



STATE OF ISRAEL
OFFICE OF THE MINISTER FOR JERUSALEM & DIASPORA AFFAIRS

**FIRST GLOBAL REPORT ON RESTITUTION
OF JEWISH PROPERTY**

1952 - 2004

SUBMITTED TO

**MINISTER NATAN SHARANSKY
CHAIRMAN OF MINISTERIAL COMMITTEE
ON RESTITUTION OF RIGHTS AND JEWISH PROPERTY**

BY

**STEERING COMMITTEE
ON RESTITUTION OF RIGHTS AND JEWISH PROPERTY**

APRIL 2005

JERUSALEM

Office of the Minister for Jerusalem & Diaspora Affairs

5 April, 2005

Honorable Minister Natan Sharansky
Minister for Jerusalem & Diaspora Affairs
Chairman, Ministerial Committee for Restitution of Rights and Jewish Property

Re: First Global Report on Restitution of Jewish Property (1952- 2004)

According to Government resolution #1250 of December 28, 2003, paragraph A(5),
To entrust the Steering Committee on the Restitution of Rights and Jewish Property with the task of preparing, within six months and thereafter once a year, an overall annual report regarding the restitution of Jewish property, which shall be formulated and discussed by the Steering Committee and presented to the Ministerial Committee. The report will also include the activities in Israel and various other countries, and consolidate the reports of the countries and organizations engaged in this subject;

And according to Government resolution #JP/2 of January 18, 2004, paragraph 3,
Further to paragraph A(5) of the abovementioned Government resolution, the representative of Minister Natan Sharansky will prepare the first report within six months and submit it to the Ministerial Committee after it was discussed by the Steering Committee;

I am honored to present to you the comprehensive First Global Report on Restitution of Jewish Property. The mammoth task of compiling and condensing this report took longer than anticipated as we were laying the ground for future annual reports. Because this is the first-ever report of this kind, we would appreciate comments and suggestions in order to act upon them in our next annual report.

I would like to acknowledge all those who participated and helped in compiling this report since without their remarks, assistance and devotion this report would have never reached its significant depth and comprehensiveness (please see list attached on the last page of this report).

Footnotes relate to the bibliography located at the end of the report.

Yours truly

Aharon Mor

Senior Advisor, Restitution of Rights and Jewish Property &
Joint-Chairman, Steering Committee for Restitution of Jewish Property

CC. Steering Committee for Restitution of Rights and Jewish Property
members and permanent invitees:

Mr. Nimrod Barkan, Joint-Chairman, Department Head, Ministry of Foreign Affairs

Mr. Oren Helman, Advisor to Minister, Ministry of Finance

Dr. Shavit Matias, Deputy Attorney General, Ministry of Justice

Mr. Israel Shwartz, Deputy Director General, Ministry of Housing

Mr. Bobby Brown, Advisor to Chairman, Jewish Agency

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EXECUTIVE SUMMARY

- It all started with hatred of Jews just because they were Jews. It ended with the greatest injustice in human history, the extermination of four million Jewish men and women, and two million Jewish children, and nine million Jews stripped of their identity, history, and property.
- The originating event for Restitution is the *Shoah* which originated in Nazi Germany. The result of the *Shoah* is Jewish material damage in areas of private and communal property and abandoned Jewish culture.
- The Attorney General (today the Supreme Court Justice, Honorable Elyakim Rubinstein), recommended in 1999 to the Prime Minister to compose a global report on Restitution of Jewish property. The government acted upon this recommendation when it resolved to establish the Ministerial Committee on Restitution of Rights and Jewish Property.
- It was a challenge to produce a brief report; on the other hand, there are many subjects which require further research. Therefore, the focus of this report is mainly on the Jewish material damage during the Holocaust (better rendered by the Hebrew word *Shoah*), and on unresolved issues. The Appendixes include what has been done.
- This report is the first-ever of its kind. One would wonder why only now? In the initial post-Holocaust period, *Shoah* survivors were totally pre-occupied with getting their lives together once more, extricating themselves from the pit of extermination camps, setting up new families - and also in the struggle for the establishment of the State of Israel. No one had any time to deal with the material issues, and in any case there was a general reluctance to broach this subject. While memories of the Nazi horrors were still fresh and the wounds still festering, who could speak of the Holocaust and money in the same breath?
- In the nineties, fifty years after the beginning of WWII, many closed archives were opened and this led to research done and published, which was instrumental to make Restitution issues available to the public and discussed in the open.
- Six million Jews were murdered during the *Shoah*, but the property of nine million European Jews was looted and destroyed. The contents of homes and apartments, real estate, commercial accounts and economic investments, savings and insurance policies, personal effects, investments in gold, bank accounts, securities, foreign currency, jewelry, art and other valuables all were plundered.
- Stuart Eizenstat, appointed by U.S. President Bill Clinton to coordinate the U.S. government's efforts to identify the assets of *Shoah* victims, estimated at the end of 1998 that the assets were worth \$145 billion, in current prices (\$150 billion in today prices). This refers to Looted Jewish Property only, which is a part of the overall Jewish Material Damage during the *Shoah*, which is estimated to be \$ 230-320 billion (1997 current prices) and includes: Jewish looted property; Loss of Income; and Wages unpaid for forced labor.

- Some estimates suggest that no more than 20 percent of looted Jewish assets of all sorts – private and communal - were returned after the *Shoah*. Communal property probably does not account for more than five percent of the assets looted. Still, only a small fraction of it was restituted.

Restitution of Jewish private property is the weakest link in the Restitution process. A great deal still needs to be done in this area.

- Even though over eight billion dollars of one- time payments were negotiated in settlements during 1998-2001 (some to non-Jews) and a substantial part was paid and distributed, this is only a small part of the Jewish material damage during the *Shoah*. There is much to be done in order to achieve a measure of justice for *Shoah* survivors and their heirs.
- Quite a number of Restitution issues were dealt with successfully. However the accomplishments made so far are incomplete. Some of those with whom agreements on Restitution were negotiated, have lost sight of the moral message of this particular work and continue do the bare minimum.
- At the beginning of year 2004, there were 1,092,000 *Shoah* survivors living worldwide, inclusive of survivors from North African and Middle Eastern communities (Of them: 508,100 in Israel; 183,700 in FSU and East Europe; 184,700 in North America; 216,200 in other countries).
- There has been a loss of momentum in dealing with the hundreds of thousands of elderly victims, *Shoah* survivors, about ten per cent of whom die each year. Any systematic delay in establishing settlement and disbursement processes or resolving disputes is therefore not just another bureaucratic hurdle, but the difference between a dignified closing to a tragic period in their lives and unrequited sense of the permanent denial of justice; between assistance for the needs of old age and unabated suffering.
- It is just and right that whatever belonged to the Jewish people should go back to the Jewish People.
- It is the Jewish people who were the major victim in the *Shoah*. As the dead cannot be returned alive, then whatever can be done to help *Shoah* survivors and future Jewish generations must be done. Whatever can be done for *Shoah* commemoration and education must also be done. This is the only way to achieve a measure of justice now.
- The issue of the value of Restituted property is of essence. The historical pre-WWII value has little relevance today. Substantial work was done on this in the process of updating the value of insurance policies from the *Shoah* era. This can serve as a raw model for other types of restituted assets.
- There is an urgent need for registration of Jewish Property in a centralized database which will serve as a memory for future generations of the Jewish heritage in Europe prior to WWII.

- Restitution can successfully be dealt with only by exceptional legal measures. In most countries, special, fast, and simple legislation is badly needed. Only extraordinary means will enable closure on the issues of restitution of Jewish property.
- There is a need for follow-up on resolutions adopted at international conferences. A great deal of multinational effort went into achieving these resolutions, and they must be fully implemented.
- There is a need for follow-up on resolutions and recommendations of historical commissions, and reconciliation bodies. In some countries, progress has been painstakingly slow.
- Stuart Eizenstat suggested in his memo to the American court dealing with the Swiss banks litigation to look at four substantial amounts of funds originating from Restitution and coordinating the distribution of those funds. This proposal could serve as a basis for the “big picture” thinking which is essential in order to help *Shoah* survivors, assist *Shoah* education and commemoration and to ensure continuity and the future of the Jewish People.
- Several attempts were made in Israel to establish a Future Fund of the Jewish People and Diaspora and deposit into it heirless funds originating from Restitution. The attempts were made by proposed legislation in the Knesset, and by establishing a new non-profit organization, but so far the attempts were not successful.
- There are many unresolved issues, among them major issues involving art, real estate, and insurance. In addition, there are at least 20 countries with unresolved issues inclusive of Israel and the United States (in alphabetical order): Austria, Bosnia, Bulgaria, Croatia, The Czech Republic, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Serbia and Montenegro, Slovakia, Romania, the Former Soviet Union, Sweden, Ukraine, and the Vatican.
- The list of unresolved issues presented in this report is far from comprehensive. This is a first effort and further research is required to compile a comprehensive list of unresolved issues.
- A country-by-country “Combined Status” report is necessary and requires further research. The future of restitution depends on what has already been done in each country, and what needs to be done in various areas such as legislature, economics, politics etc. Professional evaluation needs to be done on each country.
- Further research is required on the Nazi impact on the lives and the property of Jews from North Africa.
- This report describes what has been done; who is doing what; and post Holocaust issues.

- In order to prevent another *Shoah* crucial areas need to be dealt with such as: Holocaust denial; Anti-Semitism; *Shoah* commemoration and education; and follow up on Historical Commissions to examine the conduct of nations during the *Shoah*.
- A five year Work Plan on Policy and Principles, and a five year Work plan relating to the Restitution of Rights to Jewish-owned Property, was formulated in March of 2004, and submitted for review of WJRO, and the Center of Organizations of Holocaust Survivors in Israel, before bringing it for approval of the Ministerial Committee for Restitution of Rights and Jewish Property. The leading concept was to have closure on as many as possible issues within the coming five years, while first generation *Shoah* survivors are alive.
- After the Ministerial Committee approves the multi- annual policy, an annual action plan for each of the five years, needs to be formulated, decided and agreed upon, with relevant bodies and organizations in Israel and abroad participating.
- The division of labor for the annual action plan needs to be done according to the ability of the participants to bring forward closure on the issues at hand, within the framework agreed upon.

PREFACE

The Attorney General (today the Supreme Court Justice, Honorable Elyakim Rubinstein), recommended in 1999 to the Prime Minister to compose a global report on Restitution of Jewish property. His recommendation came after a full day symposium¹ he held that year on the many aspects of Restitution². In 2003, the government acted upon this recommendation when it resolved to establish the Ministerial Committee on Restitution of Rights and Jewish Property (see Chapter 3.11).

The bibliography supporting this report is hundreds of pages long (see Bibliography). It was a challenge to produce a brief report; on the other hand, there are many subjects which require further research. Therefore, the focus of this report is mainly on the processes leading Restitution and on unresolved issues. The Appendixes include what has been done.

This report is the first-ever of its kind. One would wonder why only now? In the initial post-Holocaust period (hereafter referred to by the Hebrew word *Shoah*), *Shoah* survivors were totally pre-occupied with once again getting their lives together, extricating themselves from the pit of extermination camps, setting up new families. Many were also involved in the struggle for the establishment of the State of Israel. No one had any time to deal with the material issues, and in any case there was a general reluctance to broach this subject. While memories of the Nazi horrors were still fresh and the wounds still festering, who could speak of the Holocaust and money in the same breath?³

Even in the early 1950's, after the establishment of the State of Israel, when the issue of reparations from Germany was debated (see Appendix B1), the emotions aroused led to forceful protests by *Shoah* survivors, which culminated in demonstrations in front of the Knesset, the Israeli Parliament. During that debate in the Knesset, Foreign Minister Moshe Sharett posed some crucial questions: "If the dead *Shoah* victims would be asked in advance, if there comes a day when it will be possible to get back a part [of the property], shall we take it or not? They would say: Take it and God bless you.... Was our state [Israel] established to demand sacred debts which belong to the Jewish People or to let the debtors get free?"⁴

Generations after the *Shoah*, heirs of the immediate survivors are less inhibited in tackling the subject and are better equipped to fight for restitution of the property.⁵

Why did this subject surface in the past decade? One of the major contributing factors is the dramatic change of the international scene, specifically the fall of the Iron Curtain and the rise of democratic governments in Central and Eastern European countries that favor a free economy. As most of the property in question is in former Communist countries, there are now more realistic prospects of retrieving property which, after being seized by the Nazis, was nationalized by the Communists.⁶

¹ See bibliography at the end of this report: Symposium (1999) (Hebrew).

² Attorney General (1999).

³ Levin (1998).

⁴ Knesset (1952)(Hebrew).

⁵ Levin (1998).

⁶ Levin (1998), Pp8.

Also, in the past decade, fifty years after the beginning of WWII, many previously closed archives were opened and this has led to research being done and published. This research has been instrumental in making Restitution issues discussed openly and publicly. To use just one dramatic example: In the last ten years, more stories have been published about the Holocaust than in the previous fifty; most of these have been on the subject of Holocaust Restitution.⁷

Since then, quite a number of Restitution issues have been successfully dealt with. However the accomplishments made so far are incomplete. Some of those with whom agreements on Restitution were negotiated, have lost sight of the moral message of this particular work and continue to do the bare minimum.⁸

There has been a loss of momentum in dealing with the hundreds of thousands of elderly victims, *Shoah* survivors, about ten per cent of whom die each year. Any systematic delay in establishing settlement and disbursement processes or resolving disputes is therefore not just another bureaucratic hurdle, but the difference between a dignified closing to a tragic period in their lives and unrequited sense of the permanent denial of justice; between assistance for the needs of old age and unabated suffering.⁹

⁷ Levin (1998).

⁸ Eizenstat (2003).

⁹ Eizenstat. (2003).

INTRODUCTION

"Hast thou killed and also taken possession?!" 1 Kings 21:19

*"You have committed murder, now do you wish to become the victim's heir?"*¹⁰

Eli Wiesel, *Shoah* survivor, Writer, Nobel Laureate

Six million Jews died in the *Shoah* between the years 1939 and 1945:

JEWS WHO DIED IN THE *Shoah*

Polish and FSU* Jews.....	4,565,000
German Jews.....	125,000
Austrian Jews.....	65,000
Czechoslovakian Jews.....	227,000
Hungarian Jews.....	402,000
French Jews.....	83,000
Belgian Jews.....	24,000
Jews of Luxembourg.....	700
Italian Jews.....	7,500
Jews of the Netherlands.....	106,000
Norwegian Jews.....	760
Romanian Jews.....	40,000
Yugoslavian Jews.....	60,000
Greek Jews.....	65,000

TOTAL LOSS5,820,000**

Source: *Encyclopedia Judaica*, Vol. 8 p. 889

Eli Wiesel, *Shoah* survivor, Writer, Nobel laureate tried to grasp this number of 6,000,000 - he kept counting to himself for hours. While counting, he never managed to pass the number 100,000...

Six million Jews were murdered during the *Shoah*, but the property of nine million European Jews was looted and destroyed. The contents of homes and apartments, real estate, commercial accounts and economic investments, savings and insurance policies, personal effects, investments in gold, bank accounts, securities, foreign currency, jewelry, art and other valuables all were plundered.¹¹

Stuart Eizenstat, appointed by US President Bill Clinton to coordinate the U.S. government's efforts to identify the assets of *Shoah* victims, estimated at the end of 1998 that the assets were worth \$145¹² billion in current prices (\$150 billion in today prices).

* FSU: Former Soviet Union.

**Does not include Jews from North Africa and the Middle East in countries controlled by the Nazis and their allies.

¹⁰ Eizenstat (2003), pp.xi

¹¹ Teitelbaum & Sanbar (2001) p.17.

¹² Washington (1999); Teitelbaum & Sanbar (2001) p.17.

1. GERMAN RESPONSIBILITY (Where it all began)

THE *Shoah*

The first declaration of war by Nazi Germany was against the Jewish people, and it took a special form¹³ (see next: A *Shoah*: Holocaust Chronology).

Chaim Weizmann, the president of the Jewish Agency (later the first President of the State of Israel), told the Allies in a note in 1945:

Its aim was not conquest and enslavement, but the complete physical extermination of the Jews, the utter destruction of their spiritual and religious heritage, and the confiscation of all their material possessions. In executing their declaration of war, Germany and her associates murdered some six million Jews, destroyed all Jewish communal institutions wherever their authority extended, stole all the Jewish treasures of art and learning, seized all Jewish property, public and private, on which they could lay their hands.¹⁴

Weizmann said that Hitler's war against the Jews created a three-fold problem – of reparation, rehabilitation, and restitution. He demanded indemnification and compensation from Germany. He also called for heirless Jewish property to be turned over to the Jewish Agency, since that body was the official representative of the Jews and bore the cost of resettling Jewish refugees in Palestine.¹⁵

The State of Israel, then three years old, sent a diplomatic note on March 12, 1951 to the four occupying powers of Germany – the United States, Great Britain, France, and the Soviet Union – seeking compensation from Germany. However, Israel cautioned, “No indemnity, however large, can make good the loss of human life and cultural values or atone for the suffering and agonies of the men, women and children put to death by every inhuman device”.¹⁶

David Ben-Gurion, the first Prime Minister of the State of Israel, said in his speech delivered on January 7, 1952 at the Knesset (Israeli Parliament) in Jerusalem:

Six million Jews were killed by torture, hunger, slaughter and mass suffocation. Many were burnt to death, buried alive, there was no mercy for elderly, women and children, and babies were torn out of the hands of their mothers and thrown into the furnaces. And before this mass and systematical murder was carried out, during (the murder) and after (the murder), came the robbery, vast and unprecedented. A crime so vast and so horrible, cannot be forgiven despite any material compensation. Any compensation, big as it may be, cannot compensate for the loss of lives or

¹³Henry (2002).

¹⁴Henry (2002).

¹⁵Henry (2002).

¹⁶Henry (2002).

offer forgiveness for the suffering of men and of women, children, elderly and babies.¹⁷

Scholarly studies of the *Shoah* during World-War II suggest that if the *Shoah* had not occurred, the world Jewish population in the year 2000 would have been between 20.1 million people and 32.8 million people, instead of the actual 12.8 million¹⁸.

In terms of demographic composition, and especially its age-structure, the pre-World-War II Jewish population was bound to a slow process of aging. But because of the *Shoah* this process was greatly accelerated. Of critical importance was the fact that young children were heavily over-represented among total victims of the *Shoah*. The demographic growth momentum that was implicit in the relatively young age structure of world Jewry in 1939 was irreparably lost. The consequence was additional massive erosion in the demographic process of generation replacement already tragically upset by mass destruction.¹⁹

¹⁷ Ben-Gurion (1952) (Hebrew).

¹⁸ DellaPergola (1996).

¹⁹ DellaPergola (1996).

A Shoah : HOLOCAUST CHRONOLOGY

Source: see bibliography Rossel.Seymour (1992)

1933

- JANUARY 30** Hitler becomes Chancellor of Germany.
- FEBRUARY 27-28** Reichstag fire set by Nazis. Constitution of Germany is suspended. Hitler is given "emergency" powers.
- MARCH 20** First concentration camp set in Dachau.
- APRIL 1** Hitler orders a one-day boycott of Jewish shops.
- APRIL 7** First anti-Jewish law passed in Germany

1934

- FEBRUARY 7** Hitler's Defense Council declares its intension to Prepare for war.
- JUNE 30** Hitler consolidates power by executing Ernst Roehm and several other Nazi leaders.
- AUGUST 3** Hitler declares himself both President and Chancellor of Germany.

1935

- SEPTEMBER 15** First Nuremberg laws passed. German Jews lose their citizenship.
- NOVEMBER 14** Nazis define a "Jew" as anyone with three Jewish grand parents, or anyone with two Jewish grandparents who claims to be Jewish.

1937

- JULY 2** Many Jewish students ordered to leave German schools and universities.
- JULY 19** Buchenwald concentration camp set up.
- NOVEMBER 16** Passports of Jews are declared invalid for foreign travel .

1938

- MARCH 12** *Anschluss*: Germany takes Over Austria; anti-Jewish laws are enforced there.
- APRIL 26** Decree on the reporting of Jewish assets.
- OCTOBER 28** 15,000 Jews are forced at gunpoint to cross the border into Poland.
- NOVEMBER 9** *Kristallnacht* begins, resulting in enormous destruction to Jewish property in Germany and Austria.
- NOVEMBER 15** All Jewish students are expelled from German schools.
- DECEMBER 13** Compulsory expropriation of all Jewish businesses and industries.

1939

- AUGUST 23** Russia and Germany sign a non-aggression pact.
- SEPTEMBER 1** Germany declares war on Poland.
- SEPTEMBER 3** World War II begins.
- OCTOBER 12** First trainload of Austrian Jews sent to camps in Poland.
- NOVEMBER 23** All Polish Jews ordered to wear a yellow badge imprinted with a Star of David.
- NOVEMBER 28** First ghetto set up in Poland at Protrkow.

1940

- FEBRUARY 12** First time that German Jews are sent to concentration camps.
- APRIL 9** Germans occupy Denmark.
- May 10** Germany invades Holland, Belgium and France.
- May 20** Auschwitz concentration camp set up.
- JUNE 22** France surrenders to Germany.
- SEPTEMBER 27** Japan joins Germany and Italy in Axis powers.
- OCTOBER 2** Warsaw ghetto set up.
- NOVEMBER 20-24** Hungary, Romania and Slovakia join the Axis Powers.

1941

MARCH Adolf Eichmann appointed Head of Gestapo section for Jewish affairs.

APRIL Germany occupies Greece And Yugoslavia.

JUNE 22 Germany invades Russia.

JUNE- DECEMBER *Einsatzgruppen* begin mass murder of Eastern European Jewry.

SEPTEMBER 15 German Jews ordered to wear the yellow badge.

SEPTEMBER 28-29 Massacre of 35,000 Jews at Babi-Yar, near Kiev.

OCTOBER 23 Massacre of 19,000 Jews in Odessa.

DECEMBER 7 Japanese attack Pearl Harbour. United States joins the Allied Powers.

1942

JANUARY 20 Plans for the "Final Solution of the Jewish Problem" discussed at the Wannsee Conference.

MARCH 1 Extermination by gas begins at Sobibor camp.

LATE MARCH Deportations to Auschwitz begin.

JUNE 20 All Jewish schools closed.

JULY 28 Jewish fighting group organized in the Warsaw ghetto.

SUMMER Dutch, Polish, French, Belgian, and Croatian Jews sent to extermination camps. Armed resistance by Jews in few ghettos.

OCTOBER 4 All Jews in German concentration camps scheduled for transfer to Auschwitz.

NOVEMBER Allied troops land in Africa

WINTER Norwegian, German, and Greek Jews sent to concentration camps. Jewish partisan groups gather in forests to fight.

1943

FEBRUARY 2 German army stopped at Stalingrad, Russia.

APRIL 19 Warsaw ghetto revolt begins. Jews fight till early June.

JUNE Nazis order destruction of all ghettos in Poland and Russia. Armed resistance begins in many ghettos.

AUGUST 2 Armed revolt breaks out in Treblinka camp.

FALL Large ghettos destroyed at Minsk, Vilna, and Riga. Danes begin the rescue of Danish Jewry.

OCTOBER 14 Armed revolt breaks out in Sobibor extermination camp.

1944

MAR. 19 Germany occupies Hungary

MAY 15 Hungarian Jews are sent to concentration camps.

JUNE 6 Allies invade France.

JULY 24 Russia army liberates the concentration camp at Maidanek.

SUMMER Remaining Jews in Kovno, Shavli, and Lodz ghettos are sent to concentration camps and the ghettos are destroyed.

OCTOBER 7 Revolt in Auschwitz.

OCTOBER 31 Remaining Slovakian Jews are sent to Auschwitz.

NOVEMBER 2 Jews remaining at Theresienstadt ghetto are sent to Auschwitz.

NOVEMBER 8 Beginning of death marches. 40,000 Jews are marched from Budapest to Austria.

1945

JANUARY 27 Auschwitz concentration camp is liberated.

APRIL 6 Buchenwald death march.

MAY 7 Germany surrenders.

NOVEMBER 20 Nuremberg War Crimes Trials begin, ending on October 1, 1946.

2. JEWISH MATERIAL DAMAGE DURING THE *Shoah* (The Result)

2.1. JEWISH MATERIAL DAMAGE DURING THE *Shoah*

Jewish material damage during the *Shoah* is estimated to be \$ 230-320²⁰ billion (1997 current prices) as follows:

Looted Jewish Property -	\$ 120 billion ²¹ (\$150 billion in today prices²²)
Loss of Income -	\$ 100-150 billion ²³
Wages unpaid for Forced Labor -	\$ 10-50 billion ²⁴
<u>Total</u> -	\$ <u>230-320</u> billion ²⁵

Division by major countries of the first issue - Looted Jewish Property – was done by the World Jewish Congress²⁶.

2.2. LOOTED JEWISH PRIVATE PROPERTY

Looting of Jewish private property took place from 1933 until 1945. Many Jews had to sell their businesses, homes and possessions at far less than prevailing market values because of forced “Aryanization” (legalized theft) and security concerns. Property was extracted from Jews via extortion, bribery and heavy taxes. Looting went on in the concentration camps and even from the corpses of the Jewish victims (i.e. gold teeth).²⁷

The common used breakdown of looted Jewish private property includes:

- Real Estate – commercial and agricultural land, residential and commercial buildings, flats.
- Contents of homes and apartments – furniture, carpets, appliances, clothing etc.
- Jewelry – golden, silver, diamonds and other precious stones.
- Gold – coins, bars.
- Financial assets – private and commercial bank accounts, savings, foreign currency, securities: bonds, shares etc.
- Insurance policies – life and commercial.
- Intellectual Property – patents, trademarks, engineering and architectural plans.
- Art – paintings, sculptures, gold and silver items, carpets, antique furniture.
- Judaica – Torah scrolls, prayer books, ceremonial objects.
- Books – novels, encyclopedias, art books, whole libraries.²⁸

²⁰ Bazyler (2003).p.xi.

²¹ Zabludoff (1998) p.5; Attorney General (1999) p.188.

²² Washington (1999) ; Teitelbaum & Sanbar (2001), pp.17.

²³ Restitution (1999) (Hebrew),pp.17.

²⁴ Restitution (1999) (Hebrew),pp.17.

²⁵ The Jewish People have never demanded compensation for the six million Jewish martyrs.

²⁶ Symposium (1999) (Hebrew),pp.188; Restitution (1999) (Hebrew),pp17.

²⁷ Institute (2004) (Hebrew).

²⁸ Zabludoff. Pp 28-29 (1998).

However, ideally a breakdown of assets would involve the following categories and its sub-categories:

- Homes, land and farms.
- Normal household items – furniture, rugs, ornaments, etc. – whose value about matches the material and labor input made in producing them, less depreciation.
- Collector's items – paintings, sculpture, jewelry, books etc. – whose value far exceeds the material and labor involved in producing them.
- Businesses including financial holdings, real estate, machinery, and equipment.
- Personal monetary holdings and investments, currency, bank accounts, precious metal (coins and bars) and stones(non-jewelry), stocks, bonds and other negotiable financial instruments, and the invested value in life insurance, annuities and retirement accounts.²⁹

The best information on looted Jewish property comes from the detailed census of Jewish assets in Germany and Austria in 1938 and Slovakia in 1940. In all three countries, Jews were asked to report their assets and liabilities by some 10 categories as follows: Agricultural/forestry; Residential real estate; Business; Financial – securities, capital claims, cash, saving; annuities; unpaid salaries; Household items; Valuables; Insurance, misc.; Other.³⁰

Real estate was broken down between residential and commercial with the later placed under business. Businesses were integrated by type – commerce, trade (retailing), industry, banking and transportation.³¹

The most interesting results from analyzing those censuses are:

- Residential real estate consists of some 25-30 percent of total.
- Personal monetary holdings and investments account for at least 40 percent and probably more than half of Jewish assets.³²

Based on this information it can be tentatively estimated that about two-thirds of the assets were easily movable.

Much of the Jewish looted private property is unclaimed as all owners and their heirs died in the *Shoah*.

2.3. LOOTED JEWISH COMMUNAL PROPERTY

Jewish communal property was looted, taken over and confiscated during the *Shoah* and thereafter. Depending on the country, communal property may have been initially taken by the Nazis or their associated regimes and/or thereafter seized and nationalized by post-war Communist regimes.

²⁹ Zabłudoff, pp 28-29 (1998).

³⁰ Zabłudoff, Pp 28-29 (1998).

³¹ Zabłudoff, Pp 28-29 (1998).

³² Zabłudoff, Pp 28-29 (1998).

The term “communal property” includes any buildings (existing or not) or land that was owned by a Jewish community, religious congregation or organization – such as a synagogue, school, hospital, ritual bath, library, old age home, orphanage, or cultural facility, as well as cemeteries. Communal property also includes Judaica, books and art belonging to the community.

In many cases, properties are now occupied by commercial or private tenants, especially public institutions (such as schools, hospitals, housing, museums, etc.). Some properties have already been sold to third parties.

Communal property probably does not account for more than 5% of the assets looted. The vast majority of assets looted were private Jewish Property.³³

See sample of unresolved issues on Jewish communal property in Appendix A.

2.4. ABANDONED JEWISH CULTURE: JEWISH CEMETERIES³⁴

A large number of Jewish Cemeteries, and Jewish mass graves (more than 20,000) were abandoned following the *Shoah* in Europe as there were no Jewish communities to care of them. Some of those cemeteries are ancient and of great historical value. Most of these cemeteries remain abandoned today as well. Quite a few were taken over for commercial purposes.

A sample report on cemeteries in Belarus, Ukraine, Lithuania, Latvia, Romania, Poland, Russia, Hungary, Austria and Germany (East) – reveals a grim picture.

2.5. THE LAW ON RESTITUTION OF JEWISH PROPERTY

The laws on Restitution of property, inclusive of Jewish property, in Europe and especially in Eastern Europe are rare. When they do exist, they are different in each country, difficult to follow, often there are requirements of citizenship, and often costly to act upon.³⁵

Recently, the EU announced that it will form a framework for restitution of property in order to accommodate the new EU members from Eastern Europe.³⁶

³³ Zabludoff (1998a).

³⁴ Porush (2001).

³⁵ Bazyler. (2003).

³⁶ Salpeter (2004).

3. UNRESOLVED ISSUES (What needs to be done)

Even though over eight billion dollars of one- time payments were negotiated in various settlements (for Jewish property as well as for personal indemnification) during 1998-2001 (some to non-Jews) and a substantial part was paid and distributed, this is only a small part of the Jewish Material Damage during the *Shoah*. (see Appendix B for *what has been done*).³⁷

The accomplishments achieved so far are incomplete. Some of those with whom agreements on Restitution were negotiated, have lost sight of the moral message of this particular work, and do the bare minimum.³⁸

There has been a loss of momentum in dealing with the hundreds of thousands of elderly victims, about ten per cent of whom die each year. Any systematic delay in establishing settlement and disbursement processes or resolving disputes is therefore not just another bureaucratic hurdle, but the difference between a dignified closing to a tragic period in their lives and an unrequited sense of the permanent denial of justice; between assistance for the needs of old age and unabated suffering.³⁹

There is much to be done in order to achieve a measure of justice for *Shoah* survivors and their heirs.

3.1. RETURNING TO THE JEWISH PEOPLE

Some estimates suggest that no more than 20 percent of looted Jewish assets of all sorts – private and communal - were returned or compensated for after the *Shoah*.⁴⁰

At the beginning of year 2004, there were 1,092,000 *Shoah* survivors living worldwide, inclusive of survivors from North African and Middle Eastern communities (Of them: 508,100 in Israel; 183,700 in FSU and East Europe; 184,700 in North America; 216,200 in other countries)⁴¹.

It is the Jewish people who were the victims of the *Shoah*. As the martyrs cannot be restored to life, whatever can be done to help *Shoah* survivors and future Jewish generations -- including commemoration and education - must be done.

It is just and right that whatever belonged to the Jewish people will be returned to the Jewish People. First are the owners and their heirs. As for the distribution or use of heirless property, this becomes then the issue of the Jewish People themselves.

³⁷ Levin (2001) (Hebrew); Eizenstat (2003).

³⁸ Eizenstat (2003).

³⁹ Eizenstat (2003).

⁴⁰ Zabudoff (1998a).

⁴¹ "Neediness Among Jewish Shoah Survivors: A Key to Global Resource Allocation" by Prof. Sergio DellaPergola in Arnold & Porter (2004; 2004a).

3.2. RIGHT VALUE

The issue of the value of restituted property is extremely important. The historical pre-WWII value has little relevance today. Substantial work was done on this in the process of updating the value of insurance policies from the *Shoah* era (see Appendix B10). This can serve as a raw model for other types of restituted assets.⁴²

3.3. RECORDING AND PUBLICATION

There is an urgent need for recording of Jewish Property in a centralized database which will serve as a memory for future generations of the Jewish heritage in Europe prior to WWII.

Reconciliation should be made between the database on Jewish Property and the names published recently by Yad Vashem in Jerusalem on the Central Database of Shoah Victims' Names.⁴³ This task is urgent as long as first generation of *Shoah* survivors are among the living and can help.

It is important to make all the information on *Shoah* assets publicly available. This is important so that this and future generations understand the horrors, and that today's and future Jewish families are able to achieve a better understanding of the life of their ancestors, or the genealogical factor.⁴⁴

As a rule, all information on the *Shoah* should be in the public domain. Unfortunately, there are many countries hiding behind the rubric of privacy laws to hide material.⁴⁵

3.4. JUDICIAL

Existing special legislation for restitution is spotty, inadequate, and poorly implemented.⁴⁶ There are often requirements of citizenship. Some countries enacted special legislation, and some established special Foundations (see Appendix C5).

However, restitution issues were dealt with mostly by existing ordinary procedures and existing ordinary legislation. This does not appear to work. As the *Shoah* was not an ordinary event, it cannot be dealt with by ordinary means. Restitution can successfully be dealt with only by exceptional legal measures. In most countries, special, fast, and simple legislation is badly needed. Only extraordinary means will enable closure on the issues of restitution of Jewish property.

3.5. FOLLOW-UP ON RESOLUTIONS OF INTERNATIONAL CONFERENCES

There is a need for follow-up on resolutions adopted at international conferences (Washington and Vilnius).⁴⁷ A great deal of multinational effort went into achieving these resolutions, and they must be fully implemented.

⁴²Zabludoff (1998a).

⁴³Yad Vashem (2005).

⁴⁴Zabludoff (1998a).

⁴⁵Zabludoff (1998a).

⁴⁶Zabludoff (1998a).

The Washington conference outlined how the restitution process should be carried out, and it was not fully implemented. The Vilnius conference dealt with looted art, and its resolutions were also not implemented.

3.6. FOLLOW-UP ON HISTORICAL COMMISSIONS AND RECONCILIATION

There is a need for follow-up on resolutions and recommendations of historical commissions and reconciliation bodies. In some countries, progress has been painstakingly slow.⁴⁸

3.7. COORDINATED JEWISH DISTRIBUTION

In a memo to the judge overseeing the Swiss banks settlement⁴⁹, Stuart Eizenstat suggested that it will be useful to look at four substantial categories of funds originating from the restitution process and to coordinate the distribution of those funds (See Appendix B9). The four funds are those being distributed by: 1) ICHEIC (See Appendix B10); 2) the Claims Conference (See Appendix C2); 3) excess funds in the German, Austrian and French settlements (See Chapter 3.8; Appendix C5); 4) the Swiss banks settlement (See Appendix B9).

Eizenstat's proposal contains much effort. Its implementation could serve as a basis for the "big picture" thinking which is essential in order to help *Shoah* survivors, assist *Shoah* education and commemoration and to ensure continuity and the future of the Jewish people.⁵⁰

3.8. FUTURE FUND OF JEWISH PEOPLE AND DIASPORA (HEIRLESS PROPERTY)

Several attempts were made in Israel to establish a Future Fund of the Jewish People and Diaspora and deposit into it heirless funds originating from Restitution. The attempts were made by proposed legislation in the Knesset⁵¹ and by establishing and shelving a non-profit organization with the World Jewish Congress. Organizations of *Shoah* survivors insist that heirless funds should be used strictly to benefit needy survivors.⁵²

3.9. FURTHER RESEARCH REQUIRED⁵³

As this is the first report of its sort, further research is required in the following areas:

- a. A country by country analysis of the Jewish Material Damage during the *Shoah*, inclusive of looted Jewish assets (see Appendix A).

⁴⁷ Eizenstat. (2003).

⁴⁸ World Jewish Congress (2002).

⁴⁹ Swiss Banks (2000;2004; 2004a).

⁵⁰ Eizenstat (2003a); Zabludoff. (1998a).

⁵¹ Hirshzon (2001) (Hebrew).

⁵² Flug & Gil. (1998) (Hebrew).

⁵³ Zabludoff. (1998a).

- b. A country by country analysis how much was paid back in each country during the post war years and up to mid-1990s (the start of the renewed interest in restitution).
- c. A country by country analysis what has been accomplished in returning or compensating for unpaid assets between the mid 1990s and 2004.
- d. In rough numbers, what remained to be paid by each country.
- e. Indicate the amounts provided to cover assets that never will be claimed by individuals because of time and the enormous loss of life during the *Shoah*. It should be pointed out that the recent experience indicates that the bulk of assets will never be claimed and that these unclaimed funds are, and should be, devoted to humanitarian purposes, including both assistance for *Shoah* survivors and other activities.
- f. Determine a uniform system to calculate current value of stolen *Shoah* era property. The way to do it maybe in a currency that has remained stable for the past 60 years such as the US dollars or the Swiss franc.
- g. Provide a benchmark to measure the progress of property restitution.
- h. The future of restitution depends on what has already been done in each country, and what needs to be done in various areas such as legislature, economics, politics etc. Professional evaluation needs to be done on each country.

3.10. NAZI IMPACT ON LIVES AND PROPERTY OF JEWS FROM NORTH AFRICA

Further research is required on the Nazi impact on the lives and the property of Jews from North Africa.⁵⁴

3.11. NEXT STEPS

The Government resolved on formulating an overall multi-annual policy and a multi annual as well as annual action plan as follows:

- a. An overall multi-annual policy
According to Government resolution #1250 of December 28, 2003 (resolved unanimously).⁵⁵
 - 1) The Government of Israel will formulate an overall multi-annual policy regarding the restitution of Jewish rights and property in all fields and from all relevant countries of the world (to be implemented).

⁵⁴ Satloff.(2005)

⁵⁵ Government Resolution (2003).

- 2) The State of Israel, in conjunction with Jewish organizations, will lead and coordinate the issue of restitution of private and communal Jewish rights and property, as well as the restitution of rights and property of Jews after the Holocaust, with or without heirs, in Israel and abroad, vis-a-vis domestic and foreign bodies, various organizations, Jewish communities involved in the subject, the Jewish Agency and government officials abroad, with the assistance and cooperation of various Jewish organizations, as required.
- 3) To establish a Ministerial Committee regarding the restitution of Jewish rights and property, comprised of: Minister Natan Sharansky (in charge of Jerusalem affairs and Social and Diaspora affairs) – Chairman; Minister of Justice – member; Minister of Foreign Affairs – member; Minister of Finance – member; Minister of the Interior – member; Minister of Construction & Housing – member; Minister Meir Sheetrit – member. Permanent invitee – Chairman of the Jewish Agency (was implemented).

The Committee's functions will be to formulate an overall policy, as mentioned in the above clauses 1 and 2, update this policy once a year and oversee all policy aspects of the restitution of Jewish property, subject to government policy on this matter and in accordance with Israel's foreign policy. The overall policy and the annual plan will be presented to the Government before their implementation."

A Work Plan on Policy and Principles 2004-2008 and a Work plan for 2004-2008 relating to the Restitution of Rights to Jewish-owned Property, was formulated by the Steering Committee (established according to paragraph 4 of the abovementioned resolution) in March of 2004, and submitted for review of WJRO, and the Center of Organizations of Holocaust Survivors in Israel, before bringing it for approval of the Ministerial Committee.

The leading concept was to have closure on as many as possible issues within the coming five years, while first generation *Shoah* survivors are alive.

b. Annual action plan

After the Ministerial Committee will approve the multi- annual policy, and multi-annual action plan, an annual action plan for each of the five years, needs to be formulated, decided and agreed upon, with all relevant bodies and organizations in Israel and abroad participating.

Division of labor for the annual action plan needs to be done according to the ability of the participants to bring forward closure on the issues at hand, within the framework agreed upon.

APPENDIX A - UNRESOLVED ISSUES: PROCESSES AND COUNTRY BY COUNTRY

A Country by Country "Combined Status" report is necessary and it requires further research. This "Combined Status" report should include at least all of the following:

- A. The Jewish Material Damage during the *Shoah*
- B. Communal Property
- C. Private Property
- D. Judicial
- E. Foundations
- F. Ongoing Activity
- G. Unresolved Issues

Such combined status will enable each country to pinpoint areas it needs to concentrate on and deal with.

Each country should also pay attention how it is dealing with issues such as Historical Commissions and Reconciliation, Holocaust Denial, *Shoah* Commemoration and Education, as these reflect on restitution issues.

At this stage, unresolved issues only will be dealt with in this report, and not the full "Combined Status" of each country, which requires further research .

A1. UNRESOLVED ISSUES: FRAMEWORK FOR RESTITUTION

There is a need for a worldwide framework for restitution.⁵⁶ EU parliament passed a resolution in 2003 that an all-European institution will be established, in order to accommodate the new EU members from Eastern Europe, to supervise restitution of property, and serve as a mediator between the claimants and the current owners. The required regulation and uniform system for registration and cataloging was planned to be in place by the end of 2004⁵⁷.

So far the EU has not acted on restitution issues. As the *Shoah* happened in Europe, it is most desirable that the EU should act with vengeance on restitution, and press accession countries to resolve it at once.

A2. UNRESOLVED ISSUES: ART

In art restitution, there has been some progress, particularly in the United States, Austria, and France. But serious research to locate looted Nazi art is underway in only about half a dozen of some forty countries that subscribed to the 1998 Washington Principles. Twenty-nine have done virtually no research at all.⁵⁸

Where web sites have been established, they are in different languages and different designs, making a family's search for its treasures like a passage through a labyrinth.

⁵⁶ Zabludoff (1998a).

⁵⁷ Salpeter (2004).

⁵⁸ Eizenstat (2003).

The Russian Federation holds the largest repository of Nazi-looted art. Yet in spite of its own law on restoration of looted art, Russia has made almost no progress in identifying their holdings despite repeated promises.⁵⁹

A3. UNRESOLVED ISSUES: INSURANCE

Closure proceedings of ICHEIC (See Appendix B10).

A4. BURIAL OF JEWISH *Shoah* VICTIMS

An unknown number of Jewish *Shoah* victims in Europe were never buried. These were victims who were buried in mass graves or individually hunted or killed by the Nazis or by the local population. A special effort needs to be made to find and bury the remains of these victims while people who know about such instances are still alive.⁶⁰

A5. UNRESOLVED ISSUES: COUNTRY BY COUNTRY⁶¹ (IN ALPHABETICAL ORDER)

The list of unresolved issues presented here is far from being comprehensive. This is a first sample list and further research is required to detect all unresolved issues.

Quite a few countries have passed restitution laws. However there is often a very slow and bureaucratic process of actually getting the property returned.

UNRESOLVED ISSUES: AUSTRIA

Delay in release of settlement funds. Austria did not obtain, like Germany, “legal peace” in U.S. courts. After the U.S.-Austria settlement in 2001, a lawsuit was filed in the U.S. challenging the fairness of the settlement. Since these cases are still ongoing, Austria has refused to release settlement funds.

UNRESOLVED ISSUES: BOSNIA

Communal Property

The Jewish community in Sarajevo is seeking the return of four properties, including the Old Stone Synagogue which is now a City Museum. The aspirations of the Jewish Community are to regain “usage rights” rather than ownership. The various ethnic groups cannot agree on which of several property nationalizations should be reversed, and in addition with other issues, therefore there are difficulties to reach a proper Restitution law.

⁵⁹ Eizenstat (2003).

⁶⁰ Porush (2001).

⁶¹ Block (2002); Spanic (2003); Compensation & Restitution (2003).

UNRESOLVED ISSUES: BULGARIA

Communal Property

The Jewish community ("Organization of Jews in Bulgaria –Shalom") has received back about 100 properties throughout Bulgaria. However, one notable building at Suborna Street in the center of Sofia remains in government hands, despite repeated court rulings that it should be returned to OJB Shalom. There is also the issue of the Rila hotel. There are also a handful of other unreturned buildings in smaller communities outside Sofia.

UNRESOLVED ISSUES: CROATIA

Croatian law provides for the restitution of private property to Croatian citizens. This law was found unconstitutional by the Constitutional Court of Croatia, and in 2002 the law was modified so as to allow claimants to make claims (in theory). However the new law states that claimants cannot file in the absence of a "bilateral agreement" between Croatia and the state of the claimant's citizenship. Croatia has not signed an implementing agreement with any country. Nor such treaty has been signed between Croatia and the State of Israel.

Israeli President Moshe Katzav met with Croatian President Mr. Mesic in July 2003. At that meeting, President Katzav proposed the creation of a joint committee to deal with the issue of the restitution of property to Israelis who are not Croatian citizens. President Mesic responded positively to this proposal. This committee was never created.

The restitution issue was most recently raised at a meeting between Israeli Minister of Foreign Affairs Silvan Shalom and Croatian Minister of Foreign Affairs Mionir Zuzul.

The WJRO has decided to renew negotiations with the government of Croatia regarding the restitution of private property in the near future.

UNRESOLVED ISSUES: THE CZECH REPUBLIC

1. Private Property

The Czech law regarding the restitution of private property taken between 1938 and 1945, was passed in 1994 and contained a number of deficiencies. Specifically, it did not apply to non-Czech citizens, and did not apply to all types of property. In 2001 a "Endowment Fund for the Victims of the Holocaust" was created with \$7.5 million. One third of this money was earmarked to provide symbolic payment to claimants of private property who had been unable to claim under the 1994 law. Deadlines have passed for both citizens and non-citizens.

It would seem that agricultural land can be claimed – this is being checked.

2. Art

Both citizens and non-citizens have until 2006 to present claims for the restitution of art held by the national museums.

3. Communal Property

No law exists requiring the government to restitute communal property. There is a problem at the municipal level as there is no law forcing the municipalities to implement communal property restitution procedures. About 200 properties have been returned to the local Jewish community on the basis of government decrees. No joint foundation exists.

UNRESOLVED ISSUES: EUROPEAN UNION (EU)

EU parliament passed a resolution in 2003 that an all-European institution will be established, in order to accommodate the new EU members from Eastern Europe, to supervise restitution of property, and serve as a mediator between the claimants and the current owners. The required regulation and uniform system for registration and cataloging was planned to be in place by the end of 2004⁶².

UNRESOLVED ISSUES: FRANCE

Slow distribution of settlement funds.

UNRESOLVED ISSUES: GERMANY

1. Closure of the 1952 Reparations Agreement with the State of Israel

See Appendix B1.

2. Ghetto Pensions (ZRBG) Refusals⁶³.

About 60,000 Holocaust Survivors worldwide have applied for the pensions since 2002 when the law came into affect. The rate of refusals is high: up to eight to one. It seems that the German officials dealing factually with these pensions do not possess the necessary historical background and therefore the rate of refusals is so high. To date only about 2,000 Holocaust Survivors in Israel have received the pensions.

In Germany there are about 15 different authorities in the different States that are dealing with these pensions. There is a variety of different offices to deal with Holocaust Survivors in different countries and there are discrepancies in the outcomes. For instance, two members of the same family who were at the same Ghetto and worked together at the same place of work, may receive different treatment due to different places of residence: the one who resides now in the US received the pension and the other who resides in Israel was refused. Some say that

⁶² Salpeter (2004).

⁶³ Taylor (2004); Tishler (2004) (Hebrew).

the office dealing with Holocaust Survivors who reside in the US is more positively attuned than the office dealing with Holocaust Survivors who reside in Israel.

The suggestion of the German authorities that those who were refused are entitled to appeal is not workable as the Holocaust Survivors are passing away.

Further to complaints by German lawyers representing Holocaust Survivors, a scrutiny of about 200 cases is under way in Germany and will be finalized by end of January 2005.

3. Hardship Fund ("Hereinwachsen") Refusals.⁶⁴

Germany refused to pay BEG pensions to Holocaust survivors who left East European countries in the 60's and the 70's and decided to pay a one-off sum of 5,000 German Marks. This was done through the Claims Conference with specific criteria fixed by the German Federal Ministry of Finance in 1981.

The Hardship Fund stipulates that applicants must have suffered significant damage to health. The German government insisted that applicants could prove this by showing at least an 80% reduction in earning capacity, or a 50% reduction in earning capacity in consequence of persecution. Female applicants who reached the age of 60, and male applicants who reached the age of 65, at the time of the application are presumed to have suffered an 80% reduction in earning capacity.

As a result, the applications of those who were not able to meet the above criteria were denied.

For instance, two members of the same family who left an East European country at an age below 60 or 65 and applied, were refused and those who left later received the one time payment.

Litigation is going on at the Tel Aviv district court where about 2,000 Holocaust survivors sued the Claims Conference over the abovementioned issue.

A recent refusal letter on the issue was sent to two members of the Israeli Knesset in August 2004 and was signed by the Parliamentary State Secretary at the Federal Ministry of Finance, Mr Diller.

The insistence on deadlines in Germany is very strict and is part of the German Constitution, therefore it is difficult to change. If this is impossible then alternative ways need to be looked at to resolve the issue as Holocaust Survivors are passing away quickly.

⁶⁴ Taylor (2003).

4. Class Action on restitution of private property of all Jews of Germany.

C.D. (Jerusalem) 5158/03, 1310/03. Ziporah Hilde Jochsberger v. Federal Republic of Germany⁶⁵

A civil action was brought before the District Court in Jerusalem and a motion was made to have the action recognized as a class action suit against the government of the Federal Republic of Germany on behalf of all the Jews of Germany who filed Declarations of Property and Assets during the late 1930's, or their heirs.

In the context of seeking legal, moral and historic justice the plaintiffs requested that the Court order disclosure and repatriation of all Jewish property in Germany which was confiscated and stolen by the Nazi regime and has as yet not been returned or compensated, for the Jews of Germany and for the Jewish people as a whole.

Between 1933 and 1938, the Jews of Germany were obligated by law to deliver to the Nazi government declarations specifying all their property and assets. The duty to file such declarations was imposed on all the Jews of Germany, the clear intention being to use these declarations in order to confiscate all Jewish property and assets in Germany.

The existence of the Declarations has only recently been revealed. They will not be made public until 2018.

This documentation is highly detailed, including real estate, money, tangibles, intangible rights and other assets, held by German Jews prior to the Holocaust.

UNRESOLVED ISSUES: GREECE

In 1955 the government conducted a population census and all those who did not participate in it because they were not in Greece, their citizenship was abolished. This includes all *Shoah* survivors, *Shoah* victims, and heirs. As a result, today they can not get birth certificates nor any documentation regarding Jewish property, and therefore they can not apply for restitution of their property⁶⁶.

UNRESOLVED ISSUES: HUNGARY

1. Private Property – compensation.

A law for the restitution of private property was passed in 1991, but it provided for very limited compensation only (about 5%-10% of market values, with a ceiling of about \$21,000).

2. Communal Property

The Hungarian law on the restitution of religious property from 1991 only provides for the restitution of property for the current direct needs of the religious community and does not allow the sale of property. Under this law

⁶⁵ Kaufman (2005).

⁶⁶ Mor (2005) (Hebrew).

the local Jewish community has received roughly about 100 properties.

In 1997 a new law was passed which allows the community to receive an annuity in exchange for its rights to specific communal properties. The local Jewish community has signed a agreement waiving rights to 152 properties in exchange for an annuity of about \$2.7 million per year.

3. Foundation – unclaimed, heirless property

The Paris Treaty (Section 27, Article 2) required the Hungarian State to return Jewish property, including that of Jewish organizations, which was found to be without heirs after WWII. The Constitutional court ruled in 1991 that Hungary had failed to carry out the requirements of this section, and in 1997 the Government created a public endowment “the Jewish Heritage of Hungary Public Endowment” as a means to carry out these obligations.

The government has granted this endowment a 4 Billion Forint bond (about \$15 million), seven properties, and a number of works of art. The Endowment uses the sum to pay monthly pensions to Holocaust survivors and the income from the properties to fund projects in Hungary. No additional assets have been transferred to the endowment. An additional bond of 2.9 billion Forint has recently been provided to the Endowment, in order to allow it to continue to pay the monthly pensions to Holocaust survivors.

The board of the endowment is made up of representatives of the government, the local Jewish community and Jewish organizations, and the WJRO.

In a more recent development, the government has recognized that the creation of the foundation does not in itself fulfill all of the obligations of the State as laid out in the Treaty of Paris regarding heirless Jewish property. The government has established an inter-ministerial committee to discuss the restitution of heirless property and invited representatives of the local community to take part in the meetings of the committee.

UNRESOLVED ISSUES: ISRAEL

See Appendix C1.

UNRESOLVED ISSUES: ITALY

Insurance – Generali Insurance Company

There are two unresolved issues: the commitment of Generali for \$40 million for humanitarian programs while paying insurance claims as much as necessary over and above its commitment to ICHEIC of \$100 million, and distribution of funds with the Generali Fund in Jerusalem (\$12 million) for humanitarian programs (balance of \$10 million of which \$6 million are with the Generali Trust Fund) (see Appendix B10).

UNRESOLVED ISSUES: LATVIA

Communal Property

An April 1992 Law on Return of Property to Religious Organizations, applies to all faiths and provides for return of "religious" property to "religious" organizations. The community applied for 24 properties and received 16 and compensation for two others.

The community (4,000 members) is interested in pursuing remaining claims for all communal properties, which may total to 200-300. Many of these properties are in small towns and in poor condition. Under the 1992 law administrative procedure for filing claims ended in 1995 and now any religious community must go to court to do so. Some legislative changes may be needed in order to cover all communal property and to allow restitution to the Jewish Community of Latvia.

A 1995 agreement to create a foundation for WJRO and the religious and secular communities was never implemented but might be reestablished in the future.

UNRESOLVED ISSUES: LITHUANIA

1. Private Property

The current law provides for the restitution of private property to Lithuanian citizens exclusively. A separate law relating to the right to citizenship denies citizenship to any person who has been "repatriated". This effectively means that while Jews who arrived in the U.S. (for example) after the war can acquire Lithuanian citizenship and claim their property, while those who arrived in Israel cannot. The deadline for applying for the restitution of private property passed on December 31, 2001.

A recent directive allows Jews who arrived in Palestine during the British mandate to reclaim Lithuanian citizenship, based on the 'reasoning' that they did not return to a Jewish State. In it's final session (the 10th of October), the outgoing Seimas approved a law amending Paragraphs and 4 of Article 10 of the "Law on the Restoration of the Rights of Ownership of Citizens to the Real Property". These amendments allow citizens of Lithuania to continue to claim property, despite the expiration of the deadline, as long as the reasons for their not claiming within the deadline are "reasons acknowledged by the court as valid". While under the current law Jews who returned to Israel before May 15, 1948 can receive citizenship and subsequently claim their property, those who arrived after this date remain unable to regain their Lithuanian citizenship and therefore still cannot claim their property.

2. Communal Property

Current law provides for the return of religious communal property to the representative designated by the supreme authority of each faith. In order to adapt this law to the needs of the Jewish community, an amendment to the law has been under negotiation for the past two years. Currently, these negotiations are on hold until after the Lithuanian elections. In addition, the Lithuanian Government has

repeatedly stated that it will not pass the law and begin restitution until it has a firm estimate of the costs of such restitution. Based on a list of some 152 properties, the Government has located about 58 properties that it agrees would be eligible for restitution under the proposed amendments to the law.

The WJRO has retained the services of a Lithuanian lawyer and a research team. This research team has recently completed intensive archival work in order to prepare extensive, separate lists of both the existing and destroyed property. These new lists will be presented to the Government of the Republic of Lithuania in the near future.

The major issues under negotiation are as follows:

The existing law does not apply to land or to properties on which the original structure has been destroyed and replaced with a new building. A separate compensation fund has been discussed as a possible solution. The position of the WJRO is that any such solution must be implemented together with the law.

The definition of the Jewish communal property. The position of the WJRO is that this definition must be broad and inclusive.

The timetable for the payment of compensation for properties that are currently occupied by certain types of tenants defined in the law. The position of the WJRO is that this timetable must be short.

3. Foundation

The WJRO has signed a cooperation agreement with the local Jewish community and is currently working to establish a joint foundation that will be empowered under the law to make claims and to receive and manage property.

UNRESOLVED ISSUES: POLAND

1. Private Property

A law for the Restitution of private property was passed by the Polish parliament in 2001. This law would have restricted the right to claim to Polish citizens who had acquired Polish citizenship as of the 31st of December 1999. The President of Poland vetoed this bill and it was never passed into law.

The current government has announced that it intends to introduce a new law; however this bill has not yet been brought before the Polish parliament. This bill would provide for very partial compensation, with payment to be extended over many years.

A delegation of Polish survivors will be visiting Warsaw in February 2005 to advise the Polish government that the current legislation for compensation being drafted for their parliament is unacceptable and that property-owners are seeking restitution and not merely compensation, unless the latter is adequate to meet their claims.

There is litigation going on in U.S. courts as well as in the EU court in regarding restitution of private property in Poland.

2. Communal Property

The Polish parliament passed a law dealing with the restitution of Jewish communal property in 1997. The deadline for the filing of claims under this law was the 11th of May 2002. By this deadline, about 5,544 claims were filed. Of these, about 3,500 were filed by the Foundation (see below) and about 1,700 were filed by the local Jewish community (the JRCP).

Claims are decided by a Regulatory Commission comprised of three members chosen by the Polish Government and three chosen by the local Jewish community. In an attempt to speed up the process a second commission was created at the beginning of 2003.

The process remains still extremely complex and slow and to date a total of about 340 properties have been restituted to the Foundation and the local Jewish communities out of a total of about 5,500 claims presented.

3. Foundation

The Foundation for the Preservation of Jewish Heritage in Poland was established as a joint venture by the WJRO and the Union of Jewish Religious Communities (the JRCP) to handle property restitution in 26 of the 49 Polish districts. In the remaining districts the JRCP is responsible for property restitution. The Foundation is responsible for receiving and managing restituted property in these districts, and continues to actively seek further documentation to strengthen its claims.

UNRESOLVED ISSUES: ROMANIA⁶⁷

1. Private Property

A law for the restitution of private property was passed by the Romanian parliament in 2001. The deadline for the presentation of claims passed in February 2002. This law imposed difficult documentary and procedural requirements that prevented many claimants from presenting or completing their claims. Necessary documentation could only be acquired in government archives, which were uncooperative at best. In addition, the Romanian government has not created a mechanism for awarding compensation to those claimants whose property cannot be returned in kind. Because of this situation, very few claimants have received either their property or compensation. In Bucharest, for example, only a couple of thousand claimants have received their property out of tens of thousand of claims which were presented prior to the deadline.

2. Communal Property

⁶⁷ WJRO (2005).

The process of restitution began in 1997 when a government committee including representatives of the Jewish community was set up to recommend properties for restitution to the Government. Government Decrees were subsequently issued regarding 58 properties of which 41 have been returned and 17 remain in process.

On June 25, 2002, the Romanian parliament adopted a law dealing with the restitution of communal property. This law presented a number of problems:

- The law did not provide for the restitution of land or for any form of compensation for land.
- The law did not provide for the restitution of properties on which the original structure has been destroyed and replaced with a new building. Here too, no compensation was offered.
- The law did not relate to properties nationalized during the years 1940-45.
- Any property sold to a private buyer must be pursued in court.

The Romanian parliament has passed a new law relating to communal property, which went into effect on March 30, 2004. The Prime Minister has announced that approximately 20 properties would be returned over the coming months. This law provides for the restitution of properties confiscated during the years 1940-1945, and provides for the restitution of land. The deadline for new claims was the 30th of December 2004.

The claims process remains extremely slow due to unreasonable and unrealistic requests for documentation, and the requirement that the Foundation, rather than the Government, investigate the current legal status of each property. The special commission established to adjudicate claims delays issuing its' decisions, even after it approves restitution. Also, the law allows the municipalities holding the property to appeal the decisions of the commission to the Romanian court system, resulting in almost endless delays.

3. Foundation

The Caritatea Foundation was created as a joint venture by the WJRO and the local Jewish Community to prepare and document claims for Jewish communal property, and to receive and manage restituted properties.

The Foundation has presented a total of 1807 claims to a special Retrocession Commission, which is empowered by law to examine and resolve the claims. Of these claims, only 97 claims have been discussed by the Retrocession Commission, of which 50 properties have been approved for restitution. Of these approvals, the Commission has issued only 27 written decisions. A written decision is a prerequisite for the return of the property.

A number of these decisions have been appealed and are slowly wending their way through the Romanian court system. A total of 55 properties are now in the

possession of the Foundation, including a number of properties restituted prior to the current restitution process. While these numbers speak for themselves, the following is a point by point list of the major obstacles before the restitution of Jewish communal property in Romania:

- a. The Commission meets infrequently.
- b. The Commission repeatedly demands additional documentation even when the documentation presented is sufficient to demonstrate Jewish communal ownership.
- c. The Commission delays issuing its decisions in writing.
- d. The Commission expressly grants the Municipalities the right to appeal in each of its written decisions (the decisions of the commission can be appealed only if it grants such permission). This causes extensive delays in the restitution process.

5. Unclaimed Property

This issue has not yet been dealt with in a systematic manner.

UNRESOLVED ISSUES: Serbia & Montenegro

Communal Property

There is no Restitution law in Yugoslavia (Serbia & Montenegro) but draft legislation has been proposed by the Ministry of Justice. There may be as many as 300 properties eligible for restitution.

UNRESOLVED ISSUES: SLOVAKIA

1. Private Property

As a part of Czechoslovakia, Slovakia returned a number of both private and communal properties in the 1990's. A government commission, including Jewish representatives, established the value of the remaining unrestituted stolen Jewish property received by the State of Slovakia during the Holocaust at about \$180 million. In September 2002, the local Jewish community agreed to accept 10% of this sum. This 10% is to be put in the bank and the community will receive the interest for the next 10 years. Only at the end of that time will the principal become available to the local community.

The Association of Jews of Czechoslovakian Origin in Israel issued a statement in April 2003 rejecting the deal and emphasized that: "This Agreement was signed without any authorization from Slovakian Jewish representatives worldwide."

2. Communal Property

As mentioned above, a number of communal properties have been restituted to the local Jewish community. All remaining property is included in the settlement mentioned above. There is no joint foundation.

The agreement which has been signed between the government of Slovakia and the local Jewish community concerning the restitution of Jewish property, has been

strongly criticized by a number of international Jewish organizations, and rejected by the Association of Jews of Czechoslovakian Origin.

UNRESOLVED ISSUES: FORMER SOVIET UNION (FSU)

Communal Property

It is estimated that there are 1,000 standing synagogue buildings in the republics of the former Soviet Union (FSU). Of these, 50 were functioning houses of worship in the USSR period and 85 have been returned since 1990: 40 in Ukraine, 27 in Russia, 8 in Belarus, 6 in Moldova, 2 in Azerbaijan and 2 in Georgia.

Except for Ukraine, there is no central list of all Jewish communal property seized by the Soviets.

There are several major differences between communal property restitution in the FSU republics and other Central & Eastern Europe and Baltic countries:

1. Only Russia and Ukraine have laws – albeit weak ones – *requiring* the return of “religious” property. Other republics have statutes only *permitting* such restitution.
2. Properties are more often returned to Jewish organizations or religious communities for “long-term-use” (55 of the above-noted 85) rather than for “ownership” (30 of 85).
3. Properties must be used by the communities for religious or communal purposes. They generally cannot be sold or rented in order to provide income to the community. There is also generally no possibility for return of alternative property or for compensation in lieu of a building or land.
4. Usually only one building is returned in each city.
5. There is no central Jewish organization handling restitution claims on a national level in any of the Republics. The process is very decentralized, with each local Jewish community or organization negotiating on its own with the municipality or “oblast” (regional government).
6. Except for areas that were pre-war Poland, properties were generally confiscated in the 1920’s and 1930’s by the Soviets – earlier than the seizure by the Nazis (or their allies) during WWII.

UNRESOLVED ISSUES: SWEDEN⁶⁸

Complaints were published in press about refusal to allow full access to archives containing records of the country’s involvement with WWII.

⁶⁸Naamani-Goldman (2004).

UNRESOLVED ISSUES: UKRAINE

Communal Property

A study funded by WJRO has documented 2,000 properties, of which 500 are synagogues or prayer- houses, 800 are other communal buildings or sites, and 700 are cemeteries.

UNRESOLVED ISSUES: UNITED STATES

See Appendix C4.

UNRESOLVED ISSUES: VATICAN⁶⁹

1. Answers to 47 questions posed by researchers, members of the International Catholic-Jewish Historical Commission (2000), and the granting of access to documents containing the answers.

2. Open the Archives - of the Vatican for academic researchers. Despite repeated requests since 1997 (the London Conference for Gold Looted by the Nazis), the Vatican refuses to open its archives for academic researchers on the *Shoah* era, contrary to most countries in Europe and worldwide.

⁶⁹ Vatican (2000).; Janner (2000).

APPENDIX B - ACROSS BORDERS (What has been done)

This chapter includes what has been done by Germany and what has been done on international process which started in the 1990's. As Germany was where it all started, a comprehensive overview is included also on issues such as reparations to the State of Israel and personal indemnification to the Jewish people.

Total of major *Shoah* Individual Payments, Institutional Allocations and Other Programs for Jewish Nazi Victims paid by Germany, Austria , and Switzerland is about \$62 billion (this does not include about \$700 million paid by Germany to the State of Israel as reparations for absorption of 500,000 *Shoah* survivors).⁷⁰ Majority of the total payments are for health damages.

Only about \$1 billion of these payments is for Slave Labor which is part of the Jewish Material Damage during the *Shoah*.

B1. GERMAN REPARATIONS FOR THE STATE OF ISRAEL AND THE JEWISH PEOPLE⁷¹

Israel presented its claims against Germany in a series of diplomatic notes addressed to the four occupying powers, the U.K., the U.S. , France and the Soviet Union, during 1951. The most important of these notes was presented on March 12, 1951 and set out Israel's *locus standi* in presenting claims against Germany on behalf of the Jewish people.⁷²

Israel is the only State which can speak on behalf of the Jewish people – membership in which was the cause of the death of the six million. Israel was created for the specific purpose of providing a refuge for all persecuted and homeless Jews. The recognition by the United Nations of the right of the Jewish people to the reestablishment of its commonwealth was seen as an act of reparation for the wrongs endured by them throughout history, culminating in the Nazi campaign of extermination. Having thus arisen, Israel has made itself responsible for the absorption and rehabilitation of the survivors of that catastrophe. For all these reasons, the State of Israel regards itself as entitled to claim reparations from Germany by way of indemnity to the Jewish People.

The original claim from both parts of Germany (West and East) presented in the notes was \$1.5 billion⁷³ in current prices, for the State of Israel for the absorption and rehabilitation of about 500,000 Jewish refugees – *Shoah* Survivors and another \$6 billion for the damages caused to the Jewish People in the *Shoah*, for a total of \$7.5 billion.

The claim as presented to the Federal Republic of Germany (West Germany) prior to the negotiations was \$1.5 billion for the State of Israel for the absorption and

⁷⁰ Swiss Banks (2004a), Pp F-1- F-9.

⁷¹ Bank of Israel (1965) (Hebrew).

⁷² Zweig (2001).

⁷³ For the removal of doubts, "billion" = one thousand million dollars; unless otherwise indicated all figures with \$ refer to US dollars.

rehabilitation of about 500,000 Jewish refugees – *Shoah* Survivors and another \$500 million for the Conference On Jewish Material Claims Against Germany (Claims Conference) on behalf of the Jewish People for a “commensurate share for heirless and unclaimed Jewish assets which accrued to Germany other than those which will be reclaimed by individuals and successor organization” for a total of \$2 billion.

Of the \$1.5 billion claimed by the State of Israel - \$1.0 billion was claimed from West Germany (two thirds) and \$500 million (one third) was claimed from East Germany.

The Reparations Agreement between the Federal Republic of West Germany and the State of Israel was signed on September 10, 1952.⁷⁴ This agreement did not represent or include East Germany and therefore its one third (estimated nowadays at \$2.5 billion) was not dealt with.⁷⁵

According to the Reparations Agreement, the Federal Republic of West Germany committed itself to paying the State of Israel DM3.450 billion (\$833 million), out of which DM450 million (\$108 million) has been made available to the Claims Conference (See Appendix C2: Claims Conference). In the Reparations Agreement, the Government of Israel was recognized as the representative of the Claims Conference for its material claims from Germany.⁷⁶ Those funds represented a partial refund of the expenditure born by the State of Israel for the absorption and rehabilitation of about 500,000 Jewish refugees – *Shoah* Survivors – estimated at \$1.5 billion.

In the framework of the Reparations Agreement, starting August 1953 and approximately for the following 12 years, goods in the value of DM3.450 million (about \$833 million) were imported from Western Germany to Israel.

The Government of the Federal Republic of West Germany committed itself to paying DM400 million (\$97 million) until March 31, 1954. The remainder was to be paid in equal yearly installments over 10 to 12 years, at the choice of the Government of the Federal Republic of Germany, but no less than DM250 million (\$60 million) per annum.

The Government of the Federal Republic of West Germany chose the longer period of time, but the fulfillment of the Reparations Agreement was enhanced due to interim financing and all orders were made by the end of March 1964, except of budgets for services endured and petrol which were available only on the 1964/65 and 1965/66 budget years.

Up to August 1965, goods and services worth of DM3.450 billion (about \$833 million) were imported into Israel within the framework of the Reparations Agreement. Thirty-eight percent (38%) of that sum was devoted to purchasing boats, industrial machinery, industrial and other equipment; twenty-four percent (24%) was used for purchasing metals, raw materials, industrial and agricultural products; eight

⁷⁴ Agreement (1952); Agreement (1952a).

⁷⁵ Barzel (1997)(Hebrew); Horowitz,(2004) (Hebrew).

⁷⁶ Bank of Israel (1965) (Hebrew); Sagi (1980).