

Answer of the Federal Government to the minor interpellation tabled by the Members of the German Bundestag Niema Movassat, Sevim Dağdelen, Christine Buchholz, Annette Groth, Heike Hänsel, Andrej Hunko, Stefan Liebich, Kathrin Vogler and the Left Party parliamentary group
(Answers given by Dr. Harald Braun, state secretary minister of state at the Federal Foreign Office)

- Bundestag Printed Paper 17/6754, 3 August 2011 (question) –
- Bundestag Printed Paper 17/6813, 18 August 2011 (answer) –

**Additional questions arising from the Federal Government's Answer to the minor interpellation "Repatriation of the mortal remains of victims of German colonial crimes to Namibia"
(Printed Papers 17/6011 and 17/6227)**

Preliminary remarks by the questioners:

In its decision of 1 July 2009 (2 BvE 5/06), the Federal Constitutional Court emphasised the particular importance of the German Bundestag's right to submit questions and to obtain information and the Federal Government's obligation to respond. In the questioners' view, the answers furnished by the Federal Government on 10 June 2011 (Bundestag Printed Paper 17/6227) to a minor interpellation tabled by the Left Party parliamentary group (Bundestag Printed Paper 17/6011) do not fulfil these requirements. In the answers, there is a tendency to respond to specific questions in very general or evasive terms, or in the case of Question 12, to fail to provide an answer at all. In view of the legitimate public interest in the adoption of a firm position by the Federal Government and the need for clearer and less equivocal answers to the questions raised, we find it necessary to submit these additional questions.

By way of introduction, we draw attention to the preliminary remarks in the minor interpellation of 30 May 2011 (Printed Paper 17/6011) pertaining to the planned repatriation of the skulls of victims of the German war of extermination against the Herero, Nama and Damara peoples in the former colony of German South West Africa, now the Republic of Namibia. These remains are held in German museums, collections and archives. Their repatriation is inseparably linked with the issue of official recognition

of the genocide perpetrated by Germany and the need for more detailed study of Germany's colonial past.

We address the following questions to the Federal Government:

1. *To what extent does the Federal Government share the general view, especially among historians, that from today's perspective, the war of extermination conducted by the government of the German Empire against the Herero, Nama and Damara peoples during the period 1904-1908 can be defined as genocide in accordance with the criteria established by the Convention on the Prevention and Punishment of the Crime of Genocide, adopted on 9 December 1948? Does the Federal Government still endorse the words spoken by former Federal Minister Heidemarie Wieczorek-Zeul in Okakarara, Namibia, in 2004: "The atrocities committed at that time would today be termed genocide (...) And so, in the words of the Lord's Prayer that we share, I ask you to forgive us our trespasses. Without a conscious process of remembering, without sorrow, there can be no reconciliation – remembrance is the key to reconciliation"?*

The Convention on the Prevention and Punishment of the Crime of Genocide was adopted on 9 December 1948 and entered into force on 12 January 1951. The Federal Republic of Germany has been bound by its provisions since 22 February 1955. The Convention does not apply retrospectively. The Federal Government does not undertake retrospective evaluations of past events based on the application of international legal provisions which were not in force in the Federal Republic of Germany at the time these events occurred.

The Federal Government has repeatedly acknowledged Germany's historic and moral responsibility towards Namibia. It did so, inter alia, with the words spoken by former Federal Minister Heidemarie Wieczorek-Zeul. The German Bundestag has also reaffirmed this responsibility, inter alia in its resolutions of April 1989 and June 2004. The Federal Government is meeting this responsibility primarily through increased bilateral cooperation, which also involves development cooperation.

2. *What is the Federal Government's assessment, in terms of the possible consequences for the Federal Republic, of the Namibian National Assembly's recognition, on 26 October 2006, of the genocide perpetrated by German troops against the Herero, Nama and Damara peoples and the Assembly's ensuing endorsement of the affected communities' demands for material and moral reparation from the German state and*

German companies? (We request a clear statement of the Federal Government's position on this issue without reference to positions adopted by the Namibian Government.)

Parliamentary processes in Namibia are not a matter for comment by the Federal Government.

Through its accession to and ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, which was adopted on 9 December 1948 and entered into force on 12 January 1951, the Federal Republic of Germany demonstrated, at the earliest possible moment, its firm conviction that genocide must be prevented and punished. The Federal Republic of Germany has been bound by the Convention's provisions since 22 February 1955. The Convention does not apply retrospectively.

3. Irrespective of whether the war of extermination conducted against the Herero, Nama and Damara peoples is defined as genocide under international law, to what extent does the Federal Government share the view that the use of the euphemism of Germany's "special historic and moral responsibility" towards Namibia rather than "genocide" in the former German South West Africa is problematical? In qualitative terms, what gives rise to the special nature of Germany's historic and moral responsibility towards Namibia, as distinct from other former German colonies?

The Federal Government does not share this view. In its two resolutions adopted in 1989 and 2004, the German Bundestag rightly refers to Germany's special responsibility towards Namibia. The Federal Government sees no reason to criticize this. The special nature of this responsibility in qualitative terms derives from Germany's status as the former colonial power in German South West Africa and the resulting close historical ties between the two countries today. In accordance with the provisions of the resolution adopted by the German Bundestag in 2004, the Federal Government, mindful of its special historic and moral responsibility towards Namibia, recognises that it has an obligation to contribute to the development and maintenance of particularly close and trustful relations with Namibia and its people.

4. Since the Namibian National Assembly adopted a motion in October 2006 supporting the Herero and Nama people's demands for reparation, has an official

dialogue taken place between the Bundestag and/or the Federal Government with the Namibian National Assembly and/or the Namibian Government on the issue of reparation? If so, what were the content and outcomes of this dialogue?

To date, the Namibian Government has not raised the issue of reparation with the Federal Government within the framework of an official dialogue. The Namibian Government has not taken “ownership” of the Hereros’ demands for compensation, endorsed by the Namibian National Assembly in a resolution adopted in October 2006, by addressing these demands to the Federal Government.

5. Would the Federal Government welcome the establishment of a German-Namibian parliamentarians’ group, or at least a parliamentary friendship group, to promote and institutionalize the dialogue between the two countries and thus reaffirm Germany’s special historic and moral responsibility towards Namibia? If not, why not?

The Federal Government welcomes the German Bundestag’s cultivation of international contacts with other countries’ parliaments. Establishing parliamentarians’ groups, parliamentary friendship groups, and dialogue among parliamentarians is the Bundestag’s prerogative, which the Federal Government respects.

6. If the German Bundestag decided to propose to the Namibian National Assembly that a joint parliamentary dialogue be initiated in order to address issues of relevance to further reconciliation, with a view to engaging in a more comprehensive reconciliation process, would this be a welcome development from the Federal Government’s perspective? (Please also refer to Bundestag Printed Paper 16/9708.) If not, why not?

Please refer to the answer to Question 5.

7. To what extent is the Federal Government prepared to engage in a direct dialogue process about its colonial past with Namibian civil society, victim groups, the Namibian National Assembly and the Namibian Government in order to underline, in this way, the special nature of Germany’s historic and moral responsibility and, together with the

Namibian partners, to address and resolve unanswered questions of relevance to the progress of the reconciliation process which has now begun?

The Federal Government is engaged in regular dialogue with the Namibian Government on all aspects of the relations between Germany and Namibia. Furthermore, below the governmental level, too, there are numerous contacts between Germany and Namibia, including close cooperation between their civil societies. The two countries' shared history is addressed as an issue in the dialogue processes taking place at this level too.

8. To what extent does the German government take the view that crimes committed in other countries in the past by one of its legal predecessors (especially the Reich governments from 1871 onwards) which must be defined as crimes against humanity or as genocide in accordance with the legal norms in force today, do not, as a matter of principle, give rise to any claims for reparation, restitution or compensation from the Federal Republic of Germany?

Under international law, past acts are judged according to the legal norms in force at the time they were committed. This also applies to possible reparations, restitution or compensation. Please refer to the answer to Question 1.

9. To what extent does the Federal Government consider that the present legal successors to the German companies which were involved directly or indirectly in these crimes and which profited from forced labour and expropriations in the former German South West Africa have not only a special moral but also a particular socio-economic and/or material responsibility?

The Federal Government has no information of its own available as to whether, and to what extent, German companies in the former German South West Africa profited from forced labour and expropriations.

10. To what extent does the Federal Government consider that it is helpful to work with the legal successors to the German companies which were involved directly or indirectly in these crimes and which profited from forced labour and expropriations in the former

German South West Africa in order to seek constructive solutions for material and moral reparation (“restorative justice”) outside the framework of legal proceedings?

Please refer to the answer to Question 9.

11. During the history of the Federal Republic of Germany, when and in which form have reparations, restitution and compensation payments been made to victim groups for particularly serious crimes committed in the past by one of its legal predecessors, without the Federal Republic asserting any claim to involvement in the disbursed funds’ disposal and use?

The substantial payments made by the Federal Republic of Germany to third countries since the end of the Second World War were aimed solely at making reparation for National Socialist injustice. The countries concerned were intended to use these funds to pay compensation to their citizens. Agreement on the rightful recipients and the eligibility criteria was reached in bilateral negotiations on the basis of consensus. The Federal Republic of Germany had no influence over the fund’s actual disbursement, distribution of the funds being a matter for the recipient countries.

12. What is the new date anticipated by the Federal Government for the visit by the delegation from Namibia, originally scheduled to take place during the 21st week of 2011, for the repatriation of the skulls and human remains belonging to the Herero and Nama peoples and currently held in the Charité Hospital’s collections?

A new date for the visit by the Namibian delegation for the purpose of repatriating the human remains from Namibia that are held by the Charité Hospital is currently the subject of discussions between the Namibian and German Governments. Based on progress so far, the aim is to set a date for the second half of September 2011.

13. What level of support is being provided by the Federal Government, and what would be the maximum amount of support that it is willing to provide, for the repatriation to Namibia of the skulls and human remains held in the Charité Hospital’s collections and for staging a dignified handing-over ceremony (please provide figures in euros)?

The Federal Government has repeatedly stated its willingness to provide support for the transportation of the human remains back to Namibia and to bear a share of the other costs associated with their repatriation. It is not possible, at this stage, to determine the precise costs and level of funding required for the handing-over ceremony and the repatriation of the remains to Namibia. The Federal Government does not envisage specifying a “maximum amount” of support in this context.

14. In the interests of dignified restitution and in accordance with its “special historic and moral responsibility”, has the Federal Government made any offer to the Namibian Government to cover the travel costs of the Namibian delegation, which will include 54 representatives of victims’ associations? Has any request for a contribution to the travel costs been made to the Federal Government by the Namibian Government or the victims’ associations? If the Federal Government has not made such an offer, why not?

On the issue of the repatriation of human remains, the Federal Government cooperates intensively with the Namibian Government, which sees its role as being to ensure that the human remains are dealt with in a dignified and proper manner and therefore liaises closely with the ethnic communities concerned. The Namibian Government has repeatedly stated to the Federal Government that it regards the repatriation of the remains as a matter for Namibia as a whole, not only as an issue which affects the interests of specific ethnic groups; for that reason, it is the Federal Government’s main point of contact and is responsible for organizing and funding the visit. According to the information provided by the Namibian Government, appropriate funding for this purpose has been allocated in the budget of the Ministry of Youth, National Service, Sport and Culture.

To date, the Namibian Government has not made an official request to the Federal Government for a contribution towards the travel costs of the representatives of the ethnic groups.

15. To what extent will the Federal Government honour its commitment to provide a dignified framework for the historically significant hand-over of the skulls to Namibia, also by ensuring that the Federal Chancellor, the Federal President and/or the Federal Foreign Minister attend and speak at the handing-over ceremony, with such attendance

being made a higher priority in the schedule of at least one of these high-ranking German government representatives?

The Federal Government will be represented at the planned handing-over ceremony by suitably high-ranking persons. In the Federal Government's view, the dignity of the occasion does not depend on the presence of specific representatives of the Federal Republic of Germany.

16. *Has a decision already been taken on whether the Federal Chancellor, the Federal President and/or the Federal Foreign Minister will attend and speak at the handing-over ceremony? If so, who will this be? If no such decision has been taken as yet, why not?*

The plans for a handing-over ceremony must be coordinated between the Charité Hospital, the Namibian Government and the Federal Government and have not yet been finalised. For that reason, the scheduling and detailed arrangements, as well as the programme for the handing-over ceremony and the choice of participants, have not yet been confirmed.

17. *How does the Federal Government intend to address the issue of the genocide perpetrated by the German Empire in its former colony of German South West Africa, and the associated atrocities and crimes, within the framework of the ceremony to hand over the skulls which were taken to Germany unlawfully?*

Please refer to the answer to Question 16.

18. *Are there any plans to ensure that, as a matter of principle, irrespective of the precise timing of the handing-over ceremony, German civil society, diaspora organizations and/or individuals from the Namibian/African diaspora can also participate in the ceremony and are therefore informed of the specific date of the ceremony and invited with sufficient notice and within an appropriate timeframe?*

a) *If so, will they merely attend the ceremony as observers, or will they have the chance to speak?*

b) *If not, why not?*

Please refer to the answer to Question 16.

19. To what extent does the Federal Government share the view that the manner in which cultural objects which originate in former colonial states but are now held in German museums, archives and collections (public and private) were acquired is an issue of such profound foreign policy and general significance for Germany (please refer also to answer no. 17 to the minor interpellation dated 30 May 2011, Bundestag Printed Paper 17/6227), that the Federal Government, notwithstanding the sovereignty of the federal states (Länder) in cultural matters, should take action in this context?

The Federal Government shares the view that the provenance of cultural objects which originate in former colonial states but are now held in German institutions is also an issue of foreign-policy and historic significance. The Federal Government therefore takes action to clarify provenance in relation to the repatriation of such cultural objects, to the extent that specific requests are made or the return of such objects is envisaged and the cultural objects concerned are held by German institutions.

For reasons of constitutional law, and also due to their familiarity with the objects in question, identifying and establishing the provenance of the cultural objects concerned is a matter for the institutions themselves or their governing bodies.

20. Will the Federal Government request administrative assistance from the Länder in order to determine whether there are other human remains or, indeed, other cultural objects held in German museums or archive collections which originate in former colonial states and whose lawful ownership may be in doubt (including mummified remains from Egypt and South America in German museum collections, such as the collections of mummified remains from South America held in the Ethnological Museum in Berlin, and looted ritual objects from Africa, such as the Tangué – the ship's ornament which belonged to the king of the Bele Bele people of Cameroon, currently on permanent display in the Munich State Museum of Ethnology)? If not, why not?

In view of the good exchange of information and the cooperation which exists between the relevant federal authorities and the *Länder* on these matters, and for the reasons stated in the

answer to Question 19, a formal request for administrative assistance is regarded as unnecessary.

21. Will the Federal Government actively encourage the Länder and relevant German institutions, including art and cultural institutions, to hand back any cultural objects which originate in former colonial states and whose lawful ownership may be in doubt? If not, why not?

The Federal Government is in contact with the representatives of relevant federal states (*Länder*) and with German institutions if it receives requests or specific indications that cultural objects which originate in former colonial states are held unlawfully by German institutions. It investigates the individual case, and in the event of illegal possession being established, the Federal Government works for the return of the cultural objects concerned.

22. To what extent does the Federal Government consider that development cooperation in Namibia which – although not unconditional and non-reciprocal – supposedly focuses solely on “sustainable poverty reduction processes which benefit all disadvantaged groups in Namibia”, is a suitable instrument “to raise historical awareness of the German colonial past in Germany itself and promote study of this still largely unexplored chapter in German history”? (Please refer to answer no. 12 in Bundestag Printed Paper 17/6227)

German development cooperation with Namibia takes place in the context of the Federal Government's acknowledgement of its special historic and moral responsibility towards Namibia. Mindful of the German colonial past, Namibia receives the highest level of bilateral development funding per capita from the German Government to any African country.

23. To what extent does the Federal Government regard the establishment of an independent foundation and/or a fund with contributions from the federal budget and from the legal successors to those companies which profited especially from German colonial rule (similar to the Foundation "Remembrance, Responsibility and Future"), the specific purpose of the foundation or fund being to promote study and critical reflection

on the colonial past and manifestations of colonialism in German society, as a suitable instrument to raise historical awareness of the German colonial past in Germany itself and promote study of this still largely unexplored chapter in German history, and, moreover, to establish the basis for genuine reconciliation in this way, also through a process of remembrance?

The German colonial past is researched in many different ways by historians, and this research is supported by the taxpayer in some instances. There are no plans to establish a foundation or fund for the study of German colonial history with contributions from the Federal Government and German companies.

24. To what extent does the Federal Government regard it as appropriate and necessary to initiate a research programme (including the provision of funding) which, besides identifying human remains acquired as a result of injustices perpetrated during the colonial era and repatriating them in a dignified manner, would also promote comprehensive interdisciplinary study of the underlying colonialist and racist scientific practices pursued at that time and thus cast light on the German scientific community's involvement in colonialism to the present day?

The topics of racism, colonialism and the role of science in the late 19th and early 20th century have been addressed in numerous studies by German and international scholars and are also the subject of ongoing research projects, such as the Charité Hospital's Human Remains Project, which is funded by the *Deutsche Forschungsgemeinschaft* (German Research Foundation). Although there may well be scope for further research in this area, the Federal Government does not consider that there is a need for a state-sponsored research programme in this field.

25. Has the University of Freiburg now submitted an application for funding for research into the provenance of human remains dating back to the colonial period and held in its collections, with a view to accessing the funding identified as being available from the Federal Foreign Office budget via its Directorate-General for Culture and Communication? If not, is the Federal Government aware of the reasons why no application has been submitted?

No application from the University of Freiburg has been received by the Federal Foreign Office to date. The Federal Government has no knowledge of the reasons why no application has been submitted.

Traduction: Hillary Crowe in collaboration with the language service of the German Bundestag
Übersetzung: Hillary Crowe in Zusammenarbeit mit dem Sprachendienst des Deutschen Bundestages