European Review of History: Revue européenne d'histoire

ISSN: (Print) (Online) Journal homepage: https://www.tandfonline.com/loi/cerh20

Neither citizens nor Jews: Jewish property rights after the Holocaust, a tentative survey

Ilaria Pavan

To cite this article: Ilaria Pavan (2021) Neither citizens nor Jews: Jewish property rights after the Holocaust, a tentative survey, European Review of History: Revue européenne d'histoire, 28:2, 301-322, DOI: 10.1080/13507486.2020.1865279

To link to this article: https://doi.org/10.1080/13507486.2020.1865279

EUROPEAN REVIEW OF HISTORY: REVUE EUROPÉENNE D'HISTOIRE
2021, VOL. 28, NO. 2, 301–322
https://doi.org/10.1080/13507486.2020.1865279

Neither citizens nor Jews: Jewish property rights after the Holocaust, a tentative survey

Ilaria Pavan

Faculty of Humanities, Scuola Normale Superiore, Pisa, Italy

ABSTRACT

The topic of the Jewish property seized or plundered during the Holocaust resurfaced in the 1990s, becoming one of the most active fields of research in Holocaust Studies. This article attempts to retrace the suggestions made by the World Jewish Congress, starting in 1944, about how to address the problem of restitution and compensation. How did these proposals contend with the persistence of a traditional juridical framework, especially within each system of municipal law? Did international law provide adequate tools for managing such an unprecedented scenario? Was the pressure applied by Jewish organizations successful? This article presents some of the issues that most commonly arose in various Western European countries in regard to Jewish restitution (the problem of heirless property or of 'enemy alien' assets held by a number of national Custodians), shedding light on how conflicts between the criteria of nationality and the yardstick of race often constituted a major obstacle to righting the wrongs Jews had suffered.

ARTICLE HISTORY
Received 19 November 2019
Accepted 14 December 2020

KEYWORDS
Holocaust; World Jewish Congress; citizenship; restitution; compensation; indemnification

> It must never be forgotten that there will be a small but powerful bloc, in all the Nazi-dominated nations, whose interest lies in maintaining things as the Nazis left them. One thing may be certain: property rights following this war will be far more shadowy and fluid than at the close of World War I. Scores of millions of individuals will simply have to take their losses and start anew.[1]

At the end of the war, the pessimistic prophecy voiced in 1943 by American journalist Hiram Motherwell in his essay *The Peace We Fight For* would prove accurate. And among the 'millions of individuals' who would 'simply have to take their losses and start anew', Jews were the ones who had suffered the most widely and systematically, in a process of spoliation that had begun in several Western and Central European countries even before the outbreak of the war.

For some time now, the fate of the property stolen from Jews before and during the Holocaust has been one of the most active realms of Holocaust Studies. Since the late 1990s, many investigations have tried to assess the scale and efficacy of the restitution process, examining its links to the broader process of reintegrating the minority into post-war societies, to the theme of memory, or to the concept of transitional justice.[2] But the many different paths that were taken in regard to restoring Jewish property rights have rarely been looked at in connection to the question of citizenship: its concrete juridical ramifications[3].

CONTACT Ilaria Pavan ilaria.pavan@sns.it Scuola Normale Superiore, Piazza dei Cavalieri 7, Pisa 56126, Italy

and how they intertwined with the national legislation passed in various countries after the war to compensate a range of victims that was both vast and varied.

After 1945, in a Europe where policy continued for the most part to be made within the usual arena of national sovereignty, each country acted independently in pursuing (or not pursuing) the restoration of Jewish property rights.[4] In this respect, the individual governments adopted legislative solutions that reflected their juridical traditions in the non-criminal sphere, whose foundations were not redefined to reflect the completely exceptional nature of the Holocaust.[5] By tracing certain questions that emerge like a guiding thread from the analysis of very different national landscapes – the problems of enemy alien assets and heirless property, and the paradoxical obstacles created by the rejection of all legal distinctions based on race – this article will examine how the category of citizenship often came into play, both in defining the restitution policies developed by individual governments and in determining their efficacy.

The time span taken into consideration begins with the earliest thoughts on the issue within the Jewish world and stretches to the first half of the 1960s. By then, the period in which various European governments introduced reparative measures to address the restitution of assets and provide forms of compensation to Jews – including the initiatives undertaken by the Federal Republic of Germany – could be thought of as largely concluded.[6] After almost 30 years of silence, the end of the Cold War caused these issues to re-emerge in the 1990s – this time attracting extensive media attention – within a radically different political and cultural context. The question of the incomplete (or failed) restoration of property rights after the Holocaust had become intertwined with the question of human rights, and of human rights litigation, an aspect that 30 years earlier had been completely absent from the debate.[7]

The cases examined here, with no attempt to be exhaustive, are primarily in Western Europe; they include countries occupied by the Nazis, countries allied with Germany (such as Italy), and countries that may seem more extraneous to the Holocaust, like the United Kingdom. This wide range of examples has been selected in order to show how the parameter of citizenship operated within very different scenarios, independently of the relationship these countries had with Nazi Germany during the war or the fate of Jews in their territories. The Federal Republic of Germany has not been included in the analysis, however. This choice is only partially due to the fact that it is the best-known and most extensively analysed case at present,[8] even as regards post-war restoration policies. More importantly, it is because what happened in West Germany at the end of the war – especially from 1947 to 1952 (but even beyond this period) – in relation to this issue was specifically tied to the national context. There, the Allies, and the United States in particular, acted unilaterally and played a decisive role in introducing and shaping restitution policies for Jews, a role not adopted elsewhere in Europe.[9] Although it has been emphasized that, overall, post-war German policies towards the Jews marked 'a turning point in the history of reparations',[10] the German restitution model was far from being a paradigm.[11]

To piece together the bits of a mosaic that stretches across a wide and varied geographic area, it is useful to look at the efforts made by the World Jewish Congress (WJC) and its vast network of representatives in different countries, starting in the last few years of the war. Like other international Jewish organizations, the WJC, founded in Geneva in 1936, was active in aiding the reconstruction of Jewish communities after the

Holocaust, but it also became central to a specific effort aimed at obtaining compensation for the property lost by Jews. Although the WJC documents used here definitely (and inevitably) provide a biased view, the organization's transnational outlook and its operating methods – which involved collecting information and documents, preparing specific legislative proposals, meeting and negotiating directly with each country's political elite, and lobbying – offer a clear picture of the many issues at play and the primary obstacles that emerged, just after the war, to the full restoration of Jewish rights.[12]

Suggestions in wartime

The history of the Jewish property restoration process began while the war was still underway. The unprecedented magnitude of the spoliation had soon become clear both to the Allies and to the many European governments in exile, who responded with various initiatives (official statements, decrees) as early as the late autumn of 1939.[13] And on 5 January 1943, the Allies issued the *Inter-Allied Declaration against Acts of Dispossession Committed in Territories under Enemy Occupation or Control*, the first official statement on how the question of forced property transfers (including but not limited to those incurred by Jews) would be addressed at the war's end. As a warning to the Reich and to Axis-allied countries, it expressed their uncompromising intention

> to declare invalid any transfers of, or dealings with, property, rights and interests of any description whatsoever [...] . This warning applies whether such transfers or dealings have taken the form of open looting or plunder, or of transactions apparently legal in form, even when they purport to be voluntarily effected.

Although the plan to nullify even transactions 'apparently legal in form' was very significant, 'no mention of concretely implementing the declaration was included'[14] and – as was even clarified by the Note appended to it[15]– this promise on the part of the Allies was only an expression of principle, rather than a outline of how the rule of law would be re-established in practical terms. Hence the unoptimistic comment from Jewish circles that 'the legal import of this Declaration [was] somewhat obscure'.[16] Moreover, the declaration applied only to property situated in Allied territory or belonging to persons who lived there. Although an internal WCJ document from June 1944 expressed the hope that the Allies would state their intention to apply the same principles when the property belonged to residents of enemy countries, this remained a dead letter after the war.[17] But overall, what points did Jews raise when the conflict was still underway, and what were their views on what would happen after the war?

A clear-eyed, detailed analysis of the many difficulties that would arise was undertaken by the Institute of Jewish Affairs, a research organization created in February 1941 by the World Jewish Congress. Acting under the WJC's umbrella, its purpose was to analyse the political, legal and economic aspects of Jewish life and develop a post-war policy for securing Jewish rights internationally.[18] The key figure at the Institute, who headed it from 1947 to 1964, was the Lithuanian lawyer Nehemia Robinson.[19] Nehemia, brother of the more famous Jacob Robinson,[20] also headed the WJC's Office of Indemnification; in 1944, he authored the first in-depth study and proposal on the subject, *Indemnification and Reparations: Jewish Aspects*. What emerges above all from its pages is an awareness that the tools provided by international law at the time were wholly unsuited to

addressing the restoration of individual and collective Jewish property rights. 'Positive international law seems unable to cope with these complicated situations,' Robinson wrote.[21] The legislative framework bequeathed by previous wars (in particular the fourth Hague Convention of 1907 concerning the 'Law and Customs of War on Land')[22] was not sufficient to ensure the full restoration of Jewish property rights, in part because in many places the spoliation was not directly linked to the war, but had instead begun in peacetime.[23] It was difficult to apply the current rules of international law to the unprecedented situation created by the Holocaust not only because of the scale of the phenomenon, but owing to the incredible variety of circumstances that had affected Jews and their property: 'It may also be questioned whether the rules of this Convention are adequate to deal with the complicated methods of inflicting damages used in this war.'[24]

As had already happened with the Treaty of Versailles after the First World War, the inadequacy of the tools offered by international law thus shifted the future seat of decision-making into the jurisdiction of each government, as Robinson himself acknowledged:

> Thus, the resulting restoration of Jewish property and compensation for losses will be the consequence not of the Hague Convention itself, but of the attitude and laws of the individual state [...] . The reparation of the losses will depend entirely on the new internal policy of the defeated Axis. If no outside pressure is exercised, the actual remedy will depend not on international law or the individual rights of the damaged, but on the free will of the sovereign state exclusively.[25]

In the late summer of 1944, moreover, the Legal Section of the WJC Research Committees, when drafting a memorandum titled 'Restitution and Reparation', also rejected as impracticable the idea of finding a global, international solution to the problem of restoring property rights, that is, of drafting a uniform law approved by the United Nations, which was not coincidentally described as 'the best method to get nothing at all'.[26] The report's realistic view was that 'anyone [who] thinks that the future Governments of the occupied countries will submit to a uniform law and to an international Court is entirely mistaken'.[27] They therefore settled, even at this stage, on the alternative of a mobilization and lobbying effort that the WJC and its representatives would carry out country by country. This activity was to focus on the attempt to adapt and change each nation's municipal laws:

> We propose that suggestions should be submitted to every Allied country for the alteration of their Civil Law in order to draw attention to the specific Jewish needs and to the special situation created in the respective country by special anti-Jewish measures. [...] All that it can be expected to do is to change their municipal laws so as to adapt them to the specific needs of the Jews caused by anti-Jewish measures during the period of the occupation in order to make restitution possible at all in spite of bona fide of third parties and so on.

The peace treaties provided the first confirmation of the difficulties that WJC analyses had predicted back in 1944. With regard to collective reparations,[28] 'no specific, explicit, provisions in favour of Jews were made' in the case of Axis-allied countries (Italy, Bulgaria, Hungary, Romania and Finland).[29] When it came to actual restitution processes, one must distinguish between how international ones and internal ones were dealt with. To ensure restitutions between different states (not explicitly for Jews), reference

was made to the declaration of January 1943,[30] whereas internal restitutions were never mentioned in any of the peace treaties signed by the Allies with Axis countries.[31]

One must also keep in mind the special status of countries like Belgium, which was not a party to any armistice agreement or peace treaty specifically affecting immovable property, within its borders, that had been confiscated or wrongfully taken during the Holocaust. Though Belgium was one of the 'Allied and Associated powers' in the 1947 treaty with Italy, it was not involved in the 1947 treaties with Bulgaria, Finland, Hungary or Romania.

As foreseen by the Institute of Jewish Affairs, by the time all the peace treaties had been signed it was clear that the boundaries within which Jews could reassert their violated property rights mostly followed national borders, and were thus tied to the wishes of individual governments. Even in regard to the question of reparations alone, Nehemia Robinson once again circumscribed the arena in which action would realistically be feasible:

> Jewish citizens of the countries to which reparations were payable might (or might not) indirectly benefit from such reparations, insofar as losses suffered by them because of their race or religion were considered to be war damages.[32]

Nationality versus race

References such as this to 'religion' but above all to 'race' – a concept that after the war would be relegated once more to the extra-juridical sphere – nevertheless came into conflict with the parameter of citizenship, which for Jews generated clear obstacles to obtaining full reparation and restitution. Policies that discriminated against Jews had been grounded, even from the standpoint of law, in the notion that Jews belonged to a different race, not a different nationality. But after the war, references to racial criteria were universally shunned. As has been pointed out, the liberal principle of not distinguishing between people on the basis of race, religion or ethnicity left citizenship as the only possible yardstick – a yardstick that did not take into account the unprecedented circumstances of the Holocaust and post-Holocaust era. Nazi and Fascist persecution had applied racial criteria in such a dramatic manner that in the period just after the war, this liberal principle was outdated.[33] Because of the unique dynamics that had characterized the Holocaust, the WCJ definitely did not believe that the nationality of Jews was the factor that post-war governments should take into consideration when addressing the issue of restitution (at most, one could take into consideration the principle of territoriality, that is, where the person was living when persecution struck):

> No difference of treatment shall be countenanced because of the nationality of the damaged persons; the decisive matter is the residence at the time when the exceptional situation was introduced [...] . Each government should take care of the persons under its jurisdiction ... regardless of whether they are citizens or not.[34]

Nevertheless, as noted in 1951 by a WJC memo that complained about the inefficacy of many post-war Belgian restoration laws, 'the legislator at that time refuses to refer to "racial grounds", as this would appear to accept Nazi racial theories'.[35] The

understandable rejection of all race-based criteria nevertheless ended up making the principle of nationality a new discriminatory criterion for Jews.

Nationality, for instance, was always a key requirement for obtaining war damage compensation: it was to be found in all laws passed concerning the subject after the war, despite the considerable number of Jews who had fled their own countries and lived elsewhere for years, or even decades, as foreigners or stateless persons.

One of the most significant cases was Belgium, where over 90% of the Jewish community, before and after the war, was made up of foreign Jews, mainly from Poland, Germany or Austria. The latter lost their Reich citizenship in November 1941 as a result of the Nazi government's so-called Eleventh Decree, and became stateless. Many of them were deported, but if they survived and returned to Belgium, they were considered enemy aliens; Belgian authorities believed the repeal of the 1941 Nazi decree meant that German and Austrian Jews had automatically regained their former citizenship. (This was incorrect, because the parties in question had to explicitly request the restoration of their lost citizenship; otherwise, they remained stateless.)[36] This 'enemy alien' status made the situation of many foreign Jews who decided to return to Belgium difficult and painful: upon repatriation, they were put into Belgian camps, were denied work and residence permits, and their assets in Belgium were frozen under a law enacted on 23 August 1944. While other enemy nationals who had not collaborated with the occupation authorities had their property returned within a year (for Italians who could submit proof of non-collaboration, as early as 1 August 1945), it took much longer for Germans: more than three years. The seizure of property belonging to German Jews was finally lifted on 23 January 1947.[37]

The post-war Belgian laws, moreover, introduced a further distinction affecting the racially persecuted: foreign Jews could apply for some form of compensation under the war damage law only if they could prove they had been active in the Resistance movement. Having been put through experiences such as internment in concentration camps was not sufficient, and applications from this group of victims were always rejected by the Belgian authorities:

> Belgian legislation provides for some indemnification for deprivation of liberty to former political prisoners [. . . .] This indemnification is restricted to Belgian citizens; foreigners receive it only if they were arrested for activities in the Resistance Movement [. . . .] The legislator at that time refused to refer to 'racial grounds' as this would have appeared to be accepting Nazi racial theories. However, now indemnification claims of Jews are being refused on the ground that they were arrested not for religious but for racial reasons and for that form of persecution no indemnification is provided.[38]

As late as 1954, the WJC representative in Belgium wrote to the organization's New York headquarters to report that many Jewish applications for war damage compensation were being rejected:

> I understand that such compensation [war damages] is only granted to those applicants if they were active members of the resistance movement and that passive suffering such as internment in a concentration camp is not sufficient [. . . .] This matter is of considerable interest to us because we are receiving enquiries and complaints from former Jewish residents who have filed applications for war damages with the Belgian authorities years ago and have not had any reaction whatsoever.[39]

The snags and bottlenecks created by such clauses in the restitution laws could be overcome by obtaining Belgian citizenship, but this path was long and of uncertain outcome; it required an act of Parliament in each individual case, preceded by a detailed investigation of the applicant by the Sûreté (the state security service). Among the various obstacles that made naturalization so difficult to achieve, the WCJ noted that applicants had to meet the very slippery and ambiguous condition of being assimilated into Belgian life:

> The difficulties are well known to us. The granting of naturalization in every individual case required an act of Parliament. This is preceded by an investigation of the applicant by the Sûreté, one of the main conditions for granting naturalization being a sufficient measure of assimilation in Belgian life. There are aliens with 30–40 years residence in Belgium who have not yet succeeded in becoming naturalized.[40]

A similar situation existed in the Netherlands.[41] Although German and Austrian Jews were officially recognized as stateless in the summer of 1946, post-war Dutch laws offered citizens greater recourse in asserting their rights. The *Temporary Settlement of War Damages* decree, issued on 16 June 1945, stipulated that compensation for war damages would only be granted if the property belonged to Dutch citizens (article 1).[42] But the question of citizenship also indirectly affected the re-establishment of rights, including those related to property. Under a decree issued on 17 November 1945 concerning 'Consequences of Marriages with Enemy Subjects', any woman classified as an enemy subject during the war who had married a Netherlander after May 1940 lost her acquired Dutch citizenship, 'and *all related rights*'.[43] Though the decree was passed to punish relationships between Dutch men and German women, it had the effect that Jewish women who came from a former enemy state were treated the same way. Nor did Dutch laws make any exception for assets belonging to enemy aliens: even if they belonged to Jews, their ownership was by law transferred to the state, which would manage them. And as an article of the decree read, 'the decree applies to all Jewish refugees who are or were, at any time after May 10, citizens of Germany or Austria'.[44] At most they had the right to appeal.

In Italy, too, post-war laws dealing with the restoration of Jewish property were mostly designed around the idea of nationality. Foreign Jews, who before the Fascist race laws of 1938 made up about 20% of the Jewish population living in Italy, could not take advantage of the provisions in the new war damage legislation passed in 1953, because it referred only to Italian citizens. The vagaries of citizenship also affected Italian Jews, however. Many who had left the country after 1938 to escape Fascist racial persecution settled in Palestine/Israel, and when the Law of Return (as the Israeli citizenship law is called) entered into force on 14 July 1952, they lost their Italian citizenship[45].. overnight – often without realizing it – along with all connected rights: from their chances of obtaining war damage compensation, to their entitlement to a pension.[46] Italian laws of the time did not allow for dual citizenship. The Italian Treasury was so zealous about enforcing the consequences of this revocation that it even demanded the return of pension payments the former citizens had received up to 1952.[47]

Even considering the scant attention that the peace treaties collectively devoted to Jews from countries other than Germany, Italian Jews found themselves at a special disadvantage due to the unique status of Italy, which was a cobelligerent but still a former member of the Axis. Article 77, paragraph 4 of the peace treaty required the Italian government to waive, on

behalf of itself and its citizens, any claim to compensation from Germany itself and from German citizens or businesses (and as a result, to refrain from any legal action in this regard).[48] This meant that Italian victims of Nazism, whether Jewish or not, had no recourse to German compensation provisions deriving from the Bundesentschädigungsgesetz (Federal Indemnification Law) and the Bundesrückerstattungsgesetz (Federal Restitution Law), which the government in Bonn respectively issued in 1953 and 1957. The Federal Indemnification Law made the right to compensation dependent on residence in Germany at the time of persecution; the Federal Restitution Law, although primarily passed to atone for spoliation undergone by German Jews, contained an article that nevertheless made it possible to request compensation for personal property (excluding cash), belonging to non-German Jews, which had been transferred to Germany after spoliation in their home countries. However, article 77, paragraph 4 was once again the decisive factor that barred Italian Jews from any chance of claiming compensation under German law. In 1954, the Union of Italian Jewish Communities nevertheless made a formal request to the Italian Foreign and Interior Ministries, urging them to find a way for at least foreign (German) Jews who had been affected by Fascist persecution in Italy to receive the benefits envisioned by the German Federal Indemnification Law. This initiative was unsuccessful, due to what were referred to in government circles as considerations of 'international advisability': in the middle of the Cold War, when Federal Germany played a key role in international dynamics, the Italian Foreign Minister believed that 'the attempt could make a distinctly unfavourable impression' on the government in Bonn.[49]

Under the Custodians

The issue of citizenship once again became a key factor in the restitution of Jewish property that had been confiscated during the war by institutions that existed under various names in different countries, but were generally described as 'custodians of enemy assets'. From the United States to Italy and from South Africa to Great Britain, practically every country involved in the war had set up new agencies or adapted existing ones[50].. to attack the assets of enemy citizens within their territory, which were confiscated and placed under state control. These seizures inevitably ended up affecting Jews who had fled their countries of origin in the attempt to escape persecution (or, often, had moved away in the years leading up to it).

Belgium once again took a particularly intransigent stance; in August 1944 it issued a decree confirming that the assets of all enemy aliens, including Jews, would be transferred to the state coffers – '[t]his decree also applies to property belonging to refugees who are virtually German or Austrian citizens, or are considered such' – and even denied them the right to appeal such seizures – '[t]he right to appeal in consequence of which sequestration might be waived is only open to Belgians or subjects of Allied or neutral countries'.[51]

But one case that led to a drawn-out controversy after the war, with bitter implications for Jewish property owners, involved the British Custodian Authority of Enemy Property.[52] The London representative of the WCJ's Legal Section wrote in May 1947 to the organization's New York headquarters, describing the situation in Britain:

> We are flooded with letters from Jews in Rumania and other ex-enemy countries who have assets in Great Britain and ask for the release of these assets which they need for their immediate support, in view of their very destitute situation.[53]

In outlining the problem, the WJC representative noted that it originally sprang from clauses the Allies had inserted in their peace treaties with the satellite countries of the Reich, allowing the victors 'to seize, retain, liquidate or take any other action with respect to all property, rights and interests which on the coming into force of the present Treaty are within its territory and belong to enemy nationals'.[54] This had

> [t]he paradoxical effect that Jewish property which was removed by their owners to Allied territory, where they hoped it would be safe, is now withheld from them, and they can neither dispose of it in the Country, nor have it paid out to them in the currency of the country of their residence, even in cases of great hardship. Is it suggested that the Executive should consider what step can be take vis-à-vis the British authorities and the authorities of the other Allied countries concerned, in order to obtain a satisfactory solution of this urgent problem in the interest of the Jewish victims concerned.[55]

The pressure that the WJC applied to the British government brought its first positive results in September 1948: German, Romanian, Hungarian, Bulgarian, Italian and Austrian Jews could apply for the release of assets held by the Custodian, though only if they had left Romania, Hungary, Bulgaria and East Germany and taken up 'residence in the Western hemisphere'. One can clearly see how attitudes connected to the new international dynamics of the Cold War also came to affect, and further limit, the possibility of fully re-establishing Jewish property rights. (A clause similar to the one adopted by the British government in 1948, also resulting from the Cold War, was to be found in the main restitution laws passed by the West German Parliament in 1957).[56] Despite these restrictions, it was established in 1948 that the Custodian Authority could release *ex gratia* – that is, without any legal obligations to the Custodian itself – the assets of enemy nationals who had suffered 'deprivation of liberty' due to discriminatory measures of the Nazi and Fascist regimes. However, the British authorities often interpreted the deprivation of liberty clause in a very narrow and inflexible way. For example, the many complaints that reached the WCJ included the case of Gedeon Richter, a Hungarian Jew who had been living in Budapest during the war. He was the founder of a pharmaceutical company in Budapest with affiliates in England and overseas, and whose assets in England (making up shares in British companies, other shares and cash) were blocked by the Custodian. In October 1944 Mr Richter and his wife received orders to leave their house and move to the ghetto, but they went into hiding instead. The husband was eventually arrested on 29 December 1944, and taken to the Romanian headquarters, where he was imprisoned. The next evening he was taken to the Danube embankment, along with 99 other Jews, and publicly shot. His wife remained in prison until the liberation of Hungary. As the WJC reported in the autumn of 1950, the attempt to recover Mr Richter's assets from the British Custodian was unsuccessful because even though his case had ended in death, it did not seem to meet the 'deprivation of liberty' requirement.

> The claim of Mr. Richter's wife for 'ex gratia' release of the assets blocked by the Custodian was rejected as the Custodian was not satisfied that the condition 'deprivation of liberty' was fulfilled. Following renewed representation to the Administrator he replied on September 1949

> that 'settled ex gratia release policy is explicit in requiring it to be shown that, not only did death came about through Nazi persecution, but that the deceased himself suffered "deprivation of liberty" in the natural meaning of the term.' It is therefore the opinion of the Custodian that if a man was arrested for 24 hours and subsequently shot, this does not mean 'deprivation of liberty'.[57]

In 1954, during a parliamentary debate about property belonging to victims of Nazism that was still being held by the Custodian, A. R. W. Low, Minister of State at the Board of Trade, reassured everyone that all cases 'have been handled [...] with the greatest sympathy'. However, it was 'too late to consider altering the rule'.[58] All subsequent efforts by the WJC proved useless, and in the early 1960s its British offices were 'still flooded' with letters from Jews trying to reclaim their assets from the Custodian. But by then, the deadline for applications had long expired. In 1961, an internal WJC report voicing the indignation of many Jews who had never managed to get their assets back attributed the Custodian's attitude not to latent antisemitism among British bureaucrats, but rather to an obtuse respect for a 'British legal conception' from which the authorities were loath to deviate despite the exceptional nature of the Holocaust (even from a legal standpoint).

> It is, of course, very understandable that persons who put their trust into Britain, and deposited money here, are very indignant at the measures taken by the British authorities. These measures are however in accord with the British legal conception according to which enemy property comprises all assets belonging to nationals of enemy countries and has to serve to compensate British nationals.[59]

'It would be pointless,' the WJC report continued, 'to make representations now'. The enemy assets not returned by the Custodian were thus earmarked for British citizens. Only a fraction of German assets (Jewish or otherwise) were allocated by the British Government to the Nazi Victims Relief Trust.[60] Irrespective of their nationality, this fund accorded grants to those whose assets were blocked and who were unsuccessful in obtaining *ex gratia* release. But this fund was dissolved in 1961, and the remaining money was turned over to the Central British Funds for Jewish Relief and Rehabilitation.[61] Romanian or Hungarian Jews 'who were in great need and required relief', the WJC's 1961 report concluded, 'could at best hope in some form of aid or charity by sending their application to this fund'.

The never-ending story of heirless property

Many of the assets still under the Custodian's control actually had no owner left to claim them. After the Holocaust, the vast scale of the 'heirless property' problem immediately became apparent, since entire communities had literally been wiped out. What would happen to it? How had civil law customarily dealt with the assets of people who died without leaving heirs? Under the municipal laws of most countries, it was (and still is) the state that acquired the ownership of property left without legal heirs; this principle, called *bona vacantia*, dated back to Roman law and, under the name of right of escheat, was also adopted by common law countries.

The ideas and expectations that the WJC repeatedly expressed in regard to heirless property were unequivocal:

> The principle must be laid down and must be repeated over and over again to all Governments concerned, that no Governments should enrich themselves by the consequences of Nazi crimes committed against the Jews.[62]

Over the years, Jewish organizations always argued that heirless and unclaimed Jewish property should be used to aid survivors, delegating its management to the Jewish communities of each nation. The first attempt to arrive at an internationally shared solution was a proposal made in June 1946 during the Paris Conference on Reparation:

> In the interest of justice, the French Government, on behalf of the five Governments concluding this agreement, are making representations to the neutral powers to make available all assets of victims of Nazi action who died without heirs [. . . .] The signatories are requesting the neutral countries to take all necessary action to facilitate the identification, collection and distribution of these assets which have arisen out of a unique condition in international law and morality.[63]

The request made in Paris, which was aimed only at neutral countries, thus noted the 'unique condition in international law'. But as Nehemia Robinson once again pointed out, it 'was not clear what was meant by this reference to "international law"'. The right of escheat, as well as the principle of *bona vacantia*, was confined to property within the jurisdiction of the state, irrespective of whether the deceased owners were nationals. 'It is a territorial right,' Robinson wrote, 'which the State exercises, and can only enforce, locally, by virtue of its own law'. In any case, the appeal made by the Allies about heirless property during the Paris Conference on Reparation did not create any real obligations for the signers, remaining merely an official statement.

As with other questions regarding property restitution, special clauses concerning the problem were included, other than in the German and Austrian peace treaties, only in those with Hungary and Romania.

> All property, rights and interests in Roumania of persons, organizations or communities which, individually or as members of groups, were the object of racial, religious or other Fascist measures of persecution, and remaining heirless or unclaimed for six months after the coming onto force of the present Treaty, shall be transferred by the Roumanian Government to organizations in Roumania representative of such persons, organizations or communities.[64]

Though Robinson noted in reference to this article that 'the comparatively short period may render nugatory the rights of would-be beneficiaries, unless they are given every opportunity to present their claims', what was once again emphasized was that the issue of heirless property, too, would in the end be delegated to 'each national government and to each national legislation'.[65]

Greece, as early as January 1946, was the first European country to pass legislation regarding heirless Jewish property, determining that such assets were to be handed over to the Organization for the Relief and Rehabilitation of the Israelites in Greece (OPAIE).[66] This initiative was followed in 1947 by similar ones in Italy and Hungary, and, in 1948, Romania (but as with all other laws regarding Jewish assets, this too was soon rendered completely moot by communization). However, in many other places, the problem remained unresolved for many years, re-emerging in all its complexity only with the Holocaust Restitution campaign of the 1990s.

In the Netherlands, the main law enacted by the Dutch authorities after the end of the Nazi occupation – the *Re-establishment of Justice* decree issued in September 1944 (and amended on 16 November 1945) – did not contain any safeguards for heirless Jewish property. The section 'Concerning Objects the Owner of Which is Unknown' specified that:

> Objects located within the Realm in Europe, the owner of which is unknown, are under trusteeship of the Council.[67] In cases where the owner has not presented himself until a time to be determined by us, the objects, if not previously sold, will be disposed of by sale, and the proceeds of all objects put under the trusteeship of the Council will be used for purposes to be determined by us.[68]

The decree envisioned no exceptions for the unique circumstance of heirless property belonging to victims of Nazism. Notwithstanding WJC pressure, nothing had changed by the spring of 1950, because the Dutch authorities did not want to introduce any distinctions 'between Jewish and gentile assets':

> The situation in Holland is unique and cannot be compared with the situation in any other European country [. . . .] Only in Holland the Germans concentrated the Jewish assets in a certain bank [the Rosenthal Bank] and left the assets there. This did not occur in any other part of Europe [. . . .] There are individual accounts where considerable securities are still deposited and where no claims came forward until now. I am informed that the Dutch Government is opposed to the view that those assets should be surrendered to the successor organization. They do not want to make any difference between Jewish and gentile assets.[69]

Once again, the case of Belgium is significant. 'The extent of heirless property in Belgium is not known,' read a WJC memorandum of 1950, 'but in view of the great losses of the community, it may be considerable'.[70] Under Belgian law the escheat of heirless property become effective 10 years after the death of the owners,[71] so in May 1951, given the lack of government action, the WJC sent a formal request to the Belgian foreign minister that unclaimed Jewish assets be turned over to the country's Jewish institutions. The refusal of the Belgian authorities was based on the assumption that the amount of Jewish property in this situation was a trifling one.

> Quant à la remise des avoirs juifs en déshérence à des organisations juives elle ne peut, dans l'état actuel des choses, être envisagée d'une manière favorable. L'Administration belge des Domines doute d'ailleurs que la valeur des biens en question soit de quelque importance.[72]

Although WJC representatives provided the government with an initial list containing more than 200 names of Jewish individuals who had died without heirs and Jewish firms with no one to inherit them, the attitude of the authorities did not change, and, as late as 1958,

> [a] considerable number of assets belonging to Belgian and other Jews and sequestrated by the Germans during the occupation of Belgium have not yet been reclaimed by their owners or their legitimate heirs. These assets are held by various Belgian institutions and are bound to fall to the Belgian state unless reclaimed by the original Jewish owners or their heirs.[73]

In Italy, although an heirless property bill was passed in May 1947 (*Estates of Those Who Died as a Result of Racial Persecution after 8 September 1943 Without Leaving Heirs*), it proved quite ineffective.[74] The law decreed that the estates of Jews who died 'as a result of racial persecution after 8 September 1943′ were to be transferred to the Union of Italian Jewish Communities. It only applied to property whose previous ownership could be clearly documented, and required the Jewish institution itself, after searching for any

possible relatives abroad, to inform the government if a persecuted Jew had died without heirs. This was complex information to obtain – much more easily tracked down by the authorities than by the Jewish institution – and such bureaucratic impediments greatly limited the effectiveness and application of the measures put in place by the 1947 decree. Not surprisingly, six years later, the Italian Union of Jewish Communities stated that:

> The search for the owners or for their heirs as well as the procurement of legal proof of their right to succession has proved a time-consuming process. In the meantime, the Union is trying to ascertain the existence and the whereabouts of the depositees. [...] Several years will have to elapse until we will be able to enter into possession of these deposits.[75]

Nothing is known about the outcome of this difficult investigation. What we do know is that in 1960, when it became clear that some Jewish property remained unclaimed, rather than handing these assets over to an Italian Jewish institution – as envisioned by the law of 1947 – the Italian government retained ownership of the property and sold it at public auction. In January 1960 the Avvocatura dello Stato (the government's legal counsel) expressed itself as follows, essentially putting to rest the question of unclaimed Jewish assets still in the custody of the Treasury:

> In conclusion, it is our view that since more than ten years have elapsed since 5 June 1946, the date on which Decree no. 393 of 5 May 1946 entered into force, the state has acquired ownership of the confiscated property, and is moreover freed of the obligation to pay back the price of sale and any revenue from the three-year period preceding the claim. The state may therefore do as it sees fit with the aforementioned property.[76]

In Greece, even though attention had been devoted to the problem very early on, the situation became more complicated in the decade that followed. For several years after the war, heirless Jewish property in Rhodes was managed by the president of the tiny island's Jewish community, which after the war had about 20 members left. But in February 1955, the Greek government decided to take over this property. (In 1946, when the national heirless property legislation was enacted, the Dodecanese Islands were still considered part of Italian territory).[77] All the measures undertaken by the Greek Jewish Committees and by the JWC to prevent this action failed.[78] Aside from the unique situation in Rhodes, the previous Greek law on heirless property was amended in 1954 to become more restrictive: the inheritance tax was redoubled – between 25% and 50% of the property value had to be handed over to the state – and from then on, unless a death certificate for the Jewish owner could be obtained within a very brief, six-month span, the estate was irrevocably transferred to the ownership of the Greek state.[79] This attitude was moreover in keeping with a general lack of interest shown towards the problem of returning Jewish property. As some have pointed out, the national government did not pay Greek Jews any compensation for stolen or destroyed property, and it 'was never even a topic of discussion at any parliamentary session'.[80]

Though any hope of tackling the problem of heirless property in Soviet bloc countries quickly came to seem unrealistic, the WJC tried for several years to reach an agreement with the Yugoslav authorities. Here as well, the negotiation attempt proved fruitless. In reply to requests on behalf of the Jews, Tito's government said the Yugoslavian theatre of war had been so violent that they were just one group of victims among many:

> It is the position of the state that 2 million non-Jewish Yugoslavs were killed, and that the Jewish position is therefore not so exceptional [... .] There is no reason to make special provisions for the Jewish group.[81]

The question of heirless property did not only affect Europe, but the United States as well, and on a massive scale. In August 1946, Congress decided to change several clauses in the Trading with the Enemy Act, which dated back to the First World War. 'Recognizing that the law was draconian' if also applied to those that 'the enemy had vilified, dispossessed and stripped of their civil and political rights',[82] it was decided that property should be returned if it belonged to the racially and politically persecuted, even if they were citizens of an ex-enemy state. While this decision was a significant step towards fully re-establishing Jewish property rights, the bill said nothing about property belonging to enemy citizens who had died during persecution without leaving heirs. Such assets therefore became the property of the United States. As pointed out in 1953 by the WJC's administrative director, the American Abraham Hyman, the government's behaviour showed a 'disparity between what we have preached to others and what we have practiced within our own sanctuary', a 'question of consistency' in foreign and domestic policy that had to be resolved.[83] As an example of this 'question of consistency' one should note the US government's major role in establishing the legitimacy of the Jewish Restitution Successor Organization (JRSO), the organization that ended up managing the individual and community property of German Jews who had died heirless.[84] In June 1948 the American Military Government designated the JRSO as the sole successor organization of heirless Jewish property in the US zone of Germany.

A bill authorizing the transfer of heirless property to American non-profit charitable organizations was introduced in June 1953 and passed on 23 August 1954.[85] At this point it became necessary to examine some 14,400 files at the Office of Alien Property Custodian, about 2700 of which were believed to involve Jews.[86] 'It was an unbelievably mammoth job, an almost impossible task,' as one of the American lawyers appointed by Washington to identify enemy alien assets of Jewish origin later wrote, in July 1963. 'We followed their lives until the end of the line,' and 'too often the line ended in a crematorium.'[87] It was President Kennedy who signed a law in the summer of 1963 authorizing the release of the recovered sum, about three million dollars. Congress, however, decided to hand over only a lump sum of half a million dollars to international Jewish institutions.[88]

Unsurprisingly, no laws were passed in Great Britain regarding the problem of heirless Jewish property, and the Custodian of Enemy Assets took over ownership of all such unclaimed assets. Once again, WCJ files show the attempts that it made in the UK, as in many other European contexts, to ensure that heirless Jewish property would be used to support the country's Jewish organizations. Although in the territories of West Germany under its control, the British government had supported the foundation of the Joint Trust Corporation (one of the three post-war Jewish successor organizations entrusted with managing communal and unclaimed Jewish property in Germany), it nonetheless saw fit to apply a different standard when the property was within its own national boundaries:

> As you no doubt know, a few years ago we tried to persuade H.M.G. that it is only just that heirless assets in the hands of the Custodian of Enemy Property should be used for Jewish relief purposes. Unfortunately, the late Sir Stafford Cripps[89].. was against this and contended that no

> exception to the general rule, that heirless assets should go to the Crown, should be made. All our arguments that it is illogical that H.M.G. should decree the establishment of a Jewish Successor Organization in Germany and grant active support to this work, but at the same time oppose the application of the same principle in the United Kingdom, were of no avail.[90]

All action taken by the World Jewish Congress in the years that followed would also prove fruitless.

On more than one occasion, and in more than one context, the efforts made by this leading international Jewish organization to heal the many wounds left open at war's end in regard to Jewish property restitution proved ineffective. Many possible solutions to such problems were stalled or even shipwrecked by different national laws, and by a legal tradition that in many cases was never re-examined or remodelled to adapt civil law criteria to the specific situation of Jews and the exceptional circumstances that the Holocaust had created, even from a legal standpoint.[91] The racial identity imposed on Jews by their persecutors, which for many of them was automatically transformed after the war into enemy alien status, was one of the paradoxes most replete with negative consequences. The many studies conducted to date into how different societies dealt with the aftermath of the Holocaust have shown that, for a series of both political and cultural reasons, it was very hard for the exceptionalism and uniqueness of this event to gain a proper foothold in public memory and awareness after the war. This failure to acknowledge the unique nature of anti-Jewish persecution extended to the realm of law and legislation. While there can be no question that events connected to the Holocaust caused the tools and goals of international law to be profoundly re-examined, no such process occurred in the realm of municipal law. As early as 1944, Nehemia Robinson realistically pointed out that 'extraordinary circumstances require extraordinary measures',[92] identifying the varied characteristics of different legal systems at the time as one of the biggest obstacles to an effective, adequate compensation policy. In 2017, the *Holocaust (Shoah) Immovable Property Restitution Study*, the first-ever comprehensive compilation of all significant legislation passed since 1945 by 47 European and non-European states, echoed his words:

> Ordinary laws apply to ordinary events. But the Holocaust was an extraordinary event, and it makes little sense to apply ordinary laws to a situation in which so much heirless property suddenly came into existence as a result of the mass murder of millions of people. Principles of equity and justice grounded in ancient Roman law underscore that the application of ordinary heirless property legislation to the situation of Holocaust restitution creates a great injustice.[93]

With regard to extraordinary events like the Holocaust, the ordinary tools of law had proved inadequate, and 'the law was not the survivors' ally'.

Notes

1. Motherwell, *The Peace We Are Fighting For*, 33.
2. There is an extensive literature on the subject. General or comparative studies of note include Bazyler and Alford, eds, *Holocaust Restitution*; Diner and Wunberg, *Restitution and Memory*; Dean, *Robbery and Restitution*; and Beker, *The Plunder of Jewish Property*.
3. One exception is Caestecker, "The Reintegration of Jewish Survivors into Belgian Society," 72–108.

4. 'Property rights' is used here in a broad sense, also taking into account monetary forms of compensation and indemnification that were granted when the material property itself could not be returned, as was commonly the case after the Holocaust.
5. By contrast, one can clearly see the evolution of international criminal law in response to the problem of defining and punishing the crime of genocide, and the important contribution made to this effort by Jewish law scholars; see Bazyler, *Holocaust, Genocide and the Law*; Cohen, *Dr. Jacob Robinson, the Institute of Jewish Affairs*; and Loeffler and Paz, eds., *The Law of Strangers*.
6. The bilateral agreements signed by the Federal Republic of Germany with 12 Western European countries between 1959 and 1964 seemed to have closed the debate on what indemnification Germany owed to the victims of Nazism. These bilateral agreements related only to compensation for persecution, and not to property issues. Moreover, in 1964 and 1965 the Bundestag voted on the final amendments to the two main laws – the Federal Indemnification Law (BEG) and the Federal Restitution Law (BrüG), respectively passed in 1953 and 1957 – with which the West German government meant to compensate Jewish victims. See Goschler, "Jewish Property and the Politics of Restitution in Germany," 125.
7. Hoffmann, *Human Rights and History*, 300.
8. Among the many studies of restitution in Germany one should note Goschler and Lillteicher, eds, *'Arisierung' und Restitution*. Until the Federal Restitution Law (BrüG) of 1957, even in the Federal Republic territoriality and citizenship were determining factors for establishing who had right to restitutions and who did not.
9. This aspect is underscored by Lillteicher, "West Germany and the Restitution of Jewish Property," 108. In Italy, the Allies were responsible for including terms in the September 1943 armistice that called for the abolishment of the Fascist antisemitic laws, but they did not intervene in the later restitution policies adopted towards Jewish survivors by the first democratic administrations. See Pavan, *Beyond the Things Themselves*, 186–8.
10. Colonomos and Armstrong, "German Reparations to the Jews after World War II," 391.
11. Regarding the Federal Republic of Germany as an exception rather than a paradigm for post-war compensation policies, see Ludi, *Reparations for Nazi Victims in Postwar Europe*, 8. France in many ways was also a case unto itself. In the ordinances on property restitution issued by the new French government starting in the autumn of 1944, nationality was not a discriminating factor; the beneficiaries of these measures were generally described using the phrase 'toutes les personnes'. On the 'special case of France' see Andreiu, *Two Approaches to Compensation in France*, 140–6; and Fogg, *Stealing Home*, 57–108.
12. Regarding the WJC see Rosensaft, *The World Jewish Congress*; Segev, *The World Jewish Congress during the Holocaust*. Neither book devotes any attention to the WJC's work in relation to Jewish property rights, however. Regarding other fields in which the WJC made extensive efforts just after the war, see Lewis, "The World Jewish Congress and the Institute of Jewish Affairs at Nuremberg," 181–210; Marrus, "A Jewish Lobby in Nuremberg," 1651–66. On the WJC's role in the restitution campaign of the 1990s, see Marrus, *Some Measure of Justice*.
13. The first government in exile to make a declaration about this was Poland's, in a decree of November 30, 1939; it was followed by the governments of Belgium, the Netherlands, Norway, Greece, Yugoslavia and France. See Robinson, *Indemnification and Reparations*, 118–32.
14. Kurtz, "The Allied Struggle Over Cultural Restitution," 178.
15. "Note on the Meaning, Scope and Application of the Allied Declaration against Acts of Dispossession Committed in Territories Under Enemy Occupation or Control."
16. Robinson, "Reparation and Restitution in International Law," 195.
17. Central Zionist Archive (hereafter CZA), WJC-London, C2, f. 1896, Survey of the problem of restitution, June 22, 1944.
18. Regarding the Institute see Cohen, *Dr. Jacob Robinson, the Institute of Jewish Affairs*, 81–100; and Segev, *The World Jewish Congress during the Holocaust*, 184–201.

19. Born in 1898 in Vištytis, Lithuania, as Nehemia Robinzonas, he studied law at the University of Jena, and began practising law in Kaunas with his brother Jacob in 1927. He fled with his family to the United States at the end of 1940, later becoming a US citizen. In the 1952 negotiations of the *Conference on Jewish Material Claims Against Germany* with German authorities at The Hague, Robinson acted as chief adviser in formulating the agreement on indemnification, and later contributed to its legislative and judicial implementation. He died in 1964.
20. On Jacob Robinson, a leading figure in the post-war human rights debate, see Loeffler, *Rooted Cosmopolitism.*
21. Robinson, "Reparation and Restitution," 107.
22. See especially articles 46, 47 and 56 of the 1907 Hague Convention. The only possible foothold in international law was offered by article 297 (paragraph f) of the Treaty of Versailles.
23. This was true for Germany, Austria, Czechoslovakia, Italy, Romania and Hungary.
24. Robinson, "Reparation and Restitution," 101.
25. Ibid., 106.
26. CZA, WJC–London, C2, f. 1896, report dated September 7, 1944, 3.
27. Ibid., 4.
28. The term 'reparations' is usually taken to mean lump sums payable to groups or individuals, while 'restorations' are individual reinstatements or indemnifications. 'Restoration' may be either *in natura* (restitution) or take the form of money (compensation and indemnification). On reparation policies at the end of the Second World War see Ludi, *Reparations for Nazi Victims.*
29. Robinson, "Reparations and Restitution," 187.
30. For instance, in art. 74 of the February 1947 peace treaty with Italy: 'Italy accepts the principles of the United Nations Declaration of 5 January 1943 and shall return, in the shortest possible time, property removed from the territory of any of the United Nations. The obligation to make restitution applies to all identifiable property at present in Italy which was removed by force or duress by any of the Axis Powers from the territory of any of the United Nations, irrespective of any subsequent transactions by which the present holder of any such property has secured possession.'
31. The only exceptions, which were soon undone by the two countries' absorption into the Soviet Bloc, were the treaties with Hungary and Romania (in articles 29 and 27, respectively), which introduced what was called 'the Jewish article'. See Robinson, "Reparations and Restitution," 201.
32. Ibid., 203.
33. Caestecker, "The Reintegration of Jewish Survivors," 77.
34. CZA, WJC–London, C2, f. 2024.
35. CZA, WJC–London, C2, f. 560, April 13, 1954.
36. This principle was also confirmed, for German Jews, by article 116 (paragraph 2) of FDR's Basic Law in 1949. Only in 1952 did Belgium conform to the international standard and declare all German and Austrian Jews to be stateless.
37. Caestacker, "The Reintegration of Jewish Survivors," 84.
38. CZA, WJC–London, C2, f. 561, April 13, 1954. The same principle, in a broader form, was at work in the war damages law passed in France in October 1946 (Loi 46–2389) that also allowed foreigners to obtain compensation (art. 10). The Italian law, passed in 1953, instead completely excluded foreigners from receiving such compensation.
39. CZA, WJC–London, C2, f. 560, March 26, 1954. See van Doorslaer, "The Expropriation of Jewish Property," 164.
40. See note 35.
41. See Aalders, *A Disgrace? Postwar Restitution of Jewish Looted Property in the Netherlands.*
42. Unless otherwise indicated, references to the legislation issued by many European countries regarding the restitution of assets stolen by the Nazis are drawn from a book published in 1946 by the Weiner Library in London, *Restitution: European Legislation to Redress the Consequences of Nazi Rule.*

43. Moreover, once this decree entered into force, women classified as enemy aliens who married Netherlanders after the war ceased to automatically obtain Dutch citizenship and all the rights that went with it.
44. Decree of 16 November 1945, concerning Enemy Property.
45. Israeli citizenship was automatically granted to every Jew living in Israeli territory when the law entered into force, unless an official request to the contrary was presented before that date. See Rürup, "The Citizen and Its Other." Nor was this the first time something like this had happened; the Israeli law echoed the Brazilian constitution of 1891 (art. 69).
46. Even more paradoxically, the revocation of Jewish pensions referred to a Fascist law of 1933 that the regime had passed to financially attack political exiles who had taken the citizenship of their host country.
47. In this regard, see the documentation at the Central Archive for the History of Jewish People, Jerusalem (hereafter CAHIP), P 192, box 66 and box 67.
48. Here is the passage in question from article 77, paragraph 4: 'Under the peace treaty, Italy retained the right to recover assets transferred to Germany after 3 September 1943 only with regard to artistic and cultural heritage, gold from the Bank of Italy, and industrial property taken by the Nazi occupiers.'
49. Pavan, *Beyond the Things Themselves*, 230.
50. In Britain and the United States, these institutions were respectively set up in 1914 and 1917, as part of the so-called Trading with the Enemy Acts.
51. "Loi relative au sequester des Biens, Droits et Intérêts Ennemis," August 23, 1944, no. 21, in *Restitution: European Legislation to Redress the Consequences of Nazi Rule*.
52. See Levin, *His Majesty's Enemies*; and Ward and Locke, *'Ex-Enemy' Jews*.
53. CZA, WJC-London, C2, f. May 5, 1831, 1947.
54. The passage quoted here is from article 76 of the peace treaty with Italy, but identical phrasing was used in the treaties with Romania and Hungary (respectively in articles 27 and 29).
55. CZA, WJC-London, f. May 5, 1831, 1947.
56. The Federal Indemnification Law (BrüG) of 1957 allowed even Jews without German citizenship to request compensation for property stolen from them in territories occupied by the Nazis (though only if that property was then transported into the Reich), but excluded all Jews residing in nations that did not have diplomatic relations with the Federal Republic of Germany, which basically meant the entire Soviet bloc. See Lillteicher, "West Germany and the Restitution of Jewish Property," 105.
57. CZA, WJC-London, C2, f. 979, September 10, 1950.
58. CAHIP, Jewish Restitution Successor Organization (hereafter JRSO)-New York, 916a, news item reported by the Jewish Telegraphic Agency, April 1, 1954, 'British Parliament Hears Plea on Property Belonging to Nazi Victims.'
59. CZA, WJC-London, C2, f. 830.
60. The Nazi Victims Relief Trust was established in August 1957 and dissolved in July 1960.
61. See Levin, *His Majesty's Enemies*, 155.
62. CZA, WJC C2 London, f. 2024.
63. Robinson, "Reparation and Restitution," 203.
64. Peace Treaty with Roumania, Art. 27 (2).
65. Robinson, "Reparation and Restitution," 137. Among the obstacles thwarting the measures that turned heirless property over to Jewish organizations, one should note the lengthy procedures required to certify the owners' presumed death, which were often incompatible with the irrationally short statutes of limitation set by the laws.
66. OPAIE was an independent arm of the Central Board of Jewish Communities in Greece.
67. The Council for the Restoration of Rights (Raad voor het Rechtsherstel) was a government agency created to manage this kind of property.
68. Staatsblad van het Koninkrijk der Nederlanden, known as E100, articles 110 and 113, in *Restitution: European Legislation*.

69. CZA, WJC-London, C2, f. 453, May 19, 1950. The WJC report declared that 'since May 1945 about 75% of these securities have been restored to the rightful claimants. Therefore 25% have not been claimed and are apparently left without legal successors.' In the Netherlands, legal succession was recognized up to six degrees of relationship, and under Dutch law, heirless property had to remain under state administration for a period of 30 years before escheatment would come into effect.
70. CZA, WJC-London, C2, f. 1631. The Belgian Jewish community, which numbered about 65,000–70,000 people before the war, had about 25,000 members in 1950.
71. CZA, WJC-London, C2, f. 1631.
72. CZA, WJC-London, f. 561 o 562, letter of August 11, 1951 from the Belgian minister of foreign affairs to F. R. Bienefeld, WJC representative and head of the WJC Legal Section in London.
73. CZA, WJC-London, C2, f. 561 April 16, 1958.
74. In Trieste, which was a free territory at that time, Order no. 133 was issued on January 27, 1948, by the American occupying authority, transferring all heirless Jewish property to the local Jewish community.
75. CZA, WJC-London, f. 477, March 16, 1954, Raffaele Cantoni to Nehemia Robinson.
76. Pavan, *Beyond the Things Themselves*, 312.
77. It was only in 1947 that the Dodecanese were handed over to Greece. Before then, the Jews of Rhodes were considered Italian citizens, and the 1946 Greek law on heirless property did not apply to them.
78. CAHJP, JRSO-New York, f. 938, April 11, 1956.
79. The value of the property administrated by OPAIE and the total amount of funds distributed since 1946 are still unknown. See Plaut, *Greek Jewry*, 85–8.
80. Droumpouki, "German Federal Compensation and Restitution Laws and the Greek Jews," 174. Droumpouki (p. 175) also points out that the Greek government hindered payment of the compensation due to Greek Jews under the German Federal Restitution Law (BrüG) of 1957. When the latter resided in Israel, or were no longer Greek citizens, the government presented various obstacles to the transfer of these sums.
81. CAHJP, JRSO-New York, 916b, note signed by S. Kagan, November 23, 1954. The Yugoslavian Jewish community, 70,000 people before the war, numbered between 8000 and 10,000 in 1945.
82. CAHJP, JRSO-New York, 916b, report titled "The Heirless Property Paradox," May 25, 1953.
83. Letter from A. Hyman to the *New York Times*, published on June 19, 1953.
84. Founded in New York in 1947 by various American and international Jewish organizations, its goal was to institute proceedings in the American Occupation zone in Germany for the restitution of individual and communal heirless Jewish property. Regarding the JRSO, see Ayaka, "The 'Gemeinde Problem'"; and Lustig, "Who Are to Be the Successors of European Jewry?"
85. Public Law 826, August 23, 1954, amending section 32 of the Trading with the Enemy Act.
86. CAHJP, JRSO-New York, 939. The value of such property was estimated to be about US$1.8 million. The documentation in the archives does not shed detailed light on the nature of the assets held up at the Alien Property Custodian, but one can assume they included both bank accounts and immovable property.
87. "America Pays for Heirless Assets," *Jewish Chronicle*, July 19, 1963, 20.
88. The JRSO became the recipient of the sum resulting from the US government's investigation into the heirless Jewish property held by the Office of Alien Property Custodian.
89. Sir Richard Stafford Cripps, a Labour MP, served in the Attlee ministry as president of the Board of Trade and then, from 1947 to 1950, as Chancellor of the Exchequer.
90. CAHJP, JRSO-New York, 916b, October 8, 1954.
91. Even as regards Germany, some have pointed out that the Bürgerliche Gesetzbuch (civil code) proved ill suited to the unprecedented challenges, legislative and otherwise, of dealing

with the consequences of the Holocaust; see Lillteicher, *West Germany and the Restitution of Jewish Property in Europe*, 108.

92. Robinson, *Indemnification and Reparations*, 116.
93. *The Holocaust (Shoah) Immovable Property Restitution Study: Executive Summary* (January 2017), 16. The text can be viewed at https://archive.jpr.org.uk/object-eur160. The Holocaust (Shoah) Immovable Property Restitution Study covers the legislation passed by all 47 states that participated in the 2009 Prague Holocaust Era Assets Conference and endorsed the 2009 Terezin Declaration that came out of the Prague conference. The Terezin Declaration focuses in substantial part on the treatment of immovable (real) property restitution: private, communal and heirless property. It was sponsored by the European Shoah Legacy Institute as part of its Terezin Declaration monitoring mandate. The results of this study have now been published in Bazyler, et al., *Searching for Justice after the Holocaust*.

Disclosure statement

No potential conflict of interest was reported by the author.

Notes on contributor

Ilaria Pavan is Associate Professor in Contemporary History at the Scuola Normale Superiore of Pisa. Her main fields of research are the history of Fascism and antisemitism, and the history of the Jews in Italy from the Emancipation Era to post-fascist times. She has been a visiting scholar at the Institute of European Studies-University of California, Berkeley, at the Graduate Center of the City University of New York, at the University of Wisconsin at Madison, at the Italian Academy for Advanced Studies at Columbia University, New York and a fellow at the Yad Vashem International Institute for Holocaust Research in Jerusalem. Amongst her publications are: *Beyond the Things Themselves: Economic Aspects of the Italian Race Laws (1938–2018)* (Yad Vashem International Institute for Holocaust Research, Jerusalem 2019); "Not Facing the Past: Restitutions and Reparations in Italy (1944–2017)", *'Yod: Revue des études hébraïques et juives modernes et contemporaines* 21 (2018); and "A Betrayed Community: the Italian Jewish Community Facing Persecution", *Holocaust Studies*, 15 (2009).

Bibliography

Aalders, G. "A Disgrace? Postwar Restitution of Jewish Looted Property in the Netherlands." In *Dutch Jews as Perceived by Themselves and by Others*, edited by C. Brasz and Y. Kaplan, 293–404. Leiden: Brill, 2001.

Andreiu, C. "Two Approaches to Compensation in France: Restitution and Reparation." In *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933–1945*, edited by M. Dean, C. Goschler, and P. Ther, 134–154. New York: Berghahn Books, 2007.

Ayaka, T. "The 'Gemeinde Problem': The Jewish Restitution Successor Organization and the Post-war Jewish Communities in Germany, 1947–1954." *Holocaust and Genocide Studies* 16, no. 2 (2002): 266–288. doi:10.1093/hgs/16.2.266.

Bazyler, M. J., and Roger P. Alford, eds. *Holocaust Restitution: Perspectives on the Litigation and its Legacy*. New York: New York University Press, 2005.

Bazyler, M. J., K. L. Boyd, K. Nelson, and R. L. Shah. *Searching for Justice after the Holocaust: Fulfilling the Terezin Declaration and Immovable Property Restitution*. Oxford: Oxford University Press, 2019.

Beker, A. *The Plunder of Jewish Property during the Holocaust: Confronting European History*. London: Palgrave, 2001.

Caestecker, F. "The Reintegration of Jewish Survivors onto Belgian Society 1943–1947." In *The Jews are Coming Back: The Return of the Jews to Their Countries of Origin after WWII*, edited by D. Bankier, 72–107. New York: Yad Vashem Publications–Berghahn Books, 2005.

Cohen, B. "Dr. Jacob Robinson, the Institute of Jewish Affairs and the Elusive Jewish Voice in Nuremberg." In *Holocaust and Justice: Representation and Historiography of the Holocaust in Post-War Trials*, edited by D. Bankier and D. Michman, 81–100. New York-Jerusalem: Yad Vashem Publications–Berghahn Books, 2010.

Colonomos, A., and A. Armstrong. "German Reparations to the Jews after World War II: A Turning Point in the History of Reparations." In *The Handbook of Reparations*, edited by P. Pablo De Greiff, 390–419. Oxford: Oxford University Press, 2006.

Dean, M., C. Goschler, and P. Ther. *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933–1945*. New York: Berghahn Books, 2007.

Diner, D., and G. Wunberg. *Restitution and Memory: Material Restoration in Europe*. New York: Berghahn Books, 2007.

Droumpouki, A. M. "German Federal Compensation and Restitution Laws and the Greek Jews." *Yad Vashem Studies* 45, no. 1 (2017): 155–179.

Fogg, S. *Stealing Home: Looting, Restitution, and Reconstructing Jewish Lives in France, 1942–1947*. Oxford: Oxford University Press, 2016.

Goschler, C. "Jewish Property and the Politics of Restitution in Germany after 1945." In *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933–1945*, edited by M. Dean, C. Goschler, and P. Ther, 113–133. New York: Berghahn Books, 2007.

Goschler, C., and L. Jurgen. *'Arisierung' und Restitution.Die Rückerstattung jüdischen Eigentums in Deutschland und Österreich nach 1945 und 1989*. Göttingen: Wallstein Verlag, 2002.

Hoffmann, S.-L. "Human Rights and History." *Past & Present* 232, no. 1 (2016): 279–310. doi:10.1093/pastj/gtw013.

Kurtz, J. M. "The Allied Struggle over Cultural Restitution, 1942–1947." *International Journal of Cultural Property* 17 (2010): 177–194. doi:10.1017/S0940739110000081.

Levin, I. *His Majesty's Enemies: Britain's War against Holocaust Victims and Survivors*. Westport, CT: Praeger, 2001.

Lewis, M. "The World Jewish Congress and the Institute of Jewish Affairs at Nuremberg: Ideas, Strategies, and Political Goals." *Yad Vashem Studies* 36, no. 1 (2008): 181–210.

Lillteicher, J. "West Germany and the Restitution of Jewish Property in Europe." In *Robbing the Jews: The Confiscation of Jewish Property in the Holocaust, 1933–1945*, edited by M. Dean, C. Goschler, and P. Ther, 99–112. New York: Berghahn Books, 2007.

Loeffler, J. *Rooted Cosmopolitism: Jews and Human Rights in the Twentieth Century*. New Haven: Yale University Press, 2018.

Loeffler, J., and M. Paz. *The Law of Strangers: Jewish Lawyers and International Law in the Twentieth Century*. Cambridge: Cambridge University Press, 2019.

Ludi, R. *Reparation for Nazi Victims in Postwar Europe*. Cambridge: Cambridge University Press, 2009.

Lustig, J. "Who Are to Be the Successors of European Jewry?: The Restitution of German Jewish Communal and Cultural Property." *Journal of Contemporary History* 52, no. 3 (2016): 519–545. doi:10.1177/0022009416647116.

Marrus, M. *Some Measure of Justice: The Holocaust Era Restitution Campaign of the 1990s*. Madison: University of Wisconsin Press, 1999.

Marrus, M. "A Jewish Lobby in Nuremberg. Jacob Robinson and the Institute of Jewish Affairs, 1945–1946." *Cardozo Law Review* 27, no. 4 (2006): 1651–1666.

Motherwell, H. The Peace We are Fight For. New York: Harpers & Borthers, 1943.

Pavan, I. *Beyond the Things Themselves: Economic Aspects of the Italian Race Laws (1938–2018)*. Jerusalem: Yad Vashem Publications, 2019.

Plaut, J. E. *Greek Jewry in the Twentieth Century, 1913–1983: Patterns of Jewish Survival in the Greek Provinces before and after the Holocaust*. Madison: Fairleigh Dickinson University Press, 1996.

Restitution: European Legislation to Redress the Consequences of Nazi Rule. Compensation, Return of Property, Re-instatement of the Dispossessed, Confiscation of German Assets in Neutral Countries. London: The Wiener Library, 1946.

Robinson, N. *Indemnification and Reparations: Jewish Aspects*. New York: Institute of Jewish Affairs-American Jewish Congress-World Jewish Congress, 1944.

Robinson, N. "Reparation and Restitution in International Law as Affecting Jews." *The Jewish Yearbook of International Law* 1 (1948): 186–206.

Robinson, N. *Spoliation and Remedial Action: The Material Damage Suffered by Jews under Persecution, Reparations, Restitutions and Compensations*. New York: Institute of Jewish Affairs-World Jewish Congress, 1962.

Rosensaft, M. The World Jewish Congress, 1936–2016. New York: World Jewish Congress, 2017.

Rürup, M. "The Citizen and Its Other: Zionist and Israeli Responses to Statelessness." *Leo Baeck Institute Yearbook* 59, no. 1 (2014): 37–52. doi:10.1093/leobaeck/ybu006.

Segev, Z. The World Jewish Congress During the Holocaust: Between Activism and Restraint. Berlin: De Gruyter Oldenbourg, 2014.

van Doorslaer, R. "The Expropriation of Jewish Property and Restitution in Belgium." In *Robbery and Restitution: The Conflict over Jewish Property in Europe*, edited by M. Dean, C. Goschler, and P. Ther, 155–170. New York: Berghahn Books, 2007.

Ward, S., and I. Locke. "Ex-Enemy Jews": The Fate of the Assets in Britain of Holocaust Victims and Survivors." In *The Plunder of Jewish Property during the Holocaust: Confronting European History*, edited by A. Beker, 209–225. London: Palgrave, 2001.