



**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 symposium<sup>1</sup> he held that year on the many aspects of Restitution<sup>2</sup>. 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?<sup>3</sup>

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?"<sup>4</sup>

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.<sup>5</sup>

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.<sup>6</sup>

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

<sup>2</sup> Attorney General (1999).

<sup>3</sup> Levin (1998).

<sup>4</sup> Knesset (1952)(Hebrew).

<sup>5</sup> Levin (1998).

<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup>

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.<sup>9</sup>

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<sup>7</sup> Levin (1998).

<sup>8</sup> Eizenstat (2003).

<sup>9</sup> 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?”***<sup>10</sup>

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 LOSS\*\* .....5,820,000**

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...<sup>11</sup>

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.<sup>12</sup>

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 \$145<sup>13</sup> 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.

<sup>10</sup> Eizenstat (2003),pp.xi;

<sup>11</sup> Wiesel (1978).

<sup>12</sup> Teitelbaum & Sanbar (2001) p.17.

<sup>13</sup> 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 form<sup>14</sup> (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.<sup>15</sup>

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.<sup>16</sup>

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”.<sup>17</sup>

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

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<sup>14</sup>Henry (2002).

<sup>15</sup>Henry (2002).

<sup>16</sup>Henry (2002).

<sup>17</sup>Henry (2002).

offer forgiveness for the suffering of men and of women, children, elderly and babies.<sup>18</sup>

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 million<sup>19</sup>.

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.<sup>20</sup>

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<sup>18</sup> Ben-Gurion (1952) (Hebrew).

<sup>19</sup> DellaPergola (1996).

<sup>20</sup> 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 \$ 230-320<sup>21</sup> billion (1997 current prices) as follows:

<b>Looted Jewish Property -</b>	\$ 120 billion <sup>22</sup> ( <b>\$150 billion in today prices<sup>23</sup></b> )
Loss of Income -	\$ 100-150 billion <sup>24</sup>
Wages unpaid for Forced Labor -	\$ 10-50 billion <sup>25</sup>
<u>Total -</u>	\$ <u>230-320</u> billion <sup>26</sup>

Division by major countries of the first issue - Looted Jewish Property – was done by the World Jewish Congress<sup>27</sup>.

### **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).<sup>28</sup>

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.<sup>29</sup>

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<sup>21</sup> Bazyler (2003).p.xi.

<sup>22</sup> Zabludoff (1998) p.5; Attorney General (1999) p.188.

<sup>23</sup> Washington (1999) ; Teitelbaum & Sanbar (2001), pp.17.

<sup>24</sup> Restitution (1999) (Hebrew),pp.17.

<sup>25</sup> Restitution (1999) (Hebrew),pp.17.

<sup>26</sup> The Jewish People have never demanded compensation for the six million Jewish martyrs.

<sup>27</sup> Symposium (1999) (Hebrew),pp.188; Restitution (1999) (Hebrew),pp17.

<sup>28</sup> Institute (2004) (Hebrew).

<sup>29</sup> 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.<sup>30</sup>

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.<sup>31</sup>

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.<sup>32</sup>

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.<sup>33</sup>

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.

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<sup>30</sup>Zabludoff, pp 28-29 (1998).

<sup>31</sup>Zabludoff. Pp 28-29 (1998).

<sup>32</sup>Zabludoff. Pp 28-29 (1998).

<sup>33</sup>Zabludoff. 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.<sup>34</sup>

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

#### **2.4. ABANDONED JEWISH CULTURE: JEWISH CEMETERIES<sup>35</sup>**

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.<sup>36</sup>

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.<sup>37</sup>

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<sup>34</sup> Zabłudoff (1998a).

<sup>35</sup> Porush (2001).

<sup>36</sup> Bazylar. (2003).

<sup>37</sup> 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*).<sup>38</sup>

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.<sup>39</sup>

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.<sup>40</sup>

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*.<sup>41</sup>

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)<sup>42</sup>.

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.

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<sup>38</sup> Levin (2001) (Hebrew); Eizenstat (2003).

<sup>39</sup> Eizenstat (2003).

<sup>40</sup> Eizenstat (2003).

<sup>41</sup> Zabludoff (1998a).

<sup>42</sup> “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.<sup>43</sup>

### 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.<sup>44</sup> 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.<sup>45</sup>

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.<sup>46</sup>

### 3.4. JUDICIAL

Existing special legislation for restitution is spotty, inadequate, and poorly implemented.<sup>47</sup> 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).<sup>48</sup> A great deal of multinational effort went into achieving these resolutions, and they must be fully implemented.

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<sup>43</sup>Zabludoff (1998a).

<sup>44</sup>Yad Vashem (2005).

<sup>45</sup>Zabludoff (1998a).

<sup>46</sup>Zabludoff (1998a).

<sup>47</sup>Zabludoff (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.<sup>49</sup>

### **3.7. COORDINATED JEWISH DISTRIBUTION**

In a memo to the judge overseeing the Swiss banks settlement<sup>50</sup>, 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).

Eizenstats 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.<sup>51</sup>

### **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 Knesset<sup>52</sup> 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.<sup>53</sup>

### **3.9. FURTHER RESEARCH REQUIRED<sup>54</sup>**

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).

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<sup>48</sup> Eizenstat. (2003).

<sup>49</sup> World Jewish Congress (2002).

<sup>50</sup> Swiss Banks (2000;2004; 2004a).

<sup>51</sup> Eizenstat (2003a); Zabludoff. (1998a).

<sup>52</sup> Hirshzon (2001) (Hebrew).

<sup>53</sup> Flug & Gil. (1998) (Hebrew).

<sup>54</sup> 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.<sup>55</sup>

### **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):<sup>56</sup>
  - 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).

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<sup>55</sup> Satloff.(2005)

<sup>56</sup> 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 Sheerit – 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.<sup>57</sup> 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 2004<sup>58</sup>.

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.<sup>59</sup>

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.

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<sup>57</sup> Zabludoff (1998a).

<sup>58</sup> Salpeter (2004).

<sup>59</sup> 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.<sup>60</sup>

### **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.<sup>61</sup>

### **A5. UNRESOLVED ISSUES: COUNTRY BY COUNTRY<sup>62</sup> (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.

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<sup>60</sup> Eizenstat (2003).

<sup>61</sup> Porush (2001).

<sup>62</sup> 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 2004<sup>63</sup>.

### **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) Refusals<sup>64</sup>.

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

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<sup>63</sup> Salpeter (2004).

<sup>64</sup> 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.<sup>65</sup>

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.

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<sup>65</sup> 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 Germany<sup>66</sup>

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 property<sup>67</sup>.

## **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

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<sup>66</sup> Kaufman (2005).

<sup>67</sup> 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: ROMANIA<sup>68</sup>**

### 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

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<sup>68</sup> 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 30<sup>th</sup> 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 statues 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: SWEDEN<sup>69</sup>**

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

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<sup>69</sup>Naamani-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: VATICAN<sup>70</sup>**

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.

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<sup>70</sup> 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).<sup>71</sup> 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 PEOPLE<sup>72</sup>**

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 March12, 1951 and set out Israel's *locus standi* in presenting claims against Germany on behalf of the Jewish people:<sup>73</sup>

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 billion<sup>74</sup> 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

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<sup>71</sup> Swiss Banks (2004a), Pp F-1- F-9.

<sup>72</sup> Bank of Israel (1965) (Hebrew).

<sup>73</sup> Zweig (2001).

<sup>74</sup> 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.<sup>75</sup> This agreement did not represent or include East Germany and therefore its one third (estimated nowadays at \$2.5 billion) was not dealt with.<sup>76</sup>

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<sup>77</sup>.

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

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<sup>75</sup> Agreement (1952); Agreement (1952a).

<sup>76</sup> Barzel (1997)(Hebrew); Horowitz,(2004) (Hebrew).

<sup>77</sup> Bank of Israel (1965) (Hebrew); Sagi (1980).

percent (8%) was used for payments on shipping and banking services; and thirty percent (30%) was for payments on purchase of petrol.

Out of the sum of DM 3.450 billion (about \$833 million) received by the Israeli government from selling the imported goods in the Israeli marketplace, Israel committed itself to paying a total of about DM676 (about \$163 million) as follows: DM450 (\$108 million) to the Claims Conference; and DM 226 million (\$55 million) to the following German organizations: DM54 million (about \$14 million) - for German property in Israel to the Order of the Templars; DM 3.6 million (about \$1million) to the Lutheran Church; DM0.500 million (about \$0.125 million) to the Catholic Church in Cologne.

Just before signing the Reparations Agreement, the Federal Republic of Germany (West Germany) categorically demanded that Israel guarantee that *Shoah* survivors who became Israeli citizens before 1953 would not apply to West Germany for compensation for body and health damages caused to them during the *Shoah* and that the German law relating to those issues will not apply with those *Shoah* survivors<sup>78</sup>.

The State of Israel had no choice but to comply with this demand and its consent is included in Protocol No.1 and Protocol No.2 of the Reparations Agreement. As a result, Israel has introduced legislation which entitled those *Shoah* survivors to compensation from its Treasury.

As of the year 2000, the Israel's annual budget devoted to this item was about \$380 million. Cumulatively since 1957, when the legislation was enacted, Israel has paid about \$ 4 billion to these *Shoah* survivors.<sup>79</sup>

The State of Israel never received reparations for absorbing about 150,000 first generation *Shoah* survivors, who immigrated to Israel after 1965, when the reparations agreement ended.

## **B2. GERMAN PERSONAL RESTITUTION, COMPENSATION, INDEMNIFICATION AND PENSIONS FOR JEWS**

### **1) PERSONAL COMPENSATION, INDEMNIFICATION AND PENSIONS**

Following the Reparations Agreement (See Appendix B1), West Germany enacted programs for *Shoah* survivors, administered by the West German Federal government or by the Claims Conference (See Appendix C2: Claims Conference). These programs are aimed at various population groups of *Shoah* survivors according to the degree of health damage, presence during the *Shoah*, residence afterwards or other considerations:

a. West German Federal Indemnification Law-BEG (expired for new applicants in 1965) – One-time payments and monthly pensions.

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<sup>78</sup> Sagi (1980).

<sup>79</sup> Swiss Banks (2000); Swiss Banks (2004a).

- b. German Social Security Pensions ZRBG “Ghetto Pensions” (no deadline) – Old Age/Social Security pension covering certain work periods in a relevant annexed or occupied Ghetto.
- d. Claims Conference Article 2 Fund (no deadline) – pensions to *Shoah* survivors who earn under a specified limited maximum amount and who have received less than a fixed amount in previous compensation. Eligibility is according to German government guidelines. Pensions are awarded for certain types of loss of liberty and persecution-related hardship.
- e. Claims Conference Central & Eastern European Fund – CEEF (no deadline) – same eligibility criteria as the Article 2 Fund, for those *Shoah* Survivors currently residing in Central and Eastern Europe.

Between 1989 and 2003 an average volume of \$730 million per annum of monthly pensions and one time payments arrived to Israeli citizens, most of it from Germany, and mostly to *Shoah* survivors.

## **2) INDIVIDUAL RESTITUTION OF PROPERTY**

Germany enabled individual restitution of Jewish property, with heirs and the unclaimed property (See Appendix B3):

- a. Restitution from former West Germany (expired 1960’s).
- b. Restitution from former East Germany (expired December 31, 1992).

Under the German Property Law 1990, the Claims Conference became the legal successor to all unclaimed Jewish property in the former East Germany covered by the Property Law. Nevertheless, the Board of Directors of the Claims Conference established the Goodwill Fund for property owners and heirs who had not filed claims by the German Government mandated deadline of December 1992 and thus were no longer legally entitled to the property. The deadline for applications to the Goodwill Fund was 31 March 2004. The Goodwill Fund makes payments according to the guidelines established by the Board of Directors of the Claims Conference (See Appendix C2).

## **B3. GERMAN RESTITUTION OF JEWISH UNCLAIMED PROPERTY**

Germany allowed for full restitution of unclaimed property by the Claims Conference (see Appendix C2), thus being the first country in Europe after WWII to follow this procedure.

## **B4. GERMAN FORCED LABOR COMPENSATION FOR JEWS**

Following the establishment of a DM10 billion (\$5 billion) fund by the German government together with German industry, named “Remembrance, Responsibility & The Future” (covering both Jews and non-Jews), the following programs were implemented:

- Claims Conference Program for Former Slave and Forced Laborers (expired 2001) (See Appendix C2: Claims Conference).
- Fund for Victims of Medical Experiments (expired 2001) – compensation payments to *Shoah* Survivors who were subjected to medical experiments in concentration camps, conducted for the purpose of “medical research.”

Of the DM10 billion (\$ 5billion) the following amounts were allocated: towards ICHEIC (The International Commission on Holocaust Era Insurance Claims) – DM550 million (\$275 million), towards Bank Accounts –DM450 million (\$225 million), towards the Future Fund - DM700 million (\$350 million) (See Appendix B5,B6,B7).

## **B5. GERMAN LIFE INSURANCE POLICIES**

Life insurance policies from the *Shoah* era of German insurance companies are being paid by ICHEIC (see Chapter 3.10: ICHEIC). Germany devoted funds to this issue DM 550 million (\$275 million out of the DM10 billion (\$5 billion) of the “Remembrance, Responsibility & The Future” fund (See Appendix B7).

## **B6. GERMAN DORMANT BANK ACCOUNTS**

Germany devoted DM 450 million (\$225 million) towards the issue of dormant German bank accounts out of the “Remembrance, Responsibility & The Future” fund of DM 10 billion (\$5 billion) (See Appendix B4).

## **B7. GERMAN FUTURE FUND**

Germany created a Future Fund of DM 700 million, out of the “Remembrance, Responsibility & The Future” fund of DM10 billion (See Appendix B4).

## **B8. INTERNATIONAL PROCESS AND CONFERENCES**

In 1995, Stuart Eizenstat ,acting as the US Ambassador to the EU, was asked by President Bill Clinton to deal with the issues of Restitution of property from the *Shoah* era. President Clinton was of the opinion that it is an unacceptable situation in international relations when property is looted and not returned to the owners or their heirs.

Eizenstat initiated an international process which included four international conferences on restitution of property: London (1997) on looted monetary gold, Washington (1998) on the international process and a specific focus on art, Stockholm (1999) on Holocaust education and Vilnius (2000) on looted art. These international conferences formulated resolutions which were publicly agreed upon.

## **B9. JEWISH DORMANT BANK ACCOUNTS IN SWISS BANKS**

Prior to WWII, Jews in some Central and East European countries held bank accounts in Swiss banks. Most of these bank accounts remained dormant after WWII, as their owners perished in the *Shoah* - and either the Swiss Banks refused to turn these accounts over to their heirs, or there were no heirs at all.

On May 2, 1996 an agreement was signed by the WJRO (See Appendix C2) and the World Jewish Congress representing also the Jewish Agency and Allied Organizations on the one side and the Swiss Bankers Association on the other side. This agreement created an Independent Committee of Eminent Persons whose central task was to examine, through the services of an international auditing company and other experts, the Swiss Banking system for looted accounts.

As a result of a public campaign and class action suits against the Swiss banks in a U.S. court, the Swiss banks in August 1998 agreed to pay \$1.25 billion, deposited with the court, for return to the owners and heirs and for distribution of the remainder of heirless monies. This process is still ongoing, and administered by Judge Edward R. Korman of the federal court in Brooklyn, New York, where the lawsuits were filed. .

The settlement also includes payments to slave laborers in Swiss companies as well as to mistreated Jewish refugees who were refused to entry to Switzerland during the *Shoah* or were kept in isolation in Switzerland. Those are not restitution payments.

As part of the settlement, three major Swiss banks, the Swiss National Bank, and the Swiss business world paid additional about \$185 million to needy *Shoah* survivors all around the world (two other groups, homosexuals and the Roma, received as well from additional funds). The WJRO was chosen as the implementing partner for the distribution of this fund to needy Jewish *Shoah* survivors (See Appendix C2).

## **B10. JEWISH LIFE INSURANCE POLICIES**

Prior to WWII, Jews bought life insurance policies from European insurance companies. Most of these policies remained in the hands of the insurance companies when their owners perished in the *Shoah*, and their heirs were refused compensation.

An international process established an entity to deal with this issue. This was one of the three major issues which were settled in the process of Restitution in the second half of the nineties. The others were the dormant accounts in the Swiss banks (See Appendix B9), and the German Forced Labor compensation (See Appendix B4).

### **ICHEIC : THE INTERNATIONAL COMMISSION ON *Shoah* ERA INSURANCE CLAIMS<sup>80</sup>**

ICHEIC was established in 1998 in order to pay insurance policies from the *Shoah* era. Insurance commissioners of the various states in the US together with organizations of *Shoah* survivors were very active prior to its establishment. The Israeli government was

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<sup>80</sup>Eagleburger (2003); ICHEIC (2003); ICHEIC (2004); ICHEIC (2004a).

also active in the establishment of ICHEIC and has two representatives on its board, one of them ex-officio, as well as representatives of the founding insurance companies, representatives of the US Insurance Commissioners and on the “Jewish side” representatives of two Jewish organizations – WJRO and the Claims Conference as well as representatives of the State of Israel.

The settlement was signed by five European insurance companies: Allianz, AXA , Basler Leben, Generali Zurich Financial Service. Later the Dutch Sjoa fund joined the settlement and agreements were signed with the German Future Fund (See Appendix B7) and with the association of the German insurance companies.

The essence of the settlement is the obligation of the insurance companies to pay claims for insurance policies from the *Shoah* era, even if the claimant does not have the policy itself but there is a high probability that such a policy was in existence. The claimant also does not have to prove the contents of the insurance policy.

The settlement contains four stages:

1. Public Access – the insurance companies handed over to Yad Vashem: The Holocaust Martyrs’ and Heroes’ Authority in Jerusalem the lists of the owners of *Shoah* era insurance policies that were not cashed to be matched with the names of Jewish victims of the *Shoah*. The short list which was created was published to allow the policy owners or their heirs to search for their names or the names of their relatives.
2. Claim – those who find the name of a family member on the list approach ICHEIC, even if they do not have an insurance policy in their possession, and present a claim for the current value of the policy.
3. Processing - ICHEIC submits the claim to the insurance companies who check the relevant details such as the insurance amount and payment of insurance premiums. All this is done according to ICHEIC guidelines which were agreed upon after lengthy deliberations with the insurers, the Jewish representatives on the board and the US insurance commissioners. As it was a well-known habit to take a loan based on the insurance policy, the insurers check on the existence of any prior loans and , if found, deduct the amount of any loan from the insurance policy value. All this is done in historic values of the currency in which the insurance policy was issued.
4. Valuation – To determine the present value of the insurance policy, coefficients were set usually according to the currency in which the insurance policy was issued. Guidelines were set for payment of insurance policies issued by insurers which were nationalized or whose assets were nationalized or which have ceased to exist.

ICHEIC has paid or has committed to pay about \$500 million to date. The funds originate in the various agreements signed by ICHEIC with the insurance companies. These funds are dedicated for paying insurance policies, humanitarian payments for *Shoah* needy survivors, commemoration education and research on issues regarding the *Shoah*.

**Administrative expenditure** by ICHEIC by the end of 2005 is estimated at \$85-95 million since its establishment. ICHEIC has about 20 employees in its two offices in

Washington and in London. Sub-contractors are employed in Switzerland and in Holland.

Close to 100,000 claims were submitted to ICHEIC, in most cases without the names of the insurance policy holders. Many claims were submitted to ICHEIC which do not belong to its areas of activity and therefore were redirected to the proper authorities.

So far about 80,000 suitable claims have been submitted to ICHEIC.

About \$86 million has been offered to about 5,300 claimants by the insurance companies acting according to ICHEIC guidelines.

An average offer to claimants made by ICHEIC is of \$15,765.<sup>81</sup> This amount is not final as claimants are entitled to appeal.

The ICHEIC website contains about 500,000 names of insurance policy holders. Of those, about 360,000 originate in Germany, about 52,000 originate in the founding members of ICHEIC, and about 1,000 originate in various governments and about 98,000 in various archives.

A recent claim submitted against ICHEIC in a U.S. court by three Jewish claimants was rejected by the court and the claimants were directed to the ICHEIC process<sup>82</sup>.

ICHEIC was expected to close down at the end of 2005, with the claims process and payments to end by mid 2006. The cessation deadline was extended to the end of 2006 with the claims process and payments to end by mid - 2007. This will increase the total administrative expenditure beyond the initial \$85-95 million estimate.

**Humanitarian programs**<sup>83</sup> are funded by heirless insurance policies which are included in the funds transferred to ICHEIC by the insurers, who agreed to direct part of the funds to programs for needy *Shoah* survivors, commemoration education and research on issues regarding the *Shoah*.

The **final amount** of funds available for humanitarian programs will be available only at the end of the process of payments to the claimants, as the remainder of unpaid funds, after deducting administrative costs, is also dedicated for humanitarian programs.

On the other hand, if the funds transferred to ICHEIC by any of the insurers are not sufficient to cover insurance claims, the insurers will transfer additional funds to cover their obligations.

There are three **sources** for humanitarian programs funds: German Foundation (GF) Humanitarian Fund, the fund of the Italian insurance company Azzucarazioni Generali ("Generali"), and AWZ (Axa, Winterthur ,Zurich).

According to existing agreements, \$220 million is estimated to be available for humanitarian programs. To date, ICHEIC has **approved** so far about \$200 million as follows: \$132 million for assistance to *Shoah* needy survivors over 9 years to be

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<sup>81</sup> ICHEIC (2005). Pp 5.

<sup>82</sup> Memorandum (2004).

<sup>83</sup> Humanitarian (2003); Humanitarian (2004).

executed by the Claims Conference, about \$20 million for programs on commemoration, education and, research to be executed over 10 years by Jewish university students of the “Hillel” organization and by the Jewish Agency, and about \$50 million for various payments for insurance claims, among them payments to claimants whose insurance policies were not found with reasonable explanations that those insurance policies were existing at their times.

The remaining **assistance period** for needy survivors of the *Shoah* is eight years starting in 2004 ending in 2011 (in addition to funds allocated in 2003), in diminishing amounts of \$17 million in 2004 to \$12 million in 2011. Discussions are ongoing on shortening this time frame.

The **geographical** distribution of the assistance to *Shoah* needy survivors is as follows: Israel - \$51 million, Former Soviet Union - \$19 million, U.S. – \$19 million, Europe – \$23 million, rest of the world – \$5 million.

**Approvals** have been given for two programs on commemoration education and research: a.) “Service Corps”, which engages Jewish university students in service to their local survivor population extended by the “Hillel” organization - \$10 million; b.) “An Initiative for *Shoah* Education and Awareness as a Means of Fostering Basic Jewish Literacy for Youth in the Former Soviet Union”, executed by the Jewish Agency - \$10 million.

Yad Vashem has submitted a program for training teachers in Europe on how to deliver *Shoah* Education - \$10 million, which is in the process of approval.<sup>84</sup>

ICHEIC’s chairman has recently established a Jewish **advisory committee** for humanitarian programs, consisting of four members – two *Shoah* survivors (an Israeli and an American), a representative of a Jewish organization and an ex-officio representative of the State of Israel.<sup>85</sup>

Within the context of ICHEIC, the **Italian insurance company Generali** is the largest contributor. Generali committed \$100 million (plus interest earned since 2000) for insurance claims and humanitarian programs. In addition, Generali committed to pay all claims and administrative costs incurred for the period prior to July 2000, including transfers to a number of national foundations, among them Generali Fund in Jerusalem and foundations in Germany, France and Holland.

Generali has been involved in Holocaust era insurance claims since the \$320 million acquisition of the Israeli insurance company Migdal in 1997. At the demand of several Knesset members and *Shoah* survivors, Generali committed, in an agreement signed with the Knesset, to transfer \$12 million over a period of 10 years to a new foundation established in Israel.

The aims of this foundation, named the Generali Trust Fund, which was formulated by the Finance Committee of the Knesset are: paying insurance claims, supporting organizations acting on commemoration of the *Shoah* and support for needy *Shoah* survivors who need medical, psychological and other assistance.

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<sup>84</sup> Humanitarian (2003); Humanitarian (2004).

<sup>85</sup> Eagleburger (2004).

After the establishment of ICHEIC in 1998 with Generali as one of its founders, the transfers to the Generali Trust Fund continued without fail ( for its commitment of \$12 million). In addition, Generali has transferred to ICHEIC all funds according to its commitments.

There remain two unresolved issues: the commitment of Generali for \$40 million for humanitarian programs while paying whatever insurance claims may be over and above its commitment to ICHEIC of \$100 million, and distribution of funds with the Generali Fund<sup>86</sup> (\$12 million) for humanitarian programs (balance of \$10 million of which \$6 million are with the Generali Fund).

### **B11. LOOTED *Shoah* VICTIMS GOLD<sup>87</sup>**

Nazis looted gold during the *Shoah*, melted it and turned it into monetary gold which was sold mainly to Swiss banks. It seems that also golden teeth removed from Jewish victims in concentration camps were included in this gold.

One- third of the gold the Nazis looted belonged to victims and the persecuted. The total amount of gold looted from Jews during the *Shoah* was estimated to be between 285 and 295 tons, and valued about \$326 million in 1945 prices, or about \$2 billion in 1998 prices.

In spite of specific requests by *Shoah* survivors at the 1997 London conference on looted gold, only \$50 million of funds derived from looted gold was distributed to Jewish causes by the International Fund for Assistance to Victims of Nazi Persecution.

### **B12. LOOTED JEWISH *Shoah* ART<sup>88</sup>**

During the *Shoah* as many as 600,000 paintings were stolen by the Nazis, of which more than 100,000 are still missing. When furniture, china, rare books, coins, and items of the decorative arts are included, the numbers of cultural objects swell into the millions.

The following principles (“Washington Principles”) were adopted at the Washington conference in 1998 regarding art:

1. The principles called on museums, governments, commercial galleries, and auction houses to cooperate in tracing looted art through more stringent research into the provenance of every item.
2. Given the difficulty of producing evidence of ownership, the art community was asked to permit leeway in accepting claims on stolen art during the Hitler era.
3. There would be an international effort to publish information about provenance.
4. A system of conflict resolution would be established to prevent art claims from turning into protracted legal battles.
5. Attempts would be made to find a fair solution when owners of looted works could not be found.

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<sup>86</sup>Generali (2000). Sharansky (2004); Eagleburger (2004a).

<sup>87</sup>Teitelbaum & Sanbar (2001).

<sup>88</sup>Eizenstat (2003); Schneider (2005).

The compliance with these principles has been poor.

At the Vilnius International Forum on Holocaust-Era Looted Cultural Assets in 2000, the Israeli representatives insisted that the Jewish people and Israel as the Jewish State, was the only legitimate heir of what was once Jewish property.

### **B13. LOOTED JEWISH COMMUNAL PROPERTY**

A few countries in Eastern Europe have restituted some Jewish communal property. Foundations were established in Romania, Poland, Hungary and Lithuania. Those are handled by WJRO and the local Jewish community (See Appendix C2). Communal Property probably does not account for more than five percent of the assets looted. Still, only a small fraction of it has been restituted.<sup>89</sup>

### **B14. LOOTED JEWISH PRIVATE PROPERTY**

**Restitution of Jewish Private Property, real estate and other types** (See Chapter 2.2) **is the weakest link in the Restitution process. A great deal still needs to be done in this area.**

### **B15. HISTORICAL COMMISSIONS ON CONDUCT OF NATIONS DURING THE *Shoah* AND RECONCILIATION<sup>90</sup>**

More than 50 historical commissions have been established to deal with various aspects of the property question. In addition to investigating the truth about the fate of Jewish assets (with varying degrees of transparency), the commissions laid the groundwork for the more significant process of moral settlement. For the first time, many societies were forced to confront the fact that much of what they had accepted as truth was actually myth and that the wartime behavior of their forebears was less honorable than they would have liked to believe.

Historical commissions have been charged with investigating the question of Jewish property seized or laundered in the Holocaust and many other aspects of national history during Nazi period. This moral “soul searching” has been and continues to be reflected in the media and in academia. As a result, entire chapters of history have been revised and re-written-often revealing a dark side of the past that has brought shame and embarrassment.

The following list represents a concise summary of the work done in 28 countries by historical commissions and records significant restitution legislation and settlements. In several countries progress is painfully slow and a genuine confrontation with history has yet to take place:

**Argentina** - The 1992 Investigation; The Commission of Inquiry into Nazi Activity in Argentina(1997); Official Statement(2000).

**Austria** - The Provenience Commission on Art Objects (1998); The Commission of

<sup>89</sup>Zabludoff (1998a).

<sup>90</sup> World Jewish Congress (2002).

Inquiry (Historical) (1998);The National Fund for Victims of Nazi Persecution (1995);Official Statements (1996;1998).

**Belgium** – The Commission to Study the Fate of Jewish Property (1997).

**Brazil** – The Special Commission to Investigate Nazi Assets (1997).

**Bulgaria** – Legislation for the Restitution of Property.

**Croatia** – The Commission for Investigation of Historical Facts on the fate of Property of the Victims of the Nazis (1997).

**Czech Republic** – The Commission on Restitution (1999); New Legislation (2000).

**Estonia** – The International Research Commission of Estonia, Latvia and Lithuania.

**France** – The Matteoli Commission(1997);Decree on Jewish Orphans(2000); The Paris Commission; The Lyon Commission; Art Commission (1995); The foundation for the Remembrance of the Shoah;Official Statements(1997).

**Germany** - Remembrance, Responsibility & The Future Fund (2000).

**Hungary** – The Hungarian Jewish Heritage Foundation (1995); Official Statement (1994).

**Italy** – The Commission on Holocaust Assets (1998).

**Latvia** – The International Research Commission of Estonia, Latvia and Lithuania; Official Statement (2000).

**Liechtenstein** - A Government Commission (2001).

**Lithuania** - The International Research Commission of Estonia, Latvia and Lithuania; Official Statement (2000).

**The Netherlands** – The Dutch Gold Commission (1997); The Jewish Property Commission(1999); Agreements and Official Statements (2000); The Jewish Valuables (LIRO) Commission; The Committee on Paintings (1997); Nazi Persecutees Relief Fund.

**Norway** – The Skarpness Committee (1996); The Norwegian Fund.

**Poland** – Foundation for Jewish Communal Property (2000); Official Statement (2001); Investigation of the Jedwabne Massacre (2002).

**Portugal** – Special Commission (1997).

**Romania** – Foundation for Jewish Communal Property.

**Slovakia** – Commission on Holocaust-Era Property (2001).

**Spain** – The Commission on Nazi Gold (1997); Sephardic Heritage Holocaust Fund.

**Sweden** – The Commission on Jewish Assets in Sweden at the time of Second World War (1997); The Central Bank Inquiry (1997); Living History Project (1997);Official Statement (2000).

**Switzerland** – Foreign Ministry Inquiry (1996); The Volcer Committee (1996); The Historic and Legal Research Commission (Bergier) (1998); The

Swiss Fund (2000); Official Statements (1995,1997, 1998,1999).

**Turkey** – Commission on World War II properties (1998).

The United Kingdom – The Foreign Office Report(1996); The Report on Ex-Enemy Assets(1997); The International Conference on Nazi Gold(1997).

**The United States** – The First Eizenstat Report (1997); The Second Eizenstat Report(1998); The Presidential Advisory Commission on Holocaust Assets (1998); The Museums Task Force (1998); The International Commission on Holocaust era Insurance Claims (1998) (see chapter 3.3).

**Corporate Commissions of Historians** – Ford Motor Co.; Deutsche Bank, The German publishing concern Bertelsmann, and the German smelting company Degussa, and the German insurance company Allianz. Nazi Persecutee Relief Funds (1997).

## B16. A *Shoah* RESTITUTION TIMELINE

### 1945

-Note of Chaim Weizmann the president of the Jewish Agency to the Allies on the three-fold-problem of reparation, rehabilitation, and restitution from Germany (Chapter 1)

### 1948

-Jewish Restitution Successor Organization (JRSO) authorized to take action to recover any presumably heirless property in the American zone in Germany. (Zweig,2001,pp14)

### 1949

-Jewish Restitution Successor Organization (JRSO) authorized to take action to recover any presumably heirless property in the British zone in Germany.(Zweig,2001,pp14)

### 1951

-Diplomatic note sent by the State of Israel to the occupying powers of Germany – the United states, Great Britain, France, and the Soviet Union – seeking compensation from Germany.(Appendix B1)

-The Conference on Material Claims Against Germany (Claims Conference) established. (C2)

### 1952

-Jewish Restitution Successor Organization (JRSO) authorized to take action to recover any presumably heirless property in the French zone in Germany.(Zweig,2001,pp14)

-The Reparations Agreement between the governments of Israel and Germany is signed.( B1)

### 1953

-Reparations Agreement starts by German goods being imported to Israel, ending in 1965. (B1)

-Claims Conference starts operating outside of Israel - relief programs to *Shoah* survivors, and cultural programs. (Zweig,2001)

### 1965

-Reparations Agreement ends.(B1)

### 1976

-The United States Helsinki Commission created. Between 1999 and 2003 it holds hearings on Restitution of Property in Central and Eastern Europe. (C2)

### 1989

-The fall of the Iron Curtain.

-Center of Organizations of Holocaust Survivors in Israel established.(C2)

### 1990

-Claims Conference negotiates with Germany additional pensions and one time payments for *Shoah* survivors.

### 1993

-World Jewish Restitution Organization established. (C2)

### 1995

-Office of the Special Envoy for Holocaust Issues created at the US State Department. (C4)

-Speaker of the House Newt Gingrich supports Restitution.(C4)

-Austrian National Fund established.(C5)

**1996**

-President Clinton Supports Restitution (Appendix C4)

**1997**

-London Conference on monetary gold (B8)

-Nazi Persecutee Relief Fund established.(C5)

**1998**

-U.S. Congress supports Restitution (C4)

-Swiss banks agree to pay \$1.25 billion (B9)

-ICHEIC established.(B10)

**1999**

-Washington Conference on Holocaust Era Assets. (C4)

-Stockholm Conference on Holocaust education(B8)

-Israeli cabinet Minister nominated to deal with Restitution. (C1)

**2000**

-German “Remembrance, Responsibility and Future” Foundation established (Bazyler, 2005)

-Recommendations of the U.S. Presidential Advisory Commission on Holocaust Assets. (C4)

-Vilnius Conference on looted art (B8)

-French Fund established.(C5)

**2001**

-Austrian General Settlement Fund established.(C5)

**2002**

-Belgian Fund established.(C5)

**2003**

-Israeli Ministerial Committee on Restitution established (C1)

**2004**

-U.S. government settles Hungarian Gold Train litigation (Bazyler,2005)

**2005**

-U.S. Secretary of State Condeleeza Rice supports Restitution. (C4)

-Recommendations of Parliamentary Inquiry Committee on the Location and restitution of assets in Israel of Victims of the Holocaust.(C1)

- U.S. Global Anti-Semitism Report issued. (D1)

## **APPENDIX C - ONGOING ACTIVITY (Who does what)**

### **C1. ISRAELI GOVERNMENT AND PARLIAMENT: FROM GERMAN REPARATIONS UNTIL TODAY**

#### **1) ISRAELI GOVERNMENT**

The Israeli state began its involvement with WWII restitution matters through the Reparations Agreement with West Germany in 1952 (see Appendix B.1) and maintained it until the expiration of this agreement in 1965.

Israel renewed its involvement after the Berlin Wall fell in the early nineties. It provided financial support to the establishment of the: World Jewish Restitution Organization (“WJRO,”) and of the Center of Organizations of Holocaust Survivors in Israel. A team of ministers of Justice, Foreign Affairs, and Finance, were asked by the Prime Minister to deal with the evolving issues. They established a Director Generals’ Committee, headed by the Director General of the Finance Ministry (with members from the Ministries of Foreign Affairs and Justice) to supervise and enhance the activities of the newly established organizations. Representatives of the Ministries of Finance, Foreign Affairs and Justice act as observers on the board of WJRO<sup>91</sup>.

In 1993, a Memorandum of Understanding was signed between the Minister of Finance and the President of WJRO. The Memorandum established principles for cooperation and liaison. The purpose of the Memorandum was to ensure the interests of the Jewish State in the process of Restitution. The Memorandum was not fully implemented.

Since the inception of the WJRO, Prime Ministers of the State of Israel Yitzhak Rabin, Shimon Peres, Benyamin Netanyahu, and Ehud Barak have issued support letters to WJRO to act on behalf of the State of Israel and the Jewish people in restitution issues.

From its creation, the WJRO has received financial support from the Israeli government on a yearly basis. Since the Attorney General has changed the method of funding of non-profits in Israel, this support was halted in the year 2003, and has not yet been resumed.

In the mid-nineties, the Prime Minister’s Advisor for Jewish Diaspora Affairs also dealt with Restitution.

In 1999, a cabinet minister was nominated to deal with restitution. That year, the Attorney General held a symposium on restitution, followed by recommendations to the Prime Minister and the appropriate minister. The Attorney General recommended that the Government decides on the scope of its involvement and its structure, and decide where restitution funds should be allocated.<sup>92</sup>

Since 2001 the minister in charge of restitution matters has been the Minister for Jerusalem and Diaspora Affairs. In December 2003, the government decided to

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<sup>91</sup>Restitution (1999) (Hebrew)Pp15-16.

<sup>92</sup> Attorney General (1999) (Hebrew).

establish a Ministerial Committee for Restitution of Rights and Jewish Property. Seven Ministers are members of this committee. Two steering committees were established as well – one for restitution of rights and Jewish property and the other for rights of Jews who left Arab countries as refugees.

In its resolution, the government decided that a global report should be formulated and that a framework for policy and a five year plan will be submitted by the Chairman of the Ministerial Committee.<sup>93</sup>

By March 2004, the framework for policy and a five year plan were formulated, awaiting understandings with the Jewish organizations involved, before being brought for approval of the government.<sup>94</sup>

In 2003, the government joined with WJRO (See Appendix C2) the Swiss banks litigation<sup>95</sup> (See Appendix B9).

In 2005 the government submitted to the Knesset a law dealing with bank accounts in Israeli banks and monies held with Public Trustee of victims of the *Shoa* and their heirs.<sup>96</sup> (See next issue: The Knesset).

Israeli Prime Ministers have been involved in issues of Restitution since the establishment of WJRO in the early nineties.<sup>97</sup>

Recently, Stuart Eizenstat has complained publicly about the passive role of Israel in restitution matters, during his his tenure (1995 – 2000) as the U.S. President's Special Envoy for Holocaust issues.<sup>98</sup>

## **2) ISRAELI PARLIAMENT: THE KNESSET**

The involvement of the Knesset in Restitution started in the nineties with the establishment of the Knesset sub-committee for Restitution of Jewish Property which held a couple of hearings on the subject.

Knesset members acted as heads of the Israeli Delegation at the Washington conference in 1998 (MK Avraham Hirshzon, Chairman of the Knesset sub committee for Restitution of Jewish Property) and at the Vilnius conference on looted art in 2000 (MK Collette Avital, today the Chairperson of the Parliamentary Inquiry Committee on the Location and Restitution of Assets (in Israel) of Victims of the Holocaust).<sup>99</sup>

The Speaker of the Knesset acts as the chairman of the Parliamentary non-Profit Organization for the Memory of the *Shoah*, which was established in 2000.

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<sup>93</sup> Government Resolution (2003).

<sup>94</sup> Government Resolution (2004).

<sup>95</sup> Arnold & Porter (2004); Arnold & Porter (2004a); Swiss Banks (2004).

<sup>96</sup> Barkat (2005).

<sup>97</sup> Symposium (1999) (Hebrew).

<sup>98</sup> Bechar (2004) (Hebrew); Levin (2004) (Hebrew).

<sup>99</sup> Eizenstat (2003); Washington (1999).

The Finance Committee of the Knesset was instrumental in the agreement on establishing the Generali Fund in memory of the Generali Insured in East and Central Europe Who Perished in the Holocaust (See Appendix B10).

The Parliamentary Inquiry Committee on the Location and Restitution of Assets in Israel of Victims of the Holocaust has recently published its Report, as well as list of names of bank account owners which is now on the website of the Knesset<sup>100</sup>.

The Report includes recommendations on reappraising of the bank accounts and monies which held with the Public Trustee (Apotropos Klali), with and without heirs. It also includes optional administrative structures to deal with its recommendations. The Report recommends that the Knesset should act as soon as possible to advance legislation connected with the implementation of its Report.

As for the almost 3,600 bank accounts, the Report includes a minimum appraisal in the case in which there are no heirs (less than NIS 40 million – about \$9 million), adjusted by the increase in the Israeli cost of living index since 1948 plus 3% interest per annum until September 2004. And the maximum appraisal if all bank accounts are with heirs is NIS323 million – about \$74 million, appraised by the increase in the Israeli cost of living index since 1939 plus 4% interest per annum until September 2004.

The Professional Advisory Committee to the Inquiry Committee indicated that there is no evidence that the banks acted intentionally to hide accounts of *Shoah* victims. This finding does not appear in the final Report of the Inquiry Committee.

According to the Report, most of the adjusted funds belong to Bank Leumi (NIS 35 million – about \$8 million). The bank has created a facility for members of the public who wish to inquire and demand dormant bank accounts on its Hebrew website<sup>101</sup>.

The Report states clearly that the Public Trustee (Apotropos Klali) did not act to hide monies belonging to *Shoah* victims or their heirs and its actions were transparent and according to the law.

The Report states the maximum appraisal for the monies with the Public Trustee in the case in which there are no heirs at all (NIS 587 million – about \$ 135 million), appraised by the increase in the Israeli cost of living index since 1948 plus 3% interest per annum until September 2004.

Accounts with no heirs are transferred by law, after a period of time, to the government's budget.

Finally, the Report recommends that heirless accounts be directed towards welfare of *Shoah* survivors and commemoration of the *Shoah*.

An agreement was reached for the passage of a law that would establish an entity to search and distribute funds inquired in the Report. The funds to be distributed are NIS 100 to NIS 200 (\$23 to \$46 million). A public committee is to be established, to examine

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<sup>100</sup> Inquiry (2005).

<sup>101</sup> Bank Leumi (2005).

the interest rate to be paid. Unclaimed funds will be distributed to needy *Shoah* survivors in Israel.<sup>102</sup>

When looking at this Report one needs to bear in mind the difference between Israel as the one and only Jewish state and any other country. Israel is with a population of *Shoah* survivors of about 500,000<sup>103</sup> and as such the largest worldwide. Inclusive of second and third generation *Shoah* survivors, this population is about one million.

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<sup>102</sup> Barkat (2005); Gilbert (2005).

<sup>103</sup> Arnold & Porter (2004);(2004a)

## **C2. JEWISH ORGANIZATIONS: CLAIMS CONFERENCE, WJRO, CENTER OF ORGANIZATIONS OF HOLOCAUST SURVIVORS IN ISRAEL**

### **1) THE CONFERENCE ON JEWISH MATERIAL CLAIMS AGAINST GERMANY**

**History:** The Claims Conference (CC) was established in 1951 by 23 major Jewish national and international organizations active in those days, to help negotiate material claims against Germany, at a conference which met in New York.<sup>104</sup>

The members are: Agudath Israel World Organization; Alliance Israelite Universelle; American Gathering of Jewish Holocaust Survivors; American Jewish Committee; American Jewish Congress; American Jewish Joint Distribution Committee; American Zionist Movement; Anglo-Jewish Association; B'nai B'rith International; Board of Deputies of British Jews; Canadian Jewish Congress; Centre of Organizations of Holocaust Survivors in Israel; Conseil Représentatif des Institutions Juives de France; Council of Jews from Germany; Delegacion de Asociaciones Israelitas Argentinas; European Jewish Congress/European Council of Jewish Communities; Executive Council of Australian Jewry; Jewish Agency for Israel; Jewish Labor Committee; South African Jewish Board of Deputies; World Jewish Congress; World Jewish Relief; World Union for Progressive Judaism; Zentralrat der Juden in Deutschland.

The CC has 17 officers and 58 members on its Board of Directors: 48 members (two for each organization) and another 10 members who were nominated on a personal rather than organizational basis.<sup>105</sup>

The CC is the legal successor to unclaimed property in the former East Germany since 1990.

The CC established the Committee for Jewish Claims on Austria (CJCA) in 1953 to secure compensation directly from Austria.

**Legal Status:** The CC is a nonprofit organization, a membership corporation pursuant to the Membership Corporations Law of the State of New York. Its mandate according to its Certificate of Incorporation is: “voluntarily to assist... act... on behalf of Jewish persons... who were victims of Nazi persecution... in matters relating to compensation and indemnification... and relating to the restitution of property... and to apply any moneys... to the relief... of victims of Nazi persecution...”<sup>106</sup>

**Budget:** The CC annual budget was about \$800 million in the year 2002. Allocations included direct compensation to Survivors (\$590 million); Allocations for Social Welfare Projects for Nazi Victims and Holocaust Research, Documentation and Education (\$94 million); Heirs of Property Goodwill Fund (\$65 million); Other Grants; Administration (\$26 million); Other expenses composed primarily of costs of management of certain properties and the legislative program (\$8 million).

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<sup>104</sup> Claims Conference (1952).

<sup>105</sup> Claims Conference( 2002); Claims Conference( 2002a); Claims Conference( 2002b).

<sup>106</sup> Claims Conference (1952).

Total Successor Organization revenue, as of the end of 2002, is approximately \$1 billion. Of that amount more than \$450 million was allocated primarily to organizations and institutions assisting needy survivors; \$167 million was paid by the Goodwill Fund; \$157 million was set aside for future payments of the Goodwill fund; and \$259 million was set aside for longer-term needs of Jewish victims of Nazi persecution.

Its CC's salaried staff consists of 310 personnel and additional temporary and contract staff. Staff dealing with the main programs (core and slave labor): in its headquarters in New York - 135; in offices in Europe – 60; in Israel (Tel Aviv) – 70. In Germany (Frankfurt) and Austria (Vienna) staff dealing with the property – 45, plus additional temporary and contract staff.<sup>107</sup>

**Activity:** Over the past five decades, the CC has negotiated for compensation for injuries inflicted upon individual Jewish victims of Nazi persecution; negotiated for the return of and restitution for Jewish-owned properties and assets confiscated or destroyed by the Nazis; obtained funds for the relief, rehabilitation and resettlement of Jewish victims of Nazi persecution, and aided in rebuilding Jewish communities and institutions devastated by the Nazis; administered individual compensation programs for *Shoah* survivors; recovered unclaimed East German Jewish property and allocated the proceeds from their sale to institutions that provide social services to elderly, needy Nazi victims and that engage in Holocaust research, education, and documentation. CC attained more than 25 agreements in order to obtain a small measure of justice for Jewish victims of Nazi persecution around the world.

The CC is leading the following bodies, activities and programs: Negotiating Committee – Germany; Committee for Jewish Claims in Austria; Program for Former Slave and Forced Laborers; Article 2 Fund; Central and Eastern European Fund (CEEF); Hardship Fund; Swiss Refugee Program; Swiss Deposited Assets Program; Insurance 8A1 Program; Community Leader Fund; Hassidei Umot Haolam Program; Successor Organization; Goodwill Fund; Institutional Allocations; Yad Vashem.<sup>108</sup>

## 2) WJRO: WORLD JEWISH RESTITUTION ORGANIZATION

**History:** Following the collapse of the Communist regimes in Eastern Europe, the world's eight leading Jewish organizations decided in early 1993 to establish the World Jewish Restitution Organization (WJRO). The founding members were: The Jewish Agency for Israel; The World Zionist Organization; The World Jewish Congress; the American Jewish Joint Distribution Committee; The Conference on Jewish Material Claims against Germany; B'nai Brith International; The American Federation of Jewish Holocaust Survivors; and the Organization of Holocaust Survivors in Israel.

To these were added Agudath Israel World Organization in 1994, the European Jewish Congress and the European Council of Jewish Communities – Joint European Delegation, in 1998.<sup>109</sup>

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<sup>107</sup> Claims Conference( 2002); Claims Conference( 2002c).

<sup>108</sup> Claims Conference( 2002); Claims Conference( 2002c).

<sup>109</sup> WJRO(1993).

**Legal Status:** The WJRO is a non-profit organization registered in Israel. Its mandate according to its Rules of Association is: “[to] centralize and coordinate the efforts of the Members in their attempts to help recover Jewish assets which belonged to individuals, communities and organizations who became victims of National-Socialist rule and of the Holocaust in all the countries where such assets are situated except Germany and Austria ... and to arrange for compensation for personal suffering of Holocaust survivors residing in or originating from those countries.”.

The governing structure of the WJRO consists of twenty Council Representatives, two nominated by each member organization. Edgar M. Bronfman is the President; ten members of the Executive Committee, one nominated by each member organization; and six officers. A memorandum on cooperation and coordination exists between the Government of Israel and the WJRO.<sup>110</sup>

**Budget:** The annual budget of WJRO is less than \$1 million, which enables to carry out limited activities. Its salaried staff consists of six members. Its headquarters is in Jerusalem. In the year 2003, and to date, the WJRO did not receive any participation of the Government in its budget, as opposed to the previous 10 years, due to new method of supporting non-profits directed by the Attorney General.<sup>111</sup>

**Activity:** Co-operation Agreements & Foundations – The WJRO concluded cooperative agreements with a number of Jewish communities in Eastern Europe, where a basis has been set up to establish joint foundations supported by the WJRO and the local community. So far, such foundations have been established in Poland, Hungary and Romania and are operational. The WJRO is in the midst of intensive efforts to create such a foundation in Lithuania. The purpose of these foundations is to research and locate Jewish communal properties (in addition to the archival project and database located at WJRO headquarters) and to receive and manage restituted communal property.

In addition, the activities of the WJRO have led to the creation of foundations in France, Belgium, Norway and Holland, as well as the \$59 million International Fund for Assistance to the Victims of Nazi Persecution (Nazi gold fund). Due to the efforts of the WJRO, a number of countries have set up historical commissions to investigate the activities and roles of their countries in the Holocaust era.

Partial solutions to the problems of the restitution of private property and compensation for survivors have been achieved in Hungary, Romania, Slovakia, the Czech Republic, and Belgium.

The WJRO is working to jumpstart negotiations in Poland, Croatia and Slovenia.

**Holocaust Insurance Claims** - The International Commission for Holocaust Era Insurance Claims (ICHEIC) was created in 1998 to enable claimants to recover unpaid insurance policies. The State of Israel, the WJRO, and the Claims Conference are the representatives of the Jewish world within ICHEIC. The overall scale of the activities of the Commission is about \$400 million.

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<sup>110</sup> Memorandum (1993).

<sup>111</sup> WJRO (2003).

*Swiss Banks* - WJRO conducted negotiations with the Swiss banks and was a party to the \$1.25 billion (plus interest) settlement on the class-action suits. It recently submitted proposals jointly with the Government of Israel for possible residual funds to be allocated by the court.<sup>112</sup>

*Swiss Fund for the Needy Victims of the Holocaust* – In addition to the Swiss bank settlement, the WJRO was chosen to be the implementing partner for the distribution of the Swiss Fund for the Needy Victims of the Holocaust to eligible Jewish recipients. In this capacity, the WJRO distributed approximately \$185 million to about 253,000 *Shoah* survivors.

*Looted Art* – The WJRO, in cooperation with the Claims Conference, is working to improve and promote the handling of the problem of restituting looted works of art.<sup>113</sup>

### 3) CENTER OF ORGANIZATIONS OF HOLOCAUST SURVIVORS IN ISRAEL<sup>114</sup>

**History:** The Center of Organizations of Holocaust Survivors in Israel (Center) is addressing the needs of *Shoah* survivors in Israel was established in 1989 and serves as the umbrella organization of their organizations. The following 16 organizations are members of the Center:

National Organization of Former Jewish Prisoners of the Nazis; Union of Jewish Bulgarian Immigrants; Union of Jewish Bukovina Immigrants; National Union of Jewish Immigrants from Russia and Former Soviet Union; Organization of Jewish Second Generation for the Heritage of the *Shoah* and Heroism; Union of Jewish Hungarian Immigrants; Union of Jewish Yugoslavian Immigrants; Organization of Jewish Survivors from Greece in Israel of Concentration Camps; Union of Jews from Libya and Tunisia; Organization of Jewish Nazi Victims Invalids; World Federation of Sefardi Jews; “Amcha” the Israeli Center for Psychological and Social Support for *Shoah* Survivors and Second Generation; World Federation for Polish Jews; Jewish Union of Polish Immigrants in Israel; Jewish Union of Czechoslovakian Immigrants; Jewish Union of Romanian Immigrants in Israel.

The Center was instrumental after the fall of the Berlin Wall, when it participated in submitting 100,000 claims for Jewish property in prior East Germany. About 50% came from Israel and from Russia, by initiative of the Center.

The Center initiated the establishment of WJRO (See above). As a result Prime Minister Yitzhak Shamir, erected a Ministerial Committee chaired by Minister of Justice, Dan Meridor ,members Ministers of Finance and Foreign Affairs.

The Center initiated the establishment of the foundation for the benefit of Holocaust Victims in Israel.<sup>115</sup>

**Legal Status:** The Center is a non- profit organization registered in Israel.

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<sup>112</sup> WJRO (2004).

<sup>113</sup> WJRO (2004).

<sup>114</sup> Center (1999) (Hebrew); Flug (2005) (Hebrew).

<sup>115</sup> Center (1999) (Hebrew).

**Budget:** The annual budget of the Center is about \$350,000. It has six salaried staff members. Its headquarters is in Jerusalem.

**Activity:** The Center is a member at the Claims Conference and the WJRO. As such, members of the Center participate in negotiations with the German Government on Personal Restitution, Compensation, Indemnification and Pensions for *Shoah* :Holocaust Survivors and in negotiations on Restitution of Jewish Property (see above: Claims Conference and WJRO).

### **C3. U.S. CONGRESS: “HELSINKI COMMISSION”<sup>116</sup>**

The United States Helsinki Commission, an independent U.S. federal agency, by law monitors and encourages progress in implementing provisions of the Helsinki Accords. The Commission, created in 1976, is composed of nine Senators, nine Representatives and one official each from the Departments of State, Defense and Commerce.

The Helsinki Final Act (HFA) was signed in Helsinki, Finland in 1975, and includes ten Principles Guiding Relations between participating States (the “Decalogue”).

The United States Helsinki Commission held hearings on Restitution of Property in Central and Eastern Europe in 1999 and 2002 and got an update in 2003.

It also received reports from the Special Envoy for Holocaust Issues at the State Department as well as from the President of the Claims Conference.<sup>117</sup>

### **C4. U.S.: STATE DEPARTMENT & TREASURY DEPARTMENT**

The State and Treasury Departments were involved in restitution during the tenure of Stuart Eizenstat (1995-2000) who served as Under Secretary of State in the first Clinton Administration and Deputy Treasury Secretary in the Second Clinton Administration.

An Office of Special Envoy for Holocaust Issues was also created during the Clinton Administration, and the post was held during the Clinton years by career diplomat by J.D. Bindenagel. In the first Bush administration, Secretary of State Colin Powell maintained the Special Envoy Office and Bindenagel was replaced in 2002 by another career diplomat Randolph Bell. The current Holocaust Issues Envoy is Edward O’Donell, who was Eizenstat’s chief of staff in 1999. Secretary of State Condeleeza Rice, during her confirmation hearings, indicated that she would maintain the Office of Special Envoy for Holocaust Issues.

Since 1995 the policy of the U.S. supporting Restitution has been expressed in various ways:

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<sup>116</sup> Commission(a); Commission (b).

<sup>117</sup> Claims Conference (2002d).

In 1995 Speaker of the House Newt Gingrich said: “It is the clear policy of the United States that each [Belarus, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Moldova, Poland, Romania, Russia, Slovakia and the Ukraine] should expeditiously enact appropriate legislation providing for the prompt restitution and/or compensation for property assets seized by the former Nazi and/or Communist regimes. We believe it is a matter of both law and justice...”

President Clinton, in a letter to Mr. Edgar Bronfman President of the WJRO dated May 2, 1996, wrote as follows: “I would like to express my continuing support in the area of restitution of Jewish property.”

In 1998 Congress resolved that “countries in transition in Central and Eastern Europe should remove certain citizenship or residency requirements for individual survivors of the Holocaust seeking restitution of confiscated property and noted that former Communist countries which seek to become members of the North Atlantic Alliance and other international organizations must recognize that a part of the process of international integration involves the enactment of laws which safeguard and protect property rights that are similar to those in democratic countries...”.

Deputy Treasury Secretary Eizenstat stated before the Helsinki Commission in 1999: “[T]he basic principle that wrongly expropriated property should be restituted (or compensation paid) applies to them all [countries in central and eastern Europe] and their implementation of this principle is a measure of the extent to which they have successfully adopted democratic institutions, the rule of law with respect to property rights and market economy practices. As these governments seek to join western economic and political organizations and to integrate their economies more closely with ours, we do expect them to adopt the highest international standards in their treatment of property...”<sup>118</sup>

Secretary of State Madeline Albright stated during the Washington Conference on Holocaust Era Assets (1999).

“Our imperative must be openness. Because the sands of time have obscured so much, we must dig to find the truth. This means that researchers must have access to old archives and by that, I don’t mean partial, sporadic or eventual access – I mean access in full, everywhere...the obligation to seek truth and act on it is not the burden of some but of all, it is universal, ... every nation, every business, every organization ...is obliged to do so. In this arena, none of us are spectators, none are neutral; for better or worse, we are all actors on history’s stage.”<sup>119</sup>

The U.S. Government established a set of principles for the restitution of private and communal property which were promulgated by Deputy Secretary Stuart Eizenstat in 1999.

Deputy Secretary Richard Armitage declared in 2001 that “following the fall of the Berlin Wall, possibilities opened for the US Government and others to resume work on

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<sup>118</sup> Commission (b)

<sup>119</sup> Washington (1999).

securing justice for Holocaust victims....we are convinced that the greatest effort we can make is to try to make a measure of justice to the survivors of the Holocaust. The United States Government remains committed to work for the human dignity that is the hallmark of our country.”<sup>120</sup>

There has been bipartisan support in the US to address Holocaust related issues. The recommendations of the Presidential Advisory Commission on Holocaust Assets in the United States (2000) included the following points<sup>121</sup>:

1. Establish a public-private foundation - the Congress should establish a public-private foundation to promote further research and education in the area of Holocaust-era assets and restitution policy.

“A Bill : To establish a National Foundation for the Study of Holocaust Assets” (sponsored by Sen. Gordon Smith, Republican from Oregon, and Sen. Hillary Rodham Clinton, Democrat from New York) was introduced in the Senate; on June 4, 2003, it was referred to the Senate Banking, Housing, and Urban Affairs Committee. An earlier version (sponsored by Rep. Brad Sherman of California) was introduced in the House and was referred to the Financial Services Committee. Neither bill was reported from the Committee to which it was referred.<sup>122</sup>

2. Review by the Department of Defense - the Department of Defense be prepared to review existing policies, orders, directives and regulations governing the control of and accountability for property that may come under US military control when the military is deployed on operations in foreign countries.

3. Legislation that removes impediments - the Congress should pass legislation that removes impediments to the identification and restitution of assets belonging to Holocaust victims.

The issue of the “Gold Train” that was dealt with by the Presidential Advisory Commission on Holocaust Assets became a class action suit in U.S. federal court in Miami filed by Jews from Hungary against the U.S. The claimants argued that American soldiers sold during WWII or illegally distributed 1,200 paintings, silver items, gold, jewelry, china, 3,000 carpets and other households located on the Gold Train.<sup>123</sup>

In December 2004, the U.S. Government announced that it had settled the suit for \$25 million, to be distributed to needy survivors from Hungary.<sup>124</sup>

Note: The fact that in the mid 1990’s until January 2001, the President’s Special Envoy for Holocaust Issues (Stuart Eizenstat) was also serving as Under Secretary of the U.S. State Department and later as Under Secretary of the Treasury Department, was very helpful for the achievements on restitution at that time. President Bush did not appoint such a Special Presidential Envoy.

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<sup>120</sup> Commission (b)

<sup>121</sup> Commission (2000).

<sup>122</sup> Foundation (2003).

<sup>123</sup> Zweig (2002).

<sup>124</sup> Levin (2004a) (Hebrew).

## C5. FOUNDATIONS

Various foundations<sup>125</sup> were created during the process of restitution of Jewish property and some of them serve the needs of both Jewish and non-Jewish survivors of WWII. This report deals primarily with Western European Foundations created to fund projects, and does not treat funds intended for individual or direct communal compensation payments.

### 1) AUSTRIA

**a. Name: National Fund of the Republic of Austria for victims of National Socialism**<sup>126</sup>

**Founding date:** 1995

**Founders:** Austrian State

**Purposes:**

- 1) One time gesture-payment of 70,000.-schillings (about \$5,000) to *Shoah* survivors of Austrian origin and supplementary help to those in special need.  
**Size:** unlimited  
**Status:** distribution till end of year 2004 approx. \$200 million to 29,556 persons worldwide.
- 2) Compensation for loss of leased apartments, personal valuables and household property. Lump-sum payment of \$ 7,000 to survivors of Austrian origin.  
**Size:** \$150 million.  
**Status:** Filing period ended June 2004. Fully distributed.
- 3) Nazi Persecutee Relief Fund for projects and payments to “double victims”, Jewish communities in the former Eastern Countries and Austrian victims of *Shoah*.  
**Size:** \$10.9 million.  
**Status:** distributed \$9.6 million to 160 projects worldwide.
- 4) National Fund Special Projects for institutions of *Shoah* remembrance, medical equipment, psychological help, educational projects etc.  
**Size:** unlimited (subject to yearly negotiations).  
**Status:** distributed \$4.3 million to 125 projects with special focus on Austria.

**b. Name: General Settlement Fund**<sup>127</sup>

**Founding date:** 2001

**Founders:** Austrian State and Austrian industry.

**Purpose:** payments to *Shoah* survivors and their heirs for compensation for loss of property, business and other, bank accounts and other financial assets, insurance policies, moveable property, educational loss and other losses.

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<sup>125</sup> Foundations (2005).

<sup>126</sup> National Fund (2003).

<sup>127</sup> General Settlement Fund (2003).

*Size:* \$210 million

*Status:* further research required.

*c. Name:* **Arbitration Panel for In-Rem Restitution**

*Founding date:* 2001

*Founders:* Austrian State and Austrian industry.

*Purpose:* Return in nature to survivors of the *Shoah* and their heirs of real estate(land) and buildings (superstructures)which on 17<sup>th</sup> of January 2001 were owned by the Federal Government or by provinces or municipalities that have declared to accept the recommendations of the Arbitration Panel.

*Status:* further research required.

## 2) BELGIUM

*Name:* **Belgian Fund**

*Establish date:* June 2002

*Establisher:* Belgian government, central bank, insurance companies.

*Purpose:* for compensation payments to individual claimants for stolen assets, unclaimed life insurance policies, plundered bank accounts.

However, under the law establishing the Indemnification Commission, with the completion of the mandate of the Commission, remaining funds are to be transferred to a foundation “whose missions of a social, cultural and religious nature meet the needs of the Jewish Community of Belgium, these missions can also extend to fighting racism, intolerance and the violation of human rights”. So far, the Commission has paid out 6.5 million euro (\$8 million) on about 20% of the claims. The administrative expenses of the Commission have been covered by the budget of the office of the Prime Minister.

*Size:* 110 million euro (\$143 million) - from three sources: the banks (53million euro=\$69 million), the insurance companies (10 million euro=\$13 million) and the government and national bank (46 million euro=\$60 million). Belgian banks agreed to pay the additional 53 million euros (\$69 million) to compensate for funds in plundered bank accounts.

*Status:* further research required.

## 3) FRANCE

*Name:* **The Foundation for Remembrance of the Shoah**

*Establish date:* 2000

*Establisher:* French government

*Purpose:* Funded projects are divided into 4 areas: history and research, education and transmission, “solidarity” (social welfare for survivors), and Jewish culture. Project proposals in each area are dealt with by a separate committee. In 2003 the Foundation allocated a total of 14 million euro (\$18 million), of which 8 million euro (\$10 million), went towards the CDJC memorial, and 6 million euro (\$8 million), went for other projects. Funds for other projects were

divided as follows: 30% “solidarity” (social welfare), 23% Jewish culture, 15% memorial sites, 12% historical research, 11% education, 9% other.

**Decision Making Structure:** Board of the Foundation is comprised of 25 members: 8 from various government ministries, 10 from French Jewish institutions, and 7 chosen on an individual basis by the other members of the board.

**Size:** 800 million euros (\$1,040 million).

**Status:** 14 million euros (\$18 million) distributed in 2003.

#### 4) GERMANY

##### **a. Name: Remembrance, Responsibility & The Future Fund**

**Founding date:** 1999

**Founders:** German industry, banks, insurance companies and German government.

**Purpose:** to compensate surviving forced and slave laborers, owners of insurance policies and owners of dormant bank accounts.

**Size:** DM 10 billion (\$5 billion). Special allocations for insurance ( ICHEIC) - DM 550 million (\$275 million); Dormant Bank Accounts - DM 450 million (\$225 million); Future Fund - DM 700 million (\$ 350 million).

**Status:** all funds were allocated and mostly distributed.

##### **b. Name: Remembrance, Responsibility & Future (Future Fund)**

**Founding date:** 1999

**Founders:** German industry, banks, insurance companies and German Government.

**Purpose:** To foster projects that serve the purposes of better understanding among peoples, the interests of survivors of the Holocaust, youth exchange, social justice, remembrance of the threat posed by totalitarian systems and despotism, and international cooperation in humanitarian endeavors. It is also intended to further projects in the interest of the heirs of Holocaust victims. The Fund accepts applications only within approved "funding programs". The Fund has currently approved the following funding programs: “History and Human Rights”, “Scholarships”, “Psychosocial and medical care for former victims of the Nazis”, “Encounters – Sixtieth Anniversary of Liberation”, “Documentation of the life stories of former slave and forced laborers”, “International Journalism Competition on the Topic of Gestures of Reconciliation”.

**Size:** DM 700 million (358 million euros = \$ 465 million).

**Status:** distributes annual interest of 7-8million euros = \$ 9-10 million.

#### 5) HOLLAND

##### **Name: The Dutch Jewish Humanitarian Fund**

**Establish date:** further research necessary.

**Establisher:** Dutch government.

**Purpose:** “Building and ensuring the continuity of Jewish communities in such areas as culture, knowledge transfer, and enhancement of the non-capital infrastructure, Facilitating Jewish education, Promoting mutual respect between people, Supporting civilian victims of war situations.” Primarily dedicated to aiding Jewish communities in the formerly communist countries. Will not fund projects in the Netherlands, or relating to the Dutch-Jewish community in Israel.

**Size :** 24 million euros ( \$31 million).

**Status:** intends to distribute annual interest.

## 6) NORWAY

**Name:** The Norwegian Fund for the Support of Jewish Institutions or Projects Outside of Norway

**Establish date:** further research necessary.

**Establisher:** Norwegian government.

**Purpose:** “To commemorate and develop the Jewish traditions and culture that the Nazis tried to eradicate.” Jewish education, teaching, research, or information. Has funded: “In the Footsteps of Herzl” an educational program for Jewish youth leaders, and a traveling exhibition on Jewish life in Norway prior to W.W.II. (Not an exhaustive list)

**Size:** NOK 60 million (about \$7 million). Intends to allocate all of capital.

**Status:** further research required.

## 7) OTHER

**Name:** Nazi Persecutee Relief Funds

**Establish date:** December 1997

**Establisher:** as part of the Nazi Gold Conference in London, and based on an agreement between the Gold Tripartite Commission (France, Great Britain and the United States) and countries whose gold reserves were seized by the Germans. More than 10 countries donated to the Fund.

**Purpose:** to provide relief to needy victims of Nazi persecution and related projects.

**Size:** \$60 million.

**Status:** all funds were distributed.

## **APPENDIX D - POST HOLOCAUST ISSUES**

In the aftermath of the *Shoah* the Jewish People made an oath: Never Again!

However, *Shoah* Denial exists (See D1), and Anti-Semitism is increasing (See D2).

There is increased need for international cooperation in combating *Shoah* Denial and Anti-Semitism and for international cooperation in *Shoah* commemoration and education (See D3), and for follow up on Historical Commissions on Conduct of Nations During the *Shoah* and Reconciliation (See D4).

### **D1. *Shoah* DENIAL**

Holocaust denial is a growing phenomenon, occurring in the United States, Canada, Europe, former Soviet Union and is especially prevalent in Arab lands. This pathological belief seeks to deny the reality of the Nazi regime's systematic mass murder of six million Jews in Europe during World War II.<sup>128</sup>

David Matas, Senior Counsel for the “League for Human Rights” in Canada of the B’nai B’rith organization says that the *Shoah* was the murder of six million Jews, including two million children and that Holocaust denial is a second murder of those same six million. First their lives were extinguished; then their deaths.<sup>129</sup>

According to the Global Survey on Holocaust denial 2004, Holocaust-deniers in the United States continued their efforts to gain a measure of respectability, and benefitted from the willingness of several individuals of prominence to associate with them. Many Arab and Islamic governments continued to actively promote Holocaust-denial. At the same time, a number of Western governments and other institutions took important steps against Holocaust-deniers.<sup>130</sup>

According to the US State Departments’ first “US Global Anti-Semitism Report: July 1, 2003 – December 15, 2004”, Holocaust denial and Holocaust minimization efforts find increasingly overt acceptance as sanctioned historical discourse in a number of Middle Eastern countries.<sup>131</sup>

### **D2. ANTI-SEMITISM**

Jews continued to be murdered in the aftermath of the *Shoah*. According to recent research, in Poland itself about one thousand Jewish *Shoah* survivors were murdered after 1945. In Holland, *Shoah* survivors were put in a camp together with Nazi war criminals. In Paris, a demonstration was held against restitution of Jewish property<sup>132</sup>.

The U.S. State Department published its first “US Global Anti-Semitism Report: July 1, 2003 – December 15, 2004”<sup>133</sup>, pursuant to the Global Anti-Semitism Review Act

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<sup>128</sup> Holocaust Denial(2005).

<sup>129</sup> Holocaust Denial (2005a).

<sup>130</sup> Holocaust Denial(2005b).

<sup>131</sup> Anti-Semitism (2004).

<sup>132</sup> Barkat (2004) (Hebrew).

<sup>133</sup> Anti-Semitism (2004).

signed by President George W. Bush on October 16, 2004. The report describes acts of violence against Jews, as well as actions governments are taking to prevent this form of bigotry and prejudice.

According to this Report, global anti-Semitism in recent years has had four main sources:

1. Traditional anti-Jewish prejudice that has pervaded Europe and some countries in other parts of the world for centuries. This includes ultra-nationalists and others who assert that the Jewish community controls governments, the media, international business, and the financial world.
2. Strong anti-Israel sentiment that crosses the line between objective criticism of Israeli policies and anti-Semitism.
3. Anti-Jewish sentiment expressed by some in Europe's growing Muslim population based on longstanding antipathy toward both Israel and Jews, as well as Muslim opposition to developments in Israel and the occupied territories, and more recently in Iraq.
4. Criticism of both the United States and globalization that spills over to Israel, and to Jews in general who are identified with both.

Anti-Semitism in Europe increased significantly in recent years. The disturbing rise of anti-Semitic intimidation and incidents is widespread throughout Europe.

The problem of anti-Semitism is not only significant in Europe and in the Middle East, but there are also worrying expressions of it elsewhere.

The proliferation of media outlets (television, radio, print media and the internet) has vastly increased the opportunity for purveyors of anti-Semitic material to spread their propaganda unhindered.

Stuart Eizenstat said recently in public that due to restitution efforts, an increase in anti-semitism was present during his tenure (1995-2000) only in Switzerland.<sup>134</sup>

### **D3. *Shoah* COMMEMORATION AND EDUCATION<sup>135</sup>**

The Task Force for International Cooperation on *Shoah* Education, Remembrance, and Research consists of representatives of governments, as well as governmental and non-governmental organizations. Its purpose is to place political and social leaders' support behind the need for Holocaust education, remembrance, and research both nationally and internationally.

Membership in the Task Force is open to all countries. Members must be committed to the Declaration of the Stockholm International Forum on the *Shoah* (1999), and must accept the principles adopted by the Task Force regarding membership. They must also be committed to the implementation of national policies and programs in support of Holocaust education, remembrance, and research.

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<sup>134</sup> Bechar (2004) (Hebrew); Levin (2004) (Hebrew).

<sup>135</sup> Task Force (2005).

The governments comprising the Task Force agree on the importance of encouraging all archives, both public and private, to make their holdings on the *Shoah* more widely accessible. The Task Force also encourages appropriate forms of *Shoah* remembrance.

Countries wishing to create programs in *Shoah* education or to further develop their existing information materials and activities in this area are invited to work with the Task Force. To this end, Liaison Projects can be established between countries and the Task Force for long-term cooperation. Such cooperation is mutually beneficial to all concerned.

The first Liaison Project, with the Czech Republic, began in 1999. Within this project's framework, a national teacher training program at the Terezin Memorial has been developed, and Czech teachers have received advanced training at the Anne Frank House in Amsterdam, the United States *Shoah* Memorial Museum in Washington, D.C., and Yad Vashem in Jerusalem. The project also includes cooperation with Roma cultural organizations. The experience with the Czech Republic has served as a model for work in other countries. Liaison Projects have also been initiated in cooperation with Argentina, Croatia, Estonia, Greece, Hungary, Romania, and Slovakia. The Task Force has established working groups in regard to each of these countries, as well as in regard to memorials, information projects, research, and education.

The website of the Task Force (<http://taskforce.ushmm.org>) maintains an international directory of organizations in Holocaust education, remembrance, and research; an international calendar of events; a directory of archives; listings of remembrance and education activities; as well as additional information about the Task Force.

Task Force countries are: Argentina, Austria, Czech Republic, Denmark, France, Germany, Hungary, Israel, Italy (current chair of the Task Force), Latvia, Lithuania, Luxembourg, The Netherlands, Norway, Poland, Romania, Sweden, Switzerland, United Kingdom, United States of America.

A crucial component in education and commemoration of the *Shoah* is the Central Database of Shoah Victims' Names published recently by Yad Vashem in Jerusalem (see Bibliography).

#### **D4. HISTORICAL COMMISSIONS ON CONDUCT OF NATIONS DURING THE *Shoah* AND RECONCILIATION<sup>136</sup>**

Nations that have looked into their conduct during the *Shoah* era and have struggled with their past can reach important insights into how to prevent wrong conduct in the future and how to prevent such a thing from happening again. This soul searching is essential for every nation in order to make sure that another *Shoah* will never happen.

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<sup>136</sup> World Jewish Congress (2002).

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## ACKNOWLEDGEMENTS

(In alphabetical order)

Prof. Michael J. Bazylar, Whittier Law School, California

Mr. Paul Berger, Arnold & Porter LLP, Washington

Mr. Julius Berman, Claims Conference, New York

Mr. Herbert Block, The American Joint Distribution Committee, New York

Mrs. Yael Cohen, Office of the Legal Advisor, Prime Ministers Office, Jerusalem

Prof. Sergio DellaPergola, The Jewish People Policy Planning Institute, Jerusalem

Prof. Yehezkel Dror, The Jewish People Policy Planning Institute, Jerusalem

Mr. Stuart E. Eizenstat, Covington & Burling, Washington

Mr. Noah Flug, Center of Organizations of Holocaust Survivors in Israel, Jerusalem

Mr. Aryeh Green, Office of Minister for Jerusalem & Diaspora Affairs, Jerusalem

Holocaust restitution Claims Practicum at the Benjamin N. Cardozo School of Law:

David Fisher, Romy Lipkis, Jason Fried.

Mr. Roman Kent, American Gathering of Jewish Holocaust Survivors, New York

Mrs Hannah M. Lessing, Austrian Fund, Vienna

Mr. Salai Meridor, Jewish Agency & WJRO, Jerusalem

Mr. Rotem Peleg, Ministry of Finance, Jerusalem

Mr. Roman Polonsky, Senior Advisor to Minister Sharansky

Mr. Moshe Sanbar, Conference on Jewish Material Claims Against Germany, Israel

Mr. Michael Schneider, World Jewish Restitution Organization (WJRO), New York

Prof. Gabriel (Gabi) Sheffer, Hebrew University in Jerusalem

Dr. Rabbi Israel Singer, World Jewish Congress&Claims Conference&WJRO, New York

Dr. Gene Sofer, The Susque Hanna Group LLC, Washington

Mr. Eli Spanic, World Jewish Restitution Organization (WJRO), Jerusalem

Mr. Zvi Tal, Ministry of Foreign Affairs, Jerusalem

Mr. Gideon Taylor, Conference on Jewish Material Claims Against Germany, New York

Mr. Raul Teitelbaum, Center of Organizations of Holocaust Survivors in Israel

Mrs. Hila Tene, Ministry of Justice, Jerusalem

Dr. Lawrence Weinbaum, Institute of the World Jewish Congress, Jerusalem

Dr. Yaacov Lozowick, Yad Vashem, Jerusalem

Mr. Kent Yalowitz, Arnold & Porter LLP, New York

Mr. Sidney J. Zabludoff, Washington

Mr. Arie Zukerman, Yad Vashem, Jerusalem

Prof. Ronald W. Zweig, Tel Aviv University, Tel Aviv