in French restitution affairs further reflects the transnational nature of post-conflict work. France’s belief that a state-centric approach could operate in isolation was constantly challenged. The SNCF debates can be situated as an extension of this larger French-U.S. dynamic.

Vichy historian Michael Marrus describes the development of French compensation, challenging an American perspective that the French disregarded Jewish victims. Immediately after the war, France set up a compensation structure similar to the one that existed after World War I. In this program, Jews were not considered a special group, nor was what happened to them considered an aberration at that time. (Marrus 2012) Anti-Semitism in France did not die with Hitler; anti-Semitism impacted the way Jews received compensation; they received money but the programs did little to acknowledge the abuses towards and reconstitute the meaning of Jewish identity. In 1946, the program expanded to include those who had been deported for political or social reasons. Only
Jews of French nationality could apply. Because Laval chose to deport only the foreign-born Jews, the majority of survivors could still not apply for compensation or have their tragedy recognized. (Marrus 2012) Chief litigant Alain Lipietz, challenges these claims saying that in 1946, France issued a judiciary order preventing all reparations demands by anyone who suffered under the anti-Jewish racial laws during the war. This includes demands for requisitioned businesses.\footnote{A reminder that wartime SNCF President Pierre Eugène Fournier helped requisition these businesses during his tenure on SCAP. Described in detail in Chapter Three.} (Lipietz 2011) The question of Jewish restitution remained unsettled. In the 1950s, several countries signed agreements with France to indemnify survivors now living in their respective countries (discussed in the previous chapter). In 1964, even with the Holocaust still relatively unarticulated, the French Parliament removed any statute of limitations on crimes against humanity. This facilitated trials of French collaborators in later years, including Klaus Barbie and Paul Touvier.

As with the trials, the end of the Cold War impacted restitution programs. In 1997, the French government established the Study Mission on the Spoliation of Jews in France run by Jean Mattéoli. This came to be called the Mattéoli Commission. The Commission reviewed the looting of Jewish assets and the restitution to victims for those assets; the task force spent over two years reviewing the situation, producing a final report in 2000 that reviewed Vichy’s vast pillaging of Jewish possessions and properties. The report identified the 64,000 individuals from whom this property was obtained, though the list was never published for privacy concerns. (Eizenstat 2009) While globally, one
calculation estimates that 20% of stolen Jewish property has been returned (either to individuals, descendants or institutions), the Mattéoli Commission found 90% of the French cases of monies taken were addressed. An estimated 70% of business and real estate assets and somewhere between 50 and 100% of cash deposits and stocks returned. (Marrus 2009) The smaller the account, the less of a chance the money was returned. (Marrus 2012)

This led to the formation of what became called the Drai Commission (Commission of the Compensation of Victims of Spoliation Resulting from Anti-Semitic Legislation in Force During the Occupation—CIVS). The mediating body handled individual claims for everything from real estate to insurance policies. Through the Mattéoli’s recommendation, France established the Shoah Foundation, an organization that could organize other Holocaust related activities. According to Eizenstat, it became the largest charitable organization in France’s history, with an initial endowment of 2.5 billion francs (about $375 million), contributed by French banks, insurance companies, the French central bank, and the French government. (2009: 319)

During this time two other major shifts occurred in France. The Caisse des dépôts et consignations (an organization serving the financial interests of individual investors—established by the French State) opened its archives and conducted its own inquires into ill-gotten gains. Additionally, Serge Klarsfeld lobbied the then Prime Minister for an orphan fund. This fund offers orphans (who lost one or both parents) either a lump sum or monthly “pensions.” By 2000, Klarsfeld got his wish; the French government passed new compensation and restitution laws to assist orphans. These laws dictate that anyone
whose parents were deported during the German occupation or who was a minor during
the deportation has a right to reparations. Those approved received an 180,000 franc
lump sum (roughly $30,000) or a 3,000 franc (about $500) annuity.

SNCF America President Alain Leray claims two funds created in 1950 alone
have paid over $6 billion in restitution claims. (Ain 2004) Through all of the new
restitution programs and program improvements in post-cold war France, Marrus says the
French government programs (prior to the December 2014 settlement) had paid roughly
300 million euros to survivors. These funds included, “30 million euros for previously
unpaid bank assets; millions more were paid to those who had lost parents in the
Holocaust.” (Marrus 2012) Table C provides a brief summary of some of the restitution
programs in France.

<table>
<thead>
<tr>
<th>Year</th>
<th>Program</th>
<th>Who it Served</th>
</tr>
</thead>
<tbody>
<tr>
<td>1945</td>
<td>WWII Pension Program</td>
<td>Open to French citizens. Did not identify Jews as a special group.</td>
</tr>
<tr>
<td>1946</td>
<td>Expanded WWII Pension Program</td>
<td>Program expands to include those who had been persecuted for “political and racial motives.”</td>
</tr>
<tr>
<td>1950s</td>
<td>Treaties with the UK, Poland, Czech Republic, and Belgium</td>
<td>These treaties ensured that victims living in these countries would receive compensation from the French government.</td>
</tr>
<tr>
<td>1964</td>
<td>French Parliament removes the statute of limitations on crimes against humanity</td>
<td>Allowed French perpetrators to be tried for decades to come. Changed orientation to compensation.</td>
</tr>
<tr>
<td>1997</td>
<td>Mattéoli Commission</td>
<td>This commission sponsored by the French government studied the spoliation of Jews during the war.</td>
</tr>
<tr>
<td>2000</td>
<td>Mattéoli Report</td>
<td>64,000 individuals identified who had been victims of spoliation. CIVS is established to compensate victims of theft.</td>
</tr>
</tbody>
</table>
Anyone worldwide who lost one or both parents during the war as a result of the French deportations. Initiated by Serge Klarsfeld.

Americans, Israelis, and citizens of other countries not previously eligible for existing French compensation programs. (This excludes French citizens and those countries with existing agreements).

**A sore spot: U.S. involvement in French restitution**

The sour tenor of the SNCF conflict originated in the 1990s during the French banks settlement. As the French Mattéoli Commission conducted research on the efficacy of existing restitution programs and unclaimed bank accounts, a group of U.S.-based class action lawyers pursued the same banks. American lawyers filed three class action suits against the three major French banks. The primary lawyers were Richard Weisberg, Stuart Eizenstat, Harriet Tamen, and Ken McCallion specializing in Vichy France, international banking and class action respectively. They had the support of major U.S. Jewish organizations such as the Simon Wiesenthal Center.

At the time of the U.S. based lawsuit, the French commission had already identified 62,000 individuals who had roughly 80,000 bank accounts. The Commission did not report a final sum, but the press estimated 1.5 billion euros in modern currency; the

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178 Because the Matteoli Commission ultimately identified all that was taken through the Ayranization process, it actually worked to undo the work of SCAP. SCAP was the French organization tasked with Ayranization of Jewish businesses. SNCF President Pierre Eugène Fournier ran SCAP for one year during his tenure at the SNCF. This made up an estimated 10% of the looted Jewish assets. (Ruzié 2014)
The Commission did not challenge the estimate. (Ruzié 2014) The Commission reversed any Vichy discriminatory measures still instated and unblocked accounts. The Drai Commission had been created to handle the distribution of the claims at the time of the U.S. class action lawsuit.

The U.S.-based lawyers, representing thousands of claimants worldwide, considered the Drai commission problematic for the following reasons; the list of accounts was not public, the commission lacked the organization to handle the tens of thousands of individual claims, and the commission lacked the backing of the law, meaning survivors might never receive the money. In spite of these critiques, the process received some accolades. Rabbi Andrew Baker said during an interview that he applauded the CIVS (the claims committee that grew out of the Mattéoli Commission) process for being superior to other similar programs such as the one in Austria that only paid people a percentage of the amount owed. (2014) The Austrians capped their program and therefore prorated people’s compensation by the number of requests. The French program had no cap. Eizenstat felt “the French had reason to be satisfied with their actions. They had taken remarkable administrative steps on their own to face their past. But these did not fit the mold of the adversarial American legal system.” (2009: 319) American legal action continued.

The French expressed distress and embarrassment with the continued U.S. legal action because the country had just begun its own internal process to handle the question.

179 For example a survivor could receive a letter saying the value of your father’s medical practice in the 10th District of Austria would be worth 100,000 euros today and will, as a result of the number of claimants will offer you 20% of that.
of bank accounts... The French Jewish community expressed, “concern that the fight for restitution in U.S. courts would overshadow the historical responsibility to which France had already admitted.” (Eizenstat 2009: 320) The head of CRIF, the primary French Jewish organization, said no amount of money was worth undermining “the historical and moral foundation of the official French government movement to redress the wrongs of the past.” (Eizenstat 2014: 320) Prominent Holocaust activist, Serge Klarsfeld, who at a time had not yet made peace with the SNCF, concurred the French government ought to handle the French banks, not the U.S. class action lawsuit.

In spite of these concerns and the on-going activities of the Mattéoli and Drai commission on August 31, 2001, U.S. Judge Sterling Johnson moved the case forward, claiming the U.S. Federal Courts did have jurisdiction over the case. This put a significant strain on French-U.S. relations. Just three months later, France opened the Foundation for the Memory of the Shoah, supported in large part by the French banks that donated $100 million, seemingly taking responsibility for its own past. In spite of this commemorative contribution, within not too long a period, the French bank settlement was signed. The settlement involved eight banks; Société Generale, Paribas and BNP (now BNP Paribas), Caisse Nationale de Credit Agricole, CNCA unit Credit Agricole Indosuez, Credit Lyonnais, Natexis, and CCF (part of the HSBC). The banks offered a large settlement in exchange for an end to legal action against the company. While the French did not welcome the United States’ involvement, the restitution to survivors proved greater than it would have been through French efforts alone.
Lawyers involved in the case had pressures of their own. They said the Clinton administration pressured them to come to a settlement before Bill Clinton left office. The timetable was extremely tight, but those involved say Clinton insisted the settlement occur during his tenure as President. The French bank settlement, while a win for the Clinton administration, the lawyers and the litigants deepened a rift between the governments as well as between the French and U.S. Jewish communities. These tensions returned during the SNCF debates. The nature of the bank debates and final settlement demonstrate the transnational nature of these corporate cases. From a pragmatic standpoint, this settlement also helped set precedents for handling market actors in the future.

**French restitution today**

In the case of modern Holocaust restitution programs, some octogenarian survivors find themselves digging up documents about parents many have surpassed in age by nearly half a century. Few claims processes seem to acknowledge the paradoxical nature of these programs to be both healing and deeply painful. The burden of proof remains on the survivor who must rehash and prove, at times in front of a skeptical committee, what they lost seventy years ago.

While the French made great strides in compensating victims, the process leaves some heart worn and weary. David Ruzié who sits on the CIVS (claims distribution committee) says, “The average compensation is around 25,000 euros or 32,000 dollars.” (September 2014) The banks paid out these amounts, not the French government.
Weisberg 2014) CIVS never actively sought out the owners of the accounts. This limited the amount of individuals who received compensation. According to Freedman who serves on the committee,

CIVS does not seek out individual bank claimants, if people believe they or their family has spoliated bank accounts in France, it was and still is up to them to contact the CIVS, which does not genealogical research, but does to archival research.180 This is not unique to compensation programs; most require survivors to file claims. The age of many survivors by the time the accounts were identified raises the question whether more might have been done to find the owners of the bank accounts. Many people who had these accounts might not have known especially if they had been children during the war and their parents had died. What would a five-year-old know about his parents’ bank accounts? CIVS had the list why did they not seek out owners? Only survivors who would have heard about the CIVS program would have applied. This most likely excluded, at least for a while, much of the diaspora. A survivor having returned to the Polish countryside, for example, might have no awareness of the commission or the language to even begin the requisition process. The diaspora make these issues transnational. Restitution efforts, to have integrity, need to face these issues squarely. If they do not, the diaspora may come to them, as happened during this French bank restitution process.

**Experiencing the French claims process**

180 Provided in an email received March 3, 2015.
For those who did seek claims, the process positioned them as people who might take advantage of the system. Claimants furnish as many documents as possible and tell a reasonable story about their loss before a suspicious panel of international lawyers, government magistrates and bank officials. Understandably, many of the remaining survivors, children during the war, had little understanding or proof of the family assets. Even for those who have proof, the process itself proves challenging. If the commission agrees to meet with the applicant, he/she sits alone facing a panel of one or two international lawyers, a government magistrate and occasionally a bank official. Eric Freedman, who served on the commission and attended over 1,000 hearings in fifteen years, said only twice did he see the French government representative argue in favor of the claimant. Both of those times were in international venues where they wanted to make a good impression. Freedman says the magistrate’s job was to find ways of not giving the money.

Facing this educated and difficult panel is not easy for survivors, many of whom received limited education after the war. In addition to losing money or family, many individuals, especially the women, never received a formal education past high school. Arguing against a panel of international lawyers about objects they cannot prove beyond some fragmented childhood memories leaves them at quite a disadvantage. Many gave up. Furthermore, because the claims commission handles only stolen assets, emotional losses are sidelined. When asked if people get emotional during the hearings, Ruzié said

181 Paris interview. 2014.
sometimes but he makes sure the questions stay focused only on the missing items, not on the personal loss. Like many of the legal dialogues, these compensation discussions are narratively constrained; people have to compartmentalize the loss of their families from their furniture and candlesticks. While these processes did their best to attend to material losses, Rémi Rouquette, lead lawyer on the Lipietz lawsuit against the SNCF in France, notes the country never compensated people for physical and emotional losses or the loss of educational opportunities. (2014) The following description of Ruzié’s views provides some insight into the tenor of modern French procedures.

**David Ruzié: suspicious of modern claims**

David Ruzié is an emeritus professor of international law, a former member of CRIF, and a standing member of CIVS. As a member of CIVS, Ruzié has the important job of determining whether survivors will receive restitution based on their claims. While the numbers of claimants has dwindled, he still attends a number of hearings. Ruzié and his family narrowly survived the Holocaust. Today he still has his own childhood memories to contend with; he remembers at age nine hearing on the radio that the Germans had advanced into the Free Zone. His parents started arguing and he determined from their conversation that they were going to kill him and both commit suicide. He witnessed many other atrocities such as mothers’ killing their own babies to prevent the Germans from taking them. Even though he suffered greatly, Ruzié would never call himself a survivor. For the French, survivors are only those sent to death or work camps.

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182 Ruzié and I spent a day together in Normandy. He picked me up at the Caen train station and we visited the Normandy D-day beaches and some neighboring towns. August 8, 2014.
David Ruzié, a child survivor, and international law professor has also sat on the committee for years. He explained, during our time together visiting the American cemetery above the Normandy beaches, he believes most modern claims are false. (Ruzié 2014) Ruzié criticizes claimants for thinking, for example, that their 1940s kitchen was anything like or had the value of any kind of kitchen you see in France today. Most people had simple things back then—much of it of little value. He found many peoples demands outlandish. (2014) He becomes quite upset when talking about the claimants, not because their loss distresses him, but he says because he finds many of the claims outlandish. One man, he said, wanted money for having to leave Strasbourg with false identity papers. He is angry with people who want 60,000 euros for the aunts and uncles of their parents. He also cannot believe people come in asking for a piano when the probably did not have one. One man came asking for money because the persecutions prevented him from becoming a doctor; instead he became an inspector general (a high position) within the SNCF. Ruzié could not believe this affluent man was requesting money.

Ruzié could only think of several sympathetic claimants. One was a man who, as a child, had been held in detention at school one day, only to return home to find his entire family taken. Another man came in broken and disheartened by having three failed marriages. He said he was now old and alone and his life was a mess. Ruzié said he really felt for him because at age four he saw his parents taken from him. “What a four-year-old
makes of this is monstrous,” Ruzié said. These moments of sympathy aside, Freedman survivors have little chance of winning their claim if Ruzié sits during their session.\textsuperscript{183}

Yet Ruzié is not free of his own Holocaust legacy. Ruzié explained that he is trying to buy a plot in a local Jewish cemetery to prepare for his own passing. Even though he survived Nazi persecution, he has been having trouble proving his Jewish ancestry. He has no birth certificate; so he had to ask his Rabbi in Paris to speak on his behalf. His children both married Christians and his wife was Catholic; he was the only practicing Jew in his immediate family. These legacies impact people differently.

**Ruzié and the SNCF**

Ruzié thinks France has done enough on a material level. He finds the SNCF case ridiculous; “they were under orders; they were state-owned,” he argues. He says the Lipietz family members named on the SNCF lawsuits in France had not even traveled to Auschwitz. They were taken from Toulouse to the Drancy, the French internment camp. He pointed out if the U.S. was so adamant about stopping those trains, why did Roosevelt not bomb the tracks? Roosevelt, he said, continued relations with Pétain until Pétain cut them off. In spite of the lack of U.S. intervention earlier in the war, Ruzié expressed

\textsuperscript{183} During an interview at Café Danton in Paris, Freedman commended Ruzié on the depth of his diligence explained that; Ruzié researches every word in every document. Ruzié once discovered that the man’s mother had had a hat store under another name. The man had come in asking for money for the loss of his father’s business unaware that his mother had had one as well. This was the only time Freedman recalls Ruzié advocating for someone to have *more* money.
much appreciation during our visit to the American cemetery for those lost during D-Day. He seems enormously grateful for the contribution of the allies.

Ruzié Conclusion

Ruzié’s commentary provides a rare look into the ironies of today’s French restitution process and those who ran it. Survivors do not necessarily advocate for other survivors. And while there may be some trying to access restitution deceitfully, those who are not might find themselves further injured by the process. The needs of an octogenarian applying for restitution might be quite different than a forty-something adult. Gathering forms and attending meetings might be quite difficult for the remaining victims. Pursuant to the argument of this dissertation, ideally such processes would bend and adapt to these new challenges.¹⁸⁴

¹⁸⁴ U.S. State Department staff said they would streamline the process for the beneficiaries of the December 2014 French-U.S. settlement. Time will tell. As of May 2015, the process has not started.
Survivor comments on French restitution programs

The preceding discussion focused on the CIVS commission and the observations of two members of the committee. The following broadens the discussion to include French claims and the voices of survivors, a number of who made clear that restitution creates as many needs as tends. Some shrug at the futility of trying to compensate for the devastating losses. Leonora, an orphan now living outside of Paris, says that the money
she and her husband received was symbolically meaningful though not enormously useful. Still, she says, they are grateful to live “a normal life, a modest life.” She adds, that of course the money will never cover the loss of her parents. (2014) Others, however, express great dismay at either the process or the amount of time they had to wait or the complexities of applying for compensation.

Analise did not even bother beginning the process,

   Personally at the time we were told about the compensation, I would have had to fill in the forms—they were enormous and I was rather overwhelmed by them. I am sure I was entitled to compensation but as I never filled out the forms, I never received any [money]…\(^{185}\)

Betty, a hidden child living today in the Chicago area also never received any compensation.\(^{186}\) They took everything from her apartment; she said she called twelve lawyers in France and none would take her case. The president of CIVS “mixed everything up,” she said. Betty may be eligible for the new hidden children’s fund announced in late 2014. About the new fund she said, “I’m very old, you know, and I’m going to die one of these days soon…but, you know, if it enables me to go to a restaurant once and awhile that would be nice.” (2014) The Press Release issued by the Claims Conference responsible for a new fund for hidden children said applications would be accepted starting in January 2015. The release did not say to whom to contact. Betty wrote me saying, “I don’t know who to contact or what to do. Who do I contact? What do

\(^{185}\) Email correspondence. May 20, 2014.

\(^{186}\) We spoke over the phone. July 18, 2014.
I say? I’m old.” (2014) Without help through the process, Betty will likely not receive the $3,280 for which she is eligible.

**Restitution: a painful process**

Others stress the emotional trauma impact of the process. Anna, a child survivor living in up-state New York, who lost her father and brother in the French deportations, says of the reparations process, “they did not make it easy.” (2014) Firstly, it was not easy to get the documents; she had to keep writing to acquire them. She and her sister went to the French consulate and sat before a huge committee,

> It was painful. All this hurts. You can’t just say I was there blah, blah, blah…I am used to speaking in public. I have done hearings…[But] I cannot begin to express the discomfort…When we got out of there I needed a valium. (2014)

She clarified, that the committee was not mean to them and she said, “they gave us a certain amount of money that I felt was fine.” It was the process she found atrocious. Anna explained. She said survivors could select to receive a lump sum or monthly payments. She chose the lump sum because she saw her mother suffer from receiving monthly checks. Her mother collected directly from the Germans,

> Every time she got the check (monthly) it was a horror for her. I think that’s what killed her. She died at 64. So for me, when I got the money from France…I spent it immediately. I put on an addition immediately—a sunroom. I bought myself a gorgeous piano and I did something for my husband and then the money was gone. (2014)

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187 Anna and I spoke for a few hours on the phone.
Eventually she also received compensation for the roughly $1,500 for the jewelry and money that her father and brother carried with them to the Drancy internment camp. With this money she bought a gold chain and a locket. She put in a picture of her father and brother and had it engraved. She did not want the money around.

Bertha similarly described experience of restitution as very uncomfortable. Submitting claims brought the horror more sharply back into the present. Her husband explained to me that he spent their whole lives trying to help her heal from these painful memories; restitution procedures stir up even more memories. At age fourteen, living in Paris, Bertha’s mother sent her to run some errands. She came back to find that her mother, two sisters, and brother had been rounded up. In total, Bertha lost forty-eight family members from France and Poland. She was left to fend for herself, finding her way south to the free zone. She received money from France for the first time in 2013.

**The “moral prejudice” of compensation programs**

Sarah said the money would be helpful to her but the process has only reinforced her ill feelings about the French (and Germans). During the war nuns hid her during the war while her father and mother worked to escape from a camp and a prison respectively. Her parents survived, though much of her extended family was killed. She received $7,000 twenty-five years ago but cannot remember who gave it to her. She expressed great frustration with the process, “They don’t tell you who to call and what to

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188 I spent an afternoon with Bertha and her husband in their home. Just as I was about to leave their apartment, we discovered they were related to my best friend in high school. They showed me pictures of her grandmother. May 10, 2014.
189 I spoke for over an hour with Sarah and her husband. June 10, 2014.
do.” She believes the Orthodox Jews in Israel and lawyers end up with all the money.

About compensation she says,

Of course I could use it! I am not swimming in money. We are able to eat at a restaurant sometimes. Of course it would be helpful but by the time they release it, the lawyers get all the money. The survivors don’t get much money...If I tell you how many files I have made out [German and French] and they tell me I am not entitled...Now it has been seventy years. My parents should have gotten something. I was a baby. They went through hell...The French people are the biggest anti-Semites. They will turn things around so they don’t have to give the money. They are just horrible about money. (2014)

She is 73 her husband is 83-years-old.

As of 2015, many of the same problems remain. Rosa, in Maryland, who testified against the SNCF, pursued compensation with the French government after learning this was still a possibility. She has not yet found someone to speak with her. She has called the French embassy in Washington D.C. and emailed the contact on the compensation website. The phone number does not work and no one seems to respond to the emails. In September 2014, she writes, “The process is taking a very long time. I sent in the application to the consulate in late June. I was told my application is in progress. It can take 3 – 4 months because the committee meets only once a month.”

For Ida, whose mother was placed into slave labor, the issue is one of justice. During an interview in her French apartment she says, “The rich receive money. The poor receive nothing. The inequality here needs to be rectified. Some get money quickly, gets lots of help, get lawyers...Lawyers help their friends. Deportees didn’t get the money. This was a big problem in Israel. When you had jewelry and an apartment you get

190 We corresponded via email during this time.
money. When you didn’t have anything, you don’t get money.” She called this moral prejudice. (2014)

**Too Little, Too Late**

For a number, whatever money did arrive was too little and/or just too late. Hugo, a survivor living in Israel, says they were paid a pittance for their losses,

> My father was arrested by the French police and interned in the camp of Beaune-la-Rolande in May 1941, transferred to the German forces in June 1942 who sent him to Auschwitz where he died two months later. My mother was arrested (by the French police) in [March] 1944, transferred one week later to the Germans who sent her to Auschwitz where she disappeared. (She probably did not pass the selection). From this we received a one-time not very big indemnity from the French Government and that is all. Jewish human life is quite cheap! (2014)

Many expressed how badly they needed the money right after the war. Erwin, who survived the train voyage and imprisonment at Auschwitz with his brother Maurice says, “The compensation issued in France was very late and insufficient. It was in returning from the camps when I needed it.”

Gustav agreed. An 85-year-old Paris resident, whose parents were deported on the last convoy from Drancy in 1944 and killed in Auschwitz, Gustav believes that France has done enough to date, but he really could have used the money more when he was young, “it took too long.”

At least the various checks he now receives add up to something tangible, he says. The Mattéoli Commission discovered his father’s bank account. He used the money to buy a small

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191 Said during a phone conversation. I spent the day with his brother, but was unable to meet Erwin in person. August 11, 2014.
192 We spent an afternoon talking and looking at pictures in his apartment in Paris. August 12, 2014.
house in the country where he has a garden robust enough to allow him to make
Mirabelle (plum) jam and grow potatoes.

Johanna’s family was desperate for help after the war, but the processes were not
well established to help people. By the time restitution available, her mother refused to
allow Johanna to pursue the cause; she said her mother had given up.

As you know, everything got worse in 1942 and the entire country was occupied. All
the furniture was moved out of our apartment by people who lived there
unbeknownst to my parents while we were away. When my mother went back
home in 1944, everything was gone. The place was totally bare. City Hall knew
who lived there and took the furniture, but they could not do anything unless she
identified it. She could not think of a way to gain admittance to these people’s
apartment. To make matters worse, she lived in a beautiful home in Poland (her
parents were wealthy). When I found out about restitution, I asked her what the
address was, but she had given up and did not give it to me. Worse still, when
restitution came about, I found out that people who lived in France were
excluded. Those who immigrated to the US are entitled to it. That was in the
90’s. (2014)

Sarah, described above, also expressed great dismay at the amount of time it took
to create these programs. Like the others, she says they most needed the money after the
war.

We were sitting in front of the radio with my father at the end of the war. Happy,
but there was no food. There was nothing. We ate horsemeat. We were hungry.
My father opened up another business—pocket books, but he was very sick, his
teeth were banged out…horrible things. But we had to survive and he had to take
care of me. (2014)

She described the holes in her parents’ legs caused by starvation.

193 I received this information through an email correspondence. I am still not clear what
type of fund would have been available to Americans but not survivors living in France.
Ester appreciated monies received, though says the delay watered down the significance. Ester, her sister Annie, and their brother’s wife (the brother is now deceased) split $25,000 from the Mattéoli Commission. Ester said she appreciated the money noting, “It was a little late. If my parents were still alive,” she said, “it may have meant more.” While her parents did survive the war, her niece recently discovered that they lost roughly 150 family members total. Her brother committed suicide at forty-five. His death has been quite hard on Ester; she believes his being born in such terrible times contributed greatly to his suffering. (2014) Compensation for such kinds of losses is impossible in current restitution programs.

“Eh, I took it…but it was only a token.”

Some said they applied for and received money, though feel it did nothing for them emotionally. Rachel spent part of the war in a convent; her mother committed suicide during the war and her father died during his escape to Spain. She received compensation just a couple of years ago. To make her claim, she provided death certificates and described her pre-war middle class life. She received roughly 20,000 euros that she says will be passed on to her children,

Emotionally I did not feel compensated. I had decided that if they offered compensation I would apply for it…You don’t compensate people—it’s over and done and now it’s an entirely different generation of French people. (2014)

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194 I have spent many hours with Ester between 2013-2014. I have heard her public talks, visited her at her home and went through the U.S. Holocaust Memorial Museum with her and her sister. She communicated her perspective during these times.

When she came to the United States and started a new life she did not want to occupy her time with these things.

Alfred also received money that meant little to him emotionally. During the war, his family of five and their family friends escaped from Paris. He says in 2000 he received 500 euros per month (roughly $950) payment from France. In 2013, after a ten-year process, he received 5,000 euros (roughly $6,500) from Germany. When asked whether the money was meaningful symbolically he responded, *Je m’en fous,* translating roughly to “I don’t give a f**k.” While his family suffered greatly during their escape, he thinks they suffered even more after the war. His family had lost everything, he explained, they lived in train stations and changed locations night after night. He remembers the first winter after the war being the coldest of all. They received nothing during these first few post-war years.

After submitting very specific claims, Clara received compensation, though says it had little meaning. Her parents were transported on Convoy 58 and killed so soon on arrival, the U.S. Holocaust Memorial Museum told her German records would be difficult to acquire.

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196 I spent four hours with Alfred in his home just outside Paris. He had a one-meter by one-meter map of France with his family’s escape outlined on the map. He could recall almost every day of his journey. July 29, 2014.
197 An in person interview in Florida first at a French restaurant and then later we chatted in her home where she showed me documents and pictures. January 10, 2013.
198 Her father had loved France and told his family this often, musing on the wonderful food and culture. They spoke a mix of French and Yiddish at home. She said their family identity was French first, Jewish second. Her father had a fur business that the Germans requisitioned to produce coats for their soldiers fighting the Russians. While her aunt and uncle urged her parents to leave, they stayed because her father wanted to put the
Clara’s first brush with restitution occurred immediately after the war. She returned to Paris to live with her aunt, uncle and cousins. While her apartment had been given to someone else and the furniture taken, she had a chance to recover her beloved piano. Just a young girl, she entered a giant warehouse of stolen pianos. She found her piano and the people in charge asked her for proof. She told them, “I didn’t point to the most expensive one, but this is mine.” They gave her the piano and her cousins started taking lessons. She and her family did not receive substantial financial restitution, however, for over half a century.

In the past decade, Clara’s brother worked with someone to organize family documents to could apply for compensation. They needed birth certificates, marriage licenses and proof they lived in the apartment along with some other miscellaneous evidence. After much searching they successfully completed their application and she received 26,000 euros for being an orphan and additional funds for her father’s lost fur business. Regarding her feelings about receiving the funds she said, “Eh, I took it. It could never bring back my parents, but it was a token.” (2013)

France saved my life

business in order. Her mother knew this would be no place for her child so she arranged for Clara to spend the summer in the Dordogne region. Even though the family thought the separation would only last a summer, her mother’s last words to Clara suggested a deeper knowing, “My mazel has gone,” she said. Mazel means, “luck” in Yiddish. Within three to four weeks, her parents were rounded up and killed.
Moses shared a perspective quite unlike that of other survivors. He feels he owes France; not the other way around. Now a Boston-based lawyer who went on to fight in the Korean War with the U.S. Army, Moses says,

I have never sought or received compensation from the French government, because they saved my life and that of my brother...by allowing us to enter the country on July 4, 1939 from Berlin, Germany, where we would almost certainly have been murdered like our mother, aunt, grandmother and most of our family. My brother and I remained in France [at Quincy sous Seart and subsequently at Chabannes in the Creuse] in the care of the Oeuvre de Secours aux Enfants [OSE] until September 1941, when we were brought to the United States thanks to the efforts of the American Friends Service Committee. In the circumstances, I own compensation to the French not the other way around. (2014)

Others, he says, hang on to things that are sometimes bizarre. He recalls meeting a woman at a survivor group still very concerned about her stolen bicycle.

Money alone clearly does not solve problems; for some the trauma of applying for funds may not be worth the effort. The discussion of French restitution generally and survivor responses provides the context for the next section, the question of compensation specifically related to the SNCF. The SNCF has never paid survivors directly and the December 2014 settlement between the French and U.S. governments regarding the matter suggests the company never will. These responses to French restitution generally provide a context for the SNCF-restitution debates.

SNCF and restitution: forwarding the bill

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199 Shared during a phone interview. April 30, 2014.
200 Moses expressed this view in an email to me. We had a follow-up phone interview to discuss his perspective in more detail. April 2014.
Senate Bill 1393, used to outline the Part I history discussion, criticized the SNCF for not providing any financial redress to those harmed by its complicity in the transport of deportees.

**Senate Bill 1393 claims: Deported families were never compensated**

(5) The complaint contends that SNCF’s actions violated the Principles of the Nuremberg Tribunal, 1950, relating to crimes under international law (earlier recognized by the Martens Clause of the Hague Convention IV of 1907), and aided and abetted the commission of war crimes and crimes against humanity. SNCF has not denied its actions and has never disgorged the money that it was paid for the deportations or otherwise compensated the deportees or their heirs.

SNCF’s refusal to pay direct compensation became the focal point of legal, legislative, and public discourse. The company claimed that as a state-owned and operated company during the war the government would provide any restitution. Bernard Emsellem, head of Corporate Social Responsibility at the SNCF, claims that the French government actually prohibited the company from paying reparations directly. Hence, the negotiations via the U.S. State Department include only the French government and not the SNCF (discussed in Chapter Five).  

The SNCF tried demonstrating its commitment to helping victims access restitution funds by initiating a portion of the Shoah Memorial website designed to help survivors better understand the compensation and restitution available to them by the French government. The site, available in French, Hebrew, and English, explained monies

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201 I heard this from a number of sources, though was never able to verify the precise nature of the agreement between the SNCF and the French government.
available to deportees, children of deportees, and people lost property or assets. This site directs claims requests to the French government and applies anyone:

- Deported from France. (Note: most have died)
- You were at an internment camp in France.
- One or both of your parents died in a camp in France, or during deportation or were shot.
- You lost money due to anti-Semitic legislation (real estate, works of art, bank accounts, insurance, etc.). (Shoah Memorial Foundation)

In 2010, regarding restitution for survivors outside of France SNCF CEO Guillaume Pepy said,

> We are in the process of establishing a service to work one-on-one with individuals to help them process their claims and receive their reparations from these existing State programs. This service is well underway and will be fully implemented before the end of this year – reaching out directly to those most deeply affected in America. (Pepy 2010)

Either this program failed to reach survivors or simply did not satisfy litigants and their lawyers.

**Should the SNCF pay?**

Prior to the settlement, a number of U.S. officials urged the SNCF to pay directly. Henry Kerner, a lawyer and official working at the House of Representatives on the SNCF conflict drafted letters to the SNCF urging them to take responsibility through financial redress. He found constraints irrelevant; he offered the analogy, “if you hit

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202 http://holocaust-compensation-france.memorialdelashoah.org/
203 I found no survivors who said they worked with the company in this way. Perhaps the program never launched or simply worked with a few people.
someone’s car to avoid hitting another car, you still have to pay.” (2014) Furthermore, Secretary of State John Kerry said to SNCF America CEO Alain Leray something to the effect, “why don’t you just pay them [the claimants/survivors]?” (Leray 2014) The SNCF never paid. A brief, but important side note, the SNCF did provide deportees living in France with free lifetime metro access and an 85% discount on all regional rail travel. The French state paid on behalf of the company; whether those monies will be sourced from the SNCF is not clear.

Not everyone agreed the SNCF owed survivors compensation; Part III will discuss in detail how most Vichy historians and the French Jewish leadership believed the issue ought to be dropped, as did many survivors living in both France and the United States. She says the commission and orphans fund ought to be enough to satisfy survivors and “instead of reclaiming money from the SNCF, better that the applicants write books and conduct research. We did not see these people when we were fighting that no one forget the Holocaust.” (2006) Wieviorka, part of the generation of scholars who opened France and the world to the truth of French complicity, feels these litigants are showing up after the hard work was done. She suggests they write books and conduct research. While many have found much benefit and audience in doing so, not everyone can easily adopt her approach. Betty, for example, the survivor who called twelve lawyers for help with the process, cannot simply write books or do research, as Wieviorka suggests. She

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204 Leray mentioned this statement by Kerry during our in person discussion. November 4, 2014.
205 I learned this from a survivor. No one from the SNCF or anyone else mentioned this compensation.
never told her story to her children. When she did, she would start to cry. (2014) Beyond this, Wieviorka believed individuals, not their descendants, ought to be emblematically recognized. She writes, “a symbolic euro for damages would not surprise me, but I find it indecent that those who have not suffered directly from this barbarianism claim compensation today in the name of their deported parents.” (2006)

Restitution Conclusion

This chapter opened by pointing out that the word *settlement* implies a kind of a closure or ending. The interviews and research conducted for this dissertation, however, suggests that such endings are neither possible nor ideal. Even though the remaining survivors will soon pass, their descendants will continue to submit claims. “New” perpetrators are identified every year; in 2014 the Hungarian train company found itself taken to task for its role in the Holocaust. This will likely not be the end. More assets continue to be discovered. Ideally transitional justice practitioners appreciate the process of looking back may cause additional pain. Furthermore, sometimes settlements have political purposes such as reestablishing diplomatic relations; victims can be caught, once again, in someone else’s battle.

Beyond restitution

The SNCF debates revolved largely around compensation, invoicing, and fiscal responsibility overshadowing other means of symbolic redress that may also move towards greater cultural and individual healing. The next two chapters address the other forums through which the SNCF tried to make amends, including increased transparency, memorialization and apologies. Money cannot erase memory.
CHAPTER SEVEN
TRANSPARENCY

“Memory can be painful, extremely painful, even. But it has no right to be hidden. It must not be obstructed. The living owe this to the dead.”
- Guillaume Pepy, SNCF Chairman & CEO

After the war, at the site of Sobibór extermination camp in Poland, people planted trees to bury the past. Eventually, the bones rattled and the living spoke loudly enough to allow others to bare witness to what trees could only temporarily conceal. (The French did the same at the Drancy internment camp) The findings of this research suggest that, like the forest in Poland or the trees at Drancy, overgrowth could temporarily hide the past, but never expunge it. Though new stories, events and people may populate a geographic or discursive space, the past never agreed to dissipate. This contributes to truth-seeking’s central role in many transitional justice efforts. Hayner considers official truth-seeking, “a staple in the diet of transitional peacemaking.” (1999: 363) Transparency, truth-seeking and truth commission efforts aim to upend efforts to obscure the nature of atrocities committed.

206 Experts estimate over 200,000 people were murdered at Sobibór.
This chapter supports the major claims of this dissertation. First, that market actors can play a significant role in post-conflict processes, especially in terms of truth-seeking efforts; they can be leaders in transparency or perpetuate a single story. The chapter claims that transitional justice efforts most contribute by moving away from a finite, truth-seeking model and embracing a process of increased transparency and the promotion of rich discursive environments for discussion. This shift serves both the victim and the culture at large. Truth supposes a kind of finite and knowable thing, whereas transparency supports a process that can lead to new understandings and promote new voices. Individuals and communities, through engaging in the search, consider again and again who they are and where they fit in the puzzle of humanity. New generations may want to “re”-consider again after the victims have passed. New findings, new technologies (e.g. DNA testing can help identify disappeared loved ones) and modern sensibilities (new moral frameworks), for example, contribute to the on-going and intersubjective nature of this process. A transparency approach also creates more opportunities for discussion regarding how what we observe reflects us as much as it does the object being observed. Increased reflexivity can occur when the focus is not on some objective truth to be found. This reflexivity can promote cultural change and help lead to prevention, arguably more than verifying a particular date or location ever could.

207 JP Morgan, for example was the only U.S. business allowed to operate in German occupied France without Nazi intervention. An old friend said while he worked as a senior executive in the Place Vendome offices in Paris he received permission into the company’s World War II archives, which he said were almost entirely empty. JP Morgan, later indicted for wartime complicity, had no significant archives. Morgan’s partner did have a journal in the archives. My friend said the journal, recorded during the war years, only spoke about playing Polo and chasing women.
In regards to France and the SNCF, this chapter shows how trying to finalize the story never quite worked, anyway. New information and voices repeatedly challenged master narratives aimed at putting the past in its place, a place that often served the elites and former collaborators.

**Transparency vs. truth: the politics of meaning making**

Embracing transparency versus truth helps the field consider the issues of power and politics that play a role in truth-seeking efforts. The past can only be understood from one’s own vantage point; this vantage point changes, cultural notions shift, new understandings invite or sideline various voices. Truth-related discussions, in their arduous efforts to unveil facts, obscure the politics of colonizing meaning. (Cobb 2013) Facts become commodities. If truth-seeking efforts ignore the politics of meaning making, post-conflict communities may be vulnerable to the subtle and not so subtle ways the new regime legitimizes its power and controls what can be said. When truth remains a contested public space, or if transparency becomes the goal, controlling the conversation may be more challenging.

Transparency promotes relinquishing over control. In *Moral Repair*, Walker says that the acceptance of wrongdoing requires letting go of control around the truth; she claims repair “entails that wrongdoers relinquish a good deal of control over accounts of what has happened, especially reckonings of what harm they have done to others and what they have revealed about themselves in so acting.” (2006: 200) When the truth is unappealing, many may seek to construct a more palatable version. This happened in France. This chapter will show the politics of truth seeking and truth construction (myth
making) in the case of the Holocaust, France and then moving into a discussion of SNCF, arguing that had transparency – versus truth— been the goal more would have emerged sooner and the company may have received less criticism. For decades the world, France and the SNCF wrote and controlled the history of the war years, silencing victims that contributed to their suffering.

This chapter highlights the importance of considering market actors and the complications of having a corporate identity when becoming more open about the past. Corporate entities know that the evidence they find can, and often will, be used against them; this happened to the SNCF several times. The SNCF conflict especially fascinating from a transparency perspective because this corporation constructed a story about itself, then conducted research, and opened its archives each time shifting its story slightly and with it increasing the legal and social vulnerability. Present-day corporations have little incentive to conduct research and open archives. For market actors to be included in transitional justice efforts, the incentives for continued secrecy may need to be addressed. This chapter begins with an introduction to truth in the context of transitional justice, and then considers these concepts in the context of the Holocaust, France and the SNCF.

**Truth: contribution and attainability**

DuToit defines “truth” as a detailed accounting of political atrocities that occurred. He sees this as achievable and worthwhile. (2000) Other scholars claim the quest for truth offers the *only* path to personal and social peace (Hayes 1998, Hayner 2002) and even the reestablishment of law. (Rotberg, Thompson: 2000, Landsman 1997)
Some challenge these vast generalized claims, debating truth’s attainability and desirability for individuals and society. (Chapman 2008)

While it may be unattainable, the process of truth seeking responds to multiple levels of denial in post-atrocity settings. Cohen distinguishes between various forms of denial including literal, interpretive, and imprecatory that occur in personal, cultural or official realms. He considers official denial one of the most extreme forms used to cover up atrocities or at least to protect various parties in the aftermath. (2001) This means denial by the government within the country or community in which the atrocities occurred. The complex search for “historical truth sponsored by the government or international community designed to identify the activities of past regimes and even to provide proof for trials can help upend this official denial.” (Bickford, Karam, Mneimneh, Pierce: 2009) This chapter will show the ways in which France and the SNCF participated in some combination of denial and myth creation.

Because this dissertation explores the question of corporate participation, this literature review now turns to scholarship addressing how corporate entities and then specifically Holocaust-implicated corporations and the SNCF engage(d) with truth seeking.

**Transparency and Holocaust-implicated corporations**

Truth seeking related to Holocaust-implicated companies began with the lawyers the post-Nuremberg Trials, facilitated by the U.S. Military that tried a number of German corporations for their complicity in the war and the concentration camps. Prosecuting lawyers had to prove the offenses by bringing them to light. Today, however, historical reports remain the primary means by which many companies implicated in WWII
acknowledge their role. Some companies sponsor independent historians to compose reports covering wartime periods or periods of questionable participation in atrocity. In this way, the corporations contribute to transitional justice by upending the silence created by violence and contributing to the construction of history and memory. The Hugo Boss Group commissioned such a report entitled, "Hugo Boss, 1924-1945. The History of a Clothing Factory During the Weimar Republic and Third Reich" by Roman Köster. Such reports serve as admissions of guilt and do not require compensation. Transparency, in some cases, seems to be enough—at least for now. In regards to some corporations, there seems to be a kind of cultural agreement that amnesty can be won through honesty. These companies often see the act of truth commissioning and freely providing the report as sufficient restitution. Plaintiffs find themselves powerless to challenge this amnesty either because the courts remain closed to their pleas or they lack the social capital to challenge these large entities. If amnesty be won through transparency, why can Hugo Boss be absolved and not the SNCF? Can JP Morgan be held accountable for having no archives to share? The SNCF case proves especially interesting expressly because the company had such large archives and because some of the diaspora directly challenge the unspoken agreement that an admission of guilt acquits the accused.208

208 Part III addresses this question of how certain perpetrators receive greater public attention. Trains touch a particular pain point in relation to the Holocaust. The uniforms, provided by Hugo Boss, have nowhere near the symbolic power of these machines that carried millions to an almost certain death.
“Unrepaired wrongs on a large scale, which determine life experiences and life chances for generations, do not go away; even when they are silenced they have a way of coming back.”

Margaret Urban Walker

The world’s silence

The silence in France and within SNCF was not an anomaly in the post-war period, even America said little. Novick notes, “between the end of the war and the 1960s…the Holocaust made scarcely any appearance in American public discourse.” (1999: 102) *The Diary of Anne Frank*, released in English in 1952 and now one of the most widely read books in the world, was not widely read in the first decades after publication. With the exception of Raul Hilberg’s *The Destruction of the European Jews* published in 1961 and several smaller works, for years the Holocaust remained the nothingness into which millions of victims entered.

Documentarians, TV producers, lawyers, and historians contributed greatly to upending this silence that left the Holocaust largely unarticulated until the 1970s. Even as the Eichmann Trial in 1968 helped unleash a new dialogue, the world moved slowly. Ten years later, the 1978 NBC TV Series *The Holocaust* brought the atrocities of WWII into homes across the world, especially to over 100 million Americans estimated to have watched most of the series. (Novick 1999) In the end, “it was an American “soap opera” that shattered thirty-years of German silence on their wartime crimes.” (Novick 1999: 213) Seven years later in 1985, Claude Lanzmann’s nine-hour documentary film, *Shoah*,

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commissioned by the Israeli government, broadcasted the atrocities to the world’s stage. The low-key interviews with townspeople and S.S. offered viewers not just a view of the victims, but of the mindset that allowed the perpetration.

Novick attributes much of the silence to fact that “the Holocaust was a horrifying spectacle, painful and nauseating to contemplate, the sort of thing to which most of us responded by averting our eyes.” (1999:109) Most of the world, including survivors, Jewish people and the State of Israel, averted attention until the fall of the Berlin Wall and the end of the Cold War.

*Les années noires: French silence*

After the war France, and the SNCF as an extension, supported what amounted to a deletion of the Vichy Period. Charles de Gaulle declared that whatever activities occurred during the war years were separate from France; he wanted tears to stop and glory reclaimed. Caroline Moorehead, biographer of the lives of over 250 French women in the resistance, describes Charles de Gaulle as after the war as,

> anxious to see France reinstated as a major power, fearful of excessive American influence, conscious of the need for a united France and for the French, traumatized by four years of occupation, to put the war behind them - was reluctant to dwell too much on the collaborators and their victims. The time had come to celebrate the heroes, not hunt down what he called ‘miserable specimens.’ (2011: 295)

The worst of the collaborators would be tried immediately and the rest were to be forgotten, at least for now. 211 Those that did occur, all but omitted the transportation of

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211 When French law included crimes against humanity in 1964, a number of those “forgotten” would be remembered in the coming decades. The trial against Klaus Barbie, one of the most infamous collaborators, only occurred in the 1980s. Regardless, two of
deportees; the trials of Philippe Pétain, Vichy’s Chief of State, and Pierre Laval, Vichy’s Prime Minister barely mentioned the deportations. (Moorehead 2011: 298)

After the few post-war trials, Charles de Gaulle’s government quickly turned to celebrate heroes. His government funded research efforts excavating the stories from the resistance, creating a state narrative and further marginalizing victims. Such stories additionally helped distract any public who desired to continue to purge the country of its collaborators.

**French resistance to wartime transparency**

Although historians and others disagree over the exact turning point in France, most site a variety of historical works, documentaries and lawsuits. Many in France agree that the 1972 release of American historian Robert Paxton’s *Vichy France: Old Guard and New Order, 1940-1944* played a pivotal role in the challenging the French national narrative.²¹² The book made Vichy collaboration impossible to deny. Those who lived through the war knew that Paxton had done his research. Many French today credit Paxton with opening the country, including Richard Prasquier, former head of CRIF (France’s largest Jewish organization) expressed great gratitude for the work of Robert Paxton whose seminal work he believed broke France’s silence.²¹³ (Prasquier 2011)

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²¹² In my many informal conversations with French friends, especially at parties when people would ask about my work, the contribution of Paxton would be mentioned. People age thirty and older often expressed great appreciation for the ways in which the book changed the post-war context in France.

²¹³ Prasquier told me this during an interview in his Paris office. May 9, 2011.
Some powerful individuals prevented works that challenged France’s wartime narrative from entering the public sphere. Marcel Ophüls’ four-hour film, *Le Chagrin et la Pitié* (The Sorrow and the Pity), accused the Vichy regime of having more collaborators than members of the resistance. (Moorehead 2011) While ready for television airing in the 1960s, Auschwitz survivor (who became the first President of the European Parliament) Simone Veil delayed the film’s showing, arguing the film offered an overly simplistic view. (Veil 2008: Curran 2014) As a result, the show was not aired until 1981, the same year as Paxton and Marrus released *Vichy France and the Jews* outlining Vichy anti-Semitic legislation and Vichy participation in the deportations.

During the 1980s, the momentum continued. Beate and Serge Klarsfeld released their report listing the name, convoy number, dates of birth and birthplace of every deportee that left France. To these pivotal works, George Ribeill added, Michael Slitinsky’s commentary in *Le Canard echaîner* (the Chained duck) — one of France’s satirical newspapers as playing an important role. (2008) By the 1980s, the past became impossible to deny yet the question of responsibility remained unanswered.

The official state narrative shifted little from Charles de Gaulle’s post-war proclamations. President François Mitterrand kept the French national narrative frozen for the fifteen years of his presidency (1981-1995). Mitterrand had been a collaborator, serving in the Vichy government. He wrote a pro-Vichy piece entitled *France: Revue de l'Etat nouveau.* As late as September 1994, Mitterrand refused to acknowledge any responsibility of the French state, “I will not apologize in the name of France…The

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214 *Politique* reprinted his article in 1978.
Republic had nothing to do with this. I do not believe France is responsible." (Simons 1995) He maintained a post-war friendship leading to the protection of René Bousquet responsible for many of the roundups and allegedly protected many other collaborators. Subsequent President Jacques Chirac, who Eizenstat recognized as, “the first post-War president without World War II baggage” (2009: 317), did take responsibility. Within just months of taking office, at the fifty-third anniversary of the Vel d’Hiv, the most famous roundup of Jews in France, he changed France’s story. For the first five decades after the war the French government held the Nazis entirely responsible for all of the crimes committed. Chirac’s speech, however, overturned that narrative on an official level. (Chapter Six discusses this apology more fully.) While today the government no longer silences the role in the Vichy regime, the move towards total transparency arguably remains slow.215

Ironically, the SNCF has become one of the largest promoters of wartime transparency, suggesting that perhaps market actors could play a bigger role worldwide in promoting transparency. The SNCF claims that in 2011-12 it endowed France’s first university chair on “the Holocaust and Other Genocides.”216 The SNCF has become a great advocate for Holocaust education and pedagogy, sponsoring research and educational program. Initially, however, the company proved reluctant to transparency; the voices of survivors, lawsuits, and the changing global conversation about the

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215 A French historian admitted even today’s French scholars struggle to find programs that support Vichy research This scholar asked to remain anonymous perhaps suggesting the still very political nature of the question of Vichy history.

216 The Bordeaux Institute of Political Studies (SciencesPo Bordeaux) hosts the chair. The endowment lasted three years.
Holocaust all contributed to this shift. The company emerged from the war with a heroic version of its role, and then reluctantly began a search for “truth” that has now shifted into a commitment to transparency and research.

“We learn from our mistakes not from our lies.”

Les Convois de la Honte, (Convoys of Shame)\(^{217}\)

**Post-war SNCF: a sliver of truth**

SNCF’s movement towards transparency progressed at about the same pace as France’s; for decades the company made no mention of the transportation of deportees, heralding instead its active role in the resistance. The SNCF had much encouragement from the government and even organizations of the resistance to perpetuate stories of heroism. For example, August 26, 1944, the Conseil national de la Résistance, a resistance organization that coordinated different wartime efforts, congratulated then SNCF President Pierre Eugene Fournier for the company’s acts of sabotage during the war.\(^{218}\) As discussed in Chapter Three no evidence suggests Fournier played an active part of in the resistance personally or as the company’s leader. He appeared to be a well-regarded technocrat who complied begrudgingly with German demands and served for a year as the head of SCAP, the French division designated to aryanize Jewish businesses. While company executives fought acts of sabotage during the war, it celebrated these acts after the war.

\(^{217}\) 2005

\(^{218}\) The majority of resistance organizations, unless founded and run by Jews, did not focus on assisting deportees.
Post-war, SNCF formally sponsored efforts that celebrated these acts of sabotage. The company contributed materially and technically to the production of the popular 1947 film *La Bataille du Rail, The Battle of the Rail.*\(^{219}\) (Lindeperg 1996) The SNCF planned to hold an open competition in 1944 for filmmakers wanting to create a film about the company’s role in the resistance. For funding reasons, the company ultimately decided to make the film in conjunction with others, yet the SNCF maintained control over the screenplay and the editing.\(^{220}\) (Lindeperg 1996) This film further embossed the resistance narrative by depicting the company’s railway men working actively to sabotage the German war effort just days before D-Day in 1944. These acts of sabotage apparently did occur and some claim footage was collected during the war. As noted in Chapter Three acts of sabotage more often occurred towards the end of the war and rarely to assist the deportees.

The French government corroborated the SNCF story; in the 1950s, the French state awarded the SNCF the Cross of the Legion of Honor (pictured below), the highest honor in France, for its role in the resistance.

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\(^{219}\) The film’s opening credits thanked the SNCF for its considerable efforts towards the production of the film.
\(^{220}\) Other groups approving the screenplay included: 1) La Commission Militaire Nationale 2) Resistance Fer 3) Cooperative: Committee de Liberation du Cinema Français.
I took this photo at the company’s headquarters in Paris after a meeting with Bernard Emsellem who showed them to me after our several hour meeting.
The film, mostly an action film, makes no mention of the deportees. An early scene in the film alludes to the roundups only subtly: at a train station viewers see a woman and her daughter removed from the train; they are well dressed, walking swiftly with the German soldier hurried but without panic.

The SNCF also had government support to promote narratives of resistance. Immediately following the war, the Committee Correspondent of the 2nd World War
commissioned government official Paul Durand to write a report on the SNCF. Durand, both the son and grandson of railway workers, collected surveys documenting railway workers eyewitness accounts and original communications between the SNCF, the French state, and Occupant regarding the implementation of the armistice and other matters. Durand’s work culminated in a book released in 1960 entitled, *La SNCF dans la guerre: sa résistance à l’occupant*, The SNCF during the war, its resistance to the occupier. As the title implies, the report highlighted the company’s role in the Resistance and avoided all issues of collaboration and complicity. This became a state-sponsored report of heroism.

Eventually, the darker side of the SNCF’s WWII history revealed itself, first beginning in the late 1960s and then peaking in the mid-1990s. In 1968, Olga Wormser-Migot completed a much-respected dissertation discussing the German concentration camps. Discussing the topic in this era was quite extraordinary and atypical. Her dissertation included a section on the organization of convoys. She contacted Paul Durand, author of the aforementioned study on the SNCF. Durand responded vaguely, claiming that the railway workers had no advance warning of the transports of the deportees, whereas they had warning regarding military-related transports. (Ribeill 2008: 40-41) Durand’s state-sponsored narrative, which makes no mention of the deportations, overshadowed the work of Wormser-Migot and survivor accounts.

**Challenging the SNCF narrative: early survivor accounts**

222 A book of that title would have been difficult to publish even ten years later. As demonstrated in the previous discussion of the Eichmann trial and the works of historians would make it difficult to deny participation in the deportations.
The film *La Bataille du Rail*, the Medal of Honor, and Durand’s work dominated the France’s narrative landscape regarding the SNCF until the mid-1990s, drowning out the survivor accounts that began to surface. These accounts emerged in the 1947 in *Arrestation de patriotes, Saint-Brieuc*, the Arrest of Patriots. Additionally, in 1954, a group of former deportees compiled an anthology of personal accounts. Many of these accounts proclaimed the deportation journey their worst memory. (Ribeill 2008: 40)

At this time, Scholars also began to study the pathology of deportation. Professor Charles Richet and Dr. Mantonin Mas, both survivors, published a study entitled, *The Pathology of Deportation*, comparing the transport of slaves to America with the transport of deportees. (Ribeill 2008) Published in 1956, this work discusses the deplorable conditions, including the asphyxiation—these three-day voyages often killed 150 people. In 1965, Charlotte Delbo published described her journey in her book, *The Convoy of January 24th*, Christain Bernadac travelled on the same convoy and chronicled his experience in *Le train de mort*.

The official SNCF narrative only changed in the 1990s after the fall of the Berlin Wall, amidst the transnational holocaust litigation lawsuits and suits against the SNCF described in Chapter Four. Only when survivor voices gained poids, weight publically (legally and politically) did the narrative begin to topple and make room for a broader telling.

**SNCF: from myth to truth to transparency**

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At the end of the war, the story the SNCF constructed about its role so amplified the relative strength of the resistance, one could almost call it mythology, or a story inspired by true events. Prasquier, of the French Jewish organization CRIF, says that each company chooses its own mythology and for many years the SNCF’s myth was that it was part of the resistance.\textsuperscript{224} He says too much information exists now showing collaboration at the executive level and that none of the acts of sabotage conducted by the railway workers towards the end of the war meant to assist the deportees. (Prasquier 2011)

Lawsuits against the company and increasingly vocal accounts of survivors helped the SNCF shift into another phase; the company’s search for the “truth.” By 2015, truth seeking gave way to transparency, a more democratic and expansive approach to addressing the past. Truth seeking can become a contested and political space. Renown survivor and Honorary President of the Foundation for the Memory of the Shoah, Simone Veil expressed confidence in the SNCF’s ability to manage its own history, saying to the SNCF at the opening ceremony of the Bobigny deportation commemorative site, “I trust you to ensure that we know what happened.” (SNCF 2012) The company had clearly earned her trust, though the following discussion raises questions about allowing the company, or any company, to manage its own history given its past and incentives to keep things hidden. Discounting the amount of politics in truth seeking and telling can simply supplant one story with another without really inviting contesting voices, present or future, into the conversation.

\textsuperscript{224} He told me this during a meeting in his office.
First truth seeking efforts: Bachelier Report

The company’s one-sided story of resistance could not survive the truth excavations occurring all around it. In 1992, Kurt Schaechter copied archives led that to the first lawsuit described in Chapter Four.\textsuperscript{225} His findings proved SNCF participation in the deportation of the Jews and invoicing for at least part of this participation. There was no going back; the evidence was irrefutable. According to the film \textit{Les Convois de la Honte}, The Convoys of Shame, the Schaechter’s lawsuit along with the urging of train historian Marie-Noelle Polino, prompted the decision of then SNCF President Fournier (not the Fournier of the 1940s) to open the SNCF archives and commission a research project on wartime SNCF.\textsuperscript{226} Emsellem, of the SNCF, claims the intention to conduct the study preceded the Schaechter case, yet the research process began literally on the heels of the 1991 litigation. In 1992, under the provision of \textit{l'Association pour l'histoire des chemins de fer} (AHICF) (the Association for the History of Railroads), the SNCF signed a contract with CNRS (\textit{le Centre National de la Recherche Scientifique}), the national center of scientific research. This French national research institute conducts studies on science, mathematics, physics, and humanities. The independent CNRS conducted the study.

\textsuperscript{225} At the time of Schaechter’s research, the law forbade visitors from making copies of archival materials. Laws have since changed regarding photocopying, perhaps demonstrating France’s increasing commitment to transparency.

\textsuperscript{226} Schaechter had already passed away by the time I started this research in 2011, though I did spend several hours with Polino at the AHICF offices in Paris. She also attended my thesis defense at the American University of Paris.
As a result of this agreement, Christain Bachelier, contractual researcher assigned to the task, produced the 900-page report entitled *Sous L'Occupation Allemande 1940-1944* (Under German occupation 1940-1944) that the company published in 1996. Bachelier’s research revealed collaboration at the executive levels and a number of ways in which French railway workers worsened the conditions of the deportees. He found, for example, that some railway workers prevented the Red Cross or Quakers from providing water to those packed into the wagons, arguing that such intervention would delay the trains.

Un fortunately, the report remains a challenge for scholars of French history, lawyers, and those interested in the present-day conflict. The report offers no hypothesis or coherent narrative, instead listing information without providing context or testimony. Bachelier disappeared after the production of the report, making interviews and follow-up commentary impossible to acquire. Those who study the history or wish to launch lawsuits against the SNCF often refer to the Bachelier Report. Even though the word “Jew” never appears in the report and deportees are rarely mentioned, the report said enough to make the company even more vulnerable to legal attack.

**Truth: for amnesty or accountability?**

The SNCF engaged in truth-seeking efforts to help soften attacks on its integrity. Even those outside the company believed such efforts would be effective. The French

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227 Lead lawyer Harriet Tamen, during the March 2014 Maryland House Hearing, stated that the SNCF hired Christian Bachelier directly when in fact, the company hired an independent organization (CNRS) who, in turn, selected Bachelier.

228 For years, the report has been available online. As of April 2015, the report has disappeared. I emailed AHICF to ask about this recent removal.
Jewish leadership still believes truth telling is fundamental to making amends. Richard Prasquier, former President of CRIF, the largest Jewish organization in France says, “the SNCF will get out of this [conflict] by telling the truth.”\textsuperscript{229} (Latune 2010)

In spite of Prasquier’s optimism that truth can set one free, market actors rarely come forward unprompted in post conflict contexts for good reason. Truth without amnesty becomes a potential liability for corporations and perhaps explains why so few conduct and/or publically share such documents.\textsuperscript{230} Anything a corporation admits will likely be used against it. Encouraging greater participation of market actors might require some kind of amnesty or other incentive for revealing complicity. Those watching what happened to the SNCF will likely be discouraged from coming forward.

The Bachelier report proved key for the legal cases; in 2001, the commissariat working on a lawsuit concerning the SNCF noted that the case could not really come forward in the same way without the work of the Bachelier report. One of the findings that made the report so compelling to lawyers was the suggestion that the German authorities did not organize the transports with requisitioned materials. Instead, the SNCF organized the transports under orders from the prefectures (local governing bodies) in France. The report helped the Lipietz family win its initial case against SNCF (before the company appealed). Alain Lipietz noted Bachelier’s disappearance occurred as soon as

\begin{flushright}
\textit{“La SNCF s’en sortira en disant la vérité.”}
\end{flushright}

\textsuperscript{229} Hugo Boss produced a report on its wartime activities, but informed me that the report is still only available in German.
the proceedings began.\textsuperscript{231} (2011) The impact of truth on litigation raises larger questions about truth telling and its consequences for companies who receive no amnesty. The findings of the independent report unearthed facts that lawyers used against the company. Perhaps in response, the company organized a kind of truth commission related to Bachelier and others’ findings. The following introduces truth commissions generally within transitional justice and how they handle corporations. Then the chapter examines the SNCF colloquium as a modified truth commission.

**Truth Commissions: a forum for transparency**

Truth commissions can address state-level abnegation through a formal process. Because international legal trials of corporations for complicity in massive human rights violations remain rare and complicated, many have turned to truth commissions as a way of including business. (Carranza 2008, Arbour 2007, Mani 2008, Cavallaro, Albuja: 2008) The UN office of the High Commissioner for Human Rights approves of the inclusion of economic issues as part of any truth commission’s mandate. (United Nations 2006). Arbour argues that truth commissions provide good environments in which to investigate SEC violations because they can work beyond the scope of what international law can address. Mani agrees saying that issues of pillaging and the ways in which business exchange can contribute to human rights violations are best explored in truth commissions.

\textsuperscript{231} Some people told me he became depressed and despondent during his research. I could find no proof of this, but having conducted four years of research on this subject and having visited the archives where Bachelier spent much of his time, I can only imagine the impact this work may have had on him.
More broadly, truth commissions also serve to construct collective memory as well as provide potential forums for renewed social solidarity. Avruch characterizes truth commissions as temporary forums, distinct from formal prosecutions, designed to uncover the past and produce formal final reports. (2010) These final reports aim to provide a detailed account of what occurred in the past, (Hayner 2002, Avruch 2010) but avoid questions of accountability. (Avruch 2010, Minow 1998, Baker 2001, Rotberg, Thompson: 2000) Between 1974 and 2004, an estimated thirty-four truth commissions occurred. (Carranza 2008) For many, South Africa’s TRC proved the most effective and wide reaching. (Rotberg, DuToit, Crocker, Maier: 2000, Minow 2003) Maier believes the work already done in prior commissions proves the possibility that such spaces restore “justice and empowerment” (2000) and do so for far greater numbers than would be possible with trials alone. Truth commissions seek knowledge as a means of understanding, not as a means of condemnation. In this way they are distinct from prosecutions.

**Critiques of Truth Commissions**

Questions remain, however, regarding the healing nature of these spaces, both for the individuals and the community as a whole. (Hayner 2002, Kritz 1995, Hamber 2002, Cobb 2013, Winslow 1997) In Argentina, for example, truth commissions appeared to be a meaningful response to the disappearance of people. (Roht-Arriazza 2006) The commissions offered a space in which the “disappeared” could be embodied or made real through a public acknowledgement of their existence. But does everyone benefit from such spaces? People respond differently to trauma (Elster 2004, Hayner 2002) and
participating in such forums impacts people differently. For some, the efforts to speak can be traumatic. The South African commission was criticized for not providing enough support for victims after the event. Many reported struggling with flashbacks, depression, and insomnia. (Crocker 2000) These symptoms may represent some of what Dwyer (2000) and Scarry (1987) observed as the limitations of language to express the suffering imposed by violence. There is a gravitas to the loss that speaking forums rarely accommodate.

Scholars also express concern over the muddying of purposes, especially in Truth and Reconciliation Commissions. Is the primary goal in these commissions, truth, reconciliation, or some combination of both? Such forums may pressure individuals and communities into reconciliation too soon and distract from the primary quest for truth. (Avruch 2010, Hamber, Wilson: 2002, Baker 2001, Hayner 2002) Beyond the issues presented, truth commissions, and transitional justice in general, raise questions of amnesty (Gibson 2002, Mamdani 2005), gender (Goldblatt 1998), memory (Shaw 2007), history (Maier, Rotberg, Thompson 2000), apology (Barkan, Karn 2006), and reconciliation (Stahn 2001), and the narrative. (Phelps 2004)

**Truth commissions and corporations**

The increasing inclusion of businesses and business-related topics in these commissions reflects a significant shift in the field, even if such forums are too politically weak to do more than shine a light on wrongs committed. (Sandoval 2013) Historically, commissions omitted questions of the role of business and industry: Sikkink and Walling found that in the thirty-four commissions held between 1974-2000, only Chad, Liberia,
and Sierra Leone addressed economic violations. (2006) The final report of Chad’s Truth Commission encouraged an investigation into the assets of President Hissène Habré, listing the names of other culpable parties and suggesting a vetting process. (Carranza 2008) The Liberian TRC included an act authorizing the commission to investigate people and corporations involved in the Liberian war economy. This included profits from the rubber and diamond industries. (Pajibo 2007) The Sierra Leone TRC Final Report discusses the role of diamond, iron, gold and other industries in the country’s conflict. The commission noted that having an entire economy dependent on a single resource made the country initially vulnerable to conflict. However, they did not identify the industry as the cause of the conflict.\footnote{The commission dismissed the notion that Charles Taylor initiated the conflict in order to control the diamond industry. They did conclude that after 1997, the industry funded the violence and Taylor’s regime ultimately plundered the natural resources and used politics as a means to acquire wealth. The industry’s wealth became so enmeshed in the country’s politics that the two could barely be separated. As of 2004, this enmeshment remained. (Sierra Leone Truth and Reconciliation Commission 2004)} Foreign involvement often perpetuates this enmeshment.

Foreign companies and northern states are also involved in the wealth of these failed states. (Duffield 2006) Interests in oil, gas, diamonds, timber and metals has caused them to want to control these economies. (Munkler 2005) This international overlay might need to be addressed if one wants to truly unravel the corrupt ties. Yet, whether the northern hemisphere is ready to have their involvement made visible in truth commissions or ICC trials remains to be seen. In countries operating truth commissions, the question of complicit business activity increasingly surfaces. (Carranza 2008; Arbour

In spite of the hesitancy to include industry, post-2000, truth commissions increasingly appear to include the question of corporate complicity. Commissions in East Timor, Peru, the Philippines, and South Africa considered the role of business and industry, positioning these actors as possible perpetrators. The East Timor commission found, “the manipulation of coffee prices to fund military operations, thus [limited] farmers’ chances of making an adequate living.” (Arbour 2007) They considered the 84,000 starvation-induced deaths an economic crime and a significant component of the atrocity. (Carranza, 2008) Some argued against the Commission’s unfortunate hesitation to declare these factors “serious human rights violations.” (LaPlante 2007; Tamayo 2011) Perhaps the commission could have gone further. The fact that such issues were discussed shows the increasing rise of such structural issues. The final report of the most infamous TRC, South Africa, also addressed structural factors that contributed to “enforced poverty and deprivation.” (The TRC of South Africa Report 2003)

Arbour concurs that truth commissions provide good environments in which to investigate SEC violations because they can work beyond the scope of what international law can address. Mani agrees saying that issues of pillaging and the corrupt pathways of economic exchange can contribute to human rights violations are best explored in truth commissions. Mani hopes that they will instigate trials that require lawyers to advance the field enough to handle the tricky problem of corporate accountability. (2008)
This increasing inclusion of the role of structural economic factors in truth commissions has not received unanimous support. Hayner and Bosire argue that SEC factors ought to remain separate, believing such inclusion distracts from the primary work of commissions. (2003) Carranza might be willing to accept this separation if stand-alone mechanisms were established to address the issue of asset recovery. (2008) The discussion of whether or not to include economic crimes in truth commissions invites deeper questions about state-corporate collusion that existed before violent outbreaks. Michalowski and Kramer, studying state-corporate crime, examined cases like Taylor’s where governments facilitate and initiate crimes through industry. Significant discussion of truth commissions and market actors set up the ensuing discussion about Holocaust implicated corporations and the transparency efforts of the SNCF, including a modified commission.

**SNCF colloquium: A modified truth commission**

Dimitrijevic promotes truth commissions as a means of “mastering the past.” (2006) The SNCF colloquium appears an attempt to both explore and master the past. The idea of mastery has within it a kind of control and repression that can perpetuate the harm and thwart transparency. In 2000, during the lawsuits and public debate, the SNCF sponsored a limited and somewhat modified truth commission on the company’s role in the war. This colloquium seemed to be organized with the spirit of truth rather than transparency. As a result, no one addressed the political forces working to control the story. The event became an exercise of intertwining two seemingly conflicting historical narratives. The AHICF organized a colloquium with the Académie Française Président de
la Fondation nationale des sciences politiques, hosted at the Assemblée Nationale, June 21-22, 2000. The invite-only conference entitled, *A Public Company During the War, the SNCF, 1939-1945*, included over fifty historians, SNCF employees (including then Chairman Louis Gallois), archivists, other professors, and members of the CNRS (Institut d’Histoire du Temps Présent). Less than five survivors received invitations. This lack of survivor invites and the control over their participation greatly skewed the nature of the conversation. Réne Redmond, then President of the Académie Française launched the event saying the two-day meeting had *truth* as its primary goal.233 He tried to soften the inevitable scrutinizing of the SNCF’s wartime participation by reminding the participants that they are not in a court of justice, but rather in a colloquium in which everyone would work together to understand what happened and why. This could be a good model for future efforts of market actors. However, inviting so few survivors seems a curious and embarrassing mistake that other companies need not make. Were transparency, rather than truth, the goal, the organizers could have created a much richer dialogic space. The colloquium, did however, at least add complexity to the 1950 version.234

Louis Gallois, the then-SNCF President, gave a speech that reflected SNCF’s increasing willingness to create a ‘new’ history about the company, one more complex than the *Bataille du Rail* portrayed. Gallois reviewed the many roles the trains played during the war, trains provided

\[233 \text{ “La première est une exigence de vérité.” }\]
\[234 \text{ During an interview in Paris in June 2015, Lipietz explained this lack of survivor testimony as an extension of the general French suspicion of testimony in history. Described in Chapter Three.}\]
…the only transport system maintained for five years to carry supplies and people between two zones, they remind us that despite the restrictions, life went on. Trains of liberty, evoking the final victory, the return of prisoners and life getting back to normal. Trains of death, a painful reminder of the irreparable suffering of thousands of men, women and children transported to detention and extermination. (AHICF 2000)

Gallois’s statement demonstrates the SNCF’s willingness tell a more complex history of the war years. In 2001, the Académie Française under the presidency of René Rémond released in May the transcript from the 2000 colloquia. This made the colloquium available to others who want to witness the creation of a state narrative. An important first step, even though the event included only three survivors and occurred under very controlled format.

**Survivor voices at the colloquium**

The survivors in attendance did speak. These were very vocal individuals who seemed very confident and able to articulate their opinions. The survivors in attendance included renowned Holocaust activist and Nazi hunter, Serge Klarsfeld; Kurt Schaechter who discovered the SNCF invoices; Catherine Bechillon whose father (Henri Lang) worked for the SNCF and was deported and killed. The colloquium manuscript, which lists the attendees and their titles, does not list these individuals as victims or survivors. They were invited for their expertise, not because they were survivors as such. They had

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235 This very easy-to-read compilation, as compared to the Bachelier report, has not been translated to English, nor is it easy to acquire. I bought a rather expensive old copy online.

236 I have a paper ready for journal submission entitled *Narrating the French Railroads* that uses three forms of narrative analysis to outline the State’s control over the formation of a new historical narrative.
opportunities to speak; yet their participation remained quite controlled. When Schaechter started to make his statements, the facilitator said to him, “get to your question.” When he asked his question, they told him “we’ll deal with it in the afternoon.” Later the facilitator Réné Rémond, President of the Académie Française, challenges Schaechter claim, “What you are saying is impossible.” (AHICF 2001: 124)

While not a courtroom, neither was this site designed for self-expression or a truth commission in the sense of South Africa’s TRC. The SNCF was not there to hear and bare witness to the suffering caused, but to create a more accurate narrative.

The event serves as small step towards an improved story about the past, if not about baring witness or accountability. The title of this colloquium shows a reluctance to accept total responsibility. Other SNCF materials demonstrated a similar sidestepping of accountability. In 1996, when the SNCF released a report on the company’s wartime history, the title, *The SNCF under the German occupation 1940-1944*, points the finger at the Germans. In 2000, when then SNCF President Louis Gallois initiated a colloquium, he approved the title, *A public company during the war: the SNCF 1939-1945*. While this title does not position the Germans as responsible as did the prior booklet, it emphasizes that the company was public, and therefore owned by the government (Vichy France). Responsibility had shifted from Germany to France, but not yet to the SNCF. This occurred only later.

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237 By 2000, when this colloquium occurred, the world had grown accustomed to survivor testimony. Steven Spielberg had begun his video archive project and movies began to circulate. This absence of survivors at the event shows perhaps France’s reluctance to accept survivor testimony as a legitimate source of historical data.
SNCF: shifting towards transparency

“In 2008, then-new SNCF President Guillaume Pepy decided to initiate additional activities under the motto, ‘Transparency, history, remembrance and education.’”

-Gerstenfeld, 2014

The lawsuits, legislation, and increasing survivor testimony made controlling the story more difficult. In fact, it arguably became impossible, at least in the United States where quotes by the SNCF in major news sources often made company executives sound more like Nazi apologists or as individuals trying position their company as victims than trusted carriers of history. Lawyer, legislators and survivors challenged the company publically, seeming to prompt a shift away from truth and towards transparency. This dissertation argues for transparency efforts, rather than truth-seeking ones; no one ought to have hegemonic control over the past, especially when the harm inflicted was birthed out of hegemony. Transparency creates space for multiple voices and can legitimize them all without having to evaluate them as right or wrong. This decentralizes the process and creates the possibility for the more robust dialogic spaces introduced in Part IV.

The SNCF’s shift towards transparency happened gradually and for some time contemporaneously with its search for truth. The SNCF opened its archives to the public in 1996. The company archives house thousand of documents from the war period, though few, as Bachelier discovered, made mention of the deportees. In this way the archives represents a step towards transparency, but only a partial one. The area of
interest to those studying or researching the Holocaust will find little relating to their cause. Scholars and today’s SNCF executives believe collaborators likely destroyed these documents after the war.

The question of the archives became a political symbol of transparency in the United States. In 2010, although Arnold Schwarzenegger vetoed California Assembly Bill 619 requiring SNCF transparency before it bids for state contracts, the SNCF sent California documents about its role in the transport of the deportees. Chapter Five described Maryland’s demand that the SNCF to pay for a team of archivists to come to France to organize and digitize the archives before bidding for state contracts. The SNCF ultimately lost the MARC bid, though now the public can access part of the archives online.  

**Research as transparency**

The SNCF’s commitment to independent research also suggests a relinquishing of control over its wartime history. The SNCF claims the company has supported on-going historical research for over twenty years, “to shed as much light as possible on all aspects of its situation and actions during World War II.” (SNCF 2012) The company has demonstrated this willingness by saying it will offer scholarships to students studying rail history and offer to fund research at Yad Vashem on the French railroads. Note, the Yad

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238 The entire collection of digitized documents is available at the United States Holocaust Memorial Museum, the Shoah Memorial in France, and at Yad Vashem in Israel. This public access via the Internet represents this shift away from state-controlled stories.
Vashem funding was discussed during French President Hollande visit to Israel in 2013 to discuss Libya and increasing the presence of the SNCF in Israel.\textsuperscript{239}

Based on the research conducted for this dissertation, areas of additional research could include, adding survivors testimonies to their archives, translating the colloquium transcript and Bachelier report into English, and studying the role of wartime SNCF President Pierre Eugène Fournier’s role in SCAP, the organization that aryanized Jewish businesses.\textsuperscript{240} Little is known about his time on that committee.

**Transparency without total accountability**

Today SNCF’s materials show a much evolved, if still relatively controlled, narrative about the past.\textsuperscript{241} Transparency has increased, creating far more space for discussion, yet the company still dances around the question of accountability. In 2012, the SNCF produced an educational booklet in English and online information in both languages show some of its WWII findings, the company’s amend-making efforts, and the French Jewish community’s enthusiastic response. The title of the booklet, *History & Memory: SNCF and World War II*, no longer places responsibility in the hands of Germany or Vichy France as did the titles discussed earlier, though the materials continue to argue for the company’s constrained position during the war, making it arguably a promotional than a historical work. The booklet includes

\textsuperscript{239} The SNCF had stated on its website that it offered funding for those doing research on the railroads, though when I inquired regarding the nature of the funding, I received no response. To maintain the independent nature of my research, I was not seeking funding, but rather inquiring whether the company actively awarded the funds.

\textsuperscript{240} The SNCF agreed to house any survivor stories and witness accounts my research uncovered.

\textsuperscript{241} SNCF website http://39-45.sncf.com/index.php
• The 1941 Armistice agreement—to demonstrate the Germans acquired the railroads during the occupation
• Orders placing SNCF under German order
• Organizational chart of company
• Dannecker’s directive that suggests that determined the conditions of transport, not the SNCF.

Missing from the SNCF materials are the invoices for the transport of the deportees to the Drancy\textsuperscript{242} camp sent after the liberation and survivor memoirs Appendices G, H, I, and J provide copies of these invoices. These are the most political documents that readers of the booklet would seek; the omission raises questions

The opening paragraph of their promotional materials still holds the Germans responsible and positions the company as \textit{forced},

In 1941, Nazi Germany decided to implement “the Final Solution,” and the regime’s desire to exterminate the Jews in Europe will forever mark the world we live in. The deportation of the French Jews to death camps started in March 1942. As in the rest of Europe, the railways were used for transportation according to the same methodical procedures determined and enforced by the Gestapo. Under the June 1940 armistice agreement between the Nazi occupying forces and the Vichy government, SNCF was placed at the “full and complete disposal of the German Head of Transport.” A state-owned company, SNCF was requisitioned and forced to transport French Jews to internment camps… (SNCF 2012)

This introduction blames the Nazis, then more specifically the Gestapo and Vichy government finally emphasizing how the SNCF served as an extension of the state.

Unlike Chirac’s 1995 apology speech, this paragraph shows no expression of responsibility.

\textsuperscript{242} Alain Lipietz who led a lawsuit against the SNCF said during our interview in Paris that the colloquium made space for lawsuits like his own. 19 June 2015.
Furthermore, the use of the passive voice, “the railways were used,” avoids responsibility. Active voice might have forced a statement like, “SNCF staff and executives carried out Nazi orders to use the railroads and railcars to transport deportees.” Any margin of maneuver individual workers or the company may have had is not expressed. SNCF Chairman Guillaume Pepy has made statements of profound regret that show a greater, if still incomplete, acceptance of responsibility. The booklet employs another strategy that may have been a conscious attempt to prevent the findings to be used against the company in legal and legislative spaces. They keep the discussion entirely historical. Titling the booklet History & Memory nestles the events next to those of ancient history. The title pushes the issues into the past where many would like to keep them.

Education: historical pedagogy instead of accountability

SNCF’s focus on Holocaust-related educational programs in France suggests both a willingness to contribute and a way of shifting the conversation away from accountability.243 Having its name affiliated with the programs suggests some kind of willingness to be publically associated with the Holocaust. The SNCF funds the Shoah Memorial in France and educational programs for students in secondary school. The December 2014 settlement between the United States and French governments included a requirement that the SNCF would contribute an additional $4 million to educational programs. This shift away from questions of legal liability and into questions of

243 Some of Florida’s Jewish community rejected the SNCF’s $80,000 offer to support Holocaust education in the state. This became a political issue; some perceived the company as trying to pay for education instead of compensating victims.
education continues to be a trend. Bernard Emsellem, CSR head for SNCF, says he already spends more time discussing Holocaust-pedagogy than SNCF legal responsibility.244 François Zimeray, former French Ambassador for the Rights of Man, noted he too found France moving from questions of memory into history. Again this orientation towards historical education does not necessarily advance our thinking on how best to address such crimes.

**French responses to SNCF transparency efforts**

Overall, French survivors, scholars and Jewish leaders now believe the company has been sufficiently forthcoming. Even Eric Freedman, who worked with Tamen to fight the SNCF and serves on the French CIVS restitution commission says, “There is no denying the SNCF has done a lot in the way of opening archives and being transparent.” (2014) Though he added he would like to see a listing of the SNCF-related holdings in all of the departmental archives, he believes their efforts have been notable.

The French Jewish community, including Klarsfeld, tends to agree with Freedman, claiming the SNCF has done great work towards becoming transparent. February 9, 2011 at annual dinner for CRIF, the central French Jewish organization, the then president Richard Prasquier said of the SNCF’s commemorative efforts and contributions, “SNCF, which has made a significant commitment to unveiling its full history, is an example of shadow and light. We support its initiative.” (SNCF 2012)

**U.S. responses to SNCF efforts**

244 We discussed this during my trip back to France July 30, 2014.
Those fighting the SNCF in the United States often refuse to recognize (or claim ignorance regarding) the amount of work the SNCF has done to increase transparency. Perhaps because they are unaware and/or they believe such efforts hurt their case against the company. In 2014, Maryland State Delegate Jon Cardin wrote a letter to the editor of The Baltimore Sun claiming, “To date, SNCF has not been forthcoming about its role in these deportations…” (Cardin 2014) The prior discussion demonstrates that the SNCF has, indeed, become increasingly forthcoming. Perhaps Cardin had no knowledge of such efforts or believed the company only advanced its story because of pressure.

Many of those challenging or questioning the railroad’s work appear unaware of the work conducted. At the same time, when the SNCF promotes its own good research, readers are right to be wary of bias and positioning. Part I of this dissertation, focusing on the history, aimed at providing an independent, if not definitive, voice, free from the company and those fighting against it.

**Ripple effect of truth seeking**

Some Jewish executives at the SNCF, for example, learned more about their own families and history as a result of these debates. When lobbyist Aaron Greenfield accused him of lying about his connections to the Holocaust, SNCF America CEO Leray conducted more research so he could prove his connection to naysayers like Greenfield. He says he is glad he did. His research revealed more about his family history; a family very touched by the Holocaust. Leray now thinks deeply about how he wants to educate his five-year-old daughter about the Holocaust and about his position within the SNCF. When she reaches eighteen, he plans to show her Martin Gray’s film *Au Nom de Tous les*
Miens about a man who survived the Holocaust after great losses and ineffable suffering. The film, Leray says, offers such horrific and gruesome details, (e.g. that the gas chambers had grooves to carry out the urine of the terrified victims), that he believes he daughter will need to see nothing else after that. (Leray 2014) SNCF’s Bernard Emsellem also found himself closer to his own family’s losses through the process of this conflict. Raphe Prober, the lawyer working pro bono against the SNCF, talked about his grandfather’s escape from Lithuania and how a sister he had never met showed up on his doorstep one day. He said this has been the most meaningful case of his life. Focusing on dates, invoices, and enormous archives obstructs from view the very powerful impact of poking around the past.

Official efforts towards transparency can also help upend various pockets of silences. Personal and institutional narratives shift over time as different factors shift, making space for new voices and new understandings. Clara, for example, who lost both parents on Convoy 58, says she did not remember the French roundup called the Vel d’Hiv until reading the book Sarah’s Key published in 2008. The book describes the round up in detail and Clara said she remembered going into hiding in her dad’s factory that day. They had known, she thinks, because some of the police officers warned people. At nine-years-old, she simply thought she was having a picnic and does not remember being scared. Clara’s story shows how memory and truth can be revealed over time. While she may not remember the details or have the days slightly mixed up, her process

245 Raphe said this during our meeting at the Russell Senate Building, February 28, 2014.
246 She told me this story during our day together in Florida. January 10, 2013.
of reflection has meaning to her. In this way, the process itself becomes a kind of healing rather than a place at which to arrive. The same can be said for official narratives, corporate or state; so long as people inquire about the past, the process of discovery continues.

**Transparency: a gift after decades of silence**

“I just turned 84, maybe it’s time I start talking.”

-Holocaust survivor

Being able to speak openly about the past is not something many survivors take for granted: some have spent most of their lives in silence and have just a few remaining opportunities to make their statement. Many explained that their parents refused to speak about the war after it ended, making the post-war years even more challenging.

At first, survival took precedence over speech. In *The Violence of Victimhood*, Enns reflects, after the 1973 Yom Kippur War, “a new identification with Holocaust survivors grew out of the embrace of survival as a form of resistance to the Nazis.” (2012: 51) Later, with survival clearly established, sharing one’s story became another form of resistance. The seeking and the subsequent amplification of previously silenced voices become a means to justice and to honor the dead.

Nina Seremetakis discovered Greek rituals for mourning that distinguished between “good” and “bad” deaths. Silent deaths, those without family present or without family support, the Greeks considered “bad deaths.” A “good” death needed witnesses. (Das 2006) The silence that echoed after the Holocaust in homes may reflect, in part, a

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247 Said by Ida and Herman’s friend.
shared recognition of an immeasurable amount of “bad death.” Survivors carried the further burden of being unable to transmute the badness through speech. Many remained silent for years; some remained silence for most, if not all, of their lives. Alfred, who spent his retirement researching his family’s journey through the Holocaust, said about his sister, “She said nothing for her whole life. In the end of her life, she started to talk a bit.” He began to share with her some of his findings. In response to her mother’s silence, Susan Soyinka wrote a book entitled, *A Silence That Speaks, A Family Story Through and Beyond the Holocaust.*

**Challenges of upending silence**

David also discussed how the world and his family grappled with speaking about the Holocaust. He escaped with his family first from the Netherlands, and then through Belgium followed by nine months in Nice, France; he was seven-years-old. David says he appreciated the way *The Diary of Anne Frank, The Eichmann Trial* and the TV show *The Holocaust* all brought the persecution back into the cultural consciousness, but asked, “Where were these people 1950-55?” He lived in silence for decades before these works

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249 Alfred said this during our time in his home near Paris. July 29, 2014.

250 Discussed during a phone interview July 7, 2014. Because her mother said so little about the murder of her family, Susan conducted the research herself, trying, she said, to better understand her mother and piece together her own identity.

251 David, who now lives in San Francisco, made these comments during a phone interview. May 27, 2014.
helped created a space to speak. After the war, his father would try to talk about their struggles making comments like, “If we hadn’t fudged things, where would we be? We would be dead in Auschwitz!!” His mother would reply, “Max, you’re right, but don’t upset the children.”

When David later attended Brandeis University, a Jewish university and found remarkably few individuals more open to hearing his story. He found Jewish students carried a sense of shame. “They wanted to just get on with it,” he explained. He said while they studied totalitarianism, no one studied the Jewish catastrophe; “the Cold War was starting, so going after the Germans was not a good idea.” David admitted he collaborated with this effort to keep the past in the past, “I was interested in getting a girlfriend, studying and having fun.” He said in spite of his search for fun, he still struggled with the effects of his childhood experiences. This suffering was compounded by the fact that during his college years, the world still did not consider him a survivor because he had not been deported to a concentration camp.

Children, grandchildren and sometimes spouses helped many begin to speak. Sometimes public debates about restitution helped prompt discussions.252 When I reached out to Markus, his wife Jeanette wrote an email saying, “My husband is the Holocaust survivor. He will not and cannot speak about that time. I am his wife…and I am a writer…[he] will not speak to anyone. If you want to speak to me, just let me know your

252 I interviewed my own grandfather in the mid-1990s as former Nazis began to find themselves under renewed scrutiny. He said, “I saw they caught one of the guys. I just don’t understand what took them so long.” The timeline was just baffling to many.
Jeanette became a strong voice on Holocaust related issues; with her help Markus has become a part of the class action lawsuits against the SNCF and the banks. Jeanette compiled files needed for compensation programs and expresses her opinions for or against various Holocaust-related programs and/or legislation.

Johanna, described earlier, also spent much of her life in silence. She spent the war as a hidden child while her grandparents and sister died at Auschwitz. The family still feels uneasy about having no record of what happened to Johanna’s aunt. After the war, she says that her mother refused to talk; generally her family never spoke about it. Johanna only started talking when her daughter reached high school. Another survivor Max said he still has no idea how he and his mother escaped from Paris. His mother never told him, “I do remember walking into the woods and being in row boats. It was clandestine.” He will never know the details; the story died with his mother.

Isabelle and André married for many decades, both lost family during the war and spent many post-war years in silence. Immediately after the war, they said neither of them received much information from their mothers. “Out of respect, you did not ask questions of your parents,” they explained. While perhaps the silence came from guilt or shame, as Danieli suggested many attributed the silence within their families to the need to focus on survival. Yet the silence lasted far beyond these survival years. Even as a

253 Her response also reflects a protection of her husband. During interviews with couples, it was common for one to try to protect the other they perceived as more fragile.
254 I interviewed Johanna in Dupont Circle, Washington D.C., over lunch. Her husband and daughter listened quietly as she told her story. Eventually they joined the discussion. In this way, the interview itself became a site of intergenerational dialogue. May 24, 2014
256 I met with them in their home just outside of Paris. August 4, 2014.
couple, Isabelle and André rarely spoke about their similar experiences until grandchildren started asking questions. Transparency efforts helped children, grandchildren and survivors begin to piece together their family stories.

Global transparency efforts meant something to many survivors; it also allowed access to documents that proved material losses. Isabelle and André said almost everything they now know about what happened to their families comes from documents that became available decades after the war. In fact, they had so little knowledge only recently did they discover that their fathers had been deported on the same train. They had been reviewing documents they each collected about their families during the war years. One pulled out a post card with German writing, the other exclaimed, “I have that same one!” Both cards, issued from Beau-de-Rolande internment camp, had the same date and said, “your family member has been taken to the East. There is no further information available. We will be in contact.” (2014) The parts written in pen had the same handwriting.
Holding the cards from the Nazis referring vaguely to their father’s trip to Auschwitz. This couple discovered they both had this card only after years of marriage. Given the date, their fathers likely rode the same train.
These interviews suggested that people do not just want to know the *truth* they want to explore the archives to touch the remaining fibers of their family. For example, ask Ester, whose family survived while hidden in southern France, how many people her family lost and her eyes will well up about her niece’s very recent discovery that their family lost 150 members. (2014) The process of researching the family is a way of reconstituting what was missing; transparency allows people to find loved ones and, in

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257 André also had a little card where his father, at age thirty-nine, wrote his son one final message from the internment camp. The card told André to continue his studies. Someone mailed the letter to André after his father was taken to the camps. After André shared this, his wife Marie looked down, shook her head and said, “I didn’t get one of those from my father.” Her eyes welled up and she explained that she cries anytime she talks about her father, even when talking to school groups. She said she was able to handle talking to groups better when she was younger; now, all of a sudden, it is getting hard again.
doing so, gives them a better death, if not a “good” one. They can only bury their family metaphorically.

**Silence with friends**

Transparency may work on a macro-level can also open up conversational spaces long-blocked between friends. Hannah, who now lives alone on the Upper East Side of Manhattan, concurred, saying her friends never wanted to hear what she went through. 258 This was very difficult for her and still is. Divorced, with her brother recently deceased and her son mentally ill, Hannah has few people she feels she can talk to about her experiences. Friends of any age who will not only talk about the Holocaust are rare and precious.

Sarah experienced similar difficulties finding friends who would take an interest. After the war she and her now husband and fellow survivor Leopold wanted to talk about the war, she said, but no one would listen. Sarah, born in Toulouse France during the war, survived being hidden by some nuns while her aunts were killed and her father escaped from a camp and her mother from a prison. With no one to talk to about her losses when she arrived in the United States, she just focused on becoming very American. She says about that time period, “No one wants to hear your story. You will have no friends. My friends don’t want to know. My friends from twenty or forty years ago, they don’t want to know. You become an American. You think your children want to know about it?”

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258 Hannah and I spent an afternoon together in Manhattan both at a local restaurant and in her apartment where she showed me pictures of her life during and after the war, shared with me her and her son’s artwork and her feelings about all the people she loved. May 22, 2014.
Sarah observed a shift; now as survivors near death everyone wants to talk about it, but her friends from twenty and forty years ago would listen to none of it.

This SNCF conflict, by forcing greater transparency, created more spaces for people to connect with each other if not with perceived outsiders. Rosette Goldstein, for example, who spoke at the Maryland House Hearing the day after fellow survivor Leo Breholz’s death said, while tearing up, the following about this special connection developed through their work fighting the SNCF,

Leo and I had a special bond. We are Holocaust survivors, we are mishpocha - family. We can speak to each other—understand each other, feelings that cannot be understood by anyone who did not go through the Shoah. We have memories that will haunt us and haunt us to our dying day.259 (Maryland House Hearing 2014)

Rosette’s testimony also highlights the enduring nature of the trauma. While survivors continue to lose their friends, their age and infirmity seems to make listeners even more receptive to their stories. In every life stage and each epoch the impact of the Holocaust shows up differently. The time and cultural context impacts the nature and teleology of the process of transparency.

Not everyone agrees silence has a negative impact. Herman Lübbe argues a country ought to have a transitional period of silence during which they do not discuss the humiliating past; it could lead to a “political ritual of remorse.” (Dimitrijevic 2006) Ida, whose mother survived slave labor, agrees that some period of quiet makes sense,

259 http://mgahouse.maryland.gov/house/play/ff17c955-b995-42f5-9df2-aacf40b8987d/?catalog/03e481c7-8a42-4438-a7da-93ff74bd4a4e%22%20t%20%22_blank (Minute 31)
she says, “we need forty years. The Bible says it took forty years to cross the desert.”

(2014) Survivor psychologist Danieli argues, however, that the negative impact of silence on survivors cannot be understated. She says silence, often imposed by survivors themselves, comes from a belief that they somehow invited the atrocity and amplifies bystander’s guilt for not having taken action. She calls this the conspiracy of silence, existing between Holocaust survivors and their society in general, and survivors and mental health and other professionals in particular, [silence] has proven detrimental to the survivors’ familial and socio-cultural reintegration by intensifying their already profound sense of isolation, loneliness and mistrust in society. (Danieli 2008: 344-5)

Many survivors interviewed echoed Danieli’s concerns; silence, especially for these individuals—just children during the war—contributed to their isolation and distress. The stories often emerged during retirement or later in their adult lives and rarely all at once. Films, books and TV broadcasts helped people ask better questions of their family members. The amount of time and patience required to really hear these stories suggests, again, that truth seeking is not a one-time effort. Personal anecdotes, secret shames and painful images cannot be extracted like wisdom teeth. Public dialogue cannot remove the memories, but it can help remove the compounding impact of silence and shame.

Conclusion: Transparency

This chapter began by describing how the world and France moved towards a richer and more complex narrative about World War II. Then the discussion turned to the

SNCF’s move from myth construction, to truth seeking, to a more transparency-based approach to the past. The SNCF’s move towards transparency was, like its role during the war, neither heroic nor slower than the world or France. Executives likely understood that exposing the past could be costly financially and in terms of brand image. The company had little choice given the pressure from lawsuits, legislation and bad press.

A transparency model provides a useful framework for other organizations, market actors, and states considering how to handle past atrocities. Promoting access versus truth can help sidestep the dangerous temptations to try to tell a definitive story that, through its claim to finality, siphons off other stories and marginalizes victims.

Truth-seeking efforts, therefore, ironically make the most contribution when they abandon the search for truth. Truth is not all people want. Truth, including dates, names, and places do not explain why such things happened. It does not tell us about the people or the cause of violence. Eizenstat says so few want to accept that the Holocaust may have been the result of little more than petty thievery and hate-filled ideology. (2009)

Through access to documents and archives people try to touch their families, know them, and “see” them again. They may see a signature, find a photo or learn the location of death and in this way be with them and comfort them in their final days in ways they never could. The findings and the losses can be honored through monuments and commemorative sites, offering material lieux de mémoire where people can continue this journey.
CHAPTER EIGHT
COMMEMORATION & APOLOGIES

“We commit to never forget.”

-Guillaume Pepy, SNCF Chairman & CEO

The facts about the past, once discovered or admitted, can be made material and public through commemorative events or memorials. In this way, commemoration and memorialization can play a significant role in the reconstruction of post-conflict zones. This can be in the form of memorial sites, the funding of anniversary events, or museums, or providing funding for the educational programs described earlier, designed to teach about the past and create a more just future. Danieli discusses the need for commemoration both for the victim and for society; as “memory is preserved; the nation has transformed it into part of its consciousness.” (2008) Danieli says such sites can facilitate intergenerational dialogues that acknowledge the harm and consider prevention. Such sites can have a lasting impact on those who can attend; for attendees the impact can be mixed. Enns argues that memorial sites can also “imprison victims within the ruins of their past.” (2012: 158) Picture, for example, survivor volunteers at the US Holocaust Memorial Museum spending their retirement taking groups through the heartbreaking permanent exposition and speaking to groups about their experience. In
2014, Ester said after years of service at the Holocaust museum, she now finds it harder to visit and tell her story.\textsuperscript{261}

The process of commemoration, like transparency and legal processes, can continue for decades and in some cases centuries. Holocaust commemoration related to railroads continues. In 2015, a Hungarian train station completed this rail track headed into the sky to commemorate those transported on deportation trains.

Prague’s Bubny train station unveiled the “Foundation Railway Track” March 9, 2015 as part of its Memorial of Silence, commemorating the 50,000 Jews transported from this station to death and prison camps.\textsuperscript{262}

\textsuperscript{261} She told me this during one of our walks together. 2014.
\textsuperscript{262} \url{http://www.citymetric.com/horizons/prague-turning-one-its-train-stations-holocaust-memorial-844}
Also in 2015, the Westerbork transit camp in the Netherlands added an audio portion of their commemorative railway. Those visiting the site can now hear the names of victims being read as they pass by.²⁶³

These recent additions show the desire some have to continue to try to honor and perhaps make sense of past events. Commemorative sites, like searches for truth, develop over time based on new historical findings as well as new moral determinations about the past. Constructing permanent exhibits that do not meet the needs of the contemporary visitor neglects to honor the way understanding develops. To make the greatest contribution

²⁶³ http://www.nltimes.nl/2015/04/13/spoken-names-added-to-holocaust-memorial/
such sites ideally honor the insights of harm revealed through this research the nature of the past to both pass and remain alive. The following addresses both ironies in the context of memorialization and the role market actors can have in the construction and maintenance of lieux de mémoire. The SNCF serves as an example of the breadth of contributions corporations can make to post-conflict memorialization and points to areas for improvement.

Commemorative sites can be meaningful to both victims and future generations, though for different reasons. Anna said that for years her family’s names were not listed anywhere, not at Auschwitz and not in France, “No tombstone, nothing.”\textsuperscript{264} Eventually she found her father, brothers’ and the other names in Israel, “I feel a little better,” she said. Four years ago, she and her husband visited a Holocaust museum in New York. On the second floor, a picture of her brother was hanging right at her eye level. She just stood there and cried. “So, I feel better…not totally forgotten…disappeared into ash.” (2014)

Some survivors continue, even through sickness and taking care of aging partners, to commemorate family who died seventy years ago. Ester has been receiving chemotherapy for over sick months; her husband is also quite ill.\textsuperscript{265} They cannot move about too much these days yet she has continued to work tirelessly the past few months to make sure commemorative stones have been placed in front of her family’s previous

\textsuperscript{264} Discussed during a phone interview. April 25, 2014.  
\textsuperscript{265} Ester told me about this in her kitchen while we ate some chicken liver she had made for us. 2014.
homes in Germany. She succeeded, admitting she found the work very difficult emotionally.

Nora’s term, *lieux de mémoire*, (1989) highlights the place-based nature of such sites. SNCF-sponsored activities occur(ed) primarily in France where the events transpired and mostly missed the sizeable diaspora (as of 2010, more French survivors lived in the United States than in France). As people spread out over time, such sites become limited in their reach. This likely contributed to the impression of many in the United States that the SNCF has done nothing to honor the past. Those outside of France simply missed the events and never visited the local sites. A limitation of these commemorative activities remains their locality. While eyewitness accounts and new information can travel across oceans, memorials and ceremonies tend to stay at home.

Part III will demonstrate the impact this has had on the SNCF conflict. French survivors seemed more at peace with the SNCF, perhaps in part, because they were able participate in a variety ceremonies and memorial efforts funding by the SNCF.

**SNCF: Corporate-funded commemorative plaques**

While the SNCF has, as of this dissertation, never compensated victims directly, the company has supported Holocaust-education and commemorative events and memorials. In the 1990s, the company help found the Mémorial de La Shoah, France’s leading center of Holocaust research and commemoration; as of 2013, the organization continued to list the SNCF as the organization’s leading corporate partner. (Mémorial de

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Technology has begun to shift this. The Shoah foundation created a page on line for each French deportee taken.
la Shoah Annual Report 2013) This support began over a decade earlier. Starting in mid-1990s, the SNCF began sponsoring a variety of commemorative events and site markers. The company claims that,

the SNCF has for many years supported acts of remembrance for victims of the Deportation. Commemorative plaques have been installed in train stations that served as points of departure for convoys to internment or extermination camps.” (SNCF 2012)

The SNCF continues to place commemorative plaques throughout railway stations in France. As recently as August 2014, Serge Klarsfeld worked with the SNCF to mount a plaque in the Gare de Lyon, in Paris. The SNCF pays for the plaque and Klarsfeld coordinates the production and mounting.267 (Emsellem 2014)

Commemorative plaques, like the titles of histories and reports discussed in the previous chapter, show the on-going negotiation within the country over the question of responsibility. Memorials are carefully worded to keep the blame focused on the Nazis. For example, the commemorative plaque currently at the Perrache Station at Lyon, commemorates loss, holds the Gestapo and not the French accountable,

Just before the liberation of Lyon, the Gestapo made as of August 11th, 1944, from the Gare de Lyon Guillotière a final convoy of deportees. Roughly 400 resistsants had been sent to the camps—Struthof for the men, Ravensbruck for the women. An estimated 350 Jews, of which 25 were children, were sent to Auschwitz-Birkenau. The Gestapo and its accomplices perpetrated from the 17th–21st of August. There was a massacre of the Jews and the resistsants at St. Genis Laval (120 deaths) and at Bron (109 deaths). These martyrs were extracted from the prison Montluc. Remember the Nazi victims.

The use of the passive voice allows the plaque to provide greater detail about who exactly did the taking and the moving. The SNCF clearly participated in both. The remembrance

267 Emsellem described this recent example during our interview in Paris July 30, 2014.
of the “Nazi victims” also avoids French responsibility. The plaque could have said, simply, “the victims.” Adding “Nazis” deemphasizes the role of the French collaborators. Journalist Michael Cosgrove who used this plaque in an article about the SNCF’s role in the deportations agreed, during an interview, that the text is quite vague. (Cosgrove 2011)268

**SNCF: Corporate-funded museums**

Beyond commemorative plaques, the SNCF provides funding to two French Holocaust-related museums: the Musée de la Shoah and the former Bobigny station used for deportation as well as on-going exhibits. The SNCF also granted $200,000 to the Simon Wiesenthal Center, an international human rights organization focusing on Holocaust research and confronting modern anti-Semitism, terrorism, and hate crimes.270

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268 Wording is important. Many of Paris’ schools display plaques commemorating the Jews taken, taking slightly more responsibility. The plaques read,

> To the memory of the students of this school deported between 1942-1944, because they were born Jewish, innocent victims of the barbaric Nazis with the active complicity of the Vichy government. They were exterminated in death camps.

The addition of *The Vichy Government* implicates the French, but only as extensions of the Nazis. These plaques do not have the full sound of atonement or apology of Chirac’s words in 1995. If the plaque read instead,

> ...innocent victims of the Nazis and the French during the war.

This might make present-day Parisians quite uncomfortable. Perhaps the shaming would serve as a reminder that responsibility cannot be outsourced.

269 In French the Bobigny site is referred to as *L'Ancienne gare de déportation de Bobigny*.

The SNCF’s largest contribution, however, remains the Musée de la Shoah, the primary Holocaust museum and memorial located in the Marais, the Jewish neighborhood in Paris, opened in 2005. The SNCF contributed financially to the construction of the museum, which served as an extension of the memorial to the unknown Jewish martyr.

The Drancy museum came next, in 2012. According to the Shoah Foundation, “the Shoah Memorial at Drancy complements the Shoah Memorial in Paris. It is a place for mediation between the site of the former camp and the visitors, a place of history and of transmission.” (2014) Another recent contribution, still in construction, but available to visitors now by appointment, is the conversion of the Bobigny deportation site into a memorial and a museum.

**Bobigny: On-going efforts to commemorate the past**

March 16, 2005, for one symbolic euro, the SNCF handed the Bobigny land title for the ‘Merchandise’ portion of the station to the town of Bobigny. From this tract of land, the French police placed over 20,000 deportees into the cattle cars and departed for the German border. This was France’s largest site of deportation. A number of years later, on January 25, 2011 a Bobigny signature ceremony occurred between the town of Bobigny and the SNCF. The SNCF began construction on the exhibition center in September 2014. Philippe Boukara, Educational Coordinator at the Shoah Memorial Museum in Paris, says while the U.S. pressure might have sped up the project, it was not the impetus: the Bobigny project has been planned for years. (2011)

While the site remains under construction, the SNCF organized a formal opening event for the Bobigny station in 2011. SNCF Chairman Guillaume Pepy offered his
apology while other leaders of the French Jewish leadership including Simone Weil, Serge Klarsfeld, and others made statements. Many survivors attended. At the ceremony, each attendee received a DVD entitled, *The former Bobigny station: between Drancy and Auschwitz*. While the town of Bobigny produced the film, the SNCF presumably had editing rights. This fifteen-minute video, shot on the train tracks of Bobigny, includes interviews with several survivors and two sons of SNCF railway workers. The interviews focus on their exact experience in the railway cars, emphasizing the Germans, SS, and Nazis participation. While the video mentions SNCF workers, the film does not hold the company responsible. Or, raise any broader questions about corporate accountability. Survivor interviews in this company-sponsored documentary acquit the SNCF, such as one from Yvette Levy, a survivor of the deportations, “could they do otherwise? I don’t think they are responsible.” As with the company-produced booklet on wartime history, this video tells a more complete story than those produced in the past. This story at least includes survivor testimony about the horror of the experience, yet ensures that no comments hold the company responsible. This arguably limits the film’s contribution to our evolving sense of corporate accountability beyond the scope of this conflict.

Part III will discuss the numerous survivors in France whose views resonate with those presented in the film. They do not hold the company accountable. The majority of the French Jewish community and the SNCF appear to have agreed on their story. The following description of the Bobigny site addresses a second irony of commemoration:

271 The video, only in French, is now available to the public.
focusing on the past to prevent recurrence actually leaves one in the past. There is no guarantee that looking back changes the road ahead.

**Bobigny site: how singularity of focus neglects current tensions**

While the site serves mostly as an educational tool for students, the site currently does little to engage the surrounding community that struggles with anti-immigrant sentiment and may be a site of resurgent anti-Semitism. The site presently also does little for victims; few survivors or descendants visit the site. Things may change when the town finishes construction; currently the site can be visited by appointment only through the Tourism office of Bobigny. Anne Bourgon, working in the Cultural and Communications office, leads the tours in French. Roxanne N’Goma, serves as her assistant. The site rests a twenty-minute drive from central Paris; the Shoah Memorial facilitates visits by offering a free shuttle from the Marais district in Paris. Those arriving by their own transport must park awkwardly on the side of a highway at this hard to find site and wait by a locked gate to be admitted.

Visitors can see the original station house and the tracks where deportees boarded the merchandise cars headed for Auschwitz. Curiously, no pictures have been found of the original deportations from this site. Visitors see only blown up photos from similar deportations to offers visitors an idea of what occurred. See the photo below.

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272 Based on a visit August 13, 2014
273 Roxanne N’Goma, who helped guide me through the site, provided this information about visitors.
274 The wildflowers in the photo will remain; environmental agencies advocating for biodiversity work to ensure the protection of this site for its biodiversity.
First hand testimony like the one below will be placed in formal displays during the construction.

One letter reads:

It was a horrendous journey: we were crammed into freight cars of wood, two axles, the type with 8 horses and 40 men. The vents were partially closed by thick wood beams. Men and women of all ages were mingled. The convoy stayed a long time in French territory. Some of us entrusted messages to railway workers during breaks at a station. During rare stops we were granted to empty [sanitation buckets].

-Claude Hirsch
Convoy number 76
As with the film and historical materials, none of the witness accounts position the SNCF in a negative light. In fact, the only references to railway workers allude to the role some played in mailing the letters some wrote before their departure. No mention is made, for example, of the SNCF drivers who continued in spite of the screams. In this way, while the site marks the SNCF’s role in the transport of the deportees, the testimonials keep the focus on the Nazis and the victims. The site does not invite visitors to consider the complicated role of the SNCF. Perhaps the new construction exhibit hall will.

**Bobigny: anti-Semitism today**

The site demonstrates the SNCF’s commitment to commemoration, but without integrating the current Bobigny residents and engaging people in modern problems, the site may have a strange future. Rising anti-Semitism in France, marked by the January 2015 terrorist attack in Paris, and the passing of survivors may make this more a symbolic contribution than a site working actively towards prevention and/or healing. What does this site mean to a suburb of Paris inhabited by Asian and African Muslim immigrants? Especially in light of the recent terror attacks in France? Roxanne N’Goma, of African descent who grew up in Bobigny, says many of the townspeople do not visit the site for three reasons. 1) They believe the Holocaust was not about them and 2) they

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275 This convoy departed three weeks after the Allies landed at the Normandy beaches.
feel visiting is disrespectful or voyeuristic 3) they feel unwelcome. She did not mention anti-Semitism.276

The Bobigny site, for this immigrant community, becomes another part of France that feels unavailable to them. Yet the site has the potential to speak to their deep frustrations about their lives in France and could contribute to the France’s struggle to integrate immigrants. During the war, the French deported foreign-born Jews in part because of their dislike of immigrants. Modern residents of Bobigny may relate to feelings of ostracism from the French society. Given the recent acts of violence in France between non-Westerners and French, the site could become the site could become a much-needed place for dialogue in France about immigration in France and about Jews and Muslims. (Part III discusses this resurgence of anti-Semitism in France and its impact on the SNCF conflict.) While the site may demonstrate SNCF’s commitment to helping make amends for the past, one wonders what it could do to stop modern anti-Semitism and help France with its immigration struggles.

To explore these possibilities, Roxanne and I approached an African man looking through the gate towards the site. We chatted with him about the site and invited him to visit. He said he was a resident and had no idea what had happened at this site; he would be very interested to know more. This vignette shows that while a corporation can make gestures and fund events, communities still must find ways of engaging with the sites; corporations could fund local educational programs or sponsor other events that bring

276 I did not ask her directly about anti-Semitism as a possible cause. The subject felt taboo somehow and I was already traveling about Paris nervous about the resurgence.
people to the space. In addition to funding these more permanent sites, the SNCF supports of on-going dialogue through its support of Holocaust-related events and exhibits.

**SNCF: corporate-sponsored events and exhibits**

The SNCF also contributes to annual events and exhibitions; its logo can be found on most Holocaust-related exhibits in France. Serge Klarsfeld, with SNCF funding and permissions, developed a highly-regarded exhibit called “Deported Children” which traveled for several years throughout railway stations in France and inspired the *Deutsche Bahn* (Germany’s national railroad company) to create a similar exhibit. The company also co-funds the annual reading of the names that takes place in Paris at the *Fondation pour la mémoire de la Shoah*. Volunteers take turns reading all 75,721 names continuously for roughly thirty-hours. The company’s logo is a permanent fixture on the back of every monthly museum brochure and remains the sole corporate logo.

The company also sponsors various one-off events. From May 17 through June 15, 2003 France sponsored an exhibit on the Champs Elysees regarding 150 years of train history. The SNCF included a deportation car and a plaque in both French and English, “SNCF was keen to show the wagon used during the Second World War for transporting deported people to the German frontier, and then from there to the Nazi concentration and death camps, in the name of duty and remembrance.” (SNCF 2012) SNCF helped install memorial railcars in Drancy near the former internment camp and at the Compiègne, Les Milles, and Nanteuil rail stations.

**Ambassadors of the past: commemorative gestures**
Today’s SNCF executives, publicly or in person, also demonstrate an interest in the past through symbolic personal gestures. This demonstrates how a market actor can serve as an important ambassador and/or representative of the past. While no one at the SNCF today worked at the company during the war, today’s executives can serve as stand-ins. They can act as they wish their predecessors had done or at least show care for and interest in the deportees seemingly absent during the war. In 2010, SNCF President Guillaume Pepy took a trip to Auschwitz with the Jacques Fredj, director of Centre de Documentation Juive Contemporaine et Mémorial de la Shoah. While some of the Jewish community critiqued this trip as a publicity stunt, the event received little media attention, but showed at least a symbolic interest in the events of the past. As Part III will elaborate, the majority of the French Jewish community seems pleased with these efforts, including Vichy historian Annette Wievioka who states,

The SNCF has largely taken responsibility for its role in the Holocaust. Since the 1990s, the company opened its archives. In all of the train stations, it had an exposition on the deportation. Saying that the company did nothing for commemoration, like certain members of this case are saying, is unlikely. This approach is scandalous. (2006)

While the SNCF’s efforts offer an example of how market actors can participate. These efforts in no way guarantee legal or social amnesty. The company seems to have achieved this status in France. The response to its efforts in the United States, by contrast, shows that corporations cannot rely on good will investments in exchange for impunity. Victims owe nothing and the past as a way of returning, hence why so many people try to repress harms.

**SNCF: No amnesty for U.S.-based commemorative efforts**
“That the SNCF may have made a contribution to a museum does not absolve it of responsibility.”
- Harriet Tamen, Lawyer

The events I discuss above all occurred in France with little promotion in the United States. To improve its U.S. reputation, the company began sponsoring events in the states where it struggles the most. Only some efforts occurred uncontested like the one October 30, 2014, in which the Simon Wiesenthal Center and the SNCF cut the ribbon at Fort Lauderdale Florida’s main library (Broward County Library) launching the library’s Holocaust exhibit. (Broward County Libraries Division 2014)

More efforts have been contested because of the political battle. Moses, for example, a survivor living in Massachusetts, felt moved to contribute in some way after having lost his mother, father and most of his family in Auschwitz. He worked with OSE (Oeuvre de Secours aux Enfants), an organization that helped hidden children in France, to bring an exhibit to the United States discussing how this group’s wartime heroism. When the costs became too high and the SNCF offered to help a lot of survivors said, “No, no, no! It’s a terrible thing…they have blood on their hands.” Moses tried to organize an event with the company, but his fellow survivors called it off.

Politics of corporate contribution

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277 Maryland House Hearing 2014. (Minute 56) http://mgahouse.maryland.gov/house/play/ff17c955-b995-42f5-9df2-aacf40b8987d/?catalog/03e481c7-8a42-4438-a7da-93ff74bd4a4c%22%20t%20%22_blank

278 During a phone interview, Moses shared this response to the SNCF’s offer. April 30, 2014.
A group in Florida similarly rejected the SNCF’s help, this time regarding an offer to fund educational activities. The SNCF offered $80,000 to the state of Florida to fund additional Holocaust education. Rositta E. Kenigsberg, Executive Vice President of Florida’s Holocaust Documentation and Education Center says the SNCF offered a curriculum that no historian had reviewed and without the approval of a special task force. The chair of the task force had been flown to France by the SNCF and had agreed to the plan, allegedly without the committee’s buy-in. As a result, the money was rejected. Kenigsberg has no idea whether there were strings attached to the spending. Ultimately, she says, the committee rejected the donation because the chair accepted it without their approval, not necessarily because the SNCF failed in some way. This could have failed simply because of local politics, but was presented in the press as a formal rejection of the SNCF. She said the museum would accept the SNCF’s renowned “deported children” exhibition if historians vetted it. (Kenigsberg 2014) The mistrust in the U.S. goes both ways, however. When asked whether he would support having the Children of the Deportees exhibit travel around America, SNCF America CEO Alain Leray said, “I would never do a deal with the devil.” (2014) The devil, in this case, being those working with the Coalition for Holocaust Rail Justice group. This demonstrates the politics of SNCF in the United States and the acerbic nature of the relations between some of the survivors and the company.
Nina, a survivor living in Florida became involved in this issue of SNCF sponsoring Holocaust education in Florida. She was very annoyed with the SNCF for what she thought was a circumventing of the task force. “We have been running programs for years and years and for them to try to buy into the program to get contracts for those French trains…” Nina had no direct experiences in France, yet she lost over 150 family members and survived the Warsaw uprising at age twelve, “my feelings about the trains are very strong…they knew they were sending them to their death and there is not excuse for it.” She felt the SNCF pushed their curriculum rather than respecting the one that scholars and others composed.

**Opinion of corporate-funded commemoration**

If the corporation does nothing, this supports the claims of those who believe the company never cared about victims; when the company acts its efforts may be perceived as part of a public relations campaign. Beyond this debate, the question remains, what is the impact on the actual victims? The response to additional memorials and commemoration has been mixed. Survivor Tony, who lost 300 relatives some of whom were transported on SNCF trains says, “I don’t care about those memorials—money should be paid to survivors that are left—period.” Harriet Tamen agrees saying that we have enough memorials; the survivors need money. As discussed in Chapter Six on compensation, it appears some funding exists if someone would help survivors access it. Broch, specialist on French trains under Vichy, agrees with Tamen

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279 She shared her perspective during a phone interview. November 18, 2012.
280 He shared this perspective during a phone interview. June 16, 2014.
regarding the SNCF but for different reasons. She feels that memorials start to get morose after a while. (2011) With memorials in every train station and hundreds of streets in Paris, one could develop memorial fatigue. With resurgent anti-Semitism such memorials may become terrorist targets or exacerbate anti-Semitism.

Survivor opinions seem mixed. Lilly found herself crammed rail convoys with her parents en route to Auschwitz. Her parents did not survive.282 Regarding the commemorative efforts she says, “I wish they could bring my parents and all the members of my family that were lost. All that is done is nice, but it doesn’t bring back my family. Nothing can bring them back and I can just imagine what happened to them.” (2014) She applauds the SNCF efforts, but she still thinks the company ought to pay survivors. Market actors cannot assume, however, that victims find their efforts a commemoration meaningful or relevant. Some who live close by never visit the memorials. Walter who joined the resistance at age six and then spent the war in Denmark while his parents survived Auschwitz, lives in Paris today, but has never visited the Shoah memorial just across town.283 He says he is not against commemoration; the Shoah Foundation has interviewed him and he offered them some materials. He also interviewed with the Spielberg project and other journalists. Yet, he has no interest in visiting the exhibits to which he contributed. This provides an example of how commemorative space often draw from victims as much as they contribute to them. They hope their contributions will help prevent the past from becoming the future.

282 Phone interview. May 7, 2014.
Rabbi Baker of the American Jewish Committee finds this mixed response by survivors unsurprising; he believes that memorials conduct larger social work rather than meet survivor needs. This may explain why such sites continue to be constructed around the world. He says for some these events are about ensuring the protection of Jewish culture. He says some make the argument about memorialization being “essential to communities to guarantee the long-term survival of Jewish life in these places.” (Baker 2014) Given recent events in France and the Jewish flight that will be discussed in the next chapter, one wonders the strength of such memorials in the face of active threat.

Rachel, a child survivor and now a retired science professor living in New York, says she sent materials about her father to the U.S. Holocaust museum but does not participate in events,

[the museum] invited me to be a charter member. They sent me a pin from the museum. I make a contribution. I think it’s important… I think the work they do is meaningful. I just don’t want to be a part of it. My friends continued to live a foreign life and I didn’t want that.” (2014)

For Rachel, not participating was a way of assimilating. Survivors often furnish educational centers with many of their photos and documentation. In this way they work in partnership with the sites; perhaps these projects could provide more survivors and opportunity to reconnect with the corporate sponsors once complicit.

**Corporate efforts cannot replace personal commemoration**

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284 Baker made these comments during an interview in his Washington D.C. office. April 11, 2014.
While market actors like the SNCF can support events and memorials for survivors and the larger society, clearly many survivors do not rely on public events to commemorate the past. This does not mean they do not commemorate the past at all. When possible, a number told me they often visit those who saved their lives and nominate them for awards. Max recalls returning to the convent school where the woman in charge of the convent had protected him and eighty-two children. In 1990, almost fifty years after he arrived at the convent, someone had organized a reunion for the children. Almost thirty former hidden children returned for the event. Max had the opportunity to meet the others and thank the woman who saved his life. His wife accompanied him on what he described as “very emotional.” Nathalie also returned to France in visit with the children where she had been hidden. She brought her spouse as well as her children and grandchildren. The reunion included almost forty people; someone made a little book about the return visit. We spent some time together at her kitchen table looking at the photos. She is quite proud of the beautiful booklet and glows when discussing the event. In April 2015, she offered a public showing of a film about her family and their reunion with those who hid them. During interviews, the survivors spoke far more about these personal commemorative journeys than the state-funded or SNCF museums or events. Some Jewish organizations, appreciating the importance of these reunifications, provide funding.

**Commemoration Conclusion**

Clearly the SNCF has made significant contributions to commemoration in France. If market actors are to be willing contributors in other context, however, this
conflict provides a few lessons and warnings. Corporations will need to provide sponsorship without guarantee that those harmed will forgive the entity for its complicity. Additionally, commemorative efforts are not a replacement for restitution, apologies or other efforts. In the end, memorials may be more for the larger society and future generations; compensation, by contrast, is directly for and about victims. To reach victims they need to consider the location and needs of the diaspora; the needs may be vastly different than what is needed or wanted elsewhere. The level of acknowledgement is far more personal and intimate even if insufficient.

For transitional justice practitioners or those working in post-conflict contexts, market actors can play an important role in memorialization. To encourage this participation, their double-bind needs to be addressed. Right now, corporations can be punished for participating (either because it admits guilt or can be seen as brand building) or accused of avoiding accountability. The problem of reaching the diaspora also applies to most post-conflict situations, as does the politics of wording on memorial plaques. As with transparency, commemorative investments can make the greatest contribution when they allow victims and others to consider and reconsider the past as well as think about the road to prevention. Strewing the world with memorial plaques may remind the passerby of pain, but do nothing to engage them with the question of current perpetration or prevention. Part II concludes with a brief discussion of apologies, the final transitional justice mechanism employed during the SNCF conflict.

SNCF’s apologies: not quite full accountability
The SNCF’s apologies -- like its historical materials and plaques -- demonstrate an acknowledgement of harm without accepting total responsibility. This angers some survivors outside of France who believe that a half-apology is no better than none. As with commemoration, those angry at the company believe that even good apologies do not replace direct compensation.

Some scholars advocate for official apologies for its macro-level benefits, allowing the government to show the people its commitment to change future policy. (Marrus 2007; Harvey 1995) The apologist also, by demonstrating where they did wrong, restates the moral standard of society, sometimes teaching new values and at others returning to previously held ones. Ultimately they offer the public an opportunity to examine norms and historical narratives while positioning victims as moral agents. (Verdeja 2010) An apology may legitimize the individuals helping reconstitute their social identity. They can help with healing. In Moral Repair, Walker states that “nothing anyone does to relieve a harmed person’s pain or suffering, stress, anger, resentment or indignation or outrage will count as “making amends” without an acceptance of responsibility as the reason for the effort.” (2006: 191) Apologies, like commemorative sites, are often critiqued for meeting larger societal, rather than individual needs. Steel critiques apologies for privileging the state over the victim, serving as a way for the guilty to use apology to assuage guilt and feel good. (1998) Because apologies are transmitted, as Tavuchis says, “from the Many to the Many,” (Marrus 2006) their impact on the individual level varies and may be limited. The close Christian links with the notion of apology as a source of cleansing lead to critiques of apology as part of a
neoliberal imperialism rooted in Christian doctrine. Verdeja, for example, refers to Theologian Martin Marty who sees apologies as changing the rapport between the victim and perpetrator as well as between the perpetrator and God.

Verdeja outlines the three components formal apologies require: 1) a verbal act expressing sorrow or regret to victims and society at large, 2) restitution of some form, and 3) a promise that such acts will never reoccur. (2010) Erving Goffman offered a model of apology that focused less on responsibility and more on the expression of humiliation or remorse, offering compensation, and demonstrating the guilty party knows now what a proper response would be. (1971) Scholars debate whether victims must forgive the apologizer after such an apology is made. North (1998) and Holmgran (1993) argue for forgiveness by survivors after an official apology because the apology restores agency to the victim. Griswold (2008) qualifies this, saying such forgiveness is only warranted if the state comes through on its promises. In the SNCF conflict, those challenging the company request an apology with greater sincerity and showing more responsibility. They did not expound on what such an apology would look like, though the success of former-French President Jacque Chirac’s 1995 apology for World War II, discussed in the next section, might provide some clues. Much of France, both Jewish and non-Jewish, applaud Chirac’s speech at an important anniversary of the largest Jewish round-up. In the speech he accepted total responsibility for France’s actions. More than expressing regret; he accepted the burden.
“The very use of apologies in deeply politicized contexts requires that we identify the relation between their instrumental and moral aims, and focus on whether they can satisfy, to some extent, both moral and political demands.”

- Ernesto Verdeja

**Apologies and the Holocaust: hedging or healing?**

In regards to the Holocaust, some find apologies more important than compensation. Rabbi Andrew Baker of the AJC has worked on many Holocaust restitution cases and says when Germany compensated individuals for forced labor in Germany along with a letter of apology, some said, “the money didn’t matter, but this is what I was looking for. I wanted an apology; I wanted an acknowledgement.”

In the case of the SNCF, because the company has business interests, the apologies are distrusted and scrutinized for insincerity. This section evaluates Jacques Chirac’s 1995 apology on behalf of France and Guillaume Pepy’s 2011 apology on behalf of the SNCF according to the definitions of a good apology as outlined by Erving Goffman (1971) and Ernesto Verdeja (2010). The SNCF’s struggles with apology raise the issues of whether individual needs can be met through apology or whether they tend to be a dialogue among elites. Additionally, it raises the question of the double-bind in which corporations wishing to make amends can find themselves. (Sluzki, Ransom, Gregory Bateson 1976)

**French apologies: transforming France**

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286 (2010: 568)

The most significant, and first apology in the minds of the French for the WWII deportations came in 1995 from former President Jacques Chirac. Chirac gave the first speech recognizing French responsibility in both the enactment of anti-Jewish legislation by Vichy Regime in 1940 and participation in the Jewish and other deportations. He gave the speech on the commemoration of the round up of the Jews the in July 1942. During his speech he said,

France, the homeland of the Enlightenment and of the rights of man, a land of welcome and asylum, on that day committed the irreparable…breaking its word, it handed those who were under its protection over to their executioners…we owe them an everlasting debt. (Simons 1995)

Many French refer to Chirac’s speech as a pivotal moment regarding the country’s coming to terms with WWII. Almost every survivor interviewed in both the United States and France who mentioned the speech said they appreciated Chirac’s apology. Julius, whose parents, little brother (six-years-old) and his little sister (eleven-years-old) all found themselves deported to Auschwitz in November 1943 on convoy 62, said this about the apology, “It was significant in that [Chirac] admitted that France was actively collaborating…Charles de Gaulle said it was not France but the Germans who did everything. They had a choice and that’s what Chirac recognized.”

288 (2014)

In 1997, the French public received another major public apology. September 30, 1997 in Drancy, the Bishops of the French Catholic Church issued a declaration of repentance. Olivier de Berranger, who served as Bishop of Saint-Denis between 1996 and 2009, read the declaration,

We do not judge the consciences or the people of that time, we are not ourselves guilty for what happened yesterday, but we must look at the behaviors and actions.

Later in the speech, the Church made the distinction between blame and acknowledging a wrong; it apologized for its silence:

In the face of the enormity of the drama and the unheard-of nature of the crime too many pastors of the church by their silence offended the Church itself and its mission. Today, we confess that this silence was a fault. We recognize also that the church of France thus failed at its mission as an educator of consciences and that thus it shares with the Christian people the responsibility of not having helped at the first moments when protests and protection were possible and necessary, even if it countless acts of courage followed. This lack of action and the responsibility towards the Jewish people makes up part of the Church’s history. We confess this fault. We seek God’s pardon and ask the Jewish people to listen to these words of repentance.²⁸⁹

In this apology, the Church both accepts responsibility and fault as part of its history and asks forgiveness with a directness not assumed by the SNCF. The church noted that its behavior did not align with its mission. Prasquier of CRIF said that the SNCF’s lack of repentance makes sense because apology is a spiritual matter and the SNCF’s mission is not a spiritual one.²⁹⁰ (Prasquier 2011) This raises important questions regarding the obligations of market actors. Prasquier’s comment suggest that simply because companies are not created with the intention of supporting morality they are not beholden to it.

Chirac’s speech opened the way for more discussions about reparations and the protection of collaborators still living freely in France. The direct apology to major

Jewish organizations brought the Jewish community closer to the government. This speech, turned out to be deeply meaningful not just to survivors, but to many French people (Jewish and non-Jewish) who felt sickened by the state’s role in WWII and post-war positioning of this role. Some credit it with taking the first crack at SNCF’s WWII myth that it played only a heroic role in the war. Prior to Chirac’s speech, according to the documentary, Les Convois de la Honte, people were happy to believe that the trains drove themselves.

Isabelle, who survived the Vel d’hiv round up by hiding with her sister on her building’s roof but ultimately lost her parents believes, “If Chirac had not spoken, there would still be silence.” (2014) This demonstrates the power of an official apology. The following describes the impact of no apology and apologies deemed insufficient.

**No apology better than an insufficient apology?**

While the fall of the Berlin wall made room for vast amounts of Holocaust litigation, commemoration, truth seeking and apology, Chirac’s apology only seemed to lead to the apology of the Bishops. No one seemed to ask the French police, who actually conducted the roundups and forced the people into the railcars, to make an apology. The French banks, after the Mattéoli Commission and settlement, never made any written or public statements expressing embarrassment, remorse, regret or promises to behave better in the future. The SNCF did, but these efforts words were not unilaterally well received.

**SNCF apologies: rejected**

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“Don’t bow down, write a check”

-Harriet Tamen, Lawyer

While Chirac’s apology thrilled much of France and the world, the SNCF apology failed to inspire such accolades, at least among the lawyers and lead SNCF opponents. To an audience of Jewish leaders, survivors and Bobigny town officials at the opening of the Bobigny site, Guillaume Pepy, SNCF’s CEO, offered these words,

From where we are standing today, from here in Bobigny, nearly 25,000 people departed. They trod this ground, saw these buildings and asked questions of these rails. Today we know the answer. Their destination was Auschwitz-Birkenau. Here in these surroundings, which are henceforth engraved in the memory of each one of us, I want to express the SNCF’s deep sorrow and regret for the consequences of the acts of the SNCF of that era. In its name, I am humbled before the victims, the survivors and the children of the deportees, and before the suffering, which lives on. (2011)

These critics attribute the first SNCF apology to business interests. They know, as Sweetman says, “businesses are more experienced in the manipulation of symbols and media messages, through the use of advertising, branding, and public relations than are most NGOs working for peace.” (2009: 97) This may account for the mixed reviews. The SNCF’s first public apology occurred in the in fall of 2010 during the company’s bid for a $2.6 billion high-speed rail contract. (2014) According to *The New York Times*, “the statement, published in English, came after lawmakers in California and Florida moved to block the SNCF from winning contracts for high-speed rail projects in their states if it did not recognize its role in the Holocaust.” (Baume 2010) Other press also attributed the apology to U.S. pressure. Elaine Ganley writing for *The Huffington Post* also attributes the apology to the legislation,
France's state-run railroad has for the first time expressed "sorrow and regret" for its role in the deportation of Jews during World War II. But the mea culpa is confined to its English language Web site and part of a bid to secure a lucrative U.S. rail contract. (2010)

Bretholz and Goldstein, two lead U.S. based litigants working with Tamen, made direct requests for an apology from the SNCF. Leo Bretholz, who escaped a train headed for Auschwitz November 6, 1942, says he wants an “admission that they did wrong. That’s what I want to hear. Come up with a statement of yes we did wrong we sent people to their death and we got paid for it.” (Sham 2011) Tamen does not like the apologies thus far. She says she wants an apology that includes what she calls financial responsibility. She wants them to say, “we are sorry for what we did, we accept responsibility and we will pay reparations.” (2011)

While the SNCF executives defended their apology, they could do little to persuade U.S. based opponents who felt the disgruntled that the SNCF could not simply say, “We’re sorry.” Bernard Emsellem, head of CSR of the SNCF, says in French you

292 The United States only apologized for the deportations of the Japanese to detainment camps in California during a couple years before the SNCF’s statement. An editorial in the Los Angeles Times commented that the apology timeline is not unusual; major U.S. Companies implicated in slavery did the same thing, “In 2005, JP Morgan Chase and Wachovia Corp. apologized for their ties to slavery in the United States. (In both cases, predecessor banks that ultimately became part of the modern-day companies had accepted slaves as collateral for loans, and ended up owning hundreds of slaves.) Wachovia and JP Morgan Chase did not reveal their histories out of a belated sense of shame but because a Chicago law required the disclosure if they wanted to participate in a lucrative redevelopment project.” (2005)

The editorial did not point out, however, that JP Morgan Chase, also both individually implicated in the Holocaust never publically apologized for participating for its contribution to the destruction of Jews.
would not say, “I’m sorry” (Je m’excuse) because that means, “it is finished.” He says “regrets” is stronger because this word suggests something more perpetual. (2014) This became an issue for lawyer Raphael Prober. In March 2011, Maryland House and Senate Committee hearings, according to Prober, Maryland Senator Ronald Young asked then-SNCF America President Dennis Douté to apologize. Douté

was literally unable to utter the simple words ‘we apologize.’ “He spoke of sorrow and regret, but was quick to note the Nazis made them do it…After Nuremberg and after the ‘following orders’ defense was discredited, it is shocking and incredibly sad to hear statements like this.” (Horn 2011)

Henry Kerner, who worked on the SNCF conflict in the House of Representatives Fraud Department, also says he feels the apology was not a real apology. Kerner agreed with Raphael Prober, with whom he works on other non-Holocaust related issues, that the SNCF needed to issue a real apology and pay directly. Rositta E. Kenigsberg, Executive Vice President of the Holocaust Documentation and Education Center in Florida, also disliked the apology, “They have to come forward and do the appropriate thing for survivors,” she proclaims,

This is a sad, sad situation. I would like history to be told. We tell history so it is not told over again. If you can close a chapter, if you can give the survivors some kind of closure and if you apologize...It’s not like they cannot travel. They spent over 1,000,000 on lobbying fees...they can do that but they haven’t apologized. (Kenigsberg 2012)

When engaging apologies, Goffman (1971) and Verdeja (2010) noted the importance of announcing what changes will be made to avoid recurrences. Jacques, now a U.S. law professor who teaches Law and the Holocaust says this is still missing

from the SNCF apology. He would like, “a commitment from all the railroads of the in
the world that they are not going to participate in the mass transport of prisoners. We put
Japanese people on trains and sent them to camps—but didn’t kill them.” (2014) There
is a sense for Jacques that the apology does not go far enough.

The SNCF even received criticism within its own organization for the apology.
Some expressed anger towards the company for apologizing at all. Jean Pierre Chauffier,
who worked for the SNCF 1974- 2004, now retired, wrote a scathing response to Pepy’s
apology at Bobigny. He says Pepy has no right to speak for the SNCF or the railway
workers. He says Pepy taints the memory of those SNCF workers who resisted the
Germans. For him, Pepy’s business motivated apology was like selling his soul to the
devil. He did not want the SNCF to be bullied by what he called U.S. self-interested
lobbying group and that while he agrees that the Jews suffered terribly they were not the
only ones. He published his letter on a high-speed rail website read mostly by railway
workers. (2011)

**SNCF apology: double-bind**

The response to the SNCF apology provides insight into some of the double-binds
that market actors can face. If people perceive corporations apologize in order to *get*
something or *get out* of something, these apologies may be rejected. This could provide
insight to other market actors considering apologies or transitional justice practitioners

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295 Jacques claims that the United States set a limit of $20,000 to the Japanese who were
interned. By the time restitution was made, two-thirds had already died.
296 The URL, available in 2011, has since been removed.
working with those who demand them. The SNCF cannot seem to win; the company has
to apologize and yet the apologies are rejected. Luckily they will have another chance;
Leray says he or Pepy will give a formal apology, at an event organized by the US
Holocaust Memorial Museum once the State Department and the French government
finish their formal negotiations. (2014) The SNCF’s problems with apology, however,
represent a larger problem for corporations engaging in post-conflict amends making.
While the apology could have been motivated in part by business interests, this constant
suspicion contributes to the double-bind. (Sluzki, Ransom, Bateson 1976) Sluzki’s
double-binds include the following components; they include contradictory messages,
have an important relation between the parts, an inability to escape, an inability to not
respond, and an inability to metacommunicate (ask the other party what is wanted of
them). (Sluzki 2014) In the case of the SNCF, this fits. The SNCF receives contradictory
messages; apologize or look like callous Nazis; apologize and look like heartless business
executives. An important relation exists between the SNCF and the public. The SNCF
cannot operate freely in the United States with this battle ensuing. The SNCF cannot
escape the context; the public knows the company’s role in the WWII deportations. The
SNCF cannot ignore the problem; legislative bills, hearings and regular press make this
impossible. Ignoring the voices of Holocaust survivors further injures the company; they
are a group that much of the wider public offers tremendous sympathy. Finally, the SNCF
cannot metacommunicate. If the company asks the group of angry survivors what they
want, their lawyer will tell them to ask for the money. The SNCF cannot pay
compensation directly: the French government is currently negotiating with the U.S. Government on their behalf. They cannot meet the request if asked.

Whereas today the SNCF faces the most criticism in the United States, the company received criticism in France earlier by those believing all efforts were financially motivated. In France, the following articles all accused the SNCF’s commemorative acts and moves towards transparency as business motivated; *La Vie du Rail* (Rail Life) by B. Carrière, *Trafic d’indulgences* (The Traffics of Indulgences) by Alain Lipietz, and *Bonnes Oeuvres* (Good Works) by Georges Ribeill. The double-bind became most visible in the United States when we see the response to the speech act.

Double-binds exists for other corporations in post-conflict settings. If corporations cannot participate without increasing damnation, executives within these entities might be less willing to participate in post-conflict efforts more generally. These fragile societies need these enterprises to create jobs and stability for a country. This kind of demonization may not serve its critics or the victims. At the same time, the double-bind may be a response to the power differential between the victims and the corporation that existed in the past and in many ways exist today. The apologies, in many forms, that later came from Germany, never absolved the Nazis of responsibility. But their recurrence and varying forms did show a Germany committed to change. A number of interviewees emphasized that they do not hold today’s Germans accountable. Many young Germans express fatigue over these apologies and shame, not because they do not care, but because carrying the punishment of their predecessors for so long can also be a burden that leads to resentment. Market actors might need to accept this possibility;
apologies may need to be ongoing and change formats depending on changing needs and demands. Apologies can elicit a variety of responses; some French train union blogs, for example, urged the SNCF to stop apologizing. Survivors in France and the larger Jewish community fears continued apologies or demands for them could do little more than worsen anti-Semitism. This apology discussion demonstrates that while corporate apologies are not the norm they can be made. Those that accept responsibility, willingly or otherwise, may need to make many apologies to meet the changing needs of survivors and descendants. This may or may not improve the company’s brand image among all victims. Some may never forgive, saying they will only be satisfied when the company is dissolved completely. At the same time, not everyone condemned the SNCF to perpetual punishment. During the SNCF’s efforts, Serge Klarsfeld went from an SNCF opponent to a supporter. He felt they had done enough. He and his son, both lawyers, have worked in defense of the SNCF, when the company finds itself attacked by survivors and their lawyers. People’s opinions can change when enough remorse and responsibility are shown. The struggles of the SNCF are not to discourage other corporations from participating in transitional justice efforts. They must simply take note of the potential pitfalls and challenges of their works.

**Part II Conclusion**

Transitional justice practices of restitution, apology, commemoration and transparency provide alternative avenues for co-existence, if not total forgiveness. Therefore, market actors willing to or pressured into engaging with those harmed by
company actions, would benefit from appreciating that nothing might ever be enough and yet the work must be done. This would honor insights regarding trauma discovered through this research; the past never quite disappears. The SNCF’s contributions resulted in a dialogue primarily between the company and the Jewish elite. The company’s commemorative and transparency efforts mostly won over Jewish leaders in France, but may have done little for individual victims. The colloquium, for example only invited several victims. Furthermore, the SNCF’s programs focused on the larger social impact rather than the needs of the individual needs created by the loss. In other words, the company avoided direct restitution programs. While perhaps the French government forbid the company from launching its own program, the impact was felt in the United States where cries to address victim needs, rather than supporting a more general recognition of the Holocaust became, and continues to remain, central.

Transitional justice practitioners may see the important role market actors can play in post-conflict work. Their participation is complicated and necessary. Market actors can assist with victim services as well as contribute more generally to the reconstitution of civil society. Doing one does not necessarily do the other; they are separate efforts. Both have a place, but the U.S. lawsuits have made clear, one does not replace the other.

Transitional justice experts curious about working with market actors can also use this case to increase their sensitivity to the constraints on corporations. Corporate actors might be willing to engaged if not demonized the whole way through. Once the blame
machine gets rolling, it can be as difficult to stop as a WWII train. Part III shares victims’ justifications for holding on or letting go of this train conflict. For different reasons many interviewees, both in France and the United States, expressed no interest in the conflict. In spite of this significant disinterest, as of April 2015, the conflict continues to make national and international headlines. Part III shares victims’ explanations for their position on the conflict and considers the symbolic import of trains and a corporate identity.
PART III

HAS THE SNCF DONE ENOUGH?
LETTING GO VERSUS HOLDING ON

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INTRODUCTION

Part II discussed the transitional justice mechanisms of apology, trials, commemoration, compensation and transparency as applied to the SNCF conflict. These practices demonstrate the powerful role of market actors and the challenges of engaging with trauma. Each practice addressed some larger social needs created by the crimes against humanity. Transparency efforts create space for voices to upend the silence that violence spawns and apologies publically name the wrongs. Similarly, commemorative activities and exhibits make the wrongs public, providing a moral compass today’s visitors. Trials sought to hold individuals and groups accountable and compensation debates aimed at repairing some of the harm caused by the perpetrators. Because the conflict made international front-page news several times in 2014, one might suppose the majority of survivors feel unsatisfied with the progress. Curiously, the majority of survivors interviewed, deported, or whose parents or close relatives suffered the horrific journey, have few outstanding gripes against the company. Even if their wartime
experiences still live vibrantly within them, few have little desire to take on the company. What explains, therefore, the perpetuation of the conflict?

Part III explores this question via the interviewees’ own words: why do they choose to challenge the SNCF or not? Many knew little or nothing about the conflict. Even though they all (survivor and non-survivor interviewees) confirmed the insights this research highlighted; time moves on and the yet past never really leaves. I found significant differences between those who held on to the SNCF’s accountability and those who have let go or never bothered chasing the train company. The reasons offered as justifications for a particular position either fell along country lines or seemed related to exposure to certain groups or influences. The *habitus* in which one lived immediately after the war and the one in which they live today impacted how people framed the conflict as well as their role or abstention. “Moving on” for those staying in France, a repressive post-war context, necessitated doing as Charles de Gaulle suggested, turning the page. Those in the United States also looked forward, but were spared having to interact with neighbors, police, and others who participated in their suffering. Nor did they have to interact with the SNCF, until the company expanded to the United States.

Chapter Nine outlines the differences in opinion both between and within Israel, France, and the United States. For those absolving the company, Chapter Ten explores how staying in France after the war versus immigrating to the United States impacts the narratives used to defend their position. For those still engaged in the conflict, Chapters Three and Four elaborate the factors that perpetuate a holding on, including the irreparability of the harm, the powerful semiotics of trains, and the SNCF’s corporate
identity. In this conflict, the *habitus* in which a victim lived in the post-conflict environment appeared to have a significant impact on the ways in which they processed the harm and participate in demands for accountability. This could have implications for other post-conflict contexts involving market actors: needs or requests might be understood as a product of what seems possible in one’s environment as much as a reflection of inner needs or desires.
CHAPTER NINE
A REVIEW OF MODERN OPINION

Chapter Nine considers which groups and individuals have released the SNCF and which groups believe unfinished business remains. While the group of survivors represented by Harriet Tamen and her team remain the most vocal about and unsatisfied with the company’s efforts, they appear the minority. This chapter describes where the SNCF made peace with victims or at least no longer occurs to them as an active villain in need of punishment. Israel, for example, creates no difficulties for the SNCF. In fact, just the opposite, the Israeli government seeks the SNCF’s help to improve the country’s infrastructure. The work of the SNCF also satisfied the French Jewish leadership and much of the local survivor population. Among the U.S. survivor population, many claim to feel satisfied with the railroad or indifferent to the cause. The discussion opens with the largest and most official voice of the Jewish people, Israel.

Israel

Letting go to advance the State

The Holocaust plays arguably the most dominant role in Israeli identity; however, this does not necessarily translate into economic sanctions or other forms of punishment for formerly complicit nations or entities. A close second to the Holocaust, Israel defines itself by its strength. The state found it more fortifying to partner with, versus isolate,
formerly perpetrating entities. In this way, Israel’s approach may be an interesting study for other post-conflict regions considering the benefits re-partnering with formerly destructive entities, especially corporations. While many have mixed feelings about Israel’s reintegration of said entities, this approach contributes to the modern strength of the state. The SNCF may play an increasingly prominent role in amplifying this power.

During French President Hollande’s three-day visit to Israel in November 2014, Israel contracted with the SNCF to improve the railway stations and the ISR (Israel national railroad) engineering training program. The ISR hopes this will help the national railroad company double its passengers in less than ten years.\textsuperscript{297} To handle the sensitive subject of the SNCF’s WWII participation, the parties agreed that the SNCF would invest in more research on the railroads via Yad Vashem, Israel’s Holocaust museum and research center. Bernard Emsellem of the SNCF detailed the company’s wider efforts to make amends during an interview with Israel National News. (Gerstenfeld 2014) For some interviewees, especially those in France, Israel’s acquittal of the SNCF matters. For André, a French-based survivor who escaped the Nazis several times, lost his father, and barely retained his mother, says Israel’s decision matters, “One cannot be more royalist than the king.”\textsuperscript{298} (2014) If the SNCF’s amends are good enough for Israel, they are good enough for him. Aaron Greenfield, a lobbyist working against the SNCF in Maryland,

\textsuperscript{297} ISR hopes to increase from 40 million passengers in 2012 to an estimated 70 million in 2020.
\textsuperscript{298} Said during an interview in his home. August 4, 2014. Granted permission to use his real name.
however, claims that a number of the litigants on the class action lawsuit living in Israel said they were quite upset that Israel made the agreement with the SNCF.\(^{299}\) (2014)

Does the amnesty Israel offered the SNCF say more about Israel or the SNCF’s success at making amends? Placing the SNCF conflict in context requires a brief discussion of Israel’s relationship to Holocaust restitution; historically when faced with a choice Israel often privileges state-building agreements over symbolic Holocaust retribution or restitution. In his lecture entitled, “German Restitution to Israel: Transitional Justice and Public Debate,” Professor Norbert Frei, a leading expert on Nazi restitution said, immediately after the war, the Zionist right and Socialist Workers Party opposed accepting restitution from Germany.\(^{300}\) (2014) By 1952, however, Prime Minister Ben Gurion made a formal decision to settle with the “New Germany.” He also expressed a common unwelcoming message towards survivors; only morally corrupt Jews could have survived. These individuals would not be welcome in Israel. The new strong Jew wanted to distinguish himself from the victim and only a new strong Israel could work with the “New Germany.”\(^{301}\) Germany became an ally in creating Israeli strength, offering not just individual compensation, but weapons and materials used to build the Israeli army; today’s Israeli submarines are German made.

\(^{299}\) [http://mgahouse.maryland.gov/house/play/ff17c955-b995-42f5-9df2-93ff74bd4a4c%22%20t%20%22_blank](http://mgahouse.maryland.gov/house/play/ff17c955-b995-42f5-9df2-93ff74bd4a4c%22%20t%20%22_blank) (Minute 40)

\(^{300}\) Notes taken during Frei’s lecture, October 13, 2014.

\(^{301}\) The partnership with Germany and German corporations seems to reflect a move to disassociate from the Jewish victims of the Holocaust. This may be an important consideration for other post-conflict states that wish to build their strength and do so without disassociating from victims.

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Initially, rather than armaments, restitution came in the form of goods and services for victims. Even with the limited understanding of the Holocaust in 1945, the majority understood that victims’ needs ought to remain central. (Frei 2014) Frei claims this contributed to a “competition of victimhood” in the 1950s whereby people would express their tragedy in ways that would enable them to receive greater restitution. A resurgence of dialogues began in the late 1970s about forgotten victims such as: homosexuals; those who experienced forced sterilization; gypsies; and forced laborers. In the 1980s, Germany and Israel decided that they would never have a normal relationship so they called their relationship “special.” (Frei 2014) This special relationship puzzles some visitors to Israel, many of who often remark about the Mercedes-Benz taxis that circulate throughout the country. According to The Economist, in 2008 Germany remained Israel’s second largest trading partner. (2008)

While Israel’s compensation of victims improved over time, survivors do not seem, at least in large numbers, to consider Israel their homeland; a 2010 report estimates that less than 2,500 (roughly 3%) of the world’s 80,000 remaining Holocaust victims live in Israel. (Registry of Holocaust Survivors 2010) This may not be surprising given Israel’s original post-war treatment of the Jews and a continued distrust of Israel’s management of the German settlement intended for victims. Frei offered two possible explanations for this perception of Israel’s treatment of survivors. Firstly, Israel initially

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302 This speaks to this dissertation’s claim that restitution ought to remain an open and contested space; new victim groups may be identified as cultural sensibilities shift.

303 Daimler, Mercedes parent company confessed it reaped massive profits during the war, thanks to the efforts of 40,000 slave labors working in horrific conditions. (Hall 2014)
offered individual reparations only to those survivors living in Germany during 1937. Those from other countries would have to await agreements between their host country (e.g. Netherlands, Hungary, Poland, France, etc.) and Germany. Eventually, the claims process expanded allowing more individuals to receive restitution. Frei also attributes Israel’s poor reputation for restitution to the Kibbutzim (Israeli collective communes) system. Israel, a socialist state at its inception, distributed goods and services via Kibbutzim communities who decided how to use the money. In other words, the money would come to the commune not to individuals and be spent on behalf of the collective. One survivor said her Kibbutzim decided to use restitution funds to install a state-of-the-art swimming pool for the commune.\(^{304}\)

While many descendants see Israel as a homeland, many survivors retain more complex feelings about Israel. For Benjamin, who stayed in France for pragmatic reasons, this decision separated him from his family and his heart.\(^{305}\) During the war, authorities sought Benjamin who had already escaped with the underground to Spain. They found his father instead and first took all his belongings. Eventually authorities rounded up both his parents and placed them for six months in a French internment camp. In 1946, his parents left France for Israel; both died before receiving restitution. About restitution Benjamin says, “We didn’t get anything because my parents were in Israel…But I don’t care. It was a long time ago. They never will compensate. It was my parents who tried and never got anything…I am giving up. I am quite old.” (2014) Yet he

\(^{304}\) A woman came and told me this story after Frei’s lecture.

\(^{305}\) Phone interview. May 7, 2014.
still feels some fidelity to Israel. Even though his parents lived their final days in Israel and he in France, Benjamin saw himself as the only Zionist in the family. He says he never lived in Israel because he wanted to be a doctor. Israel, a socialist state at the time, told him, “we need shoemakers and we need drivers for buses, we don’t need doctors.”

(2014) He returned to France to study medicine, but still feels guilty for not living in Israel. His story shows the complex relationship some survivors have with the proclaimed Jewish homeland. The description of Israel’s history with restitution may contribute to some of these more mixed sentiments. Given Israel’s history with restitution, the country’s response to the railroad is unsurprising, but what explains the perspective of the French Jewish leadership and a majority of survivors in both the United States and France absolving the company?

**French Survivors and Jewish Leadership**

*Making peace, letting go*

“The past is past. It’s not forgotten, but it has finally found its place.”

-Henry Rousso, French historian

French courts, Vichy historians and French Jewish leaders have almost all acquitted the SNCF. Chapter Four outlined the *Conseil d’Etat*, High Court of France’s decision to stop engaging with Holocaust; the Glemane decision in 2008 determined France owed no more for the Holocaust. In 2009, the European Court of Human Rights absolved France saying its efforts to remunerate the victims and commemorate,
“provided full and fair compensation, both morally and materially.” (Consulate General of France 2009) In France, the company has legal amnesty.

France, and as an extension the SNCF, has also been exonerated by Vichy historians. This may be surprising as Vichy historians proved some of the first and harshest critiques of wartime France and its institutions.\textsuperscript{306} French historian Henry Rousso’s seminal \textit{The Vichy Syndrome} (1987) addresses how the French handled Nazi occupation. In his book he coins the famous phrase, “The past that does not pass....”

Today, over twenty years later, Russo believes some kind of transition \textit{has} occurred. He now says, “The past is past. It’s not forgotten, but it has finally found its place.” (Wetzel 2012) His colleagues seem to agree. According to \textit{The New York Times},

some French historians and Holocaust experts have called the legal pressure and campaign against the SNCF in the United States uninformed and unfair. They contend that the SNCF has taken on more than its fair share of guilt, given the Nazi occupation of France and the Germans’ use of French national institutions as their own. (Baume 2011)

Michael Marrus is an historian who thinks the SNCF has paid its dues. A professor emeritus of Holocaust studies at the University of Toronto and leading expert on Vichy France, Marrus finds today’s efforts against France misguided. Marrus, who has done archival work for the SNCF, said he is “a bit exasperated” by efforts to ban the railway from U.S. government contracts and thinks “these matters should be put to bed.” He goes on to say,

I don’t diminish the tragedy or the pain and suffering, but I think at the end of the day, there will never be justice in the sense that most of the perpetrators have died by now and most of the people who suffered directly have died by now, I just

\textsuperscript{306} Discussed in Chapter Two and Chapter Six.
don’t see any merit in continuing this, especially when [there has been] open
acknowledgment and contrition. (Shaver 2014)

Noted French historian Annette Weiviorka agrees with Marrus that the SNCF ought to be
absolved,

The SNCF has largely taken responsibility for its role in the Holocaust. Since the
1990s, the company opened its archives. In all of the train stations, it had an
exposition on the deportation. Saying that the company did nothing for
commemoration, like certain members of this case are saying, is unlikely. This
approach is scandalous. (2006)

French historian Georges Ribeill also discredits this conflict against the SNCF. In 2008,
Ribeill wrote a fifty-six-page article on the SNCF’s role in the deportations for the
publication *Historail*. In the article, he considers the invoices produced by Kurt
Schaechter in 1992 and the Lipietz family lawsuit “harassment” of the company. (Both
described in Chapter Four) After completing his extensive search in the SNCF archives,
Ribeill argued that French lawyers were fighting the company with judicial arguments
based on little historical founding. (2008) The French Jewish leadership shares the
sentiment of the courts and Vichy historians that the Holocaust has found its place in
France.

**French Jewish Leadership: *France a fait ce qu’il fallait faire***

Nazi hunter, historian, activist and lawyer Serge Klarsfeld, who recently received
France’s highest medal of honor for his Holocaust activism, also believes the French

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307 Aaron Greenfield, lobbyist working against the SNCF in Maryland, discredits Marrus
arguing that he is on the SNCF payroll and attends many SNCF-sponsored events. Other
world-renowned Vichy experts and Holocaust activists have spoken in defense of the
SNCF and have been discredited for doing so.
State has made the necessary financial amends; France a fait ce qu’il fallait faire, France did what it needed to do. He refers to the 700 million dollars France provided to surviving families and the 400 million to fund the Foundation for the memory of Shoah.

(2011) As noted in Chapter Seven, Klarsfeld fought the SNCF during the 2001 colloquium, but no longer considers the company an enemy. The SNCF helped support his fund for orphans that provided life-long pensions; as of 2015, the company continues to contributes to events and commemorative activities Klarsfeld often spearheads.

Furthermore, Klarsfeld believes that focusing on the SNCF distracts people from the vrai coupable, the truly guilty, meaning the Vichy collaborators like those that he and his wife Beate help bring to trial; Klaus Barbie, René Bousquet, Jean Leguay, Maurice Papon and Paul Touvier. Klarsfeld’s shifting view on the SNCF may suggests either that he believes that commercial enterprises posed less of a threat than the vrai coupable (French leaders) or if he simply believes the SNCF has paid its dues. Other Jewish community members agree with Klarsfeld, who is arguably the most influential man in France regarding the Holocaust.

The CRIF, Conseil représentatif des institutions juives de France, represents the wide variety of political, social and religious concerns of the French Jewish population. Created secretly during the war, CRIF has a strong voice in France. Richard Prasquier, the President of CRIF, pushed the SNCF to evolve its narrative, “the SNCF must take

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308 Chapter Three considered the anti-Semitism of the SNCF’s wartime Chairman given his role in SCAP, the organization designated to ayrianize Jewish businesses. Yet, little is known. Those Klarsfeld and his wife brought to court clearly had their hands deep in the planning and deportation of foreign Jews from France. When I see Klarsfeld again, I will ask him more about his thoughts about the role of culpable businesses generally.
responsibility for all aspects of its history, not just hold on to the noble tale of The Battle of the Rail.”

(2011) In a speech given in February 2011, Prasquier stated he believed the SNCF had done its work and now acts as a leader, “the SNCF, who is strongly engaged with the process of unveiling its own history, is an example of the shadows and lights intertwined. We support its approach.” The Jewish leadership has convinced many of its members, even some living in the United States, that it is time to let go. For example, Johanna, who now lives in the Washington D.C. area, read the CRIF newsletter saying the SNCF no longer owed the Jewish community. If the SNCF had done enough for CRIF, she said, it had done enough for her.

(2014) French and American lawyers: unconvinced

Canadian Vichy historian Michael Marrus hoped that the feelings of the French Jewish leadership’s exoneration of the SNCF would be enough to stop the U.S based legal and legislative actions against the company. (2014) However, the lawyers working in France and the United States considered the amends insufficient. Lawyer Rémi Rouquette, who fought the SNCF on behalf of the Lipietz family, believed the SNCF’s contributions simply bought off the French community. Rouquette claims that the French Jewish community continues to critique him and his clients without end. He thinks this may be in part because the SNCF sponsors a large portion of France’s Shoah Memorial. He notes the critique [for his legal battle against the company in France] has been worse

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309 I met with Prasquier in his Paris office. May 9, 2011.
310 Said during an in-person interview in Washington D.C. Her husband and daughter were present. May 24, 2014.
within the Jewish community than from anti-Semites.\(^{311}\) (2014) Harriet Tamen and her legal team in the United States also considered such efforts insufficient. They continued their legal pursuit and legislative push throughout the SNCF’s transparency and memorialization efforts outlined in Part II. Perhaps this speaks to the nature of law to press forward as long as clients (or potential clients) exist. For some, the chance that a case could be won may be justification enough for its existence. Enough Holocaust-restitution cases have settled to encourage any lawyer.\(^{312}\)

**French survivor Rebecca: unconvinced**

Rebecca shares her story about why she continued her fight. She says she had a bone to pick with the SNCF long before she joined Harriet Tamen’s class action lawsuit against the SNCF.\(^{313}\) Her family barely survived; her husband lost his mother, father and siblings at age fourteen. She says he never recovered from the loss of his mother. She carries horrific memories of the French and Nazi treatment of her mother. French authorities placed Rebecca’s mother on a convoy departing July 1944 (after the liberation). Her mother survived Auschwitz in part because she arrived so close to the war’s end. In spite of proximity of the liberation, Rebecca only found her mother three years later. At age ten, Rebecca found herself sent to a hospital to claim a woman someone said was her mother; to Rebecca this blind person with no teeth looked more like a cadaver than her mom. She had a shaved head, two numbers tattooed on her arm


\(^{312}\) The 2015 film release of *Women in Gold* might further encourage lawyers.

\(^{313}\) We met at her apartment in Paris. She spent an hour or so with me before her husband came to join us. He too had suffered substantial losses. We sat on their deck and ate cheese, chocolate and fruit during this heart-wrenching discussion. July 25, 2014.
(one crossed out because she at first lied about being an Ayrian who was married to a Jew), and a huge head bandage. Rebecca later learned her mother’s head had been split by a Capo (prison guard).

While telling her story, Rebecca emphasized, “Remember that no one knew about the camps at the time.” She only knew what lay before her, a woman she did not recognize barely clinging to life. Rebecca had not spoken many words in the three years of their separation and said, as a result, could barely utter a word to her mother. The first words she remembers expressing were not to her mother but were in shock upon seeing the woman lying next to her mother. The woman’s skin around her mouth had receded due to malnutrition. For all her suffering Rebecca’s mother only received compensation forty years later when she reached her eighties. She died ten years later. (2014) While many contributed to their suffering, Rebecca had especially vivid feelings towards train company.

The SNCF, she said, let them be crammed into cars with no light, food, air or water. “With Harriet [Tamen] we lost three times,” she notes. So, Rebecca paid lawyers in France to help her fight the company that she believes did nothing to improve the conditions for deportees. Rebecca thought SNCF President Guillaume Pepy’s apology sounded more excuses rather than making real responsibility. She calls Arno Klarsfeld—son of Serge Klarsfeld and sometimes SNCF’s lawyer—an “opportunist.” Rebecca is not insensitive to the SNCF’s amends making efforts; she simply did not know about them.

This speaks to the claim in Chapter Three that understanding history in context helps contemporary listeners appreciate the complexity of the times.
When learning about the SNCF’s commemorative efforts, however, Rebecca whispered to her husband, “it makes me feel good to hear they have done this.” (2014)

Unlike the Jewish leadership and the Vichy historians, no survivor interviewees in France noted the SNCF’s amends-making actions as the reason for their neutral or positive feelings about the company. Rebecca’s whisper to her husband suggests, however, that such efforts may indeed be meaningful to those who know about them. The impact of these events may not be made public but rather expressed in conversations between friends or in bed-pillow conversations.

While many survivors share the overall sentiment that the SNCF owes nothing further, their reasons prove quite different and often depended on whether they stayed in France or left after the war. U.S. based survivors did not live through post-war France nor are they reliant on the French state today. They tend to argue that present-day employees and taxpayers ought not be punished for the work of their predecessors. They also seem less influenced by the SNCF’s narrative of resistance, perhaps because many left France before the State-sponsored narrative about the SNCF circulated. Some survivors even expressed appreciation of certain SNCF employees, sharing personal stories about individual workers who saved them. Chapter Ten will elaborate on how these differing contexts impact reasoning about the trains. The following discusses the variety of perspectives found in the United States, starting first with Jewish leadership.

United States

*Many letting go, but a powerful platform for those holding on*
**U.S. Jewish Leadership: local and national differences**

The U.S. Jewish leadership agreed with efforts to consider SNCF’s obligations, but differed regarding the use of legislation to ban the SNCF from the U.S. market. The national organizations disagreed with the legislative efforts; local organizations supported the legislation. In June 20, 2012, the national organizations: *American Jewish Committee, Anti-Defamation League and B’nai B’rith International* and the *World Jewish Congress* made a formal statement to the Senate Committee on the Judiciary regarding S.634 Holocaust Rail Justice act designed to bar the SNCF until it paid direct reparations. They supported the consideration of the SNCF’s moral obligations, but disagreed with the use of legislation as a means of addressing the conflict,

> We believe the moral responsibility of governments, institutions and individuals to address the past and to learn its lessons transcends “statutes of limitations” or “sovereign immunity” protections. But we are concerned that legislation may not be the best tool to achieve that goal.315 (2012)

The national organizations invited the SNCF to consider making a humanitarian donation in recognition of the company’s material role in the murder and suffering of tens of thousands of innocent people. They acknowledged France’s progress towards accepting its active role in the Nazi agenda and its work to make amends. In this way, the message of the national U.S. Jewish organizations resonated with those of the French Jewish leadership.

Local organizations in states with proposed legislation, however, came out in support of the legislative approach. In California the following non-profit Jewish

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315 Document provided by the Anti-Defamation League, Washington D.C.
organizations supported Assembly Bill # 619 designed to bar the SNCF from state
contracts: 30 Years After, Bet Tzedek- The House of Justice, Jewish Family Services of
Los Angeles, the Los Angeles Holocaust Museum, and Second Generation. These local
organizations might be more impacted by local public opinion and politization of these
events. In this way, these local organizations may act more like Representatives, swayed
by public pressure, while the national organizations act more like Senators, providing
leadership. While the local groups supported the legislation, seemingly pressured by
survivors, many of the U.S.-based survivors express little support for the conflict. This
shows how diaspora groups have additional subgroupings.

**U.S. based survivors: letting go, holding on with ferocity**

“I have no problems with the French railroads. I think it is a non-issue.”

-Judith, U.S. based survivor

Even though the class action lawsuit began in the United States and the survivors most
committed to the cause reside in the United States, numerous survivor residents express
little or no interest in holding the company accountable. Chapter Ten will talk about their
wish to expunge today’s innocent employees and French tax payers and direct our
attention to today’s victims, like the children in the Middle East. The small, but powerful
and vocal group challenging the company will likely hold on until they pass away.

For example, Tony will likely never forgive the SNCF. Tony, who now lives in
up-state NY, spent the war hidden in orphanages outside of France, losing an estimated
300 relatives, some of who were deported from France.\footnote{Phone interview. June 16, 2014.} He created a successful life in America, the country he loves best in the world. Working in finance, he helped found one of the first genetic engineering firms. When asked how he feels about the French Jewish community’s acceptance of the SNCF’s efforts, Tony responded, “What a bunch of creepos!” (2014) He finds most Jews too complacent, often only talking about doing something, but never actually taking a stand. He believes the SNCF did wrong and needs to pay for its actions. Once the company pays, he does not care if the company operates in the United States, “After that, it’s just business. Business has no personality.” Tony participated in lawsuits against the Germans, Swiss and others during the past decades.\footnote{A number of individuals involved in the SNCF class action lawsuit participated in other cases. This suggests a consistency in approach for some. Others simply prefer to avoid legal processes altogether.}

Rosette Goldstein has spoken publically against the train company and worked on this issue for over ten years.\footnote{She shared her views during a phone interview. Because Rosette has spoken publically on the conflict, I have used her real name. May 27, 2011.} She explains why she thinks the company has not done enough. Rosette, who survived as a hidden child, lost her father (who she remembers well) on Convoy 64 and other family members on Convoy 8. She fights the SNCF because she believes the company had a choice and that they collaborated with the Nazis very willingly from the beginning of the war. She does not believe they were coerced in any way and believes the SNCF remained independent and under civilian control during the war. She claims the company charged third-class rates and knew exactly what was happening and “never lifted a finger.” She continues,
I am fighting along with the other people because I am fighting for the people that lost their lives…I want the SNCF to open their archives. Which they say they did but not all of them. I want them to apologize but the right way. I know that the head of the SNCF came out, but it wasn’t enough. I want reparations. We are getting old. I am 72. Most others are 80s and 90s. We are not going to be here very long. The SNCF refuses. Other companies, even the Germans, have done it. (2011)

She says she does not want the company to earn U.S. taxpayer money until it becomes even more transparent, pays reparations and makes a better apology. Rosette’s opinions reflect many of those working most closely with Harriet Tamen on the class action lawsuit.

Chapters Ten, Eleven, and Twelve will consider the explanations people offered for letting go and holding on, respectively. Justifications for one’s position seemed to be strongly correlated to whether the survivor resided in France after the war or left the country, usually to the United States. Those living alongside perpetrators after the war had different realties and lived in a different *habitus* than those who started anew in the United States. Those who stayed remained reliant on the French State and had strong incentives to reintegrate. Their American counterparts had less incentive to make peace with France or its perpetrators in order to survive. France and the United States came to terms with the Holocaust differently; Part II demonstrated the differences in relation to transparency and the impact of differing legal systems. The United States is considered

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319 A Paris-based colleague told me a story about friend of hers who was deported during the war and then went back to her old job at a bank that housed stolen Jewish assets. She returned to her job saying nothing, but when the Mattéoli Commission began in the 1990s (to explore the banks) she had detailed information about who did what. My colleague stressed the amount of years this woman had to work as if nothing had happened, silent about both her experience and the perpetration of her colleagues.
quite litigious by French standards. The following vignette transitions this discussion of generalized views to reasons offered for one’s position on the SNCF. This story about the different opinions and reasoning within one family provides insight into how diasporic groups process harm in distinct ways. Location post-conflict matters; the pain is not necessarily less for those who left, yet how it manifests and what is done about it might be quite different. Market actors wishing to make amends might want to consider the location of their victims, post-atrocity. Not meeting the needs of the diaspora can create much upset.

One Family’s Story

Demonstrating difference between diaspora and denizens

Florence, who lives in Florida, was just a child during the war. She remembers her father’s round up and the details of how she, her mother, and younger brother survived the *Vel d’Hiv* (the largest single round-up in France). Somehow, she says, the *Gendarmes* (French military police) simply walked past her apartment; she believes their non-Jewish sounding last name saved them. Florence feels strongly about the SNCF’s responsibility, “I blame them for the whole thing,” she says. (2012) She joined Tamen’s now defunct lawsuit, and continues to push for legislation or anything that will force the SNCF to settle with survivors before they operate in her state. Florence stated,

What can I tell you? My father was in one of those cattle cars. My father was in the 5th convoy…he went to Auschwitz in the cattle car and he never came back. [The SNCF] is a government agency and the French government paid them and they were paid per head. The more people they got into the car the more they got

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paid. So there you go. They have been trying to get into this country to get into the rapid transit system. They have been trying. My Senator Ed Deutsch…I spoke to his office to tell him I don’t want any work in this country unless they settle with us. I blame them and the whole French government. I don’t like the French. I have first cousins there so I visit them. (2012)

While in France, Florence visited her first cousin; Elise lives in Belleville, Paris. Elise learned about the case and the legislative battle from her cousin Florence, but says she has no interest in joining the fight, “Je trouve ça un peu...” I find it a little... Her sentence trailed off. Overall, she says, the conflict seems very American—a very lawsuit oriented country, she thinks. Elise says the SNCF had no choice—there were many who fought in the Resistance. Furthermore, she says, the Americans have their own dirty hands, referring specifically to the United States’ efforts to protect Nazis after the war to assist with espionage. Elise lost as much as her cousin, even though she feels quite differently about the SNCF. Elise lost a father she never knew on convoy 77 that left in July 1944, a month after D-Day. She simply processes her loss differently.

Unlike her cousin, Elise can discuss her loss with others in Paris where the events occurred. On July 31, 2014, for example, the Shoah Memorial in Paris hosted a reading of names in commemoration of the 70th anniversary of her father’s convoy. Before a crowd of about 100 survivors and descendants she read her father’s name, something she

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321 I met Elise, whose number I got from Florence, in her Belleville apartment. We also attended the reading of the names ceremony together in Paris. She helped us attend a tour of the Bobigny deportation site several days later. (August 13, 2014)

322 Elise was correct. In fact, on October 26, 2014, The New York Times published an article by Eric Lichtblau saying the United States recruited far more Nazis than previously thought. About to publish a book on the subject, Lichtblau now estimates the U.S. recruited 1,000 Nazis.
had never done; she found this moving. After the ceremony, she found her father’s name on the memorial wall and pointed his name to me. She then attended a meeting hosted by the museum designed to collect more information about each person on this convoy. Serge Klarsfeld encouraged people to come forward with information because historians know so little about the convoy. Elise will help them add a page about her father. These events also have social benefits; attendees have the opportunity to reconnect with the living as well as the dead. When Elise attends events like this one she reconnects with others, including her brother’s childhood friend, Bruno.

When it comes to the SNCF conflict, Bruno, who lost his mother, follows French Jewish leader, Serge Klarsfeld. He says that if Klarsfeld says the company has made amends then Bruno believes it has. In France, much of the Jewish community follows Klarsfeld’s lead. Additionally, Bruno can participate in local commemorative events that may impact how he feels about the SNCF. In 1992, for example, Bruno took a commemorative thirty-six hour train trip with 1,000 other survivors from France to Auschwitz, a trip he believes Klarsfeld organized and the SNCF funded.

Florence, living in Florida, cannot easily participate in these Paris-based events and has far less of a French identity than her cousin, Elise, or Bruno. Her anger is more general, “I blame them all,” she says.

It was the gendarmes who picked up my father. It wasn’t the Germans. It was the French who did that to their own people living in France. My parents were not French citizens. They were Polish, but they were married in France and their

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323 Two people on that convoy saw each other for the first time during that meeting. They did not approach each other, though I was fortunate enough to speak with both.
families were naturalized citizens. These people did not harm anyone. My father had been part of the French military and still they picked him up. Am I supposed to like them? (2012)

Florence participates in the lawsuit and actively supports the legislation designed to block the SNCF. Unlike her Paris-based family, she has no incentive to come to terms with France’s role, except to stay in touch with her family. When asked if she would visit France she says, “I was there a year and a half ago. I don’t stay there and I don’t want to live there. I am going to see my family.” (2012)

Paris-based Elise and Bruno live in a very different world than Florence—a Florida resident. On the one hand, Florence may see more clearly the reality of French collaboration whereas Elise may be more impacted by post-war stories of heroism and the necessities of living within post-war France. At the same time, Florence also missed the decades of healing, truth telling and amends making that occurred in France. She, like many, may assume because she did not see the SNCF’s efforts, the company made none. Regardless of whether or not such events occurred for others, they did not occur for her. This demonstrates a challenge of transitional justice efforts involving market actors—the differing worlds and needs of the diaspora. Those who leave may process the trauma quite differently and quite separately from those remaining within the country in which the atrocities occurred. Elise grew up in post-war France next to neighbors who turned people in and passed police on the street who crammed deportees into cattle cars. In order to move forward, one had to look the other way and do so for decades. The SNCF continues to play a central role in French life and has become a very powerful symbol of
French technological competence. Elise and her peers now have to process the resurgent anti-Semitism in France, something Florence remains protected from in Florida.

**Chapter Nine: Conclusion**

This chapter reviewed the various responses to the SNCF conflict. Israel acquits the company as do the French and American national Jewish leadership. Most of the survivors interviewed agreed that it was time to let go of the SNCF’s role. The prior vignette described the different opinions and cultural context in which Elise and Florence have experienced. Their opinions about the company reveal less than their *reasons* for these opinions. Their justifications point to the power of one’s *habitus* in determining whether one lets go and/or how one pursues restitution or justice of any sort. Chapter Ten considers the different reasons interviewees in both the United States and France offered for letting go or holding on to the SNCF’s accountability. Those living in France who absolved the SNCF expressed justifications that revealed the impact remaining connected to France and their French identity after the war. The reasoning of American survivors absolving the company ironically reflected their separation from France. This research revealed the importance of not assuming that trauma is processed in the same way or that justice can be achieved through the same mechanisms, especially when the perpetrator is a market actor.
CHAPTER TEN

EXPLANATIONS FOR LETTING GO

Chapter Ten explores the reasoning of French and U.S. based survivors choosing not to hold the SNCF accountable for its wartime role in the transport of deportees. The French based survivor opinions seem impacted by post war constraints of living alongside perpetrators, their proximity to France’s post-war narrative, and the requirements for assimilating in the French State. It was not only the French State, *per se*, that impacted those who resided in France, but the entire cultural *habitus*. Repression of the past transcended from the national into all local spaces, creating silence between the government and its people as well as within survivor families. The entire culture collaborated in the post-war atmosphere. Rabbi Baker thinks initially, at least, those staying in France contributed to the lopsided post-war narratives. Baker says,

> I had this feeling (and I admit it is an anecdotal one), the French Jews that I knew, in a funny way, and this may be the wrong word to use, [the survivors] were also kind of complicit in this kind of post-war picture of France being a nation of resistance fighters-rather than a lot of collaborators and participants that assisted. (2014)

Many French residents, including non-Jewish French, lived in great poverty after the war. Christopher Dodd’s *Letters from Nuremberg*, talks about his father’s experience in post-war France. He observed people walking around in wooden shoes; with no fuel available
vehicles burned wood. Few could afford restaurants and many spent their days seeking basic provisions and steady work.

American immigrant survivors also struggled after the war; they had to learn a new language, assimilate to a new country and find work—often in sectors unrelated to their previous training. Unlike devastated France, the United States experienced a post-war boom and felt the security of not having had an attack on its soil. In spite of this more confident position, the United States did not offer a more open environment in which to discuss the Holocaust. The silence simply seemed due to something other than national shame or bewilderment—as shown in Part II, the world processed the breadth of the Holocaust rather slowly. Furthermore, survivors in the United States did not need to rely on possibly complicit neighbors for food or work. U.S. based survivors who have absolved the company, share an appreciation gained over time for the complex position of all French people. As a result, many saw the SNCF’s role as indicative of the time rather than some evil that existed solely within that particular organization. They also felt that present-day French people ought not suffer for the decisions of their parents and grandparents.

**French Jews: reasons for letting go**

For French survivors, and French Jews generally, holding on to SNCF accountability after the war and even today would be a challenge. Those living in the post-war context had to focus on assimilation and physical survival; chasing a train company was not on the agenda. Survivors in France witnessed the company’s eventual amends making and participated in SNCF-sponsored ceremonies or memorial unveilings.
as they appeared. The ever-increasing size of the SNCF since the war makes shunning the company excruciating: hating something ubiquitous can only cause more pain to the hater. Finally, resurgent anti-Semitism encourages survivors already living relatively quiet and isolated lives to retreat further and not engage in public debate. The following addresses these explanations for French Jewish acquittal of the train company.

**Post-war survival: look the other way**

After the war, those staying in France had to find ways to integrate. Survival meant finding ways to live under the rule of police officers that may have deported one’s family and working with banks that withheld your deceased family’s accounts, refusing to remit funds because they accounts had been inactive for more than six months. Greater proximity to post-war propaganda about the company’s role in the transports seems to have influenced survivor views of the company. Perhaps, the truth would have been too painful.

Victims in post-war France may have clung to narratives of resistance in part to make co-existence possible. It might simply be psychically easier to consider the SNCF as part of the Resistance and incapable of acting otherwise in regards to the deportations. The truth of the possible level of complicity on the senior executive level might actually be too painful. Rabbi Andrew Baker of the American Jewish Committee says of French Jews, “it’s a whole lot easier if you feel you’re living next to someone who has also resisted the Nazis, rather than living next to someone who was also willing to turn your family in.” (2014) On the upside, Baker notes, the French Jews had the benefit also of watching France heal and make amends. Baker says, “there was something cathartic
going on in France, you know the [Klaus] Barbie trial…I think the French Jews day-to-day were part of this so they could see the SNCF’s coming to terms as part of the process.” (2014) Those survivors seemingly at peace with the SNCF might be so in part because of their participation in the French catharsis.

Today, there are different reasons for looking the other way; Jews in France who survived the Holocaust, as of 2015, remain a very small minority and live in a country with a strong modern resurgence of anti-Semitism. These very old survivors might be less likely to stand up to the State and too afraid to even reveal their Jewish heritage. The following sections outline some of the ways in which survivors defend the SNCF. Whether they do so from a position of power or resignation is not easy to determine. Some considered the SNCF under constraint, a heroic actor, or in some cases even credited SNCF workers with their survival.

**French reasons for letting go: SNCF—under constraint**

Raphael Esrail, deported on convoy 67 in February 1944, has worked at France’s Shoah Foundation for twenty-five years and serves as President of the Union of Auschwitz Deportees and Vice President for the International Committee of Auschwitz. Esrail says his opinion reflects the majority of the survivors he knows. He pardons the SNCF for the following reasons: 1) between 1942 and 1943, deportees moved to the Drancy internment camp in passenger rail cars. Then the SS that issued an imperative that the transports to the camps (outside of France) commence. With the possible exception of several trains leaving from Anvers France, the deportees left France for Auschwitz in merchandise (cattle) cars as they did throughout Europe. 2) The SNCF worked in service
of the French state and therefore, like the State, was entirely under German control. The French military police or the Germans decided the timing and operations of the transports, not the SNCF. 3) The SNCF had at its core many members in the French Resistance. Frequently the literature refers to railway workers who mailed letters thrown from the windows of the rail cars. [He said he] found no statement in survivor testimony that complains of the behavior of SNCF staff. 4) The claim that the SNCF billed the state for the transports does not correspond to any reality and is another subject altogether.325

(2014)

Esrail was correct in stating that his perspective reflects that of many other survivors in France. Lina, a very active survivor, agrees with Esrail— the claims against the SNCF must stop.326 Like Esrail, Lina also rode in the merchandise wagons headed for Auschwitz. While just a young girl of sixteen, she sought to save the orphans of parents rounded up in the Vel d’Hiv, providing them identity papers and trying to help them escape. She rode the wagon with thirty-two adolescents she had tried to save. Today, she defends the SNCF saying the company had no option but to comply with the occupier and had a large number of railway workers active in the Resistance. She adds an additional argument; the SNCF today ought not be held accountable for the SNCF of the 1940s. (Duheim 2009) She says, “The SNCF was under the German control. There were lots of Resistants in the company.” She continued to express annoyance at the self-

325 Esrail provided this list during our email exchange. The Shoah Foundation funded my return to Paris to conduct my research. I connected with him through the Foundation. We did not meet because he was on vacation during my visit.
326 Phone interview. August 14, 2014.
righteous Americans behind this conflict who do not even live in France. She thinks they are just after the money. (2014)

Other survivors simply saw the company caught up in the context of the times. André feels he has no reason to fight the company even though he lost his father because of the deportations.327 (His father died in Auschwitz having being deported from the Drancy camp in France.) His mother barely survived and was ill much of her post-war life. They had no apartment after the war, no money and no work. André says they had to do everything themselves. For a time, she was so sick he had to return to an orphanage. Like many survivors, André escaped the Nazis several times. First, running from the grasp of the Gestapo in a metro station, then surviving the Vel d’Hiv round-up thanks to their concierge who lied about their whereabouts, and then by escaping his orphanage seized shortly after by Nazis.

He says the SNCF was obligated to comply with the Germans. Regarding compensation from the company he says, “You cannot want everything,” noting, “you have to understand the time period.” (2014) He explains, “people were selling people all the time; Jews, communists, Resistant others. People had very little money. It was a complicated time, but there were a lot of justes [good people].” He provided this example of a juste; the woman in charge of the children’s hospital saved his life by hiding him; when the Nazis asked if they had any Jews, she replied, “We have no Jews here, only sick kids.” (2014) André believes there are good people in the world, but is suspicious of

327 He shared his views in his living room. He and his wife live just outside of Paris. August 4, 2014.
money generally, “Money is evil because we need it.” (2014) This may speak to a commonly shared French viewpoint that one ought not to discuss money. This taboo on money in France could also contribute to a reticence by many French survivors to ask. As a result, André did little research on existing programs. For years he did not apply for compensation because he believed the programs did not apply to his situation. He disagrees with any boycott of the SNCF or any German products. He believes boycotting products uses the same logic used against the Jews. He remembers vividly the prohibition on buying Jewish products in France. He believes, “we must be pragmatic” in regards to these decisions. (2014) Pragmatic for him means releasing the SNCF.

Erwin, who survived the convoy journey and Auschwitz with his brother Maurice, says through his own suffering he understands the kinds of constraints people faced. While he believes French compensation was too little too late, Erwin says, “I do not see that we can reproach the SNCF in particular or the drivers of the train…I think the SNCF was simply under constraint, just as I [at Auschwitz] also worked under constraints, though of course under different conditions.” (2014) Erwin, like his brother, had to carry out all kinds of distasteful work to survive the camps. He says his own compromised circumstances helped him appreciate the SNCF’s challenging situation.328

Gustav attributes the conflict to the Americans. An 85-year-old Paris resident who lost both parents in the last deportation train from France, Gustav says, “This conflict

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328 When Erwin learned of the December 2014 settlement, he wrote me an email saying that the announcement meant something; he was glad they did it. He would not receive compensation because he already received monies through the French programs, but he believed the settlement was important. He would not fight former perpetrators, but he seemed glad that others did.
does not sit well with me. Like the factories, they were obligated. It is the Americans who did this, I think.” (2014) He prefers to spend his time gardening, seeing movies with his girlfriend Adrienne, fixing watches, and visiting with his daughter in the Alps. He is so happy just to be moving about after a foot injury left him hobbled for several months last year. He has no interest in fighting the company; he thinks the Americans are just meddling again. These interviewees felt the company was constrained and not entirely cowardly; many fought in the Resistance, they insisted. They also disliked what they perceived as an American battle for money. Some reasons for absolving the SNCF proved quite personal.

**A SNCF railway man saved my life**

During André’s time at the orphanage when his mother became sick again, he met Alfred (described above). Alfred, rather than being angry with the SNCF, attributes his survival to the efforts of a *cheminot*, railway worker. Alfred’s family almost starved escaping to the south of France mostly on foot but an important part of the journey occurred via rail. Alfred has no interest in fighting the SNCF in part because he says, “My life is indebted to the railway workers and the Resistance.” (2014) He explained that the head of the railway station told his family if they jumped on the train after the whistle blew they could likely get on without having to pay. Without this free passage, he believes they would have been caught.

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Today, Alfred lives with his wife of over fifty years just outside of the Paris boundary in a town called Malakoff. They live in a bright two-bedroom apartment in the city’s environs that offer a distant view of the Eiffel tower from Alfred’s office. Alfred says though he suffered greatly during the war, he proudly declares he has never been sick a day in his life.

I survived by moving on: why look back?

Conflicts like the SNCF also make no sense to survivors who attributed their success to moving on. Even if they survived the war, the postwar context provided tremendous challenges, meeting basic needs, building a family and a career required forging ahead. Looking back, especially in this repressive post-war context, could arguably have distracted people from the very real work of staying alive after the war. Walter’s story provides a perfect example of succeeding by looking ahead.

Walter attributes his survival to his forward-looking attitude, “I was never afraid, I just kept going.” (2014) He cares little about Holocaust commemorative events, memorials or lawsuits. When the war began, Walter was six-years-old, living in hiding with his family. They all crammed together in one room. His parents saw this as no life for a child, so they sent him to Normandy, France for safety and comfort. Walter and five other kids, restless in the group home, escaped. His life of adventure began. Soon after his escape, a member of the French Resistance found him and protected him. Walter proudly recalls his work with the Resistance. He talked about placing grenades on the

road to kill Nazis and spending his days taking sheep into the forest; members of the Resistance buried messages for one another in the sheep’s wool. Life in the Resistance was still one on the run; Nazis tried to kill this six-year-old several times. Walter recalls a day a Nazi tried to shoot him while he was shepherding the sheep; a Resistant sitting in a nearby tree shot the Nazi, saving Walter. He pulled up his pant leg to show the other near miss; a scar where a German soldier dug a knife into his leg. Life in the Resistance became too dangerous for a child, so his protectors secured a family for him in Denmark. He resided in Denmark for nine years.

Meanwhile, back in Europe, his parents clung to life; both travelled the thirty-six hours in cattle cars from France to Auschwitz. Thinking his mother dead, the Nazis threw her in a pile of other dead bodies. Walter and his mother suspected the sun warmed her body, helping to revive her. His father also survived Auschwitz; not knowing his wife was alive and in the same camp, he returned from Auschwitz with another woman. Walter returned to find his father remarried; perhaps more shocking however was that he could no longer communicate with his parents. By the time he returned, he spoke Danish and they spoke Yiddish. His parents lived into their 90s though after the age of six, Walter never lived with them. Ever since Walter left home at age six, he kept moving forward. He never really came home. His adaptability and courage to plunge forward defined Walter’s life—first to the group home, then the French Resistance, Danish life, then joined the army fighting in Indochina, Algeria, and Morocco. He went on to marry, have several children, and find work in Paris.
Today, Walter receives only a small monthly pension because his parents survived. But, he considered himself truly an orphan because he survived on his own, but the Orphans’ Fund considers him ineligible for the restitution. He cannot claim financial losses because he left home at six; anything would have had to be claimed through his parents. Walter has never been to the Shoah Memorial or museum just across the Seine in Paris. He did not know about Jacques Chirac’s 1995 apology and did not seem to really care to hear that it had happened. He had no idea there had been any conflict over the role of the SNCF in France or in the United States. He said, of course, he would like more money, but is not a part of any of these restitution battles.

He spent most of his life looking forward, he said. His family supported this approach; his mother spoke about the war for the first time in 2000. Now in retirement, he would like to tell his story, but struggles to find an audience. Regarding his wife, he says, “she’s tired of hearing about it.” He would like to write a book to educate people, but his editor says the thirty pages he has written so far is too short and lacks emotion.  

He expressed how badly he wants to share the “miracles” that led to his survival.

Today, unlike other survivors interviewed, Walter says he never has had nightmares, he said. “My wife dreams,” he said, “she recently had a dream about lobsters and that I

332 If no one publishes Walter’s story, the rendition in this dissertation may be the only telling. Therefore, I am taking time to tell his story in as much detail as space permits.

333 He said, for example, the day when he found himself surrounded by Germans killing people. All of a sudden, someone grabbed him and threw him on a truck; he rode alone in the back. That person saved his life. Later he fought in Indochina and he believes that miracles saved his life there too. During the war in Indochina people would call your name, he explained, pretending they were wounded and then kill you. He said he thinks he survived because people called his Denmark name François, but he never responded to François. He always thought of himself as Walter. He thinks he survived as a result.
died, but I don’t dream.” (2014) Today, his anxieties involve mostly his children—rather than himself or his past. His son, one of four, lives with him and his wife. Recently divorced and in debt because of a failed business, his son refuses to work and has taken to drinking; he becomes quite angry when drunk. Walter and his wife have no idea how to help him. This situation causes them much distress. Walter says he does not understand his son’s problems; Walter’s approach to life was so entirely different.

He survived by making it on his own without turning to authorities for any kind of assistance; his son’s needs seem foreign to him—as are efforts to fight the SNCF, or anyone, for money or help. He would accept any restitution, he says, though challenging the company or the State has not interested him thus far. Restitution is about looking back, Walter looks ahead.

Walter’s extraordinary story of survival and adventure demonstrates a category of survivor who thrived by forging ahead and never looking back. The post-war environment supported this cold shoulder to the past, privileging the industrious energies needed to rebuild the state and civil society. Walter’s life has been about fighting for life, not justice. As such restitution battles seem foreign to him. This is not to say the efforts of others go unappreciated or critiqued by Walter; he appreciates any restitution. It is just not his nature to pursue it. In sum, there appeared to be a type of survivor who “lets go” of the SNCF because they never thought to challenge such entities. They learned to never expect help from the state; to the contrary, life experience had taught them the state might be after them. A shying away from public battles makes sense for anyone who survived by hiding in the shadows.
Surviving in modern France

In addition to personal reasons for abstention, in 2015, additional social and economic factors influence French people’s ability and willingness to challenge the SNCF’s wartime accountability. The economic and symbolic power of the SNCF compared with the power of a few elderly survivors creates a real David and Goliath dynamic. Feeling one could take on such a corporate giant would take David-like audacity. Without class action lawsuits, corporate giants often remain out of reach. Additionally, the train unions influence how the company speaks about itself and how it responds to survivors. Two hundred and fifty thousand proud cheminot do not take kindly to the berating of their company. The modern resurgence of anti-Semitism compounds these other factors. The political and social climate in France is quite tenuous for today’s Jews. This makes the climate less hospitable for demands.

Living with the Brand: La SNCF, c’est la France!

The power of the SNCF brand and corporate presence may warrant an explanation for outsiders. Railways, as noted in the introduction, continue to serve as the arteries and veins in France, connecting hundreds of towns through a complicated rail network and then uniting that network to Europe. In France, trains play a much larger role in daily life and are held in much higher esteem than in the United States. Arguably, French railways are as valued and relied upon as the automobile and the SNCF currently dominates the
French market.\textsuperscript{334} The SNCF is not just a brand; it is a proud member of society, trains and the related engineering remains one of France’s top exports. The SNCF holds its own relative to strong German, Japanese, British, Spanish, Italian and Chinese competitors. Moreover, in France, trains represent France almost as much as wine and cheese. The brand could be considered as ubiquitous in France, as \textit{Coca-Cola} or \textit{McDonalds} in the United States. One could hardly pass a day in Paris without seeing the corporate logo multiple times.

Julius, who lost his parents and siblings in the deportations, emphasizes this point when he says about the conflict, “You are well aware, I am sure, that the subject is very ‘delicate.’ \textit{La SNCF, c’est la France!”} (2014) The SNCF is France! There are likely more SNCF logos in Paris than French flags; the company employs a quarter million people for their technical, managerial, and service expertise. To live in opposition to the train company might be more agonizing than to surrender. In other words, hating and fighting an entity that touches most aspects of French life and French identity would create enormous tension in an individual. It would be living in France and hating the French language.

\textbf{Train Union: speaking in defense of their company}

These 250,000 employees belong to powerful train unions whose influence may alter how the company speaks about its past. This, in turn, impacts what can be said about the company. The power of the train union, namely the C.G.T., cannot be understated.

\textsuperscript{334} In 2015, the French government announced that the SNCF would no longer have a guaranteed monopoly of the rail business. Tenders would allow foreign companies to compete.
The union has a significant interest in promoting a particular narrative regarding the SNCF in France. The union spoke out when SNCF President Guillaume Pepy presented his apology for the company’s participation in the transport of deportees; they considered their company bullied by the Americans,

The C.G.T. union, still strong among rail workers, recently criticized Mr. Pepy’s attempt in November to recognize his company’s responsibility in the Holocaust. Rail workers “brought a spirit of solidarity and fight” and “paid a heavy price during the war,” the union said in a statement. (Baume 2011)

In 2011, train worker blogs expressed outrage about this on-going conflict between the deportees; some blamed the Jews for causing so much trouble for their employer. The SNCF executives rely on a powerful and vocal group of 250,000 railway workers who simultaneously strike often and express great company pride. When hearing about this research project, one young railway executive said with a reddened and angered face, “I’ll tell you one thing. I’m Jewish and I am very proud to be working for the SNCF.” He then quickly walked away.335 French first, railway man second, and Jewish third. This seemed to be a common hierarchy for today’s Jewish SNCF employees.

Scant a survivor: little poids

The tremendous disparity in power would add to the agony. Chapter Four introduced the little poids, or weight, a number of survivors, especially in France had in the face of a large corporation. Lawyers helped give them weight and a platform on which to make their voices heard. Whereas American survivors vocal about the SNCF

335 This interaction occurred while explaining my research to SNCF employees during the cocktail hour that completed the SNCF and Shinkansen High Speed Rail Conference at the Japanese Cultural Center in Paris February 9, 2011.
may feel emboldened by the sheer number of Jews and Jewish survivors in the United States. In 2010, of the estimated 80,000 survivors only about 487 survivors lived in France and roughly 70,000 lived in the United States.\textsuperscript{336} (Registry of Holocaust Survivors 2010) The fact that roughly 90% of survivors live in the United States gives them a greater voice. This might also reflect the sense that America provided greater freedom and opportunity during the post war years. Once settled (i.e. married and employed) after the war, survivors rarely seemed to move again, especially after retirement.\textsuperscript{337} Very few Jewish survivors stayed in France. Most of today’s small Jewish population that resides in France is largely Sephardic, not Ashkenazi, meaning they came to France from Northern Africa and other regions not as impacted by the Holocaust. Hitler succeeded in annihilating most of the Eastern European Jews, the Ashkenazi, not the Sephardi.\textsuperscript{338} Jews from Algeria, Morocco and Tunisia, fleeing discrimination in their own countries, only started moving to France in the 1950s and 1960s. According to Hyman,

\begin{quote}
Thanks in large part to the immigration of North African Jews, between 1950 and 1970, France received the largest number of Jewish immigrants in the world, next to Israel. In those years, and particularly in the 1960s, 220,000 Jews from North Africa relocated to France. The North African immigrants settled overwhelmingly in Paris and its environs and secondarily in the Midi. In the Paris region, the number of suburban communities grew between 1955 and 1978 from 15 to 56. Neighborhoods of Paris like Belleville, that had been the centers of east European Jewish life in the interwar years, have been transformed into sites of Sephardi Jewish culture as Jews of North African origins circulate in the streets, fill the
\end{quote}

\textsuperscript{336} Laval, Vichy’s Minister of State, issued a directive during the war, causing the deportations to include mostly foreign-born Jews. Of those who survived, many may have returned to their home countries, rather than France.

\textsuperscript{337} Very few elderly interviewed consider leaving France as modern anti-Semitism increases. Their children, however, and other younger Jews express great interest in leaving the country.

\textsuperscript{338} Morocco, for example, refused to hand its Jews over to Hitler.
cafés, establish businesses, and dominate local Jewish institutions. (Hyman 1998: 194-5)

As a result, the majority of synagogues in France today are Sephardic, meaning they lack Eastern European roots, live farther from the genocide, and tend to be Orthodox. Many Jewish survivors did not come from observant Jewish families; therefore, one explained, they do not fit well in the Orthodox environment. They do not observe the religious practices with the same rigidity; their connection to Judaism was, as still often is, more cultural than religious. Small in number, dispersed regionally and without many community centers, France’s aging survivor population has decreasing poids, physically and politically. This impacts the power structure and may influence what people feel they can say or their perception of the power they have to evoke change.

**Silenced by anti-Semitism**

Active anti-Semitism, meaning ideology that leads to violent acts, has been on the rise in contemporary France, as in Europe. French Holocaust activist and Jewish leader, Serge Klarsfeld increasingly talks about the dangers of modern anti-Semitism. This trend appears to contribute to some releasing of the SNCF conflict in France. The French Jewish leadership along with some French survivors say anti-Semitism impacts what they believe they can safely ask the state and/or the SNCF to provide. The world still does not feel safe to them; without safety, they are less likely to speak out.

While the recent terrorist attacks in Paris have brought the issue to the international stage, anti-Semitic acts of violence have been on the rise for several years.

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339 He made public statements in 2015 in response to the January terrorist attack.
On June 11, 2014, for example, a Jewish teenager wearing a yarmulke and tzizit was attacked in the center of Paris; a group of other teenagers, one of whom allegedly carried a club, tasered this young man. The prior week, two different teenagers fled from a man carrying an ax and yet two others fled from tear gas. (Butnick 2014) Tablet: A New Read on Jewish Life described the following incidents as part of a larger trend in France. They reported the following 2014 events:

- In May, a Jewish woman with a baby was attacked at a Paris bus station by a man; he shouted “Dirty Jewess” at her.
- In March, a Jewish teacher leaving a kosher restaurant in Paris had his nose broken by a group of assailants who also drew a swastika on his chest.
- One week earlier in March, an Israeli man was attacked with a stun gun outside a Paris synagogue.
- The week prior, a 28-year-old Jewish man was beaten in Paris to chants of “Jew, we are going to lay into you, you have no country.”
- Then, in January 2014, anti-government demonstrators marched through the streets of Paris shouting, “Jew, France is Not Yours.” (Butnick 2014)

Typically, North African anti-Israel Muslim immigrants instigate these attacks; rather than the French community that comprised Vichy France. These incidents cause

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340 Many interviewees talked about the distinction between the souche and others in France. Souche literally means root, but has come to mean the “original” French, or non-immigrants. The anti-immigrant sentiment in France has been long recognized. Eastern European Jews and now the African immigrants experience in France a general distaste for foreign-born residents.
many to retreat further impacting commemorative activities as well as restitution efforts. One survivor said she chose not to have a stone with her family’s name placed in front of the house where they had lived for fear that those living in the neighborhood today would spit on their name.\textsuperscript{341} When asked if the SNCF would consider circulating the successful \textit{Children of the Deportees} exhibit again in trains stations as it did over ten years ago, SNCF America President Alain Leray said during an interview that it would not be safe to do so now in France because there is too much anti-Semitism. (2014)

\textbf{Anti-Semitism in France- repressing the SNCF conflict}

Post-war anti-Semitism is not new to France or the SNCF conflict; it seems to play an increasing role in causing the French community to let go of the conflict. Alain Lipetz said he and his family received numerous anti-Semitic letters in 2006 after the court ruled in his favor against the SNCF and French state. (2011: 21) By 2012, his uncle Guy refused to speak in public about the conflict, fearing (not without reason according to Alain) anti-Semitism. (Lipetz 2012)

A number of French Jewish leaders and survivors believe the SNCF debates only worsen the situation. This question of anti-Semitism in France seems to have been the partial impetus for the negotiations with the U.S. State Department; the French Jewish community needs this conflict resolved for their own safety. Ambassador Douglas Davidson who worked on the early stages of the negotiation says, on May 27, 2014 the

\textsuperscript{341} A survivor shared this with me at a \textit{Generation After Garden Party} in Maryland in 2014.
negotiation team dinner with French Jewish leaders during the American Jewish Congress. Davidson says,

It was like talking to the French government. It was interesting. They were interesting because their worries were far more about the rising levels of anti-Semitism—and to them [this is very dangerous]…Cukierman [now President of CRIF] said “when I was a boy, 90% of Jews in France went to public school - now it's 30%....And there are more people making Aliyah from France I'm told than from the United States. They are very worried. That's what they wanted to tell us. There’s not much that [the United States] can do… So they made kind of a two-fold argument – “It's really getting bad for us, but on the other hand and this [the SNCF conflict] makes it worse...this kind of stuff fuels anti-Semitism.” (Davidson 2014)

In other words, the French Jewish leadership says in this environment advocating for victims’ rights serves no Jew. Some survivors agree. At Leo Bretholz’s funeral, a family member said their French-based cousins express dismay about how the SNCF handled its wartime role, but because of increasing anti-Semitism will continue to say nothing. They do not want to make the situation worse for Jews in contemporary France. Two of the named plaintiffs on the class action lawsuit filed April 2015 in Chicago are French citizens. Too afraid to fight in France, perhaps the Chicago lawsuit feels a safe distance from anti-Semitism, train unions, and closed courtrooms.

This raises an important consideration for the transitional justice field; how do practitioners know whether people stop advocating for a cause because they feel no more is owed or because they feel unsafe to continue? Otherwise said, how can one know whether letting go comes from a place of power or resignation?

Jews in France fear the conflict worsens anti-Semitism in part because the conflict perpetuates stereotypes that Jews only care about money. Though, a respected French journalist argues the centrality of money is really more an American issue. To focus on
compensation, he says is, “an American logic.” In the French justice system, he explains, compensation is the second order of business and money, overall, is taboo. (2014) He says the families he spoke to that worked with lawyer Harriet Tamen all placed money at the center of the debate.342 While the French and some anti-Semites might consider the discussion of finances distasteful, this also leads to a kind of narrative repression. The freedom to talk about money may be a contribution of the U.S. counterparts. One country can unlock the other’s taboo. Narrative repression around money, however seems to be the lesser of the Jews’ problems in France. They might argue they need safety more than they need to be liberated to talk about money. Feeling powerless to change the context in France, many respond to the situation by leaving France or at least talking about leaving. The SNCF is the least of their problems; the enemy is no longer located in the railroad but throughout the fibers of Europe.

**SNCF conflict: supplanted by modern anti-Semitism**

In response to the increasingly hostile environment for Jews in France, French survivors interviewed all had something to say about leaving France. Sandrine who lost most of her family in the 1942 round-ups says a cousin who survived and remained in Paris after the war has since moved to Israel. She says others she knows are also moving.343 (2014) Nicolas, a survivor living in Paris, says his daughter now spends 50% of her time at her apartment in Jerusalem. He says, “I am committed to France and living

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342 This journalist asked to remain anonymous. We have met in person and talked over the phone.
343 Phone interview. April 23, 2014.
a French life, but she is all about Israel.” He lives alone and when she is in France she visits him often.\(^\text{344}\) (2014)

Ida and her husband say they are very afraid of the situation and are starting to talk about where they would go. She is considering Canada. Even though they are not practicing Jews, they feel unsafe just being in France. Claude says he sees evidence of the country’s changes when he rides the Metro; he points to advertisements posted for Ramadan and Muslim-related products. He feels the Muslims are gaining territory and have no interest integrating, the way Jews did. “There are 67 million French,” he explains. “Only 1% are Jews (mostly Sephardic) and 10% are Muslim.” (2014) The focus has turned from restitution to survival.

**Second generation: letting go or simply leaving?**

The violent resurgence of anti-Semitism, even before the shootings at *Charlie Hebdo* had shaken up the French community. In 2014, *The New York Times* reported the Israeli estimate that 6,000 Jews would emigrate from France by the end of 2014. (Yardley 2014) Based on interviews in France, even professors of Jewish descent with children with good jobs (not easy to come by in France’s struggling economy) are considering leaving, as are their friends with similarly good positions. They look to Israel, the United States, and Canada. Because Israel accepts as citizens anyone of Jewish descent, these individuals and their families would have the easiest time immigrating to Israel. These are not just veiled threats or wistful imaginings, an increasing number of Jews own

\(^\text{344}\) He explained this situation to me during our interview in his apartment in Paris. August 2, 2014.
apartments in Jerusalem or Tel Aviv and shuffle back and forth. The number of French Jews making this move has been enough to upset the housing market in Tel Aviv. Israelis say that French have now bought up the best housing, but because they do not live there year round, businesses dependent upon their regular business struggle to survive. Whole neighborhoods remain empty when part-time residents return to France. For some the move to Israel might also be about economic opportunity: in spite of the Israeli-Palestinian conflict, Israel’s economy forecasts a stronger 2015 than France. This means that the Second Generation, which increasingly has the energy and passion for Holocaust-legacy issues, may soon abscond. Though those who move could take up the fight against the SNCF in Israel, where the SNCF will have an increasing presence. Ultimately, as France’s survivors continue to die and their children leave, all that will be left of the SNCF’s WWII legacy will be the memorials.

Those not moving must discuss strategies for living within the anti-Semitism. A forty-year-old managing director of an advertising company says he and his wife discuss how to tell their pre-teen children how to respect and yet disguise their Jewish heritage, especially at school. People say they now remove their Star of David necklaces when out in public and encourage their children to do the same. The following survivors discuss their thoughts about making aliyah.  

Chief Rabbi’s response: the SNCF will survive, but will French Jews?

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345 This is a French colleague of mine. We had lunch during my 2014 visit and he explained this reality for his family.
346 Aliyah refers to the immigration of Jews to Israel.
When asked, “Is there a future for Jews in France?” Haïm Korsia, France’s chief Rabbi said an unequivocal, Yes! He believes France needs the Jews to be complete and while he acknowledges the vulnerability many feel, he wants them to return to hope. He supports Jews who wish to leave France for personal, ideological, or spiritual reasons; he does not support those who leave because they wish to abandon France. He wants them to have confidence in France and in its institutions. He tells his listeners that French Jews are French to the fiber of their being. He encourages Jews to release fear and find their sense of well-being. “You need to be happy and France needs you to be happy.” (2014)

After the 2015 terror attacks in Paris, he reiterated a similar message. While France might need the Jews, the Jews must decide if they, ultimately, need and feel safe in France.

**French anti-Semitism: grabbing the attention of survivors worldwide**

Even survivors living in the United States are quite upset about the state of France today; many would rather talk about this fear than about the SNCF. This speaks to the argument proposed in the introduction of this dissertation; a singular focus on the SNCF can distract from deeper moral conundrums and pressing contemporary issues. Anna living in up-state New York lost her brother and father in the French deportations, expresses more concern for France today than for the SNCF,

> It’s not our France anymore. Why would I want to put myself in the wolf’s mouth again? I was there five years ago. I am an American. I am free here. I don’t want to hide. I want to put my Star of David around my neck and walk outside. We are not orthodox…

In America, she lives among Jews, Catholics, blacks, and Protestants and says,

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347 Phone interview. April 25, 2014.
In eighteen years, I have never been called a bad name. I have no interest in going back to France ever. What’s going on regarding that LePen, who is a monster. He has gone too far. His daughter isn’t much better but she is for France and I admire her for that. (2014)

Nathalie shares Anna’s concerns; she believes anti-Semitism is a far more important issue than the SNCF conflict. A hidden child during the war, Nathalie now lives in Maryland and has no time for a fight against the SNCF. She works two days a week, belongs to other groups and spends time with her children. In fact, she has such a full schedule she barely has time for a meeting. “I’m just turning 80 and I want to make the most of every day,” she explains. (2014) She says, rather than the SNCF, her biggest political concerns today are the increasing anti-Semitism and the quality of French President François Hollande’s leadership. Later Nathalie admitted she has a deep personal concern that distracts her from issues of restitution and accountability; she recently received a cancer diagnosis. This points to another reason for letting go of the fight; many survivors today are simply too old and too ill to advocate for themselves publically.

U.S. Jews: reasons for letting go

Anna refers to Marine LePen the most popular candidate in French polls for the next presidential elections. Marine is the daughter of Jean-Marie LePen who preceded her as the head of the National Front party, infamous for its conservative politics. The senior LePen, known for his Vichy nostalgia and even neo-Nazi politics had been a fearful candidate for all Jews. Marine claims to be quite different from her father, though most agree that her politics differ little. The popularity of Marie LePen suggests that the anti-Semitism in France may not simply be due to increased friction between Muslim immigrants and resident Jews over Israeli policies. The anti-Semitism seems to pick up on a long existing, if latent, thread of hate.

Phone interview, though we later met in person. September 24, 2014.

She said this during an interview at her son’s house. December 21, 2014.
“It seems like such a long time ago that the current company, at this point has shareholders who are so far removed from it. It seems implausible.”

-Philipp, family escaped French persecution

Many survivors in the United States have also let the SNCF conflict fall to the wayside. Some for reasons of age and fatigue and/or because they survived by looking ahead; but, rarely do they cite anti-Semitism or the company’s heroism as reasons. They had a very different post-war experience and live in a very different world today. Though the past never entirely disappeared, without the constant physical reminders of the past, they could focus not only on a new life, but a new identity as well. As such, some of these American survivors, while not blind to French complicity, seemed to have an easier time distinguishing between the France of the past and France today; they also seem to have a sense of the SNCF’s relative role in the Holocaust and the difficult decisions one had to make during the war. The following outlines some of the reasons U.S. based survivors offered to explain their apathy regarding the case.

**Letting go: releasing the modern French people**

Ruth, for example, considers herself a happy survivor and has no particular issues with the SNCF—in large part because the perpetrators are long gone. Though, she

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351 Philipp, during the phone interview, went on to say he was more concerned about the stolen paintings that people’s parents or grandparents acquired dishonestly and have yet to be returned. June 10, 2014.

352 Phone interview. June 30, 2014.
adds, she is no fan of the French or Germans. She attributes her survival instead to a Portuguese man, Aristides de Sousa Mendes, who saved many during his tenure as a consul living in Bordeaux. He disobeyed orders, issuing thousands of visas to fleeing Jews. Her family received some of the last visas before the authorities cracked down on him. “He died a pauper,” she remarked sadly. He saved their lives, though her family lost their home and all their material possessions.\(^{353}\) She now lives in Colorado working as a successful stone carver and a proud and energetic teacher of yoga, “I’m 85 and I teach not seniors, but students in their 20s and 30s!” Regarding the SNCF she says, “It’s two generations ago. The people who did the naughty things are gone. People were twenty or thirty then—They are gone.” (2014)

Like Ruth, David faults former perpetrators, but has no interest in punishing today’s SNCF workers.\(^{354}\) In the early 1940s he and his family ran from persecution first from Holland, then from Belgium and finally from France when they moved from Lyon to Nice and eventually made it to the United States via Curaçao (an island north of Venezuela). Regarding the SNCF, David questions how the allegations assign responsibility,

But are these the same people? Is this the same company? This kind of thing strikes me as a stretch. It’s like trying to strike back at someone now that the real villains are dead…the company is now run by thirty and forty-year-olds.

\(^{353}\) She believes her grandparents, aunts, uncles and whatever cousins she may have had were all killed in Poland. Her parents survived the war but neither lived beyond their fifties. Ruth has no siblings because her parents knew when Hitler came to power that they would have to leave France and escaping with a baby would be difficult.

\(^{354}\) Phone interview. May 26, 2014.
While David has no interest in fighting the SNCF, he will not discourage others from doing so, “It’s okay to battle it out- we are all so old. But it’s okay. There are people who need that money. There was a certain injustice involved. French behavior during the war was not particularly good. But individual French people could be very helpful or traitors, either way.” (2014)

**Bigger fish to fry: letting go to focus on the now**

A number of survivors seem disinterested in the conflict because they find it relatively trivial in light of more modern atrocities. Ruth, the now yoga teacher and rock carver in Colorado, concerns herself with contemporary issues. Today, she says, “I worry about what’s happening in other places.” Other survivors also encourage others to focus on present-day atrocities rather than obsessing about the past. Jacques, a survivor and now a law professor in California, said during a phone interview,

I’m much more personally sympathetic to lawsuits in the U.S. against torturers of contemporary people—someone whose father was killed by a terrorist sponsored by another government or who was detained or tortured by another government.  

Some survivors in France also expressed a desire that we turn our attention to modern violence. Maurice, a survivor of Auschwitz, confided at his home in Versailles that what hurts his heart the most is seeing on the news the suffering children in Syria, Iraq, and Israel. Tearing up, he remarked that he has a sense of the nature and depth of their suffering. “I feel so powerless,” he says. Charlotte also has little interest in the SNCF

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356 Interview in his home in Versailles, France. August 12, 2014.
conflict, but worries about today’s suffering.\footnote{We spent several hours in her home and then dined together. July 28, 2014.}

Charlotte lives alone in Argenteuil, France. A suburb of Paris, the residents of this predominantly Muslim town never give her any problems, she says. Unemployment is high in her neighborhood, which leaves groups of people milling about the streets midday during the week. Charlotte lost both of her parents in the deportations from France. She still has one photo of her parents holding her up between them with great pride.

After her parents’ death, her aunt and uncle raised her. She said her aunt did not like her and she avoided her uncle because he pursued her sexually. When asked how she had confidence after first being persecuted for being Jewish, then losing her parents and then living with family she feared, she replied “Confidence? Oh, I never had any.”\footnote{Today, Charlotte rarely leaves her apartment more than once per day because the stairs in her building give her much difficulty. She has no elevator. She does have some help. A woman comes once per day to do her dishes. She will eat hard-boiled eggs, lettuce, and some chicken for dinner and drinks water. Small things give her joy.}

Regarding the SNCF debates she says she has no interest in fighting the company. Regarding money, at this point she says, “\textit{À quoi ça sert?}, what’s the point? She said a symbolic euro from the SNCF might be nice or perhaps making a donation to retirement homes where survivors are living out their final days. She wonders what these U.S. based survivors are up to regarding the SNCF. “What’s the reason? What’s under this?” She cannot understand the purpose of the legislation or the lawsuit. This does not mean she considers the company innocent, “I talked to some railway workers after the war and they said ‘we didn’t know’ but I didn’t believe them.”
She is more concerned about modern violence. She interrupts our dinner to turn on the news, “I want to check up on the Palestinian children.” She goes on to say, “I would like to see Israel apologize for the children in Gaza.” About this violence she asks, “Why haven’t we learned?” She is perplexed by hatred, saying she still has no idea why she was hated.\textsuperscript{359} She grapples with the pain caused by that hatred everyday: she has nightmares and even though she has since written a book about her experience, she says she still holds back partially because of sorrow and partially because of the return of anti-Semitism. For someone with self-proclaimed little confidence, Charlotte speaks with great love and wisdom, placing the past in a broader context and extending her care to those who need it most today.

**Seeing the spectrum**

The American survivors, more than the French, seemed less swayed by the SNCF’s post-war tales of heroism. Ruben, a survivor living in the Washington D.C. has no interest in blocking the SNCF, not because he believes the company played an entirely heroic role during the war, but because he does not find them guiltier than anyone else.\textsuperscript{360}

The people who were working for the SNCF—there was some resistance—some were shot by firing squad.\textsuperscript{361} There is a whole spectrum. If you are talking about the management, they were just as guilty as the government. The whole railway system was guilty not particularly the SNCF.

\textsuperscript{359} Like many Jewish children in France at the time of the war, she did not even know she was Jewish or what that meant until around 1941 when the round-ups began.

\textsuperscript{360} We spoke on the phone and several times in person. Once, we spoke at a Holocaust commemoration event in the Mandarin Hotel and again at a survivor group monthly meeting in Maryland. 2014.

\textsuperscript{361} I did not find evidence of these deaths by firing squad, though they may have occurred.
He believed all the companies in occupied countries were under German control; none of the trains collaborated by free will. (2014) This points to an important distinction between survivors who stayed and a diaspora. Those who left seemed to be influenced, but less so, by narratives of resistance or post-war propaganda. They let go because they could believe the SNCF’s guilt did not exceed the general wartime guilt of all groups and institutions.

**I’m letting go because I already fought back!**

New Hampshire resident, Michael let go of the SNCF because he had other ways out of his pain. After escaping France as a young teenager, he ended up fighting and interrogating the Nazis.\(^\text{362}\) Michael survived in large part because of a Quaker Kindertransport (a group that protected Jewish children by moving them out of Europe). He made his way to the United States on a ship stopped by a German submarine. Germans boarded the ship but for some reason allowed the ship to continue. Once in America he, by chance, found his father who had been almost beaten to death at an early concentration camp outside of Berlin, Germany in 1933 when Hitler came to power. His mother died of cancer before the war.

Seemingly safe in the United States, Michael’s World War II story had far from ended. At eighteen in 1943, he registered for the U.S. draft.\(^\text{363}\) Through his military service, however he had a chance to experience these camps from a unique perspective.

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\(^{362}\) Phone interview. April 22, 2014.
\(^{363}\) The government said while he had no obligation to serve as a resident alien, were he to refuse he could be returned to Europe after the war. So Michael joined.
He arrived in Europe ten days after D-Day, fought in the Battle of the Bulge, and made his way with General Patton to liberate the Buchenwald concentration camp,

While I had some general knowledge of what was going on, it was a great shock to me. I saw mountains of human remains; living skeletons walking or sitting in a daze; and children without parents, not knowing where to go and whom to trust. This picture has followed me and will continue to follow me all my life.  

Michael gathered people from the local communities and had them dig the graves. “It’s amazing how many people said, “We never knew what went on. We had no idea.” That was a lot of bull.” During an interview, he said,

From the smoke coming from the fires they must have known something was going on. You must of known or you were lying. There is no way that people didn’t know what went on. It was all well known and with great pleasure. They helped people get arrested…People took over the apartments and took the furnishings. There was no way they could hide anything. (2014)

During his time in Europe, Michael received word that his father had died of a stroke. His decision to stay in Europe allowed him the unique opportunity of arresting and interrogating Nazis. He says thanks to this work, “I was able to get things out of me and talk about it. In the army we could talk about it…I wasn’t hurting anyone but talking to them, making them realize. I interrogated prisoners.” (2014)

One day, while conducting these interrogations, Michael heard a woman on the streets screaming. She screamed because she had just seen a man who had worked as a “doctor” in her camp conducting experiments on people. Michael and another military police officer knocked on the door of the man’s house. The “doctor’s” wife said, “My

http://www.holocaustcenterbn.org/steven_lewy_full.html

He pointed out that ironically the army was the freest place to speak about the war. Most families said little.
husband hasn’t done anything.” Michael placed his pistol on the table and she began talking. They were able to arrest him. “What they did with him I don’t know, but I had those personal satisfactions along the way.” (2014)

Michael does not need lawsuits and legislative battles and during the both interviews never mentioned a desire for justice. He has no particular issue with the SNCF today and has little to say about the conflict. He focuses on commemoration and education by he supporting New Hampshire legislation to create a Genocide Remembrance Day. Today he teaches at Keene State College Holocaust Center, confiding he loves teaching eight graders the most. He teaches them what hate can do and is moved by their questions. One girl came to him saying, “from talking with you I will never use the word “hate” again.” “That,” he says “to me, is living in peace.” (2014) Michael’s statement reflects a prevalent theme in the interviews; many wanted the public to turn its attention to prevention. Survivors like Michael did not chastise those fighting the SNCF because he understood their desire to seek acknowledgement.

**Letting go: it’s too complicated**

Even some of those involved in the lawsuit expressed mixed feelings about the case. Alexander, a survivor who lost his parents in the French deportations and now lives in Pamona, New York, used to be part of the class action lawsuit against the SNCF. During the debates, he wanted to separate what the company did overall and the individual responsibility of each person. He says the SNCF was not responsible for individual actions—such as the stealing of possessions. (2014) Even though he

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366 Phone interview. April 23, 2014.
participated in the lawsuit, he did not agree that the company ought to be held accountable for individual theft, the focus of the 2015 class action lawsuit filed in Chicago.

Julius also appreciates some of these complexities, namely the difficulty and complexity of the Resistance.\footnote{Phone interview. July 7, 2014.} Now an 85-year-old Bay Area resident, Julius says his parents were taken on the deportation trains in 1942, “so was my little brother, six-years-old, and my little sister, eleven-years-old. Both deported to Auschwitz in November 1943 on convoy 62.” (2014) In spite of Julius’ enormous losses facilitated by the SNCF, his description of the SNCF’s position shows an appreciation of complexity and subtly,

> It was all of France that helped, including the train company. I very much doubted anything would come out of [the SNCF lawsuits]. And nothing did…. You can dream that a driver could have said “I will not drive the train” but he would have been shot. If I had time I could come up with several things they could have done but they didn’t. They just did their jobs.

The trains ran very nicely. They did not think what the train was transporting. It was their job, you know, 8-5. They could have done a few things – because at the end 1944-45 the resistance started waking up a bit. There was no resistance in France; 85% was collaborating if not actively – passively. If they thought maybe Americans would win, they switched. At the end of the war, at the liberation, 85% was in the Resistance. They blew up military trains- they could have done the same thing – that was the story with the SNCF and the deportations. They could have blown up the railroad tracks and the Americans could have bombed Auschwitz...(2014)

Julius’ statement holds the French and American governments just as accountable for their passivity as the SNCF.
Martin is also 85 and an orphan due to the deportation trains. His interview also demonstrated his appreciation of complicated times. Martin understands those who joined the Nazi movement and says this understanding often upsets his Jewish friends. “They think I’m a Nazi,” he says when he explains how at nine-years-old he really wanted to join the Hitler youth. He recalls his first year in Berlin when he had to read books about Jews being the poison mushroom of Europe. The books described how Jews lied, cheated, stole and hung Jesus on the cross. As a first grader, he said, he agreed. It sounded true to him. “I never associated with being Jewish,” he said. He only learned that he was Jewish when his parents explained to him why he could not join the Hitler youth. He was very upset because kids who joined were given a shiny dagger and a uniform, “What nine-year-old doesn’t dream of such a thing?” he asks. Living through the poverty in Germany helped him understand that when someone promises to put food on your table, you follow them. Like many other survivors interviewed, he was slow to point to a specific enemy. Poverty and propaganda combined with persecution made people behave in ways they never could have imagined. Survivors’ testimonies often reflect an acute awareness of the upside down world in which the SNCF-assisted atrocities occurred.

Now a Florida resident, Martin’s issue with the Florida high speed rail trains has nothing to do with the SNCF; instead he expresses frustration with people who will not let the high-speed-rail pass through their town because they receive no benefits if trains will not stop there. “This to me is another stupidity,” he says. Beyond this, Martin explains other reasons why he has not been involved in the lawsuit against the SNCF,

368 Phone interview. June 10, 2014.
believing he was not eligible because he already received $25,000 from the French government for his and his family’s suffering. His parents were taken on convoy 26 which left September 4, 1942. During this time, Quakers arranged for Martin to be hidden in a summer camp; they lied to protect him and tried to arrange for his safe passage to the United States, but the Quakers’ efforts ultimately failed. Eventually, however, the French Jewish underground arranged for his safe passage to Switzerland.

Even some of those who would accept compensation from the SNCF express mixed feelings about the company’s responsibility. Regarding the SNCF, NY based survivor, Jeanette thinks she might accept money if France offered it, “I will not put down as a yes or no,” she says. In spite of all the tremendous losses she and her husband suffered she remains unsure about the legislative bills designed to create barriers with the SNCF. The couple believes the SNCF operated under the pressure of the Nazis. They do not believe the French asked for the Jews to be deported. (2014) National and international press gives the impression that the few survivors participating in the lawsuit against the company feel far more certain than some may be about their position.

Jeanette and her husband, Nathan, belonged to a group of German Jews deported in 1940 to Gurs, a concentration camp on France’s southern boarder. They had one hour to pack before authorities shuffled them to a railroad station. They rode three days in old

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369 Martin has a record that shows his father, in his fifties, survived three to four weeks after his arrival and then disappeared into the infirmary. Martin had to infer the rest of the story himself. He suspects his father informed the authorities he had worked as an engineer and they could have sent him to work in another camp. He probably fell ill and was sent to the infirmary. An “infirmary” at a death or labor camp, had a very different meaning than the term implies today. The intention was not to help people survive.

370 Phone interview. April 23, 2014.
passenger cars from Germany to the French camp. Nathan spent twenty-one months in Gurs; his wife spent eleven. They survived in primitive conditions and escaped separately to Switzerland. They received restitution from Germany, not from France. The couple does not spend time reflecting on issues like the SNCF or other Holocaust-related events, “We don’t talk about it; we know what we went through.” Nathan lost both parents; his mother in Gurs and his father was caught in 1944 a few weeks before the liberation. Jeanette never knew her father; her mother was taken from Gurs to Auschwitz. Jeanette witnessed her mother’s deportation from Gurs concentration camp in France to Auschwitz. “I will never come back,” her mother told her. “In 1942, we didn’t know about the gas chambers,” Jeanette said, but somehow her mother knew this was an aller simple, one-way trip.

**Conclusion: Chapter Ten**

The horror of what people experienced and survived make some very reticent to rake up old pains in public forums. Age makes such justice-seeking and even commemorative efforts more difficult for a number of reasons. Many are now quite frail and sickly. Others say that teaching the Holocaust or even talking about it has become harder with age. Letting go, some indicate, seems to be a product of fatigue—emotional and physical. This may be an argument for the importance of the second generation carrying on in their name. Others say they surrender the fight, because the past was complicated and that modern French people do not deserve to be punished. They have, therefore, less need and perhaps less ability to identify one enemy as responsible. They see the Holocaust as a web of interconnected moments; reductive efforts often seem
foreign to them and betray their memories and their experience of the trauma. While they hold certain groups, like the Vichy government, more accountable, they appear more able to hold the complexities than some of their children, who may see the past in more simplistic terms.

Others simply saw rising anti-Semitism and other contemporary acts of violence as pertinent issues, not dead train executives. Proximity to the brand, reliance on France, and the comparatively small numbers of Eastern European Jews in France seems to contribute to a softening of the French efforts against the railway. A number of American based survivors interviewees considered the issue just too old and complicated to warrant much modern attention—especially in light of more immediate violence. If so many survivors and Jewish leaders consider the conflict obsolete or even dangerous, what accounts for the persistent nature of the conflict? The following two chapters present how people explained holding on to the SNCF’s accountability; these individuals felt more needed to be done and said. For survivors still fighting, their way of processing the past requires the SNCF step up in ways meaningful to them.
CHAPTER ELEVEN
EXPLANATIONS FOR HOLDING ON

As discussed in Chapter Seven, the trees planted to cover the history of the Sobibór camp could not permanently conceal the past. Even if they hid their acts and victims proclaimed they have let go of resentment, the trauma had and continues to have a way of finding its way out of the forest and back into the light of day. Each time the past remerges, it has the potential to contribute to new understandings and legitimize some long-buried pain. Some said during interviews that they believe the conflict continues simply because the SNCF refuses to pay survivors directly. Without this payment, they believe the other actions lack moral weight.

**Holding on: is it about the money?**

“SNCF is a real outlier…Most companies involved in the Holocaust have paid reparations to their victims. Reparations mean accountability, and they mean justice.”

-Rafi Prober, attorney working *pro bono* for The Coalition for Holocaust Rail Justice

Elie Wiesel acknowledges that no amount of money will ever bring back a child, at the same time, he says, “Money is a symbol. It is part of the story. If you suppress part of the

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^371 (Shaver 2014)
story, it comes back later, with force and violence.” (Curran 2001) This suggests that while money might mean the end of the story, it most definitely will not end without it. The fact that some descendants filed a lawsuit after the December 2014 settlement, however suggests that money is not the only motivating factor. By launching the lawsuit, those descendants cannot apply for the settlement funds for which they are eligible.372

**Survivors holding on until the SNCF pays**

“Last time I saw Leo, he said, “Rosette I am so tired of fighting but we must keep on fighting for the 76,000 souls that were thrown on those trains without mercy.” 373

-Rosette Goldstein, survivor

Lilly, a resident of up-state New York, says about the money, “I’m entitled to it. The French sent us to Auschwitz from France.”374 She was the only survivor in her family. “If there is any way I can get reparations for that, I deserve it. The trains were brutal.” She would like to see the SNCF boycotted until they pay up, “You have to fight for everything you get,” she says. Incidentally, she traveled on the same convoy as French Holocaust activist and lawyer Serge Klarsfeld. When hearing that Klarsfeld believes the company has done enough to make amends, Lilly says, “They should still pay.”375 (2014)

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372 I do not know whether these descendants understand that their action precludes them from participating in the settlement that could offer them tens of thousands of dollars. 
373 [http://mgahouse.maryland.gov/house/play/ff17c955-b995-42f5-9df2-aacf40b8987d/?catalog/03e481c7-8a42-4438-a7da-93ff74bd0a4c%22%20t%20%22_blank](http://mgahouse.maryland.gov/house/play/ff17c955-b995-42f5-9df2-aacf40b8987d/?catalog/03e481c7-8a42-4438-a7da-93ff74bd0a4c%22%20t%20%22_blank) (Minute 32)
374 Phone Interview. May 7, 2014.
375 Survivors in the United States are far less influenced by Klarsfeld than their French counterparts.
Former Baltimore resident and now long-time UK resident, Richard says he wants the money. Richard described the horror of his deportation rail journey to Auschwitz,

It was one of the very bad things I can never forget. It was so traumatic to arrive at Auschwitz. Four people were dead. One was a baby—one was a very old man. No food or drinks for three days and three nights. It was a terrible journey…I knew one person who was with me, but unfortunately he is dead. He lived in Strasbourg.  

About the money he said,

They should be made responsible. If they would admit it! They blame the Germans for it. Monetarily I would be very happy to get money. It is more important to have responsibility…I don’t know any other company except them. As far as I am concerned it is the railway company that should be held responsible.

Richard joined the class action lawsuit years ago, “but I think it collapsed,” he said. “We were not able to get anything.”

While Richard and Lilly believe the money matters and would likely contribute to an on-going fight until the company pays, others find themselves somewhere in the middle or even concerned about such claims for financial restitution. Anna says when she and her sister first heard about the conflict they said, “Enough! As it is they call us Jews greedy…the more we push the worse it gets.” After some reflection she had mixed feelings,

They were doing what they were ordered to do. I don’t know if they could have done anything else. I know some tried to sabotage some of the trains. Technically what I know now, they were collaborators. The country was collaborating…So, I don’t know… If I could suck another dollar, I would. They took away my father and my brother… (2014)

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376 Phone Interview. December 5, 2012.
377 Phone Interview. December 5, 2012.
378 Phone Interview. April 25, 2014.
Anna envies her older sister who had the advantage of at least knowing them. She was hidden on a farm separated from her mother and sister. When returned to her mother at age six she said, “I had to ask what her name was. I felt so awful. I felt embarrassed.”

Regarding the trains, she continues, “It’s not for the money. I have done very well here. I am retired and living comfortably. I would do it just to say, “There! You did wrong and sometimes you have to pay.” Still, she wonders, could the SNCF really have stopped those trains? Anna’s testimony demonstrates some of the mixed feelings people have about payment and the case in general. Even for some, money seems to be an important measure, at least symbolically.

**Holding on: indicative of missing payment**

Those advocating for financial compensation pushed for what ultimately became a $60 million settlement. The December 2014 settlement covers some victims who survived the voyage to Auschwitz and never received any restitution. In their final days, they can receive $100,000. Had the lawyers and their litigants not continued their fight, including the legislative battle, this glitch in the restitution program would have never been addressed. Perhaps this painful oversight of the existing programs was the pea under the mattress; the conflict continued in part because there was a group truly overlooked. The fact that individuals continue to file suits after the settlement suggests that other factors are at play. This chapter now considers whether the SNCF’s still incomplete

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Anna’s story points to some of the confusing and painful moments into which these children were thrust. Compensating for all of this seems heartbreakingly impossible.
narrative about its history also fuels the scuffle. As shown in Chapter Seven, the company’s WWII narrative, while evolved, still hesitates to accept total responsibility. The on-going debates may be in reaction to an incomplete storyline.

**Holding on until a new story emerges**

The narrative of resistance, to which many French survivors refer, might still be overstated. Until the story of resistance finds its proper place, the conflict may continue to eat away at the culture. As discussed in Part I, during the war, the company held campaigns to repress internal acts of sabotage. Richard Weisberg, a lawyer who worked on the French bank settlements with Harriet Tamen, said that he agrees with Harriet that the amount of important players who still cling to this narrative of resistance and heroism is striking. He thinks a truer unequivocal acknowledgement of the wrongdoing could possibly lead to a shift in the conflict.³⁸⁰ A UK-based newspaper flipped the story of resistance even further on its head when it published, “during the Second World War the SNCF network was a target for French Resistance after it was requisitioned by German forces.” (Burton 2014) This story suggests that not only was the SNCF not a company of resistance, it was considered the enemy by the Resistance.³⁸¹

**Holding on: little else remains to release**

The interminable, if shifting, nature of trauma emerged as another narrative meme throughout these interviews. Some people hold on simply because only the past remains;

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³⁸⁰ Phone interview. June 27, 2014.
³⁸¹ This news story speaks to another finding of this dissertation; people will continue to revisit the past, find new information and make new claims. No historical account, and perhaps no settlement, can ever be considered definitive.
they have lost partners, sometimes children, professional identities, and the busyness of mid-life. In retirement free time and age-related infirmity creates an environment into which old memories seem to resurface and even take over. Herman, a trauma expert, says past wounds can resurface during different life stages; in each stage new needs may be created, “resolution of trauma is never final; recovery is never complete. The impact of a traumatic event continues to reverberate through the survivor’s lifecycle.” (Herman 1997:2010) The emergence of “new” political and legal Holocaust-related debates may be a public somatization of a new phase of individual trauma. As survivors near death, they and their descendants think differently about what happened and what, if anything, is still due. This need for visibility and legitimacy at the end of life may reflect a new phase of trauma. The following survivor accounts share the way people articulated the impact of the past on their lives today; the resurgence of memories during retirement create new needs. What appears as holding on may simply be ruins made visible in the absence of youth and mid-life’s daily life.

Bruno lost his mother in the deportations and now lives alone in Belleville, Paris. He says in retirement things are worse, “It all comes back.”382 (2014) For years, he focused on working with his brother as a clothing seller. Once retired, he explained, he had more time to remember and new challenges. His wife died ten years ago and, he says, his friends stopped spending time with him when she died. Life has been hard without her, he admitted, sipping his drink and looking down. His kids briefly check in on him via phone and rarely visit, he reflects sadly. As a result, Bruno’s life has become quite

quiet and solitary; he used to love to travel, but says at 84 he says, “I don’t want to push it.” This leaves lots of time for reflection and remembering. He used some of this time to document his story, creating a packet of information with color photos. He also spends some time reading books about World War II and attending commemorative events. He has already relinquished his youth, his business and lost his wife. Bruno may look back because he believes he has little to look at or look towards. This makes him an available narrator of the past and participant of commemorative ceremonies. He is very present to discuss the past because the past is his present.

Flora, a U.S. based survivor says, “I won’t say I’m over it. Actually, the older I get the more I think about it. In the middle years I tended to forget it.” Growing up her daughter had been quite amazed at how little her mother spoke about her past or dwelled on wartime events. Later, when her daughter married a videographer, they came to her home and recorded her story. During the war, Flora and her nuclear family escaped to Switzerland after spending a short time in Lyon, France. Her extended family chose to remain in hiding in this unoccupied city while her father and mother ensured their safe passage to Switzerland where they spent time in an internment camp. In exchange for money, someone exposed her hidden family in Lyon. They travelled on the SNCF

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383 Bruno was initially quite shy about meeting. He was not sure he had anything to add. Once we started talking, during our four hours together he seemed to appreciate the chance to share his story as well as talk about the challenges of an isolated retirement.

384 Phone interview. April 30, 2014.

385 Other survivors discussed having near escapes in Lyon. Even though the city was in unoccupied France. Another survivor, David, explained during a phone interview, “even free France wasn’t free because [it was] run by the Vichy government.” About Lyon he said, “all was unsafe—Jews were being picked up.”
towards Auschwitz; except for Flora, they were all murdered. The following years were quite tumultuous; Flora attended seven schools in three years. Flora now thinks about the past much more than during the middle of her life, but for her this holding on does not translate into participation in the SNCF conflict. Even though the SNCF trains carried much of her family to Auschwitz, she says she has no particular grudge against the SNCF because lots of companies did terrible things. She figured some settlement would be reached. Her reasoning for absolving the train company is resonant with other survivors who considered the company neither better nor worse than any other group or business during the war.

Even if living with the past does not translate into suing the SNCF, many survivors find themselves occupied with their early days. Today, Leopold expends significant energy grappling with resurgent memories and new thoughts about the past. He spent the war in hiding and described a very mean Jewish director who oversaw them, “He was worse than the Nazis...He used to hit us, hurt us. If we stole crumbs...if he catches some with some crumbs he used to step on them with big boots.” He also felt traumatized when separated from his brother (they separated younger children from older children). His brother, who he used to steal breadcrumbs for, died three months before the liberation. His mother was later gassed, “I have the paper signed by Eichmann,” (2014) he says. His father survived. In regards to time he says, “The older you get the more you think about it. You think more about it—the worse it feels.” Before when he was young he said he didn’t have time to think about it. “Now I think about it everyday.”

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386 Phone interview with Leopold and his wife. June 10, 2014.
He now thinks to himself, “I wish I had my brother. I wish I had my mother. I can see my mother going into the gas chamber completely nude and covering herself. I didn’t see it, but I see it.” (2014) From what survivors shared in interviews, many do not feel they have much choice as to whether they think about the past or not. The past seems to have come back for them.

The resurgent memories could make people more interested in the conflict. Those terrifying days live very much in the present with many of these survivors. So, talking about decisions people made in the 1940s may not feel so remote to them as it may to those living a safe distance. Furthermore, the survivor interviews support Herman’s claim that trauma shows up differently at different life stages and creates new needs. Ginwright’s description of trauma contributes to our understanding of trauma’s shifting nature. Trauma, he says, “is not simply a single act of violence, but more often ongoing exposure to life threatening experiences.” (2009: 55) In the case of the Holocaust this is compounded by multiple personal losses. Hence, if trauma is not a single event, but a response of “ongoing exposure” it might make sense that the whole experience cannot be expected to disappear in a moment or during a single life phase. The unmet needs of victims in this new stage could contribute to the perpetuation of the SNCF conflict. When the personal becomes political, unmet needs become amplified in public discursive spaces.

**Unmet needs of the victim**

In addition to boomeranging memories and the SNCF’s unfinished story, the multi-decade conflict could also reflect the inability of the processes discussed in Part II
(trials, truth seeking, apologies, commemoration, and existing compensation programs) to meet individual needs. Part II concluded with the argument that the SNCF engaged in such processes on a political or larger social level, rather than at a victim level. In other words, opening their archives or creating a museum made a social contribution, but did not necessarily speak to the individual needs of victims. In France, the company’s efforts culminated in more of a dialogue between the Jewish leadership, lawyers, and the SNCF than one that engaged many of the survivors. On this level, the mechanisms succeeded in creating a kind of peace or closure. The French Jewish community and much of the national U.S. Jewish community believes the company has done enough. Many interviewees knew little of the SNCF’s contribution. This section considers whether the perpetuation of the conflict speaks to the unmet needs on the individual level. Society has shifted, but the interior world of many survivors remains untouched. This section provides a glimpse into these survivors, who were immeasurably changed by the Holocaust. The question here is, how can the SNCF, or market actors more generally, speak to these more intimate and intricate struggles? Part IV will discuss some of the dialogic spaces that may allow for more of this interplay.

The struggles of Gustav’s late wife demonstrate some of the ways people compensated for the losses. Gustav lost his parents in the 1944 French deportations while his wife Pauline, who died in 2012, lost her entire family. He says she spent her life quite depressed; eventually her heavy smoking led to her need for a pacemaker. She read

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387 This likely contributed to the claim by a number of U.S. lawyers and their supporters that the French Jewish community had been “bought off.”
388 He told me this story in his home in Paris. August 12, 2014.
many psychology books, including Freud; he thinks maybe she read to heal her own pain. She never succeeded. She wanted to work, but Gustav wanted her to stay home and raise her daughter. So she did. She never spoke to anyone about what had happened even to her daughter and rarely to her husband. As a couple, they did do some research to try to find her family. They went to Germany, but because neither spoke German and could not afford a translator, the trip ended up being futile. She abandoned her search for compensation because she could find no trace of her family. Three months after her death, Gustav said, they received a letter saying that an organization found information about her half-brother. He died in Auschwitz. Pauline’s pain remained quite untouched by SNCF efforts, other restitution efforts, or any transitional justice practices.

The following two vignettes demonstrate other ways in which people have adjusted to trauma from their early lives. The on-going conflict might be a public expression of the pain most experience in silence; the past does not pass because archive doors open and trauma does not heal because someone writes a check. But the second generation may feel helpless to do more and so therefore continue these public debates and support on-going lawsuits.

**Hannah: Living with night terrors**

In her 30s, Hannah looked like a brunette Bridget Bardot.\(^389\) By 2014, time had had its way with her as it does with everyone lucky enough to reach old age. Her hair has thinned and she can no longer properly apply her mascara. She pats her stomach, “I’m

\(^{389}\) I spent the afternoon and early evening with Hannah at a restaurant and then in her home. She shared artwork and we played old records, danced, drank tea and looked at photos. May 22, 2014.
trying to lose some weight,” but says she is too tempted by the eggs benedict at her favorite Italian place just next to her apartment. “I never tell people my age, because they are just waiting for me to die so they can get my apartment.” (2014) She may be right; she lives in one of the most in-demand neighborhoods in Manhattan. The Upper West Side is also one of the few neighborhoods with Jewish shops selling wedding ketubahs, prayer books, and kosher products. Other than our interview, Hannah says she rarely discusses the Holocaust and never really did. She said her friends did not want to hear about it. So, “Why bother?” she asked. In Hannah’s interior world, however, the past remains quite vibrant. She says she has never slept a full night in her life, always awakening around 2-3 am with various nightmares filled with memories; one about French police pulling women down the streets by their hair and another about she and her mother hiding in pits of dead and half-dead people while planes flew overhead shooting at anyone below. She remembers one man with his leg falling off trying to get up and no one helping him. “I remember these images every night,” she says. The trauma as noted by Ginwright came from far more than a single act, but rather a sustained experience of terror. Hannah experienced enough of these moments to haunt her for over 70 years.

Hannah moved to Antwerp, Belgium from Poland while her mother’s family remained in Poland only to be murdered. Her father worked in the diamond industry. Her mother urged him to let her take the children (two boys and one girl) to America. Her father refused, “He most likely regretted this decision for a very long time,” Hannah reflects. Instead of heading to the United States, the family split up and miraculously all survived—with serious physical and psychological trauma. Separated from her brother
and mother, Hannah bounced around from orphanage to orphanage. At one orphanage, one man would only give her milk only if she allowed him to molest her. “I can never forget that,” she says. There were heroes, she quickly adds, like the priest who protected many children, including her, even though his parish was just meters away from an SS headquarters. He kept them in the basement. She recalls how he would sometimes lie down at night allowing the children to sleep on him. Years later she returned to France to visit this kind man who had so much courage in his early twenties. This became part of her personal healing. While she adored this young priest, overall, she says, “I will never forgive the French.”

Hannah’s family reunited and made it back to Belgium. After the war, she stayed very close to her brother who just died two years ago. She says she is still devastated by his loss. “I no longer believe in God,” she explains, “If God could take him and let all these people live how could there be one?” She still cannot make sense of why she survived when so many others, like her mother’s entire family, died.

Hannah lives alone now. She married years ago, though she eventually divorced her husband. He has since died and she feels a touch responsible for that, she says. She spent her working life as an artist, though only used black and white. “I’m afraid of color,” she explains. She says that the color yellow reminds her too much of the Jewish star they had to wear and bright red reminds her of the Nazi flag. Her son also works as an artist. She describes him as bipolar and she worries a great deal about him.

She has no interest in the SNCF and does not care whether they provide new trains in New York. She is more concerned about her son and her own loneliness. She says she
stays alive for her bipolar son and to see some positive changes in the world. She can talk
your ear off about Hilary Clinton, Libya, and other modern affairs. Hannah lives from a
place of deep compassion, making the most of her days now by being kind to the 100-
year-old woman in the building and giving gifts to the disabled child who lives there as
well. She likes talking to a good man nearby who recently turned 87 and has cancer.
Lately, he has started to hide from people and she misses him. During the war, however,
this man was quite a hero. At fifteen he found himself in a death camp and although a
short young man, he proved to be quite strong. He used his strength to hold up the older,
weaker people during roll call so they would not be taken to the gas chambers. He
confided to Hannah that to save his own life he had to cut the hair of women before they
went to the chambers; he thought constantly of his mother and sisters.

Many survivors, like Hannah’s friend, have already retreated to their interior worlds,
silently reliving memories and dreaming of family members passed. Those interviewed
for this dissertation are the ones willing and able to speak. There may be thousands who
have never spoken. Hannah’s story calls into question what could the SNCF, or anyone,
for that matter do to help Hannah with her nightmares, her fear of color, and the loss of
her family. All approaches come up painfully short. These public conflicts might be a
symptom of this much larger body of pain. Settlements and lawsuits may seem simple
remedies to the more complicated webs of pain in which people live. These conflicts
might be chosen due to their simplicity and perpetuated because they represent a deep
and still unaddressed pain.
The SNCF public debates might be one way in which this silence is expressed though it does not speak to the individual needs of survivors. Social policy is not designed to heal trauma. Alyson Cole, author of *The Cult of Victimhood*, argues that social policy is not designed to heal trauma. She fears that a victim-centered approach “colonizes public debates around matters of social policy.” (Cole 2007: 8) While being present for victims and meeting their needs may be a poor approach to social policy, neither is social policy a good approach for meeting victim needs. The assumption that the fight against the SNCF meets victims’ needs may also perpetuate the conflict; the conflict does not necessarily make people feel better. Rather than stopping and speaking with the survivors, the fight just rages on, often through the work of the more energetic, vocal and often more educated second generation.

**Intergenerational Trauma: shifting the past to the future**

The trauma, even when not discussed, can be passed down the family. This next generation may find itself fighting a battle for justice their parents seemed too weak to fight. This passing down of trauma might also contribute to the conflict. The following shows how this can occur.

Sonia had the good fortune of being born at the end of the war, in 1945. She describes, however, how the trauma of the legacy continues both in herself and now within her daughter. Sonia’s father committed suicide a few weeks after the Nazis arrived in Vienna. French police rounded up Sonia’s grandmother, aunt, and great uncle on August 26, 1942 and sent them in covered wagons to the Drancy internment camp. The

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SNCF train, known as convoy 27, transported them to Auschwitz September 2, 1942. Of the 1,000 transported on the convoy, only 877 survived the horrific journey. Sonia has written extensively about her family’s history, one she had to discover on her own. Her mother said nothing about the war until 1995, around the time of the French bank settlement and the year of French President Chirac’s apology. Her mother spoke the year France officially spoke, suggesting a dialectal relationship between state and individual speaking. As the French State opened and the world spoke more about the Holocaust so too did many individual voices and vice versa.\textsuperscript{391} Her mother’s words were few however, in response to Sonia’s question “did you ever go through the grieving process in your family?” Her mother responded, “I grieve for my father every day of my life.” Sonia said she had grown up having no idea her mother carried this daily torment.

Her mother’s trauma expressed itself as more than simply a silence about those terrible years. Sonia’s mother became manic-depressive around the age of 60, crumbling into a terrible depression as a reaction to everything she had experienced during the war. Doctors prescribed lithium, a strong drug for depression, but not strong enough to heal Holocaust-related trauma. By the time compensation was possible, her mother had already transitioned from a lively person into a stupor. Sonia explained this is why she, and not her mother, had to carry out the claims process.

\textsuperscript{391} Being prompted to start talking by public discourse seemed fairly common. Michael, a survivor who claims that he has now spoken to over 250,000 children said, “When I saw Schindler’s list, by the time I got home I said ‘I’ve really got to do something about this.’” Michael said this during a phone interview. (April 22, 2014) In many cases, however, it is difficult to discern exactly what prompted the speaking.
Researching her family history and applying for restitution was an attempt to restore an interrupted life. The research was more for her, she realizes in retrospect, than for her mother. Her mother’s silence and depression had an impact on Sonia. She was not brought up Jewish and confessed always felt something was missing; she lived with a gnawing sense of being an outsider. “It has been a strange life because I didn’t know who I was,” she explained. Now, in retrospect, she realizes that her mother needed love and deep understanding. Restitution money meant nothing to her mother. “What she needed was a lot more love and understanding and recognition of what she had gone through…without having to talk about it. Hearing others talk about it might have helped her a bit more.” This raises the question if a number of second-generation individuals who pursue settlements as a response to feeling helpless to assist suffering parents.

Only after her mother’s death did Sonia realize that her mother needed love not money or retribution. Overall, Sonia wishes she could have been more demonstrative in her love towards her mother; an awful burden on a child to heal your mother’s heart of the Holocaust. Sonia says she picked up her mother’s anxiety and now has anxiety attacks of her own. She has channeled much of her energy into researching and writing about her family’s story. Her daughter, she explains, has now also shows evidence of having relatively severe anxiety problems.

Sonia’s story shows the devastating impact of trauma and the ways it can travel down family lines. The on-going SNCF conflict might be the attempt of those able enough to champion the cause of their elders to address this trauma on the public stage. While Sonia directed her energies into research and writing, other second generation Jews
channel their energies in legal and legislative affairs. Many of the lawyers, lobbyists, and other officials driving the SNCF are second generation. This raises the question as to how they might be using the conflict to simultaneously advance justice and unconsciously process unaddressed family pain. In *Moral Repair*, Walker points to this phenomenon:

New generations not only inherit the continuing patterns of disadvantage and injustice that stem from grave wrongs in the past, but also experience outrage, mistrust and despair at the continuing denial, indifference or self-justification of those who have profited or continue to profit from the original wrong but also from its continuing effects. (2006: 204)

The on-going conflict might be an expression of this outrage and on-going mistrust of the SNCF. Many families lived in silence, trying to put the war behind them. Younger generations, with more energy and more distance from the trauma itself, can carry on the public battle for justice. The families may appreciate their efforts, but neither ought these efforts replace from the unconditional love and deep caring Sonia discovered, too late, that her mother needed most.

Maurice, deported on the trains to Auschwitz, considers this work quite challenging for says the second and third generations. He witnessed the tremendous suffering and experienced it, “They have to try to imagine it.” He considers this a terrible burden for people and a difficult way to make sense of things. The trauma remains an enigma for those who experienced it; how could those farther from it have more answers?

**“Railway brain”: The brain holds on**

“Looking at me, one would think I am alive…I’m not alive.

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392 Discussed during a personal interview at his home in France. We spent the day walking around Versailles, eating and chatting in his home. August 11, 2014.
I died in Auschwitz, but no one knows it.”

- Madeleine (Mado) Doiret, survivor

Trauma flows; it is experienced over time and then weaves its way into future life experiences. Less predictable than a train, it can show up anywhere and say anything. This section posits that given the ironic challenge of restoring the un-restorable, on-going public conflicts are neither surprising nor predictable. Enns writes about a British physician in the 1860s who studied the impact of rail accidents on victims. He found people who experienced the accidents had a variety of nervous responses in the aftermath. Later, Freud and others appropriated the concept, transforming the idea into the term to describe emotional shock more generally. The idea became popularized through the terms, “railway brain” or “railway spine.” (Enns 2012) If one developed such a response to a simple rail accident, one can only imagine what kind of “railway brain” one could develop being crammed into a cattle car for 36 hours headed to a death camp. We can only infer from what people tell us the impact of such an experience.

Monique, a child when the SNCF transported her father, spoke at the Maryland House Hearing about how the trauma even impacts her feeling about trains,

I have been very quiet…I too am afraid of getting on trains even at this stage of my life. I am 72 years old. It has affected me and obviously there is psychological damage involved. I have not dealt with the issue, thinking that it was over. But it

393 (Moorehead 2011: 317)
isn’t over because it has affected my family and my children and now my grandchildren.\textsuperscript{394}

This gives “railway brain” a new meaning when one’s father is deported on in a cattle car and you cannot ride trains because of this. Alain Lipietz said during his father’s retirement train memories came back to haunt him, notably the memory of the train and the gendarme hitting children with batons. (Lipietz 2011: 11). Marcus, a survivor, also had the most trouble with the symbol of the trains. He and his wife visited the U.S. Holocaust Memorial Museum to seen an exhibit to which he had donated a number of his father’s objects. His wife Josette remarked, “When we were near the trains, he said ‘this is the only thing I cannot look at.’”\textsuperscript{395}

Marcus’ visceral reaction may reflect how metaphorically the train cars represented death of self as well as body. As soon as the deportees entered the cars and the doors slammed, the absence of light, food, water, often loved ones and hope meant the end of all that which represents life. Who they were as people began to disappear; victims had been ripped from their relations and their former identities just as they would soon be ripped from their clothes and bodies. Furthermore, those enclosed spaces remind one of the gas chambers that no one survived. Those who survived the trains, by contrast, can tell us what the experience was like for them and how the experience worked to dehumanize them. This makes the trains ever more haunting for survivors and others familiar with their journey.

\textsuperscript{394} http://mgahouse.maryland.gov/house/play/ff17c955-b995-42f5-9df2-aacf40b8987d/?catalog/03e481c7-8a42-4438-a7da-93ff74bd14e%22%20t%20%22_blank (Minute 59)
\textsuperscript{395} Phone interview. May 9, 2014.
Suzanne is also committed to a lifetime of distaste for French trains. She as has worked for years with Harriet Tamen to demands restitution, greater transparency, and a *real* apology from the SNCF. She dedicated her life to holocaust remembrance, speaking at schools and joining Holocaust-commemorative marches. When asked, if the SNCF complied with her demands, could she ever accept SNCF railroads in her home state of Florida? She said she would never let them lay rail in this State.\(^{396}\) (2011)

**Holding on: If the pain never leaves, why should the conflict?**

Even if those survivors pursuing compensation from the train company let go of the SNCF, no amount of professional, financial or familial success undoes the harm. Rebecca, involved in lawsuits against the SNCF, says she and her husband, who live in Paris, talk about the Holocaust, “all of the time.”\(^{397}\) Her husband lost his mother, father, siblings and many of his friends. “We use jokes and things to get around it,” she explained. Looking around the apartment one would never know. Over the piano sits a framed photo of some cute young boys, advertising their upcoming jazz concert. Her husband points to the picture and says, “that one’s me. This one went on to become quite a well-known musician. The others were killed.” Pictures of the couple’s younger years surround the apartment; they look like movie stars, “Oh, that one on the sailboat?” Rebecca says referring to a photo of her with big sunglasses and short blond hair, “I was wearing a men’s t-shirt. That was very a progressive thing to do back then.” Photos revealed nothing of their inner experiences and memories. Ask her about the war, and the

\(^{396}\) Said during a phone interview. May 30, 2011.

\(^{397}\) Discussed during an afternoon with Rebecca and her husband in their home. July 25, 2014.
movie star aura dims from her eyes. She shakes her head and talks softly about those times. About the SNCF she says, “the conditions [of the transports] showed a total lack of gentleness,” she explained. She went on to say, in disgust, “I knew someone whose parent had to pay his own ticket to Drancy [the internment camp].” The Holocaust and its impact remain very much alive in this small Parisian household. She says acts by the SNCF and others that recognize the harm means something. This could encourage market actors unsure of the impact of their contributions. While many may balk, some victims may be very appreciative. She agreed to be interviewed because she still felt the world needed to know what the Jews experienced in France during the war. The speaking only sort of helps; no one can remove the image of her mother blind, toothless, and emaciated when she returned from the camp. At least now, she says, there is a word for where her mother had gone, Auschwitz.

Instead of trying to resolve the conflict, or settle the SNCF affair, perhaps the goal could be learning to live within the aftermath and making space for those most impacted to speak. This may resonate more with victims who know the indelibility of their experience. As Elie Wiesel famously wrote in his book *Night,*

Never shall I forget that nocturnal silence which deprived me, for all eternity, of the desire to live. Never shall I forget those moments which murdered my God and my soul and turned my dreams to dust. Never shall I forget these things, even if I am condemned to live as long as God Himself. Never. (Wiesel 2006)

Wiesel’s declaration that he lost the desire to live “for all eternity,” calls into question what then could one try to resolve for a victim? In *Moral Repair,* Walker proposes that whatever is done it must be multi-faceted because such events create such, “a deep distortion in a moral relationship…[that] has a depth that no isolated reparative measures
can meet.” (2006: 35) This supports the SNCF’s approach of working towards transparency, commemoration as well as other forms of amends work. Stuart Eizenstat acknowledged the futility of total recovery in titling his book *Imperfect Justice* and Michael Marrus did the same when titling his book on 1990s Holocaust Restitution, *Some Measure of Justice*. The goal becomes no longer to resolve or end the conflict, but rather to find new and better forums for addressing emerging issues and needs, like health care for aging survivors.

**Holding on: sympathy for child survivors**

The second generation, and the public at large, might find it additionally compelling to lobby against the trains. The fact that the remaining survivors are both old *and* were children during the war makes them a most sympathetic cause. In her book *Dignity*, conflict resolution practitioner Donna Hicks writes,

> Children suffer the worst of human injustice. Whether they are treated unfairly by the circumstances of war or by wars within families, it is wrong for children to suffer. It is the ultimately indignity to cause them harm, especially if we have it within our power to prevent it. No child deserves to suffer indignities that have the potential to distort their sense of safety and worthiness the rest of their lives. (2001: 72-3)

Today’s advocates have just a few more years to give voice to these former children. The public has just a few more years to support them as well. This urgency might be prompting the latest round of cases.

**Chapter Eleven: Conclusion**

No one can declare the impact over. In 2000, when Stuart Eizenstat agreed to negotiate with the French regarding a French bank settlement, he agreed thinking, “we would mediate, one last time, to help resolve a set of World War II wrongs.” (Eizenstat
2009: 323) The return of Eizenstat to the negotiating table in 2014 shows that even the leading Holocaust settlement experts cannot predict the future. This lack of finality continues to frustrate French government negotiators working with the U.S. State Department, who want reassurance that signing the settlement would put the issue to rest. The State Department cannot make that unilateral guarantee. In this way, trying to end the conflict might actually perpetuate it in destructive ways. Rather than broadening the dialogue to wider concerns of corporate habitus, resurgent anti-Semitism and global violence, we piddle around in questions of stolen watches and create forums that pits allies against one another. Accepting that the conflict never ends, allows dialogues to stretch us as a society and explore any victim needs we can address in their final days.
CHAPTER TWELVE

SEMIOTICS & POLITICS OF TARGETING PERPETRATORS

Chapter Twelve adds to this list of factors for holding on; the company’s corporate identity and the semiotics of trains, arguably the most potent symbol of the Holocaust, make this case not only easy to continue, but difficult to stop.

Semiotics of trains: easy to hold on

“There was a saying during the war, the wheels have to roll for the war, which means the trains have to keep on going.”

- Ruth “Margot” DeWilde, Auschwitz survivor

Many kinds of companies contributed to the fulfillment of the Final Solution; steel manufacturers, chemical companies, clothing producers, etc. What could explain the general exclusion of these companies from these discussions about trains? Chapter Three explored the early psychological use of the concept of “railway brain” to describe the trauma associated with rail accidents; but how does a whole culture contract railway brain? This section considers how the SNCF’s identity as a railroad company contributes

398 (Wilcoxen 2014)
to the holding on, not just of survivors, but also of the interested public. The semiotics of choosing a target has important implications for other post-conflict contexts.

The Director of the Johannesburg Holocaust & Genocide Centre, Tali Nates, says her team surveyed survivors living in South Africa regarding what symbol represented the Holocaust. She said the answer was almost unanimously *trains*. In response, the Centre constructed train tracks, photographed below, headed towards the sky to represent the eternality of the Holocaust. Visitors see them at the entrance.

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399 I met Nates at an academic conference. We corresponded for several months via email after our first meeting.

400 Images provided by Tali Nates, Director of the Johannesburg Holocaust & Genocide Centre.
Some consider Auschwitz the ultimate symbol, yet the word trains could easily be replaced for that of the camp and the meaning would be the same. Bilsky writes, “Auschwitz” symbolizes the evil of the Nazi crimes—mass, bureaucratic and industrial crimes which erase the individual faces of the victims and seek to turn them into numbers.” (2012:131) Museums like the U.S. Holocaust Memorial Museum display other symbols including the shoes of those killed at the camps, hair, glasses, and suitcases. These items represent the victims, the trains, however offer us a symbol through which modern day people can consider the nature of the Nazi mechanization of the murder of an entire people. Few Nazis wrote memoirs or allowed interviews to explain the nature of their agenda—archival documents and fragments are all that remain. The trains become a lieu de mémoire, a place for deep reflection on the nature of how a people become a highly sophisticated mob and the problem of collective accountability. Hilberg argued the whole project would have failed without trains. (1976) Everything else could have been replaced; the gas, steel, etc. but trains were vital to the successful fulfillment of the plan.

The importance of trains is reflected in the titles of survivor memoirs. Caroline Moorehead’s Train in Winter describes the lives and deaths of over 200 women in the French resistance who were captured. While trains are only discussed a couple of times in the books, they earned a place in the title. Leo Bretholz, the survivor who worked ardently against the SNCF before his death in 2014, titled his book Leap into Darkness. One version of the cover shows a young boy running between railcars. In 2013, Owl Kids
released *The Last Train: A Holocaust Story*, a book designed to teach children about the Holocaust.

Jews also have a special connection to trains. In 2014, Donna Rifkind’s review of *A Train to Warsaw*, she acknowledges the centrality of trains in the Holocaust, but says they have even deeper roots in the Jewish culture, “trains of course, are among this genre’s most potent figures, propelling bewildered passengers away from the comforts of civilization toward exile for the luckiest few or, for the majority, toward barbarianism and slaughter.” (2014) She says the presence of trains in Jewish literature pre-dates the Holocaust because trains effectively “conveyed the liminal quality of life in the diaspora, a condition of imposed impermanence and necessary adaptability.” (2014) Trains’ connection to Jewish nomadism might impact the Second Generation pursuing the company in ways they cannot even understand.

**Trains as lieux de mémoire: memory triggers for the Holocaust**

The conflict over the SNCF might be further perpetuated by the fact that trains are already deeply engrained lieux de mémoire, contributing to collective memory and offering commemorative spaces. Material memory sites are “imagined as bounded and inscribed with meaning from the past that resonates into the present.” (French 2012: 341) The trains have been a contested space of Holocaust reflection for decades; this conflict may represent an extension of that reflection. Many Holocaust museums and memorials around the world have railcars to examine.

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401 Rifkind cites Sholem Aleichem’s “Railroad Stories” and David Bergelson’s novella “At the Depot” as examples of the use of trains in the Jewish experience.
One railcar rests in the United States Holocaust Museum in Washington D.C. and another can be seen when driving through the Naples, Florida strip-mall. The merchandise car resides outside The Holocaust Museum and Education Center of Southwest Florida.

At the Drancy Memorial site in France, a railcar has sat for years. The United States Holocaust Museum permanent collection also offers visitors the opportunity to walk around, rather than through the train because the experience can be so traumatic for survivors.

Bernard Emsellem, head of CSR for the SNCF, a Jew who also lost several family members during the deportations claims the trains serve as powerful symbols because

http://www.holocaustmuseumswfl.org/exhibits/boxcar-exhibit/
they represent part of the dehumanization process. He says many survivors talked about the trains when they returned, rather than the camps. The camps, he believed, were too hard to discuss. He continued to say the trains also contributed to the psychological destruction of the Jews—designed to kill resistance. They wanted deportees to arrive very tired and drained—part dead already. It was easier to put them in the chamber after such a journey. The implication here is that the trains had done their work by the time they had arrived to the camp. The train ride became the transition point from humanized to dehumanized selves. After the journey Nazis either gassed individuals immediately or at the very least had their belongings, hair, and names removed. The train was for many the last moment their former identities existed. Once on the train, they became cargo. This all contributes to the powerful semiotics of trains and possibly the singular focus on the railroads in spite of other actors.

Whereas railcars serve as the actual *lieux de mémoire*, the SNCF debates become discursive sites of collective memory every bit as real as the railcars themselves. Brigittine French says that collective memories “are semiotic sites—simultaneously discursive and spatial—of ongoing debate and contestation.” (French 2012: 343) This international discussion over the SNCF offers this discursive place for collective memory to hang its proverbial hat. Holocaust scholar, Miriam Sprio supports the existence of these spaces while questioning whether that ought to lead to financial responsibility on the part of the company. She says no one could blame survivors for having the company trigger a memory,

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403 Discussed in person July 30, 2014 in SNCF’s former headquarters in Paris.
You cannot take away the personal from the people. You cannot deny people’s personal feelings about a company. It wouldn’t take much digging to find weird stuff about most companies. It isn’t one person. These are now public companies and the connection is their name.

She believes making the current corporation responsible is not fair to the people who live and work in France today.

In Goldhagen’s New York Times editorial he challenged the centrality of trains and the bureaucratic mechanisms behind the killing. He argues that such a focus distracts from the real source,

The crucial elements are the political leaders’ decision to commit genocide, the willing participation of a large population of perpetrators, the sympathy of an even broader civilian population…and, above all, the ideology that motivates them all to believe that annihilating the targeted people is necessary. (2015)

His commentary speaks to a central question of this dissertation, whether all this focus on trains might distract from the other perpetrators or broader issues surrounding complicity, past and present. Few of the issues Goldhagen raised have been discussed in relation to this conflict, denying the culture the opportunity to reflect on ideologies that legitimize violence.

**Semiotics of Trains: Eternal Trains**

The Johannesburg Holocaust and Genocide Centre installed at its entrance a railroad track shooting up into the sky, representing many aspects of the genocide; both the destination of the souls and in the context of this dissertation, the eternality of the conflict. This image has recently been adopted in Prague where the city installed a similar railway headed into the sky in 2015 at a station where thousands of deportees forcibly launched to concentration camps. (See page 355)
Taylor Krauss, documentary filmmaker and director of Voices of Rwanda who works with the Johannesburg Holocaust and Genocide Center, asked whether the question of the SNCF’s role should just roll on eternally, allowing each party and generation to consider the complex issues surrounding the company. He called the conflict itself an “eternal train,” drawing to mind Steven Reich’s 1988 three-movement piece for string quartet, *Different Trains*. Some versions of the piece use the recorded voices of Holocaust survivors as sources of melodies and steam whistles to create the haunting sensation of the Holocaust trains. The repetitive strings create the sensation of forward motion, continuity and eternality.

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405 https://www.youtube.com/watch?v=CSPW9ITN6oQ
The notion of eternal trains represented musically by the ironically named, Reich and artistically by those designing commemorative sites supports a particular framing of transitional justice practice and theory. This dissertation argues that models working to resolve harm, settle, fix or complete the past deny the nature of trauma such harm creates. Victims can never be convinced of its ending; they know life moves on as well as the mysterious ways in which the past resurfaces; younger generations prevented from reprocessing the past may live with a haunting sensation of incompleteness. So the work is not just to accept an *Imperfect Justice* as Eizenstat suggests, but rather to accept the on-
going nature of the work. Derrida’s “Democracy to come” and Lincoln’s notion of “unfinished work” in the Gettysburg Address both refer to the eternal nature of pursuing justice. The focus is on the eternal nature of the process, not its imperfection. This can help experts, and the alleged perpetrators, to a degree accept the public beating. As noted earlier by Walker, the wrongdoer must accept a certain amount of hostility from the abused individuals. She says the former perpetrator must also accept the liability from the harmed community. (2006: 200) The accused entity, the SNCF in this case, then provides a site for the culture to contest the past and set new standards. In other words, the SNCF of today might be able to see this conflict as not personal, but rather reflecting a deep cultural, and in some cases individual, need to process grief and resentment. The question of liability remains a different question.

This notion of perpetual work as both a way to commemorate and approach transitional justice allows space for more complexity both in approach and in interpretations. For a number of interviewees, trains symbolized far more than deportation vehicles. Their interviews herein serve to reframe the role of trains during the war with more richness. The conflict as well as commemorative sites have flattened the narratives about trains, contributing to the binary framing of the conflict. Seeing trains as part of the larger web of life allows opportunities for deeper reflection.

**Trains in France: beyond cattle cars to Auschwitz**

Trains, integral to life in pre-and post-war France, became important sites for everything from interrogation, to escape, to romance. To position them only as enemies, flattens the truth about their role and limits our range of reflection. Adele recalled how
she had to lie about her identity to pass a train controller looking for Jews, noting, “trains were powerful because they were sites of interrogation not just killing.” In this way, trains also became sites of destiny. In response to Adele’s comment, hidden child Ester responded, yes, this was true for her too. She recalled her family’s journey via rail to the South. The train was held up because police were searching the railcars for Jews. Ester said, “Apparently they reached their quota because the trains moved on.” Her family was not searched.

Alfred says a railway station manager saved his family. A railway man told his family if they boarded the train after the whistle blew they could travel for free. Because they had no money, Alfred believes this was a key moment for his family. Once aboard the train, destiny had another chance to end his young life. The train began to roll forward and then rolled backwards. They were unsure whether it would depart. The controller came around asking for everyone’s papers. Alfred’s were marked “Juif” and had the controller seen this designation or had Alfred said he had no papers he would have been removed and likely deported. Sitting next to his friend Robert they waited. The controller came two centimeters from his face and then just walked away. Alfred thinks his bright blue eyes convinced the controller he was not Jewish. He was never asked for his papers.

\[406\] Discussed during an in-person interview in her Maryland home; Ester and I went to visit Adele who was in the midst of chemotherapy treatments. February 23, 2014.

That controller detained about four people; Alfred, his family, and his friend Pierre, continued on.\footnote{408} 

André’s life also changed during a train ride.\footnote{409} The pressure of the crowd entering the subway exposed the yellow star under his jacket. A Gestapo grabbed him and pushed him to the side. When the next train came they searched for more people and André ran, “when I was stopped on that train, I aged ten years in ten minutes.” (2014) He was eleven at the time.

While many remember their lives being spared on trains, one couple found love during the war thanks to a train malfunction. Survivors Raoul and Celeste, who now live in the United States, lost forty family members between them, all taken on French railways.\footnote{410} The trains also brought them together, Raoul laughingly reflected. Celeste was on her way to the west of France when a derailment delayed her journey. The hotels in the town where her train stopped had no vacancies, so she called her friend, Raoul’s cousin, to see if she could stay. They fell in love and she never left, though Raoul’s mother would not let him marry her until he completed his service with the Swiss army. These stories show that trains were more than death camp transporters.

**Why French trains?**

The above discussion may answer the question of “why trains?” but why the French railroad company? France deported fewer Jews than other European countries and

\footnote{408} Alfred and Pierre’s families traveled together, Pierre’s aunt married a Catholic who decided to cut off relations with Alfred’s family. Pierre was also Jewish but this Catholic man believed separation was best. Alfred never found Pierre after the war.

\footnote{409} Discussed during an in-person interview in his home in France. August 4, 2014.

\footnote{410} Discussed during a phone interview. April 23, 2014.
has done more to make amends trains than countries like Poland, Lithuania, Romania, and Hungary. Moreover, U.S. railways have their own sordid history. During WWII, U.S. railways transported Japanese on terrible three-day journeys to internment camps throughout the country. Japanese Americans interviewed about the experience recount the experience with much sorrow. The origins of United States are also sordid; the railroads were built using slave labor. Many other rail companies have participated in human rights violations, including the German, Chinese, Italian and Japanese trains. Rabbi Andrew Baker of the American Jewish Committee says, remarked on the curious focus on France,

Look, the Japanese still haven’t been able to address their wartime history and responsibility. I mean I think Germany has done a lot but obviously there’s a history when you look at Siemens or the other German companies…China in its own dealings with human rights issues. The one country that gets singled out is the French and the SNCF. (2014)

The following offers several possible explanations for why the debates and legislation revolve solely around the SNCF. The SNCF did not change its name after the war and the Nazis used SNCF railcars throughout Europe. As a result, many Holocaust museums, books and documentaries have photos of railcars with “SNCF” painted on the side, suggesting the company’s willing participation in the war effort. The company’s name can been seen on the far left of this car labeled that it was headed from Compiègne, France to Buchenwald (Auschwitz), Poland.

411 Since the French settlement, Holocaust-related lawsuits against the Hungarian train company have begun to make national news.
Furthermore, the United States has had significant involvement in France regarding WWII, first through the liberation, then via American historians who broke open the silence around the Vichy period, and again with the French bank settlement in the 1990s. Well-worn grooves of resentment exist between France and the United States regarding France’s behavior during and after WWII. Some have posited Harriet Tamen’s personal sentiments about the French as a driving force in the SNCF conflict specifically. Others explain the German exception as simply indicative that Germany has paid its dues.

German businesses

German trains and businesses stand out as the most curious anomaly in these discussions. The Germans trains carried over three million people to their death, the French trains carried less than 80,000. Ambassador Davidson of the State Department observed that while the current conflict makes the German Deutsche Bahn nervous,
(2014) so far, the legislation only applies to the SNCF. Emsellem, of the SNCF, attributes Germany’s notable absence from the debate to the fact that the company changed its name from Deutsche Reichsbahn to Deutsche Bahn in 1994. (2012) According to Deutsche Bahn’s corporate website, “Deutsche Bahn AG is not the legal successor to the Deutsche Reichsbahn that operated from 1933 to 1949; based on a strict legal interpretation, the successor is the Bundeseisenbahnvermögen (BEV).” Yet today, the SNCF has the same identity and same name. The name that appears on Holocaust wagon photos still emblazons their letterhead today. Bernard Emsellem, Director of Corporate Responsibility of the SNCF, says he wishes the SNCF had followed Germany’s lead and created a separate legal entity. (2012) U.S. legislation creates a loophole for the Deutsch Bahn, requesting only those companies that operated as a separate legal entity during the war be reviewed.

The question of why only France is embroiled in U.S. legislation that could easily expand to include other international rail companies, remains an enigma. Though, this enigma, points to a central finding of this research, that focusing on one perpetrator does not necessarily lead to a broader consideration of perpetration and/or prevention. A singular focus, in the name of prevention, might simply result in more discussion about the chosen perpetrator. This research did not reveal any obvious work towards prevention.

412 The Deutsch Bahn sponsored a museum in Nuremberg called the DB Museum about the history of rail in Germany. While there have been World War II museum exhibitions in the past, none of the current or permanent exhibitions address the role of the German railway during the war.
SNCF’s corporate identity

This dissertation also advocates for greater inclusion of market actors in post-conflict scholarship and practice. Including said actors warrants consideration of how a corporate identity impacts the ways in which the atrocity is processed. For example, corporations can become targets because they appear to have resources to fund restitution projects. Therefore, if a company does not pay, the assumption can easily be because it has the same heartless core it did during the perpetration. Lack of funds can never be perceived as an excuse. A corporate giant, like the SNCF, can also support a David and Goliath analogy. David’s antics can never be called into question once the SNCF’s identity has been positioned as a large heartless giant. This opens a host of issues, raised here, but beyond the scope of this dissertation. Being a corporate perpetrator seems to imply different rights and duties than non-market actors. This is worthy of more research, especially for those wishing to more deeply engage market actors in post-conflict reconstruction efforts. In the case of the SNCF, business politics also may play a role in why the culture continues to hold on to these French machines.

Business competition: Amtrak no friend of the SNCF

Might business competition explain some of the specific targeting of the SNCF? The research was not conclusive, but the question deserves a brief nod and the brutal business tactics in the railway business provides important insights into what alleged perpetrators face in the marketplace. Therefore, the public’s holding on to the conflict serves their business interests of the SNCF’s competitors. For example, is it a coincidence the SNCF faced some of the greatest legal challenges in the state where
Amtrak stands to lose large commuter rail projects? Amtrak lost the valuable VRE (Virginia Railroad Express) to the SNCF and did not graciously accept defeat. Amtrak has been using brutal tactics regarding the SNCF. Don Philips, reporter with The Washington Post, The International Herald Tribune, and monthly columnist for Trains Magazine, in September 2010 covers the Amtrak-SNCF relations. He claims that the “nasty fight” between Amtrak and Keolis (a subsidiary of the SNCF) could go down in history as a “turning point in American passenger railroading” because of Amtrak’s arrogance and tactics. (2010) He goes on to say, “you will probably be surprised to learn how vitriolic it got behind the scenes.” (2010) For eighteen years, Amtrak managed the commuter rail lines in Virginia. When the contract came up for renewal, Amtrak assumed they would win the bid and according to CEO of VRE, Dale Zehner, the company was blindsided to learn that VRE wanted the more affordable Keolis. Amtrak responded to the defeat by punishing staff that chose to work with Keolis in Virginia (where presumably they lived). Former Amtrak staff now working for Keolis, would be immediately fired by Amtrak and permanently blacklisted. Crews who agreed to relocate to stay with Amtrak received a $5,000 bonus and were guaranteed a job. Amtrak, meanwhile, even tried to hire crews laid off from New Jersey Transit who had been approached by Keolis. The idea was to prevent Keolis from hiring enough crews to run the system by takeover day, June 28.” (Phillips 2010)

Additionally, Amtrak refused to let Keolis engineers ride on their trains to learn the routes.

Amtrak President Joe Boardman admitted in an interview with Don Philips that he wanted Keolis to fail, allowing Amtrak to pitch again. Philips confirms that this loss for
Amtrak is bitter because Keolis now has “a firm anchor in the United States, in the shadow of the U.S. Capitol.” (2010) When asked whether Amtrak promoted the SNCF’s wartime history to Jewish groups where it sought contracts, Philips said he was not sure, but he would not be surprised. (2010)

While the aforementioned in no way proves Amtrak guilty of circulating bad-press about the SNCF, the President’s statement and tactics used to block Keolis’ success establishes a strong motive and a willingness to play dirty perhaps at the beginning if not throughout. Amtrak’s strong motive for having the SNCF lose face publically does not necessarily mean its motive translated into any action. This section highlights, however, for those interested in working with corporate actors on post-conflict issues, the market realities in which such companies operate.

**Holding on: no change of ethos**

The previous section considered competitive business interests as possibly encouraging on-going debate. This section questions whether the cultural “holding on” to the conflict reflects some recognition of unfinished business; has the company demonstrated a change of ethos, beyond simply contributing to Holocaust commemoration? This question emerged not from the interviews, but from research on apologies arguing that an apology could only be considered complete if it included some evidence that change would occur. (Verdeja 2010) The SNCF’s actions do not speak directly to this concern. This dissertation introduced Broch’s work on the SNCF’s *esprit de corps*, referring to the strong professional family atmosphere within the company.
(2014) Broch noted how the values of duty and commitment to the company made resistance even more challenging.

Because legal and legislative discussions rarely illuminate questions of *habitus*, involved parties rarely elaborate any ethos shifts or question what further shifts may be required. Of course the SNCF no longer transports deportees, but does the culture still privilege responsibility and fidelity over ethics? If the SNCF could demonstrate the shifts, society could be reassured that the events of the past were not only an anomaly but could prompt some corporate evolution of ethos. This may remove a few teeth from the conflict.

Recent bad press did not console those looking for reassurance that the company ethos has changed. In April of 2014, *The Wall Street Journal* reported that SNCF and German Rail company rejected claims they had meetings scheduled with the head of Russian state-owned railways RZD under Putin. Vladimir Yakunin, the head of Russia's railway, is on the U.S. sanctions list. (Gummer 2014) The companies denied meeting with Yakunin about a proposed high-speed rail project to connect Moscow with Kazan for the 2018 World Cup. Yet, they did not deny that they would meet with Yakunin about other issues at a Paris-based rail union conference. Amidst rising Russian-Ukraine tensions, work with Putin’s government is especially frowned upon by the United States. On February 3, 2015, RDZ and the SNCF announced they would work together on a night train project together starting at the end of the year. Being associated with the German railroads and suggestions that the SNCF may work with Putin’s dictatorship,
calls the company’s integrity into question for some of those already suspicious of the SNCF.

Perhaps the SNCF conflict continues in part because people want to see, hear, and feel that the company’s culture has evolved in response to the atrocities. Would there be a way to see if normative structures or the cultural DNA of the company has been altered? If one were to explore whether such a shift occurred in values and priorities, what would be the metrics? Where could these dialogues occur? Part IV considers some possible spaces in which such dialogues could occur.

**Part III: Conclusion**

Whether one holds on to the SNCF accountability or lets go seems to be a product of various factors; the manifestation of the harm, sense of public voice, energy, support, and view of the SNCF’s role as compared to others during the war. The research findings suggest the French and U.S. based survivors, because of their environment, shared different reasons for their opinions about the company. Interestingly, few survivors cited the SNCF’s efforts towards truth telling, commemorations and apologies, as the reason for exonerating the company. These efforts seemed to reach the Jewish leadership directly and then trickle down to some survivors. The complex ways in which the harm impacted individuals, demonstrated in Part III, makes the inability of these efforts to

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413 The French police never went through a real period of vetting (or purging of perpetrators) after the war and some attribute the 1980s police dumping of the a group of Muslims into the Seine to the fact that the police never really cleared out those among their ranks that threw old people into cattle cars and broke their bones, stormed into houses and ripped families apart, or shot many innocent Jews and French in the Resistance. The overarching government paid the bill, but what does that do to change the ethos of a police force?
reach individuals unsurprising. Nightmares, recurrent memories, and isolation cannot be solved by settlements or legislative bills. This disconnect does not suggest a failure of the civil society level processes; instead, it suggests that efforts can make the greatest impact when they recognize this disconnect as well as the changing nature of trauma. Victims will not be bamboozled by thin efforts that attempt to cover the past; though, they may be harmed by them, further victimized by repression of their memory and their sense of what happened. Leaving the issue unresolvable and continuing to move forward allows for greater complexity and more spaces in which victims can process and express their needs. Part IV discusses some dialogic spaces that could support this process. As Part II demonstrated, the legal and legislative spaces that privilege the binary victim-perpetrator victim can stifle some more textured conversations and singularly focus the debate in such a way that limits larger cultural self-reflection.
PART IV

DIALOGIC SPACES THAT EMBRACE MARKET ACTORS & THE COMPLEXITIES OF TRAUMA

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INTRODUCTION

Part III considered the myriad of justifications people gave as their reasons for holding on or letting go to the SNCF conflict and retribution, more generally. Part II examined the transitional justice practices and forums through which people deliberated and continue to deliberate the question of SNCF’s accountability and liability. These spaces included legal offices, state legislatures, commemorative ceremonies, truth-seeking forums and public apologies. The processes may set a precedent for other culpable market actors beyond the Holocaust and highlights some of the challenges of corporate actors trying to right an undoable harm in diasporic communities.

Most survivors spent their lives not pursing restitution but focusing on daily life challenges; sick children, career demands, financial concerns, etc. Holding on to a train could only be a distraction from the pressing demands of the day and yet, for many, those
early days cannot be forgotten. Memories return in retirement and creep in after midnight. Interviewees letting go of the trains urged us all to please turn our attention to the atrocities occurring today. They ask, what about the children in Syria?

Part IV considers what kinds of dialogic spaces would both honor the challenges of working with irreparable harm, allowing those still grappling with the SNCF conflict to be heard, and creating a forum to discuss the role of market actors more generally. The legal and legislative processes, discussed in Part II, demonstrated the necessity and limitations of these forums. These forums are dependent on a victim-perpetrator divide and driven forward by a need for a resolution, decision, ruling or vote. They keep the narratives thin and the company trapped in a blame cycle (Minow 1999) and double-bind (Sluzki 1976). At the same time, trials provide vital social markers of harms committed; legal forums make perpetration visible.

Justice professionals have a job to do, a mission to complete. They seek and enact justice and in doing so can place a kind of order on and create a language for what was previously unutterable or simply too chaotic for words. This impacts the framing of the conflict and cuts off various possibilities and many perspectives, many of which were shared in Part III. The French have two terms for the impact of one’s professional training on how one engages in the world, inclination professionelle, or the more critical deformation professionelle, meaning one’s professional training impacts how one

\[414\] Deformation professionelle can mean not only having one’s professional training impact one’s view of the world, it can also mean using one’s expertise in a way that might not be ethical. I am focusing more on the unconscious impact of training, rather than a conscious manipulation.
engages with the world. In the SNCF conflict, experts facilitated and framed discussions; they moved the media and swayed public opinion. Their efforts led to big settlements and often overly simplified survivors’ perspectives in the name of larger justice and it marginalized more moderate views. This generated an impression that all survivors supported the battle against the company and any settlement reached would meet the needs of all survivors. Interviews suggested neither was true. This final portion of the dissertation engages more deeply with the question of what kinds of spaces would help transitional justice professionals and those in post-conflict contexts engage with market actors while honoring the ironic challenges of healing trauma and the singular focus on trains to prevent present and future harm.\textsuperscript{415} Then the final portion of this dissertation discusses which current spaces could make the greatest potential contribution to the SNCF conflict specifically and then conflict involving market actors in other conflicts.

\textsuperscript{415} The singularity of focus problem refers to the argument throughout that focusing on one market actor to prevent the infractions of future corporations does not necessarily occur. Focusing on the SNCF seems to have led to only more focus on the SNCF; Part II demonstrated how none of the legislative bills or legislators interviewed seemed interested in broadening the discussion. As a result, at times the conflict appeared more like a singular vendetta against the SNCF in the name of larger justice.
CHAPTER THIRTEEN
POWERFUL DIALOGIC SPACES FOR POST ATROCITY WORK

The temptation here was to take a normative stance on dialogic spaces, distinguishing good spaces for discussion from bad ones. Doing so, however, would simply recreate the binary framework this dissertation wishes to upend; defining good and bad spaces may be no better than separating victims and perpetrators. Instead I argue that the spaces must be workable and cannot be so when the lack marginalized voices, legitimize only certain ways of speaking and are action or completion oriented. To describe these workable spaces, this discussion builds on the public sphere scholarship produced by Habermas (1991), Fraser (2007), and Arendt (1998) in way that would allow this sphere to more fully engage (and define) the affected in post-atrocity conflicts—especially those involving market actors. This section provides a brief introduction to the work of these theorists regarding the public sphere and then picks up where they us dangling in the SNCF conflict.

In *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, Habermas sang the praises of the London café culture where individuals gathered to share political concerns in an environment that disregarded status and promoted inclusivity. He laments how consumerism caused people to retreat from the public sphere and make decisions not based on collective engagement, but rather
on mass media promotion. (1991) In *The Human Condition*, Arendt also noted the retreat from the public life (*res publica*), similarly lamenting the retreat into the private self where one could only achieve independents but never power. When individuals relinquish their public voice and power, this allows space for tyranny to emerge. (1998) Nora observes this shift in the context of memory sites, arguing that we engage so deeply with *lieux de mémoire* because we no longer have *milieux de mémoire*. (1989) By this he means, we no longer have discursive spaces in which to deliberate these atrocities of the past. He believes this happens as the people impacted by the events pass away.

To the forces of consumerism, an increased sense of individualism, and the passing away of victims, Fraser adds the dissolution of the Westphalian state as a reason for the dissolution of the public sphere. (2007) She focuses on the challenges of *legitimacy* and *efficacy* of the remaining public spheres in what she calls the transnational, or diasporic, public sphere. With the increasingly transnational nature of business, identity, and communication, she questions whether a “transnational public sphere” is an oxymoron. If no bounded community remains how can a space be both legitimate and efficacious?

This section seeks within the SNCF conflict, and other post-conflict contexts involving market actors, of what Fraser calls “emancipatory political possibilities.” (2007:8) The question remains, emancipation from what? The spaces missing from the SNCF conflict are those that extend beyond binary frameworks and simplified narratives about the past. Using Fraser’s evaluative framework of *legitimacy* and *efficacy*, Part IV
now explores the attributes of more workable spaces in the public sphere in general and for the SNCF and related conflicts specifically.

**Legitimate public spaces: inclusive of stories not people**

Fraser harkens back to Habermas’ model of public spheres that considered spaces workable if they included “all affected.” In a transnational world, she argues this group becomes far more nebulous; if all affected transcends national borders how could everyone be included? This proves a challenge for the SNCF as well—the company seems unable to reach much of the diaspora in the United States. To address this conundrum posed by transnationality, this section promotes the inclusion of *stories* or narratives rather than an inclusion of *individuals*. Contemporary legitimate spaces would make transparent the politics of the circulating narratives, enabling participants to better identify narratives present and absent from the discussion. Eliciting perspectives present and missing (via prompting questions) proves far more feasible and ideally contributive than trying to invite every impacted environment.

**Making politics visible**

Harré’s positioning theory offers a relational paradigm to reveal dimensions of power and politics. Positioning theory helps make power dynamics and discursive constraints visible in an apolitical way; narrative theory contributes by making “social processes visible” (Büthe 2002) and showing how these processes are, “politically situated.” (Briggs 2001) These theories trace lines of power determining who speaks, when, how, who listens and the meaning of silence. Better dialogic spaces would
reorganize power dynamics and challenge many of the existing political and social dynamics constraining existing conversations.

This theory could be used to evaluate the quality of dialogic spaces. Positioning theory also helps identify the ways in which various positions, “constrain what one may meaningfully say or do.” (Harré 1991) Certain positions, say that of prosecuting attorney, are not designed to acknowledge the legitimacy of a counter narrative. These experts are trained to prove any counter argument wrong. The SNCF has its own narrative constraints; Boltanski refers to the institutional discourses embodied by individuals who justify the existence of those institutions and the ethos that runs through them. (2011) The power of the SNCF professional family ethos has been raised several times throughout this dissertation.

**Politics of SNCF conflict**

In the SNCF conflict, the geography and age of those impacted make the presence of “all affected” people impossible. Furthermore the politics of exclusion due to geography, age, or other factors were rarely made visible during the debates. The SNCF’s colloquium in 2000, remember, only included a litany of SNCF employees and historians—only four survivors attended, likely no more were invited. Organizers and participants neither addressed this absence nor imagined what perspectives these absentee victims and descendants carried. Survivors found themselves excluded in other ways; so few survivors in France knew of the SNCF’s commemorative contributions, the conversation about accountability seemed to occur principally between the SNCF and the French Jewish leadership. This dissertation sought to broaden the discussion in France by
adding the survivor voices not included in these forums and back into conversation. As noted in Part I, this effort is can only ever be a partial response to missing narratives. Firstly, all narratives cannot be found and all stories have been filtered through my own understanding and interpretation. In this way, nothing could arrive in its totality or in its completeness.

This dissertation, however, does not promote closure or completeness in post-conflict work. Survivors have made clear this approach would betray their experience of tyranny; furthermore, only a tyrannical perspective would rob future generations of the opportunity to reflect and revisit the past. Scholars Pearce and Littlejohn concur arguing highest-level discussions require that the spaces be philosophical, comparative, dialogic, critical and transformative. These spaces, they say, would allow for a transcendent eloquence, whereby the environment, “attempts to move the debate from statements designed to convince to statements designed to explore.” (Pearce, Littlejohn 1997: 160)

Adding to this, these contributive public spheres legitimize different voices and perspectives.

Cobb cites Rancière to remind us that diversity of attendance alone is not enough. (2003) Speaking as to be heard and thereby made legitimate in the public sphere; for Fraser, attendance alone served as a benchmark for legitimacy. This dissertation argues that spaces allowing for richer dialogues require dominant voices, counter narratives and marginalized non-stories; they also need to be organized in a way that validates different ways of communicating. The 2000 colloquium, for example, cut off survivor Kurt Schaechter’s commentary because the tone and nature of the commentary did not
resonate with the formal nature of the program. Another survivor was challenged because a historian said the dates in her testimony could not have been correct, sidelining the entire message and overall meaning of her comment. The Maryland State Hearings did provide space for some variety for survivors, though cut off and berated the SNCF. In adequate public spheres all parties would need to be heard and their commentary legitimized.

**Public spheres: new spaces to discuss perpetration and loss**

Providing a richer narrative landscape requires locating remote stories (or perspectives) and elaborating difficult for victims to identify and articulate. Therefore these more workable public spheres might need to work to upend destructive silences created by violence, allowing “for the creation of space in which to discuss trauma and loss.” (Sweetman 2009: 88) In Lara’s *Narrating Evil: A Postmetaphysical Theory of Reflective Judgment*, she considers the nature of silence violence creates and how that silence makes it difficult to articulate the source of the pain. (2007) The legislative space allowed a number of the survivors to express their losses, making speeches and using props to make their point.

In addition to the difficulty of articulating perspectives of loss (Part II demonstrated the years of silence many experienced), these spaces would engage participants more deeply in the people and dynamics that caused or carried out persecution. If prevention requires an understanding of causes, then the public sphere invite articulation and exploration of the Other enacting the suffering or at least the
dynamics that perpetuate it. Hinton reflects on the importance of elaborating an understanding of the forces that persecute,

Genocide is something that only other sorts of beings (savages and sociopaths) would do, an atavism or, to use the language of the 1948 UN Convention on the Prevention and Punishment of Genocide, an “odious scourge” that is to be “condemned by the civilized world,” which by implication, would never commit such acts. But as we now know, genocide is closely bound with modernity and civilization and, as the Milgram and Zimbardo experiments so clearly revealed, perpetrators are usually much more “normal” than we’d like to think. (Hinton 2013: 155)

Spaces that move the discussion beyond the question of the SNCF specifically may take on civilization, modernity, habitus and corporate ethos generally as well as today’s SNCF executives.

**Dialogic spaces for transnational actors in local context**

The transnational nature of this conflict and of the public sphere generally makes inclusion more challenging and politics more difficult to identify. The French legal system operates differently than the U.S. legal system and the Jewish leadership has different relationships with the communities in each. At the same time, in this conflict, these differences are not necessarily problematic. Fraser defines “all affected” not by nation but via “co-imbrication in a common set of structures and/or institutions that affect their lives;” (2007: 22) in other words, those with a shared habitus. The conflict manifests differently in different contexts and rather than being problematic, this simply points to distinct spheres in which people, locally and nationally, process the past. Those working in transitional justice ideally explore the variety of spaces, just as they would seek narratives and adapt responses appropriate to the context. In response to Fraser,
globalization has not washed away difference; we simply see difference more clearly on the local level because of the decentralization of the state.

**Effectiveness: a poor benchmark for success**

The findings of this research challenge Fraser, Habermas, and Benhabib’s claim that the public sphere must be *efficacious*, in the sense of leading to political action, in order to contribute to the flourishing of democracy, or at least the prevention of tyranny.

Benhabib states,

> A town hall or city square where people do not “act in concert” is not a public space, likewise a private dining room in which people gather to hear a *samizdat* or in which dissidents meet with foreigners can become a public space; a field or a forest can also become public spaces if they are the object and the location of an “action in concern.” What constitutes these diverse topographies into public spaces is the presence of common action. (Benhabib 1994: 129)

Such action-oriented approaches can reinstate the very frameworks many interviewees asked that we upend. “Why do you Americans polarize conflicts in this way?” asked Erwin, a survivor living in France who found himself crammed into a cattle car and struggling through Auschwitz at age eleven. He could not understand why the debates had to instill such simplified and frozen positions. While action may be an outcome of public discourse, making action the purpose creates a *telos* that warps other purposes. Any kind of *teleology* bares the risk of thinning discussion and throwing participants back into a binary framework. To engage in much political action often requires taking sides and taking sides can obliterate the emancipatory or deepening potential of such spaces. If people in the public sphere are deliberating in order to communicate a message in the political arena, they must simplify their narrative to something as basic as, “the
SNCF is bad and must pay.” With this goal to streamline the message, participants maybe less likely to enter the *habitus* of the times as introduced in Part I or consider the broader ways in which corporate actors engage in conflict and post-conflict environments. Rather than consensus, this model promotes deepening and broadening understanding. The discussion thus far addresses the broad components needed for a public forum to move beyond the limitations of the spaces used to discuss the SNCF conflict (e.g. the binary framework for victims and perpetrators, constrained ways of speaking). This now turns, to some of the more specific, tactile qualities of these spaces. Where are they? What could they be? Where could they occur?

**Workable dialogic spaces for the SNCF discussion**

This dissertation takes the position that spaces must be workable through the inclusion of broad range of perspectives even if the individuals cannot all be present. Oldenburg however takes a more normative stance. In *The Great Good Place*, Oldenburg argues these “good” spaces need not be formal to be important. Even coffee shop discussions can upend the world. He reminds readers,

> It’s not difficult to understand why coffeehouses came under attack by government leaders in England, in Scandinavia and in Saudi Arabia at various points in history….It was in these coffeehouses where people congregated and often, in their discussions, found fault with the countries’ rules. (1997: XXIV)

Habermas agreed; he lauded the London cafés where many of these public forums occurred. Discursive spaces, even informal ones, can become powerful political tools.

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416 The French are very familiar with the power of the café. This ought to resonate in relation to this conflict. Perhaps the fact that America lacks this café culture even contributes to the polarizing and venomous nature of the conflict.
The following describes some of the vehicles through which victims debate their experiences, some workable forums for the SNCF debates, and some spheres that could elicit narratives and engage perspectives in new and powerful ways.

**Storytelling**

**A powerful space for victim voices**

**Storytelling: history books, memoirs and fiction**

Diverse historical works as well as memoirs and fictional renditions of history represent an area in which survivors and their descendants have been able to grapple with their own stories and some of the more ambiguous questions about the past and about complicity inclusively. Participating in the writing of history further legitimizes victims and their experiences. History books can update knowledge as well as upend power structures. So too can memoirs when the world accepts their less linear format as valid. Fiction and non-fiction stories legitimize less partisan and linear ways of speaking. This speaks to Rancière’s desire that different forms of speaking are heard; stories can do this. Minow observes the power and limitations of stories when she writes,

> Stories disrupt the rationalizing, generalizing modes of analysis with a reminder of human beings and their feelings, quirky developments, and textured vitality. Stories are weak against the imperializing modes of analysis that seek general and universal applications, but their weakness is a story to be emulated. (1996: 36)

Arendt supports storytelling as a response to trauma caused by tyranny. Arendt claims that the immense bureaucratic mechanisms that created the conditions for and carried out the Final Solution ought not be analyzed with the cool rationality that allowed its manifestation. Responding to such an atrocity requires an entirely different medium outside of bureaucratic structures. Storytelling, which she likened to pearl diving,
provided not only a response, but also a mode political theory in a post-totalitarian society. (Benhabib 1994) Through storytelling we could experience the Holocaust as an aberration rather than an explainable outgrowth of various conditions. (Minow 1996) Through storytelling, Arendt believed, people could truly think anew and create new possibilities. Stories, often as disorganized as the world that created them, can therefore be more resonant with those who survived. Furthermore, a rational approach cannot unhook the fibers that created the conditions for these crimes against humanity, “social science rationality could treat horrors of concentration camps as capable of being explained and accepted by reference to prior events, rather than radical departures that require a sense of rupture.” (Minow 1996: 33) Narrative spaces for deliberation ideally mark these places of social and individual moral rupture.

Extra-legal, new dialogic spaces, and in some small way this dissertation hopes to allow others access more nuanced understanding of atrocity, the impact it creates and hopefully some solutions for future victims and/or prevention. Ideally these two forms can exist in tandem. For example, as shown earlier, criminal law can give voice but struggles to address the murky area of complicity. Stories, however, move freely in relation to complicity. Like water, stories can wrap themselves around even the tiniest detail and complexity, describing and becoming the terrain without having to organize it. Stories are freed from the bounds of rational space and can flow uninterrupted in the face of ironies, hypocrisy, and historical inaccuracy. Their ability to change their form, shape, and color in less than a second makes them also like cephalopods. As a result, they can provide a fiction that may help us face the truth far better than truth seeking spaces.
Stories thrive on their bumps and protrusions, where as rationality tries to smooth them out. Minow accuses these smoothing methods as “risking not only making this mistake but hiding [the truth] from view.” (1999: 35)

The hundreds of thousands of memoirs, recorded interviews, and talks given to groups allow access to some of these stories, though the formation of a testimony genre sometimes waters down the stories or forces them along certain accepted lines. Storytelling can impose a kind of logic on past events that may not have existed. Anyone who has tried explaining a disjointed dream knows the futile effort of trying making sense of what one has seen or experienced and the linkages added to help the audience follow along. Stories have the same problems as history as discussed in Part I. Stories are always told as farce, the teller knows how it ends and the ending pulls the narrative, drawing inevitability on the wisdom one has gained since the time of the events. Survivor narratives,

Simultaneously represent narrative events, the discursive setting of their telling, and narrated events, the words and actions that they relate. Connecting events that are separated in time and often space involves an active social process of extracting discourse from one setting and inserting it into a new setting. (Briggs 1996: 22)

Brigitte French responds to this potential complication of testimony by encouraging,

A discourse-centered approach that would pay close attention to the techniques by which testimonies are collected and would self-consciously attend to documenting the ways that narratives are transformed in the process. (2009: 100) This would be delicate work and also assumes that narrative evolution is always wrong or a negative. People, however, understanding of what happened to them changes over time—even if they still do not explain why it all happened. As a result, David,
whose family escaped France in 1942, says laughing over the phone, “Jews tend to write a lot of books.” After fifty-plus years of silence people have a great deal to say.

Memoirs can mean a great deal to people. Albert’s son called me from Albert’s hospital room. He had fallen ill and wanted to know if I could help him find a publisher for his survivor memoir and his wife’s survivor memoir; she had died about nine months prior. Releasing the stories to the world can be a dying wish. A number of survivors speak to school groups as a way of making their stories public and allowing them to do social work. Paul said from his Florida home during a phone interview, “My wife and I give a lot of presentations in schools and houses of worship. It’s my way of giving back…for being alive.” Those who did not experience the Holocaust cannot tell a personal story; they can either help others or work through fiction. Fiction can provide a powerful means for the second generation and beyond to grapple with the past from a modern perspective.

**Survivors talk about memoirs**

Ida and Herman, married and both born after the war, had parents who suffered greatly in the persecutions; Ida’s mom survived slave labor and Herman’s mother lost all her family possessions. Even as a couple, they say, they did not discuss their experience until 2002. Neither of their parents spoke about their own experiences even after the war. “At that time,” Herman explains, “you didn’t ask questions.”

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417 I met with this couple in their home in Paris. They were very eager to help. Ida went to the Shoah museum to research my own family, finding that a Federman family lived in the same building as her family. She found pictures of them in a shoebox under her bed and their phone number in her mother’s old address book. August 11, 2014.
parents’ death and their own retirement caused them to reflect more on the past. Sofia, their granddaughter regrets she cannot ask questions of her grandparents; she was only five when they died. Ida now thinks, “Every Jew must write a book.”

For a number of survivors writing memoirs and speaking to students or others became their vehicle for speaking. Clara lost both parents on Convoy 58 and came to America at age fourteen. When asked when she began talking she said, “Oh, not for a long time. I had to heal.” Says she did not really start talking for sixty years until the woman who owns the Holocaust museum near her home urged her to tell her story. So she started writing and speaking about it. Her kids, she said, were surprised all that had happened to her. They knew her parents had been arrested but not the whole story.

This is not so unusual, Bernice, who survived the death camps, only completed her memoir recently. She and her husband now live in Los Angeles and have donated over $1,000,000 to the Holocaust museum there. She had survived several death camps and death marches, but had spoken little about her experiences. She explained how she enrolled in an autobiography class for three years to learn how to tell her story. The resulting document shocked her children, who knew nothing about her experience in the camps. She said she did not want them growing up thinking they were different or part of that history; she wanted them to be free of that past. Now as adults they had to integrate a tremendous amount of new knowledge. One can only imagine the impact of such new

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418 She told me this story in line at the U.S. Capitol where we waited to get into the Holocaust Remembrance Day Ceremony. April 30, 2014.
information on her children. Not having been through the experience, many of the second
generation prefer to engage in the construction of historical fiction.

**Fiction as a response to binary models of justice**

*Un Village Français,* a popular French television program about a small town
during the war, embeds audiences in the shifting seas of collaboration and resistance.
Someone might courageously protect a neighbor escape on Tuesday but turn another on
Wednesday to protect their own family or secure access to scarce resources. Few
characters emerge completely heroic or cowardly. Except for survivors who find it too
difficult to watch, many French like the program because it embraces the complexities of
the period of occupation. Memoirs, historical fiction and even works like Art
Spiegelman’s *Maus* can create different forums for working out the complexities of
participation and complicity. *Maus* uses cats and mice to discuss the Holocaust and in
doing so offers a new frame through which to consider perpetration and victimhood. Not
bound to the rules of law or the necessities of conclusion, fiction or at least the arts can
incite more nuanced dialogue.

Fiction also facilities “what if?” dialogues. Through rewriting the past, people can
consider different ways of acting today when faced with moral dilemmas. Jacques, who
teaches on Holocaust and the Law, believed such a “what if” dialogue could have
transformed the trajectory of the conflict. Regarding the SNCF conflict he says,

> It would make sense for the French railroad authorities and for the union to talk
about what really happened. To say what they could have done differently. Just as
the Vichy government could have done things differently. And there could be
some discussion of certain people individually that could have done something
differently. This could have led to something different in the U.S. response.

(2014)
Other “what if” or open-ended dialogues also could explore wartime SNCF President Pierre Eugène Fournier’s role as the head of SCAP, a government division tasked with the ayranization of businesses. A questioning of what Fournier could have done differently raises the question, in a well-designed discussion, of what everyone could do differently in daily life. Some of the spaces in which the SNCF is discussed seemed to have potential to go further.

**Workable existing spaces for the SNCF Conflict**

Some discursive spaces regarding SNCF’s role in the deportations have been less divisive. In France, SNCF executives say, increasingly dialogues occur between the company and the survivors—not just between the elite Jewish leadership and the company. In 2014, SNCF CEO Guillaume Pepy, sat with five professional survivors at a commemorative event; all five worked as professional historians and therefore had public selves that related to the Holocaust as well as private ones. During this event, the survivors confessed a personal pain to Pepy, reflecting how at the end of life one thinks more about what happened. (Emsellem 2014) These kinds of intimate dialogues between the company’s lead representative and survivors, albeit professional and elite ones, creates a space in which one can be intimately touched.

Sometimes such moves do not involve survivors, but work symbolically. For example, SNCF Chairman Pepy’s visit with Shoah Foundation representatives visited Auschwitz on a little publicized trip to have a better understanding of the atrocities that occurred and to pay his respects.
Survivor groups

Survivor groups could become sites or at least resources for more workable public dialogues. Because some survivors speak publically to adults and school children, there may be a misconception that we have heard their stories. Accessing the more nuanced stories behind survivors’ practiced testimonies required finding where these conversations already existed. Survivor groups tend to be a site where people share their stories; regularly people come together to chat, eat brunch, talk about their memories, and make new discoveries about the past. Sometimes they discuss problems of the present day. They also share information about restitution programs, commemorative events and available archives.

Some survivor members said they feel more comfortable talking with others who have been through a similar suffering; for this reason, they close some groups to non-survivors. (Outsiders often require permission to visit) In these contexts, members feel less pressured to perform for the public or have their story inspire others as they do when speaking at schools or at other events. Access to these spaces private survivor spaces is precious and earned and the content sometimes surprising. When survivors speak “off the record” some fascinating material emerges, some of which fills the pages of Part III.

These sites of marginalized discourse however, have their complications and politics. Anna says she and her sister, who lost their brothers and father, attended a hidden children meeting in Manhattan in the 1980s.\footnote{Discussed during a phone interview. April 25, 2014.} About the meeting she said,
I heard such horror stories. Then it was my turn to speak; my story wasn’t so bad. I felt guilty. When you heard...someone was thrown off a train and didn’t know who his parents are...My mother put me on a farm, the people treated me well. I ate fairly well. I wasn’t miserable. I missed my mother and sister.

The status earned by degrees suffering upends the equalizing tenor that Habermas applauded in the public spheres he observed in London’s cafés. Michael similarly criticized his group for being a site of exclusion adding that it appeared a place for neuroses to meet rather than meaningful discussion. Michael, separated from his parents, escaped to the United States and soon found himself drafted into the U.S. army en route to the Battle of the Bulge and the liberation the Buchenwald concentration camp. He explained how he had wanted to bring his U.S. born wife to a survivor meeting. The group said no because she had not gone through hell. He said he left after only three meetings and suggested instead of seeking new members, the group really ought to be seeking a psychologist. A number of survivors, in addition to Michael and Anna, discussed the politics of victimization. These survivor groups can be simultaneously spaces of exclusion and sites of important extralegal discussions, providing insight into survivor needs over time.

Today, some of theses groups liberate themselves from the grip of the past by discussing modern as well as historical issues. Today’s anti-Semitism today has been a growing concern. I watched as survivors from multiple countries struggled with the Europe’s resurgence of anti-Semitism. Many became quite distraught during the conversation; others became angry or resigned. The problem seemed so baffling and hard for them to address. In spite of the survivorship and seven decades to ponder their persecution most interviewed say they remain bewildered by anti-Semitism.
I presented the SNCF conflict to a survivor group in Maryland, allowing them to access the debate in a new way. The presentation offered everyone a chance to consider and share his or her views. They seemed to enjoy the chance to think about it together. Before and after the presentation a number came to speak to me individually about some more nuanced perspectives. In these groups they can reflect on how macro-level decisions and discussions reverberate with them. Of course, this SNCF discussion did not include “all affected,” such as the SNCF, the lawyers, descendants, etc. As posited in the beginning of this section, however, the diasporic nature of affected normally makes this impossible. Instead, I led the discussion in a way that elaborated the different stories or perspectives that people have about the conflict. Together we brought the multiple viewpoints forward, even though all the individuals representing those viewpoints could not be in attendance. Through careful presentation and eliciting “non-present” viewpoints from participants a kind of inclusive public sphere can be created almost anywhere. This approach may be increasingly vital as transnationality continues to challenge remaining spaces.

To materially include different representatives, a second or third meeting could be organized with the company and those challenging the company to discuss together the questions of accountability and prevention. I suspect this survivor group might be moved to have the SNCF attend and to be able to discuss the issues together.

Social media

Habermas pointed to mass communication and its associated consumerism as a source of the retreat from the public sphere. (1991) Since Habermas’ publication, social
media emerged offering new possibilities for engagement in public life. Social media provides for diverse perspectives. Survivors—many of who demonstrate surprising adeptness with technology—lawyers, and others can add comments to on-line articles about the conflict. These allow for an on-going dialogue in which people can raise questions, correct misinformation, and express opinions not raised in the legislative and/or legal forums. While journalism has always offered the possibility of counter-narrative or at least a witness of formal proceedings, the advent of social media allows more people to participate in the dialogue. Journalism is no longer a bombardment medium, broadcasting information to passive recipients. Everyone can now be part of the story.

**Holocaust museums and commemorative sites**

These virtual spaces have not yet replaced the materiality of commemorative sites. A virtual dialogue can hardly capture the poignancy of standing where such acts, heroic or tragic, occurred. These sites and the centers dedicated to them provide opportunities for discussions. For visitors these sites can transform from *lieux de mémoire* into *lieux de milieux*, which Nora calls “the real environments of memory.”

(1989: 7) As victims age, Nora observes the rarity of such spaces to commune and

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420 In 2007, Fraser challenged Habermas’ encouragement that we look towards the controllers of mass communication to find our center; she insists we refocus on the questions of *legitimacy* and *efficacy* of these transnational spheres. Fraser’s critique however does not acknowledge this shift from the public as content receivers to content producers. This shift provides tremendous opportunity for both legitimacy and efficacy of dialogic spaces.

421 I worked around the world as an advertising executive for a decade. I spent time with agencies, media sales houses and advertisers helping them adapt to this shift from consumers as passive receivers of a message to content producers.
discuss the past. One Holocaust studies center is responding to this challenge by considering how to use holograms of survivors to whom visitors can ask questions. James Young, professor of English and Judaic studies at the University of Massachusetts Amherst argues against such an approach, saying, “It ends up being like a fictionalization technique…It's like creating a survivor. There is something robotic about it.” (Bendavid 2013)

Regardless, to stay relevant Holocaust museums need to adapt to the soon absence of survivors and a modern world engaged in its own problems. The United States Holocaust Memorial Museum (USHMM) has begun to become a more dialogic space to discuss justice modern issues. It now offers rotating exhibits on other genocides but these exhibits rarely discuss the complicated needs that such trauma creates. The permanent exhibition ends with a declaration of never again, but not what to do about what happened. The museum occasionally uses its theater space for presentations related to present-day issues. In November 2014, the museum held a closed benefit night for corporate attendees to raise money and, to discuss the role of corporations in mass atrocity. Professor Peter Hayes presented the role of German businesses during the war. As a historian, however, he said he “only predicts the past” and cannot answer questions about what companies do, do not do or could do today. The attendees expressed a desire to be able to more fully discuss these questions. This suggests more open spaces for discussion will be needed and are of interest to many in the D.C. area.422

422 I was contacted by several programs directors of the museum interested in attending the defense of this dissertation. I asked, alternatively, if they would support me engaging
Scholarship

As demonstrated by this dissertation, scholarship provides another space for more in-depth discussions. Through research I could seek out marginalized perspectives and bring them into dialogue with the dominant discourse. The privileged position of scholar enabled me to talk to over 100 people involved in the conflict, many of whom because cannot or will not talk to one another because of the lawsuit. As a scholar, I became kind of a needle, able to move between and thread the groups. I had access to the State Department, SNCF senior executives, lead litigants, lawyers, lobbyists and many others. Engaging in academic presentations around the world during this research allowed me to bounce ideas and findings off of other scholars, gaining feedback for myself and engaging them with the complexities. University students situated outside the conflict could also weigh in and grapple on the variety of issues presented in this dissertation. The scholarship that reached across the ocean and took roughly four years became itself a kind of living dialogic space in which the conflict could move and breathe differently.

The final presentation of my masters’ thesis in Paris included twenty-five people, three of whom were renowned Vichy scholars, two SNCF employees, other academics, community members and friends. The scholarship and its presentations became a response to the limited frameworks of victim-perpetrator I was witnessing in the courts, legislature and media. I hope the dissertation defense will offer me another opportunity to bring groups together. Universities are still precious sites for exploration and dialogue.

affected parties in their museum after the defense with both a presentation and a community dialogue. They said they do not host academic presentations but pointed me towards some of their scholarship programs that might be able to help.
The question now remains how to move this discussion off these pages and into the world before these survivors perish.
CHAPTER FOURTEEN

POTENTIAL DIALOGIC SPHERES TO DELIBERATE THE SNCF

TRAIN: “games” to discuss the Holocaust

Scholarship enabled me to explore some of the more abstract ways in which dialogues could occur. I travelled, for example, to the University of Santa Clara’s game department to meet the creator of a Holocaust “game.” In 2009, game developer Brenda (Braithwaite) Romero completed TRAIN. Romero’s creation draws people into the complexities of the complicity of the position of train drivers during the war. The experience of her “game” is so haunting, many people challenge whether game is the right word. TRAIN engages participants, who originally did not know the game was about the Holocaust in the structures and momentum of the Nazi bureaucracy. The game thrives on our innate desire to succeed even when the endpoint remains ambiguous.

The following describes the experience and the power of TRAIN as well as how this could be used to deepen discussions around the SNCF conflict. The “board” has three railcars, dice, rules, and game cards. Players role the die, move their train and pick a card. The goal of the game is to fill your railcar with as many yellow people and arrive at the

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423 I spent a day with Romero at Santa Clara University in California. She talked to me about the game’s construction, allowed me to play it with her students; she and I lunched and then discussed her newest game about the Native American genocide.
end of the track first. Each yellow person represents 10,000 people. Players do not know until they reach the end of the railway line end of the game the ultimate destination of their train—always one of the death camps.
The board itself is rife with symbolism. Romero places glass on only one side of the tracks to demonstrate that, for a long time, there was only one side to the story. This highlights the game’s role in incorporating a broader perspective and therefore resonates with the work of transparency efforts as well as promoting spaces where more sides can be told. The rules, printed on animal skin, sit next to an SS typewriter.
The people are painted yellow, the color of the Jewish star, the broken glass represents Kristallnacht one of the most substantial attack on Jews in Germany, and train cars represented the trains used for deportation. Yet, she said, many early participants did not recognize the symbols or understand the intention of the activity. The name TRAIN has two meanings, Romero explains. The first refers to the obvious goal of the game- move trains. The second, however, refers to the ways in which the game’s rules train people to
become Nazis. In sum, the players become Nazis. The rules say, “The game is over when it is declared over;” therefore players decide the duration of the genocide. Once players learn that their train arrived at a death camp, do they keep playing? Romero said only two times did the game continue after people discovered the destination and in both cases she had to stop it. She had a couple cases of sick players who decided they wanted to win by killing as many Jews as possible; she immediately interrupted. Everyone else stopped immediately.

**A game to create dialogic spaces**

To the best of its ability, TRAIN places people in the *habitus* of the times, allowing them to experience the ways in which the Nazis organized an orderly genocide. This speaks to the conundrum addressed in Chapter Three regard the problem of studying history knowing how the story ends; Romero’s game works to disguise that end and place individuals in the context. In doing so, people not only consider other perspectives, they have the opportunity to embody them.

Two students in the university’s gaming program played the game with me during my visit. Even though I knew the point of the game and used every strategy possible to derail the trains taking the deportees to various death camps, I failed, feeling physically sick when my competitor successfully brought 1,000,000 to Auschwitz. Players sit next to the typewriter and must often refer to the rules, while stated firmly, remain purposefully vague. They are clear enough to get the job done, but just obtuse enough to allow players to advance the cause themselves, further enrolling them in the project. Romero says she spent extensive time crafting this wording. When players debate the
rules, Romero calls this “rules lawyering.” She says, in referring to the document everyone allows the game to rule him or her and then begin to enforce these rules on each other. Much of the Holocaust likely worked this way; people policed each other into order.

**TRAIN: designed to enrich dialogue**

Romero’s game can be used to spark important discussions, though she says change the world was not her intent. In this way, her game lacks the teleology this dissertation argues can be destructive to the experience. By giving people an experience of being enrolled in the rules and enrolling others, Romero helps us examine perpetration during the Holocaust and the ways in which lawyer one another today. While Romero presented the game at a “Games for Change” conference she says that she feels the conference name does not match the intention of her work. She is not trying to change anything. She wants to tell stories and engage people in the subject matter. In her game the victim is clearly a victim, but the player must grapple with their assigned role as perpetrator. In this way, the exercise complicates the over simplification of many legal spaces. She also pushes back on the *efficacy* that concerns Fraser and Habermas. Efficacy is not Romero’s goal, but broadening and enriching our understanding and improving dialogue. Romero commented that while the military has been creating and working with simulations for years, they rarely engaging people in this level of dialogue. (Romero 2014)

Engaging those interested in the conflict could help change people’s perspectives or at least open new lines of dialogue. The absolute feeling of helpless I felt in watching
my competitor kill 1,000,000 was just an inkling of what many people felt during the war. Through this visceral experience, Romero’s game invites new perspectives developed on a cellular level; people move out of abstract thinking into embodied decision making. Her gift is allowing players to have the experience and think for themselves without public opinion.

**World Café**

Ideally engaging with such a game could be followed up with a World Café type dialogue. World Cafés bring people together in dialogue in a fast-paced way that changes rhythms of speaking and expands the dialogue in multiple perspectives. They are built on the theory that modern businesses and organizations increasingly have come to believe that wisdom is only acquired together. When working alone, we have the tendency to believe that humans are a “difficult, self-serving species and that we cannot trust each other.” (Wheatley 2005: viii) Wheatley believes that talking together breaks up this deep loneliness that contributes to distrust. Peter Senge, senior lecturer at the Massachusetts Institute of Technology and author of *The Fifth Discipline* promotes this style of speaking; “Café conversations are the most reliable way I have yet encountered for all of us to tap into collective creating.” (2005: 217)

Collective creating is not happening in the legislative hearings or in many of the dialogues between the SNCF and their opponents. The trials, hearings, and news reports seem to only prove to reinforce beliefs that all are self-serving, either motivated by financial gain or self-righteousness. Wheatley says that these cafes open up a deeper longing of the conflict participants, “I believe the underlying purpose of the World Café
is to let loose the true desires of the larger whole.” (2005: 220) No one working on the SNCF conflict wants the atrocities to occur again. I believe everyone involved in the conflict would like to help repair the harm created. Who knows what kinds of discussions such spaces might prompt? There is more connection between groups than the current framing makes visible. Engaging in TRAIN and/or a World Café could transform how the parties see one another and the questions worth discussing.

**Future public sphere: creating a new space for the SNCF debates**

SNCF executives, survivors, legislators, Holocaust scholars and others tell me they eagerly await the release of this dissertation. Instead of simply presenting the findings publicly, I would like to engage those in attendance in a dialogue about the conflict. My presentation has the opportunity to be the first place where many of these parties will be in the same room outside of the legislative hearings. Since there is no vote to be had and no prize to be won, an interesting space could be created. I would like to facilitate this discussion in a World Café format with a professional facilitator. The topic is still quite heated and much thought needs to go into the framing of the questions for discussion. Not much time remains for such an endeavor; my survivor friends are aging daily and often weakened by chemotherapy and other treatments. They are frail but passionate and wise resources for those interested in improving our post-conflict approaches. Engaging them with the SNCF, lawyers, legislators and others in an after-hours type environment could help honor the unpredictability of trauma, include market actors in the discussion and broaden the scope of the discussion beyond the SNCF.
The next section considers how to enrich dialogue within academia to similarly embrace the difficulties of working with trauma and engage market actors more broadly. The following presents scholarship from the corporate sector that can be resources for future conversations about how to improve the discursive spaces in which we deliberate accountability and trauma.

**Developing the intersection of**

*Transitional justice and Corporate Social Responsibility*

“I don’t think I believe corporations have ethical responsibility, but I do think all people do.”

- Peter Hayes, historian—German business in WWII

This dissertation opened with the premise that transitional justice efforts remain woefully incomplete if they ignore market actors, both as perpetrators and forces for peacebuilding. Sweetman observes that in the past corporate contributions have been “either ignored or even discouraged.” (Sweetman 2011: 2) He encourages us to ask, “how can businesses—both local and international—be utilized within peace building to help create more peaceful societies and resolve violent conflicts?” (2011:1)

This dissertation contributes to this discussion in several ways. Firstly, engaging corporate actors in peacebuilding requires engaging them in post-conflict processes. This can be transparency efforts, commemoration, apologies, as well as trials and
compensation dialogues. Corporate actors need to be theorized and positioned as active members of society; we cannot stop at individual perpetrators and state actors. Engaging with these actors does not mean simply burning them at the stake for their sins or their silent complicity. If transitional justice experts and peace builders can invite corporate representatives to the table, engaging them at all levels of victim services and social restructuring, many might be surprised by the willingness of these entities to engage. The SNCF conflict provided an example of a company that funded commemorative events, worked towards transparency and made public statements of regret. The company has invested tens of millions of dollars in Holocaust education and commemoration. Those working in post-conflict zones fresh out of conflict might find other ways of using that kind of investment; providing provisions for refugees, infrastructure for communication, participating in truth commissions and so on. Anywhere post-conflict work exists, businesses can arguably participate—they might even pay for lunch.

A reminder for those skeptical of the participation of businesses; most corporations, except perhaps those selling arms, thrive in peace not war. A skilled, healthy and educated labor force helps them thrive nationally and compete in international markets. As such, nonviolence and a thriving public serve corporate interests. Market actors provide jobs and infrastructure that can help a devastated community find its footing. Market actors are also future-oriented, which can help give people hope. Post-conflict experts can align their interests with those of market actors perhaps more easily than expected. This may require, however, couching transitional justice frameworks and goals in corporate terms. According to Sweetman,
It has been argued that when CSR [corporate social responsibility] and business operations are in conflict, decisions will be made from the business perspective. As a result, companies will only act so long as business and CSR are pushing in the same direction. (2011: 21)

Commission of European Communities in 2001 started to align their purpose with business interests in its paper entitled *Promoting a European Framework for Corporate Social Responsibility* stated the benefits of CSR include,

- a better working environment, which leads to a more committed and productive workforce or from efficient use of natural resources. In addition, indirect effects result from the growing attention of consumers and investors, which will increase their opportunities on the markets. Inversely there can sometimes be a negative impact on a company’s reputation due to criticism of business practices. This can affect the core assets of a company, such as its brands and image. (2001)

Through this statement, stressing the impact of a poor reputation on businesses, the Commission sought to motivate corporations to engage in such practices.

In 2003, the UN created a sub-commission on the Promotion and Protection of Human Rights that wrote and approved a resolution establishing human rights norms of transnational corporations and other businesses. John Ruggie drafted the UN Global Compact that invites corporations who agree to certain good business practices. In return, the Global Compact promises to share practical solutions across sectors important to stakeholders. The UN’s adoption of these principles and Harvard John F. Kennedy School of Government’s institutionalization of a CSR program under Ruggie has increased the field’s credibility and visibility. The following introduces some of the literature that provides an easy bridge between CSR and transitional justice.

**Wisdom from the corporate world**
Chapter Thirteen introduced corporate social responsibility (CSR) as a field that, if overlaid with transitional justice, could encourage the participation of corporations in post-conflict settings. This section discusses the potential contributions of scholarship from the business world, starting first with innovations in dialogic spaces and then discussing how CSR offers the opportunity to legitimize corporations as valuable social actors, acknowledging their importance and contribution while letting them know they cannot operate in a Hobbesian state of nature.

**Corporate Social Responsibility (CSR): leveraging economic intent**

The fit between CSR and transitional justice is a timely, not a forced, one. The fields share many overlapping goals, simply pursuing them in different contexts. Harvard’s Michael Porter, a leader in CSR, says that beyond supporting a healthy economy, business has the moral obligation and commitment to develop healthy long-term business/society relationships that promote sustainability, transparency, and increase dialogues with citizens and activists. (2006) Transitional justice shares many of these goals.

**The “corporate” in CSR**

The name “Corporate Social Responsibility” highlights the aspects of the field that may be of most interest to transitional justice. *Corporations* are legally created entities. The category can be expanded to include any number of economic actors, including elite and corrupt states when they act as businesses. As discussed in Chapter Four, the ICC and other criminal courts only handle natural persons, rather than legal
persons. This legal lacuna might need to be addressed for market actors to be fully enveloped in the field.

Issues of power and legal lacuna, however, allow many corporations to act without integrity should they wish to do so, “Many corporations, like states, have the resources and power both to perpetuate and to escape responsibility for abuse.” (Wells and Elias 2005: 142) From a legal standpoint, the Supreme Court’s April 2013 ruling on *Kiobel v. Royal Dutch Petroleum Co.* denied the use of the Alien Tort Statute to hold foreign corporations accountable for crimes against humanity even if the parent company resides in the United States. This has frustrated many human rights activists, looking for ways to ensure humane business practices. These issues also invite a greater intersection of corporate law and human rights which, according to Steinhardt,

> historically evolved in isolation from one another. In practice, the transnational corporation has remained relatively immune from effective international regulation of any variety, let alone the obligation to protect human rights, and human rights lawyers have traditionally considered governments - not private companies - to be the principle targets for concern. (Steinhardt 2005: 177)

Steinhardt sees these fields as operating according to separate norms and standards, human rights being governed by the rules of the public realm and corporations guided by the marketplace. CSR speaks to this perceived separation between the public and the marketplace.

**The “social” in CSR**

The use of *social* in CSR highlights an important conceptual gap in how the transitional justice field currently handles corporations. These businesses exist in the social world; they are the employers, the providers of material wealth, and they establish
norms that affect the lives of many individuals. CSR acknowledge the intersection of business and society in a way that could be of use to those interested in post-conflict. 

*Responsibility* may prove the most problematic because it suggests voluntary contribution whereas *accountability* reflects the price paid when in violation of norms or laws. 

(DeWinter 2013) Once a crime has been committed, transitional justice scholars may think it is too late for responsibility. The concept of responsibility at least positions corporations as a cooperative social actor rather than simply an unaccounted for criminal. For this reason alone, CSR may have something to offer transitional justice.

**The Genealogy of CSR: primed for human rights dialogues**

CSR, like transitional justice, formally began in the wake of WWII and now offers increasingly sophisticated frameworks that might be of interest to the field. After WWII, Bowen and Johnson’s “Social Responsibility of the Businessman” introduced the notion that business should improve American social and economic life basing his argument on Christian ethics. 

(Bowen 1953, Lee 2007) Until the late 1970s, the business community mocked corporate social responsibility, (Lydenberg 2005) including Milton Friedman who sharply dismissed the field as anti-free market. He claimed the concept placed an unfair burden on shareholders and executives. (Friedman 1962,1972) More than this, some believed CSR worked against corporations, “Milton Friedman among others has pointed out that social responsibility movements subvert the shareholder primacy principle.”(Steinhardt 2005: 213) Many agreed with Friedman that

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424 For transitional justice scholars concerned with the field’s neoliberal agenda, the concept’s Protestant and Puritan origins and normative framework, might be of concern.
CSR and most business ethics programs undercut the underpinnings of business. (Pegg 2003, Henderson 2001) In spite of these concerns, by the late-1990s, the term became ubiquitous. Scholars had succeeded in developing models that convincingly coupled profits with CSR. This peaked the interest of the business community, which was facing an increasingly savvy and vocal consumer base that now comments on everything from labor practices to the environmental impact of production. The development world also responded. The World Bank and UN authored CSR guidelines and dedicated departments to CSR. (Lee 2008) John Ruggie’s work contributed to the formulation of UN Global Compact; inviting businesses into human rights dialogues with the United Nations.\(^{425}\) (Bohoslavsky, Rulli: 2010)

**Using reputation risks as incentive**

CSR literature has proliferated beyond what this narrow introduction can fully present, so I will simply address several areas of special interest to the field of transitional justice. The increased coupling of CSR with corporate financial performance (CFP) could be important to those looking to gain leverage over companies operating in fragile post-conflict states. Threats to profit provide leverage in many Holocaust-related settlements. Eizenstat, for example, claims the French, German, Swiss, and Austrian banks settled WWII cases because shareholders found the case too costly, not because of conscience. (2009) For those wanting to play hardball with corporations, threaten their bottom line.

\(^{425}\) The Global Compact invites businesses to join the United Nations in its promotion of human rights. Companies agree to adhere to certain principles and then the UN lists the companies as part of the compact.
Transitional justice practices can also use reputation as leverage when working with corporations. Better understandings of reputation as a motivating factor could help practitioners skillfully include business in post-conflict processes. The SNCF has used lobbying and other means to improve its poor image in the United States. National and international press reports on its Holocaust history have severely challenged its reputation in the United States. This branding problem continues to vex and exhaust current executives who are wrapped up in the challenges of just competing in an international market. For public companies, poor reputations can impact stock prices. Sparr argues the Internet has created the ‘spotlight effect.’ People watch what companies do and hold them accountable for their actions impacting the behavior of companies. (1998)

However, it is far easier to improve a neutral reputation than to turnaround a tarnished one. The SNCF are learning this now in the United States; the momentum of a bad reputation, especially when it involves the Holocaust in the last remaining years in which survivors remain to speak is a difficult reputation to change. DeWinter offers an example of a company struggling to change a poor reputation. She highlights the security company, Blackwater, known for inciting conflicts with Iraqi citizens and murdering Iraqis. While the company has done much to change public perception, including various name changes, many refuse to forgive the company. (2013) (At this point in the conflict, a name change for the SNCF might not work either. To the contrary, it could worsen the company’s situation). A poor reputation can make the marketplace less hospitable at best, uninhabitable at worst. Reputation can have very real impacts on financial performance and has been increasingly used as a stick to prompt action. This has given the CSR field
some leverage over previously hesitant companies and could do the same for transitional justice practitioners.

**Boycotts as incentive**

Bad press often leads to organized or unorganized boycotts of a company. The legislation discussed in Chapter Five effectively attempted to boycott the SNCF in California, New York, Maryland, Virginia and Florida. In some cases, Reinisch says these boycotts have urged companies towards self-regulation,

Today [2005] we are witnessing a trend towards self-regulation, largely motivated by the efforts of the TNCs [Transnational Corporations] to escape the defensive position in which they found themselves after consumer boycotts and litigation. Many recent corporate codes of conduct have been adopted by TNCs themselves, frequently with the collaboration of NGOs. (2005:44)

In the SNCF conflict the threat of boycott arguably pushed France towards the December 2014, $60 million settlement. The question of self-regulation however is largely moot in this conflict as the SNCF is unlikely to ever again transport victims to their death.

**Less adversarial approach to corporate involvement**

This dissertation also promotes less adversarial means of engaging market actors with the understanding and appreciation that these actors could play a pivotal role in rebuilding and the prevention of future violence. This framework looks beyond settlements and restitution as the sole means of corporate engagement. New CSR models offer some tantalizing places to start. Jones and Porter advanced theories linking CSR and CFP through the now popularized stakeholder theory (Jones 1995) and the strategic philanthropy model. (Porter and Kramer 2006) These theories support, in the words of Harvard’s CSR Initiative, the “public contribution of private enterprise.” (Harvard 2013)
In this way, CSR considers the possibility that corporations can contribute more to society than their goods and services. While this framing avoids the question of how to handle atrocities once committed, transitional justice may benefit from positioning companies as potential public contributors rather than primarily as perpetrator or invisible player within the post-conflict setting. The current transitional justice conversations surrounding business may leave practitioners feeling they are trying to hold back giants with rubber bands or unravel hopelessly enormous knots of corruption. Natural synergies are possible by aligning CSR business interest models with the interests of peace, justice, truth and freedom. The SNCF’s involvement across diverse transitional justice platforms points to many ways a corporation could be involved. My dealings with the company – their openness to my contributing to the archives and interest in the findings of my research as well as their tenor overall makes me think they might be willing to work on other related projects. Perhaps they company’s efforts could turn towards the rising anti-Semitism in France and throughout Europe. Ironically, this target and long-accused avoider of responsibility might provide a meaningful role model to other companies finding themselves in a similar pickle.

Other CSR theories could also provide a better bridge between market actors and transitional justice practitioners. In 2002, Christine Parker advanced the idea of a democratically self-regulating “open corporation” as a means of advancing corporate accountability. This model promotes corporate independence while challenging the corporation to alter its internal norms and practices to ensure human outcomes. (2002) They can do this, she believes, through “the marriage of management, democracy and
Michael Porter agrees that corporate aims do not inherently work cross-wise to human rights. He argues that business has the moral obligation and commitment to develop healthy long-term business/society relationships that promote sustainability, transparency, and increase dialogues with citizens and activists. (2006)

These claims overlay nicely with the goals of transitional justice discussed in Chapter Two.

**Uniting scholarship: conundrums remain**

The questions of corporate personhood, determining levels of complicity and evaluating moral agency do not simply disappear by engaging these literatures. For Steinhardt, questions of moral agency remain central to the debate,

No one can be held responsible for acts beyond his or her control…a corporation cannot be held liable for a host government’s systemic violations of civil, political, and cultural rights, unless the corporation contributes to the violation… (Steinhardt 2005: 217)

In the case of the SNCF, the company clearly contributed to the violations and also had only a questionable amount of moral agency.

**The SNCF conflict: a good starting point to overlay CSR**

The SNCF saw the connection between the conflict and CSR when they assigned their Head of CSR to address the conflict. Additionally from a theoretical standpoint, the SNCF provides a good conflict for examining issues raised by bringing these fields together. Bernard Emsellem, head of CSR for the SNCF, said he has only received one call from a company interested in learning from the SNCF’s experience. He said he believes most companies consider the SNCF conflict too specific to their situation for any
larger lessons to be extracted of relevance to them. (2014) Though I suspect he will receive more calls in the future.

Some may argue that Holocaust-related cases are too ancient to be useful in advancing the field. “Oh it happened so long ago,” people tell me at cocktail parties when they hear about the conflict. The SNCF’s Holocaust roots, however, make it a perfect conflict to consider issues of accountability. The notion of corporate accountability for atrocity began with World War II market actors. Distinguished Nuremberg scholars, like Heller argue that accountability of legal persons (corporations) first began immediately after the war even though the U.S. Supreme Court’s claimed in the Kiobel decision that corporations had never been held accountable by any international human rights court. Heller and his colleagues pointed to the Allied Control Council, an international body operating in Germany after the war, which held corporations accountable. The work of this council led to the,

dissolution of corporations and the seizure of their assets. Indeed, even before the first Nuremberg trial began, the Allied Control Council had already dissolved a number of German corporations, including most prominently the world’s largest chemical corporation Interessengemeinschaft Farbenindustrie Aktiengesellschaft (“I.G. Farben”), and seized their assets.\(^{426}\)\(^{427}\) (Heller 2011)

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\(^{426}\) The brief was signed by a variety of Nuremberg scholars including, Omer Bartov, Michael Bayzler, Donald Bloxham, Lawrence Douglas, Hilary Earl, Hon. Bruce Einhorn, David Fraser, Sam Garkawe, Stanley A. Goldman, Gregory S. Gordon, Michael J. Kelly, Matthew Lippman, Michael Marrus, Fionnuala D. Ni Aolain, Kim Priemel, Cristoph Safferling, and Frederick Taylor.

\(^{427}\) I.G. Farben was disbanded for its role in the German war effort, not for its production of the Zyklon B gas used to kill Jews and other deportees.
Heller and his colleagues assert that the origins of corporate accountability actually reside in Holocaust-implicated companies. The SNCF conflict allows us to see how little or much the field has advanced since 1949 when the Council completed its work.

The conflict also provides an opportunity to face some complications of this overlay of fields, namely the question of corporate accountability versus responsibility. Transitional justice focuses on the aftermath of violence, so is primarily concerned with accountability for wrongs and then a promise to act differently in the future. For some of those fighting the SNCF today, the company missed its opportunity to be responsible and now must simply be accountable. Raul Hilberg may have agreed; were he and the railway workers still alive, Hilberg would hold them all accountable. Hilberg argued that these railway workers were “not mindless robots. As intelligent men they were capable of understanding the tenor of their time.” (1976: 71) Broch complicates this perspective, arguing that the sheer number of employees (an estimated 400,000) raises questions of how to handle the culpability of the masses. Broch points to the numerous scholars identified the powerful forces of “hierarchy, obedience, and personal advancement.” These include Detoev Peukert, Götz Aly, Suzanne Heim, Marc-Olivier Baruch, Wolfgang Seibel and Mary Fulbrook. (Broch 2014: 360-1) Questions of group accountability within the moral framework of an agency remain a much-debated subject. Marrus challenges the accountability Hilberg promoted, saying that it creates a slippery slope, "After the trains, people went on buses," Marrus says. He asks,

So are you going to sue the bus company? What about the postal service for notices sent to Jews during the War?...Anyone who showed any signs of independent activity, anyone who would not discharge the requirements of the Reich, was purged. (Toor 2014: 271)
Marrus claims the consequence of any deviance was death; the price proved too high to expect anyone to rebel. Others argue that the SNCF’s connection was simply more tenuous. In 2011, French radio journalist Hervé Gattegno says,

I don’t think we can say that SNCF as a company was any more associated with this atrocity than the American airline companies were with the 9/11 attack. And I don’t see why SNCF agents today should have to bare the burden of this terrible past. (SNCF 2012)

The public debate continues, providing on-going opportunity to discuss the issues, but how to do so in a way that honors the changing nature of harm and broadens the discussion beyond the SNCF’s past offenses.

**Innovative conversations: enriching the public sphere**

In addition to CSR, other interesting models have emerged from the business world that could contribute to post-conflict deliberations. Businesses are finding ever-new ways of creating more engaging and more productive dialogues. Innovative corporations value unconstrained narrative environments and propagate them. Innovative conversations upend the *habitus*. The models some pioneering enterprises use to create breakthrough dialogic spaces could be adapted to the post-conflict space. Innovators offer, for example, questions to help us evaluate the quality of our existing dialogic spaces. Organizational learning expert Peter Senge challenges people to ask this question about dialogues in their work,

- “Do the conversations that define the organization succeed or fail in generating creative energy?” (2005: 219)

In the case of conflict, we could ask something to the effective of:
• Do the conversations that define the justice environment succeed or fail at generating resources for victims and evolve humanity’s expression of itself?

David Issacs, president of a communication strategy company, asks people to reexamine spaces for speaking by evaluating whether they tear down ties or create bonds.

• “Consider the conversations you are currently having in your family, your organization, or your community? To what degree do they create frustration and fragment efforts or offer new insights and ways to work collectively?” (Isaacs 2005: 25)

These helps strengthen the team dialogue. Putnam recognizes bonding (within homogenous groups) and bridging (between groups) as an important kind of social capital often overlooked in conflict. (2001) The legislative space did little to create a bridge between the groups though it did strengthen the bonds within each party. Here Putnam’s framework resonates with Issacs’ contribution; both can be used to evaluate the quality of certain space. In post-conflict work, we can ask, how much bridging and/or bonding occurs? Do these dialogues deepen distrust? This shift in focus to relationships and quality conversations would likely be applauded by Lederach who argued that in conflict one must focus not solely on the conditions that created a conflict, but the relationship between the parties. (1997) These innovative conversations seek to do just that—look at the dialogue within the conversations.

In the SNCF debates, many of the spaces failed to generate creative energy. Current discussions remain trapped in a binary model that does not resonate with many survivors who appreciate complexity and who want to see the discussion expand beyond the
confines of this case. They have pressing needs not being met by the conflict or its related settlements.

**Integrating business emerging post-conflict nations**

This discussion has not yet made the distinction between post-conflict work in a developed country versus those trying to “catch up” with a modern world. Dale and Kyle, however, warn about the risks of embracing corporate advances unilaterally. (2015) They challenge a prevailing belief in Myanmar that disruptive technologies and other advances will provide benefits across the board. The site the risks of decontextualized learning, a loss of critical thinking, stunting of democratic participation that might lead to “smart” but not “engaged” citizens. (2015: 27) Emerging nations, new to democracy, may simply pivot from tyranny to corporate ownership without having the change to engage in democracy. They warn that foreign investment could actually arrive before the country can absorb the funding and create unrealistic expectations from investors. Engaging corporate actors does not mean adopting corporate models for human interaction. On the contrary, these dialogues can help humanize corporate endeavors.

**Conclusion Part IV**

Uniting CSR and transitional justice work positions corporations as both part of the problem and part of the solution. Advocating for public spheres that exchange binary action-oriented models for something richer allows the discussion of market actors to rest situated a solely one thing. Market actors are participants in a society and like everyone else play complicated roles as both perpetrator and even victim, often losing out when violence strikes.
Engaging market actors effectively means doing so via an approach and within forums that honor the complexities addressed throughout this dissertation; market actors engage knowing that while life moves on, the past may never really disappear. These spaces also ensure that the conversation expands beyond the crimes of the past of one corporate actor, engaging affected parties in the larger discussions of complicity. These conversations will make the greatest contributions when they elicit from participants perspectives of all-affected even if they cannot engage with all-affected. These spaces require creativity and need to surrender the temptation to move towards a decision.
CONCLUSION

This dissertation journeyed through World War II and moved seven decades forward, tracing a conflict between a world-class rail company and those who suffered interminable losses due to its wartime activities. Instead of solutions for the conflict, Part IV offered new paradigms for deliberation; these paradigms encouraged more open ended exploration and the inclusion of multiple parties and perspectives. Legal and legislative work provided important mileposts along the way, marking shifts in our notions of accountability and victim entitlement. The constraints of these spaces, forcing participants into a binary framework, limited what could be heard and discussed. These created assumptions about victim needs and kept the discussion narrowly focused on the SNCF. Alternative spaces would encourage the participation of market actors in new ways and honor the ironies and unending nature of post-conflict work. Deliberations would occur with the understanding and acceptance that the harm never quite disappears and yet life moves on. They would also release the narrowing grip of a singular focus on the SNCF, which results in an exoneration of other actors past, present and future.

**Determining responsibility**

Advocating extralegal frameworks may appear to exculpate the accused. I argue, rather, that this provides an opportunity to expand our notion of accountability in ways that encourage greater reflexivity. After her attendance at the 1968 Eichmann Trial, Enns
noted Arendt’s “emphasis on collective historical responsibility, as well as individual moral responsibility for the future.” (2012: 14) Arendt’s commentary resonates with the findings of this research because it honors the ironic ways in which the past and the future as well as the collective and individual coexist and inform one another. During an interview, survivor Max observed this phenomenon within himself,

Part of me wants to let it all go. The other part doesn’t...I want to remember it, not constantly, but I want to remember...I do have residual anger. I do. It’s not active anger; I don’t do anything about it.428

Other survivors shared similar struggles to both live with and let go of the past; at the same time they seemed to have an easier time with notions of collective accountability than their descendants.

To be fair, the survivors and lawyers challenging the SNCF did good work; their efforts undoubtedly increased transparency of the company, encouraged its sizable on-going commemorative contributions, and pushed towards the $60 million settlement signed in December 2014. Their efforts translated into a material recognition of harm. This approach could be enhanced in ways that more deeply meets victim needs (though likely in future conflicts as these victims will soon pass) and improve the intersection between market actors and civil society.

**Unseating the binary divide**

Arendt’s encouragement to engage with the interplay between collective and individual responsibility helps unravel a binary victim-perpetrator divide, a divide that

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appeared to resonate more often with the second and third generation than victims. In the Arendtian model, we cannot point a finger confidentially declaring, “They did it and they must pay!” without at least considering the three fingers pointing back towards ourselves. In what ways did many collude and in what ways do we still do so? Unlike the United Kingdom, Prague and others the United States, for example, did not sign an agreement with France in the 1950s to insure compensation for its survivors – now the finger gets pointed at France. The State Department cannot remember why this was not done; no responsibility is taken. As a result, blame runs towards France and the SNCF only. This worsens relations and does little to prevent future oversights.

This mixture of collective and individual responsibility could also help unseat the singularity of focus on the SNCF also encouraged by more litigious framings. Considering multiple levels of responsibility for the both past and the future prevents perhaps an unhealthy or unproductive obsession with the past. The class action lawsuit filed April 2015, for example, pushes the SNCF conflict only more fully focused on the past and on more trivial aspects of it. To get around the Foreign Sovereign Immunities Act that prevented the previous class action lawsuit from reaching trial, lawyers have switched to theft. Legal lacuna make it possible to hold a foreign state accountable for a tort (a U.S. defined crime such as theft) more easily than for murder. As a result, we now find ourselves debating about stolen clothing and watches. This prompts us to ask, has Monsieur Schwartz’s watch now become more important than Monsieur Schwartz and his orphaned children?

**Lessons for market actors**
To think about the past and the future as well as multiple levels of responsibility helps broaden discussions beyond the SNCF into corporate responsibility and accountability more generally. We could also discuss, as many survivor encouraged, the modern issues before us. Instead of using our understanding of history and trauma simply to fuel what Braithwaite called “the shaming machine” (2004) we could turn an eye towards the needs of the day.

This research revealed the very rich and challenging contours of post-conflict work involving market actors especially when it involves a transnational diasporic community. The SNCF engaged, perhaps unknowingly, with many practices under the umbrella of transitional justice. Company apologies, transparency advancing research, and commemoration quelled the ire of much of the Jewish leadership in France, namely Serge Klarsfeld and the CRIF organization. The national Jewish leadership in the United States and Israel had also been sufficiently convinced that the company had done its work. This transitional justice work, however, appeared more often a dance between the SNCF and the Jewish elite, than with the survivors—few of who knew about the SNCF’s efforts. How could the company, and other companies, better bridge this gap?

In the end, the victims exonerating the SNCF said they did so not because of SNCF’s efforts but because the Jewish leadership did, too much time had passed, or they did not want to punish today’s people for the actions of their predecessors. Some talked about the complexity of the times and other means of amends-making they found more meaningful, such as former French President Jacques Chirac’s apology in 1995. Because these individuals already released the SNCF, perhaps the company did not notice their
efforts fell short of reaching their doorsteps. To really make these efforts meaningful, not just political, perhaps more needs to be done to extend the caring beyond the Holocaust education centers and into the living rooms of isolated aging child survivors.

**Lessons for market actors**

This research provides other lessons for market actors and transitional justice practitioners wishing to engage market actors in post-conflict contexts. Firstly, corporations cannot put an end-date on dealing with the past. The issue, like the trauma, could resurface in multiple ways. Making a contribution, while accepting the harm can never be undone, requires speaking to the changing needs and consciousness of the day, and meeting the needs of locality. Apologies that work in one place, for example, might not work as well in another. Truth told in one place might not be heard or understood across the ocean; survivors might need to write the history themselves and have that history legitimized publically by the company in order to feel heard. Corporations can best attend to the harm by leaving the process open-ended; approaches that aim to complete the task or be resolute in anyway will find their efforts thwarted and potentially re-victimize victims by repressive closure.

In some areas the work can go further. Chapter eight for example, discussed how ideal apologies include a commitment to never re-enacting the harm. The SNCF never made this statement, perhaps because it seems peculiar today to say one would not transport people; of course they would not. At the same time, victims might feel more accepting of the apologies if they spoke to a change of corporate ethos, not simply regret for the past. The *esprit de famille* and the ethics of duty towards one company likely
contributed to the SNCF’s complicity during the war. Company and perhaps the train unions could say something to the effect of,

   We acknowledge the harms of the past and we have shifted our internal corporate culture. We extend our notion of family to include our fellow railway workers beyond as well as all of humanity; a spirit of duty contributes to a successful society as well as a successful enterprise.

This would demonstrate a shift in corporate culture and would simultaneously speak to the past, present and the future.

   Market actors need to think more deeply about the difference between the culpability of agents and that of the corporate entity. The current leadership may be well served to consider whether the corporate identity resides within the shareholders, executives, products, customer opinion, the stock price, the brand image, the culminating history and/or the corporate culture? A more complex notion of identity may help market actors understands why actions may or may not resonate with victims or descendants at home or abroad.

   This research suggests that executives would likely fair better in post-atrocity work if they imagine themselves as leaders of nations taking responsibility for their nation’s history. Their individual innocence is irrelevant; they step into the unfinished work of their people. Barak Obama, for example, cannot be held personally accountable for slavery. At the same time, in his position as U.S. President, he has a responsibility to address its legacy. This provides a useful analogy for corporations, especially with those with revenues larger than some nations’ GDPs. Corporations have become nation-like; they simply have logos instead of flags. In fact, they even transcend the bounds of nations because they cross boarders and can more freely engage with citizens all over the world.
They are also nation-like in the cosmopolitan sense; they are non-local, unbound and reflect our interconnected world. While law considers the complicated legal lacuna related to “corporate personhood” and international law, executives addressing issues of accountability might make the most headway if they think from the standpoint of “cosmopolitan corporate nationhood.” They transcend national boundaries and yet have the duties and obligations to address the actions of predecessors.

**Lessons for transitional justice**

Supporting corporations in this shift towards both responsibility and accountability, transitional justice practitioners will want to be sensitive to blame cycles (Minow 1990) and the double-blind (Sluzki 1976) in which corporations can be caught. Cycles of blame may discourage the participation of market actors; if participation only increases visibility and rage, few will want to engage. Double-binds can be similarly discouraging; if market actors find efforts rebuffed while simultaneously face criticism for not doing enough, relations between actors and victims can worsen. Some long-lasting hostility may be inevitable; practitioners may help support these actors through this process by helping them understand what Walker observed as part of being a perpetrator. Traumatized victims, she argued, often need these targets to work out their rage. (2006) Companies may have to accept a certain amount of public beating.

Transitional justice experts can also support market actors by helping them understand that the past might not ever universally find its place. Post-conflict practitioners may also do well to understand that companies may vacillate between wanting to make things right and wanting the past to go away. The company’s attitude
might shift between the two extremes; with guidance and support they can hang longer in that middle place, one that sits somewhere between resolution and repression. Market actors can be encouraged not to bury the past or hide creepy chapters of our history; instead they need to invite the past into the board meeting. It does not need to be the center of attention, as this distracts us from the important work of the present and future. At the same time, excluding it from conversations creates only short-lived reprieve. If not invited, the past will eventually break down the door. Then, only a more contentious conversation can be had.

To support more productive dialogues that straddle the past and the present as well as collective and individual responsibility, transitional justice professionals may want to invest time working second and third generations. This group may struggle appreciating certain ambiguities that seem to come more naturally to victims. Maurice, for example, said that he feels that trying to understand the past is a huge burden for descendants. He says from his experience forced on the cattle car and at Auschwitz he knows what it was like; he does not have to imagine. He said the imagining is impossible and too much to ask anyone to do. His life forced him to live with trauma, the interminable nature of the suffering and life’s incredible renewability. The second and third generations may be more likely to polarize conflicts and resolutions because they neither experienced the Holocaust nor lived seven decades with its memories. Descendants who care deeply about their parents and extended families may have a more polarizing framework, but they also have the energy and often the education to demand justice on a national or international stage. Transitional justice practitioners can work with them to harness this
energy in ways that honors victims and works for a better future.

Anyone interested in working with Holocaust victims must act now. At this point, one need not be a post-conflict professional to contribute. Most of the remaining survivors will pass by 2020; money means little to them, though anyone can help provide greater comfort and companionship in their remaining days. Many now live isolated lives and at this point want little more than some good company; they want to have lunch with you, take a walk in the park, and hear about your aspirations. These elderly individuals facing the loss of their partners will tell stories of wartime survival through the eyes of a child. As Hicks notes children’s sense of their sense of safety and worthiness may have been distorted for a lifetime (2001), yet during interviews they appeared some of the most appreciative, warm and dignified individuals I have ever met. Spending time with them now and listening to whatever they have to say is a small way of restoring their dignity; this may not change international law or shift a corporate ethos, but it can provide huge pleasure and joy to one who lives her final days in solitude.

While these individuals shared much hard-earned wisdom, most remain bewildered by their persecution and why people hate. Max says, “I want the Jews to be left alone. I want anti-Semitism to really die. It’s the stupidest thing in the world.” (2014) Michael survived the war, fought in the Battle of the Bulge, help liberated Buchenwald, interrogated Nazis, and spoke to over 250,000 people about his experience and violence says, “I have no idea why people go to war.” He went on to say simply, “I cannot understand why anyone who experienced war would want more of it.”

These individuals, even those went on to live very productive lives, often have a astonishing level of humility. This humility invites exploration, collaborative learning and encourages new frameworks for conflict resolution. They would like to see us succeed in our efforts at the intersection of corporate accountability and transitional justice or any other violence-reducing enterprise.
In January 2015, my friend and I checked on Nathalie after a big snowstorm. We knew she lived alone and thought she might want a little extra company after days of ice and snow. She met us at the entrance of her retirement center and walked us to her apartment. She told us not to worry because she had bought enough fish and vegetables the prior day to hold her over for the weekend. She very much appreciated our company, she said. Her husband died several years ago and her children are busy with their own lives.

When we entered her apartment, we saw the usual array of family photos, certificates of recognition and drawings by the grandchildren. The apartment had cozy furniture and the walls were filled with all kinds of art and memories. She took us on a tour, wiping away her tears when she talked about the pictures of her sister who died of cancer several years ago. Then she pointed to where her husband collapsed several years before he fell into his coma and died soon after. She talked about their last days together and showed us where in the building they had had their 50th wedding anniversary. While she has experienced tremendous loss in the past several years, Nathalie considers herself rather lucky. Her whole nuclear family survived the war in hiding in France. Her sister made a film about her family and the beautiful Catholic family that kept them hidden.

Consistent with the insights revealed through this research, the past stays and yet life continues to throw its personal and political challenges. Nathalie recently received a
cancer diagnosis; “I’m so tired of being courageous,” she confesses in tears. Beyond herself, she worries about the increasing anti-Semitism in the world, especially the recent events in Paris, including attacks on Jews and non-Jews. On her dining room table sat the first issue of the *Charlie Hebdo*, the political magazine that lost most of its staff to a terrorist attack just a month prior. *Tout est pardonné*, All is forgiven, the cover read. “I just received a copy sent from Paris!” she said. “You had to order one special…I haven’t read it yet.”

![Cover of Charlie Hebdo after the terror attack](image)

After a couple hours of chatting, we decided to read *Charlie Hebdo* together. “I didn’t want to read it alone,” she said. “It was just too much.” I was moved by the opportunity to try to make sense of the anti-Semitism and terrorism that exists today alongside a Holocaust survivor. We went through the magazine article by article, flipping the pages...
of this irreverent cartoon magazine issued as a response to the attack. Nathalie remarked, “Oh, it is interesting, they have many articles not about the attack. It must be what they had planned to print before as well as some new articles.” Fluent in French, but not in slang or distasteful words, we translated some words together. When I would translate the more off-color jokes—at her urging—she would say, “Oh, no, that’s too much.” She preferred the political cartoons, especially the one that said, “It takes twenty-five years for a cartoonist to do his work and just twenty-five seconds for a terrorist to do his…Terrorism is for lazy people.” After we finished she said again, “Thank you, I really didn’t want to read this alone.”

Aloneness was a current theme throughout this research, especially when it came to working with survivors. No amount of truth telling or compensation makes up for the aloneness felt growing up as an orphan, resettling abroad or now, aging, and losing partners, and looking at a still all too violent world. Loneliness, an experience of many elderly is pronounced for survivors, for whom the loss of loved ones stirs up memories of so much past loss. This speaks to the changing needs of survivors; companionship is what is needed now; food and shelter were needed after the war. Beyond themselves, many expressed more concern for the needs of today’s suffering children.

Maurice a survivor of Auschwitz who recently lost his wife, confided at his home in Versailles, that what hurts his heart the most today regarding the Holocaust is seeing on the news the suffering children in Syria, Iraq and Israel, “I feel so powerless,” he says tearing up. These experts on genocide asked me repeatedly, “Why haven’t we learned?”

I had no answers. The new lawsuit against the SNCF filed in 2015 seems a thin
answer. The survivors often moved the conversation to the suffering today, wanting us to stop the violence versus occupy ourselves with their trauma that began so long ago. While second and third Generation like myself struggle to stop the echoes of the Holocaust from ringing in our ears, perhaps it is time to heed the council of these wise elders: let it go, pay it forward, be kind to one another, and accept that there are many wonderful and legitimate ways to live life.

Gustav, a survivor living in France advises, “One cannot be racist. My new neighbor in the countryside is Muslim and Moroccan. “Elle a une gentillesse absolu,” she has an absolute kindness. She is wonderful. I cannot make the distinction between Jew or Muslim or Christian or Protestant.” Maurice feels similarly, remarking during our walk around the Versailles gardens, “Isn’t it wonderful all these people coming together from all over the world? Speaking all these different languages?” Sitting with them for hours, I found their relative stillness amidst the modern mayhem almost haunting. They are reminders, for those who look them in the eyes, of the sheer madness that can take over men and rob the most innocent people of what matters most. What most seemed to want most was far more difficult than restitution from a railroad, they want an end to hatred. Perhaps this is another reason we focus on trains; the French national railroad is a far easier to stop than violence.

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APPENDICES

Appendix A: Questions used in interviews
Appendix B: Participant observation and pro bono work
Appendix C: Survey questions for scholars
Appendix D: Senate Bill 1393
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Appendix F: SNCF billing for German requests
Appendix G: German invoice for transporting deportees
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Appendix I: SNCF invoice letter for transporting deportees within France
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Appendix K: SNCF invoice demonstrating per head, per kilometer metric
Appendix L: Timeline
Appendix M: Letter from former SNCF America President Dennis Douté
Appendix N: UK restitution agreement
APPENDIX A

Questions for politicians, lawyers, academics, archivists, Jewish leaders, railway workers, and generally all non-survivors:

• When did you first hear about the case against the SNCF?
• Who brought it to your attention?
• What was your first impression?
• What did you know about the role of the trains in WWII during that time?
• What do you know now?
• Had you been aware of the actions the company had taken to make amends?
• If so, did you think they were adequate? If not, why not?
• Have your thoughts about the case changed over time?
• What would you like to see happen?

Questions for survivors:
These interviews unfolded more organically; survivors often told me their personal stories and we discussed restitution and justice more broadly before discussing the SNCF directly. Often it seemed most advantageous to broaden the dialogue to their feelings about reparations they received or did not receive from the French state. Eventually the conversation turned to the SNCF. We also talked about their lives during the war, their
tremendous struggles after the war, and when they first started speaking about their experiences. Discussions often included an overview of their family, their spouse, kids and any major problems facing their kids today- like alcoholism, divorce, and fear of growing anti-Semitism in France.

• What was your experience in France during the war?
  - Was your family practicing the Jewish religion?
  - What did you understand about Judaism at the time?

• What was your experience in France after the war?

• Did your family talk about what had happened?

• When did you first start talking about your experiences?

• Did you seek restitution from the French state?

• What was that process like?

• Do you feel the state did enough to make amends?

• What, if anything, would you still like to see done?

• Do you participate in Holocaust-related commemorative events?

• If not, why not? If so, in what ways are these events meaningful?

• How did you feel about Jacques Chirac’s 1995 apology?

• Who or what did you hold most responsible for the atrocities that occurred?

• Have you heard about the conflict involving the SNCF?

• Who brought it the conflict to your attention?

• Do you hold the SNCF responsible?

• What, if anything, would you like to see the company do?
• What, if anything, would be most meaningful for you now? Reparations? Apology? Discussion with the company?

• If justice were to be served what might that look like?
APPENDIX B

Participant observation, focus groups, pro bono work, and academic conferences

Participant Observation

L’Ancienne Gare de Déportation de Bobigny. Private tour with the Office of Tourism. Bobigny of the deportation site under construction. More deportees left from this railroad than any other individual departure point in France. 13 August 2014.

Birn, Manuela and Jacqueline. Private tour of the U.S. Holocaust Memorial Museum with these two hidden children. 21 March 2014.


Funeral. Leo Bretholz. 11 March 2014.


Katz, Steven T. Thinking about Jewish Resistance during the Holocaust. (Lecture) U.S. Holocaust Memorial Museum. 29 February 2012.

Last Generation Survivor Group. Focus Group on SNCF. Bethesda, Maryland. 15 June 2014.


Public-Private Partnerships Disclosure of Involvement in Deportations: Hearing Before the Committee on Budget and Taxation SB754; Date: 13 March 2014. Annapolis, MD. Maryland State Senate.


Memorial de la Shoah at Drancy. Site and museum visit. 22 June 2015.

Munzer, Alfred. *Department’s Annual Holocaust Commemoration Program featuring Dr. Alfred Munzer, Holocaust Survivor.* U.S. State Department. 28 April 2014.

*National Commemoration Days of Remembrance.* U.S. Capitol Emancipation Hall. 30 April 2014.

Signing Ceremony with the Government of France. U.S. State Department. 8 December 2014.


United States Holocaust Museum. Private Tour with Indonesian students and guest lecture by survivor Alfred Munzer. 9 June 2014.


Pro bono work

While the intention of my meetings was to understand, rather than to “resolve” the conflict, I assisted the following government bodies *pro bono* with the conflict.

- The U.S. State Department. Invited to discuss conflict and educate staff on the role of the train company in the deportations. Elizabeth Nakian and Jennifer Margulies. 16 July 2014.

Focus Groups

- Kate O’Hare and Paul Rose, of the United States Holocaust Memorial Museum. Washington D.C. 30 November 2012.

Conferences

While researching this dissertation, I presented at the academic conferences listed below. Each presentation helped me further clarify ideas and challenge assumptions within the research. The variety of conferences attended, allowed me to have input from legal scholars as well as those working in genocide, human rights, and Jewish theology.

Presentations

2014 European Association of Jewish Scholars (EAJS) Congress
*The Case of the French Railroads*- July 2014. (Paris, France)
Law and Society Association (LSA) - Corporate Accountability for Mass Atrocity: Upending Corruption in the Post-Conflict State. June 2014. (Minneapolis, MN)

2013

Columbia University “Historical Dialogues and Memory Conference”


George Mason University “Graduate Student Research Conference”

2012

Tel Aviv University “Corporate Liability for Human Rights Violations” A Case of the French Rail Company. December 2012. (Tel Aviv, Israel)\(^431\)

In addition to these formal academic conferences, I had the opportunity to present my research to several classes of graduate students. These forums also provided lively spaces for discussion and exploration. The work has benefited from each of these exposures.

\(^{431}\) The conference at Tel Aviv University provided the richest context. The small group of attendees, roughly twenty-five, included specialists in Holocaust related litigation. The group included some of the most renowned historians and lawyers in the field. Formal and informal interactions with this group of experts helped form the foundations of my thesis.
Greetings! I am a PhD Candidate doing an ethnography survey for a class at George Mason University. The results of this survey will not be published and are for in-class use only. I have been researching this issue for over 2 years.

Thank you in advance for your time. This survey ought to take no more than 5-7 minutes.

Your answers will be kept confidential. Thank you for your participation.

**Issue Background:**

Between 1941-44, French state-owned train company SNCF (Société Nationale des Chemins de Fer Français) under the direction of the Vichy Regime, deported 75,721 Jews to the German border where they were taken to Auschwitz. Few returned.

Today the SNCF has business interests in the U.S. both for the high-speed and commuter rail projects. Many legislators, survivors and some U.S. Jewish groups want the organization to become more accountable and transparent regarding its World War II history.

The SNCF has, over the years, opened its archives, participated in colloquia, apologized, donated to Holocaust remembrance and education. The company refuses to pay reparations on account that they were a government owned and operated company. They say the state will pay.
General Questions

Has justice been served?

- [ ] Yes
- [ ] No
- [ ] Maybe
- [ ] Not Sure

Should the SNCF be allowed to bid for train contracts in the USA?

- [ ] Yes
- [ ] No
- [ ] Maybe

Would you boycott a company if you knew it had a role in a genocide?

- [ ] Yes
- [ ] No
- [ ] Maybe

Can companies ever make amends for past atrocities no matter how terrible the crime against humanity?

- [ ] Yes
- [ ] No
- [ ] It depends

Which of the following do you think the train company ought to do to make amends? (check as many as you like)

- Pay Reparations to survivors
- Include survivors oral histories in their archives
- Hold a symposia on the issue in the US
- No action is necessary as nothing will make up for their participation in the deportations.
- Agree not to bid for US contracts out of respect to the survivors
**Future Participation**

Would you be willing to discuss this topic in greater detail, as I continue the research?

Yes  No

If Yes, please provide name and email address and/or phone number:

Name: ________________________________________________
Email address and/or Phone number: _______________________

Thank you for taking the time to fill out our survey. Your input is greatly appreciated.
To ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2013

Mr. SCHUMER (for himself, Mr. BENNET, Mr. BLUMENTHAL, Mr. BROWN, Mr. CARSON, Mr. CASEY, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. MENENDEZ, Ms. MUKULSKI, Mr. NELSON, Mr. REED, Mr. RUBIO, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Holocaust Rail Justice Act”.

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds as follows:

(1) During World War II, more than 75,000 Jews and thousands of other persons were deported from France to Nazi concentration camps, on trains operated for profit by the Société Nationale des Chemins de fer Français (in this Act referred to as “SNCF”), including deportations to Auschwitz and Buchenwald. Numerous citizens and residents of the United States were among those who were on the trains or had relatives on the trains. United States servicemen who were pilots shot down over France were also among the persons deported on the SNCF trains to Nazi concentration camps.

(2) United States citizens and others have sought redress against SNCF by filing a class action suit in the United States District Court for the Eastern District of New York. The named plaintiffs and class members include United States Army Air Force pilots and United States citizens.

(3) The complaint filed alleges that SNCF, a separate corporate entity that remained independent during World War II, operated the deportation
trains for a profit, as ordinary commercial trans-
actions. SNCF remained under French civilian con-
trol throughout World War II and is alleged to have
collaborated willingly with the German Nazi regime.

(4) The complaint alleges that SNCF provided
the necessary rolling stock, scheduled the depart-
tures, and supplied the employees to operate the
trains bound for the concentration camps. SNCF al-
legedly charged an ordinary passenger coach fare for
the deportations, calculated per person and per kilo-
meter, and considered these trains as ordinary com-
mercial activities. The plaintiffs further contend that
SNCF herded as many people as possible into each
car, requiring passengers of all ages and sexes, in-
cluding the elderly and young children, to stand
throughout the trip of several days' duration, with
no provision for food or water and no sanitary facili-
ties. The complaint further alleges that SNCF
cleaned the trains after each trip, removing the
corpses of persons who perished during transit due
to the execrable conditions of the train cars. The
destination was in each case a camp in which the de-
portees were to be exterminated, worked to death, or
made to suffer terrible and inhuman conditions.
(5) The complaint contends that SNCF’s actions violated the Principles of the Nuremberg Tribunal, 1950, relating to crimes under international law (earlier recognized by the Martens Clause of the Hague Convention IV of 1907), and aided and abetted the commission of war crimes and crimes against humanity. SNCF has not denied its actions and has never disgorged the money that it was paid for the deportations or otherwise compensated the deportees or their heirs.

(6) SNCF’s records concerning the deportation trains have not been made available to the plaintiffs, and SNCF archives concerning its wartime activities are not accessible to the general public.

(7) SNCF moved to dismiss the lawsuit on a claim of sovereign immunity under the foreign sovereign immunities provisions of title 28, United States Code (28 U.S.C. 1330 and 1602 et seq.), even though it is one of the 500 largest corporations in the world, earns hundreds of millions of dollars from its commercial activities in the United States, and is not accorded sovereign immunity under the laws of France. SNCF’s motion to dismiss the lawsuit was granted by the United States District Court for the Eastern District of New York. Plaintiffs ap-
pealed the decision, their appeal was granted, and
the case was remanded for further proceedings. Sub-
sequently, in light of Republic of Austria v.
Altmann, 541 U.S. 677 (2004), in November 2004,
on remand, the Court of Appeals for the Second Cir-
cuit recalled its prior mandate and determined that
SNCF was entitled to immunity and affirmed the
dismissal of the complaint. The Second Circuit stat-
ed that “the railroad’s conduct at the time lives on
in infamy” but concluded that “the evil actions of
the French national railroad’s former private mas-
ters in knowingly transporting thousands to death
camps during World War II are not susceptible to
legal redress in Federal court today.”.

(8) This lawsuit, which arises from the unique
historical facts of the deportation of persons to Nazi
concentration camps, presents issues of substantial
importance to citizens and veterans of the United
States. Many of those who have sought redress
against SNCF are elderly and would have difficulty
traveling outside the United States in order to pur-
sue their claims elsewhere. The courts of the United
States are and should be a proper forum for this
lawsuit. The Foreign Sovereign Immunities Act of
1976, which had not been enacted at the time of
SNCF’s actions during World War II, was not intended to bar suit against the SNCF.

SEC. 3. ACCESS TO UNITED STATES COURTS FOR HOLOCAUST DEPORTEE.

(a) JURISDICTION OF DISTRICT COURTS.—The United States district courts shall have original jurisdiction, without regard to the amount in controversy, of any civil action for damages for personal injury or death that—

(1) arose from the deportation of persons to Nazi concentration camps during the period beginning on January 1, 1942, and ending on December 31, 1944; and

(2) is brought by any such person, or any heir or survivor of such person, against a railroad that—

(A) owned or operated the trains on which the persons were so deported; and

(B) was organized as a separate legal entity at the time of the deportation, whether or not any of the equity interest in the railroad was owned by a foreign state.

(b) OTHER LAWS NOT APPLICABLE.—Sections 1330 and 1601 through 1611 of title 28, United States Code, or any other law limiting the jurisdiction of the United States district courts, shall not apply.
States courts, whether by statute or under common law, shall not preclude any action under subsection (a).

(c) **INAPPLICABILITY OF STATUTES OF LIMITATION.**—An action described in subsection (a) shall not be barred by a defense that the time for bringing such action has expired under a statute of limitations.

(d) **APPLICABILITY.**—This section shall apply to any action pending on January 1, 2002, and to any action commenced on or after that date.

**SEC. 4. REPORTING.**

In furtherance of international education relating to the Holocaust and historic and continuing anti-Semitism in Europe and throughout the world, the Secretary of State shall submit to the Congress a one-time report, outlining the status of access to wartime records and archives concerning the wartime activities of any railroad organized as a separate legal entity that engaged in the deportation of persons to Nazi concentration camps during the period beginning on January 1, 1942, and ending on December 31, 1944.
APPENDIX E

05. DIRECTIVE BY DANNECKER, JUNE 26, 1942

IN 1940 DANNECKER WAS SENT TO PARIS AS EICHMANN’S REPRESENTATIVE ADVISOR ON JEWISH AFFAIRS. IN THIS POSITION, HE OVERSAW THE AMASSING OF NAMES OF FRENCH JEWS WHO WERE THEN ARRESTED. IN 1942 DANNECKER CAME UP WITH A SET OF REGULATIONS REGARDING THE DEPORTATION OF FRENCH JEWS AND JEWISH IMMIGRANTS.

The Commander of the Security and
Special Police in the Military Administration
Sector in France

IV J - 5A 2* (C2561)

Paris, June 26, 1942

CIRCULAR CONFIDENTIAL

Instructions for the deportation of the Jews

You are informed as follows of the provisions for the evacuation of the Jews from France. These provisions shall be complied with in the future.

1. A deportation action may include all Jews who are obliged to wear the distinctive signs, it for work, of both sexes, aged 16 to 45 years, except for the following:
   a) Jewish women.
   b) Jews who are subjects of the following countries: Great Britain, United States, Mexico, Enemy States of Central America and South America, as well as neutral and allied States.

2. It is recommended that the Jews be grouped together prior to being deported. Each convoy shall include 1,000 Jews.

3. The following shall be brought along, per person,
   a) 1 pair of heavy-duty work shoes, 3 pairs of socks, 2 shirts, 2 pairs of drawers, 1 work smock, 2 woven blankets, 2 pairs of sheet and two pillow covers, 1 ditty bag, 1 gavel, 1 span and 1 oar, if not already a complete toilet articles.
   b) Each Jew shall take along enough food supplies for three days.

   Each deportee is allowed only one suitcase or knapsack.

4. It is forbidden to take along any securities, currency, savings books, valuables of any kind (gold, silver, platinum, except for a wedding ring), living animals, ration tickets, (these should be taken from them prior to deportation and delivered to the local ration office). The objects left in the camps upon departure shall be allotted to the camp administration, which shall dispose of them at will.

5. Prior to the departure of the convoy, the Jews shall be thoroughly searched in order to detect any weapons, ammunition, explosives, currency, jewellery, etc...

6. Moreover, supplies for a total of 10 days shall be included in the convoy (bread, flour, barley, beans, etc.), in bags, in a special freight car. (In order to secure such supplies, the French authorities shall be told that the persons included in the convoy will soon no longer belong to the French supply sector.)

7. For each railroad car, one Jew shall be designated, with the responsibility of maintaining order during the trip and of cleaning the car at the end of the trip. That Jew shall assume along sanitary equipment. Since freight cars are used for such convoys, at least one slop pail shall be provided for each car.

8. The matter of the escorts as far as the border of the Reich, who shall number say for every forty men, shall be settled with the local Police-Volkserziehung.

9. For each convoy, a list in four copies shall be prepared. In addition to civil status information and to the extent that this is possible, such list shall include indications regarding the last residence and occupation of the deportees. Two copies shall be delivered to the head of the convoy and transmitted to the camps upon arrival. The other copies shall be delivered to departments VI B.

10. Immediately after the departure of a convoy, the following shall be indicated to Department IV J by telephone or by telegram: (1) the date of departure; (2) the actual size (specify the number of women), the name of the person leading it and the supplies loaded (mature and amounts).

   By order:
   signed: Dannecker
   St-Hauptsturmführer

582
### APPENDIX F

**PRESTATIONS FOURNIES PAR LA S.N.C.F. SEULLEMENT**

au titre des transports militaires allemands en zone occupée.

#### I - SOMMES CUMULÉES.

<table>
<thead>
<tr>
<th></th>
<th>Décembre 1940</th>
<th>Janvier 1941</th>
<th>Février 1941</th>
<th>Mars 1941</th>
<th>Avril 1941</th>
<th>Mai 1941</th>
<th>Juin 1941</th>
<th>Juillet 1941</th>
<th>Août 1941</th>
<th>Septembre 1941</th>
<th>Octobre 1941</th>
<th>Novembre 1941</th>
<th>Décembre 1941</th>
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<tbody>
<tr>
<td></td>
<td>3,035,400,000 fr.</td>
<td>3,529,318,000 fr.</td>
<td>4,046,234,000 fr.</td>
<td>4,737,433,000 fr.</td>
<td>5,382,163,000 fr.</td>
<td>6,134,735,000 fr.</td>
<td>6,841,017,000 fr.</td>
<td>7,061,190,000 fr.</td>
<td>7,501,230,000 fr.</td>
<td>8,089,129,000 fr.</td>
<td>8,747,067,000 fr.</td>
<td>9,311,446,000 fr.</td>
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<td></td>
<td>1,794,000,000 fr.</td>
<td>2,092,000,000 fr.</td>
<td>2,400,000,000 fr.</td>
<td>2,844,000,000 fr.</td>
<td>3,245,000,000 fr.</td>
<td>3,595,343,000 fr.</td>
<td>3,884,129,000 fr.</td>
<td>4,167,495,000 fr.</td>
<td>4,483,698,000 fr.</td>
<td>4,876,128,000 fr.</td>
<td>5,101,978,000 fr.</td>
<td>5,410,223,000 fr.</td>
<td>5,707,223,000 fr.</td>
</tr>
</tbody>
</table>

1er avril 1941

---

(1) c'est-à-dire à l'exclusion de la Compagnie Internationale des Wagons-Lits, de la S.T.F.F. et de la Compagnie des Chemins de fer A.S.C.
## APPENDIX G

### MITTELEUROPÄISCHES REISEBÜRO
ZWEIGNIEDERLASSUNG PARIS
5, Place du Palais Royal
Tel. 00-01-02-03

### FACTURE
RECHNUNG N° 5871

<table>
<thead>
<tr>
<th>DEBIT</th>
<th>CREDIT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Besoldung der Sicherheitspolizei

Ref.: 123456

<table>
<thead>
<tr>
<th>Personen</th>
<th>500</th>
</tr>
</thead>
</table>

### Bobigny - Amérique

<table>
<thead>
<tr>
<th>336 km</th>
<th>4h 18m</th>
<th>8 Wagen</th>
<th>165,3 MW</th>
</tr>
</thead>
<tbody>
<tr>
<td>Numéro 1</td>
<td>265 K. 6</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Fr. 165,36 |

Datum: 01.02.2023

[Signature]

[Stamp]
### APPENDIX H

---

**SOCIÉTÉ NATIONALE DES CHEMINS DE FER FRANÇAIS**

**SERVICES FINANCIERS**

**COMPTABILITÉ ET CONTROLE DES RECETTES**

**Transports du Ministère de l'Intérieur**

**FACTURE N° 45373**

Des transports exécutés pendant le 1er trimestre 1944 pour le compte de la Préfecture de la Haute-Garonne et dont les détails sont portés dans les relevés annexés à la présente facture, appuyés des pièces justificatives.

---

#### DÉSIGNATION DES RELEVES

<table>
<thead>
<tr>
<th>Montant des transports figurant sur le relevé ci-joint</th>
<th>SOMMES</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Camp d'internement, Centres de séjour surveillés, Internés, Expulsés etc...)</td>
<td>210,385 0</td>
</tr>
</tbody>
</table>

---

Dressée par le Chef de Bureau, souigné.

Certifié la présente facture s'élevant à la somme de deux cent dix mille trois cent quatre vingt cinquante francs neuf décimes.

Certificat de la Direction du Contrôle des Recettes des Chemins de Fer.

---

Paris, le 12 août 1944.
Le Secrétaire Général pour la Police

LF/CH

3°Sec’

Monsieur le Préfet de la Région de TOULOUSE

16 NOVEMBRE 1944

Objet: Frais de transport.

J’ai l’honneur de vous adresser ci-joint un mémoire en double exemplaire de la S.N.C.F. parvenu par erreur au Service Technique.

Ces frais de transports ayant été occasionnés par les camps d'internement et de S.S. ne sont pas payables par l'intendance mais par le Service des camps.

P.J.159

Par Délégation
Le Chef du Service Technique
APPENDIX J

NOE, le 30 Novembre 1944

Le CHEF de CAMP. Etienne RAUPAST

à Monsieur le Préfet de la Haute-Garonne
1er Division - Service des Camps
TOULOUSE

J'ai l'honneur de vous retourner par pli recommandé et dûment revêtu de ma signature, le Relevé et factures des transports des internés du Camp de Noé pendant le 1er Trimestre 1944 présentés par la S.N.C.F.

Péces jointes:
QUATRE = (4)

Le CHEF de
APPENDIX K

TAXATION DES TRANSPORTS MILITAIRES ALLEMANDS

I. MILITAIRES VOUSSÉS SEULMENT

A. En groupes de faible importance

Ceux-ci étaient généralement transportés dans des compartiments qui leur étaient réservés. Le prix est expressément de 1.9 francs par compartiment-kilomètre.

B. En unités constitutives, groupées ou non

1. Transports par trains ordinaires.
   a) Personnel: 1.9 francs par compartiment-kilomètre, avec maximum de 5 francs par voiture-kilomètre.
      Nota: Les places de voyage sont réservées en sus des prix prévus par le tarif commercial.
   b) Animaux: 0 francs par tête et par kilomètre, avec maximum de 3 francs par vagon-kilomètre.
   c) Matériel et approvisionnements: 2 francs par tonne-kilomètre, avec maximum de 10 francs par wagon-kilomètre, en vagon à bagages dans le même compartiment que les animaux.

2. Transports par trains spéciaux.
   a) Taxe de circulation: 6 francs par train composé de six véhicules (4) en payant pour le nombre de compartiments; de 6 francs par véhicule-kilomètre en sus de six (4) avec maximum de 14 francs par train-kilomètre.

(4) Un véhicule comportant plus de deux essieux est compté pour autant de véhicules. Si le nombre des essieux est impair, on le majoré d'une unité.
APPENDIX L

TIMELINE

While timelines may appear one of the more benign representations of historical events, they inevitably promote or represent certain power dynamics. Through inclusion/exclusion as well as positioning, timelines tend to favor certain parties and neglect the stories of others. In SNCF’s corporate timeline, for example, the company cites April 2, 1944, the day when SS murdered SNCF employees for sabotaging rail-lines. Their timeline omits, however, October 25th, 1944, the day when the SNCF sent an invoice, after the liberation, for the transport of the deportees within France. This timeline strives to highlight important dates related to the SNCF conflict. The events listed demonstrate the dialectical nature of personal outcry and public response. Such dynamics reflect the fugue-like nature of transitional justice. Accusations and replies, in such close proximity, may be seen as a kind of dialogue between the two parties.

1937

**August 31:** French State takes majority share of the SNCF, previously a group of independent rail companies. The French state takes 51% ownership and 49% remains private.

1939

**September:** French fight German invasion.

1940

**June 22:** France signs Armistice with Germany, placing the SNCF under the control of the Germans directed by the German Head of Transport, the Colonel Commandant of the W.K.D.

**December 20:** Jews excluded from management positions within the SNCF.

SNCF President Eugène Fournier serves for a year as the director of SCAP, a French governmental division, tasked with the aryanzation of Jewish businesses.

1941

**June & July:** First census of Jews in France.
December: ‘Jew’ added to identification papers.

SNCF begins transporting convoys of prisoners and other political deportees.

1942

March 27: The first SNCF wagons left from Drancy and Compiègne, taking Jews and other deportees to Auschwitz.

June 7: all Jews ages 6+ must wear yellow star.

July 16-17: In the largest Paris round up, known as the Vél’ d’Hiv’, the French police arrested 14,000 Jews living in Paris.

November 11: German army takes over the ‘free zone’ of France. All of France is now occupied.

1943

October 10: Vichy decree makes the SNCF a limited liability company. This allows the company to be exempt from certain aspects of common law. Note: the SNCF uses this decree to appeal the Administrative Court of Toulouse’s decision in 2006 that held the company liable for the transports.

1943-44

Most of the Jews deported out of Gare SNCF de la Grande Ceinture, Saint Denis, and Bobigny stations.

September 17: A large deportation leaving from France arriving at Weimar, Germany. Of the 139 on the convoy, only 23 survived the trip.  

1944

February 10: Convoy 68 leaves Auschwitz-Birkenau from Bobigny with 1500 deportees.

April: Convoy 71 leaves from Bobigny.

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432 For a complete list of convoys and deportees, please see, Le Calendrier de la persecution des Juifs en France, 1940-1944 by Serge Klarsfeld. The ones noted here serve to provide a reader with the number and nature of the transports.
**June 8:** D-Day: allies arrive at Normandy Beach.

**August 26:** Liberation of Paris.

Note: Several convoys departed after the allies landed.

**1945**

**May 7:** German surrender signed.

**1946**

The film, *La Bataille du Rail* (The Battle of Rails), hits French theaters. Directed by René Clément, this film tells a dramatized story of the ways in which French railway workers sabotaged their own railways to derail the Nazi war effort. The SNCF helped fund this movie and maintained control over the screenplay.

**1948**

French law written; only the France State makes payments to the deportees (as opposed to companies or government divisions such as the French police)\(^{433}\)

**1950s**

SNCF receives the Cross of the Legion of Honor for its work in the resistance.

**1965**

*Editions de Minuit,* publishes survivor Charlotte Delbo’s book, *Le Convoi du 24 Janvier* (The January 24th Convoy) which describes the train journey and her experience at Auschwitz. Delbo’s work becomes one of the earliest testimonies detailing the nature of the train journey.

...30 Years of Silence...

**1980**

Due to the work of the French organization *Fils et Filles des Déportés Juifs de France* (Sons and Daughters of the Deported) under the direction of President and Founder Serge Klarsfeld Germany tries and sentences Kurt Lischka, Herbert

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\(^{433}\) Note: French historian Michael Curtis makes this claim, though cannot remember the source.
Hagen, SS Ernst Heinrichsohn, all responsible for the deportation of the French Jews.

**1990**

Gayssot Law in France makes Holocaust denial a criminal offense.

**1991**

Kurt Schaecheter, who lost family on the trains, secretly copies 12,000 documents from the Toulouse archives. He found a document showing the SNCF invoiced the French government for the transport of deportees within the country. His findings show the SNCF’s material role in the transport.

SNCF President Jacques Fournier commissions independent report on the SNCF’s history.

**1994**

Nazi collaborator Paul Claude Marie Touvier, becomes first French person condemned for crimes against humanity for his actions role during WWII.

**1995**

Jacques Chirac speaks publicly, recognizing French responsibility in both the enactment of anti-Jewish legislation by Vichy Regime in 1940 and deporting and gassing 76,000 Jews. Prior to Chirac’s statement, France never accepted responsibility.

**1996**

Deutsche Bahn, previously Deutsche Reichsbahn, commissions a similar study of German railroad history. This resulted in the book, *The Railroad in Germany. From the beginnings to today (Die Eisenbahn in Deutschland. Von den Anfängen bis zur Gegenwart)* published by C. H. Beck in 1999.

The SNCF opens to the public its Center for Historical Archives in Le Mans, France.

**1997**

Matteloli Commission began its work to review the theft of Jews during the Occupation.

**September 30:** The Bishops of France make a Declaration at Drancy apologizing for their predecessors’ silence during the deportations.

**1998**
July: Jean-Jacques Fraenkel, son of a deportee and president of “Offshore Coordination of deported Children” launches the first legal complaint against the SNCF for crimes against humanity. The court dismisses the case. Fraenkel then turns to NY-based lawyer Harriet Tamen to launch a class action lawsuit against the company.

September: Tribunal de Grande Instance Paris rejects the Frakenkel case against the SNCF arguing insufficient evidence.

Orphan of the deportations, Schaechter files a complaint against the SNCF based on his findings in Toulouse.

The French State sentences Maurice Papon for the deportation of over 1600 Jews; this marks the end of the longest French trial in history (1981-1998). As in 1980, Serge Klarsfeld and his wife played a major role in bringing Papon to trial. During the trial Papon claims that he used ordinary passenger trains not SNCF merchandise (livestock) cars. Historians testified against this claim.

1999

January: French court rejects Kurt Werner Schaechter v SNCF. Court determines it is not authorized to hear a case of this nature.

SNCF releases the 900-page report of the company’s WWII history. This SNCF-commissioned report remains available in French on-line. The word “Jew” does not appear in the report, though the deportations are mentioned briefly.

SNCF President Louis Gallois announces via radio the SNCF’s decision to host a colloquium on its role during the war. The colloquium would be held in 2000.

2000


434 Note: Papon became head of the French police in 1958, demonstrating French denial of crimes against the Jews.
September 5: US Eastern District Court NY files: USA: Abrams et al. v SNCF. NY-based lawyer Harriet Tamen works on this case.

Reparations
Jewish organizations push France to compensate survivors and their descendants. France responds by passing compensation and restitution laws. Anyone whose parents were deported during the Occupation or was a minor during the deportation has a right to reparations. Either they were entitled to 180,000 Francs or a 3,000-franc annuity.

2001

CIVS (Commission pour l'indemnisation des victimes de spoliations) established to remunerate deportees and their families for any loses related to anti-Semitic legislation or deportation.

Representing over 650 survivors worldwide, a U.S. Based Class Action lawsuit launches, claiming the SNCF’s active support of the abominable conditions of travel. The case travelled to the Supreme Court who dismissed the case, citing the Foreign Sovereign Immunities Act that prevents U.S. litigants from taking action against foreign governments.

September: News of the French bank settlement starts to spread to international papers.

September 6: Georges Lipietz, whose uncle and father were transported to Drancy on SNCF trains, files a claim requesting reparations from SNCF and State for the arrest, their transport on SNCF trains and their subsequent internment at Drancy.

October 22: The SNCF and the French State reject Lipietz claim. Lipietz appeals.

November 5: U.S. Judge David Trager dismisses USA: Abrams et al. v SNCF citing the Foreign Sovereign Immunities Act of 1976. This act provides immunity for the SNCF, a state-owned and operated enterprise.

November 14: The Lipietz family files a claim against the SNCF and the French state €150,000 and €250,000 respectively for the loss of three family members, including their parents.

2002

March 25: SNCF President Gallois writes an article in La Tribune Juive (The Jewish Tribune) entitled, “Here is How the SNCF Will Contribute to Holocaust
Commemoration.” This article was published during the 60th anniversary of the departure of the first convoy.

SNCF sponsors a traveling exhibit depicting the children of the deportees. This exhibit, prepared by Holocaust activist Serge Klarsfeld, travels between twenty major railway stations as well as to the SNCF headquarters, the French Parliament and the Paris Municipality. Running between 2002-2004, the SNCF estimates one million people potential viewers. The exhibit presently resides in a storage facility.436

2003

**June 13:** A court of appeals requires Judge David Trager to reverse his dismissal of the class action suit of the SNCF. The court said the case merited further investigation on the basis that the Foreign Sovereign Immunities does not provide immunity for theft.

**July 25:** NY Representative Carolyn Maloney introduces bill H.R. 2954 designed to allow U.S. Courts to try Holocaust cases related to the railroads. The bill dies but resurfaces October 1, 2007 as H.R. 3713.

2004

**July:** In France, Lipietz case continues as: *Lipietz et al. v Prefet de la Haute-Garonne and SNCF*

**November 9:** The U.S. Court of Appeals for the Second Circuit determines that the SNCF is entitled to immunity.437 As a result, *Abrams et al. v SNCF* is dismissed.

2005


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436 The exhibit allegedly inspired a similar traveling exhibit in Germany sponsored by the German national railroad company.

437 The court stated, that while “the railroad’s conduct at the time lives on in infamy….the evil actions of the French national railroad’s former private masters in knowingly transporting thousands to death camps during World War II are not susceptible to the legal redress in Federal court today.
study of SNCF and the deportations). Challenges earlier SNCF narratives of resistance, perceived as journalistic rather than historical.

January 27: Under the name Mémorial de la Shoah, Paris opens its first Holocaust museum and memorial. The SNCF helps fund the construction of the museum and continues to sponsor events.

March 16: For a symbolic euro, the SNCF hands the Town of Bobigny the land title for the land track from which most of the deportees departed. This was a commemorative gesture to commence the construction of a memorial at Bobigny.

2006

March 2: Another U.S. Based class action lawsuit, USA: Freund et al. v SNCF: filed with Southern District Court NY, includes the Caisse des Dépôts et Consignation (a French financial organization) along with the SNCF.

June 6: Alain Lipietz and his family succeed in a private case in France. The Tribunal of Toulouse condemns the French State and the SNCF for their role in the deportations. Lipietz and beneficiaries receive €61,000 from the French State and the SNCF. The SNCF appeals; while appealing they receive 1800 claims.

Kurt Schaechter, orphan of the deportations, desists, withdrawing his case against the SNCF after they put up a commemorative plaque at Longages-Noé.

September 1: Pursuant the decision by the Toulouse administrative court decision, claims could be submitted to the SNCF by this date. SNCF received 1800 claims received.

December: France: Hoffmann-Glemame v France and SNCF. Madame Hoffmann-Glemame requests funds from the French state and the SNCF for the loss of her father. She requested 200,000 Euros for her father’s suffering and 80,000 Euros for her own. The administrative court turned to the Conseil d’Etat for their recommendation. The Conseil d’Etat decided the case on in December 2009 (below).

2007

438 Analyses on these decisions written by J. Jobert in the Revue de Droit Public, 2006 and Vivian Curran in American Journal of Comparative Law, 2008
March 27: France: The Bordeaux Administrative Court overturns the Toulouse decision, finding the SNCF not liable. The Lipitez family never receives money from the SNCF though they continue to try.

October 1: NY Representative Carolyn B. Maloney [D-NY] introduces House bill, now H.R. 3713. This bill is designed to allow U.S. Courts to try Holocaust cases related to the railroads. This bill also dies and is sent to Committee. It reappears on December 8, 2009 as H.R. 4237.

2008

SNCF President Guillaume Pepy organizes additional Holocaust related activities using the slogan, “transparency, history, remembrance, and education.” He expresses “regrets” for what transpired during the war.

September 10: Senator Charles Schumer [D-NY] sponsors S. 1393 to open U.S. courts to holocaust victims claims against the railroad. This bill appears soon after the Court turns down Harriet Tamen’s second attempt at a class action lawsuit against the SNCF. Bill dies and is sent to Committee.

2009

January 7: Senator Charles Schumer [D-NY] sponsors S. 28 to open U.S. Courts to Holocaust victims’ claims against the railroad. This bill also dies, is referred to Committee and is re-introduced later as S. 1393.

February 16: France: In Hoffman-Glemane v France and SNCF the Conseil d’Etat (the supreme court for French administrative issues) rules to not award Glemane the sum she demanded from the French state for the loss of her father and her suffering. Moreover the Court determines the state owes no more compensation, beyond existing programs, for Holocaust-related matters. Inferior courts would no longer be admitted to hear cases.

February 25: California challenges the SNCF via Assembly Bill 619.

June 6: U.S. Southern District Federal Court of NY dismisses USA: Freund et al. v SNCF, France and the Caisse des Dépôts. This case was submitted March 2006.

December 8: Representative Carolyn Maloney [D-NY] introduces H.R. 4237 to U.S. Courts to try Holocaust cases related to the railroads. This bill died, but unlike its predecessors, it did not go on to committee.
European Court of Human Rights considers France’s efforts to remunerate the victims and commemorate the past provided full and fair compensation, both morally and materially.

2010

January: California receives $2.25 billion from the U.S. Federal government to build a statewide railway system.

May 12: lawyers from USA: Freund et al. meet with Senate Judiciary Committee to support legislation that would allow lawsuits against the SNCF

August 23-27: California passes 50-7 the Holocaust Survivor Responsibility Act, requiring companies to disclose role in deportations in WWII. The bill (Assembly Bill 619) awaits Governor Schwarzenegger’s signature.

August 31: Schwarzenegger vetoes the Holocaust Survivor Responsibility Act in California that would have required companies like the SNCF to submit documentation regarding their role in the deportations.

Regardless of Schwarzenegger’s veto the SNCF submits documentation to California demonstrating a willingness to comply with the request for transparency.

September 2010: Florida takes on the SNCF through the proposed Holocaust Accountability and Corporate Responsibility Act (S 28/HR 4237).

November: A group of survivors, lawyers and their supporters in Florida and California threaten to boycott SNCF by making it difficult for the SNCF to win high-speed rail bids.

November 4: At a commemorative event in France, SNCF President Guillaume Pepy expresses “profound sorrow and regret” for the SNCF’s role in the deportations.

December: Deutsche Bahn, competing against the SNCF for the American high-speed train contracts, donates $5 million euros to Nazi victims.

SNCF signs an agreement with the Mémorial de la Shoah in Paris to develop school programs about the war and fund researchers working on subjects related to the SNCF.

2011
US Supreme Court declines to review a lower court’s decision that the class action lawsuit could not be heard because it was outside U.S. jurisdiction. This effectively stalemates the U.S. based class action lawsuit against the SNCF.

**January 23:** SNCF President Guillaume Pepy visits Auschwitz for the first time via private plane with the directors of the Shoah memorial. He does publicize this trip.

**January 25:** Signature ceremony between the town of Bobigny and the SNCF for the rehabilitation and planning of the old railway grounds in honor of the deportees. SNCF President Guillaume Pépy expresses his regrets for the sad history. 22,407 interns staying at Drancy were sent from this station to the death camps. SNCF financially supports the rehabilitation project of the deportation site at Bobigny. French press considers this a SNCF apology.

**February 9:** The U.S. Supreme Court considers whether to hear *USA: Freund et al. v SNCF*

**March 17:** Senator Charles Schumer [D-NY] sponsors the S. 634 Holocaust Rail Justice Act. The bill was not enacted.

Representative Carolyn Maloney [D-NY] introduces H.R. 1193 Holocaust Rail Justice Act. The proposed act argues that the Foreign Sovereign Immunities Act (FSIA) of 1976 ought not prohibit survivors from suing the SNCF in U.S. Federal Courts because FSIA was enacted after the atrocities occurred. This bill dies and resurfaces as H.R. 1505 in April, 2013.

**May:** Maryland House Bill 520 passes with the signature of Maryland Governor O’Malley. In order for the SNCF to compete for the Maryland commuter rail contract (the MARC line), the SNCF must digitize their archives and have an independent historian approve these archives.

**October:** SNCF announces the completion of the archival digitization. They lose the Maryland contract anyway.

**October 3:** After review, the U.S. Supreme Court refuses to hear *Freund et al. v SNCF 10-1314.*

**2012**

French President Hollande inaugurates the new deportation commemorative site at Drancy (Mémorial de la Shoah Drancy) at the location of France’s largest internment camp.
To comply with Maryland Bill 520, the SNCF hands over digitized WWII archives to Yad Vashem, Shoah Foundation, and the United States Holocaust museum.

2013

Representatives Carolyn Maloney (D-N.Y.) and Ileana Ros-Lehtinen (R-Fla.) propose the Holocaust Rail Justice Act (H.R. 1505). 439

Mid-2013 the French government approached the U.S. State Department wanting to find a way to settle the SNCF conflict by providing compensation to victims not covered by other programs.

**July 30:** Senator Charles Schumer [D-NY], introduces bill S. 1393 to applies specifically to the French railroad and give U.S. Courts jurisdiction over this case.

**November 17:** SNCF President Guillaume Pepy signs agreement with the CEO of Israel’s national railroad (ISR). While the companies’ relationship extends back to 2000, the new agreement will enhance training for ISR engineers and help ISR modernize its railway stations. Through these and other developments, ISR hopes transport 70 million passengers by 2020, which would almost double their 2013 business. To address SNCF’s WWII role, the SNCF agreed to provide some funding to Yad Vashem for further research on the French railroads.

2014

**January:** Keolis, SNCF subsidiary, wins bid for Massachusetts commuter rail business (MBTA rail line). The eight-year contract worth over $2 billion becomes infamous for being the largest in state history. The contract takes effect July 2014 and will make Keolis responsible for the management of the rail system.

French President Francois Hollande gives the French government a mandate to negotiate with the U.S. regarding a group of survivors currently not eligible for reparations.

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439 The bill is designed to “To ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons, and for other purposes.”
Maryland House Bill 1326/Senate Bill 754 introduced requiring Keolis North America (a subsidiary of the SNCF) to pay survivors living in Maryland before becoming a state-approved contractor.

**February:** Survivor Leo Bretholz sends out Change.org petition chastising the SNCF asking them to pay reparations. Petition reaches 150,000 signatures by March 6th.

Maryland State Senator Joan Carter Conway [D-MD] introduces a bill requiring the SNCF to pay reparations before allowing its subsidiary Keolis to bid for Maryland’s Purple Line.

**February 6:** State Department opens first round of negotiations in Paris with French government to discuss reparations payments to American Holocaust survivors who found themselves forced on to SNCF trains (and maybe their heirs). Stuart Eizenstat, special adviser to Secretary of State John Kerry on Holocaust-Era Issues, leads the U.S. delegation. Maloney and Ros-Lehtinen applaud these negotiations but avow to continue working to pass the Holocaust Rail Justice Act to allow survivors to sue the SNCF in U.S. Federal Court.

**March 10:** Maryland House hearings on House Bill 1326 regarding the SNCF and the Purple Line light rail project. Keolis, a subsidiary of the SNCF, wishes to bid for the 35 year, 25-kilometer Maryland commuter rail line that will connect to the DC metro grid. The contract will be worth an estimated $6 billion. The federal government says that it will withhold the $900 million contribution if the state passes the limiting bill. The federal government does not want the state interfering with international treaties.

**March 8:** Leo Bretholz, lead survivor testifying against the SNCF, dies the day before the Maryland house hearings.

**March 13:** Maryland State Senate Hearing on Senate Bill 754, sponsored by the Committee on Budget and Taxation regarding the SNCF’s ability to bid on the Purple line rail contract. The hearing was titled: *Public-Private Partnerships Disclosure of Involvement in Deportations* (SB754; Date: March 13, 2014). Annapolis, MD.

**April 7:** Maryland legislative session ends. No vote is made on the bill in either the House or the Senate. The SNCF is free to bid for the multi-billion dollar contract.

**April 10:** Spokeswoman for the U.S. State Department, Jen Psaki, asks legislatures in NY and MD to stop work against the SNCF, saying the issue is now proceeding on an international level.
May: NY Congresswoman Carolyn Maloney, now joined by City Council members Mark Levine and Benjamin Kallos, ignore State Department’s request. They continue to work on a state level to create legislation that holds companies that had a role in the Holocaust and did not pay reparations accountable.

July: Keolis, SNCF subsidiary, officially takes over Massachusetts commuter rail business.

December: U.S. State Department and the French government sign the $60 million settlement providing restitution to survivors and their descendants outside of France not previously covered by other programs. The SNCF would contribute, as part of the agreement, an additional $4 million to Holocaust commemoration and education. The settlement awaits ratification in the French government.

2015

April: Karen Scalin, Josiane Piquard and Roland Cherrier, who lost relatives on the deportation trains, filed a class action lawsuit with their lawyers Steven Blonder with Much Shelist in a Chicago federal court. They are suing the SNCF for violation of international law, conversion and theft. This is an attempt to circumvent the FSIA.
APPENDIX M

September 28, 2010

The Honorable Ron Klein
U.S. House of Representatives
313 Cannon House Office Bldg.
Washington, D.C. 20515

Dear Rep. Klein:

I am responding to your recent announcement concerning proposed legislation involving high-speed rail contracts and your concerns about the role of the French National Railways (SNCF) during World War II. As CEO of SNCF America, Inc., I want to assure you that we take these concerns very seriously. You have raised important questions about SNCF and its war-time actions, and I appreciate the opportunity to answer them directly.

The people of France and SNCF are determined to remember and honor victims of the Holocaust so that the horrors of Nazi Germany and WWII are never repeated. This commitment is ingrained in our company’s culture and the hearts of the French people, and it is confirmed by our actions.

SNCF’s war-time history and modern day remembrances are not well-known in the United States, so it is understandable that there may be questions. Though the company is involved in rail projects in 120 countries around the globe, SNCF is relatively new to America. SNCF is committed to full disclosure, and has been unspARING in its self-examination of war-time activities. The company has taken extraordinary steps to research and document its history in detail and to make those documents publicly available. In 1999, SNCF opened its vast archives center to the public. This facility in Le Mans, France, maintains one of the most extensive collections of railway history in the world, including detailed accounts about SNCF’s role during WWII. The archives are open to the public for anyone to access and examine.

Unfortunately, during the course of recent public events and miscellaneous media reports, we’ve seen a disturbing amount of misinformation and false accusations surrounding SNCF’s war-time involvement. We welcome this opportunity to address this issue and provide you with the facts.

SNCF’s trains and railways were seized by Nazi Germany during WWII. The Nazi regime controlled the railway system throughout the war and forcibly requisitioned SNCF trains to transport innocent people to concentration camps. During this time, Nazi Germany’s military transport division subjected all SNCF workers, agents and administration to German military law. The Nazi military transport division threatened to execute French railway workers and their families if they resisted strict Nazi orders.

In fact, nearly 800 SNCF workers were executed by Nazi firing squads for resisting orders, and 1,200 SNCF workers were deported to Nazi death camps for sabotage and other acts of defiance.

Page 3 of 2
Despite claims to the contrary, SNCF did not "profit" from the war or from transport of deportees. That is simply false, and there has never been any evidence to conclude otherwise. SNCF and French institutions were financially devastated by the war and never "profited" from the Nazi’s forced use of SNCF trains.

When WWII ended, the French government launched an expansive reparations program to assist Holocaust survivors and their families. Since then, the French government and SNCF have maintained a steadfast commitment to help survivors and their families. France has provided more than $1 billion in reparations—including $200 million since 2001 alone—and continues to offer multiple reparations programs to this day. The claims process is simple and can be completed online or directly through the French Embassies anywhere in the world. Nearly 95% of all claims have been honored.

These reparation programs have been recognized by the courts. In a 2009 decision by the European Court of Human Rights, the reparations programs were ruled to be full and fair compensation, both morally and materially.

As you may know, SNCF is wholly owned by the French government, which appoints the president and all members of the governing board. As such, the French government reparation programs cover all entities and companies that are owned or controlled by the government, including SNCF.

SNCF has long been a strong supporter of Holocaust remembrance memorials, education programs and museums, including, most recently, the Foundation for the Memory of Shoah. SNCF has also joined with French Nazi hunter Serge Klagsfeld to present the multi-year exhibit “French Children of the Holocaust,” which has been displayed at SNCF headquarters and major train stations throughout France.

Additionally, in an effort to fully and independently document its World War II history, in 1992 SNCF commissioned the noted historian Christian Bochler and a team of independent academics to prepare an exhaustive historiographic study. The 914-page report was released in 2000 and has been publicly available at all times since then. That report was written in the French language. We have commissioned a translator to transcribe it into English, and we plan to have copies available this fall.

Most recently in California, SNCF supported California Assembly Bill 619, which requires all companies bidding on high-speed rail projects to disclose their war-time history. That bill recently passed the California Legislature and is awaiting signature by Governor Schwarzenegger.

The atrocities committed by Nazi Germany during the Holocaust and WWII were so horrific that we can never forget, nor should we. The people of France and SNCF have made the commitment through our words and our deeds, and we will continue to do so.

We are available to meet with you to discuss any issue regarding SNCF at any time. I look forward to answering any additional questions you may have.

Sincerely,

[Signature]

Denis Dodd
CEO, SNCF America, Inc.
APPENDIX N

Treaty Series No. 22 (1951)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the French Republic

relating to Compensation for Disablement
or Death due to War Injury
suffered by Civilians

Paris, 23rd January, 1950

[Ratifications exchanged in London on 7th March, 1951]

Presented by the Secretary of State for Foreign Affairs to Parliament
by Command of His Majesty

LONDON
HIS MAJESTY'S STATIONERY OFFICE
FOURPENCE NET

Cmd. 8192
AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE FRENCH REPUBLIC RELATING TO COMPENSATION FOR DISABLEMENT OR DEATH DUE TO WAR INJURY SUFFERED BY CIVILIANS

Paris, 23rd January, 1950

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic having decided to overcome, by mutual agreement, the difficulties arising out of the compensation of civilian war victims and their dependants where a civilian national of one of the countries sustained, in the territory of the other country, in the cause of liberty, a war injury causing disablement or death,

Have agreed as follows:

ARTICLE 1

The French Government will grant to civilian British nationals or their dependants while ordinarily resident in France the same benefits conferred or to be conferred by French legislation on French nationals in regard to compensation for disablement or death due to war injury suffered in France.

ARTICLE 2

The Government of the United Kingdom will grant to civilian French nationals or their dependants while ordinarily resident in the United Kingdom the same benefits conferred or to be conferred by United Kingdom legislation on British nationals in regard to compensation for disablement or death due to war injury suffered in the United Kingdom.

ARTICLE 3

For the purpose of this Agreement—

(1) "French nationals" shall be deemed to mean all French citizens and nationals of the territories and States of the French Union.

(2) "British nationals" shall be deemed to mean all citizens of the United Kingdom and Colonies and all British-protected persons belonging to territories for whose international relations the Government of the United Kingdom is responsible.

(3) "France" shall be deemed to mean the territory of Metropolitan France.

(4) The "United Kingdom" shall be deemed to mean the United Kingdom of Great Britain and Northern Ireland excluding the Channel Islands and the Isle of Man.

(5) "War injury" and "dependants" shall have the meanings assigned to them by the legislation relating to civilian war victims of the Government from which compensation is claimed by virtue of this Agreement.
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BIOGRAPHY

Sarah E. Federman received her Bachelor of Arts in Intellectual History at the University of Pennsylvania in 1998. She graduated summa cum laude. She received her Masters in Arts in from the American University of Paris in 2011, majoring in International Affairs. In support of this doctoral research, Sarah received the Presidential Scholarship from George Mason University’s School of Conflict Analysis and Resolution.